

HOUSE BILL NO. 28

INTRODUCED BY D. BEDEY

BY REQUEST OF THE BOARD OF PUBLIC EDUCATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PUBLIC CHARTER SCHOOLS TO CLARIFY APPROVAL TIMELINES, OPENING PROCEDURES, AND FUNDING FOR THE INITIAL YEARS OF OPERATION; REQUIRING THE BOARD OF PUBLIC EDUCATION TO INFORM THE OFFICE OF PUBLIC INSTRUCTION AND THE RELEVANT COUNTY SUPERINTENDENT ABOUT THE STATUS OF PUBLIC CHARTER SCHOOLS; PROVIDING THAT VARIOUS TIMELINE REQUIREMENTS ARE BUSINESS DAYS; CLARIFYING THAT PUBLIC CHARTER SCHOOLS APPROVED BY THE BOARD OF PUBLIC EDUCATION ARE NOT SUBJECT TO OTHER SCHOOL OPENING REQUIREMENTS; PROVIDING THAT PUBLIC CHARTER SCHOOLS ~~AND DISTRICTS GOVERNED BY LOCAL SCHOOL BOARDS~~ ARE NOT ELIGIBLE FOR THE PER-ANB ENTITLEMENT IN THE FIRST YEAR OF OPERATION; PROVIDING THAT PUBLIC CHARTER SCHOOL DISTRICTS ARE ELIGIBLE FOR THE PER-ANB ENTITLEMENT IN THE FIRST YEAR OF OPERATION BASED ON PLANNED ENROLLMENT AND ARE SUBJECT TO CLAWBACK PROVISIONS; PROVIDING THAT ELIGIBILITY FOR A BASIC ENTITLEMENT IS INITIALLY BASED ON PLANNED ENROLLMENT AND THAT BASIC ENTITLEMENT PAYMENTS PROVIDED TO PUBLIC CHARTER SCHOOLS AND DISTRICTS IN THE FIRST YEAR OF OPERATION ARE SUBJECT TO CLAWBACK PROVISIONS; AMENDING SECTIONS 20-6-804, 20-6-805, 20-6-806, 20-6-809, AND 20-6-812, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 20-6-804, MCA, is amended to read:

"20-6-804. Board of public education responsibilities. (1) In accordance with this part, the board of public education is responsible for executing the following essential powers and duties:

(a) soliciting and evaluating charter proposals;

(b) approving charter proposals that meet identified educational needs and promote a diversity of

educational choices, including but not limited to:

- (i) increasing standards for student achievement;
 - (ii) closing achievement gaps between high-performing and low-performing groups of public school students;
 - (iii) increasing educational opportunities within the public education system;
 - (iv) providing alternative learning environments for students who are not thriving in traditional school settings;
 - (v) lowering the dropout rate;
 - (vi) creating new professional opportunities for teachers and other school personnel;
 - (vii) encouraging the use of different models of teaching and learning; and
 - (viii) providing students, parents, community members, and local entities with expanded opportunities for involvement in the public education system;
- (c) denying approval of charter proposals that fail to provide clear and convincing proof of their likelihood of success;
- (d) negotiating and executing sound charter contracts with each approved public charter school;
- (e) monitoring approved public charter schools' performance and legal compliance with charter contract terms; and
- (f) determining whether each charter contract merits renewal, nonrenewal, or revocation; and
- (g) informing the office of public instruction and the relevant county superintendent of schools regarding the status of public charter schools in a timely manner.

(2) On or before December 1 of each year, beginning in the first year that a public charter school has been in operation for a full school year, the board of public education shall publish to the board's website and submit to the legislature in accordance with 5-11-210 an annual report on the state's public charter schools for the school year ending in the preceding calendar year. The annual report must include:

- (a) a comparison of the performance of public charter school students with the performance of academically, ethnically, and economically comparable groups of students in noncharter public schools; and
- (b) the board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this part, including the board's assessment of the sufficiency of funding for public charter

schools and any suggested changes in state law or policy necessary to strengthen the state's public charter schools."

Section 2. Section 20-6-805, MCA, is amended to read:

"20-6-805. Public charter school proposal process. (1) To solicit, encourage, and guide the development of public charter schools, the board of public education shall issue and broadly publicize a request for proposal by ~~October 1 in 2023 and by June 1 of each year thereafter~~ annually. The content and dissemination of the request for proposal must be consistent with the purposes and requirements of this part.

(2) The request for proposal must include:

(a) the criteria that will guide the board's decision to approve or deny a charter proposal;

(b) clear and detailed questions designed to gauge an applicant's capacity to establish and operate a successful public charter school, as well as guidelines concerning the format and content of an applicant's response to the request for proposal.

(3) A request for proposal must require applicants to describe thoroughly the following essential elements of their public charter school proposal:

(a) an executive summary;

(b) the mission and vision of the proposed public charter school, including identification of the targeted student population and the community the school proposes to serve;

(c) the school district in which the public charter school is proposed to be located and operate;

(d) the grades to be served each year for the full term of the charter contract;

(e) the minimum, planned, and maximum enrollment per year for the term of the charter contract;

(f) specific evidence:

(i) of significant community support for the proposed public charter school; and

(ii) for an applicant that is not a local school board:

(A) that the applicant has sought from the local school board the creation of a school or program of the located school district serving the mission and vision of the proposed public charter school;

(B) the local school board declined to create the school or program or submit to the board of public education a proposal for the creation of a public charter school consistent with the mission and vision of the

1 proposed public charter school; and

2 (C) a legal description of the property of the existing school district from which the boundaries of
3 the charter school district are proposed to be formed;

4 (g) for an applicant that is not a local school board, background information on the initial governing
5 board members and, if identified, the proposed school leadership and management team;

6 (h) the proposed public charter school's proposed calendar and sample daily schedule;

7 (i) a description of the academic program, including:

8 (i) plans to formally assess student achievement on an annual basis; and

9 (ii) variances to existing standards that the proposed public charter school requires;

10 (j) a description of the proposed public charter school's instructional design, including the type of
11 learning environment, class size and structure, curriculum overview, and teaching methods;

12 (k) the proposed public charter school's plans for identifying and successfully serving students with
13 disabilities, students who are English language learners, students who are academically challenged, and gifted
14 students, including but not limited to compliance with applicable laws and regulations;

15 (l) a description of cocurricular or extracurricular programs, if any, and how the programs will be
16 funded and delivered;

17 (m) plans and timelines for student recruitment and enrollment, including lottery procedures;

18 (n) the proposed public charter school's student discipline policies, including those for special
19 education students;

20 (o) an organizational chart that clearly presents the proposed public charter school's organizational
21 structure, including lines of authority and reporting between the governing board, staff, related bodies such as
22 advisory bodies or parent and teacher councils, and external organizations that will play a role in managing the
23 school;

24 (p) a clear description of the roles and responsibilities for the governing board, the proposed public
25 charter school's leadership and management team, and other entities shown in the organizational chart;

26 (q) a staffing chart for the proposed public charter school's first year and a staffing plan for the
27 term of the charter;

28 (r) plans for recruiting and developing school leadership and staff;

- (s) the proposed public charter school's leadership and teacher employment policies, including performance evaluation plans;
- (t) proposed governing bylaws;
- (u) explanations of any partnerships or contractual relationships central to the proposed public charter school's operations or mission;
- (v) the proposed public charter school's plans for providing transportation, food service, and all other significant operational or ancillary services, if any;
- (w) opportunities and expectations for parent involvement;
- (x) a detailed school startup plan, identifying tasks, timelines, and responsible individuals;
- (y) a description of the proposed public charter school's financial plan and policies, including financial controls and audit requirements;
- (z) a description of the insurance coverage the proposed public charter school will obtain;
- (aa) startup and 5-year budgets with clearly stated assumptions;
- (bb) startup and first-year cash flow projections with clearly stated assumptions;
- (cc) evidence of anticipated fundraising contributions, if claimed in the proposal; and
- (dd) a sound facilities plan, including backup or contingency plans, if appropriate.
- (4) If a public charter school proposal does not contain the elements required in subsection (3), the board shall consider the proposal incomplete and return the proposal to the applicant without taking further action.
- (5) In reviewing and evaluating charter proposals, the board shall employ procedures, practices, and criteria consistent with nationally recognized best practices, principles, and standards for the authorization of public charter schools. The proposal review process must include thorough evaluation of each written charter proposal, an in-person interview with the applicant, and an opportunity in a public forum for local residents to learn about and provide input on each proposal.
- (6) In deciding whether to approve charter proposals, the board shall:
- (a) grant charters only to applicants that have demonstrated competence in each element of the board's published approval criteria and are likely to open and operate a successful public charter school;
- (b) base decisions on documented evidence collected through the proposal review process;

(c) for an applicant that is not a local school board, request input from the qualified electors of the located school district regarding concerns about the applicant's proposal being approved;

(d) follow charter-granting policies and practices that are transparent and are based on merit and avoid conflicts of interest or any appearance of conflict; and

(e) weigh heavily the evidence of community support, the projected student enrollment, and the input received under subsection (6)(c) and only approve charters whose promise of improved educational outcomes outweighs potential increased costs to state and local taxpayers.

(7) (a) The board shall approve or deny a charter proposal within 90 business days after the filing of the charter proposal. When approval is granted to a governing board other than a local school board, the approval constitutes corresponding approval of the creation of a separate charter school district, the boundaries for which consist of the legal description of the campus of the charter school. These boundaries must be removed from the boundaries of the located school district for the purpose of establishing a distinct boundary for the charter school district that is subject to exclusive supervision and control by the governing board of the charter school district.

(b) The board shall adopt by resolution all charter approval or denial decisions in an open meeting.

(c) An approval decision may include, if appropriate, reasonable conditions that the applicant must meet before a charter contract may be executed pursuant to 20-6-806.

(d) For any charter denial, the board shall clearly state for the public record the reasons for denial."

Section 3. Section 20-6-806, MCA, is amended to read:

"20-6-806. Charter contract -- terms. (1) An initial charter must be granted for a term of 5 operating years, commencing on July 1 of the first school year the public charter school will operate. An approved public charter school may delay its opening for 1 school year to plan and prepare for the school's opening. If the school requires an opening delay of more than 1 school year, the school shall request an extension from the board of public education. The board of public education may grant or deny the extension depending on the school's circumstances.

(2) Within 45 business days of approval of a charter proposal, the board of public education and the governing board of the approved public charter school district shall execute a charter contract that clearly

sets forth the academic and operational performance expectations and measures by which the public charter school will be judged.

(3) The performance provisions of the charter contract may be refined or amended by mutual agreement after the public charter school is operating and has collected baseline achievement data for its enrolled students.

(4) The charter contract must be signed by the presiding officers of the board of public education and the public charter school's governing board.

(5) A public charter school may not commence operations without a charter contract executed in accordance with this section and approved in an open meeting of the board of public education.

(6) The board of public education may establish reasonable preopening requirements or conditions to monitor the startup progress of a newly approved public charter school to ensure that the school is prepared to open smoothly on the date agreed and to ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening. Public charter schools approved by the board of public education are exempt from the requirements for school opening under Title 20, chapter 6, part 5.

Section 4. Section 20-6-809, MCA, is amended to read:

"20-6-809. Charter school performance and renewal. (1) The performance provisions within the charter contract must be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the board of public education's evaluations of each public charter school. The performance framework must include indicators, measures, and metrics for, at a minimum:

- (a) student academic proficiency;
- (b) student academic growth;
- (c) achievement gaps in both proficiency and growth between major student subgroups;
- (d) attendance;
- (e) recurrent enrollment from year to year;
- (f) postsecondary readiness;
- (g) financial performance and sustainability; and

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

(2) Each public charter school shall set annual performance targets designed to help each school meet applicable federal, state, and board of public education expectations.

(3) (a) The contract performance framework must allow the inclusion, with the board of public education's approval, of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance that are consistent with the purposes of this part.

(b) The board of public education shall collect and analyze data from each public charter school it oversees in accordance with the performance framework.

(c) Multiple schools operating under a single charter contract or overseen by a single governing board of a charter school district shall report their performance as separate, individual schools. Each school must be held independently accountable for its performance.

(4) (a) The board of public education shall monitor the performance and legal compliance of each public charter school district and each public charter school, including collecting and analyzing data to support ongoing evaluation according to the charter contract. The board of public education has the authority to conduct or require oversight activities that do not unduly inhibit the autonomy granted to public charter schools and the supervision and control of a public charter school's governing board but that enable the board to fulfill its responsibilities under this part, including conducting appropriate inquiries and investigations consistent with the intent of this part, and to adhere to the terms of the charter contract.

(b) The board of public education shall annually publish a performance report for each public charter school within the performance framework set forth in the charter contract and 20-6-810. The board may require each public charter school it oversees to submit an annual report to assist the board in gathering complete information about each school, consistent with the performance framework.

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

(d) The board of public education may take appropriate corrective action or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal

1 compliance. The action or sanctions may include, if warranted, requiring a governing board to develop and
2 execute a corrective action plan within a specified timeframe.

3 (5) (a) A charter may be renewed for successive 5-year terms, although the board of public
4 education may vary the term based on the performance, demonstrated capacities, and particular circumstances
5 of each public charter school. The board may grant renewal with specific conditions for necessary improvement
6 to a public charter school.

7 (b) No later than June 30 of each year, the board of public education shall issue a public charter
8 school performance report and charter renewal application guide to the governing board of any public charter
9 school whose charter will expire the following year. The performance report must summarize the public charter
10 school's performance record to date, based on the data required by this part and the charter contract, and must
11 provide notice of any weaknesses or concerns perceived by the board concerning the public charter school that
12 may jeopardize renewal if not promptly rectified. The public charter school shall respond to the performance
13 report and submit any corrections or clarifications within 90 business days.

14 (6) The renewal application guide must, at a minimum, provide an opportunity for the governing
15 board of the public charter school to:

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

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

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

20 (7) The renewal application guide must include or refer explicitly to the criteria that will guide the
21 board's renewal decisions, based on the performance framework set forth in the charter contract and consistent
22 with this part.

23 (8) (a) No later than February 1, the governing board of a public charter school seeking renewal
24 shall submit a renewal application to the board of public education pursuant to the renewal application guide.
25 The board of public education shall rule by resolution on the renewal application no later than 30 business days
26 after the filing of the renewal application.

27 (b) When considering charter renewal, the board of public education shall:

28 (i) base its decision on evidence of the school's performance over the term of the charter contract

- 1 in accordance with the performance framework set forth in the charter contract;
- 2 (ii) ensure that the data used in making renewal decisions is available to the school and the public;
- 3 and
- 4 (iii) provide a public report summarizing the basis for each decision."

5

6 **Section 5.** Section 20-6-812, MCA, is amended to read:

7 **"20-6-812. Funding for public charter schools.** (1) It is the intent of the legislature that a public

8 charter school receive operational funding on a per-pupil basis that is equitable with the per-pupil funding of the

9 located school district.

10 (2) (a) This subsection (2) applies to the budgeting and funding of a public charter school operated

11 by a local school board.

12 (b) ~~For budgeting and funding purposes, when a public charter school is operated by a local~~

13 ~~school board, a~~ A public charter school must be considered a separate budget unit of the located school district;

14 and must have its ANB calculated separately from other budget units of the district; and must. Except as

15 provided in subsection (2)(c), a public charter school must receive a basic entitlement calculated separately

16 from other budget units of the district when its ANB is greater than:

- 17 (i) 70 for an elementary school or program;
- 18 (ii) 20 for a middle school or program; or
- 19 (iii) 40 for a high school or program.

20 (c) For the first operating year of a public charter school:

21 (i) the public charter school is not eligible for the per-ANB entitlement, and the public charter

22 school's eligibility for a separate basic entitlement under subsection (2)(a) of this section must be based on the

23 planned enrollment provided in the public charter school's application as required in 20-6-805(3) and converted

24 to ANB; and

25 (ii) if, after the October enrollment count, the public charter school's actual enrollment converted to

26 ANB does not meet the eligibility requirements for a separate basic entitlement under subsection (2)(b) of this

27 section, the basic entitlement of the public charter school is subject to the return of overpayment provisions

28 under 20-9-344.

(d) For the second and third operating years of a public charter school, a public charter school's 3-year-average ANB is equal to its current year ANB.

~~(b)(3)~~ (a) This subsection (3) applies to the budgeting and funding of a public charter school district.

(b) When a public charter school district exists, The funding of the public charter school district must be distributed as BASE aid, except as provided in this subsection (2)(c) (3)(b), at 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment. The total amount of funding received by a public charter school district under this subsection ~~(2)(b)~~ (3)(b) is both the minimum amount and the maximum amount of public funding for the public charter school district.

(c) A-Except as provided in subsection (3)(d), a public charter school district is not eligible for a basic entitlement unless its ANB is greater than:

(i) 70 for an elementary school or program;

(ii) 20 for a middle school or program; or

(iii) 40 for a high school or program.

(d) For the first operating year of a public charter school district:

(i) the public charter school district is not eligible for the per-ANB entitlement, and the public charter school district's PER-ANB ENTITLEMENT, INDIAN EDUCATION FOR ALL PAYMENT, DATA-FOR-ACHIEVEMENT PAYMENT, SPECIAL EDUCATION ALLOWABLE COST PAYMENT, AND eligibility for a basic entitlement must be based on the planned enrollment provided in the public charter school district's application as required in 20-6-805(3) and converted to ANB; and

(ii) if, after the October enrollment count, the public charter school district's actual enrollment converted to ANB IS LESS THAN ITS PLANNED ENROLLMENT CONVERTED TO ANB OR does not meet the eligibility requirements for a basic entitlement pursuant to subsection (3)(c) of this section, the public charter school district is subject to the return of overpayment provisions under 20-9-344.

~~(3)(4)~~ Students attending a public charter school governed by a local school board who are not residents of the located school district generate funding in the same manner as other nonresident students

attending a school of the located district under an out-of-district attendance agreement pursuant to Title 20,
chapter 5, part 3;

~~(4)~~(5) A public charter school district is prohibited from charging tuition and fees.

~~(5)~~(6) For a public charter school that is not governed by the local school board, the county treasurer
of the county in which a public charter school is located shall establish funds for the public charter school
separate from the funds of the located school district.

~~(6)~~(7) The governing board of a public charter school shall report annually on the financial activities of
the public charter school in the manner prescribed in 20-9-213(6).

~~(7)~~(8) A public charter school district may obligate the public charter school district to indebtedness
and is solely responsible for those debts. A public charter school district is not responsible for any debt service
obligations that exist in the located school district.

~~(8)~~(9) Nothing in this part may be construed to prohibit any person or organization from providing
funding or other assistance for the establishment or operation of a public charter school. The governing board
of a public charter school is authorized to accept gifts or donations of any kind made to the public charter
school and to expend or use the gifts or donations in accordance with the conditions prescribed by the donor. A
gift or donation may not be accepted if the gift or donation is subject to a condition that is contrary to any
provision of law or term of the charter contract.

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

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. Retroactive applicability.** [This act] applies retroactively, within the
meaning of 1-2-109, to public charter schools approved by the board of public education to commence
operations for the first time in school years beginning on or after July 1, 2025.

- END -