

2026 South Dakota Legislature

Senate Bill 198**AMENDMENT 198B
FOR THE SENATE EDUCATION ENGROSSED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 **An Act to ~~restrict the use of a cell phone by a student during the school day~~ provide**
2 **for the establishment of charter schools.**

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

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

5 Terms used in this chapter mean:

6 (1) "Authorizing entity," the board of the school district in which an approved charter
7 school is to be located or the Department of Education; and

8 (2) "Charter school," a public school that is established and operated under the terms
9 of a contract between an authorizing entity and the independent governing board
10 of a charter school pursuant to this chapter.

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

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

15 A charter school must:

16 (1) Comply with civil rights, health, and safety requirements applicable to other public
17 schools in this state;

18 (2) Be nonsectarian in its programs, admission policies, employment practices, and all
19 other operations;

20 (3) Operate a physical structure where the school provides in-person academic
21 instruction, extracurricular activities, and other functions associated with the
22 educational program offered by the charter school;

- 1 (4) Provide a comprehensive program of instruction for at least one grade between
2 kindergarten and grade twelve, inclusive;
- 3 (5) Follow the same operational term as provided for in § 13-26-2;
- 4 (6) Follow all applicable state and federal laws governing the provision of education to
5 children with disabilities;
- 6 (7) Provide for the measurement of student progress in a manner required by the
7 Department of Education;
- 8 (8) Be subject to the same student assessment and accountability requirements
9 applicable to school districts in this state, except that nothing prevents the school
10 from establishing additional assessments and requirements that exceed those
11 applicable under state law;
- 12 (9) Report educational data and preserve educational financial records in the same
13 manner as a school district pursuant to §§ 13-3-51 to 13-3-51.6, inclusive;
- 14 (10) Maintain accounting and financial functions that are separate from those of the
15 authorizing entity;
- 16 (11) Maintain a risk management and insurance program; and
- 17 (12) Use the same standards as those established for the education of students in a
18 school district.

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

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

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

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

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

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

31 The report must provide:

- 32 (1) The academic performance of students attending each charter school;
- 33 (2) An assessment of the successes of and any challenges experienced by each charter
34 school;

- 1 (3) Any actions that must be taken by each charter school to comply with this chapter;
2 (4) An assessment of charter schools with respect to their ability to meet the demand
3 for charter school education, as calculated by admissions data and the number of
4 students denied enrollment; and
5 (5) A comparison of the students' performance to that of academically, ethnically, and
6 economically similar students in the school district in which the charter school is
7 located.
8 Each charter school shall provide the information required by this section at the
9 time and in the manner requested by the department.

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

- 11 The Department of Education shall promulgate rules, pursuant to chapter 1-26, to
12 establish:
13 (1) The form, process, and approval criteria for a charter school application;
14 (2) The form and approval criteria for a charter school renewal application;
15 (3) The process by which a charter school is reviewed by an authorizing entity;
16 (4) The sanctions or corrective actions that the authorizing entity is permitted to
17 impose on a charter school for unsatisfactory performance or to achieve legal
18 compliance, pursuant to section 15 of this Act; and
19 (5) The form for and required terms of a contract between an authorizing entity and
20 the governing board of a charter school.

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

- 22 Except as provided in section 8 of this Act, a nonprofit corporation shall file an
23 application to establish a charter school, with the board of the school district in which the
24 charter school is to be located. The application must contain:
25 (1) A mission statement for the charter school;
26 (2) A description of the charter school's organizational structure;
27 (3) A description of the charter school's governance structure and proposed governing
28 board;
29 (4) A location for and a description of the facility that is to be used to house the charter
30 school;
31 (5) Whether the charter school is to be located within the boundaries of a tribal
32 reservation;

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

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

4 (8) The anticipated enrollment of the charter school;

5 (9) The educational objectives of the charter school;

6 (10) A financial plan for the first three years of the charter school's operation;

7 (11) Documentation showing community support for the proposed charter school;

8 (12) If the applicant intends to serve students within a tribal reservation, documentation
9 showing consultation with the local tribal government or tribal education
10 department, as applicable;

11 (13) Personnel policies for the charter school, including those addressing employment
12 and qualifications;

13 (14) The criteria that are to be used to measure the performance of the charter school;
14 and

15 (15) A description of how the charter school is to provide special education and related
16 services.

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

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

25 An applicant's intention to serve students in accordance with the Oceti Sakowin
26 Essential Understandings must be set forth in the charter school's mission statement.

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

28 Upon receiving an application to establish a charter school, the authorizing entity
29 has forty-five days to review and approve or deny the application. The authorizing entity
30 may ask questions of or request revisions from the applicant throughout the review period.
31 While reviewing the application, the entity must:

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

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

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

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

8 The authorizing entity must approve an application that:

9 (1) Meets the requirements of this Act;

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

12 (3) Demonstrates:

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

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

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

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

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

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

31 If the board of the school district in which a charter school is to be located denies
32 an application to establish the charter school, the nonprofit corporation may reapply to
33 the Department of Education.

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

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

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

9 (a) Student academic proficiency;

10 (b) Student academic growth;

11 (c) Achievement gaps in both proficiency and growth between major student
12 subgroups;

13 (d) Attendance;

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

15 (f) Postsecondary readiness;

16 (g) Mission-specific goals;

17 (h) Financial performance and sustainability; and

18 (i) Board performance and stewardship;

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

22 (3) The administrative relationship between:

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

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

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

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

31 If any of the conditions set by the authorizing entity, pursuant to section 7 of this
32 Act, have not been met by the charter school, the entity may provide the governing board
33 of the charter school with an additional thirty days to meet the conditions set before
34 terminating the contract or may immediately terminate the contract with the governing
35 board.

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

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

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

7 If the authorizing entity is the board of a school district, the entity must, within
8 fifteen days of contract approval, submit a copy of the contract to the Department of
9 Education.

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

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

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

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

- 23 (1) A shorter duration is agreed to by the parties;
24 (2) The authorizing entity shortens the term of the contract based on the performance,
25 demonstrated capacities, and other circumstances of each charter school; or
26 (3) The contract is not renewed pursuant to section 18 of this Act; or
27 (4) The contract is revoked pursuant to section 19 of this Act.

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

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

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

9 If a governing board operates multiple charter schools under a single charter school
10 contract, each school must report the charter school's performance. Each charter school
11 operated by a governing board under a single contract must be held independently
12 accountable for the charter school's performance.

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

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

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

28 The authorizing entity of a charter school shall monitor the performance and legal
29 compliance of the charter school and may collect data from the school to support the
30 ongoing monitoring and evaluation, so long as those activities are consistent with this
31 chapter, adhere to the terms of the charter contract, and do not unduly inhibit the
32 autonomy granted to the charter school.

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

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

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

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

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

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

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

24 (1) Additional evidence of improvements in student performance;
25 (2) A description of improvements that had been undertaken, are being undertaken,
26 or are being planned to resolve the concerns noted by the entity in the report
27 provided pursuant to this section; and

28 (3) A detailed operational plan for the ensuing contract period, outlining the continued
29 implementation of:

30 (a) The performance framework, established pursuant to subdivision (1) of
31 section 9 of this Act;

32 (b) The process by which the governing board of the charter school reports to
33 the authorizing entity;

1 (c) The process by which information is collected from the charter school under
2 the performance framework established pursuant to subdivision (1) of
3 section 9 of this Act;

4 (d) The administrative relationship between the authorizing entity and the
5 governing board of the charter school; and

6 (e) The rights and expectations of the authorizing entity, the governing board
7 of the charter school, and the charter school.

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

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

11 (1) Conduct an interview with the governing board of the charter school or the
12 governing board's authorized representative;

13 (2) Hold a public forum on the renewal application, with an opportunity for public
14 comment;

15 (3) Examine the documentation submitted by the governing board, demonstrating the
16 charter school's performance during the prior term of the contract; and

17 (4) Provide to the charter school a report regarding the evidence provided and the
18 decision that was reached.

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

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

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

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

30 (1) Engaged in a material breach of the contract or a substantial violation of this
31 chapter;

32 (2) Failed to meet or make sufficient progress toward the school's performance
33 expectations, as specified in the charter contract;

- 1 (3) Failed to meet generally accepted standards of fiscal management; or
 2 (4) Substantially violated any provision of law from which the charter school was not
 3 exempt.

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

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

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

13 An authorizing entity may revoke a contract upon the conditions set forth in section
 14 18 of this Act, if the entity:

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

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

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

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

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

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

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

7 (1) Purchase or lease real property, facilities, appurtenances, and equipment;

8 (2) Obtain a loan;

9 (3) Pledge, assign, or encumber its assets to collateralize a loan or obtain credit;

10 (4) Accept gifts, grants, and donations for any purpose related to the establishment or
11 operation of the school;

12 (5) Hire and compensate personnel;

13 (6) Enter into a contract with a school district or educational cooperative for the
14 delivery of educational or other services, provided the consideration paid by the
15 charter school for the services does not exceed the delivering entity's actual cost
16 of providing the services; and

17 (7) Access any shared services offered by the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 If the number of new students in the groups receiving preference does not exceed
31 the capacity of the program, class, or grade level remaining after all of the groups
32 receiving preference have been enrolled, any remaining opening must be selected by
33 lottery.

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

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

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

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

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

14 An authorizing entity may impose an annual administrative fee upon the charter
15 school in an amount not exceeding three percent of the funding the charter school receives
16 pursuant to sections 27 and 28 of this Act. If the authorizing entity is the Department of
17 Education, the department must forward the administrative fee to the state treasurer for
18 deposit in the charter school administrative fund, established pursuant to section 30 of
19 this Act.

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

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

31 **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.

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

8 There is created in the state treasury the charter school administration fund. The
9 Department of Education shall administer the fund. The purpose of the fund is to fulfill
10 obligations associated with authorizing a charter school pursuant to this chapter. Interest
11 on moneys credited to the fund must remain in the fund. Moneys deposited in the fund
12 must be appropriated in the general appropriation bill.