

HOUSE BILL NO. 549

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BARKER

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF PUBLIC CHARTER
SCHOOLS AND DISTRICTS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL OPPORTUNITIES;
PROVIDING LEGISLATIVE FINDINGS AND INTENT; DEFINING "PUBLIC CHARTER SCHOOL" AND
PROVIDING OTHER DEFINITIONS; PRESCRIBING DUTIES FOR THE BOARD OF PUBLIC EDUCATION
AND REQUIRED ELEMENTS OF CHARTER APPLICATIONS AND CHARTER CONTRACTS;
ESTABLISHING REPORTING REQUIREMENTS; PROVIDING ENROLLMENT AND GOVERNANCE
REQUIREMENTS FOR PUBLIC CHARTER SCHOOLS; PROVIDING FOR THE CREATION, RENEWAL,
REVOCATION, AND CLOSURE OF PUBLIC CHARTER SCHOOLS; PROVIDING FOR PERFORMANCE
MEASURES FOR PUBLIC CHARTER SCHOOLS; PROVIDING FOR FUNDING OF PUBLIC CHARTER
SCHOOLS; ESTABLISHING THE PUBLIC CHARTER SCHOOL ACCOUNT; AND PROVIDING AN
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 14] may be cited as the "Public Charter
Schools Act".

NEW SECTION. **Section 2. Public charter schools -- legislative findings and intent.** (1) The
legislature finds that:

- (a) parents desire education options for their children;
- (b) expanding educational opportunities for K-12 education within the state is a necessary and
valid public purpose; and
- (c) creating options that assist parents and encourage students to develop their full educational

1 potential is vital to the economic competitiveness of the state.

2 (2) It is the legislature's intent to establish public charter schools THAT ARE UNDER THE SUPERVISION
3 AND CONTROL OF TRUSTEES WHO ARE ELECTED BY QUALIFIED ELECTORS PURSUANT TO ARTICLE IV, SECTION 2, AND
4 ARTICLE X, SECTION 8, OF THE MONTANA CONSTITUTION for the purposes of:

5 (a) enhancing Montana's system of education to develop the full educational potential of each
6 person;

7 (b) enabling parents to make decisions on how best to educate their children;

8 (c) providing other public educational opportunities for all students, especially those at risk of
9 academic failure;

10 (d) encouraging and inspiring the use of different models of teaching, governing, scheduling, and
11 providing instruction in both public charter schools and noncharter public schools to meet a variety of student
12 needs; ~~and~~

13 (e) advancing Montana's commitment to the preservation of American Indian cultural identity,
14 pursuant to Article X, section 1(2), of the Montana constitution, and to the elimination of the American Indian
15 achievement gap by encouraging students, parents, and community members in Indian country to pursue
16 alternative educational opportunities through public charter schools; AND

17 (F) ENSURING ACCOUNTABILITY TO THE QUALIFIED ELECTORS AND TAXPAYERS IN THE COMMUNITY IN
18 WHICH THE CHARTER SCHOOL IS LOCATED.

19 (3) It is the legislature's intent to create ~~a limited number of~~ innovative and high-performing public
20 charter schools under the general supervision of the board of public education AND UNDER THE SUPERVISION AND
21 CONTROL OF TRUSTEES OF THE GOVERNING BOARD WHO ARE ELECTED BY QUALIFIED ELECTORS IN THE COMMUNITY
22 WHERE THE CHARTER SCHOOL IS LOCATED.

23
24 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 14], unless the context
25 clearly indicates otherwise, the following definitions apply:

26 (1) "Applicant" means a group of residents of the located school district or county of the located
27 school district or the local school board of the located school district that submits a proposal for a public charter
28 school to the board of public education.

1 (2) "Board of public education" means the board created by Article X, section 9(3), of the Montana
2 constitution and 2-15-1507. For the purposes of public charter schools established under [sections 1 through
3 14], the board of public education is the sole entity authorized to enter into charter contracts with a governing
4 board.

5 (3) "Charter contract" means a fixed-term, renewable contract between a governing board of a
6 public charter school and the board of public education that outlines the roles, powers, responsibilities, and
7 performance expectations for each party to the contract.

8 (4) "Governing board" means the ~~independent~~ ELECTED board of trustees of a public charter school
9 DISTRICT EXERCISING SUPERVISION AND CONTROL OVER A CHARTER SCHOOL or the local school board that is a party
10 to the charter contract with the board of public education and that exercises supervision and control over a
11 charter school pursuant to the charter contract.

12 (5) "Local school board" means a PREEXISTING board of trustees exercising supervision and control
13 of the schools and programs of a local school district pursuant to Article X, section 8, of the Montana
14 constitution and the laws of the state of Montana.

15 (6) "Located school district" means the school district in which a proposed, preoperational, or
16 operational public charter school is located AND FROM WHICH THE SEPARATE BOUNDARIES OF THE CHARTER SCHOOL
17 DISTRICT ARE PROPOSED TO BE FORMED. WHEN A CHARTER SCHOOL DISTRICT IS FORMED, THE BOUNDARIES OF THE
18 CHARTER SCHOOL DISTRICT ARE REMOVED FROM THE TERRITORY OF THE LOCATED SCHOOL DISTRICT.

19 (7) "Noncharter public school" means a public school that is under the supervision and control of a
20 local school board or the state and is not operating under a charter contract pursuant to [section 6].

21 (8) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

22 (9) "Public charter school" means a public school that:

23 (a) has autonomy over decisions including but not limited to matters concerning finance,
24 personnel, scheduling, curriculum, and instruction as defined in a charter contract;

25 (b) is governed by a LOCAL SCHOOL BOARD OR, IN THE CASE OF A governing board OTHER THAN A
26 LOCAL SCHOOL BOARD, BY THE GOVERNING BOARD OF THE CHARTER SCHOOL DISTRICT OF WHICH THE CHARTER
27 SCHOOL IS A PART;

28 (c) is established and operated under the terms of a charter contract;

- 1 (d) allows parents choose to enroll their children;
- 2 (e) admits students on the basis of a lottery if more students apply for admission than can be
- 3 accommodated;
- 4 (f) provides a program of education that may include any or all grades from kindergarten through
- 5 grade 12 and vocational education programs;
- 6 (g) operates in pursuit of a specific set of educational objectives as defined in its charter contract;
- 7 (h) operates under the general supervision of the board of public education in accordance with its
- 8 charter contract; and
- 9 (i) if the school is a high school, establishes graduation requirements and has authority to award
- 10 degrees and issue diplomas.

11 (10) "Resident school district" means the public school district in which a student resides.

12 (11) "Student" means a child who is eligible for attendance in a public school in the state.

13

14 **NEW SECTION. Section 4. Board of public education responsibilities.** (1) In accordance with

15 [sections 1 through 14], the board of public education is responsible for executing the following essential

16 powers and duties:

- 17 (a) soliciting and evaluating charter proposals;
- 18 (b) approving charter proposals that meet identified educational needs and promote a diversity of
- 19 educational choices, including but not limited to:
 - 20 (i) increasing standards for student achievement;
 - 21 (ii) closing achievement gaps between high-performing and low-performing groups of public
 - 22 school students;
 - 23 (iii) increasing educational opportunities within the public education system;
 - 24 (iv) providing alternative learning environments for students who are not thriving in traditional
 - 25 school settings;
 - 26 (v) lowering the dropout rate;
 - 27 (vi) creating new professional opportunities for teachers and other school personnel;
 - 28 (vii) encouraging the use of different models of teaching and learning; and

- 1 (viii) providing students, parents, community members, and local entities with expanded
2 opportunities for involvement in the public education system;
- 3 (c) denying approval of charter proposals that fail to provide clear and convincing proof of their
4 likelihood of success;
- 5 (d) negotiating and executing sound charter contracts with each approved public charter school;
- 6 (e) monitoring approved public charter schools' performance and legal compliance with charter
7 contract terms; and
- 8 (f) determining whether each charter contract merits renewal, nonrenewal, or revocation.
- 9 (2) On or before December 1 of each year, beginning in the first year that a public charter school
10 has been in operation for a full school year, the board of public education shall publish to the board's website
11 and submit to the legislature in accordance with 5-11-210 an annual report on the state's public charter schools
12 for the school year ending in the preceding calendar year. The annual report must include:
- 13 (a) a comparison of the performance of public charter school students with the performance of
14 academically, ethnically, and economically comparable groups of students in noncharter public schools; and
- 15 (b) the board's assessment of the successes, challenges, and areas for improvement in meeting
16 the purposes of [sections 1 through 14], including the board's assessment of the sufficiency of funding for public
17 charter schools and any suggested changes in state law or policy necessary to strengthen the state's public
18 charter schools.

19

20 **NEW SECTION. Section 5. Public charter school proposal process.** (1) To solicit, encourage, and
21 guide the development of public charter schools, the board of public education shall issue and broadly publicize
22 a request for proposal by October 1 in 2023 and by June 1 of each year thereafter. The content and
23 dissemination of the request for proposal must be consistent with the purposes and requirements of [sections 1
24 through 14].

- 25 (2) The request for proposal must include:
- 26 (a) the criteria that will guide the board's decision to approve or deny a charter proposal;
- 27 (b) clear and detailed questions designed to gauge an applicant's capacity to establish and
28 operate a successful public charter school, as well as guidelines concerning the format and content of an

1 applicant's response to the request for proposal.

2 (3) A request for proposal must require applicants to describe thoroughly the following essential
3 elements of their public charter school proposal:

4 (a) an executive summary;

5 (b) the mission and vision of the proposed public charter school, including identification of the
6 targeted student population and the community the school proposes to serve;

7 (c) the school district in which the public charter school is proposed to be located and operate;

8 (d) the grades to be served each year for the full term of the charter contract;

9 (e) the minimum, planned, and maximum enrollment per year for the term of the charter contract;

10 (f) specific evidence:

11 (i) of significant community support for the proposed public charter school; and

12 (ii) for an applicant that is not a local school board:

13 (A) that the applicant has sought from the local school board the creation of a school or program of
14 the located school district serving the mission and vision of the proposed public charter school; ~~and~~

15 (B) the local school board declined to create the school or program or submit to the board of public
16 education a proposal for the creation of a public charter school consistent with the mission and vision of the
17 proposed public charter school; AND

18 (C) A LEGAL DESCRIPTION OF THE PROPERTY OF THE EXISTING SCHOOL DISTRICT FROM WHICH THE
19 BOUNDARIES OF THE CHARTER SCHOOL DISTRICT ARE PROPOSED TO BE FORMED;

20 (g) for an applicant that is not a local school board, background information on the initial governing
21 board members and, if identified, the proposed school leadership and management team;

22 (h) the proposed public charter school's proposed calendar and sample daily schedule;

23 (i) a description of the academic program, including:

24 (i) plans to formally assess student achievement on an annual basis; and

25 (ii) variances to existing standards that the proposed public charter school requires;

26 (j) a description of the proposed public charter school's instructional design, including the type of
27 learning environment, class size and structure, curriculum overview, and teaching methods;

28 (k) the proposed public charter school's plans for identifying and successfully serving students with

- 1 disabilities, students who are English language learners, students who are academically challenged, and gifted
2 students, including but not limited to compliance with applicable laws and regulations;
- 3 (l) a description of cocurricular or extracurricular programs, if any, and how the programs will be
4 funded and delivered;
- 5 (m) plans and timelines for student recruitment and enrollment, including lottery procedures;
- 6 (n) the proposed public charter school's student discipline policies, including those for special
7 education students;
- 8 (o) an organizational chart that clearly presents the proposed public charter school's organizational
9 structure, including lines of authority and reporting between the governing board, staff, related bodies such as
10 advisory bodies or parent and teacher councils, and external organizations that will play a role in managing the
11 school;
- 12 (p) a clear description of the roles and responsibilities for the governing board, the proposed public
13 charter school's leadership and management team, and other entities shown in the organizational chart;
- 14 (q) a staffing chart for the proposed public charter school's first year and a staffing plan for the
15 term of the charter;
- 16 (r) plans for recruiting and developing school leadership and staff;
- 17 (s) the proposed public charter school's leadership and teacher employment policies, including
18 performance evaluation plans;
- 19 (t) proposed governing bylaws;
- 20 (u) explanations of any partnerships or contractual relationships central to the proposed public
21 charter school's operations or mission;
- 22 (v) the proposed public charter school's plans for providing transportation, food service, and all
23 other significant operational or ancillary services, if any;
- 24 (w) opportunities and expectations for parent involvement;
- 25 (x) a detailed school startup plan, identifying tasks, timelines, and responsible individuals;
- 26 (y) a description of the proposed public charter school's financial plan and policies, including
27 financial controls and audit requirements;
- 28 (z) a description of the insurance coverage the proposed public charter school will obtain;

- 1 (aa) startup and 5-year budgets with clearly stated assumptions;
 - 2 (bb) startup and first-year cash flow projections with clearly stated assumptions;
 - 3 (cc) evidence of anticipated fundraising contributions, if claimed in the proposal; and
 - 4 (dd) a sound facilities plan, including backup or contingency plans, if appropriate.
- 5 (4) If a public charter school proposal does not contain the elements required in subsection (3), the
6 board shall consider the proposal incomplete and return the proposal to the applicant without taking further
7 action.

8 (5) In reviewing and evaluating charter proposals, the board shall employ procedures, practices,
9 and criteria consistent with nationally recognized best practices, principles, and standards for the authorization
10 of public charter schools. The proposal review process must include thorough evaluation of each written charter
11 proposal, an in-person interview with the applicant, and an opportunity in a public forum for local residents to
12 learn about and provide input on each proposal.

13 (6) In deciding whether to approve charter proposals, the board shall:

- 14 (a) grant charters only to applicants that have demonstrated competence in each element of the
15 board's published approval criteria and are likely to open and operate a successful public charter school;
- 16 (b) base decisions on documented evidence collected through the proposal review process;
- 17 (c) for an applicant that is not a local school board, request input from the ~~local school board~~

18 QUALIFIED ELECTORS of the located school district regarding:

- 19 ~~(i) the district's ability to create a school or program similar to what the applicant is proposing and~~
20 ~~plans to do so; and~~
- 21 ~~(ii) the district's concerns, financial or otherwise, about the applicant's proposal being approved;~~
- 22 (d) follow charter-granting policies and practices that are transparent and are based on merit and
23 avoid conflicts of interest or any appearance of conflict; and
- 24 (e) weigh heavily the evidence of community support, the projected student enrollment, and the
25 input received under subsection (6)(c) and only approve charters whose promise of improved educational
26 outcomes outweighs potential increased costs to state and local taxpayers.

27 (7) (a) The board shall approve or deny a charter proposal within 90 days after the filing of the
28 charter proposal. WHEN APPROVAL IS GRANTED TO A GOVERNING BOARD OTHER THAN A LOCAL SCHOOL BOARD, THE

1 APPROVAL CONSTITUTES CORRESPONDING APPROVAL OF THE CREATION OF A SEPARATE CHARTER SCHOOL DISTRICT,
2 THE BOUNDARIES FOR WHICH CONSIST OF THE LEGAL DESCRIPTION OF THE CAMPUS OF THE CHARTER SCHOOL. THESE
3 BOUNDARIES MUST BE REMOVED FROM THE BOUNDARIES OF THE LOCATED SCHOOL DISTRICT FOR THE PURPOSE OF
4 ESTABLISHING A DISTINCT BOUNDARY FOR THE CHARTER SCHOOL DISTRICT THAT IS SUBJECT TO EXCLUSIVE
5 SUPERVISION AND CONTROL BY THE GOVERNING BOARD OF THE CHARTER SCHOOL DISTRICT.

6 (b) The board shall adopt by resolution all charter approval or denial decisions in an open meeting.

7 (c) An approval decision may include, if appropriate, reasonable conditions that the applicant must
8 meet before a charter contract may be executed pursuant to [section 6].

9 (d) For any charter denial, the board shall clearly state for the public record the reasons for denial.

10

11 NEW SECTION. Section 6. Charter contract -- terms. (1) An initial charter must be granted for a
12 term of 5 operating years, commencing on July 1 of the first school year the public charter school will operate.
13 An approved public charter school may delay its opening for 1 school year to plan and prepare for the school's
14 opening. If the school requires an opening delay of more than 1 school year, the school shall request an
15 extension from the board of public education. The board of public education may grant or deny the extension
16 depending on the school's circumstances.

17 (2) Within 45 days of approval of a charter proposal, the board of public education and the
18 governing board of the approved public charter school DISTRICT shall execute a charter contract that clearly sets
19 forth the academic and operational performance expectations and measures by which the public charter school
20 will be judged.

21 (3) The performance provisions of the charter contract may be refined or amended by mutual
22 agreement after the public charter school is operating and has collected baseline achievement data for its
23 enrolled students.

24 (4) The charter contract must be signed by the presiding officers of the board of public education
25 and the public charter school's governing board.

26 (5) A public charter school may not commence operations without a charter contract executed in
27 accordance with this section and approved in an open meeting of the board of public education.

28 (6) The board of public education may establish reasonable preopening requirements or conditions

1 to monitor the startup progress of a newly approved public charter school to ensure that the school is prepared
2 to open smoothly on the date agreed and to ensure that each school meets all building, health, safety,
3 insurance, and other legal requirements for school opening.

4

5 NEW SECTION. Section 7. Governing board -- initial board -- elections -- terms. (1) Subsections
6 (2) through (5) apply to a public charter school not governed by the local school board.

7 (2) The governing board of a public charter school DISTRICT must be composed of ~~either 3, 5, or 7~~
8 members ~~and the number of members must be included in the charter contract.~~ THE BOUNDARIES OF THE
9 CHARTER SCHOOL DISTRICT CONSIST OF THE LEGAL DESCRIPTION OF THE CAMPUS OF THE CHARTER SCHOOL. A
10 majority of the governing board members must be qualified electors of the county in which the public charter
11 school is located. Members must:

12 (a) be qualified ~~to vote~~ ELECTORS in the county in which the public charter school is located or a
13 contiguous county but need not be qualified electors of the LOCATED school district ~~in which the public charter~~
14 ~~school is located~~; and

15 (b) possess documented knowledge or experience in the mission or focus of the public charter
16 school.

17 (3) An applicant for a proposed public charter school shall identify the members of the initial
18 governing board OF THE CHARTER SCHOOL DISTRICT OF WHICH THE CHARTER SCHOOL IS A PART in the proposal
19 submitted to the board of public education. The initial governing board is responsible for preoperation of and
20 initial operation of the public charter school.

21 (4) At the regular school election in the first year of operation of a public charter school, members
22 must be elected BY THE QUALIFIED ELECTORS OF THE LOCATED SCHOOL DISTRICT in the same manner as local
23 school boards, except as provided in subsections (2) and (5), in an election conducted by the local school
24 board in the school district in which the public charter school is located. Any elector qualified to vote in the
25 LOCATED school district under the provisions of 20-20-301 may vote.

26 (5) Members of governing boards serve for terms of 5 years, and the terms of members must be
27 staggered to ensure continuity on the governing board.

28 (6) If the governing board of a public charter school is the local school board, the governing board

1 shall establish and appoint members of an advisory board to provide recommendations and insight regarding
2 the public charter school's operations. Members of the advisory board must include members with knowledge
3 or experience in the mission or focus of the public charter school.

4
5 **NEW SECTION. Section 8. Enrollment.** (1) (a) A public charter school must be open to any student
6 residing in the state.

7 (b) A school district may not require a student enrolled in the school district to attend a public
8 charter school.

9 (c) A public charter school may limit admission to students within a given age group or grade level.

10 (d) A public charter school may be organized for a special emphasis, theme, or concept as stated
11 in the school's proposal.

12 (e) A public charter school shall enroll all students who wish to attend the school unless the
13 number of students exceeds the capacity of a program, class, grade level, or building.

14 (f) If capacity is insufficient to enroll all students who wish to attend the school, the public charter
15 school shall select students through a lottery.

16 (2) (a) A public charter school shall give enrollment preference to students who are residents of the
17 located school district.

18 (b) A public charter school may give enrollment preference to:

19 (i) students who were enrolled in the public charter school the previous school year and to siblings
20 of students already enrolled in the public charter school. An enrollment preference for returning students
21 excludes those students from entering a lottery.

22 (ii) children of members of a public charter school's governing board and full-time employees,
23 limited to no more than 10% of the school's total student population.

24 (3) This section does not preclude the formation of a public charter school for the purpose of
25 serving students with disabilities, students of the same gender, students who pose a sufficiently severe
26 disciplinary problem to warrant a specific educational program, or students who are at risk of academic failure.
27 If capacity is insufficient to enroll all students who wish to attend such a school, the public charter school shall
28 select students through a lottery.

1 (4) If a student who was previously enrolled in a public charter school enrolls in any other public
2 school in this state, the student's new school shall accept credits earned by the student in courses or
3 instructional programs at the public charter school.

4 (5) A school district shall provide or publicize to parents and the general public information about
5 public charter schools as an enrollment option within the district to the same extent and through the same
6 means that the district provides and publicizes information about noncharter public schools in the district.

7 (6) The board of public education may not restrict the number of students a public charter school
8 may enroll. The capacity of the public charter school must be determined annually by ~~its~~THE governing board in
9 consideration of the public charter school's ability to facilitate the academic success of its students, to achieve
10 the objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the
11 capacity of its facility or site.

12

13 NEW SECTION. Section 9. Charter school performance and renewal. (1) The performance
14 provisions within the charter contract must be based on a performance framework that clearly sets forth the
15 academic and operational performance indicators, measures, and metrics that will guide the board of public
16 education's evaluations of each public charter school. The performance framework must include indicators,
17 measures, and metrics for, at a minimum:

- 18 (a) student academic proficiency;
- 19 (b) student academic growth;
- 20 (c) achievement gaps in both proficiency and growth between major student subgroups;
- 21 (d) attendance;
- 22 (e) recurrent enrollment from year to year;
- 23 (f) postsecondary readiness;
- 24 (g) financial performance and sustainability; and
- 25 (h) governing board performance and stewardship, including compliance with all applicable laws,
26 regulations, and terms of the charter contract.

27 (2) Each public charter school shall set annual performance targets designed to help each school
28 meet applicable federal, state, and board of public education expectations.

1 (3) (a) The contract performance framework must allow the inclusion, with the board of public
2 education's approval, of additional rigorous, valid, and reliable indicators proposed by a public charter school to
3 augment external evaluations of its performance that are consistent with the purposes of [sections 1 through
4 14].

5 (b) The board of public education shall collect and analyze data from each public charter school it
6 oversees in accordance with the performance framework.

7 (c) Multiple schools operating under a single charter contract or overseen by a single governing
8 board OF A CHARTER SCHOOL DISTRICT shall report their performance as separate, individual schools. Each
9 school must be held independently accountable for its performance.

10 (4) (a) The board of public education shall monitor the performance and legal compliance of each
11 public charter school DISTRICT AND EACH PUBLIC CHARTER SCHOOL, including collecting and analyzing data to
12 support ongoing evaluation according to the charter contract. The board of public education has the authority to
13 conduct or require oversight activities that do not unduly inhibit the autonomy granted to public charter schools
14 AND THE SUPERVISION AND CONTROL OF A PUBLIC CHARTER SCHOOL'S GOVERNING BOARD but that enable the board
15 to fulfill its responsibilities under [sections 1 through 14], including conducting appropriate inquiries and
16 investigations consistent with the intent of [sections 1 through 14], and to adhere to the terms of the charter
17 contract.

18 (b) The board of public education shall annually publish a performance report for each public
19 charter school within the performance framework set forth in the charter contract and [section 10]. The board
20 may require each public charter school it oversees to submit an annual report to assist the board in gathering
21 complete information about each school, consistent with the performance framework.

22 (c) In the event that a public charter school's performance or legal compliance appears
23 unsatisfactory, the board of public education shall promptly notify the ~~public charter school~~ GOVERNING BOARD of
24 the perceived problem and provide a reasonable opportunity for the school to remedy the problem.

25 (d) The board of public education may take appropriate corrective action or exercise sanctions
26 short of revocation in response to apparent deficiencies in public charter school performance or legal
27 compliance. The action or sanctions may include, if warranted, requiring a ~~public charter school~~ GOVERNING
28 BOARD to develop and execute a corrective action plan within a specified timeframe.

1 (5) (a) A charter may be renewed for successive 5-year terms, although the board of public
2 education may vary the term based on the performance, demonstrated capacities, and particular circumstances
3 of each public charter school. The board may grant renewal with specific conditions for necessary improvement
4 to a public charter school.

5 (b) No later than June 30 of each year, the board of public education shall issue a public charter
6 school performance report and charter renewal application guide to THE GOVERNING BOARD OF any public charter
7 school whose charter will expire the following year. The performance report must summarize the public charter
8 school's performance record to date, based on the data required by [sections 1 through 14] and the charter
9 contract, and must provide notice of any weaknesses or concerns perceived by the board concerning the public
10 charter school that may jeopardize renewal if not promptly rectified. The public charter school shall respond to
11 the performance report and submit any corrections or clarifications within 90 days.

12 (6) The renewal application guide must, at a minimum, provide an opportunity for the GOVERNING
13 BOARD OF THE public charter school to:

14 (a) present additional evidence, beyond the data contained in the performance report, supporting
15 its case for charter renewal;

16 (b) describe improvements undertaken or planned for the public charter school; and

17 (c) detail the public charter school's plans for the next charter term.

18 (7) The renewal application guide must include or refer explicitly to the criteria that will guide the
19 board's renewal decisions, based on the performance framework set forth in the charter contract and consistent
20 with [sections 1 through 14].

21 (8) (a) No later than February 1, the governing board of a public charter school seeking renewal
22 shall submit a renewal application to the board of public education pursuant to the renewal application guide.
23 The board of public education shall rule by resolution on the renewal application no later than 30 days after the
24 filing of the renewal application.

25 (b) When considering charter renewal, the board of public education shall:

26 (i) base its decision on evidence of the school's performance over the term of the charter contract
27 in accordance with the performance framework set forth in the charter contract;

28 (ii) ensure that the data used in making renewal decisions is available to the school and the public;

1 and

2 (iii) provide a public report summarizing the basis for each decision.

3

4 **NEW SECTION. Section 10. Charter contract revocation and school closure or charter contract**
5 **nonrenewal.** (1) A charter contract may be subject to nonrenewal or revocation if the board of public education
6 determines that the public charter school:

7 (a) committed a material and substantial violation of any of the terms, conditions, standards, or
8 procedures required under [sections 1 through 14] or the charter contract and from which the public charter
9 school was not exempted;

10 (b) failed to meet or make sufficient progress toward the performance expectations set forth in the
11 charter contract;

12 (c) failed to meet public safety standards; or

13 (d) failed to meet generally accepted standards of fiscal management.

14 (2) The board of public education shall develop revocation and nonrenewal processes that:

15 (a) provide the governing board with timely notification of the prospect of revocation or nonrenewal
16 and of the reasons for the possible closure;

17 (b) allow the governing board a reasonable amount of time in which to prepare a response;

18 (c) provide the governing board an opportunity to submit documents and testimony at a hearing to
19 challenge the rationale for the closure recommendation and in support of the continuation of the school;

20 (d) allow the governing board to be represented by counsel and call witnesses on their behalf;

21 (e) permit the recording of the proceedings; and

22 (f) provide for a final determination conveyed in writing to the governing board.

23 (3) If the board of public education revokes or denies renewal of a charter, the board shall clearly
24 state, by resolution, the reasons for the revocation or nonrenewal.

25 (4) Within 10 days of taking action to renew, not renew, or revoke a charter, the board of public
26 education shall provide a copy of the resolution setting forth the action taken and reasons for the decision.

27 (5) (a) Prior to a public charter school closure, the board of public education shall develop a public
28 charter school closure protocol to ensure timely notification to parents, orderly transition of students and student

1 records to new schools, and proper disposition of school funds, property, and assets in accordance with the
2 requirements of [sections 1 through 14]. The protocol must specify responsible parties, transition and closure
3 timelines, and a delineation of the respective duties of THE GOVERNING BOARD OF the public charter school and
4 the board of public education.

5 (b) The board of public education shall oversee the closure and work with THE GOVERNING BOARD
6 OF the public charter school to ensure a smooth and orderly closure and transition for students and parents.

7 (c) In the event of a public charter school closure for any reason, the nonrestricted distributable
8 assets of the public charter school must be distributed first to satisfy outstanding payroll obligations for
9 employees of the public charter school, then to creditors of the public charter school, then to public school
10 districts to which students previously attending the closed charter school are returning on a prorated per-pupil
11 basis, and then to the state general fund. If the assets of the public charter school are insufficient to pay all
12 obligations, the prioritization of the distribution of assets may be determined by a court of law.

13
14 **NEW SECTION. Section 11. Public charter school operation and autonomy.** (1) (a) A public
15 charter school must be a public education organization.

16 (b) A public charter school is subject to all federal laws and authorities as provided in [sections 1
17 through 14] or arranged by charter contract with the board of public education consistent with applicable laws,
18 rules, and regulations.

19 (c) Except as provided in [sections 1 through 14] and in the public charter school's charter
20 contract, a public charter school is subject to the provisions of Title 20 and any state or local rule, regulation,
21 policy, or procedure relating to noncharter public schools within the located school district.

22 (d) A single governing board may hold one or more charter contracts. A charter contract may
23 consist of one or more schools, to the extent approved by the board of public education and consistent with
24 applicable law. Each public charter school that is part of a charter ~~contract is separate and distinct from any~~
25 ~~other public charter school.~~ SCHOOL DISTRICT MUST BE UNDER THE SUPERVISION AND CONTROL OF THE GOVERNING
26 BOARD OF THE CHARTER SCHOOL DISTRICT.

27 (2) A public charter school DISTRICT OR PUBLIC CHARTER SCHOOL may not be created within the
28 geographical boundaries of a third-class elementary district, as defined in 20-6-201, or a third-class high school

1 district, as defined in 20-6-301, unless the applicant is the local school board.

2 (3) ~~A-THE GOVERNING BOARD OF A~~ public charter school shall function as a local educational agency.
3 A public charter school is responsible for meeting the requirements of a local educational agency under
4 applicable federal, state, and local laws, including those relating to special education.

5 (4) ~~A-THE GOVERNING BOARD OF A~~ public charter school is responsible for special education at the
6 school, including identification and service provisions, and is responsible for meeting the needs of enrolled
7 students with disabilities.

8 (5) ~~A-THE GOVERNING BOARD OF A~~ public charter school DISTRICT has all the powers necessary for
9 carrying out the terms of its charter contract, including the following powers:

- 10 (a) to receive and disburse funds for school purposes;
- 11 (b) to secure appropriate insurance and to enter into contracts and leases, free from prevailing
12 wage laws;
- 13 (c) to incur debt in reasonable anticipation of the receipt of public or private funds;
- 14 (d) to pledge, assign, or encumber its assets to be used as collateral for loans or extensions of
15 credit;
- 16 (e) to solicit and accept gifts or grants for school purposes subject to applicable laws and the terms
17 of its charter contract;
- 18 (f) to acquire real property, for use as its facility or facilities, from public or private sources; and
19 (g) to sue and be sued in its own name.

20 (6) (a) A public charter school may not engage in any sectarian practices in its educational
21 program, admissions policies, employment policies or practices, or operations.

22 (b) The powers, obligations, and responsibilities set forth in the charter contract may not be
23 delegated or assigned by either party except as otherwise specifically provided in [sections 1 through 14].

24 (7) (a) A public charter school is subject to the same civil rights, health, and safety requirements
25 applicable to other public schools in the state except as otherwise specifically provided in [sections 1 through
26 14].

27 (b) The governing board shall establish graduation requirements and may award degrees and
28 issue diplomas.

1 (c) A governing board is subject to and shall comply with state open meeting and public records
2 laws pursuant to Title 2, chapters 3 and 6.

3 (d) A public charter school shall establish purchasing procedures that include a competitive
4 bidding process for purchases or contracts exceeding \$80,000.

5 (8) (a) Employees in public charter schools have the same rights and privileges as other public
6 school employees except as otherwise provided in [sections 1 through 14].

7 (b) Teachers and other school personnel, as well as governing board members, are subject to
8 criminal history record checks and fingerprinting requirements.

9 (c) Public charter school employees may not be required to be members of any existing collective
10 bargaining agreement between a school district and its employees. However, a public charter school may not
11 interfere with laws and other applicable rules protecting the rights of employees to organize and to be free from
12 discrimination.

13
14 **NEW SECTION. Section 12. Funding for public charter schools.** (1) It is the intent of the
15 legislature that a public charter school receive operational funding on a per-pupil basis that is equitable with the
16 per-pupil funding ~~within the general fund~~ of the located school district.

17 (2) (a) For budgeting and funding purposes, WHEN A PUBLIC CHARTER SCHOOL IS OPERATED BY A
18 LOCAL SCHOOL BOARD, a public charter school must be considered a separate budget unit of the located school
19 district, ~~and~~ must have its ANB calculated separately from other budget units of the district, ~~and, except as~~
20 ~~provided in subsection (2)(b),~~ MUST receive a basic entitlement calculated separately from other budget units of
21 the district WHEN ITS ANB IS GREATER THAN:

22 (i) 70 FOR AN ELEMENTARY SCHOOL OR PROGRAM;

23 (ii) 20 FOR A MIDDLE SCHOOL OR PROGRAM; OR

24 (iii) 40 FOR A HIGH SCHOOL OR PROGRAM.

25 (B) WHEN A PUBLIC CHARTER SCHOOL DISTRICT EXISTS, FUNDING OF THE PUBLIC CHARTER SCHOOL
26 DISTRICT MUST BE DISTRIBUTED AS BASE AID, EXCEPT AS PROVIDED IN SUBSECTION (2)(C), AT 80% OF THE BASIC
27 ENTITLEMENT, 80% OF THE TOTAL PER-ANB ENTITLEMENT, 100% OF THE TOTAL QUALITY EDUCATOR PAYMENT, 100%
28 OF THE TOTAL AT-RISK STUDENT PAYMENT, 100% OF THE TOTAL INDIAN EDUCATION FOR ALL PAYMENT, 100% OF THE

1 TOTAL AMERICAN INDIAN ACHIEVEMENT GAP PAYMENT, 100% OF THE TOTAL DATA-FOR-ACHIEVEMENT PAYMENT, AND
2 140% OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT. THE TOTAL AMOUNT OF FUNDING RECEIVED BY A PUBLIC
3 CHARTER SCHOOL DISTRICT UNDER THIS SUBSECTION (2)(B) IS BOTH THE MINIMUM AMOUNT AND THE MAXIMUM AMOUNT
4 OF PUBLIC FUNDING FOR THE PUBLIC CHARTER SCHOOL DISTRICT.

5 ~~(b)~~(c) A public charter school DISTRICT is not eligible for a basic entitlement unless its ANB is greater
6 than:

- 7 (i) 70 for an elementary school or program;
8 (ii) 20 for a middle school or program; ~~and~~ OR
9 (iii) 40 for a high school or program.

10 ~~(3) — The appropriate funding entity shall transfer to the public charter school's account from the~~
11 ~~located school district's general fund account by the fifth day of each month from September through June of~~
12 ~~the school fiscal year an amount equal to the sum of 10% of:~~

13 ~~(a) — 80% of the public charter school's basic entitlement amount under 20-9-306 if the public charter~~
14 ~~school is eligible under subsection (2)(b) ; and~~

15 ~~(b) — the student amount for the located school district multiplied by:~~

16 ~~(i) — in the first year of operation, the public charter school's enrollment as of June 1; and~~

17 ~~(ii) — in the second and subsequent years of operation, the public charter school's current year ANB~~
18 ~~plus any additional ANB for enrollment increases pursuant to 20-9-166.~~

19 ~~(4)~~(3) Students attending a public charter school GOVERNED BY A LOCAL SCHOOL BOARD who are not
20 residents of the located school district generate funding in the same manner as other nonresident students
21 attending a school of the located district under an out-of-district attendance agreement pursuant to Title 20,
22 chapter 5, part 3;

23 ~~(5)~~(4) A public charter school ~~may charge only~~ DISTRICT IS PROHIBITED FROM CHARGING tuition and fees
24 ~~as those charged by noncharter public schools in the state.~~

25 ~~(6)~~(5) For a public charter school that is not governed by the local school board, the county treasurer
26 of the county in which a public charter school is located shall establish funds for the public charter school
27 separate from the funds of the located school district.

28 ~~(7)~~(6) The governing board of a public charter school shall report annually on the financial activities of

1 the public charter school in the manner prescribed in 20-9-213(6).

2 ~~(8)(7)~~ A public charter school DISTRICT may obligate the public charter school DISTRICT to
3 indebtedness and is solely responsible for those debts. A public charter school DISTRICT is not responsible for
4 any debt service obligations that exist in the LOCATED school district in which the public charter school is
5 located.

6 ~~(9)(8)~~ Nothing in [sections 1 through 14] may be construed to prohibit any person or organization
7 from providing funding or other assistance for the establishment or operation of a public charter school. The
8 governing board of a public charter school is authorized to accept gifts or donations of any kind made to the
9 public charter school and to expend or use the gifts or donations in accordance with the conditions prescribed
10 by the donor. A gift or donation may not be accepted if the gift or donation is subject to a condition that is
11 contrary to any provision of law or term of the charter contract.

12 ~~(10)(9)~~ Money received by a public charter school from any source and remaining in the public charter
13 school's accounts at the end of a budget year must remain in the public charter school's accounts for use by the
14 public charter school in subsequent years.

15 ~~(11)~~ For the purposes of this section, the following definitions apply:

16 ~~(a)~~ "Appropriate funding entity" means:

17 ~~(i)~~ for a school district in which the county treasurer receives state K-12 funding, the county
18 treasurer; and

19 ~~(ii)~~ for a school district that receives state K-12 funding directly, the school district.

20 ~~(b)~~ "Located school district" means the school district in which a charter school is located.

21 ~~(c)~~ "Student amount" means the sum of:

22 ~~(i)~~ the per-ANB rate for the total data-for-achievement payment rate under 20-9-306;

23 ~~(ii)~~ the per-ANB rate for the total Indian education for all payment rate under 20-9-306;

24 ~~(iii)~~ 140% of the per-ANB amounts of the instructional block grant and related services block grant
25 under 20-9-321; and

26 ~~(iv)~~ the applicable per-ANB maximum rate established in 20-9-306 for the public charter school
27 student multiplied by the ratio, rounded to the nearest 1/100 and not to exceed 1.00, of the located school
28 district's adopted general fund budget to its maximum general fund budget in the prior year.

1
2 **NEW SECTION. Section 13. Public charter school access to district facilities and land.** (1) A
3 public charter school DISTRICT has a right of first refusal to purchase or lease at or below fair market value a
4 closed public school facility or property or an unused portion of a public school facility or property within the
5 located school district.

6 (2) A public charter school DISTRICT may negotiate and contract at or below fair market value with a
7 school district, the governing body of a college or university or community college, or any other public entity or
8 for-profit or nonprofit private entity for the use of a facility for a school building.

9 (3) All applicable laws governing the sale or disposition of property of a school district under 20-6-
10 604 apply to this section.

11
12 **NEW SECTION. Section 14. Public charter school account.** (1) There is a public charter school
13 account in the state special revenue fund provided for in 17-2-102 and administered by the board of public
14 education. The purpose of the account is for the receipt and expenditure of gifts, grants, legacies, devises, and
15 donations given specifically to support the creation and operation of public charter schools created under
16 [sections 1 through 14].

17 (2) All donations must be from a private source and may not be expended for any purpose other
18 than for the benefit of qualifying public charter schools as determined by the board of public education. Money
19 in the account is derived from a private nonstate source and is payable by the board of public education without
20 an appropriation pursuant to 17-8-101.

21 (3) A gift or donation made directly to a specific public charter school or schools is not prohibited
22 by this section.

23
24 **NEW SECTION. Section 15. Transition.** The legislature intends that the board of public education
25 prepare to solicit public charter school proposals so that public charter schools may be operational for the
26 school year beginning July 1, 2024.

27
28 **NEW SECTION. Section 16. Codification instruction.** [Sections 1 through 14] are intended to be

1 codified as a new part in Title 20, chapter 6, and the provisions of Title 20, chapter 6, apply to [sections 1
2 through 14].

3

4 NEW SECTION. **Section 17. Effective date.** [This act] is effective July 1, 2023.

5

- END -