

Distinctions Between House Bills 549 (Anderson) and 562 (Vinton), Charter Schools

Issue	HB 549, Anderson	HB 562, Vinton	Why Does the Distinction Matter?
Legislative Findings and Intent	Virtually identical	Virtually identical	No appreciable difference between the bills on this point.
Authorization Criteria; Oversight; Process for Applying; Charter Contracts and Terms, Performance and Renewal, Revocation and Nonrenewal	Administered by either the Board of Public Education or a locally elected school board, which could be an existing board or newly created board elected by the qualified electors of the located district.	Administered by a new commission assuming powers the people have reserved to the board of public education. Governed by a board that is not elected by the public at large but only elected in a closed election in which parents of children in the school and staff can vote. No voice for the community at large.	The Montana Constitution clearly assigns the authority and responsibility for general supervision to the Board of Public Education and the authority to supervise and control to school board trustees who stand for an election in each community at which all qualified electors are entitled to participate. Each of the following are honored and upheld in HB 549 but are contradicted in HB 562 : <ul style="list-style-type: none"> • Article X, Section 9: “There is a board of public education to exercise general supervision over the public school system” • Article X, Section 8: “The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.” • Article IV, Section 2: Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector.

<p>Exemption from Title 20 and state and local rules governing public schools</p>	<p>There is no waiver of laws under HB 549. Charter schools have to comply with laws established to create accountability to voters and that provide extensive protections of children. There are more than adequate means to innovate under the law without violating Title 20.</p>	<p>House Bill 562 provides a blanket exemption from state and local law, including all of Title 20. The implications of this exemption are far-reaching and will completely remove accountability.</p> <p>The work of this and every previous House Education Committee is swept aside in one sentence.</p>	<p>Title 20, which HB 562 renders inapplicable, provides extensive protections to children, families, staff and voters. Just a few examples:</p> <ol style="list-style-type: none"> 1. The Legislature’s definition of quality in 20-9-309. 2. Conflicts of interest and prohibitions on self-dealing. 20-1-205. 3. Concussion protection for student athletes. 20-7-1303, 1304. 4. Requirements to accommodate children with medication needs for asthma and diabetes. 20-5-412, 420, 421, 426. 5. Prohibitions on bullying. 20-5-209. 6. Prohibition on corporal punishment. 20-4-302. 7. Prohibitions on relationships between staff and students. 20-7-1321. 8. Online protections and privacy of students. 20-7-1325, 1326. <p>* See a broader list of laws and current session bills from which House Bill 562 exempts itself at the end of this document.</p>
<p>Who gets to vote in school board elections?</p>	<p>Either an existing elected school board or a new school board which must also be elected by the qualified electors in the district.</p>	<p>A new board with qualifications set by private charter school contract. Only parents and staff of the school get to vote.</p> <p>No general right to vote among taxpayers and other qualified electors of the school district.</p>	<p>Article IV, Section 2, Montana Constitution. “Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector.”</p> <p>HB 562 imposes an unlawful restriction on qualified electors by limiting to parents and staff only. All sorts of unconstitutional discrimination here, e.g. parentage, marital status, taxation without representation, conflict of interest, nepotism, etc.</p> <p>Article IV, Section 4, Montana Constitution. “Any qualified elector is eligible to any public office . . . The Legislature (not a private party) can set additional qualifications. HB 562 proposes an unconstitutional delegation of the Legislature’s authority and obligation to set qualifications for public office.</p>

Who is taxed to support the charter school?	Taxation and tuition payments from students of other districts is pursuant to current and proposed (HB 203, 214) law.	Taxes raised from local taxpayers throughout the state for their resident school district are removed and sent to the charter school.	The Legislature has spent considerable time ensuring taxpayer equity among different school districts through a combination of guaranteed tax base aid and tuition payments. House Bill 549 honors these constructs while House Bill 562 violates them. HB 562 forces a tax subsidy by local property taxpayers for student attendance at a charter school and removes funding from the district of residence, often without the district having generated any funding from that student.
Virtual Charter Schools	Not authorized for nonresident pupils under 20-7-118	Allows a virtual charter school to operate throughout the state with no limits.	HB 562 exempts itself from Title 20 and thereby allows a virtual charter school to operate in communities throughout the state with no locally elected school board present to address concerns. Governance could be hundreds of miles away from those affected by the virtual charter school's decisions.
Charter schools in Rural Communities	House Bill 549 respects the difficulties of operating a school in rural and isolated communities and ensures against a harmful virtual presence in these communities without any local control.	Allows virtual charter schools to set up in third class districts. This will harm the ability of school districts to serve their communities throughout rural Montana.	The combination of virtual charter schools authorized under HB 562 and the specific allowance for operating in rural and isolated communities could be very damaging to rural communities.

Selected Provisions of Title 20 Inapplicable to House Bill 562 – House Bill 562 is exempt

1. 20-1-201 School officers not to act as agents
2. 20-1-202 Oath of office
3. 20-1-205 Conflict of interest
4. 20-1-212 Destruction of records by school officer
5. 20-1-220 Use of tobacco products in public school building or on public school property prohibited
6. 20-1-232 Student-athlete rights and protections
7. 20-1-301 Minimum aggregate hours of instruction
8. 20-1-501 Recognition of American Indian cultural heritage
9. 20-2-121 Board of public education -powers and duties
10. 20-3-106 Superintendent of Public Instruction - Supervision of schools -powers and duties
11. 20-3-324 Board of Trustees - Powers and duties
12. 20-4-110 Letter of reprimand, suspension, revocation, and denial of certificate
13. 20-4-114 Teachers - Penalty for failure to report

14. 20-5-209 Bullying of student prohibited
15. 20-4-302 Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense
16. 20-5-412 administration of glucagon
17. 20-5-420 Self-administration or possession of asthma, severe allergy, or anaphylaxis medication.
18. 20-5-421 Emergency use of epinephrine in school setting
19. 20-5-426 Emergency use of opioid antagonist in school setting -- limit on liability
20. 20-5-209 Bullying of student prohibited 20-7-1303 Youth athletes -- concussion education requirements
21. 20-7-1304 Youth athletes -- removal from participation following concussion -medical clearance required before return to participation
22. 20-7-1310 Youth suicide awareness and prevention training
23. 20-7-1311 Child sexual abuse awareness and prevention
24. 20-7-1315 First aid training in schools
25. 20-7-1316 Child sex trafficking prevention
26. 20-7-1317 Electronic directory photograph repository -- use in search for missing child only -- annual opt-in notice required
27. 20-7-1321 Employment assistance for current or former school employees, contractors, and volunteers engaged in sexual misconduct prohibited
28. 20-7-1325 Online protections for pupils
29. 20-7-1326 Pupil records -- online privacy protections
30. 20-7-1330 Graduation requirements for youth who experience disruption in education
31. 20-9-311 Calculation of ANB.

20-9-309. Basic system of free quality public elementary and secondary schools defined -- identifying educationally relevant factors -- establishment of funding formula and budgetary structure -- legislative review. House Bill 562 is exempt (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to provide a basic system of free quality public elementary and secondary schools throughout the state of Montana that will guarantee equality of educational opportunity to all.

(2) As used in this section, a "basic system of free quality public elementary and secondary schools" means:

- (a) the educational program specified by the accreditation standards provided for in [20-7-111](#), which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built;
- (b) educational programs to provide for students with special needs, such as:
 - (i) a child with a disability, as defined in [20-7-401](#);
 - (ii) an at-risk student;
 - (iii) a student with limited English proficiency;
 - (iv) a child who is qualified for services under 29 U.S.C. 794; and
 - (v) gifted and talented children, as defined in [20-7-901](#);
- (c) educational programs to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;
- (d) qualified and effective teachers or administrators and qualified staff to implement the programs in subsections (2)(a) through (2)(c);
- (e) facilities and distance learning technologies associated with meeting the accreditation standards;
- (f) transportation of students pursuant to Title 20, chapter 10;
- (g) a procedure to assess and track student achievement in the programs established pursuant to subsections (2)(a) through (2)(c); and
- (h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.

Some of the bills considered this session from which **House Bill 562 exempts itself**

Bill	Short Title	Primary Sponsor
HB 214	Revise education laws related to remote instruction	Marta Bertoglio (R) HD 75
HB 203	Generally revise education laws to enhance educational opportunities	David Bedey (R) HD 86
HB 259	Revise teacher license laws	Lee Deming (R) HD 55
HB 287	Revise laws related to Indian language preservation	Jonathan Windy Boy (D) HD 32
HB 344	Require new school buses to be equipped with lap-shoulder belts	Mark Thane (D) HD 99
HB 338	Revise laws related to Indian Education for All	Jonathan Windy Boy (D) HD 32
HB 396	Require school trustees to admit resident children on a part-time basis	Naarah Hastings (R) HD 50
SB 129	Revise laws related to compulsory attendance	Russel (Russ) Tempel (R) SD 14
HB 393	Establish the Students with Special Needs Equal Opportunity Act	Sue Vinton (R) HD 56
HB 450	Protect physical self-defense in K-12 schools	Jedediah Hinkle (R) HD 67
HB 504	Revise school laws to require trustees to adopt a grievance policy	Naarah Hastings (R) HD 50
HB 501	Revise school textbook laws	Kerri Seekins-Crowe (R) HD 43
HB 535	Revising education laws to provide a definition of "financial literacy"	Braxton Mitchell (R) HD 3
HB 566	Revise notice requirements for human sexuality instruction	Fred Anderson (R) HD 20
HB 502	Revise education laws related to human sexuality instruction	Kerri Seekins-Crowe (R) HD 43
HB 688	Revise laws related to social-emotional learning	Lola Sheldon-Galloway (R) HD 22
HB 538	Revise constitutional and pledge of allegiance student instruction laws	Bob Phalen (R) HD 36