

Greg 11

HOUSE BILL NO. 603

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF PUBLIC CHARTER  
SCHOOLS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL OPPORTUNITIES FOR THE  
CHILDREN OF MONTANA; ESTABLISHING A PUBLIC CHARTER SCHOOL COMMISSION; ESTABLISHING  
CHARTER AUTHORIZERS FOR OVERSEEING CHARTER SCHOOLS; PROVIDING AN OVERSIGHT FEE  
FOR CHARTER AUTHORIZERS; PROVIDING FOR CREATION, RENEWAL, AND REVOCATION OF PUBLIC  
CHARTER SCHOOLS; PROVIDING FOR PERFORMANCE MEASURES FOR PUBLIC CHARTER SCHOOLS;  
PROVIDING FOR AUTONOMY FOR PUBLIC CHARTER SCHOOLS; PROVIDING FOR FUNDING OF PUBLIC  
CHARTER SCHOOLS; ~~PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR AN APPROPRIATION FOR~~  
~~COMMISSION COSTS; PROVIDING SPENDING AUTHORITY;~~ AMENDING SECTIONS 15-6-201, 20-5-323,  
~~20-6-104,~~ 20-9-313, 61-3-321, AND 61-10-214, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, it is in the best interests of the people of the state that any school or educational program  
operated by the state must establish high expectations and create conditions for meeting those expectations; and

WHEREAS, educational rigor in every public educational program is necessary to continuously  
strengthen the academic achievement of elementary and secondary students; and

WHEREAS, parents and guardians are the most qualified to make decisions regarding choice of  
educational options for the children; and

WHEREAS, parents and educators have a right and a responsibility to participate in the educational  
institutions that serve the parents' children and students; and

WHEREAS, students learn differently and programs offered by state-operated schools should be  
customized to fit the needs of individual students; and

WHEREAS, there are parents, educators, and other citizens in the state who are willing and able to offer  
educational programs but who lack a channel through which the efforts of the parents, educators, and other  
citizens can be directed; and

WHEREAS, it is the purpose of public charter schools to improve student learning by creating high-quality

1 schools with high standards for student performance; to close achievement gaps between high-performing and  
2 low-performing groups of public school students; and to increase high-quality educational opportunities within the  
3 public education system for all students, especially those at risk of academic failure; and

4 WHEREAS, it is the purpose of public charter schools to create new professional opportunities for  
5 teachers, school administrators, and other school personnel that allow these individuals to have a direct voice  
6 in the operation of the schools in which they are involved and to allow public schools freedom and flexibility in  
7 exchange for exceptional levels of results-driven accountability; and

8 WHEREAS, it is the purpose of public charter schools to encourage the use of different high-quality  
9 models of teaching, governing, scheduling, or other aspects of instruction that meet a variety of student needs;  
10 and

11 ~~WHEREAS, it is the purpose of public charter schools to encourage the use of different high-quality~~  
12 ~~models of teaching, governing, scheduling, or other aspects of schooling that meet a variety of student needs;~~  
13 ~~and~~

14 WHEREAS, it is the purpose of public charter schools to provide students, parents, community members,  
15 and local entities with expanded opportunities for involvement in the public education system to encourage the  
16 replication of successful public charter schools; and

17 WHEREAS, all public charter schools in the state established under this act are public schools and are  
18 part of the state's public education system, and the provisions of this act should be interpreted liberally to support  
19 the findings and purposes of this act and to advance a refocused commitment by the state to the mission, goals,  
20 and diversity of public education that include providing viable educational options to parents and students.

21

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

23

24 NEW SECTION. **Section 1. Short title.** [Sections 1 through 17] may be cited as the "Public Charter  
25 Schools Act".

26

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

29 (1) "Applicant" means a person or group that submits an application for a public charter school to an  
30 authorizer.

1 (2) "Application" means a proposal from an applicant to an authorizer to enter into a charter contract for  
2 obtaining public charter school status.

3 (3) "At-risk student" means a student who is affected by environmental conditions that negatively impact  
4 the student's educational performance or threaten a student's likelihood of promotion or graduation.

5 (4) "Authorizer" means an entity authorized under [sections 1 through 17] to review applications,  
6 determine whether to approve applications for entering into a charter contract, enter into charter contracts with  
7 applicants, oversee public charter schools, and determine whether to renew or revoke charter contracts.

8 (5) "Charter contract" means a fixed-term, renewable contract between a public charter school and an  
9 authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the  
10 contract.

11 (6) "Commission" means the state public charter school commission provided for in [section 3].

12 (7) "Conversion public charter school" means a charter school that existed as a noncharter public school  
13 before becoming a public charter school.

14 (8) "Education service provider" means a for-profit education management organization, nonprofit charter  
15 management organization, school design provider, or other partner entity with which a public charter school  
16 intends to contract for educational design, implementation, or comprehensive management.

17 (9) "Governing board" means the independent board of a public charter school that is party to the charter  
18 contract with the authorizer and whose members have been elected or selected pursuant to the school's  
19 *Charter contract*  
application.

20 (10) "Local school board" means a school board exercising management and control of a local school  
21 district pursuant to ~~the laws of the state of Montana~~ *Title 20*.

22 (11) "Noncharter public school" means a public school that is under the direct management, governance,  
23 and control of a local school board or the state.

24 (12) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

25 (13) "Public charter school" means a public school that:

26 (a) has autonomy over decisions including but not limited to matters concerning finance, personnel,  
27 scheduling, curriculum, and instruction;

28 (b) is governed by an independent governing board;

29 (c) is established and operated under the terms of a charter contract between the school's board and  
30 its authorizer;

1 (d) is a school in which parents choose to enroll their children;

2 (e) is a school that admits students on the basis of a lottery if more students apply for admission than  
3 can be accommodated;

4 (f) provides a program of education that may include preschool, prekindergarten, any or all grades  
5 between kindergarten and grade 12, and adult community, continuing, and vocational education programs;

6 (g) operates in pursuit of a specific set of educational objectives as defined in its charter contract; and

7 (h) operates under the oversight of its authorizer in accordance with its charter contract.

8 (14) "School district" has the meaning provided in chapter 6, part 7, of this title.

9 (15) "Startup public charter school" means a public charter school that did not exist as either a public  
10 charter school or a noncharter public school prior to becoming a public charter school.

11 (16) "Student" means a child who is eligible for attendance in a public school in the state.

12 (17) "Virtual public charter school" means a public charter school that offers educational services  
13 predominantly through an online program.

14

15 **NEW SECTION. Section 3. Public charter school commission -- creation -- appointments.** (1)

16 ~~There is a state public charter school commission. The commission is an independent state agency with~~  
17 ~~statewide chartering jurisdiction and authority.~~ THERE IS AN INDEPENDENT STATE PUBLIC CHARTER SCHOOL  
18 COMMISSION WITH STATEWIDE CHARTERING JURISDICTION AND AUTHORITY.

19 (2) The commission is responsible for approving authorizers for high-quality public charter schools  
20 throughout the state, including schools designed to expand opportunities for at-risk students, consistent with the  
21 purposes of [sections 1 through 17].

22 (3) The commission consists of nine members who are appointed ~~by the governor and are subject to~~  
23 ~~the following qualifications:~~ AS FOLLOWS:

24 (A) THREE MEMBERS APPOINTED BY THE GOVERNOR;

25 (B) THREE MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE; AND

26 (C) THREE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE.

27 (4) THE COMMISSION MEMBERS ARE SUBJECT TO THE FOLLOWING QUALIFICATIONS:

28 (a) no more than five of the members may be from the same political party; ~~and~~

29 (B) NO MORE THAN TWO MEMBERS MAY BE PUBLIC EMPLOYEES;

30 (C) ONE OF THE PUBLIC EMPLOYEE MEMBERS MAY BE FROM THE BOARD OF PUBLIC EDUCATION; AND

1 ~~(b)(D)~~ in making the appointments, the governor, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE  
2 shall ensure statewide geographic diversity among commission members.

3 ~~(4)(5)~~ Members appointed to the commission must collectively possess substantial experience and  
4 expertise in public and nonprofit governance, management and finance, public school leadership, assessment,  
5 curriculum, instruction, and public education law. All members of the commission must have a demonstrated  
6 understanding of and commitment to charter schools as a strategy for strengthening public education.

7 ~~(5)(6)~~ (a) ~~Members of the commission shall serve staggered terms. At the discretion of the governor,~~  
8 ~~three members shall serve an initial term of 4 years, three members shall serve an initial term of 3 years, and~~  
9 ~~three members shall serve an initial term of 2 years.~~ *Members of the commission shall serve staggered terms.*  
10 EACH APPOINTING AUTHORITY SHALL APPOINT ONE MEMBER TO  
11 A 4-YEAR TERM, ONE MEMBER TO A 3-YEAR TERM, AND ONE MEMBER TO A 2-YEAR TERM.

12 (b) All terms after the initial term must be for 3 years. Appointment to the initial terms must be made no  
13 later than 60 days following [the effective date of this act].

14 (c) A commission member may not serve more than two consecutive terms.

15 ~~(6)(7)~~ A member is responsible for the member's own expenses of participation on the commission but  
16 is entitled to reasonable travel and per diem expenses.

17 ~~(7)(8)~~ A member of the commission may be removed for any cause that renders the member unable or  
18 unfit to discharge the duties of the office, INCLUDING BUT NOT LIMITED TO FAILURE TO APPROVE AN AUTHORIZER  
19 WITHOUT JUST CAUSE AND INTERFERENCE WITH THE FUNCTIONS OF THE COMMISSION AS SET FORTH IN [SECTIONS 1  
20 THROUGH 17]. Whenever a vacancy on the commission exists, the original appointing authority shall appoint a  
21 member for the remaining portion of the term consistent with the requirements of ~~subsection (3)~~ SUBSECTIONS (3)  
22 AND (4).

23 ~~(8)(9)~~ The commission shall operate with dedicated resources and HIRE staff qualified to execute the  
24 day-to-day responsibilities of public charter school authorizing in accordance with [sections 1 through 17].

25 (10) THE COMMISSION IS AUTHORIZED TO RECEIVE AND EXPEND GIFTS, GRANTS, AND DONATIONS OF ANY KIND  
26 FROM ANY PUBLIC OR PRIVATE ENTITY TO CARRY OUT THE PURPOSES OF [SECTIONS 1 THROUGH 17], SUBJECT TO THE  
27 TERMS AND CONDITIONS UNDER WHICH THEY ARE GIVEN.

28 (11) THE COMMISSION IS ALLOCATED TO THE *state board of education* DEPARTMENT OF ADMINISTRATION FOR ADMINISTRATIVE PURPOSES  
29 ONLY AS PRESCRIBED BY 2-15-121, WITH THE EXCEPTION OF 2-15-121(2)(D). *as prescribed by 2-15-1511* THE COMMISSION SHALL HIRE EMPLOYEES  
30 NECESSARY TO CARRY OUT THE PURPOSES OF [SECTIONS 1 THROUGH 17].

1 NEW SECTION. Section 4. Authorizers. (1) The state public charter school commission created under  
 2 [section 3] may authorize public charter schools in the state, provided that the commission fulfills the requirements  
 3 of public charter school authorizers under [sections 1 through 17].

4 (2) (a) A local school board may register with the commission for chartering authority within the  
 5 boundaries of the school district overseen by the local school board.

6 (b) If the commission determines that the local school board fulfills the requirements of subsection (4),  
 7 the commission shall, within 60 days of receipt of a local school board's application, approve the local school  
 8 board as an authorizer.

9 (c) Upon approval, the commission shall register the local school board with the school district's trustees  
 10 and shall provide the local school district with a letter confirming its approval as an authorizer.

11 (3) The following organizations may apply to the commission for statewide, regional, or local chartering  
 12 authority pursuant to ~~subsection (4)~~ THIS SECTION:

13 (a) governing boards of accredited public or private postsecondary institutions, including community  
 14 colleges, technical colleges, tribal colleges, and 4-year colleges and universities, in accordance with each  
 15 institution's regular operating jurisdiction; *and*

16 ~~(b) a local government unit, including a mayor, city council, or county commission; and~~  
 17 *nonsectarian* (c) governing boards of nonprofit or charitable organizations that are exempt from federal taxes under  
 18 26 U.S.C. 501(c)(3) or 501(c)(6), as amended. *organized for educational purposes*

19 (4) Nonpublic sectarian or religious organizations, and any other charitable organization which, in their  
 20 federal Internal Revenue Service Form 1023, Part IV under section 501(c)(3) of the Internal Revenue Code, 26  
 21 U.S.C. 501(c)(3), describe activities indicating a religious purpose, are not eligible to become authorizers.

22 (5) (a) The commission shall establish the ~~annual~~ application and approval process, ~~including cycles and~~  
 23 ~~deadlines~~ during the fiscal year, for all entities *seeking* eligible to apply for chartering authority as set forth in this section.

24 (b) By *January* ~~March 1~~ of each year, the commission shall make available information and guidelines for all  
 25 eligible entities concerning the opportunity to apply for chartering authority under [sections 1 through 17].

26 (c) Each interested eligible entity shall submit an application that ~~clearly explains or presents~~ *contains*  
 27 following elements in a format to be established by the commission:

28 (i) written notification of intent to serve as a charter authorizer in accordance with [sections 1 through  
 29 17];

30 (ii) an explanation of the entity's strategic vision for chartering;

1 (iii) a plan supporting the entity's strategic vision and an explanation of the entity's budget and personnel  
2 capacity and commitment to execute the duties of quality charter authorizing in accordance with [sections 1  
3 through 17];

4 (iv) a draft or preliminary outline of a request for proposal that will solicit public charter school applicants  
5 in accordance with [section 8];

6 (v) a description or outline of the performance framework the entity will use to guide the establishment  
7 of a charter contract and for ongoing oversight and evaluation of public charter schools consistent with the  
8 requirements of [sections 1 through 17];

9 (vi) a draft of the entity's renewal, revocation, and nonrenewal processes, consistent with [sections 11  
10 and 12];

11 (vii) a statement of assurance that the entity commits to serving as a charter authorizer in fulfillment of  
12 the expectations, spirit, and intent of [sections 1 through 17] and will fully participate in any authorizer training  
13 provided or required by the state; and

14 (viii) a statement of assurance that the entity will be accountable and transparent in all matters concerning  
15 charter-authorizing practices, decisions, and expenditures.

16 (6) (a) Within <sup>90</sup>~~60~~ days of receipt of the application, the commission shall determine whether to approve  
17 an application based on a review of the documentation provided in subsection (5) and the quality of the  
18 applicant's proposal and plans. The commission shall provide a letter to the applicant either confirming or denying  
19 acceptance as an authorizer.

20 (b) Within <sup>60</sup>~~30~~ days of approval of an application for charter authorizing, the commission and the approved  
21 authorizer shall execute a renewable authorizing contract. The initial authorizing contract term is 6 years.

22 (7) An applicant entity may not engage in charter-authorizing functions without a fully executed  
23 authorizing contract.

24 (8) Once authorized, the authorizer shall continue from year to year during the term of the contract as  
25 long as the entity fulfills all charter-authorizing duties and expectations set forth in [sections 1 through 17] and  
26 remains an authorizer in good standing with the commission.

27

28 **NEW SECTION. Section 5. Authorizer responsibilities.** (1) In accordance with [sections 1 through  
29 17], authorizers are responsible for executing the following essential powers and duties:

30 (a) soliciting and evaluating charter applications;

- 1 (b) approving quality charter applications that meet identified educational needs and promote a diversity
- 2 of educational choices;
- 3 (c) declining to approve inadequate charter applications;
- 4 (d) negotiating and executing sound charter contracts with each approved public charter school;
- 5 (e) monitoring, in accordance with charter contract terms, the performance and legal compliance of

6 public charter schools; ~~and~~

7 (f) determining whether each charter contract merits renewal, nonrenewal, or revocation; <sup>and</sup>

8 (g) *revoking a charter*  
(2) An authorizing entity may delegate its duties to its officers, employees, and contractors.

9 (3) Regulation of charter schools by authorizers is limited to the powers and duties described in [sections  
10 1 through 17], consistent with the intent of [sections 1 through 17].

11 (4) An authorizer shall develop, carry out, and maintain chartering policies and practices consistent with  
12 nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing  
13 responsibility, including:

- 14 (a) organizational capacity and infrastructure;
- 15 (b) soliciting and evaluating charter applications;
- 16 (c) performance contracting;
- 17 (d) ongoing public charter school oversight and evaluation; and
- 18 (e) charter renewal decisionmaking.

19 (5) Evidence of material or persistent failure to carry out the duties enumerated in this section constitutes  
20 grounds for ~~rescission~~ <sup>revocation</sup> of charter-authorizing powers.

21 (6) Each authorizer shall submit to the commission <sup>the board of public education</sup> and the legislature an annual report summarizing:

- 22 (a) the authorizer's strategic vision for chartering and <sup>the authorizer's</sup> progress toward achieving that vision;
- 23 (b) the academic and financial performance of all operating public charter schools overseen by the
- 24 authorizer, according to the performance expectations for public charter schools set forth in [sections 1 through
- 25 17]; <sup>and student achievement standards established under Title 20</sup>

26 (c) the status of the authorizer's public charter school portfolio, identifying all public charter schools  
27 approved but not yet open, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never  
28 opened;

29 (d) the authorizing functions provided by the authorizer to the public charter schools under its direction,  
30 including the authorizer's operating costs and expenses detailed in annual audited financial statements that

1 conform with generally accepted accounting principles; and

2 (e) the services purchased from the authorizer by a public charter school under the authorizer's direction,  
3 including an itemized accounting of the actual costs of these services, as required in [section 6].

4 (7) An employee, trustee, agent, or representative of an authorizer may not simultaneously serve as an  
5 employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that entity.

6 (8) A governmental unit or other entity, other than those expressly granted chartering authority as set  
7 forth in [sections 1 through 17], may not assume any charter authorizing function or duty in any form unless  
8 expressly allowed by law.

9

10 **NEW SECTION. Section 6. Duties of commission for oversight of authorizer.** (1) The commission

11 shall establish a statewide formula for authorizer funding ~~and an oversight fee~~, to be applied uniformly to every  
12 authorizer in the state. *that will be provided beginning the second fiscal year following passage and approval*  
AUTHORIZER FUNDING IS FINANCED THROUGH AN OVERSIGHT FEE. *of [sections 1 through 17]*

13 (2) The oversight fee must be calculated as a uniform percentage of the average number belonging  
14 operational funding allocated to each public charter school pursuant to Title 20, chapter 9, part 3, and is to be paid  
15 from the public charter school's share of the BASE aid, not to exceed 3% of each public charter school's ANB  
16 funding in a single school year.

17 (3) The commission may establish a sliding scale for authorizer funding, with the funding percentage  
18 decreasing after the authorizer has achieved a certain threshold after a certain number of years of authorizing,  
19 after a certain number of schools has been authorized, or for other reasons determined at the discretion of the  
20 commission.

21 (4) An authorizer's oversight fee may not include any costs incurred in delivering services that a public  
22 charter school may purchase at its discretion from the authorizer. The authorizer shall use the funding provided  
23 under this section exclusively for the purpose of fulfilling authorizing obligations in accordance with [sections 1  
24 through 17].

25 (5) The commission is responsible for overseeing the performance and effectiveness of all authorizers  
26 established under [sections 1 through 17].

27 (6) The commission shall annually review the effectiveness of the state formula for authorizer funding  
28 and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of  
29 [sections 1 through 17].

30 (7) In accordance with [section 5], every authorizer shall submit to the commission and the legislature

1 an annual report. By October 15 of each year, the commission shall communicate to every authorizer the  
2 requirements for the format, content, and submission of the annual report.

3 (8) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern  
4 of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances  
5 may trigger a special review by the commission.

6 (9) In reviewing or evaluating the performance of authorizers, the commission shall apply nationally  
7 recognized principles and standards for quality charter authorizing.

8 (10) If at any time the commission finds that an authorizer is not in compliance with an existing charter  
9 contract, its authorizing contract with the commission, or the requirements of authorizers under [sections 1  
10 through 17], the commission shall notify the authorizer in writing of the identified problems and shall provide the  
11 authorizer reasonable opportunity to respond and remedy the problems.

12 (11) If an authorizer fails to respond and remedy the problems identified by the commission, the  
13 commission shall notify the authorizer, within a reasonable amount of time under the circumstances, that it  
14 intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and  
15 satisfactory remedy for the violation or deficiencies.

16 (12) In the event of revocation of an authorizer's chartering authority, the commission shall manage the  
17 timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with  
18 the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer  
19 shall assume the existing charter contract for the remainder of the charter term.

20

21 **NEW SECTION. Section 7. Purchase of services by charter school.** (1) With the exception of  
22 oversight services as required by [section 6], a public charter school may not be required to purchase services  
23 from the public charter school's authorizer as an express or implied condition of charter approval or of executing  
24 a charter contract.

25 (2) A public charter school may choose to purchase services from its authorizer. In that event, the public  
26 charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating  
27 the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to  
28 be charged to the public charter school. An authorizer may not charge more than market rates for services  
29 provided to a public charter school.

30

1            NEW SECTION. **Section 8. Charter school application process -- request for proposal -- charter**  
 2 **term.** (1) To solicit, encourage, and guide the development of quality public charter schools, every authorizer  
 3 operating under [sections 1 through 17] shall issue and broadly publicize a request for proposal by June 1 of each  
 4 year. The content and dissemination of the request for proposal must be consistent with the purposes and  
 5 requirements of [sections 1 through 17].

6            ~~(2)~~ Charter school applicants may submit a proposal for a particular public charter school to only one  
 7 authorizer at a time.

8            ~~(3)~~ Each authorizer's request for proposal must present the authorizer's strategic vision for chartering,  
 9 including a clear statement of any preferences the authorizer wishes to grant to applications that help at-risk  
 10 students.

11            ~~(4)~~ A request for proposal must include or otherwise direct applicants to the performance framework that  
 12 the authorizer has developed for public charter school oversight and evaluation in accordance with [section 5].

13            ~~(5)~~ A request for proposal must include the criteria that will guide the authorizer's decision to approve  
 14 or deny a charter application.

15            ~~(6)~~ A request for proposal must include clear and detailed questions as well as guidelines concerning  
 16 the format and content essential for applicants to demonstrate the capacities necessary to establish and operate  
 17 a successful public charter school.

18            ~~(7)~~ A request for proposal must require charter applications to provide or describe thoroughly all of the  
 19 following essential elements of the proposed school plan:

- 20            (a) an executive summary;
- 21            (b) the mission and vision of the proposed public charter school, including identification of the targeted
- 22 student population and the community the school hopes to serve;
- 23            (c) the location or geographic area proposed for the school;
- 24            (d) the grades to be served each year for the full term of the charter contract;
- 25            (e) minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;
- 26            (f) evidence of need and community support for the proposed public charter school;
- 27            (g) background information on the proposed founding governing board members and, if identified, the
- 28 proposed school leadership and management team;
- 29            (h) the school's proposed calendar and sample daily schedule;
- 30            (i) a description of the academic program aligned with state standards;

*established in Title 20*

1 (j) a description of the school's instructional design, including the type of learning environment, class size  
2 and structure, curriculum overview, and teaching methods;

3 (k) the school's plan for using internal and external assessments to measure and report student progress  
4 on the performance framework developed by the authorizer in accordance with [section 5];

5 (l) the school's plans for identifying and successfully serving students with disabilities, students who are  
6 English language learners, students who are academically challenged, and gifted students, including but not  
7 limited to compliance with applicable laws and regulations;

8 (m) a description of cocurricular or extracurricular programs and how the programs will be funded and  
9 delivered;

10 (n) plans and timelines for student recruitment and enrollment, including lottery procedures;

11 (o) the school's student discipline policies, including those for special education students;

12 (p) an organizational chart that clearly presents the school's organizational structure, including lines of  
13 authority and reporting between the governing board, staff, related bodies such as advisory bodies or parent and  
14 teacher councils, and external organizations that will play a role in managing the school;

15 (q) a clear description of the roles and responsibilities for the governing board, the school's leadership  
16 and management team, and other entities shown in the organizational chart;

17 (r) a staffing chart for the school's first year and a staffing plan for the term of the charter;

18 (s) plans for recruiting and developing school leadership and staff;

19 (t) the school's leadership and teacher employment policies, including performance evaluation plans;

20 (u) proposed governing bylaws;

21 (v) explanations of any partnerships or contractual relationships central to the school's operations or  
22 mission;

23 (w) the school's plans for providing transportation, food service, and all other significant operational or  
24 ancillary services;

25 (x) opportunities and expectations for parent involvement;

26 (y) a detailed school startup plan, identifying tasks, timelines, and responsible individuals;

27 (z) a description of the school's financial plan and policies, including financial controls and audit  
28 requirements;

29 (aa) a description of the insurance coverage the school will obtain;

30 (bb) startup and 5-year budgets with clearly stated assumptions;

1 (cc) startup and first-year cash flow projections with clearly stated assumptions;

2 (dd) evidence of anticipated fundraising contributions if claimed in the application; and

3 (ee) a sound facilities plan, including backup or contingency plans if appropriate.

4 ~~(8)~~<sup>7</sup> In the case of an application to establish a public charter school by converting an existing noncharter  
5 public school to public charter school status, a request for proposal must also require the applicants to  
6 demonstrate support for the proposed public charter school conversion by a petition signed by a majority of  
7 teachers and a petition signed by a majority of parents of students in the existing noncharter public school.

8 ~~(9)~~<sup>8</sup> In the case of a proposal to establish a virtual public charter school, a request for proposal must  
9 additionally require the applicants to describe the proposed school's system of course credits and how the school  
10 will:

11 (a) monitor and verify full-time student enrollment, student participation in a full course load, credit  
12 accrual, and course completion;

13 (b) monitor and verify student progress and performance in each course through regular, proctored  
14 assessments and submissions of coursework;

15 (c) conduct parent-teacher conferences; and

16 (d) administer state-required assessments to all students in a proctored setting.

17 ~~(10)~~<sup>9</sup> In the case of a proposed public charter school that intends to contract with an education service  
18 provider for substantial educational services, management services, or both, a request for proposal must  
19 additionally require the applicants to:

20 (a) provide evidence of the education service provider's success in serving student populations similar  
21 to the targeted population, including demonstrated academic achievement as well as successful management  
22 of nonacademic school functions if applicable;

23 (b) provide documentation setting forth:

24 (i) the proposed duration of the service contract;

25 (ii) roles and responsibilities of the governing board, the school staff, and the education service provider;

26 (iii) scope of services and resources to be provided by the education service provider;

27 (iv) performance evaluation measures and timelines;

28 (v) a compensation structure, including clear identification of all fees to be paid to the education service  
29 provider;

30 (vi) methods of contract oversight and enforcement;

1 (vii) investment disclosure;

2 (viii) conditions for renewal and termination of the contract; and

3 (c) disclose and explain any existing or potential conflicts of interest between the school governing board  
4 and the proposed education service provider or any affiliated business entities.

5 <sup>10</sup>~~(11)~~ In the case of a public charter school proposal from an applicant that currently operates one or more  
6 schools in any state or nation, a request for proposal must additionally require the applicant to provide evidence  
7 of past performance and current capacity for growth.

8 <sup>11</sup>~~(12)~~ In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and  
9 criteria consistent with nationally recognized principles and standards for quality charter authorizing. The  
10 application review process must include thorough evaluation of each written charter application, an in-person  
11 interview with the applicant group, and an opportunity in a public forum for local residents to learn about and  
12 provide input on each application.

13 <sup>12</sup>~~(13)~~ In deciding whether to approve charter applications, authorizers shall:

14 (a) grant charters only to applicants that have demonstrated competence in each element of the  
15 authorizer's published approval criteria and are likely to open and operate a successful public charter school;

16 (b) base decisions on documented evidence collected through the application review process; and

17 (c) follow charter-granting policies and practices that are transparent, are based on merit, and avoid  
18 conflicts of interest or any appearance of conflict.

19 <sup>13</sup>~~(14)~~ (a) Within 60 days after the filing of a charter application, the authorizer shall approve or deny the  
20 charter application. The authorizer shall adopt by resolution all charter approval or denial decisions in an open  
21 meeting of the authorizer's governing board.

22 (b) An approval decision may include, if appropriate, reasonable conditions that the charter applicant  
23 must meet before a charter contract may be executed pursuant to [section 9].

24 (c) For any charter denial, the authorizer shall clearly state, for public record, the reasons for denial. A  
25 denied applicant may subsequently reapply to that authorizer or apply to any other authorizer in the state.

26 (d) Within 10 days of taking action to approve or deny a charter application, the authorizer shall report  
27 its decision to the commission. The authorizer shall provide a copy of the report to the charter applicant at the  
28 same time that the report is submitted to the commission. The report must include a copy of the authorizer  
29 governing board's resolution setting forth the action taken and reasons for the decision and providing assurances  
30 of compliance with all of the procedural requirements and application elements set forth in this section.

1

2

**NEW SECTION. Section 9. Charter contract -- terms.** (1) An initial charter must be granted for a term of 5 operating years, commencing on the public charter school's first day of operation. An approved public charter school may delay its opening for 1 school year to plan and prepare for the school's opening. If the school requires an opening delay of more than 1 school year, the school shall request an extension from its authorizer. The authorizer may grant or deny the extension depending on the particular school's circumstances.

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(2) Within <sup>60</sup>~~30~~ days of approval of a charter application, the authorizer and the governing board of the approved public charter school shall execute a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the public charter school will be judged and the administrative relationship between the authorizer and public charter school, including each party's rights and duties.

8

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(3) The performance expectations and measures set forth in the charter contract must include at a minimum the applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the public charter school is operating and has collected baseline achievement data for its enrolled students.

13

14

15

16

(4) The charter contract for a virtual public charter school must include a description and agreement regarding the methods by which the school will:

17

18

19

(a) monitor and verify full-time student enrollment, student participation in a full course load, credit accrual, and course completion;

20

21

(b) monitor and verify student progress and performance in each course through regular, proctored assessments and submissions of coursework;

22

23

(c) conduct parent-teacher conferences; and

24

(d) administer state-required assessments to all students in a proctored setting.

25

26

27

(5) The charter contract must be signed by the president of the authorizer's governing board and the president of the public charter school's governing body. Within 10 days of executing a charter contract, the authorizer shall submit to the commission written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

28

29

(6) A public charter school may not commence operations without a charter contract executed in accordance with this provision and approved in an open meeting of the authorizer's governing board.

30

(7) Authorizers may establish reasonable preopening requirements or conditions to monitor the startup

1 progress of a newly approved public charter school to ensure that the school is prepared to open smoothly on  
2 the date agreed and to ensure that each school meets all building, health, safety, insurance, and other legal  
3 requirements for school opening.

4  
5 **NEW SECTION. Section 10. Enrollment.** (1) (a) A public charter school must be open to any student  
6 residing in the state.

7 (b) A school district may not require any student enrolled in the school district to attend a public charter  
8 school.

9 (c) A public charter school may not limit admission based on ethnicity, national origin, religion, gender,  
10 income level, disabling condition, proficiency in the English language, or academic or athletic ability.

11 (d) A public charter school may limit admission to students within a given age group or grade level.

12 (e) A public charter school may be organized for a special emphasis, theme, or concept as stated in the  
13 school's application.

14 (f) A public charter school shall enroll all students who wish to attend the school unless the number of  
15 students exceeds the capacity of a program, class, grade level, or building.

16 (g) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school  
17 shall select students through a lottery.

18 (2) A noncharter public school converting to a public charter school shall adopt and maintain a policy  
19 giving enrollment preference to students who reside within the former attendance area of that public school.

20 (3) (a) A public charter school <sup>may</sup> ~~shall~~ give enrollment preference to students who were enrolled in the  
21 public charter school the previous school year and to siblings of students already enrolled in the public charter  
22 school. An enrollment preference for returning students excludes those students from entering into a lottery.

23 (b) A public charter school may give enrollment preference to children of a public charter school's  
24 founders, governing board, and full-time employees, limited to no more than 10% of the school's total student  
25 population.

26 (4) This section does not preclude the formation of a public charter school for the purpose of serving  
27 students with disabilities, students of the same gender, students who pose a sufficiently severe disciplinary  
28 problem to warrant a specific educational program, or students who are at risk of academic failure. If capacity is  
29 insufficient to enroll all students who wish to attend such a school, the public charter school shall select students  
30 through a lottery.

1 (5) If a student who was previously enrolled in a public charter school enrolls in any other public school  
2 in this state, the student's new school must accept credits earned by the student in courses or instructional  
3 programs at the public charter school in a uniform and consistent manner and according to the same criteria for  
4 accepting academic credits between other public schools.

5 (6) A school district shall provide or publicize to parents and the general public information about public  
6 charter schools authorized by the district as an enrollment option within the district to the same extent and through  
7 the same means that the district provides and publicizes information about noncharter public schools in the  
8 district.

9 (7) An authorizer may not restrict the number of students a public charter school may enroll. The capacity  
10 of the public charter school must be determined annually by the governing board of the public charter school in  
11 conjunction with the authorizer and in consideration of the public charter school's ability to facilitate the academic  
12 success of its students, to achieve the objectives specified in the charter contract, and to ensure that its student  
13 enrollment does not exceed the capacity of its facility or site.

14  
15 **NEW SECTION. Section 11. Charter school performance and renewal.** (1) The performance  
16 provisions within the charter contract must be based on a performance framework that clearly sets forth the  
17 academic and operational performance indicators, measures, and metrics that will guide the authorizer's  
18 evaluations of each public charter school. The performance framework must include indicators, measures, and  
19 metrics for, at a minimum:

- 20 (a) student academic proficiency;
- 21 (b) student academic growth;
- 22 (c) achievement gaps in both proficiency and growth between major student subgroups;
- 23 (d) attendance;
- 24 (e) recurrent enrollment from year to year;
- 25 (f) postsecondary readiness;
- 26 (g) financial performance and sustainability; and
- 27 (h) board performance and stewardship, including compliance with all applicable laws, regulations, and  
28 terms of the charter contract.

29 (2) Each public charter school, in conjunction with its authorizer, shall set annual performance targets  
30 designed to help each school meet applicable federal, state, and authorizer expectations.

1 (3) (a) The contract performance framework must allow the inclusion, with the authorizer's approval, of  
2 additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external  
3 evaluations of its performance that are consistent with the purposes of [sections 1 through 17].

4 (b) The performance framework must require the disaggregation of all student performance data by  
5 major student subgroups, including gender, race, poverty status, special education status, English learner status,  
6 and gifted status.

7 (c) The authorizer shall collect state assessment data from each public charter school it oversees and  
8 shall analyze and report all data from state assessments in accordance with the performance framework.

9 (d) Multiple schools operating under a single charter contract or overseen by a single governing board  
10 shall report their performance as separate, individual schools, and each school must be held independently  
11 accountable for its performance.

12 (4) (a) An authorizer shall monitor the performance and legal compliance of the public charter schools  
13 it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter  
14 contract. Every authorizer has the authority to conduct or require oversight activities that do not unduly inhibit the  
15 autonomy granted to public charter schools but that enable the authorizer to fulfill its responsibilities under  
16 [sections 1 through 17], including conducting appropriate inquiries and investigations consistent with the intent  
17 of [sections 1 through 17], and to adhere to the terms of the charter contract.

18 (b) Each authorizer shall annually publish and provide, as part of its annual report to the commission and  
19 the legislature, a performance report for each public charter school it oversees, within the performance framework  
20 set forth in the charter contract and [section 9]. The authorizer may require each public charter school it oversees  
21 to submit an annual report to assist the authorizer in gathering complete information about each school,  
22 consistent with the performance framework.

23 (c) In the event that a public charter school's performance or legal compliance appears unsatisfactory,  
24 the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable  
25 opportunity for the school to remedy the problem.

26 (d) An authorizer may take appropriate corrective action or exercise sanctions short of revocation in  
27 response to apparent deficiencies in public charter school performance or legal compliance. The action or  
28 sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a  
29 specified timeframe.

30 (5) (a) A charter may be renewed for successive 5-year terms, although the authorizer may vary the term

1 based on the performance, demonstrated capacities, and particular circumstances of each public charter school.  
2 An authorizer may grant renewal with specific conditions for necessary improvement to a public charter school.

3 (b) No later than June 30 of each year, the authorizer shall issue a public charter school performance  
4 report and charter renewal application guide to any public charter school whose charter will expire the following  
5 year. The performance report must summarize the public charter school's performance record to date, based on  
6 the data required by [sections 1 through 17] and the charter contract, and must provide notice of any weaknesses  
7 or concerns perceived by the authorizer concerning the public charter school that may jeopardize renewal if not  
8 promptly rectified. The public charter school shall respond to the performance report and submit any corrections  
9 or clarifications within 90 days.

10 (6) The renewal application guide must, at a minimum, provide an opportunity for the public charter  
11 school to:

12 (a) present additional evidence, beyond the data contained in the performance report, supporting its case  
13 for charter renewal;

14 (b) describe improvements undertaken or planned for the school; and

15 (c) detail the school's plans for the next charter term.

16 (7) The renewal application guide must include or refer explicitly to the criteria that will guide the  
17 authorizer's renewal decisions, based on the performance framework set forth in the charter contract and  
18 consistent with [sections 1 through 17].

19 (8) (a) No later than February 1 of each year, the governing board of a public charter school seeking  
20 renewal shall submit a renewal application to the charter authorizer pursuant to the renewal application guide  
21 issued by the authorizer. The authorizer shall rule by resolution on the renewal application no later than 30 days  
22 after the filing of the renewal application.

23 (b) Every authorizer shall, when considering charter renewal:

24 (i) base its decision on evidence of the school's performance over the term of the charter contract in  
25 accordance with the performance framework set forth in the charter contract;

26 (ii) ensure that the data used in making renewal decisions is available to the school and the public; and

27 (iii) provide a public report summarizing the basis for each decision.  
28

29 **NEW SECTION. Section 12. Charter school revocation or nonrenewal.** (1) A charter contract is  
30 subject to nonrenewal or revocation at any time if the authorizer determines that the public charter school:

1 (a) committed a material and substantial violation of any of the terms, conditions, standards, or  
2 procedures required under [sections 1 through 17] or the charter contract and from which the public charter  
3 school was not exempted;

4 (b) failed to meet or make sufficient progress toward the performance expectations set forth in the charter  
5 contract; or

6 (c) failed to meet generally accepted standards of fiscal management.

7 (2) An authorizer shall develop revocation and nonrenewal processes that:

8 (a) provide the charter holders with timely notification of the prospect of revocation or nonrenewal and  
9 of the reasons for the possible closure;

10 (b) allow the charter holders a reasonable amount of time in which to prepare a response;

11 (c) provide the charter holders an opportunity to submit documents and testimony at a hearing to  
12 challenge the rationale for the closure recommendation and in support of the continuation of the school;

13 (d) allow the charter holders to be represented by counsel and call witnesses on their behalf;

14 (e) permit the recording of the proceedings; and

15 (f) provide for a final determination conveyed in writing to the charter holders.

16 (3) If an authorizer revokes or denies renewal of a charter, the authorizer shall clearly state, by resolution  
17 of its governing board, the reasons for the revocation or nonrenewal.

18 (4) Within 10 days of taking action to renew, not renew, or revoke a charter, the authorizer shall report  
19 to the commission the action taken and at the same time shall provide a copy of the report to the public charter  
20 school. The report must include a copy of the authorizer governing board's resolution setting forth the action taken  
21 and reasons for the decision and providing assurances of compliance with all of the requirements set forth in  
22 [sections 1 through 17]. The authorizer's decision is appealable to the commission in writing within 30 days of the  
23 commission's receipt of the authorizer's report.

24 (5) (a) Prior to any public charter school closure, an authorizer shall develop a public charter school  
25 closure protocol to ensure timely notification to parents, orderly transition of students and student records to new  
26 schools, and proper disposition of school funds, property, and assets in accordance with the requirements of  
27 [sections 1 through 17]. The protocol must specify responsible parties, transition and closure timelines, and a  
28 delineation of the respective duties of the school and the authorizer.

29 (b) The authorizer shall oversee the closure and work with the closing school to ensure a smooth and  
30 orderly closure and transition for students and parents.

1 (c) In the event of a public charter school closure for any reason, the assets of the school must be  
2 distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the  
3 school, and then to the state general fund. If the assets of the school are insufficient to pay all obligations, the  
4 prioritization of the distribution of assets may be determined by a court of law.

5 (d) If a closing public charter school was converted from an existing public school, the closing public  
6 charter school is not responsible for any financial obligation or debt of the previously existing public school unless  
7 the converting public charter school assumed the debt or obligation at the time of conversion.

8 (6) Transfer of a charter contract, and of oversight of that public charter school from one authorizer to  
9 another before the expiration of the charter term, may occur only if the authorizer violates the provisions of  
10 [section 5] or by special petition to the commission by a public charter school or its authorizer. The commission  
11 shall consider a petition for transfer on a case-by-case basis and may grant transfer requests in response to  
12 special circumstances and to evidence that the transfer would serve the best interests of the public charter  
13 school's students.

14 (7) On or before December 1 of each year, beginning in the first year public charter schools have been  
15 in operation for a full school year, the commission shall issue to the governor, the legislature, and the public an  
16 annual report on the state's public charter schools that includes data from the annual reports submitted by every  
17 authorizer, as well as any additional relevant data compiled by the commission, for the school year ending in the  
18 preceding calendar year. The annual report must include:

19 (a) a comparison of the performance of public charter school students with the performance of  
20 academically, ethnically, and economically comparable groups of students in noncharter public schools; and

21 (b) the commission's assessment of the successes, challenges, and areas for improvement in meeting  
22 the purposes of [sections 1 through 17], including the commission's assessment of the sufficiency of funding for  
23 public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in  
24 state law or policy necessary to strengthen the state's public charter schools.

25

26 **NEWSECTION. Section 13. Charter school operation and autonomy.** (1) (a) A public charter school  
27 must be a nonprofit education organization.

28 (b) A public charter school is subject to all federal laws and authorities as provided in [sections 1 through  
29 17] or arranged by charter contract with the school's authorizer consistent with applicable laws, rules, and  
30 regulations.

*or for following student achievement standards required under Title 20*

1 (c) Except as provided in [sections 1 through 17], a public charter school is not subject to the provisions  
2 of Title 20 or any state or local rule, regulation, policy, or procedure relating to noncharter public schools within  
3 an applicable local school district.

4 (d) A charter contract may consist of one or more schools, to the extent approved by the authorizer and  
5 consistent with applicable law. Each public charter school that is part of a charter contract is separate and distinct  
6 from any other public charter school.

7 (e) A single governing board may hold one or more charter contracts. Each public charter school that  
8 is part of a charter contract is separate and distinct from any other public charter school.

9 (2) A startup public charter school may not be created within the geographical boundaries of a class  
10 three elementary district, as defined in 20-6-201, or a class three high school district, as defined in 20-6-301,

11 unless the public charter school is being converted from the existing public school or is a virtual public charter  
12 school:

*(a) the local school district elects to convert to a public charter school by a majority vote at a regular school election;*

13 ~~(A) THE PUBLIC CHARTER SCHOOL IS BEING CONVERTED FROM AN EXISTING PUBLIC SCHOOL;~~

14 ~~(B) THE SCHOOL DISTRICT ELECTS TO ESTABLISH A PUBLIC CHARTER SCHOOL;~~

15 ~~(C) THE SCHOOL DISTRICT ELECTS TO CONVERT A GRADE OR GRADES TO A PUBLIC CHARTER SCHOOL FROM AN~~

16 ~~EXISTING SCHOOL;~~ *(b) a public school operated by the school district has failed to meet accreditation standards or student achievement standards for 3 or more consecutive years*

17 ~~(D) THE PUBLIC CHARTER SCHOOL IS A TRIBAL CHARTER SCHOOL; OR~~

18 ~~(E) THE PUBLIC CHARTER SCHOOL IS A VIRTUAL PUBLIC CHARTER SCHOOL.~~

19 (3) (a) A public charter school shall function as a local educational agency. A public charter school is  
20 responsible for meeting the requirements of a local educational agency under applicable federal, state, and local  
21 laws, including those relating to special education.

22 (b) A public charter school is primarily responsible for special education at the school, including  
23 identification and service provisions, and is responsible for meeting the needs of enrolled students with  
24 disabilities. If a student's individualized education program team determines that a student's needs are so  
25 profound that they cannot be met in the public charter school and that the public charter school cannot provide  
26 a free, appropriate public education to that student, the student's district of residence shall place the student in  
27 a more appropriate setting.

28 (4) Except as provided in [sections 1 through 17], a public charter school shall comply with all budgeting  
29 requirements provided in Title 20, chapter 9, ~~and is entitled to the same funding of public charter schools as are~~  
30 ~~other public schools under those provisions. FUNDS MUST BE PAID FROM THE STATE DIRECTLY TO A PUBLIC CHARTER~~

1 ~~SCHOOL IN THE SAME MANNER AND AT THE SAME TIME AS FUNDS ARE PAID TO PUBLIC SCHOOL DISTRICTS UNDER THIS~~

2 ~~TITLE.~~

3 ~~(5) For budgeting purposes, RECEIPT OF BASE AID AS DEFINED IN 20-9-306 OR OTHER COUNTY EQUALIZATION~~

4 ~~AID.~~ a public charter school is considered to be in the same school district as that within whose geographical  
5 boundaries the public charter school is located.

6 (6) A public charter school has all the powers necessary for carrying out the terms of its charter contract,  
7 including the following powers:

- 8 (a) to receive and disburse funds for school purposes;
- 9 (b) to secure appropriate insurance and to enter into contracts and leases, free from prevailing wage  
10 laws;
- 11 (c) to contract with an education service provider for the management and operation of the public charter  
12 school only if the school's governing board retains oversight authority over the school;
- 13 (d) to incur debt in reasonable anticipation of the receipt of public or private funds;
- 14 (e) to pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;
- 15 (f) to solicit and accept gifts or grants for school purposes subject to applicable laws and the terms of  
16 its charter contract;
- 17 (g) to acquire real property, for use as its facility or facilities, from public or private sources; and
- 18 (h) to sue and be sued in its own name.

19 (7) (a) A public charter school may not discriminate against any person on the basis of race, creed, color,  
20 sex, disability, or national origin or any other category that would be unlawful if done by a noncharter public  
21 school.

22 (b) A public charter school may not engage in any sectarian practices in its educational program,  
23 admissions policies, employment policies or practices, or operations.

24 (c) A public charter school may not discriminate against any student on the basis of national origin,  
25 minority status, or limited proficiency in English. Consistent with federal civil rights laws, a public charter school  
26 shall provide appropriate services designed to teach English and the general curriculum to students with limited  
27 English proficiency.

28 (d) The powers, obligations, and responsibilities set forth in the charter contract may not be delegated  
29 or assigned by either party, except as otherwise specifically provided in [sections 1 through 17].

30 (8) (a) A public charter school is subject to the same civil rights, health, and safety requirements

1 applicable to other public schools in the state, except as otherwise specifically provided in [sections 1 through  
2 17].

3 (b) A public charter school is subject to the student assessment and accountability requirements  
4 applicable to other public schools in the state, but [sections 1 through 17] do not preclude a public charter school  
5 from establishing additional student assessment measures that exceed state requirements if the school's  
6 authorizer approves those measures.

7 (c) A public charter school governing board is subject to and shall comply with state open meeting and  
8 freedom of information laws.

9 (9) (a) A public charter school shall comply with applicable federal laws, rules, and regulations regarding  
10 the qualification of teachers and other instructional staff. Public charter school teachers are exempt from state  
11 teacher certification requirements.

12 (b) Employees in public charter schools have the same rights and privileges as other public school  
13 employees except as otherwise provided in [sections 1 through 17].

14 ~~(c) Employees in a public charter school are eligible for participation in retirement and other benefits~~  
15 ~~programs of the state if the public charter school chooses to participate.~~

16 <sup>c</sup>~~(d)~~ Teachers and other school personnel, as well as governing board trustees, are subject to criminal  
17 history record checks and fingerprinting requirements as are other public schools.

18 <sup>d</sup>~~(e)~~ Public charter school employees may not be required to be members of any existing collective  
19 bargaining agreement between a school district and its employees. However, a public charter school may not  
20 interfere with laws and other applicable rules protecting the rights of employees to organize and be free from  
21 discrimination.

22 ~~(10) (a) A public charter school is entitled to eligibility for state-sponsored or district-sponsored~~  
23 ~~interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators,~~  
24 ~~administrators, and schools to the same extent as noncharter public schools.~~

25 ~~(b) A public charter school student is eligible to participate in extracurricular activities not offered by the~~  
26 ~~student's school at the school within whose attendance boundaries the student's custodial parent or legal~~  
27 ~~guardian resides or the noncharter public school from which the student withdrew for the purpose of attending~~  
28 ~~a public charter school.~~

29 ~~(c) A public charter school student is eligible for extracurricular activities at a noncharter public school~~  
30 ~~consistent with eligibility standards as applied to full-time students of the noncharter public school.~~

**Insert:** "(3) A public charter school must receive a percentage of all state financial aid paid to a school district under the state funding formula in any form calculated with the numerator as the ANB of all the students attending the public charter school and the denominator as the ANB for all students attending schools in the local school district in both public charter schools and noncharter public schools.

(4) (a) The public charter school must receive 75% of all local funds available to the school district, including but not limited to permissive levies, voted levies, and nonlevy revenue, except for operating budget reserves. Operating budget reserves are calculated with the numerator as the ANB of the students attending the public charter school and the denominator as the ANB of all students attending school in the local school district in both public charter schools and noncharter public schools.

(b) The remaining 25% must be allocated to the school district for funding noncharter public schools.

(5) The county treasurer shall remit the public charter school's proportionate share of funds available to the public charter school at the same time that the county treasurer remits funds to the school districts.

(6) A public charter school is entitled to the quality educator payment for the public charter school's teachers who meet the qualifications provided in 20-9-327."

1 ~~\_\_\_\_\_ (d) A school district or noncharter public school may not impose additional requirements on a public~~  
2 ~~charter school student to participate in extracurricular activities not imposed on full-time students of the~~  
3 ~~noncharter public school.~~

4 ~~\_\_\_\_\_ (e) When selection to participate in an extracurricular activity at a noncharter public school is made on~~  
5 ~~a competitive basis, a public charter school student is eligible to try out for and participate in the activity as~~  
6 ~~provided in this section.~~

7 ~~\_\_\_\_\_ (f) The state superintendent of schools shall make rules establishing fees for public charter school~~  
8 ~~students' participation in extracurricular activities at noncharter public schools. The rules must provide that:~~

9 ~~\_\_\_\_\_ (i) public charter school students pay the same fees as other students to participate in extracurricular~~  
10 ~~activities;~~

11 ~~\_\_\_\_\_ (ii) public charter school students are eligible for fee waivers similar to other students;~~

12 ~~\_\_\_\_\_ (iii) for each public charter school student who participates in an extracurricular activity at a noncharter~~  
13 ~~public school, the public charter school shall pay a share of the noncharter public school's costs for the~~  
14 ~~extracurricular activity; and~~

15 ~~\_\_\_\_\_ (iv) a public charter school's share of the costs of having one or more students participate in an~~  
16 ~~extracurricular activity at noncharter public schools must reflect state and local tax revenues expended, except~~  
17 ~~capital facilities expenditures, for extracurricular activities in a noncharter public school divided by total student~~  
18 ~~enrollment of the noncharter public school.~~

19 ~~\_\_\_\_\_ (g) In determining a public charter school's share of the costs of an extracurricular activity under~~  
20 ~~subsections (10)(f)(iii) and (10)(f)(iv), the state superintendent of schools may establish uniform fees statewide~~  
21 ~~based on average costs statewide or average costs within a sample of school districts.~~

22

23 **NEW SECTION. Section 14. Funding of public charter schools.** (1) A public charter school may not  
24 charge tuition and may only charge fees that may be imposed on BY other public schools in the state.

25 (2) Students of a public charter school are considered to be residents of the school district in which the  
26 public charter school is located for purposes of funding.

27 (3) In addition to those payments or funds specifically provided in [sections 1 through 17], a public charter  
28 school is entitled to all payments and funds available to school districts pursuant to Title 20, chapter 9, except  
29 for the quality educator payment described in 20-9-327. *see attached insert*

30 (4) (a) Subject to 20-9-311, for its <sup>PER-ANB</sup> ~~basic entitlement and per-ANB entitlement~~ calculation in the first year

1 that a public charter school is in existence, the ANB is based upon projections of initial year enrollment according  
2 to the charter contract and with as much factual information as may be available to the public charter school. The  
3 calculation must be performed in accordance with the ANB formula prescribed in 20-9-311 ~~and approved by the~~  
4 ~~superintendent of public instruction.~~

5 (b) (i) The initial year projections must be reconciled with actual enrollment counts no later than June  
6 1 of the first fiscal year of operation.

7 (ii) If the initial ANB projections were underestimated, the public charter school may request additional  
8 funding from the state.

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

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

12 (5) The governing board of a public charter school shall adopt a general fund budget pursuant to  
13 20-9-308 and to the general provisions of Title 20, chapter 9. The governing board shall provide the general fund  
14 budget directly to the superintendent of public instruction for disbursement of all payments available pursuant to  
15 Title 20, chapter 9. A PUBLIC CHARTER SCHOOL MAY EXPEND FUNDS ACCORDING TO ITS CHARTER CONTRACT AND IS NOT  
16 SUBJECT TO BUDGET RESTRICTIONS UNDER TITLE 20, CHAPTER 9.

17 (6) (a) The school district within which the public charter school is located is responsible for the  
18 transportation of students attending the public charter school in the same manner as students attending  
19 noncharter public schools if the student is a resident of the school district.

20 (b) Students who attend public charter schools and who reside outside of the school district may use  
21 existing bus routes and transportation services of the school district in which a public charter school is located.  
22 However, a school district may not be required to add or extend existing bus routes or other transportation  
23 services.

24 ~~(c) The public charter school is responsible for providing transportation to students who reside within the~~  
25 ~~school district and who attend the public charter school if the student is outside of the existing bus routes or other~~  
26 ~~transportation services provided by the school district.~~

27 ~~(d)~~(C) Any transportation costs incurred by a school district under this section are considered approved  
28 transportation costs in the same manner as transportation costs incurred by the school district for transporting  
29 students who attend noncharter public schools are considered approved transportation costs.

30 ~~(e)~~(D) The public charter school may negotiate with a school district for the provision of transportation

1 to students attending the public charter school.

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

7 ~~(8) A public charter school or charter school district may receive money from any source for capital  
8 needs. In a report to the authorizer, a public charter school shall report the total amount of funds received from  
9 grants and other outside sources.~~

10 (8) NOTHING IN [SECTIONS 1 THROUGH 17] MAY BE CONSTRUED TO PROHIBIT ANY PERSON OR ORGANIZATION  
11 FROM PROVIDING FUNDING OR OTHER ASSISTANCE FOR THE ESTABLISHMENT OR OPERATION OF A PUBLIC CHARTER  
12 SCHOOL. THE GOVERNING BOARD OF A PUBLIC CHARTER SCHOOL IS AUTHORIZED TO ACCEPT GIFTS, DONATIONS, AND  
13 GRANTS OF ANY KIND MADE TO THE PUBLIC CHARTER SCHOOL AND TO EXPEND OR USE THE GIFTS, DONATIONS, OR GRANTS  
14 IN ACCORDANCE WITH THE CONDITIONS PRESCRIBED BY THE DONOR. A GIFT, DONATION, OR GRANT MAY NOT BE ACCEPTED  
15 IF THE GIFT, DONATION, OR GRANT IS SUBJECT TO A CONDITION THAT IS CONTRARY TO ANY PROVISION OF LAW OR TERM  
16 OF THE CHARTER CONTRACT.

17 (9) MONEY RECEIVED BY A PUBLIC CHARTER SCHOOL FROM ANY SOURCE AND REMAINING IN THE PUBLIC  
18 CHARTER SCHOOL'S ACCOUNTS AT THE END OF A BUDGET YEAR MUST REMAIN IN THE PUBLIC CHARTER SCHOOL'S  
19 ACCOUNTS FOR USE BY THE PUBLIC CHARTER SCHOOL IN SUBSEQUENT YEARS.

20 *amend item 36 ??*

21 NEW SECTION. Section 15. Public charter school facility revolving loan account. (1) There is a  
22 public charter school facility revolving loan account in the state special revenue fund provided for in 17-2-102.  
23 The public charter school facility revolving loan account is composed of federal funds obtained by the state for  
24 public charter schools and any other funds appropriated or transferred to the fund by the state.

25 (2) (a) Loans may be made from funds in the public charter school facility revolving loan account to a  
26 public charter school upon application by a public charter school and approval by the authorizer.

27 (b) Money loaned to a public charter school pursuant to this section is for construction, purchase,  
28 renovation, and maintenance of public charter school facilities.

29 (c) A loan to a public charter school may not exceed \$20 million over 15 years. A public charter school  
30 may receive multiple loans from the public charter school facility revolving loan program, as long as the total

1 amount received from the program is within the conditions provided in this section.

2 (3) The authorizer may consider all of the following when making a determination as to the approval of  
3 a public charter school's loan application:

4 (a) soundness of the financial business plans of the applicant public charter school;

5 (b) availability of other sources of funding to the public charter school;

6 (c) geographic distribution of loans made from the public charter school facility revolving loan program;

7 (d) the impact that loans received pursuant to this section will have on the public charter school's receipt  
8 of other private and public financing;

9 (e) plans for innovative enhancement or leveraging of funds received pursuant to this section, such as  
10 loan guarantees or other types of credit enhancements; and

11 (f) the financial needs of the public charter school.

12 (4) Commencing with the first fiscal year following the fiscal year the public charter school receives the  
13 loan, the public charter school shall repay the loan in equal annual amounts over a number of years agreed upon  
14 between the public charter school and the state.

15 (5) In the case of default of a loan made directly to a public charter school pursuant to this section, the  
16 public charter school is solely liable for repayment of the loan.

17  
18 **NEW SECTION. Section 16. Public charter school access to district facilities and land.** (1) A public  
19 charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school  
20 facility or property or unused portion of a public school facility or property located in a school district from which  
21 it draws its students if the school district decides to sell or lease the public school facility or property.

22 (2) A public charter school may negotiate and contract at or below fair market value with a school district,  
23 the governing body of a college or university or community college, or any other public entity or for-profit or  
24 nonprofit private entity for the use of a facility for a school building.

25 (3) Libraries, community service organizations, museums, performing arts organizations, theaters,  
26 cinemas, churches, community colleges, colleges, or universities may provide space to public charter schools  
27 within their facilities under their preexisting zoning and land use designations.

28  
29 **NEW SECTION. Section 17. Public charter school endowment fund.** (1) There is an account in the  
30 state special revenue fund provided for in 17-2-102 to be known as the public charter school endowment account.

1 The purpose of the account is the receipt and expenditure of gifts, grants, legacies, devises, and donations given  
2 specifically for the creation and operation of Montana public charter schools.

3 (2) All donations must be from a private source and may not be expended for any purpose other than  
4 for the benefit of qualifying public charter schools. A GIFT, DONATION, OR GRANT MADE DIRECTLY TO A PUBLIC  
5 CHARTER SCHOOL OR SCHOOLS IS NOT PROHIBITED BY THIS SUBSECTION.

6 (3) The administration of the public charter schools endowment fund must be conducted in accordance  
7 with 20-9-604.

8

9 **Section 18.** Section 15-6-201, MCA, is amended to read:

10 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The  
11 following categories of property are exempt from taxation:

12 (a) except as provided in 15-24-1203, the property of:

13 (i) the United States, except:

14 (A) if congress passes legislation that allows the state to tax property owned by the federal government  
15 or an agency created by congress; or

16 (B) as provided in 15-24-1103;

17 (ii) the state, counties, cities, towns, and school districts;

18 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

19 (iv) municipal corporations;

20 (v) public libraries;

21 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33; and

22 (vii) special districts created pursuant to Title 7, chapter 11, part 10;

23 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious  
24 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with  
25 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,  
26 which must be identified in the application, and all land and improvements used for educational or youth  
27 recreational activities if the facilities are generally available for use by the general public but may not exceed 15  
28 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,  
29 or subdivision requirements;

30 (c) property owned and used exclusively for agricultural and horticultural societies not operated for gain

1 or profit;

2 (d) property, not to exceed 80 acres, which must be legally described in the application for the  
3 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the  
4 use of students in attendance and other structures necessary for the operation and maintenance of an  
5 educational institution that:

6 (i) is not operated for gain or profit;

7 (ii) has an attendance policy; and

8 (iii) has a definable curriculum with systematic instruction;

9 (e) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the  
10 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care  
11 facility that is not licensed by the department of public health and human services and organized under Title 35,  
12 chapter 2 or 3, is not exempt.

13 (f) property that is:

14 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

15 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care  
16 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

17 (iii) not maintained and not operated for gain or profit;

18 (g) subject to subsection (2), property that is owned or property that is leased from a federal, state, or  
19 local governmental entity by institutions of purely public charity if the property is directly used for purely public  
20 charitable purposes;

21 (h) evidence of debt secured by mortgages of record upon real or personal property in the state of  
22 Montana;

23 (i) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

24 (j) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or  
25 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the  
26 irrigation of agricultural land;

27 (k) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive  
28 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,  
29 prospect, or dig for oil, gas, coal, or minerals;

30 (l) (i) property that is owned and used by a corporation or association organized and operated exclusively

1 for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or  
 2 mental impairments that constitute or result in substantial impediments to employment and that is not operated  
 3 for gain or profit; and

4 (ii) property that is owned and used by an organization owning and operating facilities that are for the care  
 5 of the retired, aged, or chronically ill and that are not operated for gain or profit; ~~and~~

6 (m) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
 7 and practice for or competition in international sports and athletic events and that is not held or used for private  
 8 or corporate gain or profit. For purposes of this subsection (1)(m), "nonprofit corporation" means an organization  
 9 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
 10 under the Montana Nonprofit Corporation Act; and

11 (n) property leased, owned, or used by a public charter school established pursuant to [sections 1  
 12 through 17].

13 (2) (a) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal  
 14 Internal Revenue Code:

15 (i) an ordained minister, priest, or rabbi;

16 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the  
 17 person has the authority to perform substantially all the religious duties of the church or denomination;

18 (iii) a member of a religious order who has taken a vow of poverty; or

19 (iv) a Christian Science practitioner.

20 (b) For the purposes of subsection (1)(g):

21 (i) the term "institutions of purely public charity" includes any organization that meets the following  
 22 requirements:

23 (A) The organization offers its charitable goods or services to persons without regard to race, religion,  
 24 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal  
 25 Revenue Code, as amended.

26 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
 27 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
 28 performances or entertainment or by other similar types of fundraising activities.

29 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used  
 30 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal

1 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
2 with the department a copy of its federal tax return reporting any unrelated business taxable income received by  
3 the charity during the tax year, together with a statement indicating whether the exempt property was used to  
4 generate any unrelated business taxable income.

5 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even  
6 if the property must be improved before it can directly be used for its intended charitable purpose. If the property  
7 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the  
8 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property  
9 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property  
10 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was  
11 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed  
12 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.  
13 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county  
14 in which the property is located. The notice must indicate that an exemption pursuant to this section has been  
15 granted. The notice must describe the penalty for default under this section and must specify that a default under  
16 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the  
17 department.

18 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally  
19 applied for after December 31, 2004. An application for exemption under this section must contain a legal  
20 description of the property for which the exemption is requested.

21 (c) For the purposes of subsection (1)(i), the term "public museums, art galleries, zoos, and  
22 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property  
23 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real  
24 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary  
25 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a  
26 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property  
27 owned by other persons is exempt if it is:

- 28 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;  
29 (ii) held for future display; or  
30 (iii) used to house or store a public display."

1

2 **Section 19.** Section 20-5-323, MCA, is amended to read:

3 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5),  
4 whenever a child has approval to attend a school outside of the child's district of residence under the provisions  
5 of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the  
6 per-ANB maximum rate established in 20-9-306 for the year of attendance.

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

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

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

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

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

18 (4) When a child attends a public school of another state or province, the amount of daily tuition may not  
19 be greater than the average annual cost for each student in the child's district of residence. This calculation for  
20 tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the  
21 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal  
22 year. For the purposes of this subsection, the following do not apply:

23 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

24 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

25 (c) an order issued under Title 40, chapter 4, part 2; or

26 (d) out-of-state placement by a state agency.

27 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency  
28 making the placement is responsible for the education costs resulting from the placement.

29 (6) The amount, if any, charged for transportation may not exceed the lesser of the average  
30 transportation cost for each student in the child's district of residence or 35 cents a mile. The average

1 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing  
2 the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

3 (7) The provisions of this section do not apply to a public charter school established under [sections 1  
4 through 17]."

5  
6 **Section 20.** Section 20-6-104, MCA, is amended to read:

7 **"20-6-104. Moratorium on creation of new district -- exceptions.** (1) Except as provided in  
8 subsections (2) and (3), a school district may not initiate the creation of a new elementary district or a new high  
9 school district.

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

12 (3) The moratorium in subsection (1) does not apply to a district that results from the procedure for the  
13 dissolution of a K-12 school district pursuant to 20-6-704 or to a public charter school established in accordance  
14 with the provisions of [sections 1 through 17]."

15  
16 <sup>20</sup>**Section 21.** Section 20-9-313, MCA, is amended to read:

17 **"20-9-313. Circumstances under which regular average number belonging may be increased.** (1)  
18 The average number belonging of a school, calculated in accordance with the ANB formula prescribed in  
19 20-9-311, may be increased when:

20 (a) the opening of a new elementary school or the reopening of an elementary school has been approved  
21 in accordance with 20-6-502. The average number belonging for the school must be established by the county  
22 superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

23 (b) the opening or reopening of a high school or a branch of the county high school has been approved  
24 in accordance with 20-6-503, 20-6-504, or 20-6-505. The average number belonging for the high school must be  
25 established by the county superintendent's estimate, after an investigation of the probable number of pupils that  
26 will attend the high school.

27 (c) a district anticipates an increase in the average number belonging due to the closing of a private or  
28 public school in the district or a neighboring district. The estimated increase in average number belonging must  
29 be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the  
30 superintendent of public instruction no later than the fourth Monday in June.

1 (d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase  
 2 in average number belonging must be based on estimates of increased enrollment approved by the  
 3 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

4 (e) for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB  
 5 to be used for budget purposes is:

6 (i) one-half the number of 5-year-old children residing in the district as of September 10 of the preceding  
 7 school year, either as shown on the official school census or as determined by some other procedure approved  
 8 by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten program as  
 9 provided in 20-1-301; or

10 (ii) the number of 5-year-old children residing in the district as of September 10 of the preceding school  
 11 year, either as shown on the official school census or as determined by some other procedure approved by the  
 12 superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided  
 13 in 20-1-301; or

14 (f) a high school district provides early graduation for a student who completes graduation requirements  
 15 in less than eight semesters or the equivalent amount of secondary school enrollment. The increase must be  
 16 established by the trustees as though the student had attended to the end of the school fiscal year and must be  
 17 approved, disapproved, or adjusted by the superintendent of public instruction; or

18 (g) the opening of a public charter school is approved under the provisions of [sections 1 through 17].

19 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time  
 20 kindergarten program."

21  
 22 ~~Section 22.~~ Section 61-3-321, MCA, is amended to read:

23 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**  
 24 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon  
 25 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,  
 26 semitrailers, and pole trailers as provided in subsections (2) through (19):

27 (2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light  
 28 vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

29 (a) if the vehicle is 4 or less years old, \$217;

30 (b) if the vehicle is 5 through 10 years old, \$87; and

1 (c) if the vehicle is 11 or more years old, \$28.

2 (3) Except as provided in subsection (14), the one-time registration fee based on the declared weight  
3 of a trailer, semitrailer, or pole trailer is as follows:

4 (a) if the declared weight is less than 6,000 pounds, \$61.25; or

5 (b) if the declared weight is 6,000 pounds or more, \$148.25.

6 (4) Except as provided in subsection (14), the one-time registration fee for motor vehicles owned and  
7 operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

8 (a) 2,850 pounds and over, \$10; and

9 (b) under 2,850 pounds, \$5.

10 (5) Except as provided in subsection (14), the one-time registration fee for off-highway vehicles other  
11 than a quadricycle or motorcycle is \$61.25.

12 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

13 (7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

14 (i) less than 2 years old, \$282.50;

15 (ii) 2 years old and less than 5 years old, \$224.25;

16 (iii) 5 years old and less than 8 years old, \$132.50; and

17 (iv) 8 years old and older, \$97.50.

18 (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee  
19 under this section may permanently register the motor home upon payment of:

20 (i) a one-time registration fee of \$237.50;

21 (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be  
22 deposited in the account established under 61-6-158; and

23 (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.

24 (8) (a) Except as provided in subsection (14), the one-time registration fee for motorcycles and  
25 quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles  
26 and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

27 (b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as  
28 a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

29 (9) Except as provided in subsection (14), the one-time registration fee for travel trailers, based on the  
30 length of the travel trailer, is as follows:

- 1 (a) under 16 feet in length, \$72; and  
2 (b) 16 feet in length or longer, \$152.
- 3 (10) Except as provided in subsection (14), the one-time registration fee for a motorboat, sailboat,  
4 personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:  
5 (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,  
6 \$65.50;  
7 (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in  
8 length, \$125.50; and  
9 (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.
- 10 (11) (a) Except as provided in subsections (11)(b) and (14), the one-time registration fee for a  
11 snowmobile is \$60.50.  
12 (b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose  
13 of daily rental to customers is assessed:  
14 (A) a fee of \$40.50 in the first year of registration; and  
15 (B) if the business reregisters the snowmobile for a second year, a fee of \$20.  
16 (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently  
17 registered and the business is assessed the registration fee imposed in subsection (11)(a).
- 18 (12) (a) Except as provided in subsection (12)(b), a fee of \$10 must be collected when a new set of  
19 standard license plates, a new single standard license plate, or a replacement set of special license plates  
20 required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously  
21 issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be  
22 paid if the vehicle to which the plates are transferred is not currently registered.  
23 (b) Until January 1, 2015, an additional fee of \$15 must be collected if a vehicle owner elects to keep  
24 the same license plate number from license plates issued on or after January 1, 2006, but before January 1,  
25 2010, when replacement of those plates is required under 61-3-332(3).
- 26 (c) The fees imposed in this subsection (12) must be deposited in the account established under  
27 61-6-158, except that \$2 of the fee imposed in subsection (12)(a) must be deposited in the state general fund.
- 28 (13) The provisions of this part with respect to the payment of registration fees do not apply to and are  
29 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled  
30 by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle

1 or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e),  
 2 (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), ~~or (1)(m)~~, or (1)(n), 15-6-203, or 15-6-215, except as provided in 61-3-520.

3 (14) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle,  
 4 quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile,  
 5 or motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411 is transferred, the new  
 6 owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under  
 7 this section.

8 (15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

9 (16) Except as otherwise provided in this section, revenue collected under this section must be deposited  
 10 in the state general fund.

11 (17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the  
 12 enumerated vehicles or vessels that constitute inventory of the dealership.

13 (18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of \$4 must be  
 14 collected for each light vehicle registered under this part. This fee must be accounted for and transmitted  
 15 separately from the registration fee. The fee must be deposited in an account in the state special revenue fund  
 16 to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$4 fee,  
 17 the department of fish, wildlife, and parks shall use \$3.50 for state parks, 25 cents for fishing access sites, and  
 18 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.

19 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person  
 20 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election  
 21 not to pay the additional \$4 fee provided for in subsection (18)(a). If a written election is made, the fee may not  
 22 be collected.

23 (19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,  
 24 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be  
 25 collected and forwarded to the state for deposit in the account established in 44-1-504.

26 (20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by  
 27 61-3-721."

28  
 29 **Section <sup>22</sup>23.** Section 61-10-214, MCA, is amended to read:

30 **"61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire

1 within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

2 (2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural  
3 worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for  
4 transportation of agricultural workers are exempt from this part.

5 (3) Vehicles lawfully displaying a dealer's or wholesaler's plate as provided in 61-4-102 and 61-4-125  
6 are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's  
7 place of business when unloaded or loaded with dealer's or wholesaler's property only or while being  
8 demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be  
9 leased, rented, or operated for compensation by the licensed dealer or wholesaler.

10 (4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(i),  
11 (1)(j), (1)(l), ~~or (1)(m), or (1)(n)~~ or 15-6-228(4) are exempt from this part. The department of transportation may  
12 require documentation of tax-exempt status from the department of revenue before granting this exemption."

13  
14 <sup>23</sup>  
NEW SECTION. Section 24. Public charter schools -- exceptions. Except as provided in [sections  
15 1 through 17], a public charter school is not subject to the provisions of Title 20.

16  
17 ~~NEW SECTION. Section 25. Appropriation. There is appropriated \$250,000 from the general fund to~~  
18 ~~the charter school commission as a one-time appropriation to commence operations, hire staff qualified to~~  
19 ~~execute day-to-day operations, and hire APPROVE authorizers for the establishment or conversion of public charter~~  
20 ~~schools. THE APPROPRIATION MUST BE MADE UPON PASSAGE AND APPROVAL OF [THIS ACT].~~

21  
22 <sup>24</sup>  
NEW SECTION. Section 28. Severability. If a part of [this act] is invalid, all valid parts that are  
23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
24 the part remains in effect in all valid applications that are severable from the invalid applications.

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

29  
30 <sup>26</sup>  
NEW SECTION. Section 27. Codification instruction. (1) [Sections 1 through 17] are intended to be

1 codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through 17].

2 (2) [Section 24] is intended to be codified as an integral part of Title 20, chapter 1, part 2, and the  
3 provisions of Title 20, chapter 1, part 2, apply to [section 24].

4  
5 NEW SECTION. Section <sup>21</sup>28. **Effective date.** [This act] is effective July 1, 2011.

6 - END -