

1 Senate BILL NO. 371

2 INTRODUCED BY Keenan
3 Keenan Arnett Page

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF A CHARTER SCHOOL
5 UNDER THE SPONSORSHIP OF THE TRUSTEES OF A SCHOOL DISTRICT AS A MEANS OF PROVIDING
6 ADDITIONAL EDUCATIONAL OPPORTUNITIES TO THE CHILDREN OF MONTANA; AND AMENDING
7 SECTIONS 20-1-301, 20-1-302, 20-1-303, 20-3-324, 20-4-101, AND 20-7-111, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. Section 1. Short title. [Sections 1 through 11] may be cited as the "Montana
12 Charter Schools Act".

13
14 NEW SECTION. Section 2. Legislative declaration. It is the obligation of all Montanans to provide
15 all children with schools that reflect high expectations and to create conditions in all schools under which
16 these expectations can be met. Different pupils learn differently, and public school programs should be
17 designed to fit the needs of individual pupils. There are parents, teachers, and community members in
18 Montana who are willing and able to offer innovative programs, educational techniques, and environments
19 but who lack a channel through which they can direct their innovative efforts. In authorizing charter
20 schools, it is the intent of the Montana legislature to create that channel for parents, teachers, and
21 community members to take responsible risks and create new, innovative, and more flexible ways of
22 educating all children within the public school system.

23
24 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 11], the following
25 definitions apply:

- 26 (1) "Applicant" means a school district or school building employee group, a public entity, a private
27 person, or a private organization.
- 28 (2) "Charter school" means a public school established by contract with the trustees of a school
29 district.
- 30 (3) "Trustees" means the board of trustees of a school district.

1 **NEW SECTION. Section 4. Charter schools -- application.** (1) An applicant may apply to the
2 trustees to establish and maintain a charter school. The application must include but is not limited to the
3 following:

- 4 (a) the name of the applicant;
- 5 (b) a description of the facility and the location of the charter school;
- 6 (c) a mission statement for the charter school;
- 7 (d) a description of the charter school's organizational structure and governing body;
- 8 (e) a financial plan for the first 3 years of operation;
- 9 (f) a description of the charter school's hiring policy;
- 10 (g) a description of the grade levels being served; and
- 11 (h) an outline of the criteria designed to measure the effectiveness of the school.

12 (2) The applicant shall submit the application to the trustees who shall either accept or reject the
13 application within 90 days. If the application is rejected, the trustees shall notify the applicant in writing
14 of the reasons for the rejection. If the applicant requests it, the trustees may provide technical assistance
15 to improve the application. An applicant may submit a revised application for reconsideration by the
16 trustees.

17

18 **NEW SECTION. Section 5. Charter schools -- requirements -- authority.** (1) The charter for a
19 charter school must contain:

20 (a) evidence that the charter school complies with federal, state, and local statutes and regulations
21 relating to health, safety, civil rights, insurance, and the education of children with disabilities;

22 (b) a statement that the charter school is exempt from all state laws, school district policies, rules
23 of the board of public education, including the accreditation standards, and collective bargaining provisions;

24 (c) evidence that the charter school is nonsectarian in its programs, admission policies, employment
25 practices, and all other operations;

26 (d) a description of the charter school's educational program, pupil performance standards, and
27 methods of assessment. A charter school shall provide a comprehensive program for any grade between
28 kindergarten and grade 12, except that a charter school may offer this curriculum with an emphasis on a
29 specific learning philosophy or style or on a certain subject area such as mathematics, science, fine arts,
30 performance arts, social science, or foreign language.

- 1 (e) the financial reporting requirements established by the trustees;
- 2 (f) provision for an annual audit of the financial and administrative operations of the charter school;
- 3 (g) a description of the governing body of the charter school that is responsible for the policy and
4 operational decisions of the charter school; and
- 5 (h) a description of the personnel policies, personnel qualifications, method of school governance,
6 and the specific roles and duties of the trustees.

7 (2) The governing body of a charter school:

8 (a) may contract, sue, and be sued;

9 (b) shall secure insurance for liability and property loss;

10 (c) may pledge, assign, or encumber their assets to be used as collateral for loans or extensions of
11 credit; and

12 (d) may accept gifts, donations, or grants of any kind.

13 (3) The trustees who sponsor a charter school:

14 (a) are not liable for any acts or omissions of a charter school under its sponsorship, including acts
15 or omissions relating to the:

16 (i) application submitted by the charter school;

17 (ii) charter of the charter school;

18 (iii) operation of the charter school; and

19 (iv) performance of the charter school;

20 (b) are not liable for the debts or financial obligations of a charter school or persons who operate
21 a charter school;

22 (c) must have oversight and administrative responsibility for charter schools within their district; and

23 (d) shall adopt policies and procedures for receiving, reviewing, and screening applications for a
24 charter school.

25

26 **NEW SECTION. Section 6. Renewal of charter -- revocation of charter.** (1) An approved plan to
27 establish a charter school is effective for 15 years from the first day of operation. At the conclusion of the
28 first 14 years of operation, the charter school may apply for renewal.

29 (2) The trustees may deny the request for renewal if, in their judgment, the charter school has
30 failed to complete the obligations of the contract or has failed to comply with the provisions of [sections

1 1 through 11]. The trustees shall give written notice to the governing board of the charter school of the
2 intent not to renew the charter.

3 (3) The trustees shall review a charter school at 5-year intervals and may revoke a charter at any
4 time if the charter school breaches one or more of the provisions of its charter. At least 90 days before
5 the effective date of the proposed revocation, the trustees shall give written notice to the governing board
6 of the charter school of its intent to revoke the charter. The notice must include a statement of reasons
7 for the proposed revocation. The trustees shall allow the charter school at least 90 days to correct the
8 problems associated with the proposed revocation. The final determination on revocation must be made
9 at a public hearing called for that purpose.

10 (4) After renewal of the charter at the end of the 15-year period, the charter may be renewed for
11 successive periods of 15 years if the charter school and the trustees believe that the school is in
12 compliance with its own charter and the provisions of [sections 1 through 11].

13

14 **NEW SECTION. Section 7. Admission requirements.** (1) A charter school shall enroll all eligible
15 pupils who submit a timely application unless the number of applications exceeds the capacity of a
16 program, class, grade level, or building. A charter school shall give enrollment preference to pupils
17 returning to the charter school in the second or any subsequent year of its operation and to siblings of
18 pupils already enrolled in the charter school.

19 (2) A charter school shall give enrollment preference to eligible pupils who reside within the
20 boundaries of the school district where the charter school is located.

21 (3) If capacity is insufficient to enroll all pupils who submit timely applications, the charter school
22 shall select pupils through an equitable selection process, except that preference must be given to siblings
23 of a pupil selected through an equitable selection process.

24 (4) A charter school may not limit admission based on ethnicity, national origin, gender, income
25 level, disability, proficiency in the English language, or athletic ability.

26 (5) A charter school may limit admission to pupils within a given age group or grade level.

27

28 **NEW SECTION. Section 8. Teachers -- employment benefits.** (1) A teacher who is employed by
29 a charter school and who was previously employed by a school district may not on the teacher's return to
30 the school district lose any right of certification, retirement, or salary status or any other benefit provided

1 by law, by the rules of the school district, or by the rules of the governing board of the charter school due
2 to teaching at a charter school.

3 (2) A teacher who is employed by a charter school and who submits an application to the school
4 district where the teacher was employed immediately before employment at a charter school must be given
5 employment preference by the school district if both of the following conditions are met:

6 (a) the teacher submits an employment application to the school district no later than 3 years after
7 ceasing employment with the school district; and

8 (b) a suitable position is available at the school district.

9 (3) A charter school is eligible to participate in the teachers' retirement system as provided in Title
10 19, chapter 20, and the public employees' retirement system as provided in Title 19, chapters 2 and 3.

11
12 **NEW SECTION. Section 9. Facilities for charter schools -- list of vacant buildings.** (1) A charter

13 school may negotiate and contract with a school district, a unit of the university system, or a third party
14 for the use of a building for the charter school.

15 (2) The superintendent of public instruction, in conjunction with the department of administration
16 and the commissioner of higher education, shall annually publish a list of vacant and unused buildings or
17 portions of buildings that are owned by the state, by a school district, or by the university system and that
18 may be suitable for the operation of a charter school. The superintendent shall make the list available to
19 applicants for charter schools and to existing charter schools. The list must include the address of each
20 building, a short description of the building, and the name of the owner of the building. This section does
21 not require the owner of a building on the list to sell or lease the building or a portion of the building to a
22 charter school.

23
24 **NEW SECTION. Section 10. Reprisal prohibited.** (1) The trustees of a school district or a school

25 district employee who has control over personnel actions may not take unlawful reprisal against another
26 employee of the school district because the employee is directly or indirectly involved in an application to
27 establish a charter school.

28 (2) The trustees or a school district employee may not take unlawful reprisal against an educational
29 program of the school or the school district because an application to establish a charter school proposes
30 the conversion of all or a portion of the educational program to a charter school.

1 (3) As used in this section, "unlawful reprisal" means an action that is taken by the trustees of a
 2 school district or a school district employee as a direct result of a lawful application to establish a charter
 3 school and that is adverse to another employee or an education program and:

4 (a) with respect to a school district employee, results in one or more of the following:

5 (i) disciplinary or corrective action;

6 (ii) detail, transfer, or reassignment;

7 (iii) suspension, demotion, or dismissal;

8 (iv) an unfavorable performance evaluation;

9 (v) a reduction in pay, benefits, or awards;

10 (vi) elimination of the employee's position without a reduction in force by reason of lack of money
 11 or work; or

12 (vii) other significant changes in duties or responsibilities that are inconsistent with the employee's
 13 salary or employment classification; and

14 (b) with respect to an educational program, results in one or more of the following:

15 (i) suspension or termination of the program;

16 (ii) transfer or reassignment of the program to a less favorable department;

17 (iii) relocation of the program to a less favorable site within the school or school district; or

18 (iv) significant reduction or termination of funding for the program.

19
 20 **NEW SECTION.** **Section 11. Transportation -- tuition.** (1) Students who reside in the school
 21 district in which the charter school is located must be provided transportation to the charter school on the
 22 same terms and conditions as transportation is provided to students attending the other schools of the
 23 district.

24 (2) Students who reside outside of the school district in which the charter school is located and
 25 who want to attend the charter school are subject to the provisions on 20-5-320.

26
 27 **Section 12.** 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 11], at least 180 school
 30 days of pupil instruction ~~shall~~ must be conducted by each school during each school fiscal year, except that

1 175 days of pupil instruction for graduating seniors may be sufficient as provided in 20-9-313, or unless
 2 a variance for kindergarten has been granted under 20-1-302 or a district is granted a variance under the
 3 provisions of chapter 9, part 8, of this title. For any elementary or high school district that fails to provide
 4 for at least 180 school days of pupil instruction, the superintendent of public instruction shall reduce the
 5 county equalization as defined in 20-9-334 and the state equalization as defined in 20-9-343 for the district
 6 for that school year by 1/90th for each school day less than 180 school days."

7
 8 **Section 13.** 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 school day at a charter
 10 school provided for under [sections 1 through 11], a school day of pupil instruction ~~shall~~ must be at least
 11 2 hours for kindergartens and all other preschool programs, unless a variance has been granted by the
 12 superintendent of public instruction in accordance with the policies of the board of public education, at least
 13 4 hours for grades 1 through 3, and at least 6 hours for grades 4 through 12. The number of hours in any
 14 one school day for grades 4 through 12 may be reduced by 1 hour if the total number of hours in the
 15 school week is not less than 30 hours. The number of hours in a school week may be reduced, in an
 16 emergency, with the approval of the board of public education."

17
 18 **Section 14.** 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 in this section or except for pupil instruction at a charter school under the provisions of [sections 1 through
 21 11], pupil instruction ~~shall~~ may not be conducted on Saturday or Sunday. In emergencies, pupil instruction
 22 may be conducted on a Saturday when it is approved by the superintendent of public instruction in
 23 accordance with the policies adopted by the board of public education."

24
 25 **Section 15.** Section 20-3-324, MCA, is amended to read:

26 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district
 27 shall:

28 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the
 29 district superintendent, the county high school principal, or other principal as the board considers
 30 necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine,

- 1 in accordance with the provisions of Title 20, chapter 4;
- 2 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians,
3 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel
4 considered necessary to carry out the various services of the district;
- 5 (3) administer the attendance and tuition provisions and otherwise govern the pupils of the district
6 in accordance with the provisions of the pupils chapter of this title;
- 7 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the
8 school elections chapter of this title;
- 9 (5) participate in the teachers' retirement system of the state of Montana in accordance with the
10 provisions of the teachers' retirement system chapter of Title 19;
- 11 (6) participate in district boundary change actions in accordance with the provisions of the districts
12 chapter of this title;
- 13 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance
14 with the provisions of the school organization part of this title;
- 15 (8) adopt and administer the annual budget or a budget amendment of the district in accordance
16 with the provisions of the school budget system part of this title;
- 17 (9) conduct the fiscal business of the district in accordance with the provisions of the school
18 financial administration part of this title;
- 19 (10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating
20 reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions
21 of the general fund part of this title;
- 22 (11) establish, maintain, budget, and finance the transportation program of the district in
23 accordance with the provisions of the transportation parts of this title;
- 24 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the
25 provisions of the bonds parts of this title;
- 26 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement
27 fund, building reserve fund, adult education fund, nonoperating fund, school food services fund,
28 miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund,
29 impact aid fund, and interlocal cooperative agreement fund in accordance with the provisions of the other
30 school funds parts of this title;

1 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises
2 in accordance with the provisions of the miscellaneous financial parts of this title;

3 (15) hold in trust, acquire, and dispose of the real and personal property of the district in
4 accordance with the provisions of the school sites and facilities part of this title;

5 (16) operate the schools of the district in accordance with the provisions of the school calendar part
6 of this title;

7 (17) establish and maintain the instructional services of the schools of the district in accordance
8 with the provisions of the instructional services, textbooks, vocational education, and special education
9 parts of this title;

10 (18) establish and maintain the school food services of the district in accordance with the provisions
11 of the school food services parts of this title;

12 (19) make reports from time to time as the county superintendent, superintendent of public
13 instruction, and board of public education may require;

14 (20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary
15 conditions of the school or the general health conditions of each pupil and, upon request, make available
16 to any parent or guardian any medical reports or health records maintained by the district pertaining to the
17 child;

18 (21) for each member of the trustees, visit each school of the district not less than once each
19 school fiscal year to examine its management, conditions, and needs, except trustees from a first-class
20 school district may share the responsibility for visiting each school in the district;

21 (22) procure and display outside daily in suitable weather on school days at each school of the
22 district an American flag that measures not less than 4 feet by 6 feet;

23 (23) provide that an American flag that measures approximately 12 inches by 18 inches be
24 prominently displayed in each classroom in each school of the district, except in a classroom in which the
25 flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

26 (24) adopt and administer a district policy on assessment for placement of any child who enrolls
27 in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110; ~~and~~

28 (25) adopt policies and procedures for receiving, reviewing, and screening applications for a charter
29 school in accordance with the provisions of [sections 1 through 11]; and

30 ~~(25)~~(26) perform any other duty and enforce any other requirements for the government of the

1 schools prescribed by this title, the policies of the board of public education, or the rules of the
2 superintendent of public instruction."

3

4 **Section 16.** Section 20-4-101, MCA, is amended to read:

5 **"20-4-101. System and definitions of teacher and specialist certification -- student teacher**
6 **exception.** (1) In order to establish a uniform system of quality education and to ensure the maintenance
7 of professional standards, a system of teacher and specialist certification ~~shall~~ must be established and
8 maintained under the provisions of this title, ~~and no~~ Except in a charter school as provided in [sections 1
9 through 11], a person shall be permitted to may not teach in the public schools of the state until ~~he~~ the
10 person has obtained a teacher ~~certificate~~ or specialist certificate or the district has obtained an emergency
11 authorization of employment from the state.

12 (2) As used in this part, "teacher or specialist certificate" means a certificate issued or applied for
13 under 20-4-106. The term "teacher or specialist" refers to a person certified under 20-4-106.

14 (3) The ~~above~~ certification requirement ~~shall~~ in subsection (1) may not apply to a student teacher
15 who is ~~hereby~~ defined as a student enrolled in an institution of higher learning approved by the board of
16 regents of higher education for teacher training and who is jointly assigned by ~~such~~ the institution of higher
17 learning and the governing board of a district or a public institution to perform practice teaching in a
18 nonsalaried status under the direction of a regularly employed and certificated teacher.

19 (4) A student teacher, while serving ~~such~~ a nonsalaried internship under the supervision of a
20 certificated teacher, ~~shall~~ must be accorded the same protection of the laws as that accorded a certificated
21 teacher and shall, while acting as ~~such~~ a student teacher, comply with all rules of the governing board of
22 the district or public institution and the applicable provisions of 20-4-301 relating to the duties of teachers."

23

24 **Section 17.** Section 20-7-111, MCA, is amended to read:

25 **"20-7-111. Instruction in public schools.** ~~The~~ Except as provided for a charter school under
26 [sections 1 through 11], the board of public education shall define and specify the basic instructional
27 program for pupils in public schools, and ~~such~~ the program ~~shall~~ must be set forth in the standards of
28 accreditation. Other instruction may be given when approved by the board of trustees."

29

30 NEW SECTION. **Section 18. Codification instruction.** [Sections 1 through 11] are intended to be

1 codified as an integral part of Title 20, chapter 6, and the provisions of Title 20, chapter 6, apply to
2 [sections 1 through 11].

3 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0371, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act authorizing the establishment of a charter school under the sponsorship of the trustees of a school district as a means of providing additional educational opportunities to the children of Montana.

ASSUMPTIONS:

1. All school district must adopt a general fund budget at least equal to the BASE budget of the district by July 1, 1997. SB 371 will have no effect on the allocation of direct state aid, guaranteed tax base aid, or state special education payments.
2. No charter schools will begin operation prior to July 1, 1998.
3. Charter schools will receive funding through a contract with a public school district. The school district will receive its funding in accordance with current law.
4. The Office of Public Instruction, in conjunction with the Department of Administration and the Commissioner of Higher Education, will publish list of vacant and unused state, school district, or university system buildings that may be suitable for the operation of a charter school. The information for school districts is not currently available in any of these 3 offices.


FISCAL IMPACT: No impact to the state general fund.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Charter Schools by offering alternatives to currently operated and focused public school programs may attract some students currently attending private schools. To the extent this occurs state and local expenditures may increase in future years.

TECHNICAL NOTES:

1. SB 371 in section 5(1)(a) states that a charter school must comply with federal, state, and local statutes and regulations relating to health, safety, civil rights, insurance, and the education of children with disabilities. In section 5(1)(b) it exempts the charter school from all state laws, school district policies and rules of the board of public education. These two statements conflict. There is also a legal question of whether the legislature can exempt a school district from the rules of the board of public education.
2. In section 5, the governing body of the charter school is given the power to contract, sue, be sued, secure insurance, encumber, assign, or pledge their assets, but the trustees have oversight and administrative responsibility. The legal responsibilities associated with oversight and administrative responsibility are not clear.
3. If this bill and SB 71 or HB 52 pass, the sections in SB 371 dealing with the length or the school year and the school week should be coordinated with those bills.

 2.21.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


TOM KEATING, PRIMARY SPONSOR DATE