



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0633

Title: Establish the public charter schools act

Primary Sponsor: Hill, Ed

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Expenditures:				
General Fund	\$56,923	\$1,123,521	\$1,143,392	\$1,164,054
General Fund Appropriation	\$75,000	\$0	\$0	\$0
State Special Revenue	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN
Revenue:				
General Fund	\$0	\$0	\$0	\$0
General Fund Appropriation	\$0	\$0	\$0	\$0
State Special Revenue	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN
Net Impact-General Fund Balance:	<u>(\$131,923)</u>	<u>(\$1,123,521)</u>	<u>(\$1,143,392)</u>	<u>(\$1,164,054)</u>

Description of fiscal impact: HB 633 authorizes the establishment of public charter schools -- funding a new basic entitlement for each public charter school at 100% state cost instead of the 44.7% direct state aid rate with the difference made up by local taxpayers. Assuming three new elementary and three new high school public charter schools start by FY 2023, the additional state general fund cost for basic entitlements for the newly created public charter school budget units would be approximately \$1.1 million in the 2023 biennium and \$2.2 million in the 2025 biennium. It is assumed that the gifts, grants, legacies, devises, and donations given specifically for the creation and operation of the Montana public charter school system and deposited in the public charter school account created in Section 17 of HB 633 would cover operating expenses for the commission. The amounts of these donations, etc., and related expenses are unknown.

FISCAL ANALYSIS

Assumptions:

1. HB 633 defines public charter schools and describes legislative intent, purposes, and expectations.

Office of Public Instruction (OPI)

- 2. Public charter schools may not be created within the geographical boundaries of third-class elementary or third-class high school districts per HB 633. Third class elementary and high school districts are districts with a population of less than 1,000 per 20-6-201 and 20-6-301, MCA.
- 3. A public charter school must be considered a separate budget unit of the located school district for funding purposes and must have its ANB calculated separate from the other schools in the district.
- 4. For the purposes of this fiscal note, it is considered that three elementary and three high school districts would form public charter schools serving student grades K-12 within current K-12 school district boundaries. Each elementary public charter school would be allocated one elementary basic entitlement and one middle school basic entitlement, and each high school public charter school would be allocated one high school basic entitlement. The following table shows the present law basic entitlement amounts with the statutory inflation of 1.50% in FY 2022 and 2.57% in FY 2023.

<u>Basic Entitlements</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary Basic	\$53,541	\$54,344	\$55,741	\$56,744	\$57,788
Middle School Basic	\$107,084	\$108,690	\$111,483	\$113,490	\$115,578
High School Basic	\$321,254	\$326,073	\$334,453	\$340,473	\$346,738

<u>Basic Entitlements Increments</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary (Each 25 ANB > 250 ANB)	\$2,678	\$2,718	\$2,788	\$2,838	\$2,890
Middle School (Each 45 ANB > 450 ANB)	\$5,354	\$5,434	\$5,574	\$5,674	\$5,778
High School (Each 80 ANB past 800 ANB)	\$16,063	\$16,304	\$16,723	\$17,024	\$17,337

- 5. K-12 public schools receive a direct state aid payment of 44.7% of the basic and per-ANB entitlement amounts and the remainder is funded by local property taxes under the current K-12 school funding formula. This bill directs 100% of the basic entitlement for the public charter school would be paid to the located school district which would then be redirected to an account for the public charter school.
- 6. HB 633 additionally directs a “student amount” defined as “the dollar amount equal to the adopted general fund budget of a student’s resident school district minus any basic entitlement amounts then divided by the number of pupils on which the budget was based” would be paid from the K-12 school district general fund to the public charter school.
- 7. Using FY 2021 school district budget data and accounting for the removal of third-class districts (district population less than 1,000), the “student amount” ranges from \$14,144 to \$5,330 (includes 218 legal entities with an average of \$7,166).
- 8. HB 633 states that the located school district would count the ANB in the K-12 district budget process. It is assumed that the located school district budgets would include funding for the public charter school budget unit during the regular budgeting process.

Board of Public Education (BPE)

- 9. HB 633 creates a state public charter school commission which will be a new, independent, state public charter school commission.
- 10. The commission is allocated to the BPE in Section 4, subsection 11(a) of HB 633 for administrative purposes only as prescribed by 2-15-121(1)(a), MCA. Additionally, HB 633 requires the commission be allocated to the board, including providing services such as payroll, human resources, accounting, information technology,

or other services determined by the commission. This would require the BPE to hire 1.0 FTE administrative assistant at a cost of \$54,123 plus \$1,600 for the new employee office package and \$1,200 for a computer. Cost will be increase by 1.5% in FY 2024 and FY 2025.

11. The commission would operate with dedicated resources and would hire staff for executing the day-to-day responsibilities of public charter school authorizing in accordance with this bill.
12. The commission members would be entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503, MCA, per HB 633. Expenses and per diem costs for two meetings per year would be approximately \$5,000. It is assumed these costs would be paid from the state special public charter school account created in Section 17.
13. Section 17, of HB 633, creates a state special revenue account to be the public charter school account administered by the commission. The purpose of the account is to receive and expend gifts, grants, legacies, devises, and donations given specifically for the creation and operation of the Montana public charter school system. All donations must be from private sources and may not be expended for any purpose other than for the benefit of qualifying public charter schools. A gift or donation made directly to a public charter school or schools is not prohibited according to HB 633.
14. It is assumed for this fiscal note that the \$75,000 one-time biennial appropriation set in Section 25 of HB 633 would cover the costs of the first year of the state public charter commission beginning July 1, 2021. In future years, it is assumed the gifts, grants, legacies, devises, and donations given specifically for the creation and operation of the Montana public charter school system and deposited in the public charter school account created in Section 17 of HB 633 would cover operating expenses for the commission. The amounts of these donations, etc., and related expenses are unknown.

Department of Revenue

15. This legislation would exempt property leased, owned, or used by a public charter school. It is anticipated the newly exempted property will have a minimal impact on state property tax revenue and for fiscal note purposes, this impact is assumed to be zero.
16. Any costs associated with HB 633 affecting the Department of Revenue would be absorbed by the department as part of the annual exemption application review and processing.

Secretary of State

17. This bill will have minimal cost for postage and administrative duties related to the tribal notifications required in section 26 of the bill. 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 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE (BPE)	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services (BPE)	\$41,475	\$41,475	\$42,097	\$42,728
Benefits (BPE)	\$12,648	\$12,648	\$12,648	\$12,648
Equipment (BPE)	\$2,800	\$0	\$0	\$0
Operating Expenses (Commission)	\$75,000	\$0	\$0	\$0
Local Assistance (DSA-OPI)	\$0	\$672,749	\$684,858	\$697,459
Local Assistance (GTB-OPI)	\$0	\$396,649	\$403,789	\$411,219
TOTAL Expenditures	\$131,923	\$1,123,521	\$1,143,392	\$1,164,054
<u>Funding of Expenditures:</u>				
General Fund (01)	\$56,923	\$1,123,521	\$1,143,392	\$1,164,054
General Fund (01) Appropriation	\$75,000	\$0	\$0	\$0
State Special Revenue (02)	unknown	unknown	unknown	unknown
TOTAL Funding of Exp.	\$131,923	\$1,123,521	\$1,143,392	\$1,164,054
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
General Fund (01) Appropriation	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$56,923)	(\$1,123,521)	(\$1,143,392)	(\$1,164,054)
General Fund (01) Appropriation	(\$75,000)	\$0	\$0	\$0
State Special Revenue (02)	unknown	unknown	unknown	unknown

Effect on County or Other Local Revenues or Expenditures:

- Public charter schools are allocated additional basic entitlements under HB 633. Local property taxes are projected to increase by \$173,900 in FY 2023 associated with this increase in the general fund budgets of the located school districts with a public charter school.
- In each newly created public charter school, it is assumed that ten students will attend each school and all are from the located school district. A located school district is defined in HB 633 to mean the school district in which a public charter school is located.
- HB 633 directs “student amount” payments be paid from the K-12 district general fund to the public charter school. The “student amount” is more than the per-ANB payment the local K-12 school district receives from state and local payments. The following table shows present law per-ANB entitlement amounts:

<u>Per ANB Entitlements</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Elementary Per-ANB	\$5,727	\$5,813	\$5,962	\$6,069	\$6,181
High School Per-ANB	\$7,333	\$7,443	\$7,634	\$7,771	\$7,914

4. The table below is the estimated “student amount” based on FY 2021 budget data that is to be redirected by the county treasurer from the local K-12 public school district directly to the public charter school. This is a redirection of state and local funding of the local K-12 district to the public charter school.

District	Student Amount	Public Charter School Students	Student Amount Entitlement
High School 1	\$7,218.90	10	\$72,189
High School 2	\$7,022.65	10	\$70,227
High School 3	\$7,702.78	10	\$77,028
Elementary 1	\$6,237.99	10	\$62,380
Elementary 2	\$6,335.28	10	\$63,353
Elementary 3	\$5,763.41	10	\$57,634

- Local school districts have a number of fixed costs that do not vary with district enrollment that would be affected by the funds used for the public charter schools. Expenditures that are more fixed than variable include: debt service; bus depreciation; building reserve; and transportation.
- The requirement in HB 633 for the public charter school allocation to be deducted from the resident school district’s K-12 general fund budget would leave the school district with costs which the district may not have revenue to cover. The shortfall would vary significantly from district to district. At a 2% to 3% participation rate, this could range from approximately \$6,052 to \$2.5 million per district and \$31 million to \$41 million statewide in the first year.

Technical Notes:

Office of Public Instruction

- Section 2, subsection (2)(d): “Indian country” is not defined.
- Section 7, subsection (2): It is unclear how the oversight fee amount is calculated. HB 633 states “The oversight fee must be calculated as a uniform percentage of the state funding allocated to each public charter school and is to be paid from the public charter school’s budget share of the per-pupil funding, not to exceed 3% of each public charter school’s state funding in a single school year.” However, the public charter school does not receive a share of the state per-pupil funding. According to the bill, the public charter school receives 100% of the full amount of the basic entitlement (which in K-12 districts includes both state and local dollars) and a calculated “student amount”, which is not directly related to the state funding.
- Section 14, subsection (e):
 - It is unclear if the election must be conducted in accordance with elections laws in Title 13 and Title 20.
 - It is unclear who pays for the election.
 - If a K-12 school district does not hold an election, it is unclear how the election for the governing board of the public charter school would be conducted.
 - As used in subsection (2)(e)(iii), “district” is not defined. There are many different taxing districts. If the intent is to be electors of the K-12 public school district, then “public school” should be inserted before “district”.

4. Section 20-9-311, MCA, requires a student be enrolled in a school district in order to be included in the calculation for ANB. If the public charter school is not required to comply with reporting requirements under Title 20, it is unclear how enrollment in the charter school will be collected and reported to the resident public school district and to the OPI.
5. Section 15, subsection (5) and (6): Some public-school districts do not invest with the county treasurer and payments from the OPI are not made to the county. The system for making payments outlined in this bill does not account for those situations.
6. Section 16, subsection (1): It is unclear whether a “closed public school” is referring to a school within a school district or a school district as a whole. In either case, this subsection conflicts with other sections of statute: If “closed public school” is referring to a school within a school district, under current law, the facilities would remain the property of the school district. If “closed public school” is referring to a school district, under current law the district would be required to annex to another district (district boundaries would change). Pursuant to 20-6-417, MCA, any title to real property and personal property becomes the property of the district that acquired the new territory.
7. The process set forth in this bill to create a public charter school has timing issues with the budget process for public school districts. The OPI is required to distribute preliminary budget data to schools by March 1 section 20-9-369, MCA, in order to assist them in determining their needed levies. Levy elections are held the first Tuesday after the first Monday in May. Public school districts must adopt their budgets no later than August 25th each year. Under HB 633, proposals for new charter schools could be accepted and approved throughout the year and after budgets have already been set.
8. By making charter schools exempt from Title 20 and reporting requirements the ability for the state to report accurate revenue and expenditure data to the federal government is not possible. This jeopardizes the integrity of Elementary and Secondary Education Act (ESEA) Title Programs and Impact Aid calculations to the state.
9. HB 633 has no limits on number of students attending, number of teachers, no requirements for educating students, no teacher certification requirement, and no reporting requirements in order to create a public charter school. It appears anyone could create a public charter school for any number of students, 1 to unknown, and the school district would be required to budget for that entity receiving a basic entitlement and the per student payment. There is no limit to the number of these entities created within a public school district, so it would be possible, at the extreme, to create a public charter school for each student in a district which would cost the state a basic entitlement ranging from \$54,344 to \$326,073 in FY 2022 plus the per student payment.



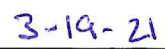
 Sponsor's Initials



 Date



 Budget Director's Initials



 Date



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Dedication of Revenue 2021 Biennium

17-1-507-509, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**
Yes, students in a public charter school do not necessarily pay into the fund but would receive benefit of the fund.
- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**
The revenue would be dedicated to public charter schools for purposes of receiving state, federal, and other funds to be used for public charter school purposes stated in HB 633.
- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**
Unknown. The revenue relevancy would be for purposes newly related by HB 633 and it is assumed there would be adequate funding to operate the program.
- d) **Does the need for this state special revenue provision still exist? X Yes No __ (Explain)**
If HB 633 is passed, yes.
- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**
The fund is created for purposes of public charter schools that are only attached to the Board of Public Education for administrative purposes only. HB 633 directs that on or before December 1 of each year, the Public Charter School Commission shall provide an annual report to the Board of Public Education, the Education and Local Government Interim Committee, and the public.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**
The dedicated revenue would be used for the purposes set forth in HB 633 for public charter schools.
- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**
The revenue into this account would be gifts, grants, legacies, devises, and donations given specifically for the creation and operation of the Montana public charter school system. A fund separate from the general fund makes accounting of these dedicated revenues and expenditures for public charter schools clearly defined.