

2026 South Dakota Legislature

Senate Bill 218**AMENDMENT 218A
FOR THE INTRODUCED BILL**

1 **An Act to provide for the establishment of charter schools.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

4 Terms used in this chapter mean:

- 5 (1) "Authorizing entity," the board of the school district in which an approved charter
6 school is to be located or the Department of Education; and
7 (2) "Charter school," a public school that is established and operated under the terms
8 of a contract between an authorizing entity and the independent governing board
9 of a charter school pursuant to this chapter.

10 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

11 Except as otherwise provided in this chapter and §§ 13-13-10.1 and 13-37-35.1,
12 a charter school is exempt from any state law or rule pertaining to a public school, school
13 district, or the board of a school district.

14 A charter school must:

- 15 (1) Comply with civil rights, health, and safety requirements applicable to other public
16 schools in this state;
17 (2) Be nonsectarian in its programs, admission policies, employment practices, and all
18 other operations;
19 (3) Operate a physical structure where the school provides in-person academic
20 instruction, extracurricular activities, and other functions associated with the
21 educational program offered by the charter school;
22 (4) Provide a comprehensive program of instruction for at least one grade between
23 kindergarten and grade twelve, inclusive;
24 ~~(4)~~(5) Follow the same operational term as provided for in § 13-26-2;

1 ~~(5)~~(6) Follow all applicable state and federal laws governing the provision of education to
 2 children with disabilities;

3 ~~(6)~~(7) Provide for the measurement of student progress in a manner required by the
 4 Department of Education;

5 ~~(7)~~(8) Be subject to the same student assessment and accountability requirements
 6 applicable to school districts in this state, except that nothing prevents the school
 7 from establishing additional assessments and requirements that exceed those
 8 applicable under state law;

9 ~~(8)~~(9) Report educational data and preserve educational financial records in the same
 10 manner as a school district pursuant to §§ 13-3-51 to 13-3-51.6, inclusive;

11 ~~(9)~~(10) Maintain accounting and financial functions that are separate from those of the
 12 authorizing entity;

13 ~~(10)~~(11) Maintain a risk management and insurance program; and

14 ~~(11)~~(12) Use the same standards as those established for the education of students in a
 15 school district.

16 A charter school authorized under this chapter may not use online, remote, or other
 17 virtual methods as the primary method of providing educational programming.

18 An employee of a charter school is subject to the employee criminal background
 19 investigation requirements in § 13-10-12 otherwise applicable to school districts.

20 The authorizing entity shall conduct annual financial, compliance, and performance
 21 audits of the charter school.

22 A charter school and its governing board must comply with the open meetings and
 23 open records provisions otherwise applicable to school districts, pursuant to chapters 1-
 24 25 and 1-27, respectively.

25 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

26 On or before October first of each year, the Department of Education shall provide
 27 an annual report to the Governor and the Legislature regarding charter schools.

28 The report must provide:

29 (1) The academic performance of students attending each charter school;

30 (2) An assessment of the successes of and any challenges experienced by each charter
 31 school;

32 (3) Any actions that must be taken by each charter school to comply with this chapter;

1 (4) An assessment of charter schools with respect to their ability to meet the demand
 2 for charter school education, as calculated by admissions data and the number of
 3 students denied enrollment; and

4 (5) A comparison of the students' performance to that of academically, ethnically, and
 5 economically similar students in the school district in which the charter school is
 6 located.

7 Each charter school shall provide the information required by this section at the
 8 time and in the manner requested by the department.

9 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

10 The Department of Education shall promulgate rules, pursuant to chapter 1-26, to
 11 establish:

12 (1) The form, process, and approval criteria for a charter school application;

13 (2) The form and approval criteria for a charter school renewal application;

14 (3) The process by which a charter school is reviewed by an authorizing entity;

15 (4) The sanctions or corrective actions that the authorizing entity is permitted to
 16 impose on a charter school for unsatisfactory performance or to achieve legal
 17 compliance, pursuant to section 15 of this Act; and

18 (5) The form for and required terms of a contract between an authorizing entity and
 19 the governing board of a charter school.

20 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

21 To establish a charter school, a nonprofit corporation shall file an application with
 22 an authorizing entity. The application must contain:

23 (1) A mission statement for the charter school;

24 (2) A description of the charter school's organizational structure;

25 (3) A description of the charter school's governance structure and proposed governing
 26 board;

27 (4) A location for and a description of the facility that is to be used to house the charter
 28 school;

29 (5) Whether the charter school is to be located within the boundaries of a tribal
 30 reservation;

31 (6) Whether the charter school proposes to prioritize serving low-income, special
 32 education, or English learner students;

33 (7) The grade levels that are to be served in the charter school;

- 1 (8) The anticipated enrollment of the charter school;
2 (9) The educational objectives of the charter school;
3 (10) A financial plan for the first three years of the charter school's operation;
4 (11) Documentation showing community support for the proposed charter school;
5 (12) If the applicant intends to serve students within a tribal reservation, documentation
6 showing consultation with the local tribal government or tribal education
7 department, as applicable;
8 (13) Personnel policies for the charter school, including those addressing employment
9 and qualifications;
10 (14) The criteria that are to be used to measure the performance of the charter school;
11 and
12 (15) A description of how the charter school is to provide special education and related
13 services.

14 If multiple applications are submitted to an authorizing entity to establish a charter
15 school within a tribal reservation, the authorizing entity must give priority consideration
16 to the application for a charter school that proposes to serve students in accordance with
17 the Oceti Sakowin Essential Understandings.

18 If multiple applications are submitted to an authorizing entity to establish a charter
19 school that is not to be located within a tribal reservation, the authorizing entity may give
20 priority consideration to the application for a charter school that proposes to serve
21 students in accordance with the Oceti Sakowin Essential Understandings or based on the
22 students' poverty status, special education status, or English learner status.

23 Priority consideration under this section does not affect the authorizing entity's
24 obligation to approve each application that meets the requirements of this chapter and
25 satisfies the approval criteria established by the Department of Education, pursuant to
26 sections 4 and 7 of this Act.

27 An applicant's intention to serve students in accordance with the Oceti Sakowin
28 Essential Understandings or based on the students' poverty status, special education
29 status, or English learner status must be set forth in the charter school's mission
30 statement.

31 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

32 Upon receiving an application to establish a charter school, the authorizing entity
33 has forty-five days to review and approve or deny the application. The authorizing entity

1 may ask questions of or request revisions from the applicant throughout the review period.

2 While reviewing the application, the entity must:

3 (1) Conduct an interview with the applicant or the applicant's authorized
4 representative; and

5 (2) Hold an official meeting, pursuant to chapter 1-25, to review the application, with
6 an opportunity for public comment.

7 An application to establish a charter school must be approved or denied in an open
8 meeting of the entity pursuant to chapter 1-25. The entity may not approve or deny an
9 application to establish a charter school at the same meeting at which the application was
10 initially reviewed by the entity.

11 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

12 The authorizing entity must approve an application that:

13 (1) Meets the requirements of this Act;

14 (2) Satisfies the approval criteria established by the Department of Education,
15 pursuant to section 4 of this Act; and

16 (3) Demonstrates:

17 (a) The governing body's ability to operate the school in an educationally and
18 fiscally sound manner; and

19 (b) The program by which the charter school proposes to improve student
20 achievement and any evidence that points to the program's likelihood for
21 success.

22 The entity shall base its decision to approve or deny the application on
23 documentation collected through the application process. If the entity denies an
24 application, it must notify the applicant, in writing, of the specific reasons for denial.

25 If the entity is the board of a school district, the board shall forward copies of all
26 application materials and report its determination to the department within five days of
27 the meeting at which the application was approved or denied.

28 With the agreement of the nonprofit corporation applying to establish a charter
29 school, the authorizing entity may establish conditions or other requirements to ensure
30 the charter school meets all the requirements established in the contract to open the
31 school. The entity may not require the charter school to enter into any service agreement
32 with a school district as a condition that the applicant corporation must meet before
33 executing a contract.

1 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

2 If an authorizing entity denies an application to establish a charter school, the
3 nonprofit corporation may reapply to any other appropriate authorizing entity.

4 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

5 No later than thirty days after an application for a charter school is approved, the
6 authorizing entity must enter into a contract with the governing board of the charter
7 school. The contract must meet the form and required terms, as established by the
8 Department of Education, pursuant to section 4 of this Act, and must contain:

9 (1) A performance framework that is to guide the authorizing entity's evaluations of
10 the charter school and clearly sets forth the operational performance indicators,
11 measures, and metrics for:

12 (a) Student academic proficiency;

13 (b) Student academic growth;

14 (c) Achievement gaps in both proficiency and growth between major student
15 subgroups;

16 (d) Attendance;

17 (e) Recurrent enrollment from year-to-year;

18 (f) Postsecondary readiness;

19 (g) Mission-specific goals;

20 (h) Financial performance and sustainability; and

21 (i) Board performance and stewardship;

22 (2) The process by which the governing board of the charter school reports to the
23 authorizing entity with the information collected from the charter school under the
24 performance framework established pursuant to subdivision (1);

25 (3) The administrative relationship between:

26 (a) The authorizing entity and the charter school; and

27 (b) The nonprofit corporation applying to create the charter school and the
28 governing board of the charter school; and

29 (4) The rights and expectations of the authorizing entity and the charter school.

30 The authorizing entity may not include in the contract any other requirement in
31 addition to what is provided for in section 7 of this Act or this section. The authorizing
32 entity shall approve the contract required by this section in an open meeting, pursuant to
33 chapter 1-25.

1 If any of the conditions set by the authorizing entity, pursuant to section 7 of this
2 Act, have not been met by the charter school, the entity may provide the governing board
3 of the charter school with an additional thirty days to meet the conditions set before
4 terminating the contract or may immediately terminate the contract with the governing
5 board.

6 **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 31:**

7 A single nonprofit corporation may apply to create more than one charter school,
8 and may designate a single governing board to hold the contract of each charter school
9 authorized as a result of the nonprofit corporation's application. Each charter school that
10 is part of a charter contract must be a discrete legal entity.

11 **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

12 If the authorizing entity is the board of a school district, the entity must, within
13 fifteen days of contract approval, submit a copy of the contract to the Department of
14 Education.

15 If the authorizing entity is the department, the entity must, within fifteen days of
16 contract approval, submit a copy of the contract to the board of the school district in
17 whose boundaries the charter school is to be located.

18 **Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

19 An initial contract, as provided for in section 9 of this Act, must have a term of five
20 years, beginning the first day of the school fiscal year, as defined in § 13-26-1, in which
21 the charter school begins operation. A governing board may, upon notifying the
22 authorizing entity, delay the effective date of the initial contract for a period of up to one
23 year, unless the charter school obtains permission from the authorizing entity for an
24 additional year or years.

25 Any subsequent contract authorized pursuant to this chapter is effective for five
26 years, beginning the first day of the school fiscal year, as defined in § 13-26-1, after the
27 contract is approved by the authorizing entity, unless:

- 28 (1) A shorter duration is agreed to by the parties;
29 (2) The authorizing entity shortens the term of the contract based on the performance,
30 demonstrated capacities, and other circumstances of each charter school; or
31 (3) The contract is not renewed pursuant to section 18 of this Act; or

1 (4) The contract is revoked pursuant to section 19 of this Act.

2 A contract may contain conditions governing its continuation, provided the
3 conditions comply with the provisions of this chapter.

4 **Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

5 A governing board of a charter school is responsible for collecting, analyzing, and
6 reporting all data from state assessments or other state data sources in accordance with
7 the performance framework described in section 9 of this Act. At the request of the
8 governing board, the Department of Education shall assist the governing board in
9 collecting, analyzing, and reporting all data, pursuant to this section. An authorizing entity
10 may not require duplicative data entry and submission from a charter school and may not
11 use the performance framework to create duplicative reporting requirements for a charter
12 school.

13 If a governing board operates multiple charter schools under a single charter school
14 contract, each school must report the charter school's performance. Each charter school
15 operated by a governing board under a single contract must be held independently
16 accountable for the charter school's performance.

17 **Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

18 Subject to the approval of the authorizing entity, the governing board of a charter
19 school shall set annual performance targets to help the school meet all applicable federal,
20 state, and entity expectations. The performance targets may be amended by mutual
21 agreement of the governing board of the charter school and the entity after the charter
22 school has begun operating and has collected achievement data for students enrolled in
23 the charter school.

24 The performance framework included in the charter school contract pursuant to
25 section 9 of this Act may be amended by mutual agreement of the governing board of the
26 charter school and authorizing entity after the charter school begins operating and has
27 collected initial achievement data for enrolled students. The performance framework must
28 disaggregate all student performance data by race, poverty status, special education
29 status, and English learner status. All data must be reported in a way that meets the
30 requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232
31 (January 1, 2026).

32 The authorizing entity of a charter school shall monitor the performance and legal
33 compliance of the charter school and may collect data from the school to support the

1 ongoing monitoring and evaluation, so long as those activities are consistent with this
2 chapter, adhere to the terms of the charter contract, and do not unduly inhibit the
3 autonomy granted to the charter school.

4 **Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

5 If the authorizing entity determines that the charter school's performance or legal
6 compliance is unsatisfactory, the entity may require the governing board of the charter
7 school to take action to rectify the unsatisfactory performance or legal compliance of the
8 charter school. The entity must provide written notification to the governing board of the
9 corrective action the charter school is required to take, stating a reasonable time by when
10 the matter must be resolved.

11 If the charter school fails to rectify the unsatisfactory performance or legal
12 compliance in the time stated in the notification, the authorizing entity may deny the
13 renewal of or revoke the contract, pursuant to sections 18 and 19 of this Act.

14 **Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

15 After an initial contract has been in effect for four years, the authorizing entity
16 must provide to the governing board of the charter school a draft of a report setting forth
17 the school's performance to date and must note any concerns that need to be addressed
18 before the renewal process is initiated. The authorizing entity shall provide the governing
19 board at least thirty days from the date the governing board receives the report, within
20 which the governing board may request clarifications or corrections to the report, or to
21 otherwise respond to the report. At the conclusion of the thirty days, the authorizing entity
22 shall provide the governing body with the finalized report.

23 The authorizing entity shall provide guidance to the governing board regarding the
24 renewal process and the criteria that the Department of Education has established,
25 pursuant to section 4 of this Act, regarding a renewal of the contract.

26 To renew the contract, the governing board of a charter school must submit a
27 renewal application. The governing board shall attach to the board's renewal application:

- 28 (1) Additional evidence of improvements in student performance;
29 (2) A description of improvements that had been undertaken, are being undertaken,
30 or are being planned to resolve the concerns noted by the entity in the report
31 provided pursuant to this section; and
32 (3) A detailed operational plan for the ensuing contract period, outlining the continued
33 implementation of:

- 1 (a) The performance framework, established pursuant to subdivision (1) of
 2 section 9 of this Act;
 3 (b) The process by which the governing board of the charter school reports to
 4 the authorizing entity;
 5 (c) The process by which information is collected from the charter school under
 6 the performance framework established pursuant to subdivision (1) of
 7 section 9 of this Act;
 8 (d) The administrative relationship between the authorizing entity and the
 9 governing board of the charter school; and
 10 (e) The rights and expectations of the authorizing entity, the governing board
 11 of the charter school, and the charter school.

12 **Section 17. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

13 Upon receiving an application for the renewal of a contract, the authorizing entity
 14 shall, within forty-five days:

- 15 (1) Conduct an interview with the governing board of the charter school or the
 16 governing board's authorized representative;
 17 (2) Hold a public forum on the renewal application, with an opportunity for public
 18 comment;
 19 (3) Examine the documentation submitted by the governing board, demonstrating the
 20 charter school's performance during the prior term of the contract; and
 21 (4) Provide to the charter school a report regarding the evidence provided and the
 22 decision that was reached.

23 The term of renewal for a charter school contract is five years, unless a shorter
 24 duration is agreed to by the parties or the authorizing entity shortens the term of the
 25 contract based on the performance, demonstrated capacities, and other circumstances of
 26 each charter school. An entity may grant the renewal of a contract subject to conditions
 27 necessary to improve the performance of the charter school.

28 The entity must base its decision to approve or deny the renewal application on
 29 documentation collected through the application process. The decision to approve or deny
 30 the application must be made in an open meeting of the entity.

31 **Section 18. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

32 An authorizing entity may deny an application for renewal of a contract only if the
 33 authorizing entity determines that the charter school:

- 1 (1) Engaged in a material breach of the contract or a substantial violation of this
 2 chapter;
 3 (2) Failed to meet or make sufficient progress toward the school's performance
 4 expectations, as specified in the charter contract;
 5 (3) Failed to meet generally accepted standards of fiscal management; or
 6 (4) Substantially violated any provision of law from which the charter school was not
 7 exempt.

8 If the authorizing entity is the board of a school district, a denial of an application
 9 under this section may be appealed to the Department of Education. The decision of the
 10 department is final if the decision pertains to an application for the renewal of a charter
 11 school when the department serves as the authorizing entity of the school or when the
 12 appeal pertains to a decision made by the board of a school district.

13 If the department approves a renewal application that had been previously denied
 14 by the board of a school district, the department becomes the authorizing entity for the
 15 charter school.

16 **Section 19. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

17 An authorizing entity may revoke a contract upon the conditions set forth in section
 18 18 of this Act, if the entity:

- 19 (1) Provides the following to the governing board of a charter school, at least fourteen
 20 days prior to the hearing required by this section:
 21 (a) A written notice of the entity's intent to revoke the charter school contract;
 22 (b) A written determination of the entity as to why the entity intends to revoke
 23 the charter school contract; and
 24 (c) Documentation supporting the entity's determination;
 25 (2) Schedules a public hearing at which the governing board of the charter school may
 26 provide testimony and documentary evidence; and
 27 (3) Permits the hearing to be recorded.

28 **Section 20. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

29 If a charter school is dissolved because the school's contract was revoked or not
 30 renewed or because the charter school elected to close, the assets of the school must be
 31 distributed first to the employees of the charter school to satisfy any outstanding payroll
 32 obligations, then to satisfy any other outstanding debts incurred by the charter school.

1 If any assets remain after satisfying any outstanding payroll obligations and debts,
 2 the remaining assets of the charter school must be forwarded to the state treasurer for
 3 deposit in the general fund.

4 If the assets of the charter school are insufficient to satisfy all outstanding payroll
 5 and debt obligations, the distribution of the charter school's assets is to be determined by
 6 the decree of a court of law.

7 **Section 21. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

8 A charter school established in accordance with this chapter may, independently of
 9 its authorizing entity:

- 10 (1) Purchase or lease real property, facilities, appurtenances, and equipment;
 11 (2) Obtain a loan;
 12 (3) Pledge, assign, or encumber its assets to collateralize a loan or obtain credit;
 13 (4) Accept gifts, grants, and donations for any purpose related to the establishment or
 14 operation of the school;
 15 (5) Hire and compensate personnel;
 16 (6) Enter into a contract with a school district or educational cooperative for the
 17 delivery of educational or other services, provided the consideration paid by the
 18 charter school for the services does not exceed the delivering entity's actual cost
 19 of providing the services; and
 20 (7) Access any shared services offered by the state.

21 **Section 22. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

22 At least seventy-five percent of the teachers employed by a charter school must
 23 hold a certificate as provided by chapter 13-42. If an individual is employed by a charter
 24 school as a special education teacher or other educational professional, as defined in §
 25 13-42-1, the individual must have the certification required for the position in a school
 26 district.

27 An individual who is employed as an administrator of a charter school is not
 28 required to be certified as an administrator pursuant to chapter 13-42.

29 A charter school may not employ an individual if the individual holds a teacher,
 30 administrator, or other educational professional certificate that has been suspended or an
 31 educator permit that has been suspended, so long as the certificate or permit is
 32 suspended. A charter school may not employ an individual whose educator certificate was
 33 permanently revoked.

1 **Section 23. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

2 A school district or any employee or board member thereof may not be held liable
3 for:

4 (1) Any act or omission undertaken by the employee or member in good faith, and
5 within the scope of authority, regarding a charter school; or

6 (2) Any debts incurred by or on behalf of a charter school.

7 An employee of a charter school is not an employee of the school district in which
8 the charter school is located. Each charter school is responsible for any debts incurred by
9 or on behalf of the charter school.

10 **Section 24. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

11 Admission to a charter school must be open to any student. If the charter school
12 has been established to serve students based on the student's poverty status, special
13 education status, or English learner status, the charter school must give priority to an
14 applicant that meets the charter school's mission statement, pursuant to section 5 of this
15 Act. If a student is admitted to a charter school, the school must enroll the student for
16 each subsequent school year until the student either completes the last grade-level served
17 by the school, graduates, withdraws from the school, or is withdrawn from the school by
18 the student's parent or legal guardian.

19 If, on a date identified by the charter school, the number of applicants seeking
20 enrollment exceeds the capacity of a program, class, or grade level, the charter school
21 must first enroll any applicant who is a sibling of a student currently enrolled in the charter
22 school.

23 If the number of applicants who are siblings of students enrolled in the charter
24 school is less than the capacity of the program, class, or grade level, the charter school
25 must give preference to any applicant who is at risk of academic failure. Any remaining
26 openings in the program, class, or grade level, must be filled by selecting applicants in a
27 lottery.

28 If the number of new students in a group receiving preference exceeds the capacity
29 of the program, class, or grade level remaining after previous groups had been enrolled,
30 any remaining opening must be selected by lottery within the group receiving preference.

31 If the number of new students in the groups receiving preference does not exceed
32 the capacity of the program, class, or grade level remaining after all of the groups

1 receiving preference have been enrolled, any remaining opening must be selected by
2 lottery.

3 A charter school conducting an admissions lottery must ensure that every student
4 within each group designated pursuant to this section, has a fair opportunity to be
5 considered in the lottery and that the lottery is competently conducted, randomized,
6 transparent, and impartial so that students are accepted into a charter school without
7 regard to academic status, athletic ability, ethnicity, familial status, gender, income,
8 national origin, race, religion, or special needs.

9 No student may be denied admission based on the student's academic status,
10 athletic ability, ethnicity, familial status, gender, income, national origin, race, religion, or
11 special needs.

12 **Section 25. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

13 An employee of a charter school is eligible to participate in the state retirement
14 system, as set forth in chapter 3-12C.

15 **Section 26. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

16 An authorizing entity may impose an annual administrative fee upon the charter
17 school in an amount not exceeding three percent of the funding the charter school receives
18 pursuant to sections 27 and 28 of this Act.

19 The authorizing entity may use the funds provided in this section only to fulfill an
20 obligation associated with authorizing the charter school. An annual administrative fee
21 may not be counted toward any cost incurred by the authorizing entity in delivering, to
22 the charter school, a service that the charter school voluntarily purchased from the
23 authorizing entity.

24 An authorizing entity shall provide to each charter school authorized by the entity
25 an itemized description of the actual costs of oversight incurred by the entity in
26 administering the charter school. If the actual cost of oversight incurred by the entity is
27 less than the administrative fee collected by the entity pursuant to this section, the entity
28 must refund the balance to each charter school authorized by the entity, in proportion to
29 the amount initially collected from each charter school.

30 **Section 27. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

1 The school district in which a charter school is located shall forward to the charter
2 school an amount equal to the per student equivalent, as calculated in accordance with
3 § 13-13-10.1, multiplied by the number of students enrolled in the charter school. The
4 charter school shall receive a share of the school district's state aid funding, pursuant to
5 chapter 13-13, local tax receipts, and county and state apportionment, based on the
6 number of the students enrolled in the charter school as a percentage of the school
7 district's average daily membership. The Department of Education shall ensure each
8 school district forwards the full per student equivalent, as defined in § 13-13-10.1, to any
9 charter school located within the district's jurisdiction.

10 The amount payable to a charter school in the first year of operation of the charter
11 school is based on the projections for initial-year enrollment set forth in the charter school
12 application. The projections must be reconciled with the actual enrollment at the end of
13 the charter school's first year of operation, and any adjustment to the funding of the
14 charter school must be made during the charter school's second year of operation.

15 The students enrolled in a charter school are included in the average daily
16 membership of the school district in which the charter school is located in order to
17 determine:

18 (1) Fall enrollment for the purposes of:

19 (a) General state aid for the school district, pursuant to § 13-13-10.1; and

20 (b) State aid for special education, pursuant to § 13-37-35.1; and

21 (2) The minimum enrollment for maintaining a school district, pursuant to § 13-6-97.

22 The district shall also forward an amount equal to the portion of funding calculated
23 in accordance with chapter 13-37, for each student enrolled in the charter school who is
24 entitled to special education and related services. The department shall ensure each school
25 district forwards the full portion of special education funding, calculated in accordance with
26 chapter 13-37, to any charter school located within the district's jurisdiction.

27 **Section 28. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

28 The Department of Education shall ensure that a proportionate share of moneys
29 generated under federal and state categorical aid programs, including any moneys
30 provided through programs for tribal education, is directed to eligible charter schools. A
31 charter school shall comply with all requirements of the aid.

32 **Section 29. That a NEW SECTION be added to a NEW CHAPTER in title 13:**

1 A charter school is a local education agency for the purpose of receiving funding
2 for special education services, if the Department of Education is the authorizing entity of
3 the charter school. If the authorizing entity of a charter school is a school district, the
4 school district is the local education agency.

5 The charter school shall provide services to students as required by federal and
6 state law and the charter school contract.

AMENDMENT