

coalition of advocates FOR MONTANA'S PUBLIC SCHOOLS

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Section by Section Explanation Changes to LC 1257
Proposed by the Coalition of Advocates for Montana's Public Schools
December 15, 2022

The Coalition of Advocates for Montana's Public Schools appreciates the opportunity to work in collaboration with interested legislators in helping ensure that LC 1257 can work effectively for children in each community. We have a number of concerns that we have attempted to address through proposed amendments throughout the current bill draft. *The foundation of our recommendations that follow is that we believe any charter school must be founded on the premise that personalized learning is key to the development of all instructional programming regardless of any particular focus the charter school may wish to take.* A summary of our concerns by page number is below.

Page 1, Title – We have emphasized that educational opportunities should be high quality under the bill. We have also emphasized the constitutional oversight conducted by both existing locally elected school boards and newly elected school boards under the bill. We have also added language connecting charter schools as a mechanism for personalizing learning.

Page 1-2, Whereas Clauses – We have added suggested whereas clauses to provide suggested legislative intent and to identify that charter schools are part of the basic system of quality schools authorized by Article X of the Montana Constitution.

Pages 2-3, Legislative Intent – We have further emphasized legislative intent to pursue the people's goal to develop the full potential of each person and to emphasize the importance of governance by leaders who are elected by and accountable to the communities they serve.

Pages 3-4, Definitions –

- We have proposed that those seeking to create a charter school in a school district must be residents of that district. The language as originally written would allow people hundreds of miles away from a school district to come in and force creation of a charter school in that community. We believe this violates local control and principles of qualified electors and taxpayer rights in the affected communities.
- We have proposed substantial changes to the definitions to provide that charter schools can be created both by existing locally elected boards of trustees and interested community members.
- We have also sought to clarify and ensure proper exercise of the roles of general supervision by the board of public education and supervision and control by elected school boards. We believe that the current language in the bill elevates “general supervision” powers of the board of public education at the expense of “supervision and control” of locally elected school boards, contrary to legislative intent and the language of Article X of the Montana Constitution itself.

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Pages 5-6, Powers of Board of Public Education. We have proposed clarifying that the Board of Public Education’s only influence is through the authorization process. The language suggesting that the Board is creating, increasing, providing, etc., are all inaccurate descriptions of the Board’s limited role of ensuring satisfaction of minimum standards, which is their only constitutional authority. The Board’s powers under current language in this bill are elevated above its constitutional authority.

Pages 6-7, Election. We have proposed a new section 5, modeled after the sections of law by which petitioners can initiate a bond election, that would impose a requirement of voter approval before a charter school proposal could be submitted to the Board of Public Education. The call for an election could be initiated by resolution of the board of trustees or by petitioners. The impact of creation of new charter schools on local taxpayers the way this bill is written is significant and merits a requirement of voter approval to create new charter schools that will generate new basic entitlements, separate budgeted ANB, etc.

We have also proposed to require submission of the certificate of election as part of the charter school application process.

Pages 8-11, Proposal Process.

- We have proposed a requirement of showing how the school will serve at risk pupils, some of whom are not addressed in the current language in the bill.
- A requirement of an economic impact statement comparable to requirements for rulemaking when the Board of Public Education approves a charter school and a process for obtaining review and approval of the Education Interim Committee prior to approval in the same manner required when the Board of Public Education approves rules with a substantial fiscal impact. This will ensure that the fiscal costs of this bill do not get out of control without some form of legislative oversight.
- We added language that is more than “may” for the Board of Public Education and that would require that the Board allow an existing locally elected school board an opportunity to create and provide a charter school meeting the needs of petitioners before creating a parallel and potentially duplicative charter school that would require extensive new references in the law.

Page 13: We have added a preference for resident students.

Page 18: We have added that an existing third class school district can create a charter school. The language limiting charter schools in such communities should not be imposed when the existing locally elected school board applies for charter status.

Page 19: We have removed language allowing a charter school to “give up” on serving a disabled child. This language contradicts and violates the guarantees afforded children with disabilities under IDEA, both state and federal law, including free appropriate public education, least restrictive environment and stay put guarantees afforded children with disabilities.

Page 20-22, Funding. We have proposed to greatly simplify and standardize budgeting processes for charter schools while upholding the intent of equitable funding specified in current language in the bill.

- Funding is based on K-12 BASE Aid per ANB in the district.

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- Thresholds for a basic entitlement are indexed off of current basic entitlement language in section 20-9-306, MCA, so that it remains consistent and changes as the basic entitlement changes.
- Ensures that funding goes through current channels that integrate OPI oversight, local audits, annual data collection, computation of budget limits, etc.
- Our language works whether the district is the operator or whether the district is simply a fiscal agent for a charter school governed by a new locally elected board.

Page 22-23, Access to Land and Facilities. We have proposed to remove the opportunity for “below market” transactions on facilities. Facilities are paid for by taxpayers, and giving them away at below market value contradicts protections in current law that ensure voter approval of dispositions except in circumstances where property is obsolete or unsuitable for school purposes.

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