



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0549 - Authorizing establishment of public charter schools (Anderson, Fred)

Status: As Amended in House Committee

- 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 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
Expenditures:				
General Fund	\$147,166	\$958,459	\$985,082	\$1,005,563
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$147,166)</u>	<u>(\$958,459)</u>	<u>(\$985,082)</u>	<u>(\$1,005,563)</u>

Description of fiscal impact: HB 549 as amended, establishes the Public Charter Schools Act. The state general fund cost is estimated to be \$147,166 in FY 2024 and \$1 million in FY2025.

FISCAL ANALYSIS

Assumptions:**Office of Public Education (OPI)**

1. HB 549 as amended, states that it is the intent of the legislature “to create innovative and high-performing public charter schools under the general supervision of the Board of Public Education and under the supervision and control of trustees of the governing board who are elected by qualified electors in the community where the charter school is located.”
2. The bill, as amended, defines two types of public charter schools.
 - a. A public charter school is a school established within a K-12 public school district and governed by the local board of trustees.

- b. A public charter school district is formed within a K-12 public school district with the boundaries of the public charter school district removed from the territory of the located school district with a governing board other than the local school board.
3. Section 4 of the bill identifies the responsibilities of the Board of Public Education (board) to include solicit, evaluate, approve, or deny new charter schools based on a series of criteria for improvement of instructional opportunities.
4. The board is required annually on or before December 1 to publish a report on the state's public charter schools to include a comparison of the performance of public charter school students and non-charter school students as well as the board's assessment of successes, challenges, and areas for improvement. Additional consideration is to include the board's opinions for sufficiency of charter school funding.
5. Section 5 of HB 549 outlines the public charter school proposal process to include criteria to guide the board's decision along with an executive summary, mission and vision, demographic information as well as descriptions of the offerings and other information.
6. As amended, Section 5 also describes that if the applicant is not a local school board, the applicant proposal, must include that the applicant asked the local school board to create a school or program within the located school district that would serve the mission and vision of the proposed public charter school and the local school board declined the proposal. This proposal must include a legal description of the property of the existing school district from which the boundaries of the charter school are proposed to be formed.
7. The terms of a charter contract are defined to include 5-year time spans, as well as details on performance, signatures, approval for operation, and other requirements.
8. The bill further describes the governing board, elections, and terms to include the board's composition number of members and term length limits and the availability of the formation of an advisory committee.
9. Section 8 describes students to be enrolled in the public charter school within the state, limitations on admissions, enrollment preferences, a non-discrimination clause, the identification of the need for a lottery in association with capacity limitations, and a lack of restriction acknowledgment.
10. The bill describes the charters school's performance and renewal to include a listing of performance indicators, standards, and performance targets. It is stated that the performance framework must include the board's approval and that the board will collect and analyze data from each charter school. It is further indicated that the board shall monitor performance and legal compliance of each public charter school. Publication of data will be created, and information published in reference to these public charter schools. The board may act for correction and revocation of charters upon certain situations as well as non-renewal.
11. Section 10 describes the charter's contract revocation and school closure or charter contract non-renewal reasons, actions, and procedures.
12. The bill defines the public charter school operation and autonomy stating that the entity must be a nonprofit organization and that the public charter school will be subject to the provisions of Montana Code Annotated Title 20 to include local rules, regulations, or policies.
13. Public charter schools may not be formed in class three districts in accordance with sections 20-6-201, & 20-6-301, MCA, unless the applicant is the local school board.
14. A public charter school is to be identified as a separate Local Educational Agency (LEA) and must meet the requirements as such.
15. Public charter schools are required to be equipped to handle the terms of the charter contract outlined in HB 549 and may not engage in sectarian practice and are subject to civil rights, health, and safety requirements like that of all other public schools.
16. Employees of public charter schools are to have the same rights and privileges as other public school employees with certain exceptions outlined in HB 549.
17. According to OPI classification data there are 57 first class and 160 second class districts in the state as of FY 2023. All of these districts are permitted to host a public charter school per HB 549.
18. Public charter schools are subject to all federal laws and authorities per HB 549.

19. Section 12 of HB 549 as amended, states that the legislative intent of funding public charter schools is for a public charter school to receive operational funding on a per-pupil basis that is equitable with the per-pupil funding of the located school district.
20. A public charter school, governed by a local school board is to receive funding through the current school funding formula plus a basic entitlement if it meets the criteria stated in the bill for number of ANB for a basic entitlement.
21. As amended, when a public charter school is operated by a local school board, the public charter school must be considered a separate budget unit of the located school district, must have ANB calculated separately from other budget units of the district, and must receive a basic entitlement calculated separate from other budget units in the district. The minimum and maximum amount of public funding allowed for a public charter school is to include the following from K-12 public school funding formula components:
 - a. 80% of the basic entitlement if the public charter school ANB is greater than:
 - i. 70 elementary ANB;
 - ii. 20 middle school ANB; or
 - iii. 40 high school ANB.
22. As amended, when a public charter school district is operated by the governing board, funding for the public charter school district must distributed as BASE aid. The minimum and maximum amount of public funding allowed for a public charter school district is to include the following from K-12 public school funding formula components:
 - a. 80% of the basic entitlement, if the public charter school ANB is greater than:
 - i. 70 elementary ANB;
 - ii. 20 middle school ANB; or
 - iii. 40 high school ANB.
 - b. 80% of the total per ANB entitlement;
 - c. 100% of the total quality educator payment;
 - d. 100% of the total at-risk student payment;
 - e. 100% of the total Indian education for all payment;
 - f. 100% of the total American Indian achievement gap payment;
 - g. 100% of the total data for achievement payment; and
 - h. 140% of the special education allowable cost payment.
23. The bill directs in Section 12 that public charter school district funding will be distributed as BASE aid which is assumed to be as directed in 20-9-344, MCA.
24. Students attending public charter schools are subject to out of district attendance agreements.
25. Public charter schools are subject to annual reporting as described in section 20-9-213, MCA.
26. A public charter school district is prohibited from charging tuition and fees.
27. Debt obligations of a public charter school are the sole responsibility of the public charter school.
28. 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).

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
K-6 ANB	83,565	84,417	85,144	85,785	86,208
7-8 ANB	24,441	24,430	24,750	24,888	25,256
9-12 ANB	<u>45,905</u>	<u>46,573</u>	<u>46,532</u>	<u>46,539</u>	<u>46,287</u>
Total	153,911	155,420	156,426	157,212	157,751

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

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
School District FTE	13,365.497	13,365.497	13,365.497	13,365.497	13,365.497
Special Ed Coop FTE	165.709	165.709	165.709	165.709	165.709
Total FTE	13,531.206	13,531.206	13,531.206	13,531.206	13,531.206

30. The present law inflation applied to the Basic and Per-ANB Entitlements, the Quality Educator, Indian Education for All, American Indian Achievement Gap, Data-for-Achievement, At Risk, and the Special Education Allowable Cost Payment components (20-9-326, MCA) is 2.70% in FY 2024 and 3.00% in FY 2025. For the present law budget, entitlements and components are set as follows:

<u>Basic Entitlements</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Elementary Basic	\$55,741	\$57,246	\$58,963	\$60,732	\$62,050
Middle School Basic	\$111,483	\$114,493	\$117,928	\$121,466	\$124,102
High School Basic	\$334,453	\$343,483	\$353,787	\$364,401	\$372,309

<u>Basic Entitlement Increments</u>					
Elementary (each 25 ANB > 250 ANB)	\$2,788	\$2,863	\$2,949	\$3,037	\$3,103
Middle School (each 45 ANB > 450 ANB)	\$5,574	\$5,724	\$5,896	\$6,073	\$6,205
High School (each 80 ANB past 800 ANB)	\$16,723	\$17,175	\$17,690	\$18,221	\$18,616

<u>Per ANB Entitlements</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Elementary Per-ANB	\$5,962	\$6,123	\$6,307	\$6,496	\$6,637
High School Per-ANB	\$7,634	\$7,840	\$8,075	\$8,317	\$8,497
Direct State Aid (DSA) Percentage	44.7%	44.7%	44.7%	44.7%	44.7%

<u>Components</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Indian Education for All	\$23.28	\$23.91	\$24.63	\$25.37	\$25.92
Indian Achievement Gap	\$229	\$235	\$242	\$249	\$254
Quality Educator	\$3,472	\$3,566	\$3,673	\$3,783	\$3,865
At Risk	\$5,873,777	\$6,032,369	\$6,213,340	\$6,399,740	\$6,538,614
Data for Achievement	\$22.29	\$22.89	\$23.58	\$24.29	\$24.82
Special Education Allowable Cost	\$286.02	\$293.74	\$302.55	\$311.63	\$318.39

31. 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, At-Risk and Special Education Allowable Cost components in the recommendations presented to the legislature. These present law adjustments result in the following expenditures:

<u>Payment</u>	<u>FY 2024</u>	<u>FY 2025</u>
Direct State Aid	\$522.8 million	\$540.5 million
Guaranteed Tax Base Aid	\$259.9 million	\$290.3 million
County Retirement GTB	\$50.9 million	\$52.9 million
Indian Education for All	\$3.7 million	\$3.9 million
American Indian Achievement Gap	\$4.9 million	\$5.0 million

Quality Educator	\$48.3 million	\$49.7 million
Data for Achievement	\$3.6 million	\$3.7 million
Special Education Allowable Cost	\$45.7 million	\$47.3 million

32. Direct State Aid, GTB, and other school district 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.
33. The At Risk Student payment inflation increase of \$158,592 in FY 2024 and \$339,563 in FY 2025 will be appropriated in HB 2.
34. The statewide present law taxable valuations are forecast to increase by 19.55% in FY 2024 and 1.74% in FY 2025.
35. Transition and effective dates language is provided for applicability to FY 2024 and that public charter schools may be operational beginning in FY 2025.
36. For purposes of this fiscal note, it is estimated that five public charter schools will be established for operation in FY 2025. Three will be public charter schools and two will be public charter school districts.
37. For purposes of this fiscal note, it is estimated that three public charter schools will be established for operation in FY 2025. The following table indicates the estimated size and basic entitlement for each new public charter school program.

Public Charter School	Program	Student Count	Basic Entitlement	44.7% of Basic Entitlement (state share)
Public Charter A	Elementary	100	\$58,963	\$26,356
Public Charter B	Middle	25	\$117,928	\$52,714
Public Charter C	High School	30	\$353,787	\$158,143
TOTAL		155	\$530,678	\$237,213

38. Public charter school amounts will be funded with state and local levy funds. These amounts will be directed to the public charter schools from the school district funds and not directly from the state excepting new basic entitlements created through the formation of public charter schools that meet or exceed the limitations for the creation of an additional basic entitlement. In these situations, the state cost will be 44.7% of the basic entitlement. Using the assumptions in this fiscal note, the additional state cost is estimated at \$237,213.
39. National data from the National Center for Education Statistics (NCES) indicate the following percentages for charter school categories: 47% elementary, 11% middle, and 28% high schools and the remaining 14% are unclassified as falling into any one category. It is assumed that the remaining two public charter school districts will be one elementary and one high school. The following table indicates the estimated size and basic entitlement for each new public charter school district that will be operating in FY 2025.

Public Charter School	Program	Student Count	Basic Entitlement	80% Basic Entitlement (state share)
Public Charter D	Elementary	70	\$58,963	\$47,170
Public Charter E	High School	30	\$117,928	\$283,030
TOTAL		100	\$353,787	\$330,200

40. These district charter schools will operate as new independent public charter school districts and will be 100% state funded without a taxing jurisdiction. The land area of each public charter school district will be limited

to the land area of the campus of the district location. Funding will be limited to the formula described in the bill as amended. It is assumed that students attending the two new public charter school districts will enroll former public school students. This will limit state funding increases for the additional 40% of the special education allowable cost payment, the additional 35.3% of the per ANB entitlement, and the full cost of 80% of the additional basic entitlements that will be required when the district size meets or exceeds the limit for the payment of an additional basic entitlement. A one year estimated cost for these two public charter school districts is approximately \$579,680.

41. It is also recognized that the transition of these 100 students from K-12 public schools to public charter school districts will have an impact on general fund GTB at the located district. Although the local BASE property tax relief varies widely for each district, an average of GTB provided will be assumed as a state cost savings related to these two district charter schools of approximately \$168,261.
42. It is recognized that there may be ancillary impacts related to variations in the year of impact for ANB calculations and the distributions of additional state funding programs such as pupil transportation, general fund GTB, and other programs.
43. Due to the unpredictability of future determination for the creation of these public charter schools and other unknown variables for the creation of public charters schools in general, it is noted that costs associated will be varied and are not able to be captured with a reasonable level of accuracy. This fiscal note is provided to express possible scenarios provided by the potential of this bill as amended.

Board of Public Education

44. The bill establishes a public charter school account in the state special revenue fund to be administered by the Board of Public Education. The purpose of the account is for receipt and expenditure of gifts, grants, legacies, devises, and donations given specifically to support the creation and operation of public charter schools created through sections 1 through 14 of HB 549.
45. Donations must be from private sources and expended for the benefit of qualifying public charter schools as determined by the Board of Public Education.
46. Money in the account is to be derived from private nonstate sources and is payable by the Board of Public Education without an appropriation pursuant to 17-8-101(1), MCA. [17-8-101(1) For purposes of complying with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), and the capital projects fund type, with the exception of refunds authorized in subsection (4), may be paid out of the treasury only on appropriation made by law.]
47. The board will need to hire two additional FTE to process the required workload of HB 549. These positions would be a Program Specialist 2 at entry level salary and benefits of \$73,138 and a Budget Analyst 2 at entry level salary and benefits of \$68,428. One-time equipment costs of \$1,600 each and \$1,200 one-time costs for computer package for each are included. Salary and benefits are inflated by 1.5% per year in FY 2026 and FY 2027.

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE (Board)	2.00	2.00	2.00	2.00
<u>Expenditures:</u>				
Local Assist (Direct State Aid)	\$0	\$808,773	\$833,029	\$851,103
Local Assist (Special Ed)	\$0	\$8,120	\$8,364	\$8,615
Personal Services (Board)	\$141,566	\$141,566	\$143,689	\$145,845
Operating Exp. (Board)	\$5,600	\$0	\$0	\$0
TOTAL Expenditures	\$147,166	\$958,459	\$985,082	\$1,005,563
<u>Funding of Expenditures:</u>				
General Fund (01)	\$147,166	\$958,459	\$985,082	\$1,005,563
TOTAL Funding of Exp.	\$147,166	\$958,459	\$985,082	\$1,005,563
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$147,166)	(\$958,459)	(\$985,082)	(\$1,005,563)
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Effect on County or Other Local Revenues or Expenditures:

1. Local levies could increase by approximately \$84,000 beginning in FY 2025 related to the added basic entitlement for the creation of five public charter schools and a savings of \$94,000 related to the reduction in students served related to the creation of district charter schools. Due to the variation in district general fund GTB, local property tax impacts cannot be reasonably determined.
2. Creation of new school district(s) could result in a decrease in At Risk funding to current school districts as At Risk payments are based on an appropriation distributed statewide based on federal Title I funding.

Technical Notes:

Board of Public Education (board)

1. As written, HB 549 requires the board to collect and analyze data from each school. The board does not have a mechanism to collect and analyze student data. Typically, these activities are performed by the Office of Public Instruction, and this may be a more appropriate agency to perform these functions.
2. The bill requires the board to monitor performance and legal compliance of each school. The board does not have legal counsel on staff to perform such duties. The Office of Public Instruction does have legal counsel on staff and would be more equipped to handle these functions.

NOT SIGNED BY SPONSOR

Sponsor's Initials

Date


Budget Director's Initials

3-8-23
Date