

**ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013**  
**COMMITTEE STATEMENT**  
**LB593**

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**Hearing Date:** Monday February 25, 2013  
**Committee On:** Education  
**Introducer:** Lautenbaugh  
**One Liner:** Adopt the Charter Schools Act

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**Roll Call Vote - Final Committee Action:**  
Indefinitely postponed

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**Vote Results:**

**Aye:** 8 Senators Avery, Cook, Davis, Haar, Scheer, Kolowski, Seiler, Sullivan  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**

Senator Scott Lautenbaugh  
Jim Vokal  
Gillian Quinn-Pineda  
Bob Evnen  
Ryan Hassebrook  
Matthew Litt

**Representing:**

Introducer  
Platte Institute  
Nebraska Alliance for Quality Education  
self  
self  
Americans for Prosperity - Nebraska

**Opponents:**

Roger Breed  
  
John Jensen  
Judy Zabel  
David Orrick  
John Bonaiuto  
  
Jay Sears  
Liz Standish  
Ann Nickerson

**Representing:**

State Board of Education, Nebraska Department of Education  
self  
self  
80/20 Teacher support  
Nebraska Association of School Boards, Nebraska Council of School Administrators  
Nebraska State Education Association  
Omaha Public Schools  
Nebraska Parent Teacher Association

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Legislative Bill 593 would create the Charter Schools Act to allow for charter schools in cities of the metropolitan class. Funding for the schools would be provided by the resident school districts of the charter school students. Governance would be provided by a board of trustees. The charters would be granted by the State Board of Education.

Legislative findings would state that charter schools:

1. Stimulate development of innovative programs within public education;
  2. Provide opportunities for innovative learning and assessments;
  3. Provide greater choices of schools within and outside a school district;
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4. Provide teachers with a way to establish schools with alternative, innovative methods of instruction, school structure, and management;
5. Encourage performance-based educational programs; and
6. Hold teachers and school administrators accountable for educational outcomes.

Charter school would mean a public school in a city of the metropolitan class which operates under a charter granted by the State Board of Education, independent of any school board, and managed by a board of trustees. A charter school would be deemed a political subdivision upon receiving a charter from the State Board of Education and its board of trustees would be authorized to supervise and control the charter school.

Persons or entities who would be eligible to submit a charter school application would include, but not be limited to:

1. A business;
2. A corporate entity;
3. Two or more certified teachers; or
4. Ten or more parents.

Application could be filed in conjunction with a college, a university, a museum, or another similar entity. Private, denominational, and parochial schools and schools which elect not to meet accreditation or approval requirements would not be eligible.

The State Board of Education would establish the requirements for receiving a charter. The rules and regulations would be required to include, but not be limited to:

1. Location in a city of the metropolitan class;
2. Open to all students on a space-available basis with no discrimination on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special needs, proficiency in the English language, or academic achievement;
3. May limit enrollment to specific grade levels or areas of focus, such as mathematics, science, or the arts;
4. No admission fee or tuition would be allowed;
5. May establish reasonable academic standards as a condition for eligibility; and
6. Such other requirements as the state board deems necessary.

Application to establish a charter school could be submitted each year no later than January 15. The application would include, but not be limited to:

1. Name of the applicants;
2. Description of the proposed school's organizational structure and governing body;
3. Financial plan for the first year of operation;
4. Description of the school's physical plant and location;
5. Description of the grade levels to be included;
6. Description of the academic content standards and the curriculum; and
7. Description of the requirements for enrollment and student discipline code.

The state board would review the application and grant or deny a charter no later than March 15 of the same year. Initial charters would be for 5 years and may be renewed for successive 5-year periods. The state board may condition the grant on the charter school's taking certain actions or maintaining certain conditions.

The number of charter schools would be limited to 5 at any one time in any city of the metropolitan class and the number of students would be limited to 1,000.

The State Board could, after notice and a hearing, place a charter school on probation or revoke the charter if a charter school has not fulfilled any conditions imposed by the state board in connection with the grant of the charter or has violated any provision of its charter. A charter school on probation could submit a remedial plan describing the actions that will be implemented to correct the problems. After one calendar year following submission, if the remedial plan has not been implemented or the plan has not succeeded in solving the problems, the state board may summarily revoke the

charter. The state board would develop procedures and guidelines for revocation and renewal of charters.

Charter schools would be a body politic and corporate with all powers necessary or desirable for carrying out its charter, including, but not limited to, the power to:

1. Adopt a name and corporate seal, except any name must include "charter school";
2. Sue and be sued as provided in the State Tort Claims Act;
3. Acquire real property from public or private sources by lease, lease with an option to purchase, or by gift for use as a school facility;
4. Receive and disburse funds for school purposes;
5. Make contracts and leases for the procurement of services, equipment, and supplies, except that if substantially all educational services are intended to be procured under contract with another person, the terms of the contract would have to be approved by the Commissioner of Education, either as part of the original charter or as an amendment. The commissioner could not approve any such contract terms if the purpose or effect is to avoid the prohibition against operation of a charter school by a private, denominational, or parochial school or a school which elects not to meet accreditation or approval requirements;
6. Incur temporary debt in anticipation of receipt of funds;
7. Solicit and accept any grants or gifts for school purposes; and
8. Have such other powers available to a corporation formed under the Nebraska Nonprofit Corporation Act that are not inconsistent with the Charter Schools Act.

No tuition and no fees pursuant to the Public Elementary and Secondary Student Fee Authorization Act would be allowed for any student attending a charter school. Preference for enrollment would be given to students who reside in the city of the metropolitan class where the charter school is located. If the total number of eligible applicants from such city plus siblings of students already attending the charter school is greater than the number of spaces available, the charter school could conduct an admission lottery.

Students could withdraw from a charter school at any time and enroll in the resident school district, option school district, or a private, denominational, or parochial school or a school which elects not to meet accreditation or approval requirements. Students could be expelled from a charter school based on criteria determined by the board of trustees, with the advice of the principal and teachers, and approved by the State Board.

Charter schools could be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. Charter schools could own, lease, or rent space.

Charter schools would be required to operate in accordance with the charter, the fire and life safety provisions of law applicable to public schools in Nebraska, and the performance, testing, and assessment requirements of the Quality Education Accountability Act.

Employees would be considered employees of a political subdivision for purposes of the Political Subdivisions Tort Claims Act and public employees for purposes of the Industrial Relations Act. The board of trustees would be considered a governing body for purposes of the Political Subdivisions Tort Claims Act and a public employer for purposes of the Industrial Relations Act.

The Class V School Employees Retirement Act would apply to employees of charter schools.

School boards would be required to grant a leave of absence to any teacher requesting such leave in order to teach in a charter school. Teachers could only request a leave of absence for a maximum of 2 years, then the teacher could:

1. Request that the leave be extended for an additional 2 years, approval could not be unreasonably withheld; or
2. Return to employment with the school district.

At the end of the fourth year, the teacher could either return to employment with the school district, or resign and continue teaching at the charter school.

The board of trustees, in consultation with the teachers, would determine the charter school's curriculum and develop

the school's annual budget.

The Class V school district in which a charter school is located would provide transportation to the charter school for students living in the district who attend the charter school, on the same terms and conditions as transportation is provided to students attending the public schools of such school district. Students attending the charter school who do not reside in the district would be eligible for transportation as provided for option students.

Charter schools would be required to submit an annual report to the State Board, to each parent or guardian of a student, and to anyone else upon request. The annual report would be issued no later than November 1 of each year in such form as may be prescribed by the State Board and would include at least the following components:

1. Discussion of progress made toward achievement of the goals in the charter; and
2. Financial statement setting forth the revenue and expenditures by appropriate categories for the year just ended.

The Department would be required to post each charter school's annual report on the department's web site.

An individual or a group could file a complaint with the board of trustees concerning any claimed violation of the Charter Schools Act. If, after presenting such complaint to the trustees, the individual or group believes the complaint has not been adequately addressed, they may submit the complaint to the Commissioner of Education who would be required to investigate and make a formal response.

The school district of residence of each student attending a charter school would be required to annually pay to the charter school an amount equal to the school district's actual per pupil cost for the preceding fiscal year times the number of students residing in the district who attend the charter school. The Department would calculate the actual per pupil cost based upon information submitted by the school district. The payments would be made within thirty days after the beginning of the district's school fiscal year. If students withdraw or are expelled from a charter school during the school year of the resident school district, the charter school would reimburse the school district a pro rata amount based on the number of complete months remaining in the school year of the school district of residence.

Section 13-903 would be amended by adding charter schools and the board of trustees to the Political Subdivisions Tort Claims Act.

Section 48-801 would be amended by adding charter schools and the board of trustees to the Industrial Relations Act.

Section 79-978 would be amended by adding charter school employees to the Class V School Employees Retirement Act.

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Kate Sullivan, Chairperson