

HOUSE BILL NO. 315

INTRODUCED BY A. KNUDSEN

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF PUBLIC CHARTER
5 SCHOOLS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL OPPORTUNITIES; DEFINING PUBLIC
6 CHARTER SCHOOLS; PROVIDING FOR AUTONOMY OF PUBLIC CHARTER SCHOOLS THROUGH
7 EXEMPTION FROM TITLE 20, MCA; ESTABLISHING A PUBLIC CHARTER SCHOOL COMMISSION;
8 ESTABLISHING CHARTER AUTHORIZERS FOR OVERSEEING PUBLIC CHARTER SCHOOLS; PROVIDING
9 AN OVERSIGHT FEE FOR CHARTER AUTHORIZERS; PROVIDING FOR CREATION, RENEWAL,
10 REVOCATION, AND CLOSURE OF PUBLIC CHARTER SCHOOLS; PROVIDING FOR PERFORMANCE
11 MEASURES FOR PUBLIC CHARTER SCHOOLS; EXEMPTING PUBLIC CHARTER SCHOOL TEACHERS
12 FROM STATE CERTIFICATION REQUIREMENTS; PROVIDING FOR FUNDING OF PUBLIC CHARTER
13 SCHOOLS; ESTABLISHING A PUBLIC CHARTER SCHOOL FACILITY REVOLVING LOAN ACCOUNT;
14 ESTABLISHING THE PUBLIC CHARTER SCHOOL ENDOWMENT ACCOUNT; ALLOWING PUBLIC CHARTER
15 SCHOOL EMPLOYEES TO PARTICIPATE IN STATE RETIREMENT AND BENEFIT PROGRAMS; PROVIDING
16 FOR AN APPROPRIATION FOR COMMISSION COSTS; PROVIDING RULEMAKING AUTHORITY; AMENDING
17 SECTIONS 15-6-201, 19-20-101, 19-20-302, 20-1-101, 20-4-101, 20-5-323, 61-3-321, AND 61-10-214, MCA;
18 AND PROVIDING AN EFFECTIVE DATE."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 NEW SECTION. **Section 1. Short title.** [Sections 1 through 18] may be cited as the "Public Charter
23 Schools Act".

24
25 NEW SECTION. **Section 2. Public charter schools -- legislative findings and intent -- exemption.**

- 26 (1) The legislature finds that:
- 27 (a) parents desire education options for their children;
 - 28 (b) expanding educational opportunities for K-12 education within the state is a valid public purpose; and
 - 29 (c) creating options that assist parents and encourage students to develop their full educational potential
- 30 are vital to the economic competitiveness of the state.

1 (2) It is the legislature's intent to create other public educational institutions through charter schools. The
2 purposes are to:

3 (a) enable parents to make decisions on how best to educate their children;

4 (b) provide other high-quality public educational opportunities for all students, especially those at risk
5 of academic failure; and

6 (c) encourage the use of different high-quality models of teaching, governing, scheduling, and other
7 aspects of instruction that meet a variety of student needs.

8 (3) The legislature intends to allow public charter schools freedom and flexibility through exemption from
9 Title 20, except as explicitly set forth in [sections 1 through 18], in exchange for increased accountability.

10

11 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 18], the following definitions
12 apply:

13 (1) "Applicant" means a person or group that submits a proposal for a public charter school to an
14 authorizer.

15 (2) "Authorizer" means an entity authorized under [sections 1 through 18] to review proposals, determine
16 whether to approve proposals for entering into a charter contract, enter into charter contracts with applicants,
17 oversee public charter schools, and determine whether to renew or revoke charter contracts.

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

21 (4) "Commission" means the state public charter school commission provided for in [section 4].

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

25 (6) "Governing board" means the independent board of a public charter school that is party to the charter
26 contract with the authorizer and whose members have been elected or selected pursuant to the applicant's
27 proposal for the public charter school.

28 (7) "Local school board" means a school board exercising management and control of a local school
29 district pursuant to the laws of the state of Montana.

30 (8) "Noncharter public school" means a public school that is under the direct management, governance,

1 and control of a local school board or the state.

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

3 (10) "Public charter school" means a high-quality public school that:

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

6 (b) is governed by a governing board;

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

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

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

12 (f) provides a program of education that may include any or all grades from kindergarten through grade
13 12 and vocational education programs;

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

15 (h) operates under the oversight of its authorizer in accordance with its charter contract; and

16 (i) establishes graduation requirements and has authority to award degrees and issue diplomas.

17 (11) "Resident school district" means the public school district in which a student resides.

18 (12) "Startup public charter school" means a public charter school that did not exist as either a public
19 charter school or a noncharter public school prior to becoming a public charter school.

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

21 (14) "Virtual public charter school" means a public charter school that offers educational services
22 predominantly through an online program.

23

24 **NEW SECTION. Section 4. Public charter school commission -- creation -- appointments.** (1)

25 There is an independent state public charter school commission with statewide chartering jurisdiction and
26 authority.

27 (2) The commission is responsible for approving authorizers for public charter schools throughout the
28 state, including schools designed to expand opportunities for at-risk students, consistent with the purposes of
29 [sections 1 through 18].

30 (3) The commission consists of nine members who are appointed as follows:

- 1 (a) three members appointed by the governor;
- 2 (b) three members appointed by the president of the senate; and
- 3 (c) three members appointed by the speaker of the house.
- 4 (4) The commission members are subject to the following qualifications:
- 5 (a) no more than five of the members may be affiliated with the same political party;
- 6 (b) no more than two members may be public employees;
- 7 (c) one of the public employee members may be from the board of public education; and
- 8 (d) in making the appointments, the governor, president of the senate, and speaker of the house shall
- 9 ensure statewide geographic diversity among commission members.
- 10 (5) Members appointed to the commission must collectively possess substantial experience and
- 11 expertise in public and nonprofit governance, management and finance, public school leadership, assessment,
- 12 curriculum, instruction, and public education law. All members of the commission must have a demonstrated
- 13 understanding of and commitment to charter schools as a strategy for strengthening public education.
- 14 (6) (a) Each appointing authority shall appoint one member to a 4-year term, one member to a 3-year
- 15 term, and one member to a 2-year term.
- 16 (b) All terms after the initial term must be for 3 years. Appointment to the initial terms must be made no
- 17 later than 60 days following [the effective date of this act]. If any of the appointing authorities fails to make the
- 18 appointments, the remaining appointing authorities may make the remaining appointments.
- 19 (c) A commission member may not serve more than two consecutive terms.
- 20 (7) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501
- 21 through 2-18-503.
- 22 (8) A member of the commission may be removed for any cause that renders the member unable or unfit
- 23 to discharge the duties of the office, including but not limited to failure to approve an authorizer without just cause
- 24 and interference with the functions of the commission as set forth in [sections 1 through 18]. Whenever a vacancy
- 25 on the commission exists, the original appointing authority shall appoint a member for the remaining portion of
- 26 the term consistent with the requirements of subsections (3) and (4).
- 27 (9) The commission shall operate with dedicated resources and hire staff qualified to execute the
- 28 day-to-day responsibilities of public charter school authorizing in accordance with [sections 1 through 18].
- 29 (10) The commission is authorized to receive and expend gifts, grants, and donations of any kind from
- 30 any public or private entity to carry out the purposes of [sections 1 through 18], subject to the terms and

1 conditions under which they are given.

2 (11) The commission is allocated to the department of administration for administrative purposes only
3 as prescribed by 2-15-121, with the exception of 2-15-121(2)(d).

4
5 **NEW SECTION. Section 5. Authorizers.** (1) The state public charter school commission created under
6 [section 4] may authorize public charter schools in the state, provided that the commission performs the functions
7 of public charter school authorizers under [sections 1 through 18].

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

10 (b) If the commission determines that the local school board fulfills the requirements of [section 6], the
11 commission shall, within 60 days of receipt of a local school board's application, approve the local school board
12 as an authorizer.

13 (c) Upon approval, the commission shall register the local school board and shall provide the local school
14 board with a letter confirming its approval as an authorizer.

15 (3) Governing bodies of accredited public or private postsecondary institutions, including community
16 colleges, technical colleges, tribal colleges, and 4-year colleges and universities, may apply to the commission
17 for statewide, regional, or local chartering authority pursuant to this section.

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

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

23 (b) By March 1 of each year, the commission shall make available information and guidelines for all
24 eligible entities concerning the opportunity to apply for chartering authority under [sections 1 through 18].

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

27 (i) written notification of intent to serve as a charter authorizer in accordance with [sections 1 through
28 18];

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

30 (iii) a plan supporting the entity's strategic vision and an explanation of the entity's budget and personnel

1 capacity and commitment to execute the duties of charter authorizing in accordance with [sections 1 through 18];
2 (iv) a draft or preliminary outline of a request for proposal that will solicit public charter school applicants
3 in accordance with [section 9];

4 (v) a description or outline of the performance framework the entity will use to guide the establishment
5 of a charter contract and for ongoing oversight and evaluation of public charter schools consistent with the
6 requirements of [sections 1 through 18];

7 (vi) a draft of the entity's renewal, revocation, and nonrenewal processes consistent with [sections 12 and
8 13];

9 (vii) a statement of assurance that the entity commits to serving as a charter authorizer in fulfillment of
10 the expectations, spirit, and intent of [sections 1 through 18] and will fully participate in any authorizer training
11 provided or required by the commission; and

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

14 (6) (a) Within 60 days of receipt of the application, the commission shall determine whether to approve
15 an application based on a review of the documentation provided in subsection (5) and the quality of the
16 application. The commission shall provide a letter to the entity either confirming or denying acceptance as an
17 authorizer.

18 (b) Within 30 days of approval of an application for charter authorizing, the commission and the approved
19 authorizer shall execute a renewable authorizing contract. The initial authorizing contract term is 6 years.

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

22 (8) Once authorized, the authorizer continues from year to year during the term of the contract as long
23 as the authorizer fulfills all charter-authorizing duties and expectations set forth in [sections 1 through 18] and
24 remains an authorizer in good standing with the commission.

25
26 **NEW SECTION. Section 6. Authorizer responsibilities.** (1) In accordance with [sections 1 through
27 18], an authorizer is responsible for executing the following essential powers and duties:

28 (a) soliciting and evaluating charter proposals;

29 (b) approving charter proposals that meet identified educational needs and promote a diversity of
30 educational choices, including but not limited to:

- 1 (i) creating more high-quality schools with high standards for pupil performance;
- 2 (ii) closing achievement gaps between high-performing and low-performing groups of public school
3 students;
- 4 (iii) increasing high-quality educational opportunities within the public education system;
- 5 (iv) providing alternative learning environments for students who are not thriving in traditional school
6 settings;
- 7 (v) creating new professional opportunities for teachers and other school personnel;
- 8 (vi) encouraging the use of different, high-quality models of teaching and other aspects of schooling; and
- 9 (vii) providing students, parents, community members, and local entities with expanded opportunities for
10 involvement in the public education system;
- 11 (c) declining to approve inadequate charter proposals;
- 12 (d) negotiating and executing sound charter contracts with each approved public charter school;
- 13 (e) monitoring, in accordance with charter contract terms, the performance and legal compliance of
14 public charter schools; and
- 15 (f) determining whether each charter contract merits renewal, nonrenewal, or revocation.
- 16 (2) An authorizing entity may delegate its duties to its officers, employees, and contractors.
- 17 (3) Regulation of public charter schools by authorizers is limited to the powers and duties described in
18 [sections 1 through 18], consistent with the intent of [sections 1 through 18].
- 19 (4) An authorizer shall develop, carry out, and maintain chartering policies and practices consistent with
20 nationally recognized principles and standards for charter authorizing in all major areas of authorizing
21 responsibility, including:
- 22 (a) organizational capacity and infrastructure;
- 23 (b) soliciting and evaluating charter proposals;
- 24 (c) performance contracting;
- 25 (d) ongoing public charter school oversight and evaluation; and
- 26 (e) charter renewal decisionmaking.
- 27 (5) Evidence of material or persistent failure to carry out the duties enumerated in this section constitutes
28 grounds for rescission of charter-authorizing powers.
- 29 (6) Each authorizer shall submit to the commission and legislative auditor an annual report summarizing:
- 30 (a) the authorizer's strategic vision for chartering and progress toward achieving that vision;

1 (b) the academic and financial performance of all operating public charter schools overseen by the
2 authorizer, according to the performance expectations for public charter schools set forth in [sections 1 through
3 18];

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

7 (d) the authorizing functions provided by the authorizer to the public charter schools under its direction,
8 including the authorizer's operating costs and expenses detailed in annual audited financial statements that
9 conform with generally accepted accounting principles; and

10 (e) the services purchased from the authorizer by a public charter school under the authorizer's direction,
11 including an itemized accounting of the actual costs of these services, as required in [section 7].

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

14 (8) A governmental unit or other entity, other than those expressly granted chartering authority as set
15 forth in [sections 1 through 18], may not assume any charter-authorizing function or duty in any form unless
16 expressly allowed by law.

17
18 **NEW SECTION. Section 7. Duties of commission for oversight of authorizer.** (1) The commission
19 shall establish a statewide formula for authorizer funding, to be applied uniformly to every authorizer in the state.
20 Authorizer funding is financed through an oversight fee.

21 (2) The oversight fee must be calculated as a uniform percentage of the average enrollment operational
22 funding allocated to each public charter school and is to be paid from the public charter school's budget share
23 of the per-pupil funding, not to exceed 2% of each public charter school's state per-pupil funding in a single school
24 year.

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

29 (4) An authorizer's oversight fee may not include any costs incurred in delivering services that a public
30 charter school may purchase at its discretion from the authorizer. The authorizer shall use the funding provided

1 under this section exclusively for the purpose of fulfilling authorizing obligations in accordance with [sections 1
2 through 18].

3 (5) The commission is responsible for overseeing the performance and effectiveness of all authorizers
4 established under [sections 1 through 18].

5 (6) The commission shall annually review the effectiveness of the state formula for authorizer funding
6 and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of
7 [sections 1 through 18].

8 (7) By October 15 of each year, the commission shall communicate to every authorizer the requirements
9 for the format, content, and submission of the annual report.

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

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

15 (10) If at any time the commission finds that an authorizer is not in compliance with an existing charter
16 contract, its authorizing contract with the commission, or the requirements of authorizers under [sections 1
17 through 18], the commission shall notify the authorizer in writing of the identified problems and shall provide the
18 authorizer reasonable opportunity to respond and remedy the problems.

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

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

27 (13) On or before December 1 of each year, beginning in the first year that public charter schools have
28 been in operation for a full school year, the commission shall issue to the governor, the legislative auditor, and
29 the public an annual report on the state's public charter schools that includes data from the annual reports
30 submitted by every authorizer, as well as any additional relevant data compiled by the commission, for the school

1 year ending in the preceding calendar year. The annual report must include:

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

4 (b) the commission's assessment of the successes, challenges, and areas for improvement in meeting
5 the purposes of [sections 1 through 18], including the commission's assessment of the sufficiency of funding for
6 public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in
7 state law or policy necessary to strengthen the state's public charter schools.

8
9 **NEW SECTION. Section 8. Purchase of services by charter school.** (1) With the exception of
10 oversight services as required by [section 7], a public charter school may not be required to purchase services
11 from the public charter school's authorizer as an express or implied condition of charter approval or of executing
12 a charter contract.

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

18
19 **NEW SECTION. Section 9. Charter school proposal process -- request for proposal -- charter**
20 **term.** (1) To solicit, encourage, and guide the development of public charter schools, every authorizer operating
21 under [sections 1 through 18] shall issue and broadly publicize a request for proposal by June 1 of each year.
22 The content and dissemination of the request for proposal must be consistent with the purposes and requirements
23 of [sections 1 through 18].

24 (2) Each authorizer's request for proposal must present the authorizer's strategic vision for chartering,
25 including a clear statement of any preferences the authorizer wishes to grant to proposals that help at-risk
26 students.

27 (3) A request for proposal must include or otherwise direct applicants to the performance framework that
28 the authorizer has developed for public charter school oversight and evaluation in accordance with [section 6].

29 (4) A request for proposal must include the criteria that will guide the authorizer's decision to approve
30 or deny a charter proposal.

- 1 (5) A request for proposal must include clear and detailed questions as well as guidelines concerning
2 the format and content essential for applicants to demonstrate the capacities necessary to establish and operate
3 a successful public charter school.
- 4 (6) A request for proposal must require applicants to describe thoroughly all of the following essential
5 elements of the proposed school plan:
- 6 (a) an executive summary;
- 7 (b) the mission and vision of the proposed public charter school, including identification of the targeted
8 student population and the community the school hopes to serve;
- 9 (c) the location or geographic area proposed for the public charter school;
- 10 (d) the grades to be served each year for the full term of the charter contract;
- 11 (e) minimum, planned, and maximum enrollment per year for the term of the charter contract;
- 12 (f) evidence of need and community support for the proposed public charter school;
- 13 (g) background information on the proposed founding governing board members and, if identified, the
14 proposed school leadership and management team;
- 15 (h) the proposed public charter school's proposed calendar and sample daily schedule;
- 16 (i) a description of the academic program;
- 17 (j) a description of the proposed public charter school's instructional design, including the type of learning
18 environment, class size and structure, curriculum overview, and teaching methods;
- 19 (k) the proposed public charter school's plans for identifying and successfully serving students with
20 disabilities, students who are English language learners, students who are academically challenged, and gifted
21 students, including but not limited to compliance with applicable laws and regulations;
- 22 (l) a description of cocurricular or extracurricular programs, if any, and how the programs will be funded
23 and delivered;
- 24 (m) plans and timelines for student recruitment and enrollment, including lottery procedures;
- 25 (n) the proposed public charter school's student discipline policies, including those for special education
26 students;
- 27 (o) an organizational chart that clearly presents the proposed public charter school's organizational
28 structure, including lines of authority and reporting between the governing board, staff, related bodies such as
29 advisory bodies or parent and teacher councils, and external organizations that will play a role in managing the
30 school;

- 1 (p) a clear description of the roles and responsibilities for the governing board, the proposed public
2 charter school's leadership and management team, and other entities shown in the organizational chart;
- 3 (q) a staffing chart for the proposed public charter school's first year and a staffing plan for the term of
4 the charter;
- 5 (r) plans for recruiting and developing school leadership and staff;
- 6 (s) the proposed public charter school's leadership and teacher employment policies, including
7 performance evaluation plans;
- 8 (t) proposed governing bylaws;
- 9 (u) explanations of any partnerships or contractual relationships central to the proposed public charter
10 school's operations or mission;
- 11 (v) the proposed public charter school's plans for providing transportation, food service, and all other
12 significant operational or ancillary services, if any;
- 13 (w) opportunities and expectations for parent involvement;
- 14 (x) a detailed school startup plan, identifying tasks, timelines, and responsible individuals;
- 15 (y) a description of the proposed public charter school's financial plan and policies, including financial
16 controls and audit requirements;
- 17 (z) a description of the insurance coverage the proposed public charter school will obtain;
- 18 (aa) startup and 5-year budgets with clearly stated assumptions;
- 19 (bb) startup and first-year cash flow projections with clearly stated assumptions;
- 20 (cc) evidence of anticipated fundraising contributions if claimed in the proposal; and
- 21 (dd) a sound facilities plan, including backup or contingency plans if appropriate.
- 22 (7) In the case of a proposal to establish a public charter school by converting an existing noncharter
23 public school to public charter school status, a request for proposal must also require the applicants to
24 demonstrate support for the proposed public charter school conversion by a petition signed by a majority of
25 teachers or a majority of the local school board and a petition signed by a majority of parents of students in the
26 existing noncharter public school.
- 27 (8) In the case of a proposal to establish a virtual public charter school, a request for proposal must
28 additionally require the applicants to describe the proposed school's system of course credits and how the school
29 will:
- 30 (a) monitor and verify full-time student enrollment, student participation in a full course load, credit

1 accrual, and course completion;

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

4 (c) conduct parent-teacher conferences; and

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

6 (9) In the case of a proposed public charter school that intends to contract with an education service
7 provider for substantial educational services, management services, or both, a request for proposal must
8 additionally require the applicants to:

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

12 (b) provide documentation setting forth:

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

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

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

17 (iv) performance evaluation measures and timelines;

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

20 (vi) methods of contract oversight and enforcement;

21 (vii) investment disclosure; and

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

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

25 (10) In the case of a public charter school proposal from an applicant that currently operates one or more
26 schools in any state or nation, a request for proposal must additionally require the applicant to provide evidence
27 of past performance and current capacity for growth.

28 (11) In reviewing and evaluating charter proposals, authorizers shall employ procedures, practices, and
29 criteria consistent with nationally recognized principles and standards for charter authorizing. The proposal review
30 process must include thorough evaluation of each written charter proposal, an in-person interview with the

1 applicant group, and an opportunity in a public forum for local residents to learn about and provide input on each
2 proposal.

3 (12) In deciding whether to approve charter proposals, authorizers shall:

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

6 (b) base decisions on documented evidence collected through the proposal review process; and

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

9 (13) (a) Within 60 days after the filing of a charter proposal, the authorizer shall approve or deny the
10 charter proposal. The authorizer shall adopt by resolution all charter approval or denial decisions in an open
11 meeting of the authorizer's governing body.

12 (b) An approval decision may include, if appropriate, reasonable conditions that the applicant must meet
13 before a charter contract may be executed pursuant to [section 10].

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

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

21 (14) An applicant may submit a proposal for a particular public charter school to only one authorizer at
22 a time.

23
24 **NEW SECTION. Section 10. Charter contract -- terms.** (1) An initial charter must be granted for a term
25 of 5 operating years, commencing on the public charter school's first day of operation. An approved public charter
26 school may delay its opening for 1 school year to plan and prepare for the school's opening. If the school requires
27 an opening delay of more than 1 school year, the school shall request an extension from its authorizer. The
28 authorizer may grant or deny the extension depending on the particular school's circumstances.

29 (2) Within 30 days of approval of a charter proposal, the authorizer and the governing board of the
30 approved public charter school shall execute a charter contract that clearly sets forth the academic and

1 operational performance expectations and measures by which the public charter school will be judged and the
2 administrative relationship between the authorizer and the public charter school, including each party's rights and
3 duties.

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

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

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

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

14 (c) conduct parent-teacher conferences; and

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

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

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

22 (7) Authorizers may establish reasonable preopening requirements or conditions to monitor the startup
23 progress of a newly approved public charter school to ensure that the school is prepared to open smoothly on
24 the date agreed and to ensure that each school meets all building, health, safety, insurance, and other legal
25 requirements for school opening.

26

27 **NEW SECTION. Section 11. Enrollment.** (1) (a) A public charter school must be open to any student
28 residing in the state.

29 (b) A school district may not require a student enrolled in the school district to attend a public charter
30 school.

- 1 (c) A public charter school may limit admission to students within a given age group or grade level.
- 2 (d) A public charter school may be organized for a special emphasis, theme, or concept as stated in the
3 school's proposal.
- 4 (e) A public charter school shall enroll all students who wish to attend the school unless the number of
5 students exceeds the capacity of a program, class, grade level, or building.
- 6 (f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter school
7 shall select students through a lottery.
- 8 (2) A noncharter public school converting to a public charter school shall adopt and maintain a policy
9 giving enrollment preference to students who reside within the former attendance area of that public school.
- 10 (3) (a) A public charter school shall give enrollment preference to students who were enrolled in the
11 public charter school the previous school year and to siblings of students already enrolled in the public charter
12 school. An enrollment preference for returning students excludes those students from entering into a lottery.
- 13 (b) A public charter school may give enrollment preference to children of a public charter school's
14 founders, governing board, and full-time employees, limited to no more than 10% of the school's total student
15 population.
- 16 (4) This section does not preclude the formation of a public charter school for the purpose of serving
17 students with disabilities, students of the same gender, students who pose a sufficiently severe disciplinary
18 problem to warrant a specific educational program, or students who are at risk of academic failure. If capacity is
19 insufficient to enroll all students who wish to attend such a school, the public charter school shall select students
20 through a lottery.
- 21 (5) If a student who was previously enrolled in a public charter school enrolls in any other public school
22 in this state, the student's new school shall accept credits earned by the student in courses or instructional
23 programs at the public charter school.
- 24 (6) A school district shall provide or publicize to parents and the general public information about public
25 charter schools as an enrollment option within the district to the same extent and through the same means that
26 the district provides and publicizes information about noncharter public schools in the district.
- 27 (7) An authorizer may not restrict the number of students a public charter school may enroll. The capacity
28 of the public charter school must be determined annually by its governing board in conjunction with the authorizer
29 and in consideration of the public charter school's ability to facilitate the academic success of its students, to
30 achieve the objectives specified in the charter contract, and to ensure that its student enrollment does not exceed

1 the capacity of its facility or site.

2

3 **NEW SECTION. Section 12. Charter school performance and renewal.** (1) The performance
4 provisions within the charter contract must be based on a performance framework that clearly sets forth the
5 academic and operational performance indicators, measures, and metrics that will guide the authorizer's
6 evaluations of each public charter school. The performance framework must include indicators, measures, and
7 metrics for, at a minimum:

8 (a) student academic proficiency;

9 (b) student academic growth;

10 (c) achievement gaps in both proficiency and growth between major student subgroups;

11 (d) attendance;

12 (e) recurrent enrollment from year to year;

13 (f) postsecondary readiness;

14 (g) financial performance and sustainability; and

15 (h) governing board performance and stewardship, including compliance with all applicable laws,
16 regulations, and terms of the charter contract.

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

19 (3) (a) The contract performance framework must allow the inclusion, with the authorizer's approval, of
20 additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external
21 evaluations of its performance that are consistent with the purposes of [sections 1 through 18].

22 (b) The performance framework must require the collection and reporting of all student performance data
23 as required of other public schools.

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

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

29 (4) (a) An authorizer shall monitor the performance and legal compliance of the public charter schools
30 it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter

1 contract. Every authorizer has the authority to conduct or require oversight activities that do not unduly inhibit the
2 autonomy granted to public charter schools but that enable the authorizer to fulfill its responsibilities under
3 [sections 1 through 18], including conducting appropriate inquiries and investigations consistent with the intent
4 of [sections 1 through 18], and to adhere to the terms of the charter contract.

5 (b) Each authorizer shall annually publish and provide, as part of its annual report to the commission and
6 the legislative auditor, a performance report for each public charter school it oversees, within the performance
7 framework set forth in the charter contract and [section 10]. The authorizer may require each public charter school
8 it oversees to submit an annual report to assist the authorizer in gathering complete information about each
9 school, consistent with the performance framework.

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

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

17 (5) (a) A charter may be renewed for successive 5-year terms, although the authorizer may vary the term
18 based on the performance, demonstrated capacities, and particular circumstances of each public charter school.
19 An authorizer may grant renewal with specific conditions for necessary improvement to a public charter school.

20 (b) No later than June 30 of each year, the authorizer shall issue a public charter school performance
21 report and charter renewal application guide to any public charter school whose charter will expire the following
22 year. The performance report must summarize the public charter school's performance record to date, based on
23 the data required by [sections 1 through 18] and the charter contract, and must provide notice of any weaknesses
24 or concerns perceived by the authorizer concerning the public charter school that may jeopardize renewal if not
25 promptly rectified. The public charter school shall respond to the performance report and submit any corrections
26 or clarifications within 90 days.

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

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

1 (b) describe improvements undertaken or planned for the public charter school; and

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

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

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

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

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

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

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

15

16 **NEW SECTION. Section 13. Charter contract revocation and school closure or charter contract**
17 **nonrenewal.** (1) A charter contract may be subject to nonrenewal or revocation if the authorizer determines that
18 the public charter school:

19 (a) committed a material and substantial violation of any of the terms, conditions, standards, or
20 procedures required under [sections 1 through 18] or the charter contract and from which the public charter
21 school was not exempted;

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

24 (c) failed to meet public safety standards; or

25 (d) failed to meet generally accepted standards of fiscal management.

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

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

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

30 (c) provide the charter holders an opportunity to submit documents and testimony at a hearing to

1 challenge the rationale for the closure recommendation and in support of the continuation of the school;

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

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

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

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

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

13 (5) (a) Prior to any public charter school closure, an authorizer shall develop a public charter school
14 closure protocol to ensure timely notification to parents, orderly transition of students and student records to new
15 schools, and proper disposition of school funds, property, and assets in accordance with the requirements of
16 [sections 1 through 18]. The protocol must specify responsible parties, transition and closure timelines, and a
17 delineation of the respective duties of the public charter school and the authorizer.

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

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

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

28 (6) Transfer of a charter contract, and of oversight of that public charter school from one authorizer to
29 another before the expiration of the charter term, may occur only if the authorizer violates the provisions of
30 [section 6] or by special petition to the commission by a public charter school or its authorizer. The commission

1 shall consider a petition for transfer on a case-by-case basis and may grant transfer requests in response to
2 special circumstances and to evidence that the transfer would serve the best interests of the public charter
3 school's students.

4
5 **NEW SECTION. Section 14. Public charter school operation and autonomy.** (1) (a) A public charter
6 school must be a nonprofit education organization.

7 (b) A public charter school is subject to all federal laws and authorities as provided in [sections 1 through
8 18] or arranged by charter contract with the public charter school's authorizer consistent with applicable laws,
9 rules, and regulations.

10 (c) Except as provided in [sections 1 through 18], a public charter school is not subject to the provisions
11 of Title 20 or any state or local rule, regulation, policy, or procedure relating to noncharter public schools within
12 an applicable local school district.

13 (d) A single governing board may hold one or more charter contracts. A charter contract may consist of
14 one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each public
15 charter school that is part of a charter contract is separate and distinct from any other public charter school.

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

18 (a) the public charter school is being converted from an existing public school;

19 (b) the school district elects to establish a public charter school;

20 (c) the school district elects to convert a grade or grades to a public charter school from an existing
21 school;

22 (d) the public charter school is a tribal charter school; or

23 (e) the public charter school is a virtual public charter school.

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

30 (4) A public charter school has all the powers necessary for carrying out the terms of its charter contract,

1 including the following powers:

2 (a) to receive and disburse funds for school purposes;

3 (b) to secure appropriate insurance and to enter into contracts and leases, free from prevailing wage
4 laws;

5 (c) to contract with an education service provider for the management and operation of the public charter
6 school only if the school's governing board retains oversight authority over the school;

7 (d) to incur debt in reasonable anticipation of the receipt of public or private funds;

8 (e) to pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

9 (f) to solicit and accept gifts or grants for school purposes subject to applicable laws and the terms of
10 its charter contract;

11 (g) to acquire real property, for use as its facility or facilities, from public or private sources; and

12 (h) to sue and be sued in its own name.

13 (5) (a) A public charter school may not engage in any sectarian practices in its educational program,
14 admissions policies, employment policies or practices, or operations.

15 (b) The powers, obligations, and responsibilities set forth in the charter contract may not be delegated
16 or assigned by either party, except as otherwise specifically provided in [sections 1 through 18].

17 (6) (a) A public charter school is subject to the same civil rights, health, and safety requirements
18 applicable to other public schools in the state, except as otherwise specifically provided in [sections 1 through
19 18].

20 (b) A public charter school is subject to the student assessment, accountability, and data reporting
21 requirements applicable to other public schools in the state, but [sections 1 through 18] do not preclude a public
22 charter school from establishing additional student assessment measures that exceed state requirements.

23 (c) The governing board shall establish graduation requirements and may award degrees and issue
24 diplomas.

25 (d) A governing board is subject to and shall comply with state open meeting and public records laws
26 pursuant to Title 2, chapters 3 and 6.

27 (7) (a) A public charter school shall comply with applicable federal laws, rules, and regulations regarding
28 the qualification of teachers and other instructional staff. Public charter school teachers are exempt from state
29 teacher certification requirements provided in 20-4-101.

30 (b) Employees in public charter schools have the same rights and privileges as other public school

1 employees except as otherwise provided in [sections 1 through 18].

2 (c) Employees in a public charter school are eligible for participation in retirement and other benefits
3 programs of the state pursuant to Title 19, chapters 2, 3, and 20, if the governing board elects to participate.

4 (d) Teachers and other school personnel, as well as governing board trustees, are subject to criminal
5 history record checks and fingerprinting requirements.

6 (e) Public charter school employees may not be required to be members of any existing collective
7 bargaining agreement between a school district and its employees. However, a public charter school may not
8 interfere with laws and other applicable rules protecting the rights of employees to organize and to be free from
9 discrimination.

10
11 **NEW SECTION. Section 15. Funding of public charter schools.** (1) It is the intent of the legislature
12 that public charter schools receive funding on a per-pupil basis that is equitable with the average per-pupil
13 spending of the resident school district.

14 (2) (a) If a district that consists of only one school desires to convert to a public charter school,
15 this section does not apply and the district funding formula under Title 20 applies. The district shall transfer funds
16 to the governing board of the public charter school that maintains the operational and programmatic autonomy
17 described in [sections 1 through 18].

18 (b) If the funding payments from the district to the public charter school are not made by the sixth day
19 of the month following the month the payment was due, a penalty of \$10 per student must be assessed and will
20 continue to accrue at the same rate for each week the payment is late.

21 (3) A public charter school may not charge tuition pursuant to 20-5-323 and may charge only fees that
22 may be imposed by noncharter public schools in the state.

23 (4) Students of a public charter school are considered to be enrollees of the resident school district for
24 the purposes of the resident school district's ANB count.

25 (5) For each student attending a public charter school, the superintendent of public instruction shall pay
26 to that public charter school an amount equal to the per-pupil average, but not the per-ANB average, of total
27 school expenditures for the student's resident school district for the previous school year. The superintendent of
28 public instruction shall determine this figure. Funds to be included in total school expenditures must include:

29 (a) general fund;

30 (b) transportation;

- 1 (c) bus depreciation;
2 (d) food services;
3 (e) tuition;
4 (f) retirement;
5 (g) miscellaneous programs;
6 (h) traffic education;
7 (i) nonoperating;
8 (j) lease-rental agreement;
9 (k) compensated absence fund;
10 (l) metal mines tax reserve;
11 (m) state mining impact;
12 (n) impact aid;
13 (o) litigation reserve;
14 (p) technology acquisition;
15 (q) flexibility fund;
16 (r) debt service;
17 (s) building reserve; and
18 (t) interlocal agreement.

19 (6) Payment of the amount described in subsection (5) must be made by the superintendent of public
20 instruction to the public charter school in 10 equal monthly payments, payable by the last day of the month,
21 beginning in August of each school year and continuing through May of each school year.

22 (7) If the per-pupil funding payments from the superintendent of public instruction to the public charter
23 school are not made by the sixth day of the month following the month the payment was due, a penalty of \$10
24 per student must be assessed and will continue to accrue at the same rate for each week the payment is late.

25 (8) The superintendent of public instruction shall deduct the amount described in subsection (5) from
26 the resident school district's aid payments in 10 equal monthly payments beginning in August of each year and
27 continuing through May of each year.

28 (9) A public charter school may expend funds according to its charter contract and is not subject to
29 budget restrictions under Title 20, chapter 9.

30 (10) A public charter school may obligate the public charter school to indebtedness and is solely

1 responsible for those debts. A public charter school is not responsible for any debt service obligations that exist
2 in the school district in which the public charter school is located.

3 (11) Nothing in [sections 1 through 18] may be construed to prohibit any person or organization from
4 providing funding or other assistance for the establishment or operation of a public charter school. The governing
5 board of a public charter school is authorized to accept gifts, donations, and grants of any kind made to the public
6 charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed
7 by the donor. A gift, donation, or grant may not be accepted if the gift, donation, or grant is subject to a condition
8 that is contrary to any provision of law or term of the charter contract.

9 (12) Money received by a public charter school from any source and remaining in the public charter
10 school's accounts at the end of a budget year must remain in the public charter school's accounts for use by the
11 public charter school in subsequent years.

12

13 **NEW SECTION. Section 16. Public charter school facility revolving loan account -- rulemaking.**

14 (1) There is a special revenue account to be known as the public charter school facility revolving loan account
15 to be administered by the commission. The public charter school facility revolving loan account is composed of
16 state, federal, and other funds obtained for public charter schools, loan repayments, and any other funds
17 appropriated or transferred to the account by the state. Any interest earned by the account or generated from a
18 loan repayment must be deposited in the account.

19 (2) (a) The commission may provide loans from funds in the public charter school facility revolving loan
20 account to a public charter school upon application by a public charter school and approval by the authorizer.

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

23 (c) A loan to a public charter school may not exceed \$20 million over 15 years. A public charter school
24 may receive multiple loans from the public charter school facility revolving loan account, as long as the total
25 amount received from the account is within the conditions provided in this section.

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

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

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

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

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

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

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

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

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

11 (6) The commission may adopt rules to implement this section.

12

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

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

20

21 **NEW SECTION. Section 18. Public charter school endowment account -- rulemaking.** (1) There
22 is a special revenue account to be known as the public charter school endowment account administered by the
23 commission. The purpose of the account is the receipt and expenditure of gifts, grants, legacies, devises, and
24 donations given specifically for the creation and operation of the Montana public charter school system but not
25 given to the public charter school facility revolving loan account provided for in [section 16].

26 (2) All donations must be from a private source and may not be expended for any purpose other than
27 for the benefit of qualifying public charter schools as determined by the commission. A gift, donation, or grant
28 made directly to a public charter school or schools is not prohibited by this subsection.

29 (3) The commission may adopt rules to implement this section.

30

1 **Section 19.** Section 15-6-201, MCA, is amended to read:

2 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The
3 following categories of property are exempt from taxation:

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

5 (i) the United States, except:

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

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

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

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

11 (iv) municipal corporations;

12 (v) public libraries;

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

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

15 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located
16 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is
17 used exclusively by the tribe for essential government services. Essential government services are tribal
18 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public
19 transit, and public parks and recreational facilities.

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

27 (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized
28 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used
29 exclusively for religious purposes;

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

1 or profit;

2 (e) 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 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing
10 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

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

15 (h) property that is:

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

17 or

18 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and

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

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

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

25 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of
26 Montana;

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

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

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

4 (n) (i) property that is owned and used by a corporation or association organized and operated
5 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
6 physical or mental impairments that constitute or result in substantial impediments to employment and that is not
7 operated for gain or profit; and

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

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

15 (p) property leased, owned, or used by a public charter school established pursuant to [sections 1
16 through 18].

17 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to
18 exemption may not be:

19 (A) operated for gain or profit;

20 (B) held under contract to operate, lease, or sell by a taxable individual;

21 (C) used or possessed exclusively by a taxable individual or entity; or

22 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

23 (ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must
24 be:

25 (A) set aside by tribal resolution and designated as park land, not to exceed 15 acres, or be designated
26 as a recreational facility; and

27 (B) open to the general public.

28 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal
29 Internal Revenue Code:

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

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

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

4 (iv) a Christian Science practitioner.

5 (c) For the purposes of subsection (1)(i):

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

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

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

14 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
15 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
16 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
17 with the department a copy of its federal tax return reporting any unrelated business taxable income received by
18 the charity during the tax year, together with a statement indicating whether the exempt property was used to
19 generate any unrelated business taxable income.

20 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even
21 if the property must be improved before it can directly be used for its intended charitable purpose. If the property
22 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the
23 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property
24 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property
25 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was
26 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed
27 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.
28 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county
29 in which the property is located. The notice must indicate that an exemption pursuant to this section has been
30 granted. The notice must describe the penalty for default under this section and must specify that a default under

1 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the
2 department.

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

6 (d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and
7 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property
8 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real
9 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary
10 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a
11 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property
12 owned by other persons is exempt if it is:

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

16
17 **NEW SECTION. Section 20. Exemption for public charter schools.** None of the provisions of this
18 part applies to public charter schools provided for in [sections 1 through 18].

19
20 **NEW SECTION. Section 21. Contracts with public charter schools.** (1) A public charter school may
21 become a contracting employer through a contract entered into between the board and the governing board of
22 the public charter school. The contract must provide that all employees who are eligible under this chapter must
23 become members.

24 (2) The approval of the contract is subject to the following provisions:

25 (a) The contract must specify that the provisions of the retirement system apply to all employees on the
26 effective date of the contract and to all employees hired after the effective date of the contract. An employee's
27 membership in either the defined benefit plan or the defined contribution plan is determined on an individual basis
28 as provided in this chapter.

29 (b) The contract must be approved by the board. The board may disapprove a contract if, in the board's
30 sole discretion, the contract adversely affects the interests of the retirement system. Amendments to the

1 retirement system made pursuant to Montana law immediately apply to and become a part of the contract.

2 (3) (a) The governing board of a public charter school may terminate the contract by adopting a
3 resolution terminating coverage under the system effective the last day of that month and forward the resolution
4 and a certified copy of the election results to the board.

5 (b) Upon receipt of the termination resolution, the board may request an actuarial valuation of the
6 liabilities of the terminating public charter school to the retirement system, and the board may withhold approval
7 of the termination of contract until satisfactory arrangements are made to provide funding for any excess accrued
8 liabilities not previously funded by the terminating public charter school.

9

10 **NEW SECTION. Section 22. Option to participate for public charter schools.** (1) The governing
11 board of a public charter school may elect to become an employer through a contract entered into between the
12 board and the governing board of the public charter school. The contract must provide that all employees of the
13 public charter school who are eligible under this chapter must become members.

14 (2) The approval of the contract is subject to the following provisions:

15 (a) The contract must specify that the provisions of the retirement system apply to all employees on the
16 effective date of the contract and to all employees hired after the effective date of the contract.

17 (b) The contract must be approved by the board. The board may disapprove a contract if, in the board's
18 sole discretion, the contract adversely affects the interests of the retirement system. Amendments to the
19 retirement system made pursuant to Montana law immediately apply to and become a part of the contract.

20 (3) (a) The governing board of a public charter school may terminate the contract by adopting a
21 resolution terminating coverage under the system effective the last day of that month and forward the resolution
22 and a certified copy of the election results to the board.

23 (b) Upon receipt of the termination resolution, the board may request an actuarial valuation of the
24 liabilities of the terminating public charter school to the retirement system, and the board may withhold approval
25 of the termination of contract until satisfactory arrangements are made to provide funding for any excess accrued
26 liabilities not previously funded by the terminating public charter school.

27

28 **Section 23.** Section 19-20-101, MCA, is amended to read:

29 **"19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the
30 following definitions apply:

1 (1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of
2 a member or paid by a member and credited to the member's individual account in the annuity savings account,
3 together with interest. Regular interest must be computed and allowed to provide a benefit at the time of
4 retirement.

5 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality
6 table and interest rate assumption set by the retirement board.

7 (3) "Average final compensation" means a member's highest average earned compensation in 3
8 consecutive years, determined pursuant to 19-20-805, on which contributions have been made.

9 (4) "Beneficiary" means one or more persons formally designated by a member or retiree to receive a
10 retirement allowance or payment upon the death of the member or retiree, except for a joint annuitant.

11 (5) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a
12 retirement allowance.

13 (6) "Creditable service" is that service defined by 19-20-401.

14 (7) (a) "Earned compensation" means, except as limited by subsections (7)(b) and (7)(c) or by
15 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any
16 pretax deductions allowed under the Internal Revenue Code are deducted.

17 (b) Earned compensation does not include:

18 (i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life,
19 vision, dental, or any other insurance;

20 (ii) any direct employer payment or reimbursement for:

21 (A) professional membership dues;

22 (B) maintenance;

23 (C) housing;

24 (D) day care;

25 (E) automobile, travel, lodging, or entertaining expenses; or

26 (F) any similar form of maintenance, allowance, or expenses;

27 (iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

28 (iv) any noncash benefit provided by an employer to or on behalf of a member;

29 (v) termination pay unless included pursuant to 19-20-716;

30 (vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f)

1 of the Internal Revenue Code, 26 U.S.C. 457(f);

2 (vii) payment for sick, annual, or other types of leave paid to a member prior to termination from
3 employment or accrued in excess of that normally allowed;

4 (viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or

5 (ix) any similar payment or reimbursement made to or on behalf of a member by an employer.

6 (c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same
7 or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

8 (8) "Employer" means:

9 (a) the state of Montana;

10 (b) a public school district, as provided in 20-6-101 and 20-6-701;

11 (c) the office of public instruction;

12 (d) the board of public education;

13 (e) an education cooperative;

14 (f) the Montana school for the deaf and blind, as described in 20-8-101;

15 (g) the Montana youth challenge program, as defined in 10-1-101;

16 (h) a state youth correctional facility, as defined in 41-5-103;

17 (i) the Montana university system;

18 (j) a community college; or

19 (k) the governing board of a public charter school that has elected to participate in the system pursuant
20 to [section 22]; or

21 ~~(k)(l)~~ any other agency or subdivision of the state that employs a person who is designated a member
22 of the retirement system pursuant to 19-20-302.

23 (9) "Full-time service" means service that is:

24 (a) at least 180 days in a fiscal year;

25 (b) at least 140 hours a month during at least 9 months in a fiscal year; or

26 (c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board
27 and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a
28 school district operating under an alternative school calendar must be applied uniformly to all employees of the
29 school district required to be reported to the retirement system.

30 (10) "Internal Revenue Code" has the meaning provided in 15-30-2101.

1 (11) "Joint annuitant" means the one person that a retired member who has elected an optional allowance
2 under 19-20-702 has designated to receive a retirement allowance upon the death of the retired member.

3 (12) "Member" means a person who has an individual account in the annuity savings account. An active
4 member is a person included under the provisions of 19-20-302. An inactive member is a person included under
5 the provisions of 19-20-303.

6 (13) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the
7 lifetime of the retired member.

8 (14) "Normal retirement age" means an age no earlier than 55 years of age, with the right to receive
9 immediate retirement benefits without an actuarial reduction in the benefits.

10 (15) "Part-time service" means service that is not full-time service. Part-time service must be credited in
11 the proportion that the actual time worked compares to full-time service.

12 (16) "Regular interest" means interest at a rate set by the retirement board in accordance with
13 19-20-501(2).

14 (17) "Retired", "retired member", or "retiree" means a person who has terminated employment that
15 qualifies the person for membership and who has received at least one monthly retirement benefit paid pursuant
16 to this chapter.

17 (18) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member
18 who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

19 (19) "Retirement board" or "board" means the retirement system's governing board provided for in
20 2-15-1010.

21 (20) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of
22 Montana provided for in 19-20-102.

23 (21) "Service" means the performance of duties that would entitle the person to active membership in the
24 retirement system under the provisions of 19-20-302.

25 (22) "Termination" or "terminate" means that the member has severed the employment relationship with
26 the member's employer and that all, if any, payments due upon termination of employment, including but not
27 limited to accrued sick and annual leave balances, have been paid to the member.

28 (23) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay,
29 amounts provided under a window or early retirement incentive plan, or other payments contingent on the
30 employee terminating employment.

1 (b) Termination pay does not include:

2 (i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without
3 regard to the wage base limitation; and

4 (ii) amounts that are payable to a member from a plan for the deferral of compensation under section
5 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

6 (24) "Vested" means that a member has been credited with at least 5 full years of membership service
7 upon which contributions have been made and has a right to a future retirement benefit.

8 (25) "Written application" or "written election" means a written instrument, required by statute or the rules
9 of the board, properly signed and filed with the board, that contains all the required information, including
10 documentation that the board considers necessary."
11

12 **Section 24.** Section 19-20-302, MCA, is amended to read:

13 **"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following persons
14 employed by an employer must be active members of the retirement system:

15 (a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

16 (b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit
17 of the Montana university system and who has not elected or is not required to participate in the optional
18 retirement program under Title 19, chapter 21;

19 (c) a person employed as a speech-language pathologist, school nurse, professionally qualified person
20 as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school
21 psychologist;

22 (d) a person employed in a teaching or an educational services capacity by the office of a county
23 superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school
24 for the deaf and blind, or a school district;

25 (e) a person who is an administrative officer or a member of the instructional staff of the board of public
26 education;

27 (f) the superintendent of public instruction or a person employed as a teacher or in an educational
28 services capacity by the office of public instruction;

29 (g) except as provided in subsection (2), a person elected to the office of county superintendent of
30 schools;

1 (h) a person who is an administrative officer or a member of the instructional or scientific staff of a
2 community college; ~~and~~

3 (i) a person employed in a nonclerical position and who is reported on an employer's annual data
4 collection report submitted to the office of public instruction; and

5 (j) a person employed in a teaching or an educational services capacity at a public charter school the
6 governing board of which has elected to participate in the system.

7 (2) A retired member elected to the office of county superintendent of schools or appointed to complete
8 the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional membership
9 in the public employees' retirement system under the provisions of 19-3-412 and shall, within 30 days of taking
10 office, file an irrevocable written election to become or to not become an active member of the teachers'
11 retirement system. The retirement system membership of an elected county superintendent of schools as of June
12 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of county
13 superintendent of schools.

14 (3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:

15 (a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal
16 year; and

17 (b) have the compensation for the person's creditable service totally paid by an employer.

18 (4) (a) A substitute teacher or a part-time teacher's aide:

19 (i) shall file an irrevocable written election determining whether to become an active member of the
20 retirement system on the first day of employment; or

21 (ii) is required to become an active member of the retirement system after completing 210 hours of
22 employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership
23 under subsection (4)(a)(i).

24 (b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member
25 as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute
26 teacher is required to remain a member as long as the teacher is available for employment in that capacity.

27 (c) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the
28 first day of employment of the option to elect membership under subsection (4)(a)(i).

29 (d) If a substitute teacher or part-time teacher's aide declines to elect membership during the election
30 period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership

1 and the employer shall retain the statement.

2 (5) A school district clerk or business official may not become a member of the teachers' retirement
3 system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to
4 remain an active member of the system while employed in that capacity, and any postretirement earnings from
5 employment as a school district clerk or school business official are subject to the limit on earnings provided in
6 19-20-731.

7 (6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the
8 retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must
9 be treated alike.

10 (7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours
11 a day assisting a certified teacher in a classroom.

12 (8) (a) An active member of the system concurrently employed in a position identified in subsection (1)(b)
13 may not elect to participate in the optional retirement program under Title 19, chapter 21.

14 (b) An employee of the Montana university system who is a participant in the optional retirement program
15 under Title 19, chapter 21, and who is concurrently employed in a position identified in subsections (1)(a) or (1)(c)
16 through (1)(i) is ineligible to be an active member of this system."

17

18 **Section 25.** Section 20-1-101, MCA, is amended to read:

19 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
20 definitions apply:

21 (1) "Accreditation standards" means the body of administrative rules governing standards such as:

22 (a) school leadership;

23 (b) educational opportunity;

24 (c) academic requirements;

25 (d) program area standards;

26 (e) content and performance standards;

27 (f) school facilities and records;

28 (g) student assessment; and

29 (h) general provisions.

30 (2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is

1 offered or for which a pupil is enrolled.

2 (3) "Agricultural experiment station" means the agricultural experiment station established at Montana
3 state university-Bozeman.

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

6 (5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time
7 pupils physically attending or receiving educational services at an offsite instructional setting from the public
8 schools of a district.

9 (6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the
10 Montana constitution and 2-15-1507.

11 (7) "Board of regents" means the board of regents of higher education created by Article X, section 9,
12 subsection (2), of the Montana constitution and 2-15-1505.

13 (8) "Commissioner" means the commissioner of higher education created by Article X, section 9,
14 subsection (2), of the Montana constitution and 2-15-1506.

15 (9) "County superintendent" means the county government official who is the school officer of the county.

16 (10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with
17 a superintendent's endorsement that has been issued by the superintendent of public instruction under the
18 provisions of this title and the policies adopted by the board of public education and who has been employed by
19 a district as a district superintendent.

20 (11) (a) "Educational program" means a set of educational offerings designed to meet the program area
21 standards contained in the accreditation standards.

22 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

23 (12) "K-12 career and vocational/technical education" means organized educational activities that have
24 been approved by the office of public instruction and that:

25 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills
26 that the pupil needs to prepare for further education and for careers in the current or emerging employment
27 sectors; and

28 (b) include competency-based applied learning that contributes to the academic knowledge, higher-order
29 reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and
30 occupation-specific skills of the pupil.

1 (13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
2 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

3 (b) The term does not include lunch time and periods of unstructured recess.

4 (14) "Offsite instructional setting" means an instructional setting at a location, separate from a main
5 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the
6 district.

7 (15) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable
8 principal's endorsement that has been issued by the superintendent of public instruction under the provisions of
9 this title and the policies adopted by the board of public education and who has been employed by a district as
10 a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

11 (16) "Public charter school" has the same meaning provided in [section 3].

12 ~~(16)~~(17) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in
13 which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3)
14 but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under
15 the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to
16 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of
17 the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state
18 at public expense.

19 ~~(17)~~(18) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools
20 while under the supervision of a teacher.

21 ~~(18)~~(19) "Qualified and effective teacher or administrator" means an educator who is licensed and
22 endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as
23 established by the board of public education.

24 ~~(19)~~(20) "Regents" means the board of regents of higher education.

25 ~~(20)~~(21) "School food services" means a service of providing food for the pupils of a district on a nonprofit
26 basis and includes any food service financially assisted through funds or commodities provided by the United
27 States government.

28 ~~(21)~~(22) "State board of education" means the board composed of the board of public education and the
29 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

30 ~~(22)~~(23) "State university" means Montana state university-Bozeman.

- 1 ~~(23)~~(24) "Student with limited English proficiency" means any student:
- 2 (a) (i) who was not born in the United States or whose native language is a language other than English;
- 3 (ii) who is an American Indian and who comes from an environment in which a language other than
- 4 English has had a significant impact on the individual's level of English proficiency; or
- 5 (iii) who is migratory, whose native language is a language other than English, and who comes from an
- 6 environment in which a language other than English is dominant; and
- 7 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be
- 8 sufficient to deny the student:
- 9 (i) the ability to meet the state's proficiency assessments;
- 10 (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
- 11 (iii) the opportunity to participate fully in society.
- 12 ~~(24)~~(25) "Superintendent of public instruction" means that state government official designated as a
- 13 member of the executive branch by the Montana constitution.
- 14 ~~(25)~~(26) "System" means the Montana university system.
- 15 ~~(26)~~(27) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher
- 16 certificate that has been issued by the superintendent of public instruction under the provisions of this title and
- 17 the policies adopted by the board of public education and who is employed by a district as a member of its
- 18 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
- 19 emergency authorization of employment has been issued under the provisions of 20-4-111.
- 20 ~~(27)~~(28) "Textbook" means a book or manual used as a principal source of study material for a given
- 21 class or group of students.
- 22 ~~(28)~~(29) "Textbook dealer" means a party, company, corporation, or other organization selling, offering
- 23 to sell, or offering for adoption textbooks to districts in the state.
- 24 ~~(29)~~(30) "Trustees" means the governing board of a district.
- 25 ~~(30)~~(31) "University" means the university of Montana-Missoula.
- 26 ~~(31)~~(32) "Vocational-technical education" means vocational-technical education of vocational-technical
- 27 students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled
- 28 community college, as designated by the board of regents."

29

30 **Section 26.** Section 20-4-101, MCA, is amended to read:

1 **"20-4-101. System and definitions of teacher and specialist certification -- student teacher**
2 **exception.** (1) In order to establish a uniform system of quality education and to ensure the maintenance of
3 professional standards, a system of teacher and specialist certification must be established and maintained under
4 the provisions of this title and a person may not be permitted to teach in the public schools of the state until the
5 person has obtained a teacher or specialist certificate or the district has obtained an emergency authorization
6 of employment from the state. This requirement does not apply to teachers in public charter schools as provided
7 in [section 14].

8 (2) As used in this part, "teacher or specialist certificate" means a certificate issued or applied for under
9 20-4-106. The term "teacher or specialist" refers to a person certified under 20-4-106.

10 (3) The certification requirement does not apply to a student teacher who is a student enrolled in an
11 institution of higher learning approved by the board of regents of higher education for teacher training and who
12 is jointly assigned by the institution of higher learning and the governing board of a district or a public institution
13 to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated
14 teacher.

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

19

20 **Section 27.** Section 20-5-323, MCA, is amended to read:

21 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5),
22 whenever a child has approval to attend a school outside of the child's district of residence under the provisions
23 of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the
24 per-ANB maximum rate established in 20-9-306 for the year of attendance.

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

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

30 (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall

1 approve an agreement with the district of attendance for the tuition cost;

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

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

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

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

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

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

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

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

17 (6) The amount, if any, charged for transportation may not exceed the lesser of the average
18 transportation cost for each student in the child's district of residence or 35 cents a mile. The average
19 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing
20 the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

21 (7) The provisions of this section do not apply to a public charter school established under [sections 1
22 through 18]."

23

24 **Section 28.** Section 61-3-321, MCA, is amended to read:

25 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**
26 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon
27 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,
28 semitrailers, and pole trailers as provided in subsections (2) through (20):

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

- 1 (a) if the vehicle is 4 or less years old, \$217;
- 2 (b) if the vehicle is 5 through 10 years old, \$87; and
- 3 (c) if the vehicle is 11 or more years old, \$28.
- 4 (3) Except as provided in subsection (15), the one-time registration fee based on the declared weight
- 5 of a trailer, semitrailer, or pole trailer is as follows:
- 6 (a) if the declared weight is less than 6,000 pounds, \$61.25; or
- 7 (b) if the declared weight is 6,000 pounds or more, \$148.25.
- 8 (4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and
- 9 operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:
- 10 (a) 2,850 pounds and over, \$10; and
- 11 (b) under 2,850 pounds, \$5.
- 12 (5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other
- 13 than a quadricycle or motorcycle is \$61.25.
- 14 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.
- 15 (7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:
- 16 (i) less than 2 years old, \$282.50;
- 17 (ii) 2 years old and less than 5 years old, \$224.25;
- 18 (iii) 5 years old and less than 8 years old, \$132.50; and
- 19 (iv) 8 years old and older, \$97.50.
- 20 (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee
- 21 under this section may permanently register the motor home upon payment of:
- 22 (i) a one-time registration fee of \$237.50;
- 23 (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be
- 24 deposited in the account established under 61-6-158; and
- 25 (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.
- 26 (8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and
- 27 quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles
- 28 and quadricycles registered for both off-road use and for use on the public highways is \$114.50.
- 29 (b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as
- 30 a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

1 (9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the
2 length of the travel trailer, is as follows:

3 (a) under 16 feet in length, \$72; and

4 (b) 16 feet in length or longer, \$152.

5 (10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat,
6 personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

7 (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,
8 \$65.50;

9 (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in
10 length, \$125.50; and

11 (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

12 (11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a
13 snowmobile is \$60.50.

14 (b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose
15 of daily rental to customers is assessed:

16 (A) a fee of \$40.50 in the first year of registration; and

17 (B) if the business reregisters the snowmobile for a second year, a fee of \$20.

18 (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently
19 registered and the business is assessed the registration fee imposed in subsection (11)(a).

20 (12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

21 (b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a
22 low-speed restricted driver's license is \$25.

23 (c) The one-time registration fee for golf carts authorized to operate on certain public streets and
24 highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal,
25 which must be displayed visibly on the golf cart.

26 (13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of
27 standard license plates, a new single standard license plate, or a replacement set of special license plates
28 required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously
29 issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be
30 paid if the vehicle to which the plates are transferred is not currently registered.

1 (b) Until January 1, 2015, an additional fee of \$15 must be collected if a vehicle owner elects to keep
2 the same license plate number from license plates issued on or after January 1, 2006, but before January 1,
3 2010, when replacement of those plates is required under 61-3-332(3).

4 (c) The fees imposed in this subsection (13) must be deposited in the account established under
5 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

6 (14) The provisions of this part with respect to the payment of registration fees do not apply to and are
7 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled
8 by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle
9 or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g),
10 (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), ~~or (1)(o)~~, or (1)(p), 15-6-203, or 15-6-215, except as provided in 61-3-520.

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

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

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

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

21 (19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of
22 \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and
23 transmitted separately from the registration fee. The fee must be deposited in an account in the state special
24 revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities.
25 Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing
26 access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

27 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person
28 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election
29 not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not
30 be collected.

1 (c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify
 2 that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may
 3 make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is
 4 made, the fee may not be collected at any subsequent annual registration unless the person makes the written
 5 election to pay the additional fee on one or more of the light vehicles.

6 (ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered
 7 to a different person.

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

11 (21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by
 12 61-3-721."

13

14 **Section 29.** Section 61-10-214, MCA, is amended to read:

15 **"61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire
 16 within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

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

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

25 (4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k),
 26 (1)(l), (1)(n), ~~or~~ (1)(o), or(1)(p) or 15-6-228(4) are exempt from this part. The department of transportation may
 27 require documentation of tax-exempt status from the department of revenue before granting this exemption."

28

29 **NEW SECTION. Section 30. Public charter school exemption.** A public charter school established
 30 under [sections 1 through 18] is exempt from the provisions of Title 20 except as explicitly set forth in [sections

1 1 through 18].

2

3 **NEW SECTION. Section 31. Appropriation.** There is appropriated \$125,000 from the general fund to
4 the state public charter school commission as a one-time appropriation to commence operations, hire staff
5 qualified to execute day-to-day operations, and approve authorizers for the establishment or conversion of public
6 charter schools.

7

8 **NEW SECTION. Section 32. Severability.** If a part of [this act] is invalid, all valid parts that are
9 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
10 the part remains in effect in all valid applications that are severable from the invalid applications.

11

12 **NEW SECTION. Section 33. Notification to tribal governments.** The secretary of state shall send
13 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
14 Chippewa tribe.

15

16 **NEW SECTION. Section 34. Codification instruction.** (1) [Sections 1 through 18] are intended to be
17 codified as an integral part of Title 20.

18 (2) [Section 20] is intended to be codified as an integral part of Title 19, chapter 3, part 2, and the
19 provisions of Title 19, chapter 3, part 2, apply to [section 20].

20 (3) [Section 21] is intended to be codified as an integral part of Title 19, chapter 3, and the provisions
21 of Title 19, chapter 3, apply to [section 21].

22 (4) [Section 22] is intended to be codified as an integral part of Title 19, chapter 20, and the provisions
23 of Title 19, chapter 20, apply to [section 22].

24 (5) [Section 30] is intended to be codified as an integral part of Title 20, chapter 1, part 2.

25

26 **NEW SECTION. Section 35. Effective date.** [This act] is effective July 1, 2013.

27

- END -