

Testimony HB 456
Koopman
February 7, 2005

Madam Chairman, Members of the Committee, for the record my name is Bud Williams, Deputy Superintendent in the OPI.

I appear before you today to speak on behalf of the State Superintendent, Linda McCulloch. The State Superintendent is opposed to HB 456.

This bill has many legal and technical problems.

For one, it allows sponsors such as universities, tribal colleges, city governments, county commissioners, etc. to determine whether a Charter School District will be approved. This bill proposes to take away the "control and supervision" of publicly funded K-12 education presently vested in the elected trustees of each existing district. As such, this provision is a direct violation of Article X, Section 8 of the Montana Constitution.

Second, charter schools would be funded through a mandated payment from the state of 95% of the Per-ANB entitlement for each of the children that it enrolls. Why would we dilute our resources for our present public schools even further by adding another school system to the mix when we are struggling to provide adequate funding for our existing public school system?

Third, there is already a process in the Montana accreditation standards that would permit Charter Schools. The Rule that allows it is ARM 10.55.604.2.

It states: "a school district may apply to the Board of Public Education through the Office of Public Instruction to create a charter school."

A charter school under these standards must provide an education that meets or exceeds the requirements of the Montana Constitution, state law, and school accreditation standards.

The Board of Public Education may only grant charters to publicly funded schools or programs under the supervision and control of a locally elected board of trustees in an existing school district, following the constitutional mandate of Article X, Section 8.

However the OPI has received no requests from Public Schools to open a Charter School. It's interesting that no one has requested this variation since the rule's adoption in the mid-90's.

Fourth, HB 456 exempts Charter Schools from complying with all provisions in Title 20, except where specifically mentioned in the Bill. (show the section)

Ironically, New Section 2, Legislative intent, cites what is referred to as Indian Education for All, but then exempts itself from all requirements of that section of the law.(20-1-501 thru 503)

In addition, exemption from Title 20 would include the following

1. Requirements for compulsory attendance; truancy statutes.
2. Attendance for minimum number of days or aggregate hours
3. Educator licensure requirements
4. Educator reelection, tenure, dismissal requirements
5. Pupil suspension and expulsion procedures
6. Standards of accreditation
7. Gifted and Talented Education
8. And, there is no process for parents or others to appeal a contested case before the county superintendent

Fifth, under the No Child Left Behind Act, public charter schools must meet the same achievement goals and requirements as other public schools. House Bill 456 attempts to remove Charter Schools from the requirements of NCLB by agreeing to follow Federal regulations regarding health, safety, civil rights and IDEA, specifically omitting NCLB.

The reality is that public charter schools must administer the state criterion referenced test required for accountability under NCLB. They also are subject to the same review process for Adequate Yearly Progress as all other public schools in Montana.

In addition, all teachers in public charter schools must meet the state definition of "Highly Qualified Teachers" under NCLB and IDEA 04.

By exempting charter schools from the licensure requirements of Title 20, HB 456 attempts to provide an "opt out" for charter schools, which is a legal impossibility.

Finally, this legislation attempts to limit the role of the Board of Public Education from exercising general supervision over public schools to simply adopting rules to facilitate and not impair the establishment and operation of charter schools or charter school districts. Specifically the bill would limit the Board to establishing rules for

1. governing financial reporting requirements
2. securing equitable enforcement of charters
3. applying for appeals from revocation of charters

This is a far cry from what the Constitution requires of the Board of Public Education and a far cry from what the Board of Public Education requires of all other Public Schools in Montana in meeting the standards of quality education.

This legislation has many problems, both legal and technical. The State Superintendent is opposed to HB 456.