



Fiscal Note 2019 Biennium

Bill # HB0376

Title: Establish public charter schools

Primary Sponsor: Windy Boy, Jonathan

Status: As Introduced

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|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>
Expenditures:				
General Fund	\$0	\$757,956	\$780,100	\$794,087
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	\$0	(\$757,956)	(\$780,100)	(\$794,087)

Description of fiscal impact: HB 376 is authorizes the establishment of public charter schools and creates a charter school commission for statewide chartering authority. The potential cost to the state general fund would be about \$5,575 per student per year beginning in FY 2019 for a total cost of \$757,956 for 136 students.

FISCAL ANALYSIS

Assumptions:

1. HB 376 provides a definition of “public charter school” to mean a separate and distinct public school, established through a charter contract between the public charter school commission and a board of trustees of a public school district as defined in 20-6-101, MCA. The public charter school would be under the supervision and control of the school district board of trustees.
2. According to the bill, the public charter school would not be subject to the general supervision of the board of education or accreditation standards, but would be authorized through a charter granted by the public charter school commission.
3. Schools and school districts are defined in Title 20, Chapter 6 of the Montana Code Annotated. According to 20-6-101, MCA, a district means “the territory, regardless of county boundaries, organized under the provisions of this title to provide public educational services under the jurisdiction of the trustees prescribed by this title. High school districts may encompass all or parts of the territory of one or more elementary districts.” Schools are defined in 20-6-501, MCA, and the term “school” means “an institution for the teaching of children that is established and maintained under the laws of the state of Montana at public expense.”

Schools are further defined as elementary and high school. For purposes of descriptions in this fiscal note, it is understood that schools reside within a school district under the direction of the school district board of trustees.

- This bill allows that the public charter school may be maintained in a separate facility or within an existing school within a school district. For purposes of this fiscal note, it is assumed that some public schools currently within school districts could become public charter schools. These would be students who are already counted for ANB purposes and the school district is receiving state funding for these students. However, the language is broad enough to indicate that a currently existing private school within a school district could form an agreement under the provisions of this bill and become a public charter school.

Office of Public Instruction (OPI)

- The OPI has identified 24 private non-sectarian education legal entities located in ten counties in the state of Montana that could fall under the definition of charter school as defined in HB 376. These schools enroll approximately 720 students. For purposes of this fiscal note, it is assumed that 20% of these schools would enter into public charter school agreements as outlined in HB 376.
- The bill indicates the public charter school would be funded with other district schools through the school funding formula in Title 20, chapter 9.
- The average number belonging (ANB) used to determine the general fund budgets for K-12 public schools will be as follows. These estimates are for current year ANB, which is used to calculate the budgeted ANB as determined by 20-9-311(13) and (14), MCA.

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
K-6 ANB	84,225	84,885	85,023	85,534	85,974
7-8 ANB	22,646	22,907	23,529	24,139	24,403
9-12 ANB	<u>43,218</u>	<u>43,350</u>	<u>43,925</u>	<u>44,321</u>	<u>45,235</u>
	150,089	151,142	152,477	153,994	155,612

- The number of FTE (including special education cooperatives) generating the quality educator payment is estimated to be:

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
School Districts	12,248.423	12,248.423	12,248.423	12,248.423	12,248.423
Special Ed Coops	<u>177.511</u>	<u>177.511</u>	<u>177.511</u>	<u>177.511</u>	<u>177.511</u>
Total FTE	12,425.934	12,425.934	12,425.934	12,425.934	12,425.934

- The present law inflation applied to the Basic and Per-ANB Entitlements, and the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data-for-Achievement, and the At Risk Components (20-9-326, MCA) is 1.37% in FY 2018 and 1.00 % in FY 2019. For the present law budget, entitlement and component is set as follows:

<u>Basic Entitlements</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
Elementary Basic	\$50,895	\$51,592	\$52,108	\$52,468	\$53,213
Middle School Basic	\$101,790	\$103,185	\$104,217	\$104,936	\$106,426
High School Basic	\$305,370	\$309,554	\$312,650	\$314,807	\$319,277

Basic Entitlement Increments

Elementary (Each 25 ANB > 250 ANB)	\$2,545	\$2,580	\$2,606	\$2,624	\$2,661
Middle School (Each 45 ANB > 450 ANB)	\$5,090	\$5,160	\$5,212	\$5,248	\$5,323
High School (Each 80 ANB past 800 ANB)	\$15,269	\$15,478	\$15,633	\$15,741	\$15,965

<u>Per ANB Entitlements</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
Elementary Per-ANB	\$5,444	\$5,519	\$5,574	\$5,612	\$5,692
High School Per-ANB	\$6,970	\$7,065	\$7,136	\$7,185	\$7,287
Direct State Aid (DSA) Percentage	44.7%	44.7%	44.7%	44.7%	44.7%

<u>Components</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
Indian Education for All	\$21.25	\$21.54	\$21.76	\$21.91	\$22.22
Indian Achievement Gap	\$209	\$212	\$214	\$215	\$218
Quality Educator	\$3,169	\$3,212	\$3,244	\$3,266	\$3,312
At Risk	\$5,363,730	\$5,437,213	\$5,491,585	\$5,529,477	\$5,607,996
Data for Achievement	\$20.36	\$20.64	\$20.85	\$20.99	\$21.29

10. Present law (20-9-326, MCA) requires the Superintendent of Public Instruction to include inflationary adjustments for the basic and per-ANB entitlements, and the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data for Achievement, and the At Risk Components in the recommendations presented to the legislature. These present law adjustments result in the following expenditures:

<u>Payment</u>	<u>FY 2018</u>	<u>FY 2019</u>
Direct State Aid	\$454.8 million	\$461.9 million
Guaranteed Tax Base Aid	\$163.3 million	\$165.6 million
County Retirement GTB	\$37.4 million	\$38.6 million
Indian Education for All	\$3.3 million	\$3.3 million
American Indian Achievement Gap	\$4.3 million	\$4.3 million
Quality Educator	\$39.9 million	\$40.3 million
Data for Achievement	\$3.1 million	\$3.2 million

- The Executive Budget includes a general fund increase of \$ 18.3 million in FY 2018 and \$29.3 million in FY 2019 to implement the inflation requirements at 1.37% in FY 2018 and 1.00% in FY 2019.
- The present law natural resources development K-12 payment is estimated to be \$10.5 million in FY 2018 and \$12.2 million in FY 2019 based on the inflationary increases with offsetting GTB savings of \$5.6 million in FY 2018 and \$6.7 million in FY 2019.
- Direct State Aid, GTB, and other general fund components are computed with the school funding model used by the Office of Public Instruction, the Legislative Fiscal Division and the Office of Budget and Program Planning using current statutory entitlements, enrollment estimates, and estimated property tax values.
- The state special education allowable cost payment remains at the FY 2017 level of \$42.89 million per year.
- The statewide present law taxable valuations are forecast to increase by 8.40% in FY 2018 and 2.40% in FY 2019.
- As stated in assumption 5, it is assumed 20% of existing private schools would become new charter schools. For purposes of this fiscal note, this would create five new public charter schools totaling 136 enrollment count which equates to an additional 142 ANB (average number belonging – student count for budgeting purposes) and approximately 20 teachers. The potential costs are outlined below:

	FY 2019	FY 2020	FY 2021
Direct State Aid	\$457,594	\$460,726	\$467,290
Guarantee Tax Base Aid	\$215,953	\$234,513	\$241,003
Indian Education For All Payment	\$2,981	\$3,002	\$3,044
Quality Educator Payment	\$59,622	\$60,033	\$60,883
Data For Achievement Payment	\$2,856	\$2,876	\$2,917

\$739,007	\$761,150	\$775,137
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17. If less charter schools for formed, the fiscal impact would be less. If more charter schools were to form, the fiscal impact could be up to 5 times as much.
18. This bill does not designate the new charter school as a new and separate budget unit for budgeting purposes, so it is assumed there would be no additional basic entitlement budget units, but there would be possible budget unit incremental entitlement increases where the additional ANB would push the count in a district into another incremental basic entitlement payment.
19. The effective date of this bill is July 1, 2017. For purposes of this fiscal note, it is assumed that FY 2019 would be the first year districts would be able to include public charter schools in the budgeting process. School district budgets are developed based on prior year enrollment numbers and prior year FTE (teacher count). Statute allows districts to provide anticipated enrollment counts by June 1 to include students, with some restrictions, who were not attending the school district schools on the count dates in October and February of the year preceding the budget year. It is assumed this would be the method for budgeting for the public charter school state funding in the first year of the public charter school operation.
20. It is assumed transportation for the public charter school students would have to be provided by the school district. For purposes of this fiscal note, a single route with a 60-69 capacity bus will travel a total of 20 miles per day for 180 days. The transportation cost calculation is would be (20 miles X 180 days X \$1.35 rate) = \$4,860 divided by two to determine the state portion of the transportation payment of \$2,430. Assuming five districts create public charter schools and run similar routes the state cost would be an additional \$12,150.
21. It is assumed that the proposed public charter school commission would meet four times per year requiring per diem payments per 2-18-501 through 20-18-503, MCA, and this bill. Six members of the commission could be from outside of Helena traveling 400 miles round trip per person, \$23 for meals per day for two days each meeting and lodging for one night would total \$1,700 per meeting.

Office of the Commissioner of Higher Education

22. Public charter schools as defined in HB 376 are not accredited possibly putting graduates in jeopardy of acceptance into colleges. The Office of the Commissioner of Higher Education provided this from Policy 301 regarding admission requirements: *Students must have graduated from a high school accredited by the state accrediting agency, OR have a high school equivalency completion assessment designated by the Montana Board of Public Education to be admitted to any campus of the Montana University System. At the discretion of the institution, for students who complete their secondary education through home schooling or at unaccredited secondary schools, this requirement may be met by “satisfactory performance” on the ACT, SAT, or a recognized testing instrument defined in the Federal Register as indicative of a student’s “ability to benefit.”*
23. Students who are graduated from these unaccredited, public charter schools would not have graduated from accredited institutions and might have to take the Montana ETS HiSet battery of tests in order to be accepted into college. These tests measure a student’s academic skills as compared to a high school graduate. If passed, a Montana High School Equivalency Diploma would be issued which is accepted by institutions of higher education and employers as equivalent to a regular high school diploma. The cost of taking the test is \$50 plus any proctoring fee charged in some Montana communities.

Secretary of State

24. This bill will have minimal cost for postage and administrative duties. The Office of the Secretary of State does not receive general fund monies for office operations, but has agreed to assume the fiscal responsibility for this bill.

	<u>FY 2018</u> <u>Difference</u>	<u>FY 2019</u> <u>Difference</u>	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Local Assistance (DSA)	\$0	\$457,594	\$460,726	\$467,290
Local Assistance (GTB)	\$0	\$215,953	\$234,513	\$241,003
Local Assistance (Indian Ed for All)	\$0	\$2,981	\$3,002	\$3,044
Local Assistance (Quality Educator)	\$0	\$59,622	\$60,033	\$60,883
Local Assistance (Data for Achieve)	\$0	\$2,856	\$2,876	\$2,917
Local Assistance (Transportation)	\$0	\$12,150	\$12,150	\$12,150
Personal Services (Per Diem)	\$0	\$6,800	\$6,800	\$6,800
	<u>\$0</u>	<u>\$757,956</u>	<u>\$780,100</u>	<u>\$794,087</u>

<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$757,956	\$780,100	\$794,087
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$757,956</u>	<u>\$780,100</u>	<u>\$794,087</u>

<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	(\$757,956)	(\$780,100)	(\$794,087)

Effect on County or Other Local Revenues or Expenditures:

1. Increases to school district BASE budgets are shared by the state and local taxpayers. Increased ANB resulting from HB 376 public charter school students creates increased district BASE budgets. Local property taxes would increase as budgets increase to accommodate the additional ANB. Using the assumptions in this fiscal note, to fund the BASE budget could increase local property taxes by approximately \$0.14 million in FY 2019.
2. County levies associated with additional transportation costs could increase by \$12,150 to provide transportation to public charter school students.
3. Depending on the number of new public charter school students each year, state general fund expenditures would increase by \$5,575 per student and local property taxes for BASE budget would increase \$1,000 per ANB with additional overBASE costs for some school districts.

Technical Notes:

1. If all schools in a school district elected to become public charter schools that did not have to meet accreditation standards, the district would be eliminating the possibility of flexibility for students wishing to enroll in traditional education programs.
2. Section 4(2) specifies the timeline for submission must allow enough time for the proposal to be reviewed by the commission and make a determination to approve the public charter school. The commission and board of trustees must then enter into a charter contract by no later than May 1 preceding the school year in which the public charter school plans to enroll students. Statutorily, school districts must have budget elections on the first Tuesday after the first Monday in May. In order to meet the statutory timelines for a district budget election, districts must determine and set the ensuing year budgets prior to May 1. School districts would not

be able to budget under the standard process for any additional ANB due to public charter school agreements completed as late as May 1.

3. In review of section 2(2)(d) and section 2(3), it is unclear in the bill if the public charter schools are to be separate legal entities within a school district or if they are a school within a currently existing legal entity.
4. HB 376, Section 2(4) says that the public charter school is not subject to general supervision of the board of public education or the accreditation standards. The legal review provided by the Legislative Services Division for this bill points out that the Montana Constitution, Article X, section 9(3)(a) creates the “board of public education to exercise general supervision over the public school system and such other public educational institution as may be assigned by law.” The legal review also references that “The Montana Supreme Court has held that the Legislature does not have the ability to remove duties from the Board of Public Education that fall under the Board’s directive to generally supervise public educational systems.”

Sponsor’s Initials

Date

Budget Director’s Initials

Date