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MONTANA FIRST JUDICIAL DISTRICT COURT,
LEWIS & CLARK COUNTY

JESSICA FELCHLE, et al., Plaintiffs, v. STATE OF MONTANA, et al., Defendants, and JONATHAN WINDY BOY, et al., Defendant-Intervenors.	Case No. DDV-2023-425 Hon. Christopher D. Abbott ***AMICUS CURIAE* BRIEF OF THE FRONTIER INSTITUTE, EDCHOICE, MONTANA FAMILY FOUNDATION, AND MOUNTAIN STATES POLICY CENTER**

INTEREST OF AMICUS CURIAE

Amici offer this brief to explain how the regulatory flexibility of Montana Community Choice Schools is consistent with the State Board's supervisory authority over public schools, parallels similar state school board authority in other states, and leads to quality education.

The Frontier Institute (hereinafter the "Institute") is an independent research and educational institution with the mission to keep the spirit of the western frontier alive with sound public policy and education programs that ensure today's pioneers are free to build, create, and

innovate for years to come.To those ends, the Institute is dedicated to upholding the separation-of-powers requirements of the United States and Montana Constitutions that foster democratic accountability and sound public policy. The Institute believes that more freedom, and not more government, is the best way to help Montanans thrive. Consistent with these principles, the Institute regularly advocates for policies embracing educational freedom to provide academic opportunities for students, parents, and educators to secure the best educational environment for each individual's success.

EdChoice is a nonprofit, nonpartisan 501(c)(3) organization that serves as a national leader in education-choice research, fiscal analysis, policy development, training, outreach, and legal defense. The mission of EdChoice is to advance education freedom and choice for all as a pathway to successful lives and a stronger society. EdChoice supports policies that afford families financial access to educational opportunities that best fit the needs of their children— whether public school, private school, charter school, home school or any other learning environment.

The Montana Family Foundation (MFF) is a nonprofit organization engaged in research and education dedicated to supporting, protecting, and strengthening Montana families. MFF regularly participates as an *amicus* in litigation involving issues of importance to Montana families. *See e.g., Espinoza v. Mont. Dept. of Revenue*, 140 S. Ct. 2246 (2020). MFF uplifts and defends the biblical and traditional framework of the family unit, which includes the promotion of educational freedom.

Mountain States Policy Center (MSPC) is a nonprofit, nonpartisan 501(c)(3) organization focused on quality research that promotes free enterprise, individual liberty and limited government. With a headquarters in Idaho and coverage in Washington state, Montana, and Wyoming, MSPC has worked with policymakers across the region to help improve education opportunities for families. MSPC believes that education choice means an all of the above approach – traditional public schools, public charter schools, magnet schools, micro-schools, homeschooling, and more.

INTRODUCTION

The Community Choice Schools Act, § 20-11-101, MCA *et seq*, ("HB 562"), creates Choice Schools with regulatory flexiblity subject to the supervision of the Board of Public Education (the "Board"). As a result, Choice Schools provide quality education.

The Montana Constitution confers on the Board general supervision over the public school system while leaving "other public educational institutions" to be supervised "as may be assigned by law." Mont. Const. art. X, § 9(3). In addressing the Community Choice Schools Commission (the "Commission"), this Court has observed that HB 562 is "silent on how—if at all—the Board may supervise, review, or direct the commission in these duties." Doc. 20, p. 3. But as this Court also noted, "[i]t is axiomatic that an inferior agency cannot constrain its superior," Doc. 53, p. 3, meaning that the Commission cannot constrain how the State Board supervises Choice Schools. The Board's general supervision over Choice Schools is constitutionally presumed, so the Legislature need not confer or define the scope of the Board's supervision over the Commission. Silence on the Board's direct authority over the Commission does not render the legislation unconstitutional because the Commission's supervision of Choice Schools is necessarily subservient to the Board's supervision of those same schools.

A structure whereby a state board has constitutional supervisory authority over schools, but not charter-school authorizers, is consistent with eight other states where the scope of board supervision over authorizers is determined by statute. And in practice, the Board's constitutional supervision over Choice Schools constrains what charter authorizers may do, so the Board does not need to supervise the authorizer directly.

Moreover, HB 562 advances the objective of article X, section 1(1) that "[e]quality of educational opportunity is guaranteed to each person of the state." Montana has long wrestled with this guarantee by focusing on whether the public school system receives sufficient funding. In 1989, the Montana Supreme Court concluded that spending disparities among the State's school districts constitute a denial of the educational opportunity guarantee. *Helena Elementary Sch. Dist. No. 1 v. State*, 236 Mont. 44, 55, 769 P.2d 684, 690 (1989). In 2005, the Court again held that the

Legislature's public school funding system was constitutionally deficient. *Columbia Falls Elementary Sch. Dist. No. 6 v. State*, 2005 MT 69, ¶ 31, 326 Mont. 304, 109 P.3d 257. But public-school funding is not the only, or even the best, measure of whether Montana is satisfying its constitutional objective for equality of educational opportunity. In response to public demand, the Montana Legislature carefully designed HB 562 to provide for public community choice schools to "empower parents, encourage students to develop their full educational potential, provide a variety of professional opportunities for teachers, and encourage educational entrepreneurship." HB 562, § 2(c).

HB 562 does not violate the Montana Constitution; rather, it promotes the guarantee of article X, section 1(1) for equality of educational opportunities for all Montanans. The Court should deny Plaintiffs' Motion for Summary Judgment and hold that the Commission is subject to the Board's general supervision under article X, section 9(3).

ARGUMENT

Article X, section 9 of the Montana Constitution provides that "[t]here is a state board of education composed of the board of regents of higher education and the board of public education." Mont. Const. art. X, § 9(1). The Board of Public Education "exercise[s] general supervision over the public school system and such other public educational institutions as may be assigned by law." *Id.* § 9(3). The Constitution itself, not the Legislature, "defines the powers of [the Board] and imposes limitations upon those powers." *Bd. of Regents of Higher Educ. v. State*, 2022 MT 128, ¶ 19, 409 Mont. 96, 512 P.3d 748. Implied in the Board's broad supervisory powers is "the power to do all things necessary and proper to the exercise of its general powers." *Id.*, ¶ 17. That constitutional power places the Board in a general supervisory position over Choice Schools without the need for additional statutory directives.

I. HB 562 properly acknowledges the constitutional requirement for the Board to exercise general supervision over the Commission.

The Montana Constitution only twice provides a governmental body with either "general supervision" authority or "general supervisory control." First, in article VII, section 2, the Montana Supreme Court is bestowed with "general supervisory control over all other courts." Mont. Const. art. VII, § 2(2). Next, in article X, section 9, the Board of Public Education is charged with the "general supervision over the public school system and such other public educational institutions as may be assigned by law." *Id.* § 9(3). The Constitution does not elaborate on the scope of such general supervisory authority, but the Legislature may not define it, as no "reasonable rule of construction permits [the Legislature] to encroach upon or exercise the powers constitutionally conferred upon the [Supreme Court or Board]." *Regents*, 2022 MT 128 at ¶ 19.

But while general supervision power is inviolate, it is not exclusive. The Legislature may grant supervision power to other agencies without impinging the constitutional authority of other supervisory agencies. For example, it has enacted laws creating concurrent general supervision over the public school system between the Board and the Superintendent of Public Instruction. *Compare* Mont. Const. art. X, § 9(3) *with* § 20-3-106, MCA. By granting the Superintendent "general supervision of the public schools and districts" in Montana, the Legislature did not eliminate the Board's general supervision. Rather, as one Court has found, the Board's "general" supervision is not "exclusive," but runs concurrently with the Superintendent's general supervision of public schools and districts. Order Mot. Prelim. Inj., *Montana Quality Education Coalition v. Montana Office of Public Instruction,* et al., No. BDV 2024-201, at 9–10 (Mont. 1st Jud. Dist. Ct. Apr. 17, 2024) (recognizing Board's general supervision is not "exclusive") (citing § 20-3-106, MCA).

This same approach to creating additional supervision applies to both constitutional clauses conferring general supervision. For example, the District Court Council has authority over the district court's workload, resource allocation, hiring policies, court procedures, information technology, court reporter schedules and fees, and other issues concerning state funding of district courts. § 3-1-1602(3), MCA. This statute is silent as to the Montana Supreme Court's supervision

of district courts when addressing the Council's separate supervision. *See id.* Instead, the statute only defines the Supreme Court's relationship to the Council while it, in light of constitutional text, presumes the general supervision of the Montana Supreme Court over the district courts. *State v. Zabawa*, 279 Mont. 307, 314, 928 P.2d 151, 155 (1997) (noting Courts "presume that the legislature enacts a law with full knowledge of all existing laws on the same subject") (citations omitted).

Accordingly, the Legislature's creation of the School Choice Commission through HB 562 does not abrogate or eliminate the Board's general supervisory authority over the public school system or the Choice Schools. And because the Constitution already provides (and the legislature presumes) Board supervision over Choice Schools, the legislature need only "assign[] by law," Mont. Const. art. X, § 9(3)(a), the Commission to "the general supervision of the board of public education." HB 562, § 4(1).

Plaintiffs cite *Regents*, 2022 MT 128 at ¶ 19, as somehow contrary to HB 562, but there the court unremarkably rejected the Legislature's attempt to define the scope of the Board of Higher Education's constitutional authority. Here by contrast the Legislature has demonstrated proper respect for the Board of Public Education's general supervisory authority by presuming its supervision and defining only the relationship of other educational institutions to the Board. HB 562 does nothing to limit or eliminate the Board's general supervisory authority over the public school system.

II. HB 562 is consistent with the understanding of state board supervision of charter schools in other states.

Examining the law in other states confirms that Plaintiffs are confusing the respective roles of legislating, authorizing, and supervising community schools. The legislature determines what laws apply to schools, and the authorizer is responsible for providing operational assistance to the community school and writing and enforcing contract terms. Then, the state board with constitutional supervisory authority uses its accreditation or compliance process to ensure that charter schools follow the laws that the legislature made applicable. Montana's Choice Schools follow the same framework as other states with similar constitutional provisions.

Fifteen other states have clauses vesting supervision in their state boards of education, fourteen of which also have charter schools. Ala. Const. art. XIV, § 262 (supervision); Ariz. Const. art. 11, § 2 (conduct and supervision), Ark. Const. art. 14, § 4 (supervision of public schools and execution of the laws regarding the same), Colo. Const. art. IX, § 1 (supervision); Idaho Const. art. IX, § 2 (supervision); Kan. Const. art. 6, § 2(a) (supervision); La. Const. art. VIII, § 3 (supervise and control); Mich. Const. art. VIII, § 3 (leadership and supervision); Mo. Const. art. IX, § 2(a) (supervision); Neb. Const. art. VII, § 2 (supervision and administration); N.C. Const. art. IX, § 5 (supervise and administer); Okla. Const. art. 13, § 5 (supervision); Utah Const. art. X, § 3 (control and supervision); Va. Const. art. VIII, § 4 (supervision); W. Va. Const. art. XII, § 2 (supervision); *see* Jamison White, *How Many Charter Schools and Students Are There?*, Nat'l All. for Pub. Charter Schs. (Dec. 19, 2023).[1] (showing all those states except Nebraska have charter schools).[2] Eight of those states vest supervision alone in their state boards. The table below compares the relevant text in Montana and in those states:

Mont. Const. art. X, § 9(3)(a)	**There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law.**
Ala. Const. art. XIV, § 262	General supervision of the public schools in Alabama shall be vested in a state board of education, which shall be elected in such manner as the legislature may provide.
Colo. Const. art. IX, § 1	The general supervision of the public schools of the state shall be vested in a board of education whose powers and duties shall be as now or hereafter prescribed by law.
Idaho Const. art. IX, § 2	The general supervision of the state educational institutions and public school system of the state of Idaho, shall be vested in a state board of education, the membership, powers and duties of which shall be prescribed by law.
Kan. Const. art. 6, § 2(a)	The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents.

[1] https://data.publiccharters.org/digest/charter-school-data-digest/how-many-charter-schools-and-students-are-there/
[2] https://charterschoolcenter.ed.gov/charter-schools-usa

Mo. Const. art. IX, § 2(a)	The supervision of instruction in the public schools shall be vested in a state board of education, consisting of eight lay members appointed by the governor, by and with the advice and consent of the senate; provided, that at no time shall more than four members be of the same political party.
Okla. Const. art. 13, § 5	The supervision of instruction in the public schools shall be vested in a Board of Education, whose powers and duties shall be prescribed by law.
Va. Const. art. VIII, § 4	The general supervision of the public school system shall be vested in a Board of Education of nine members, to be appointed by the Governor, subject to confirmation by the General Assembly.
W. Va. Const. art. XII, § 2	The general supervision of the free schools of the State shall be vested in the West Virginia board of education which shall perform such duties as may be prescribed by law.

While these constitutional texts vary slightly between using "supervision" and "general supervision," those clauses, like Montana's, vest supervision alone without vesting control, administration, or some other power in addition to supervision. Missouri's and Oklahoma's clauses are perhaps the only outliers, with their reference to supervision *of instruction* instead of supervision of public schools, but their approach to charter schools still compares with most other states having similar clauses. In these states, the constitutional power to supervise charter schools equates with the power to accredit charter schools or otherwise review compliance with legal standards. Laws creating separate charter school authorizers or exempting charter schools from other state laws and regulations do not diminish the board's core supervision over schools via accreditation.

Idaho statutes explain the relationship between supervisory power and authorizing power. Like Montana, Idaho created a statewide commission to enforce charter school laws independent of the state board. Idaho Code § 33-5213. And Idaho statutes provide that local boards, the state commission, or universities may authorize charter schools. *See id.* § 33-5202A(2). Idaho also exempts charter schools from any statute, rule, or regulation of the state board regarding public schools unless the charter school statutes explicitly apply those sources of law. *See id.* § 33-5210. Idaho law then provides that the state board *also* enforces statutes that apply to charters because its constitutional supervision power encompasses ultimate authority over proper enforcement. *See id.* The Idaho statute makes explicit what other states' statutes assume about the supervisory authority

of the state board: that it includes enforcement of laws that apply to charters but does *not* require oversight of authorizers or ensure that all laws governing public schools apply to charter schools.

Alabama adheres to Idaho's understanding of supervision even without a statute expressly implementing the constitutional provision as to charter schools. Under Alabama law, either local boards or the statewide Alabama Public Charter School Commission can authorize charter schools. *See* Ala. Code § 16-6F-6. The state commission serves as an authorizer in two circumstances: it hears appeals from local boards that deny a charter application and it authorizes charters in districts that do not register as an authorizer. *See id.* While the state board and its department staff review the performance of all authorizers, they have no authority to act against the state commission and may only issue nonbinding reports regarding the commission. *Compare* § 16-6F-6(m), *with id.* § 16-6F-6(n). Like Idaho, Alabama also exempts charter schools from any statute, rule, or regulation of the state board regarding public schools unless charter school statutes expressly make them applicable. *See id.* § 16-6F- 9(a)(3). Then, even though no statute expressly recognizes the state board's authority over charter schools, the state board exercises its supervision of schools to assess charter schools' compliance with the laws that apply under the charter act. *See* Compliance Monitoring, Alabama State Department of Education.[3]

Oklahoma does likewise. Under Oklahoma law, either local boards, a Statewide Charter School Board, universities, or Indian tribes can authorize charter schools. 70 O.S. § 3-132. Oklahoma also exempts charter schools from any statute, rule, or regulation of the state board regarding public schools unless charter school statutes explicitly apply them. *See id.* § 3-136(A)(1). Then, despite no statute expressly recognizing the state board's authority over charter schools, the state board exercises its supervision to assess compliance with the laws that apply under the charter act. *See To Whom Are Charter Schools Accountable?*, Charter School Program, Oklahoma State Department of Education.[4] Once again, the constitutional power to supervise determines how the state board approaches charter schools separately from authorizers.

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[3] https://www.alabamaachieves.org/compliance-monitoring/
[4] https://sde.ok.gov/faqs/oklahoma-charter-schools-program

Missouri applies essentially the same understanding of the state board's supervision. Under Missouri law, school districts, the statewide Missouri Charter Public School Commission, and universities can all authorize charter schools if the state board approves on a charter-by-charter basis. Mo. Stat. § 160.405.3. Outside of large school districts, local boards are the only authorizers if their district is accredited. *Id.* § 160.400.2. Missouri also exempts charter schools from any statute, rule, or regulation of the state board regarding public schools unless the legislature has made it applicable in the charter school statutes. *Id.* §§ 160.405.4(3). Then, instead of accrediting charter schools, Missouri gives them Annual Performance Reports just like those used in the accreditation process. *Id.* §§ 160.405.9(2)(d), 160.408; *see Frequently Asked Questions*, Charter Schools, Missouri Department of Elementary and Secondary Education.[5] The Missouri state board does *not* assign accreditation status based on the report. *See id.* This omission makes little difference in practice because every charter requires state board approval, meaning that a school that is failing in state board supervision will be impacted in the renewal process instead of the accreditation process.

Colorado's understanding of supervision is less clear because it delegates to the state board the question of which laws apply to charter schools. Under Colorado law, either local boards or a statewide Colorado Charter School Institute can authorize charter schools. Colo. Rev. Stat. §§ 22-30.5-104, 22-30.5-504. Then, the scope of what laws apply to a particular charter school is determined either by (1) state board rule or (2) state board order at the request of an authorizer. *See id.* §§ 22-30.5-105(3); 22-30.5-502(1.5); 22-30.5-507(7). The state board also reviews decisions by all authorizers on appeal. *See id.* §§ 22-30.5-108, 22-30.5-510, 22-30.5-511. Colorado law then subjects all schools and all authorizers to the accreditation process. *See id.* § 22-11-103. Thus, because Colorado statutes maximize the authority of the state board over schools and authorizers, it is unclear which controls exercised by the board are constitutionally required.

Kansas and Virginia have no statewide authorizing entity, so their laws offer little insight on the Montana Choice Schools law. In both states, local boards are the only authorizers of charter

[5] https://dese.mo.gov/quality-schools/charter-schools

schools, but they may not charter a school without state board approval. K.S.A. § 72-4208; Va. Code. § 22.1-212.9. As a result, state board supervision of local districts is the same for traditional public schools and charter schools.

West Virginia is an outlier among the eight states because it attempts to prohibit state board supervision of charter schools. Under West Virginia law, either local school boards, the state board, or the West Virginia Professional Charter School Board (PCSB) may authorize charters. W. Va. Code §18-5G-2(2). The state board serves as an authorizer when the local board approves a charter but requests the state board be the authorizer or when a local district is subject to state intervention for other reasons. *See id.* The charter law then forbids the state board from exercising supervision over PCSB-authorized charter schools except for purposes of accountability (*i.e.*, statewide testing). *Id.* § 18-5G-15(a). This provision is different from every other state with constitutional supervision authority for the state board because instead of defining the laws that apply to charter schools, it defines the laws that the state board can supervise. *See id.*

Among its eight companion states with constitutional state board supervision, Montana is firmly with the seven-state approach to supervision in its Community Choice Schools law. It provides for local board or statewide authorization of charter schools. HB 562 § 3(2). It exempts charter schools from all laws not made applicable in the charter school act. *Id.* § 14(c). Then, it regulates the Board's role only in relation to the authorizer (the Commission) without touching the Board's authority to supervise schools. *Id.* § 4(1).

How a state board supervises schools having separate authorizers is left to the board's discretion. If an authorizer effectively monitors compliance with state law, the state board's supervision may be light work. This court should not disrupt the separation of supervisory and authorizing authority, which exists in many states fully consonant with constitutionally grounded state boards.

III. HB 562's Choice Schools will provide equality of educational opportunity and offer a quality education.

Plaintiffs assert that Montana's Choice Schools will not provide a quality education because those schools, like many other charter schools, are exempt from many public-school standards. *See* Compl. ¶ 105. Data on similar schools in other states demonstrates to the contrary: Charter schools perform better than traditional public schools—perhaps precisely because they are freed from the regulatory burdens that apply to traditional public schools.

1. Charter schools are not new in American K-12 education. The first charter school in America opened its doors in 1992. *See also* White, *supra* n.1. And in thirty-plus years since, forty-six states and the District of Columbia have adopted charter school laws, 7,998 charter schools have opened, and in the 2022–2023 school year (the most recent year with available data) charter schools educated over 3.7 million American students. U.S. Dep't of Educ., Nat'l Ctr. for Educ. Stats., Digest of Education Statistics, Table 216.10: Number of public elementary and secondary schools, by school level, type, and charter, magnet, and virtual status: School years 2012-13 through 2022-23;[6] *Id.* Table 216.20: Enrollment of public elementary and secondary schools, by school level, type, and charter, magnet, and virtual status: School years 2012-13 through 2022-23.[7] This long history has provided much data on the innovation and success of charter schools.

Many researchers have analyzed academic performance and other key indicators for students attending charter schools. Compared with their non-charter school peers, students attending charter schools have seen increases in learning gains, higher standardized test scores, better high school graduation rates, higher college enrollment and persistence rates, and higher earnings. In a recent 2023 study, researchers at the Center for Research on Education Outcomes ("CREDO") found that despite "flat performance" for the nation generally, charter school students saw "large and positive" learning gains. Margaret E. Raymond, Ph.D., et al., *As a Matter of Fact: The National*

[6] https://nces.ed.gov/programs/digest/d23/tables/dt23_216.10.asp
[7] https://nces.ed.gov/programs/digest/d23/tables/dt23_216.20.asp

Charter School Study III 2023, Center for Research on Education Outcomes, Stanford University, ("2023 CREDO Study") at 12 (June 16, 2023).[8]

2. The data supporting comparative charter school success arises from many facets of education research. For example, data show the longer a student attends a charter school the greater the student's academic growth compared with traditional public-school peers. Specifically, students attending urban charter schools "had an additional 29 days of growth per year in reading and 28 additional days in math." *Id.* at 60.

Charter schools also have been particularly successful in addressing and closing achievement gaps for their students. *Id.* at 69. For example, in reading, seven to nineteen percent of schools both exceeded the state average achievement and saw growth among disadvantaged students equal to or greater than their non-disadvantaged peers in the same school. *Id.* (showing the following percentage of schools meeting both criteria for students by subpopulation groups: 7.3% Black students; 12.6% Hispanic students; 19.3% students in poverty; 14.1% English Language Learners).

Another national study similarly found elementary and middle school students' reading test scores improved by three percentage points and math scores improved by six percentage points in districts with at least ten percent enrollment in charter schools. Douglas N. Harris & Feng Chen, *The Bigger Picture of Charter School Results*, Education Next (last updated April 18, 2022).[9] High school graduation rates also increased by 2.8 percent in these districts. *Id.*

The benefits of attending a charter school follow students to postsecondary education. Charter school students are more likely than their non-charter school peers to enroll and remain in college. Tim Sass, *Charter High Schools' Effects on Long-Term Attainment and Earnings*, 35 J. Pol'y Analysis and Mgmt. 683, 692–93 (2016).[10]

The gains that result from charter school attendance go beyond students' academic achievement. Former charter school students experience higher earnings as early as their mid-20s. *Id.* at

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[8] https://ncss3.stanford.edu/wp-content/uploads/2023/06/Credo-NCSS3-Report.pdf
[9] https://www.educationnext.org/bigger-picture-charter-school-results-national-analysis-system-level-effects-test-scores-graduation-rates/
[10] https://onlinelibrary.wiley.com/doi/10.1002/pam.21913

694–95. And in multiple separate studies, researchers concluded that students participating in school choice programs showed reductions in criminal activity. *See* Will Dobbie & Roland G Fryer Jr., *The Medium-Term Impacts of High-Achieving Charter Schools*, 123 J. Pol. Econ 985, 1012 (2015) (finding males who attended charter school were 4.4 percentage points less likely to be incarcerated);[11] Andrew McEachin, et al., *Social returns to private choice? Effects of charter schools on behavioral outcomes, arrests, and civic participation*, 76 Econ. Educ. Rev., Article No. 101983, at 9–10 (2020) (finding students who attended secondary charter schools were less likely to be chronically absent, suspended, be convicted of a crime as an adult);[12] *see also* Benjamin Scafidi, Ph.D., & Jonathan Butcher, *The Fiscal Effects of Expanding Mississippi's Education Savings Accounts*, Working Paper No. 15, EdChoice, at 21 (Dec. 2023).[13]

3. Contrary to Plaintiffs' assertions, these positive academic results occurred in states where charter schools have broad exemptions from state laws and regulations affecting public schools. For example, Idaho charter schools experienced strong academic growth in reading compared to traditional public schools. 2023 CREDO Study at 49. In last year's data, the ten best schools in Idaho for reading growth were all charter schools. *See* Carly Flandro, *Reading growth: Where scores improved — and regressed — last school year*, Idaho Educ. News (July 22, 2024).[14] Based on this success, Idaho has continued advancing laws that make charter schools easier to operate. See Idaho Sets a Strong Example by Enhancing Charter Schools, Mtn. States Pol'y Ctr (Mar. 2, 2024).[15] Like Idaho, Missouri also had positive academic outcomes with charter schools, as it experienced overwhelmingly strong results in both reading and math in its charter schools compared to its traditional public schools. 2023 CREDO Study at 49–50. Perhaps broad exemptions afforded to charter schools help promote a quality education for students.

For over three decades, children across the country have attended public charter schools and became more successful students as a result. Charter schools demonstrate positive effects on their

[11] https://www.journals.uchicago.edu/doi/abs/10.1086/682718
[12] https://www.sciencedirect.com/science/article/abs/pii/S0272775719303668
[13] https://www.edchoice.org/wp-content/uploads/2023/12/ESA-Fiscal-Impact-12_19_23.pdf
[14] https://www.idahoednews.org/top-news/reading-growth-where-scores-improved-and-regressed-last-school-year/
[15] https://www.mountainstatespolicy.org/idaho-sets-a-strong-example-by-enhancing-charter-schools

students. Montana's Choice Schools provide quality education because they follow the model that has led to success in other states.

CONCLUSION

This Court should uphold the validity of HB 562.

DATED this 2nd day of August, 2024.

Respectfully submitted,

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I, Derek Joseph Oestreicher, hereby certify that I have served true and accurate copies of the foregoing Answer/Brief - Response Brief to the following on 08-02-2024:

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