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SENATE BILL NO. 370

INTRODUCED BY Toave Suryagood Felandt  
Keenan Simpkins Brainard Mills

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF A CHARTER SCHOOL UNDER THE CONTROL OF THE TRUSTEES OF A SCHOOL DISTRICT AS A MEANS OF PROVIDING EDUCATIONAL OPPORTUNITIES TO PUBLIC SCHOOL PUPILS; ESTABLISHING APPROVAL AND REVOCATION PROVISIONS FOR THE BOARD OF PUBLIC EDUCATION AND THE TRUSTEES OF A SCHOOL DISTRICT; AND AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-303, AND 20-7-111, MCA."

#### STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] authorizes the board of public education to adopt rules to implement the provisions of [sections 1 through 8], including the design and format of the petition required in [section 4] for initiation of a charter school. It is the intent of the legislature that the board of public education exercise its general supervisory authority over the Montana public school system to adopt all necessary rules for charter schools as an alternative means of providing educational opportunities to public school pupils.

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

**NEW SECTION. Section 1. Short title.** [Sections 1 through 8] may be cited as the "Charter Schools Act".

**NEW SECTION. Section 2. Definition.** For the purposes of [sections 1 through 8], "charter school" means a nonsectarian school program of a public school district that is operated under a charter that is granted by the trustees of a school district and approved by the board of public education.

**NEW SECTION. Section 3. Purpose -- establishment of charter schools.** (1) The trustees of a school district may authorize the establishment of a charter school as a means of providing new opportunities for:

(a) improved pupil learning;

1 (b) increased learning opportunities for pupils in special areas of emphasis in accord with themes  
2 established for a charter school;

3 (c) creative and innovative instructional techniques and school structures;

4 (d) professional vistas for teachers who may choose to work in or to operate a charter school; and

5 (e) freedom from conventional program constraints and mandates.

6 (2) In the exercise of its general supervisory authority over the Montana public school system, the  
7 board of public education is authorized to establish an alternative means of providing educational  
8 opportunities to public school pupils as defined in 20-1-101(10). The board of public education shall adopt  
9 rules to implement the provisions of [sections 1 through 8], including the design and format of the petition  
10 required in subsection (3) for initiation of a charter school.

11 (3) A school district employee group or a school building employee group, a public entity  
12 established pursuant to an interlocal agreement under the provisions of Title 7, chapter 11, part 1, or other  
13 person or entity shall petition the trustees to establish and maintain a charter school.

14  
15 **NEW SECTION. Section 4. Petition for establishment of charter school -- allowable waivers of**  
16 **policies and laws -- limit on number of charter schools.** (1) The petition for establishment of a charter  
17 school that is required in [section 3(2)] must include but is not limited to the following:

18 (a) a description of the key elements under which the charter school will operate;

19 (b) a description of the level of interest and support for the charter school by school district  
20 employees, parents, and the community; and

21 (c) the necessity and rationale for any waiver from school district policies, rules of the board of  
22 public education, collective bargaining provisions, and state law.

23 (2) The trustees of a school district may adopt policies and procedures for receiving, reviewing,  
24 and screening petitions for a charter school.

25 (3) When considering a petition to establish a charter school, the trustees shall determine the  
26 necessity and rationale for a waiver requested in the petition, which may include a waiver from school  
27 district policies, rules of the board of public education, collective bargaining provisions, statutory  
28 requirements in 20-1-301 through 20-1-303 and 20-7-111, provisions of federal law, or the protections for  
29 employees set forth in [section 5].

30 (4) Whenever the trustees determine that the reasons for seeking an allowable waiver are

1 meritorious and legitimately related to the successful operation of a charter school, the trustees may:

2 (a) grant a waiver of a school district policy; and

3 (b) apply on behalf of the charter school to the board of public education for a waiver of rules of  
4 the board of public education, including accreditation standards, collective bargaining provisions, or  
5 statutory requirements listed in subsection (3) that conflict with a provision contained in the charter.

6 (5) The trustees shall submit a petition for a charter school to the board of public education no later  
7 than February 1 prior to July 1 of the school fiscal year in which the charter school will commence.

8 (6) The board of public education may approve or disapprove a petition, including a request for a  
9 waiver contained in the charter, within 60 days from the date of application or at the next scheduled  
10 meeting of the board. A decision by the board of public education or the trustees on a petition is final.

11 (7) When the board of public education and the trustees approve a petition for a charter school,  
12 the charter school may operate in the ensuing school fiscal year under the terms and conditions of the  
13 charter. The manner and method of exercising the rights and performing the responsibilities, duties, and  
14 functions granted to the charter school must be prescribed in the charter. The charter, as approved by the  
15 board of public education, supersedes any school district policies, rules of the board of public education,  
16 collective bargaining provisions, or statutory provisions of 20-1-301 through 20-1-303 and 20-7-111 that  
17 conflict with provisions of the charter.

18 (8) The total number of charter schools that may operate in the state in any school fiscal year may  
19 not exceed 10 charter schools.

20  
21 **NEW SECTION. Section 5. Employee rights under charter school.** (1) An employee who  
22 participates in a charter school shall:

23 (a) participate in the public employees' retirement system or the teachers' retirement system if  
24 otherwise eligible; and

25 (b) receive no less than the wages, leave, and insurance benefits provided to other similarly  
26 situated school district employees.

27 (2) A teacher who participates in a charter school shall:

28 (a) retain the right of tenure acquired while employed by the school district; and

29 (b) satisfy statutory certification requirements.

30 (3) A nonteaching, classified employee of a charter school retains any right to "cause" contained

1 in school district policy, a collective bargaining agreement, or an individual contract entered into between  
 2 the employee and the school district before the establishment of the charter school.

3

4 **NEW SECTION. Section 6. Renewal of charter school.** (1) The approval of a charter school by  
 5 the board of public education and the trustees of a school district is valid for up to 3 school fiscal years.

6 (2) Prior to May 30 of each school fiscal year of operation of a charter school, the trustees shall  
 7 evaluate the achievements and impacts of the charter school and submit the results of the evaluation to  
 8 the board of public education.

9 (3) Prior to the end of the period of operation of a charter school, the trustees may:

10 (a) discontinue the operation of a charter school at any time; or

11 (b) seek approval of the board of public education to renew the charter and to continue the  
 12 operation of the charter school.

13

14 **NEW SECTION. Section 7. Board of public education revocation of charter school -- appeal.** (1)  
 15 The board of public education may revoke the charter of a charter school at any time for the following  
 16 reasons:

17 (a) violation of provisions of law that have not been waived by the board of public education; or

18 (b) material violation of a provision of the charter.

19 (2) A decision of the board of public education to revoke a charter may be appealed to a district  
 20 court. The revocation action by the board of public education may be stayed 45 days pending an appeal.

21

22 **NEW SECTION. Section 8. Duties of superintendent of public instruction.** Upon request, the  
 23 superintendent of public instruction shall provide the board of public education or the trustees of a school  
 24 district with technical advice and assistance regarding the establishment and operation of a charter school  
 25 or the preparation of a petition requesting authorization for the establishment of a charter school.

26

27 **Section 9.** Section 20-1-301, MCA, is amended to read:

28 "20-1-301. **School fiscal year.** The school fiscal year ~~shall begin~~ begins on July 1 and ~~end ends~~  
 29 on June 30. ~~At~~ Except for a charter school provided for under [sections 1 through 8], at least 180 school  
 30 days of pupil instruction ~~shall~~ must be conducted during each school fiscal year, except that 175 days of

1 pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, or unless a variance for  
2 kindergarten has been granted under 20-1-302 or a district is granted a variance under the provisions of  
3 chapter 9, part 8, of this title. For ~~any~~ an elementary or high school district that fails to provide for at least  
4 180 school days of pupil instruction, the superintendent of public instruction shall reduce the county  
5 equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that  
6 school year by 1/90th for each school day less than 180 school days."

7

8 **Section 10.** Section 20-1-302, MCA, is amended to read:

9 **"20-1-302. School day and week.** Subject to 20-1-308 and except for a charter school provided  
10 for under [sections 1 through 8], a school day of pupil instruction shall be at least 2 hours for kindergartens  
11 and all other preschool programs, unless a variance has been granted by the superintendent of public  
12 instruction in accordance with the policies of the board of public education, at least 4 hours for grades 1  
13 through 3, and at least 6 hours for grades 4 through 12. The number of hours in any one school day for  
14 grades 4 through 12 may be reduced by 1 hour if the total number of hours in the school week is not less  
15 than 30 hours. The number of hours in a school week may be reduced, in an emergency, with the approval  
16 of the board of public education."

17

18 **Section 11.** Section 20-1-303, MCA, is amended to read:

19 **"20-1-303. Conduct of school on Saturday or Sunday prohibited -- exception.** Except as provided  
20 or except for a charter school under the provisions of [sections 1 through 8], pupil instruction ~~shall~~ may  
21 not be conducted on Saturday or Sunday. In emergencies, pupil instruction may be conducted on a  
22 Saturday when it is approved by the superintendent of public instruction in accordance with the policies  
23 adopted by the board of public education."

24

25 **Section 12.** Section 20-7-111, MCA, is amended to read:

26 **"20-7-111. Instruction in public schools.** ~~The~~ Except as provided for a charter school under  
27 [sections 1 through 8], the board of public education shall define and specify the basic instructional  
28 program for pupils in public schools, and ~~such~~ the program ~~shall~~ must be set forth in the standards of  
29 accreditation. Other instruction may be given when approved by the board of trustees."

30



APPROVED BY COM ON EDUCATION  
AND CULTURAL RESOURCES

1 SENATE BILL NO. 370

2 INTRODUCED BY TOEWS, SWYSGOOD, FELAND, KEENAN, SIMPKINS, BRAINARD, MILLS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF A CHARTER SCHOOL  
5 UNDER THE CONTROL OF THE TRUSTEES OF A SCHOOL DISTRICT AS A MEANS OF PROVIDING  
6 EDUCATIONAL OPPORTUNITIES TO PUBLIC SCHOOL PUPILS; ESTABLISHING APPROVAL AND  
7 REVOCATION PROVISIONS FOR THE BOARD OF PUBLIC EDUCATION AND THE TRUSTEES OF A SCHOOL  
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15 public school system to adopt all necessary rules for charter schools as an alternative means of providing  
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25 granted by the trustees of a school district and approved by the board of public education.

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27 NEW SECTION. **Section 3. Purpose -- establishment of charter schools.** (1) The trustees of a  
28 school district may authorize the establishment of a charter school as a means of providing new  
29 opportunities for:

30 (a) improved pupil learning;

1 (b) increased learning opportunities for pupils in special areas of emphasis in accord with themes  
2 established for a charter school;

3 (c) creative and innovative instructional techniques and school structures;

4 (d) professional vistas for teachers who may choose to work in or to operate a charter school; and

5 (e) freedom from conventional program constraints and mandates.

6 (2) In the exercise of its general supervisory authority over the Montana public school system, the  
7 board of public education is authorized to establish an alternative means of providing educational  
8 opportunities to public school pupils as defined in 20-1-101(10). The board of public education shall adopt  
9 rules to implement the provisions of [sections 1 through 8], including the design and format of the petition  
10 required in subsection (3) for initiation of a charter school.

11 (3) A school district employee group or a school building employee group, a public entity  
12 established pursuant to an interlocal agreement under the provisions of Title 7, chapter 11, part 1, or other  
13 person or entity shall petition the trustees to establish and maintain a charter school THAT OPERATES  
14 UNDER THE CONTROL OF THE TRUSTEES BUT IS INDEPENDENT FROM OTHER SCHOOL PROGRAMS OF  
15 THE DISTRICT.

16  
17 **NEW SECTION. Section 4. Petition for establishment of charter school -- allowable waivers of**  
18 **policies and laws -- limit on number of charter schools.** (1) The petition for establishment of a charter  
19 school that is required in [section 3(2)] must include but is not limited to the following:

20 (a) a description of the key elements under which the charter school will operate;

21 (b) a description of the level of interest and support for the charter school by school district  
22 employees, parents, and the community; and

23 (c) the necessity and rationale for any waiver from school district policies, rules of the board of  
24 public education, ~~collective bargaining provisions~~, and state law.

25 (2) The trustees of a school district may adopt policies and procedures for receiving, reviewing,  
26 and screening petitions for a charter school.

27 (3) When considering a petition to establish a charter school, the trustees shall determine the  
28 necessity and rationale for a waiver requested in the petition, which may include a waiver from school  
29 district policies, rules of the board of public education, INCLUDING ACCREDITATION STANDARDS,  
30 ~~collective bargaining provisions~~, OR statutory requirements in 20-1-301 through 20-1-303 and 20-7-111,



1 ~~provisions of federal law, or the protections for employees set forth in [section 5].~~

2 (4) Whenever the trustees determine that the reasons for seeking an allowable waiver are  
 3 meritorious and legitimately related to the successful operation of a charter school AND WHEN THE  
 4 FULL-TIME TEACHERS IN THE PROPOSED CHARTER SCHOOL DEMONSTRATE SUPPORT FOR THE  
 5 CHARTER BY A MAJORITY VOTE, the trustees may:

6 (a) grant a waiver of a school district policy; ~~and~~

7 (b) apply on behalf of the charter school to the board of public education for a waiver of rules of  
 8 the board of public education, including accreditation standards, ~~collective bargaining provisions~~, or  
 9 statutory requirements listed in subsection (3) that conflict with a provision contained in the charter; AND

10 (C) ON BEHALF OF THE CHARTER SCHOOL, APPLY TO AND SEEK APPROVAL FROM THE  
 11 RECOGNIZED EXCLUSIVE REPRESENTATIVE FOR A WAIVER OF THE COLLECTIVE BARGAINING  
 12 PROVISIONS THAT CONFLICT WITH A PROVISION OF THE CHARTER. WAIVER OF ANY PROVISION OF  
 13 THE COLLECTIVE BARGAINING AGREEMENT REGARDING THE CERTIFIED EMPLOYEES OF THE CHARTER  
 14 SCHOOL MUST BE BY THE MUTUAL CONSENT OF THE PARTIES PRIOR TO SUBMITTING THE PETITION  
 15 TO THE BOARD OF PUBLIC EDUCATION.

16 (5) The trustees shall submit a petition for a charter school to the board of public education no later  
 17 than February 1 prior to July 1 of the school fiscal year in which the charter school will commence.

18 (6) The board of public education ~~may~~ SHALL approve or disapprove a petition, including a request  
 19 for a waiver contained in the charter, within 60 days from the date of application or at the next scheduled  
 20 meeting of the board. A decision by the board of public education or the trustees on a petition is final.

21 (7) When the board of public education and the trustees approve a petition for a charter school,  
 22 the charter school may operate in the ensuing school fiscal year under the terms and conditions of the  
 23 charter. The manner and method of exercising the rights and performing the responsibilities, duties, and  
 24 functions granted to the charter school must be prescribed in the charter. The charter, as approved by the  
 25 board of public education, supersedes any school district policies, rules of the board of public education,  
 26 ~~collective bargaining provisions~~, or statutory provisions of 20-1-301 through 20-1-303 and 20-7-111 that  
 27 conflict with provisions of the charter.

28 (8) The total number of charter schools that may operate in the state in any school fiscal year may  
 29 not exceed 10 charter schools.

30

1            NEW SECTION.    **Section 5. Employee rights under charter school.** (1) An employee who  
2 participates in a charter school shall:

3            (a) participate in the public employees' retirement system or the teachers' retirement system if  
4 otherwise eligible; and

5            (b) receive no less than the wages, leave, and insurance benefits provided to other similarly  
6 situated school district employees; AND

7            (C) RETAIN ANY RIGHT TO JUST CAUSE CONTAINED IN SCHOOL DISTRICT POLICY, A  
8 COLLECTIVE BARGAINING AGREEMENT, OR AN INDIVIDUAL CONTRACT ENTERED INTO BETWEEN THE  
9 EMPLOYEE AND THE SCHOOL DISTRICT BEFORE THE ESTABLISHMENT OF THE CHARTER SCHOOL.

10           (2) A teacher who participates in a charter school shall:

11           (a) retain the right of tenure acquired while employed by the school district; and

12           (b) satisfy statutory certification requirements.

13           ~~(3) A nonteaching, classified employee of a charter school retains any right to "cause" contained~~  
14 ~~in school district policy, a collective bargaining agreement, or an individual contract entered into between~~  
15 ~~the employee and the school district before the establishment of the charter school.~~

16

17           NEW SECTION.    **Section 6. Renewal of charter school.** (1) The approval of a charter school by  
18 the board of public education and the trustees of a school district is valid for up to 3 school fiscal years.

19           (2) Prior to May 30 of each school fiscal year of operation of a charter school, the trustees shall  
20 evaluate the achievements and impacts of the charter school and submit the results of the evaluation to  
21 the board of public education.

22           (3) Prior to the end of the period of operation of a charter school, the trustees may:

23           (a) (I) discontinue the operation of a charter school at any time THE END OF A SCHOOL YEAR IF  
24 NOTIFICATION IS GIVEN TO THE BOARD OF PUBLIC EDUCATION AND AFFECTED PARTIES BEFORE MAY  
25 1; OR

26           (II) DISCONTINUE THE OPERATION OF A CHARTER SCHOOL AT ANY TIME DURING THE YEAR  
27 IF THE BOARD OF PUBLIC EDUCATION GRANTS APPROVAL FOLLOWING A DETERMINATION BY THE  
28 BOARD THAT CIRCUMSTANCES JUSTIFY DISCONTINUATION; or

29           (b) seek approval of the board of public education to renew the charter and to continue the  
30 operation of the charter school.

1           **NEW SECTION. Section 7. Board of public education revocation of charter school —~~appeal.~~ (1)**

2           The board of public education may revoke the charter of a charter school at any time for the following  
3 reasons:

4           ~~(a)~~(1) violation of provisions of law that have not been waived by the board of public education;

5 or

6           ~~(b)~~(2) material violation of a provision of the charter.

7           ~~(2) A decision of the board of public education to revoke a charter may be appealed to a district  
8 court. The revocation action by the board of public education may be stayed 45 days pending an appeal.~~

10           **NEW SECTION. Section 8. Duties of superintendent of public instruction.** Upon request, the

11 superintendent of public instruction shall provide the board of public education or the trustees of a school  
12 district with technical advice and assistance regarding the establishment and operation of a charter school  
13 or the preparation of a petition requesting authorization for the establishment of a charter school.

15           **Section 9.** Section 20-1-301, MCA, is amended to read:

16           "**20-1-301. School fiscal year.** The school fiscal year ~~shall begin~~ begins on July 1 and ~~end~~ ends  
17 on June 30. ~~At~~ Except for a charter school provided for under [sections 1 through 8], at least 180 school  
18 days of pupil instruction ~~shall~~ must be conducted during each school fiscal year, except that 175 days of  
19 pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, or unless a variance for  
20 kindergarten has been granted under 20-1-302 or a district is granted a variance under the provisions of  
21 chapter 9, part 8, of this title. For ~~any~~ an elementary or high school district that fails to provide for at least  
22 180 school days of pupil instruction, the superintendent of public instruction shall reduce the county  
23 equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district for that  
24 school year by 1/90th for each school day less than 180 school days."

26           **Section 10.** Section 20-1-302, MCA, is amended to read:

27           "**20-1-302. School day and week.** Subject to 20-1-308 and except for a charter school provided  
28 for under [sections 1 through 8], a school day of pupil instruction shall be at least 2 hours for kindergartens  
29 and all other preschool programs, unless a variance has been granted by the superintendent of public  
30 instruction in accordance with the policies of the board of public education, at least 4 hours for grades 1

1 through 3, and at least 6 hours for grades 4 through 12. The number of hours in any one school day for  
2 grades 4 through 12 may be reduced by 1 hour if the total number of hours in the school week is not less  
3 than 30 hours. The number of hours in a school week may be reduced, in an emergency, with the approval  
4 of the board of public education."

5

6 **Section 11.** Section 20-1-303, MCA, is amended to read:

7 "20-1-303. **Conduct of school on Saturday or Sunday prohibited -- exception.** Except as provided  
8 or except for a charter school under the provisions of [sections 1 through 8], pupil instruction ~~shall~~ may  
9 not be conducted on Saturday or Sunday. In emergencies, pupil instruction may be conducted on a  
10 Saturday when it is approved by the superintendent of public instruction in accordance with the policies  
11 adopted by the board of public education."

12

13 **Section 12.** Section 20-7-111, MCA, is amended to read:

14 "20-7-111. **Instruction in public schools.** ~~The~~ Except as provided for a charter school under  
15 [sections 1 through 8], the board of public education shall define and specify the basic instructional  
16 program for pupils in public schools, and ~~such~~ the program ~~shall~~ must be set forth in the standards of  
17 accreditation. Other instruction may be given when approved by the board of trustees."

18

19 NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 8] are intended to be  
20 codified as an integral part of Title 20, chapter 6, and the provisions of Title 20 apply to [sections 1 through  
21 8].

22

-END-

1 SENATE BILL NO. 370  
2 INTRODUCED BY TOEWS, SWYSGOOD, FELAND, KEENAN, SIMPKINS, BRAINARD, MILLS  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF A CHARTER SCHOOL  
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6 EDUCATIONAL OPPORTUNITIES TO PUBLIC SCHOOL PUPILS; ESTABLISHING APPROVAL AND  
7 REVOCATION PROVISIONS FOR THE BOARD OF PUBLIC EDUCATION AND THE TRUSTEES OF A SCHOOL  
8 DISTRICT; AND AMENDING SECTIONS 20-1-301, 20-1-302, 20-1-303, AND 20-7-111, MCA."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.