

SENATE BILL NO. 386

INTRODUCED BY S. STEWART-PEREGOY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PUBLIC CHARTER SCHOOLS AND PUBLIC

5 CHARTER SCHOOL DISTRICTS; AUTHORIZING THE ESTABLISHMENT OF PUBLIC CHARTER SCHOOLS

6 AND PUBLIC CHARTER SCHOOL DISTRICTS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL

7 OPPORTUNITIES FOR THE CHILDREN OF MONTANA; ESTABLISHING BOARDS OF TRUSTEES FOR

8 CHARTER SCHOOL DISTRICTS; PROVIDING PROPOSAL REQUIREMENTS AND AN APPROVAL PROCESS;

9 PROVIDING FOR A REVIEW PROCESS AND A TERMINATION PROCESS; PROVIDING CERTAIN

10 RESTRICTIONS ON PUBLIC CHARTER SCHOOLS; CREATING A PUBLIC CHARTER SCHOOL

11 DEVELOPMENT ACCOUNT AND PROVIDING FOR THE USE OF THE ACCOUNT; ALLOWING COLLECTIVE

12 BARGAINING; ALLOCATING STUDENT TRANSPORTATION COSTS; REMOVING THE MORATORIUM ON

13 CREATING NEW SCHOOL DISTRICTS ONLY FOR THE PURPOSE OF CREATING PUBLIC CHARTER

14 SCHOOL DISTRICTS; PROHIBITING THE CHARGING OF TUITION BY A PUBLIC CHARTER SCHOOL

15 DISTRICT; PROVIDING FUNDING FOR PUBLIC CHARTER SCHOOLS; PROVIDING RULEMAKING

16 AUTHORITY; AMENDING SECTIONS 20-2-121, 20-5-321, 20-5-323, 20-5-324, AND 20-6-104, MCA; AND

17 PROVIDING AN EFFECTIVE DATE."

18

19 WHEREAS, pursuant to Article X, section 9(3)(a), of the Montana constitution, the board of public

20 education is responsible for the general supervision of the public school system and other public educational

21 institutions as may be assigned by law; and

22 WHEREAS, a systematic approach for school improvement and reform is necessary and the

23 establishment of charter schools provides a vehicle for that school improvement and reform; and

24 WHEREAS, the establishment of charter schools can serve a distinct purpose as a conduit for

25 research-based innovations and development of best practices for schoolwide interventions specifically designed

26 to personalize the learning environment and increase the rigor and relevance of learning; and

27 WHEREAS, stakeholders in a community may form partnerships and work collaboratively to sustain

28 systematic change in school improvement through charter schools.

29

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:



1

2 NEW SECTION. Section 1. Short title. [Sections 1 through 17] may be cited as the "Montana Charter
3 Schools Act".

4

5 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 17], the following definitions
6 apply:

7 (1) "Applicant" means a nonprofit organization or school district that develops and submits a written
8 proposal for creation of a public charter school or public charter school district.

9 (2) "Authorizer" means an entity established to approve public charter schools or public charter school
10 districts. The term includes:

11 (a) the board of trustees of an existing school district in which the proposed public charter school is
12 located;

13 (b) a school of education within a unit of the university system for research and development purposes
14 that assumes creation of a public charter school or public charter school district; or

15 (c) a state-recognized or federally recognized Indian tribe located within the boundaries of the state of
16 Montana.

17 (3) "Board of trustees" means the board of trustees of an existing school district or of a public charter
18 school district established in [section 4].

19 (4) "Public charter school" means an elementary school, middle school, or high school that has been
20 approved by an authorizer to operate as a public school under [sections 1 through 17].

21 (5) "Public charter school district" means an elementary district, a high school district, or a K-12 school
22 district established in accordance with chapter 6 of this title for the operation of one or more public charter
23 schools.

24 (6) "School district" has the meaning provided in chapter 6 of this title and includes a public charter
25 school district.

26 (7) "Sponsor" means the entity responsible for monitoring the performance of a public charter school.
27 The term includes:

28 (a) the board of trustees of the existing school district in which the public charter school is located that
29 has developed a written charter with an applicant to create a public charter school;

30 (b) a school of education within the university system for research and development purposes that enters

- 1 into a collaborative agreement to sponsor a public charter school;
- 2 (c) the board of public education, through the review process provided for in [section 7];
- 3 (d) the board of trustees of an authorizer created for the purpose of establishing a public charter school
- 4 district for one or more public charter schools; and
- 5 (e) a state-recognized or federally recognized Indian tribe located within the boundaries of the state of
- 6 Montana.

7

8 **NEW SECTION. Section 3. Public charter school district board of trustees -- powers and duties.**

9 (1) There is a board of trustees for each public charter school district.

10 (2) If an applicant for a public charter school or an operator of a public charter school is an existing

11 school district, the board of trustees for any public charter school within the district is the board of trustees of the

12 existing school district.

13 (3) The board of trustees for a public charter school district consists of five members elected as provided

14 in the district's charter.

15 (4) The board of trustees:

16 (a) shall exercise general supervision over the public charter schools formed within the boundaries of

17 the public charter school district;

18 (b) shall provide leadership and support for sponsors to increase the innovation in and the effectiveness,

19 accountability, and fiscal soundness of public charter schools;

20 (c) shall develop an attendance agreement as required in [section 16];

21 (d) shall keep a record of its proceedings;

22 (e) shall sign a contract with a sponsor for the establishment of a public charter school or a public charter

23 school district;

24 (f) may contract, sue, and be sued;

25 (g) shall secure insurance for liability and property loss;

26 (h) may pledge, assign, or encumber a public charter school's or public charter school district's assets

27 to be used as collateral for loans or extensions of credit; and

28 (i) may accept gifts, donations, or grants.

29 (5) The board of trustees shall adopt rules:

30 (a) governing the conduct of the board of trustees' business; and

1 (b) establishing the financial reporting procedures required of public charter schools.

2 (6) The members of the board of trustees are not personally liable for:

3 (a) acts or omissions of a public charter school or a public charter school district, including acts or
4 omissions relating to:

5 (i) an application submitted by a public charter school district;

6 (ii) a charter of a public charter school district;

7 (iii) operation of a public charter school or public charter school district; or

8 (iv) performance of a public charter school or public charter school district; or

9 (b) the debts or financial obligations of a public charter school district or persons who operate a public
10 charter school district.

11 (7) A member of the board of trustees is prohibited from working for a sponsor or as an employee, agent,
12 or contractor of an entity with whom a public charter school contracts, directly or indirectly, for professional
13 services, goods, or facilities. A member of the board of trustees who violates this prohibition is individually liable
14 to the public charter school district for any damage caused by the violation.

15

16 **NEW SECTION. Section 4. Formation -- establishment requirements -- proposal submission**
17 **timeline -- prohibitions.** (1) A public charter school may be established:

18 (a) as a new public school;

19 (b) from an existing public school or a portion of the school; or

20 (c) from an existing alternative education program.

21 (2) An applicant seeking to establish a public charter school shall submit a written proposal, pursuant
22 to [section 5], to an authorizer at least 240 days prior to the date on which the public charter school plans to begin
23 operating.

24 (3) A public charter school or public charter school district intending to form a public charter school shall
25 begin the initial year of operation of the public charter school in conjunction with the resident school district's
26 schools. A public charter school shall adopt the minimum aggregate hours and the fiscal year as provided in
27 20-1-301.

28 (4) An applicant seeking to establish a public charter school shall submit to the board of public education
29 any subsequent approvals received from the authorizer.

30 (5) Neither an authorizer nor the board of public education may approve a public charter school proposal

1 that authorizes the conversion of a private school that is tuition-based to a public charter school. However, an
2 authorizer or the board of public education may approve the conversion of an existing alternative education
3 program into a public charter school.

4 (6) Neither an authorizer nor the board of public education may approve a public charter school proposal
5 that is affiliated with a private sectarian or religious institution.

6
7 **NEW SECTION. Section 5. Proposal requirements.** (1) An applicant's written proposal seeking to
8 establish a public charter school must include, at a minimum:

- 9 (a) identification of the applicant;
- 10 (b) the name of the public charter school;
- 11 (c) the legal address, physical location, and facilities of the public charter school, if known;
- 12 (d) a description of the philosophy and the mission of the public charter school;
- 13 (e) a description of the curriculum of the public charter school and the agreement to adopt the state's
14 standards of accreditation pursuant to 20-7-101;
- 15 (f) the public charter school's governance structure;
- 16 (g) the student enrollment projected to be maintained and the ages or grades to be served;
- 17 (h) a description of any distinctive learning or teaching techniques to be used in the public charter school;
- 18 (i) a description of admission policies and application procedures;
- 19 (j) the public charter school's proposed budget and financial plan and evidence that each is financially
20 sound;
- 21 (k) the standards for student behavior and the procedures for the discipline, suspension, or expulsion
22 of students;
- 23 (l) the public charter school's proposed school calendar, including the fiscal year, length of the school
24 day, and length of the school year;
- 25 (m) a description of the public charter school's administrative staff and adoption of teacher qualifications
26 pursuant to 20-4-201 and 20-4-202;
- 27 (n) the date on which the public charter school will begin operations;
- 28 (o) the special education and related services to be provided for children with disabilities;
- 29 (p) a description of the involvement of families, community businesses, local government units, and
30 community stakeholders in the planning and development of the public charter school;

- 1 (q) the term of the charter;
- 2 (r) a plan for bonding or insuring the public charter school, including its buildings and liabilities;
- 3 (s) a plan for the placement of public charter school students, teachers, and other school employees,
- 4 in the case of the termination or nonrenewal of a charter;
- 5 (t) if an existing public school is converting to public charter school status, a plan for:
- 6 (i) alternative arrangements for students who choose not to attend the public charter school and for
- 7 teachers and other school employees who choose not to be employed by the public charter school; and
- 8 (ii) the relationship that will exist between the public charter school and its employees, including evidence
- 9 that the terms and conditions of employment have been addressed with the employees affected.
- 10 (2) In addition to the requirements of subsection (1)(t), the authorizer or the board of public education
- 11 may require that the applicant provide additional information considered relevant to the formation or operation
- 12 of a public charter school.
- 13 (3) At the request of the applicant, the authorizer or the board of public education may provide technical
- 14 assistance in developing the proposal for operating a public charter school. An applicant shall consult with the
- 15 authorizer prior to submitting a proposal.
- 16

17 **NEW SECTION. Section 6. Approval process -- public hearing -- evaluation criteria -- notice of**

18 **decisions.** (1) Within 60 days of the receipt of a proposal submitted under [section 5], the authorizer shall hold

19 a public hearing on the proposal.

- 20 (2) The authorizer shall evaluate the proposal in good faith using the following criteria:
- 21 (a) the demonstrated, sustainable support for the public charter school by teachers, students, parents,
- 22 local government units, and community members, including comments received at a public hearing;
- 23 (b) the public charter school's plans to maintain its demonstrated financial stability;
- 24 (c) the applicant's ability to provide comprehensive instructional programs to students;
- 25 (d) the applicant's ability, in terms of support and planning, to provide comprehensive instructional
- 26 programs to students identified by the public charter school as academically low achievers;
- 27 (e) the extent to which the proposal provided the information required by [section 5];
- 28 (f) whether the applicant's value is outweighed by any directly identifiable, significant, and adverse impact
- 29 on the quality of the public education of the students residing in the school district in which the public charter
- 30 school will be located;

1 (g) whether arrangements have been made for necessary special education and related services for
2 children with disabilities; and

3 (h) whether there are alternative arrangements for students who choose not to attend and for teachers
4 and other school employees who choose not to be employed by the public charter school.

5 (3) Within 30 days of the public hearing, the authorizer shall approve in writing a public charter school
6 proposal or provide in writing the reasons for denial.

7 (4) If a proposal is denied, the reasons for the denial and suggested remedial measures, if any, must
8 be clearly outlined in the written notice sent to the applicant. The applicant may amend the proposal to address
9 the authorizer's objections and any suggested remedial measures and resubmit the proposal to the authorizer
10 within 30 days of the authorizer's decision. The authorizer shall approve or deny the resubmitted proposal within
11 20 days of receipt. If the proposal is denied, the applicant may appeal the denial to the board of public education
12 for review of the authorizer's decision as provided for in [section 8].

13 (5) Individual elements of an applicant's proposal may be modified during the proposal and chartering
14 process.

15 (6) In addition to approval by the authorizer, a proposal to convert an existing public school to a public
16 charter school must be approved by the public school district's board of trustees.

17 (7) The authorizer or the board of public education may grant an extension of any deadline required
18 under this section for good cause shown.

19
20 **NEW SECTION. Section 7. Review of authorizer's decision on initial approval -- board of public**

21 **education as sponsor -- judicial review of decision.** (1) If an authorizer denies a proposal to establish a public
22 charter school, the applicant may request that the board of public education review the authorizer's decision.

23 (2) Upon receipt of a request for review, the board of public education shall attempt to mediate a
24 resolution between the authorizer and the public charter school, including recommending revisions to the proposal
25 for the public charter school.

26 (3) The board of public education may become the public charter school's sponsor if the authorizer does
27 not agree to accept the proposal revisions and the applicant and the board of public education agree to
28 sponsorship by the board of public education.

29 (4) Upon receipt of the request for review of the authorizer's decision, in addition to the actions previously
30 described in this section and at any time during the review process, the board of public education may reject a

1 proposal to establish a public charter school if the school fails to meet the requirements of [sections 1 through
2 17].

3 (5) A public charter school may seek judicial review of an order of the board of public education pursuant
4 to Title 2, chapter 4, part 7. If the district court finds that the decision of the board of public education is not
5 supported by substantial evidence in the record, the court shall enter an order directing the board of public
6 education to sponsor the public charter school.

7
8 **NEW SECTION. Section 8. Terms and form of charter amendment -- renewal -- appeals.** (1) Upon
9 the authorizer's approval of a public charter school's proposal, the authorizer shall become the sponsor of the
10 public charter school's charter. The public charter school and the sponsor shall develop a written charter
11 containing the provisions of the proposal that have been approved by the sponsor and the public charter school's
12 board of trustees. The public charter school and the sponsor may agree to modify the elements of the proposal
13 prior to their incorporation into the charter or may agree to exclude specific elements. When executed by the
14 sponsor and the public charter school's board of trustees, the charter is the legal authorization for the
15 establishment of the public charter school. The charter is legally binding on both the sponsor and the public
16 charter school's board of trustees.

17 (2) By joint written agreement, the sponsor and the public charter school's board of trustees may amend
18 the charter.

19 (3) (a) The initial charter must be for a period of not more than 5 years and must be renewed upon the
20 authorization of the sponsor using the process established under this section.

21 (b) The initial renewal of a charter is for 5 years.

22 (c) Subsequent renewals of a charter must be for a minimum of 5 years but may not exceed 10 years.

23 (4) (a) The public charter school's board of trustees shall submit a written renewal request to the sponsor
24 for consideration at least 180 days prior to the charter's expiration.

25 (b) Within 45 days after receiving a written renewal request from a public charter school's board of
26 trustees, the sponsor shall hold a public hearing regarding the request for renewal.

27 (c) Within 10 days of the public hearing, the sponsor shall notify the public charter school's board of
28 trustees of the sponsor's decision regarding renewal of the charter.

29 (d) Within 20 days of the public hearing, the sponsor shall either approve the renewal or state in writing
30 the reasons for denial.

1 (e) Within 90 days of the sponsor's approval of the charter's renewal, the sponsor and the public charter
2 school's board of trustees shall negotiate a new charter unless they agree to an extension of time.

3 (f) If the sponsor decides not to renew the charter, the public charter school's board of trustees may
4 choose to address the written reasons for the denial and any remedial measures suggested by the sponsor and
5 then submit a revised request for renewal to the sponsor within 20 days of the decision.

6 (5) (a) If the sponsor decides not to renew the charter based on the revised request for renewal, the
7 public charter school's board of trustees may appeal this decision to the board of public education. This appeal
8 is limited to whether the sponsor followed the process required by this section.

9 (b) If the board of public education determines that the sponsor followed the procedures for renewal
10 required by this section in denying the request for renewal, the board of public education shall affirm the sponsor's
11 decision. A public charter school's board of trustees may seek judicial review of an order of the board of public
12 education pursuant to Title 2, chapter 4, part 7.

13 (c) If the board of public education finds the sponsor failed to follow the procedures for renewal required
14 by this section in denying the request for renewal, the board of public education shall order the sponsor to
15 reconsider the renewal request.

16 (d) If after reconsideration the sponsor does not renew the charter, the public charter school's board of
17 trustees may seek judicial review, pursuant to Title 2, chapter 4, part 7, as to whether the board of public
18 education followed the procedures required by this section in denying the renewal request.

19 (6) (a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether the
20 public charter school:

21 (i) is in compliance with this section and all other applicable state and federal laws;

22 (ii) is in compliance with the public charter school's charter;

23 (iii) is meeting or working toward meeting the student performance goals and agreements specified in
24 the charter or any other written agreements between the sponsor and the public charter school's board of
25 trustees;

26 (iv) is fiscally stable; and

27 (v) is in compliance with any renewal criteria specified in the charter.

28 (b) The sponsor shall base the renewal evaluation primarily on a review of the public charter school's
29 annual performance reports, an annual audit of accounts, an annual site visit, and any other information mutually
30 agreed to by the sponsor and the public charter school's board of trustees.

1
2 **NEW SECTION. Section 9. Annual report -- review visit -- audit.** (1) A public charter school shall
3 report to the sponsor and the board of public education at least annually on the performance of the public charter
4 school and its students. A public charter school shall disclose in its report information necessary to determine its
5 compliance with the requirements of [sections 1 through 17]. The sponsor or the sponsor's designee shall visit,
6 on one or more occasions each year, the public charter school site and review the public charter school's
7 compliance with the terms and provisions of the charter.

8 (2) The public charter school must have an annual audit of the accounts of the public charter school
9 prepared in accordance with all financial reporting requirements established by the board of public education and
10 the reporting requirements for federal and philanthropic grant fund foundations.

11 (3) The public charter schools shall report to the superintendent of public instruction as required under
12 this title on student achievement on state and national assessments, data required by the federal No Child Left
13 Behind Act of 2001, 20 U.S.C. 6301, et seq., or other state or federal reporting requirements.

14 (4) A purpose of the reports filed under subsection (3) may be to monitor trends among public charter
15 schools and to:

16 (a) allow educators and local citizens to identify and share successful and unsuccessful school
17 programs;

18 (b) allow educators to sustain support for reforms demonstrated to be successful;

19 (c) recognize schools for their progress and achievements; and

20 (d) facilitate the issue of educational resources and innovations in the most effective manner.

21
22 **NEW SECTION. Section 10. Termination of charter -- appeals -- rules -- dissolution or closure of**
23 **school.** (1) The sponsor may terminate the charter of a public charter school for any of the following deficiencies
24 on the part of the public charter school:

25 (a) failing to meet the terms of an approved charter;

26 (b) failing to meet the requirements for student performance described in the charter;

27 (c) failing to correct a violation of a federal or state law;

28 (d) failing to maintain insurance as described in the charter;

29 (e) failing to maintain financial stability.

30 (2) (a) If a charter is to be terminated, the sponsor shall notify the public charter school's board of

1 trustees at least 60 days prior to the effective date of the termination. The notice must state the reasons for the
2 termination.

3 (b) The public charter school's board of trustees may request a hearing before its sponsor on the
4 decision to terminate.

5 (c) Except for cases described in subsection (4), a public charter school's sponsor shall close the school
6 on a date that will coincide with the end of the semester.

7 (3) A public charter school's board of trustees may appeal a decision to terminate to the superintendent
8 of public instruction if the sponsor is the board of trustees of the public school district, a school of education within
9 the university system, or a state-recognized or federally recognized Indian tribe located within the boundaries of
10 the state of Montana. If the board of public education is the sponsor, the public charter school may seek judicial
11 review pursuant to Title 2, chapter 4, part 7. The board of public education shall adopt by rule procedures to
12 ensure a timely appeals process that prevents the disruption of the students' education.

13 (4) (a) A sponsor may immediately terminate a charter and close a public charter school if the health or
14 safety of the students is endangered.

15 (b) The public charter school's board of trustees may request a hearing before its sponsor on the
16 immediate termination of its charter. The sponsor shall hold a hearing within 10 days of receiving the request.

17 (c) If the sponsor upholds its decision to immediately terminate the charter, the public charter school's
18 board of trustees may appeal to the board of public education. Within 10 days of receiving the notice of appeal,
19 the board of public education shall hold a hearing. If the board of public education is the sponsor, the public
20 charter school's board of trustees may seek judicial review pursuant to Title 2, chapter 4, part 7.

21 (d) The public charter school must remain closed throughout the appeals process unless the board of
22 public education orders the sponsor to open the school and sets aside the sponsor's decision to terminate the
23 charter.

24 (5) Termination of a charter does not affect the public charter school's authority to operate as a private
25 school if the charter school determines to operate as a private school.

26 (6) If a charter is terminated or a public charter school is voluntarily dissolved, the assets of the public
27 charter school that were purchased with public funds must be transferred to the board of public education, which
28 may disburse those assets to other public charter schools or school districts.

29 (7) If a public charter school is voluntarily dissolved, the public charter school's board of trustees shall
30 notify its sponsor at least 180 days prior to the proposed effective date of the dissolution. Except as provided in

1 subsection (4), a public charter school's board of trustees shall voluntarily dissolve the school on a date that will
2 coincide with the end of the semester.

3
4 **NEW SECTION. Section 11. Applicability of laws -- restrictions -- powers -- student diplomas.** (1)
5 A public charter school may not violate the establishment clause of the first amendment to the United States
6 constitution or Article V, section 11(5), of the Montana constitution, and a public charter school may not be based
7 on religion.

8 (2) (a) A public charter school shall maintain minimum enrollment as required under this title.

9 (b) The public charter school shall report student enrollment in compliance with this title for calculation
10 of the ANB under 20-9-311.

11 (3) A public charter school may sue or be sued as a separate legal entity.

12 (4) A public charter school may enter into contracts and may lease facilities and services from a school
13 district, a unit of the university system, other governmental units, or any person or legal entity.

14 (5) A public charter school may not levy taxes or issue bonds that incur public debt.

15 (6) A public charter school may receive and accept gifts, grants, and donations from any source for
16 expenditures to carry out the lawful functions of the school in accordance with 20-9-604.

17 (7) (a) The school district in which the public charter school is located shall offer a high school diploma
18 to any public charter school student who meets the district's and the state's standards for a high school diploma.

19 (b) A high school diploma issued by a public charter school grants the holder the same rights and
20 privileges as a high school diploma issued by a public school district.

21 (8) Prior to beginning operations, the public charter school shall show proof of insurance to its sponsor
22 as specified in its charter.

23
24 **NEW SECTION. Section 12. Student admissions -- online courses -- fundraising activities.** (1)
25 Enrollment in a public charter school must be voluntary. All students who reside within the school district where
26 the public charter school is located are eligible for enrollment at a public charter school. If the number of
27 applications from students who reside in the school district exceeds the capacity of a program, class, grade level,
28 or building, the public charter school shall select students through an equitable lottery process. However, after
29 a public charter school has been in operation for 1 year or more, the public charter school may give priority for
30 admission to:

1 (a) students who were enrolled in the school in the prior year;
2 (b) students who have siblings who are presently enrolled in the school and who were enrolled in the
3 school in the prior year; or

4 (c) children of employees of the charter school.

5 (2) (a) If space is available, a public charter school may admit students who do not reside in the school
6 district in which the public charter school is located.

7 (b) If a public charter school offers online courses as part of its curriculum, then at least 50% of the
8 students who attend the public charter school must reside in the school district in which the public charter school
9 is located.

10 (3) A public charter school may not limit student admissions based on ethnicity, national origin, race,
11 religion, disability, gender, income level, English language proficiency, or athletic ability but may limit admission
12 to students within a given age group or grade level in accordance with the provisions of this section.

13 (4) A public charter school may conduct fundraising activities. However, a public charter school may not
14 require a student to participate in fundraising activities as a condition of admission to the public charter school.

15
16 **NEW SECTION. Section 13. Public charter school development account.** There is a public charter
17 school development account in the federal special revenue fund. All money received from the federal government
18 for the development of charter schools must be deposited in the account. The superintendent of public instruction
19 shall use the money in the account for the sole benefit of public charter schools.

20
21 **NEW SECTION. Section 14. Employees -- licensure and registration requirements -- collective**
22 **bargaining -- prohibition on waiver of right to sponsor charter school.** (1) Employee assignment to a public
23 charter school must be voluntary.

24 (2) A public charter school district is the employer of any employee of the public charter school. The
25 charter school's board of trustees or, if agreed to by the board of trustees and the employee, the sponsor shall
26 engage in collective bargaining with the employees of the public charter school. The public charter school's board
27 of trustees shall control the selection of employees at the public charter school.

28 (3) An employee of a public charter school operating within a school district who is granted a leave of
29 absence from the school district and returns to employment with the school district shall retain seniority and
30 benefits as an employee pursuant to the terms of the leave of absence.

1 (4) For purposes of teacher licensing, employment experience in public charter schools is considered
2 the equivalent of experience in public schools.

3 (5) (a) A person employed as an administrator in a public charter school must be licensed or certified
4 as an administrator by the state.

5 (b) A person employed as a teacher in a public charter school must be licensed or certified as a teacher
6 in accordance with 20-4-201 and 20-4-202.

7 (6) An employee of a public charter school may be a member of a labor organization or may organize
8 with other employees to bargain collectively. Bargaining units at the public charter school may be separate from
9 other bargaining units of the sponsor or of the school district in which the public charter school is located.
10 Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district
11 in which the public charter school is located.

12 (7) Neither a school district nor the board of public education may waive the right to sponsor a public
13 charter school in a collective bargaining agreement.

14

15 **NEW SECTION. Section 15. Responsibility for student transportation -- costs.** (1)(a)
16 Notwithstanding any other provision in this section, the school district within which a public charter school is
17 located is responsible for the transportation of students attending the public charter school in the same manner
18 as students attending noncharter public schools if the students are residents of the school district pursuant to
19 20-10-121. A public charter school may negotiate with a school district for the provision of transportation to
20 students attending the public charter school.

21 (b) The school district within which the public charter school is located may, pursuant to 20-10-122,
22 provide for the transportation of students attending the public charter school but considered not to be eligible
23 transportees of the district.

24 (2) Students who attend public charter schools and who reside outside the school district may use the
25 existing bus routes and transportation services of the school district in which a public charter school is located,
26 if available.

27 (3) Transportation costs incurred by a school district under this section are approved transportation costs
28 for the purposes of 20-10-143 in the same manner as the transportation costs incurred by the school district for
29 transporting students who attend nonchartered public schools.

30

1 **NEW SECTION. Section 16. Attendance agreement.**

2 (1) Approval of an attendance agreement that allows a child to enroll in and attend a public charter school is
3 mandatory pursuant to 20-5-321.

4 (2) Whenever a parent or guardian of a child wishes to have the child attend a public charter school
5 within a charter school district or outside the child's district of residence, the parent or guardian shall notify the
6 trustees of the child's district of residence on an attendance agreement form supplied by the public charter school
7 and in accordance with rules adopted by the superintendent of public instruction. Notification must be made within
8 10 days of the child's enrollment in the public charter school. If space is available for the child to enroll in a public
9 charter school, the trustees of the district of residence shall approve the attendance agreement within 10 days
10 of receipt of the agreement.

11
12 **NEW SECTION. Section 17. Charter school funding.** (1) A public charter school may not charge
13 tuition and may charge only such fees as may be imposed on other public schools in the state.

14 (2) Students of a public charter school must be considered to be residents of the school district in which
15 the public charter school is located for purposes of funding.

16 (a) A public charter school within an existing school district is entitled to disbursement of payments in
17 a manner equal to other public schools in the district.

18 (b) A public charter school within a charter school district shall submit a budget as provided in 20-9-308
19 and in Title 20, chapter 9.

20 (3) In addition to those payments or funds specifically provided in [sections 1 through 17], a public charter
21 school district is entitled to all payments and funds available to school districts pursuant to Title 20, chapter 9.

22 (4) (a) Subject to 20-9-311, for its basic entitlement and per-ANB entitlement calculation in the first year
23 that a public charter school is in existence, the ANB is based on projections of initial year enrollment according
24 to the charter contract and with as much factual information as may be available to the public charter school. The
25 calculation must be performed in accordance with the ANB formula prescribed in 20-9-311 and approved by the
26 superintendent of public instruction.

27 (b) (i) The initial year projections must be reconciled with actual enrollment counts no later than June
28 1 of the first fiscal year of operation.

29 (ii) If the initial ANB projections were underestimated, the public charter school may request additional
30 funding from the state pursuant to 20-9-161.

1 (iii) If the initial ANB projections were overestimated, the public charter school shall reimburse the state
2 the amount resulting from the overestimation.

3 (c) Increases in the ANB must be determined pursuant to 20-9-314.

4 (5) A public charter school district may obligate the district to indebtedness pursuant to and within the
5 limitations of the bonding provisions of Title 20, chapter 9, part 4, and shall establish a building fund pursuant to
6 20-9-508. Any debt service obligations that exist in the school district in which the public charter school is located
7 in the public charter school's initial year of operation remain with the school district and may not be counted
8 against the public charter school's budget.

9

10 **Section 18.** Section 20-2-121, MCA, is amended to read:

11 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

12 (1) effect an orderly and uniform system for teacher certification and specialist certification and for the
13 issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and
14 20-4-111;

15 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial
16 of teacher or specialist certification in accordance with the provisions of 20-4-110;

17 (3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

18 (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction,
19 and operation of school buses in accordance with the provisions of 20-10-111;

20 (5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types
21 of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of
22 20-1-303 and 20-1-304;

23 (6) adopt standards of accreditation and establish the accreditation status of every school in accordance
24 with the provisions of 20-7-101 and 20-7-102;

25 (7) approve or disapprove educational media selected by the superintendent of public instruction for the
26 educational media library in accordance with the provisions of 20-7-201;

27 (8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

28 (9) adopt rules for issuance of documents certifying equivalency of completion of secondary education
29 in accordance with 20-7-131;

30 (10) adopt policies for the conduct of programs for gifted and talented children in accordance with the

1 provisions of 20-7-903 and 20-7-904;
 2 (11) adopt rules for student assessment in the public schools; ~~and~~
 3 (12) within 240 days of [the effective date of this act], adopt rules consistent with the provisions of
 4 [sections 1 through 17] to facilitate the establishment and operation of public charter schools or public charter
 5 school districts pursuant to [sections 1 through 17], including but not limited to rules:
 6 (a) governing financial reporting requirements;
 7 (b) securing equitable enforcement of charters; and
 8 (c) applying for appeals from revocation of charters; and
 9 ~~(+2)~~(13) perform any other duty prescribed from time to time by this title or any other act of the
 10 legislature."
 11

12 **Section 19.** Section 20-5-321, MCA, is amended to read:

13 **"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district
 14 attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is
 15 outside of the child's district of residence or in a public school district of a state or province that is adjacent to the
 16 county of the child's residence is mandatory whenever:

17 (a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the
 18 school the child would attend in the resident district and the resident district does not provide transportation;

19 (b) (i) the child resides in a location where, because of geographic conditions between the child's home
 20 and the school that the child would attend within the district of residence, it is impractical to attend school in the
 21 district of residence, as determined by the county transportation committee based on the following criteria:

22 (A) the length of time that is in excess of the 1-hour limit for each bus trip for an elementary child as
 23 authorized under 20-10-121;

24 (B) whether distance traveled is greater than 40 miles one way from the child's home to school on a dirt
 25 road or greater than a total of 60 miles one way from the child's home to school in the district of residence over
 26 the shortest passable route; or

27 (C) whether the condition of the road or existence of a geographic barrier, such as a river or mountain
 28 pass, causes a hazard that prohibits safe travel between the home and school.

29 (ii) The decision of the county transportation committee is subject to appeal to the superintendent of
 30 public instruction, as provided in 20-3-107, but the decision must be considered as final for the purpose of the

1 payment of tuition under 20-5-324(5)(a)(ii) until a decision is issued by the superintendent of public instruction.
2 The superintendent of public instruction may review and rule upon a decision of the county transportation
3 committee without an appeal being filed.

4 (c) the child is a member of a family that is required to send another child outside of the elementary
5 district to attend high school and the child of elementary age may more conveniently attend an elementary school
6 where the high school is located, provided that the child resides more than 3 miles from an elementary school
7 in the resident district or that the parent is required to move to the elementary district where the high school is
8 located to enroll another child in high school. A child enrolled in an elementary school pursuant to this subsection
9 (1)(c) may continue to attend the elementary school after the other child has left the high school.

10 (d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need
11 of intervention or a delinquent youth, as defined in 41-5-103;

12 (e) the child is required to attend school outside of the district of residence as the result of a placement
13 in foster care or a group home licensed by the state; ~~or~~

14 (f) the child is residing with a caretaker relative who wants to enroll the child pursuant to 20-5-502; or
15 (g) the child is enrolled in a public charter school established under the provisions of [sections 1 through
16 17].

17 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child
18 attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an
19 out-of-district attendance agreement in consultation with an appropriate official of the district that the child will
20 attend.

21 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition
22 and transportation as provided in 20-5-323 and Title 20, chapter 10.

23 (c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the
24 district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity
25 and may charge tuition for all students whose tuition is required to be paid by another type of entity. However,
26 any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

27 (ii) As used in this subsection (2)(c), "entity" means a parent, a guardian, the trustees of the district of
28 residence, or a state agency.

29 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of the
30 district of attendance shall approve the out-of-district attendance agreement. The trustees of the district of

1 attendance shall:

2 (a) notify the county superintendent of schools of the county of the child's residence of the approval of
3 the agreement within 10 days; and

4 (b) submit the agreement for a student attending under the provisions of subsection (1)(d) or (1)(e) to
5 the superintendent of public instruction for approval for payment under 20-5-324.

6 (4) Unless the child is a child with a disability who resides in the district, the trustees of the district where
7 the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find
8 that, because of insufficient room and overcrowding, the accreditation of the school would be adversely affected
9 by the acceptance of the child."

10

11 **Section 20.** Section 20-5-323, MCA, is amended to read:

12 **"20-5-323. Tuition and transportation rates -- exception.** (1) Except as provided in subsections (2)
13 through (5), whenever a child has approval to attend a school outside of the child's district of residence under the
14 provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed
15 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

16 (2) The tuition for a child with a disability must be determined under rules adopted by the superintendent
17 of public instruction for the calculation of tuition for special education pupils.

18 (3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student
19 without disabilities who requires a program with costs that exceed the average district costs must be determined
20 as the actual individual costs of providing that program according to the following:

21 (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall
22 approve an agreement with the district of attendance for the tuition cost;

23 (b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received
24 in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs
25 for a Montana resident student; and

26 (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

27 (4) When a child attends a public school of another state or province, the amount of daily tuition may not
28 be greater than the average annual cost for each student in the child's district of residence. This calculation for
29 tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the
30 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal

1 year. For the purposes of this subsection, the following do not apply:

- 2 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;
- 3 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;
- 4 (c) an order issued under Title 40, chapter 4, part 2; or
- 5 (d) out-of-state placement by a state agency.
- 6 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency
- 7 making the placement is responsible for the education costs resulting from the placement.
- 8 (6) The amount, if any, charged for transportation may not exceed the lesser of the average
- 9 transportation cost for each student in the child's district of residence or 35 cents a mile. The average
- 10 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing
- 11 the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.
- 12 (7) The provisions of this section do not apply to a public charter school district established under the
- 13 provisions of [sections 1 through 17]."

14

15 **Section 21.** Section 20-5-324, MCA, is amended to read:

16 **"20-5-324. Tuition report and payment provisions -- exceptions.** (1) Following the close of each

17 school fiscal year, the trustees of a district shall report to the superintendent of public instruction:

- 18 (a) the name and district of residence of each child who attended a school of the district under a
- 19 mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e) in the
- 20 previous school year;
- 21 (b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);
- 22 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
- 23 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);
- 24 (d) the names, districts of attendance, and amount of tuition paid by the district for resident students
- 25 attending public schools out of state in the previous school year; and
- 26 (e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students
- 27 attending day-treatment programs under approved individualized education programs at private, nonsectarian
- 28 schools in the previous school year.
- 29 (2) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:
- 30 (a) pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c),

1 prorated for the actual days of enrollment;

2 (b) determine the total per-ANB entitlement for which the district would have been eligible if the students
3 reported in subsections (1)(d) and (1)(e) had been enrolled in the resident district in the prior year; and

4 (c) reimburse the district of residence for the state portion of the per-ANB entitlement for each student,
5 not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

6 (3) In order to be eligible to receive payment under subsection (2), the trustees of the district of
7 attendance shall submit the report required by subsection (1) within the school fiscal year following the year of
8 attendance.

9 (4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district
10 placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.

11 (5) (a) (i) When a child has approval to attend a school outside the child's district of residence at the
12 resident district's expense under the provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has
13 approval to attend a day-treatment program under an approved individualized education program at a private,
14 nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance
15 the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

16 (ii) By December 31 of the school fiscal year following the year of attendance, the district of residence
17 shall pay at least one-half of any tuition and transportation obligation established under subsection (5)(a)(i) out
18 of the money realized to date from the district tuition or transportation fund. The remaining tuition and
19 transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

20 (b) When a child has approval to attend a school outside the child's district of residence because of a
21 parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the
22 child shall finance the tuition and transportation amount.

23 (6) (a) Except as provided in subsections (6)(b) through (6)(d), the district shall credit tuition receipts to
24 the district general fund and transportation receipts to the transportation fund.

25 (b) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year
26 that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund
27 and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for
28 which the tuition was received.

29 (c) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a disability
30 that exceed the tuition amount received for a pupil without disabilities may be deposited in the district

1 miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support
2 the costs of the program for which the tuition was received.

3 (d) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts
4 of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in
5 the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the
6 district general fund budget.

7 (7) The reimbursements paid under subsection (2)(c) must be deposited into the district tuition fund and
8 must be used by the district to pay obligations for resident students attending public schools out of state or for
9 resident students attending day-treatment programs under approved individualized education programs at private,
10 nonsectarian schools at district expense.

11 (8) The provisions of this section do not apply to out-of-state placements made by a state agency
12 pursuant to 20-7-422 or to a public charter school district established under the provisions of [sections 1 through
13 17]."

14
15 **Section 22.** Section 20-6-104, MCA, is amended to read:

16 **"20-6-104. Moratorium on creation of new district -- exceptions.** (1) Except as provided in
17 subsections (2) and (3), a school district may not initiate the creation of a new elementary district or a new high
18 school district.

19 (2) Pursuant to the provisions of 20-6-326, the trustees or the electors of an existing elementary district
20 may initiate the creation of a new high school district solely for the purpose of expanding into a K-12 district.

21 (3) The moratorium in subsection (1) does not apply to a district that results from the procedure for the
22 dissolution of a K-12 school district pursuant to 20-6-704 or to a public charter school district established under
23 the provisions of [sections 1 through 17] and under rules adopted by the board of public education."

24
25 NEW SECTION. **Section 23. Notification to tribal governments.** The secretary of state shall send
26 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
27 Chippewa tribe.

28
29 NEW SECTION. **Section 24. Codification instruction.** [Sections 1 through 17] are intended to be
30 codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through 17].

1

2 NEW SECTION. **Section 25. Effective date.** [This act] is effective July 1, 2011.

3

- END -