

1 HB541
2 139032-2
3 By Representatives Williams (P), Fincher, McClurkin, Ison,
4 Love, Hubbard (M) and McClendon
5 RFD: Ways and Means Education
6 First Read: 14-MAR-12

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8 SYNOPSIS: This bill would establish the Education
9 Options Act of 2012.

10 This bill authorizes the establishment of
11 innovative schools and school systems in this state
12 by creating a process whereby school systems may
13 enter into a school flexibility contract with the
14 State Department of Education that allows for
15 flexibility from state laws, including State Board
16 of Education rules, regulations, and policies, in
17 exchange for academic and associated goals.

18 This bill also authorizes the establishment
19 of public charter schools in this state and
20 specifically provides that any public charter
21 school established pursuant to this bill is part of
22 the state's public education system. Further, this
23 bill provides that only nonprofit, nonreligious
24 organizations may apply to receive a charter.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

2
3 Establishing the Education Options Act of 2012; to
4 provide an overview of the act; to provide legislative
5 findings and purposes; to provide definitions; to authorize
6 school systems to enter into school flexibility contracts with
7 the state; to provide for the Charter School Application
8 Review Council; to provide for the process to be followed
9 before a school flexibility contract is executed; to provide
10 for the roles and responsibilities of the State Department of
11 Education relating to public charter schools; to provide
12 enrollment requirements for public charter schools; to provide
13 for the roles and responsibilities of public charter school
14 authorizers; to provide for the process of requesting
15 proposals for public charter school applications; to specify
16 who may apply to open a public charter school; to provide for
17 the charter contract; to provide for the operation and funding
18 of public charter schools; to provide for public charter
19 school facilities; to provide for extracurricular and
20 interscholastic opportunities; and to provide for an effective
21 date.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Short title.

24 This act shall be known and may be cited as the
25 Education Options Act of 2012.

26 Section 2. Overview.

1 (a) Innovative schools and school systems may be
2 established in Alabama in accordance with this act.

3 (b) Public charter schools may also be established
4 in Alabama in accordance with this act. All public charter
5 schools in the state established under this act are public
6 schools and are part of the public education system of the
7 state.

8 (c) This act should be interpreted liberally to
9 support the findings and purposes of this act and to advance
10 the continued commitment of the state to the mission, goals,
11 and diversity of public education.

12 Section 3. Legislative findings and purposes.

13 (a) The Legislature finds and declares all of the
14 following:

15 (1) It is in the best interests of the people of
16 Alabama to provide all children with public schools that
17 reflect high expectations and to create conditions in all
18 public schools where these expectations can be met.

19 (2) It is necessary to continue to search for ways
20 to strengthen the performance of elementary and secondary
21 public school students.

22 (3) Those who know students best, parents and
23 educators, make the best education-related decisions regarding
24 students.

25 (4) Parents and educators have a right and a
26 responsibility to participate in the education institutions
27 which serve the children of Alabama.

1 (5) Public school programs, whenever possible,
2 should be customized to fit the needs of individual students.

3 (6) Students of all backgrounds are entitled to
4 equal access to a high quality education.

5 (b) Therefore, with this act, the Legislature
6 intends to accomplish all of the following:

7 (1) Provide school systems with additional tools
8 that may be used to better meet the educational needs of a
9 diverse student population.

10 (2) Encourage innovative education ideas that
11 improve student learning through high standards for student
12 performance.

13 (3) Allow public schools freedom and flexibility in
14 exchange for exceptional levels of results-driven
15 accountability.

16 (4) Provide students, parents, community members,
17 and local entities with expanded opportunities for involvement
18 in the public education system.

19 (5) Provide additional high quality educational
20 options to all students, especially students in low performing
21 schools.

22 Section 4. Definitions.

23 For the purposes of this act, the following terms
24 shall have the following meanings:

25 (1) APPLICANT. Any person or group that develops and
26 submits an application for a public charter school to an
27 authorizer.

1 (2) APPLICATION. A proposal from an applicant to an
2 authorizer to enter into a charter contract whereby the
3 proposed school obtains public charter school status.

4 (3) AT-RISK STUDENT. A student who has an economic
5 or academic disadvantage that requires special services and
6 assistance to succeed in educational programs. The term
7 includes, but is not limited to, students who are members of
8 economically disadvantaged families, students who are
9 identified as having special educational needs, students who
10 are limited in English proficiency, students who are at risk
11 of dropping out of high school, and students who do not meet
12 minimum standards of academic proficiency.

13 (4) AUTHORIZER. An entity authorized under this act
14 to review applications, decide whether to approve or reject
15 applications, enter into charter contracts with applicants,
16 oversee public charter schools, and decide whether to renew,
17 not renew, or revoke charter contracts.

18 (5) CHARTER CONTRACT. A fixed-term renewable
19 contract between a public charter school and an authorizer
20 that outlines the roles, powers, responsibilities, and
21 performance expectations for each party to the contract.

22 (6) CONVERSION PUBLIC CHARTER SCHOOL. A charter
23 school that existed as a non-charter public school before
24 becoming a public charter school.

25 (7) COUNCIL. The Charter School Application Review
26 Council created in Section 6.

27 (8) DEPARTMENT. The Alabama Department of Education.

1 (9) EDUCATION SERVICE PROVIDER. An entity with which
2 a public charter school intends to contract for educational
3 design, implementation, or management.

4 (10) GOVERNING BOARD. The independent board of a
5 public charter school that is party to the charter contract
6 with the authorizer and whose members have been elected or
7 selected pursuant to the application of the public charter
8 school. At least two members of the board shall be a parent of
9 a student attending the public charter school.

10 (11) INNOVATION PLAN. The request of a local school
11 system for flexibility and plan for annual accountability
12 measures and five-year targets for all participating schools
13 within its system.

14 (12) LOCAL SCHOOL BOARD. A school board exercising
15 management and control of a local school system pursuant to
16 state law.

17 (13) LOCAL SCHOOL SYSTEM. A public agency that
18 establishes and supervises one or more public schools within
19 its geographical limits pursuant to state law.

20 (14) NON-CHARTER PUBLIC SCHOOL. A public school
21 other than a school formed pursuant to this act.

22 (15) PARENT. A parent, guardian, or other person or
23 entity having legal custody of a child.

24 (16) PRIORITY LOCAL SCHOOL SYSTEM. A local school
25 system where a school labeled as persistently low-performing
26 by the State Department of Education, in the most recent

1 United States Department of Education School Improvement Grant
2 application, is located.

3 (17) PUBLIC CHARTER SCHOOL. A public school formed
4 pursuant to this act that satisfies all of the following:

5 a. Has autonomy over key decisions including, but
6 not limited to, decisions concerning finance, personnel,
7 scheduling, curriculum, instruction, and procurement.

8 b. Is governed by an independent governing board.

9 c. Is established and operated under the terms of a
10 charter contract between the local school board and its
11 authorizer, in accordance with this act.

12 d. Is a school to which parents choose to send their
13 children.

14 e. Is a school that admits students on the basis of
15 a random selection process if more students attempt to enroll
16 for admission than can be accommodated.

17 f. Provides a program of education that:

18 1. Includes any grade or grades from prekindergarten
19 to 12th grade, inclusive.

20 2. May include a focus on students with special
21 needs, such as at-risk students.

22 3. May include a specific academic approach or
23 theme, including, but not limited to, vocational and technical
24 training; natural resources and the environment; foreign
25 language and culture; visual and performing arts; liberal arts
26 and classical education; or science, mathematics, and
27 technology.

1 g. Operates in pursuit of a specific set of
2 educational objectives as defined in its charter contract.

3 h. Operates under the oversight of its authorizer in
4 accordance with its charter contract.

5 (18) SCHOOL FLEXIBILITY CONTRACT. A school
6 flexibility contract between the local school system and the
7 state wherein local school systems may apply for flexibility
8 from state laws, including State Board of Education rules,
9 regulations, and policies.

10 (19) START-UP PUBLIC CHARTER SCHOOL. A public
11 charter school that did not exist as a non-charter public
12 school prior to becoming a public charter school.

13 (20) STUDENT. Any child who is eligible for
14 attendance in public schools in the state.

15 Section 5. Innovative school system status.

16 (a) Notwithstanding any other provision of law, a
17 public school or local school system may achieve innovative
18 school system status in accordance with this section. All
19 local school systems shall have an equal opportunity to
20 achieve innovative school system status as provided in this
21 section, and in no way shall one local school system be
22 favored over another local school system based upon its size,
23 location, student population, or some other possible measure.

24 (b) In order to be considered an innovative school
25 system, a local school system shall successfully comply with
26 the requirements and procedures as set forth in the

1 department's guidance on school flexibility contracts, which
2 shall include, but not be limited to:

3 (1) Submission by a local school superintendent to
4 the department of a letter of intent to pursue a school
5 flexibility contract.

6 (2) Submission by a local school board to the
7 department of a resolution supporting the intent of the local
8 school system to pursue a school flexibility contract.

9 (3) Submission by a local school board to the
10 department of a document of assurance that the local school
11 board will provide consistency in leadership and remain
12 committed to state standards, assessments, and academic rigor.

13 (4) Submission by a local school board to the
14 department of a resolution supporting the school flexibility
15 contract proposal and the anticipated timeline of the local
16 school system.

17 (c) Local school systems pursuing a school
18 flexibility contract shall have a superintendent who has
19 served a minimum of one calendar year in the local school
20 system. This subsection may be waived by the State
21 Superintendent of Education.

22 (d) Pursuant to State Board of Education rules, all
23 local school systems shall provide an opportunity for full
24 discussion and public input prior to submitting a final school
25 flexibility contract proposal to the department. Additionally,
26 local school systems shall ensure that their school
27 flexibility contract and innovation plan proposals are easily

1 accessible to the general public on the website of the local
2 school system at least two weeks prior to any public hearing
3 discussing the contract or plan.

4 (e) The innovation plan of a local school system, at
5 a minimum, shall include the following:

6 (1) The school year the local school system expects
7 the school flexibility contract to begin.

8 (2) The list of state laws, including State Board of
9 Education rules, regulations, and policies the local school
10 system is seeking to waive in its school flexibility contract.

11 (3) A list of schools included in the innovation
12 plan of the local school system.

13 (4) The accountability measures and targets the
14 local school system seeks to achieve as justification for
15 granting the flexibility being sought.

16 (f) Local school systems are accountable to the
17 state for the performance of all schools in their systems,
18 including innovative schools, under state and federal
19 accountability requirements.

20 (g) Local school systems may not waive requirements
21 imposed by federal law, requirements related to the health and
22 safety of students or employees, requirements imposed by open
23 records or open meetings laws, requirements related to
24 financial or academic accountability or transparency,
25 requirements for state assessments, requirements designed to
26 protect the civil rights of students or employees,
27 requirements related to participation in a state retirement

1 system or state health insurance plan, or any requirements
2 related to tenure or fair dismissal including, specifically,
3 the Teacher Tenure Law, the Fair Dismissal Act, and the
4 Students First Act.

5 (h) Once finalized, the school flexibility contract
6 and innovation plan shall be submitted by the local school
7 superintendent, with the approval of the local school board,
8 to the State Superintendent of Education.

9 (i) Within 30 days of receiving the recommendation,
10 the State Superintendent of Education shall decide whether the
11 school flexibility contract and innovation plan should be
12 approved. If the State Superintendent of Education decides not
13 to approve a school flexibility contract and innovation plan,
14 he or she shall provide a written explanation for the decision
15 to the local school board that submitted the contract and
16 plan, and to the State Board of Education.

17 (j) The State Board of Education shall promulgate
18 any necessary rules required to implement this section
19 including, but not limited to:

20 (1) Specification of timelines for submission and
21 approval of the school flexibility contract and innovation
22 plan of the local school system.

23 (2) Authorization for the State Superintendent of
24 Education, upon approval by the State Board of Education, to
25 revoke a school flexibility contract for noncompliance or
26 nonperformance by a local school system.

1 (3) Specification of procedures that a local school
2 system shall follow in the event that its original school
3 flexibility contract and innovation plan is not approved,
4 including the steps that may be taken to amend and resubmit
5 its school flexibility contract and innovation plan.

6 Section 6. The Charter School Application Review
7 Council.

8 (a) The Charter School Application Review Council is
9 established as an independent state entity.

10 (b) The mission of the council shall be to authorize
11 high quality public charter schools in accordance with the
12 powers expressly conferred on the council in subsection (c) of
13 Section 9.

14 (c) The council shall consist of nine members, five
15 of whom shall be appointed by the Governor, two of whom shall
16 be appointed by the Speaker of the House of Representatives,
17 and two of whom shall be appointed by the President Pro
18 Tempore of the Senate. At least one member of the council
19 shall be a current or retired public school teacher, at least
20 one member of the council shall be a current or retired local
21 public school superintendent, and at least one member of the
22 council shall be a current or retired member of a local school
23 board. Also, at least two members of the council shall be
24 parents who reside in a priority local school system. All
25 members of the council shall reside in Alabama.

26 (d) Members appointed to the council shall
27 collectively possess strong experience and expertise in public

1 and nonprofit governance, strategic planning, management and
2 finance, public school leadership, assessment, curriculum and
3 instruction, and public education law. Each member of the
4 council shall have demonstrated understanding of and
5 commitment to charter schooling as a tool for strengthening
6 public education. Members of the council may not be members of
7 the Legislature or the State Board of Education and do not
8 serve at the pleasure of their appointing authority.

9 (e) Membership of the council shall be inclusive and
10 reflect the racial, gender, geographic, urban/rural, and
11 economic diversity of the state.

12 (f) The initial appointments to the council shall be
13 made no later than 90 days after December 31, 2012. Three
14 initial appointees, including one appointee of the Speaker of
15 the House of Representatives and one appointee of the
16 President Pro Tempore of the Senate, shall serve one-year
17 terms; three initial appointees, including one appointee of
18 the Speaker of the House of Representatives and one appointee
19 of the President Pro Tempore of the Senate, shall serve
20 two-year terms; and the remaining three initial appointees
21 shall serve three-year terms. After the first term of each
22 initial appointee has ended, the term of office for all
23 council members shall be three years. No member may serve more
24 than three consecutive terms.

25 (g) A member of the council may be removed for any
26 cause that renders the member incapable or unfit to discharge
27 his or her duties as a council member. Whenever a vacancy on

1 the council exists, the appointing authority, within 90 days
2 after the vacancy occurs, shall appoint a member for the
3 remaining portion of the term. A member of the council shall
4 abstain from any vote that involves a local school system of
5 which they are an employee or of which they oversee as a
6 member of a local school board.

7 (h) A majority of the council constitutes a quorum,
8 and a quorum shall be necessary to transact business. The
9 council, in all respects, shall comply with the Alabama Open
10 Meetings Act and state open records laws. Notwithstanding the
11 preceding sentence, members of the council may participate in
12 a meeting of the council by means of telephone conference,
13 video conference, or similar communications equipment by means
14 of which all persons participating in the meeting may hear
15 each other at the same time. Participation by such means shall
16 constitute presence in person at a meeting for all purposes,
17 including the establishment of a quorum. Such telephone or
18 video conference or similar communications equipment shall
19 also allow members of the public the opportunity to
20 simultaneously listen to or observe such meetings.

21 (i) The council may do all of the following:

22 (1) Engage professional and administrative staff,
23 including staff of the department.

24 (2) Adopt rules for the operation and organization
25 of the council.

26 (3) Review, at least once per year, department rules
27 and regulations concerning public charter schools and, if

1 needed, recommend to the State Superintendent of Education any
2 rule or regulation changes deemed necessary.

3 (4) Convene stakeholder groups and engage experts.

4 (5) Seek and receive state, federal, and private
5 funds.

6 (j) A council member may not receive compensation,
7 but shall be reimbursed by the department for travel expenses
8 at the same rates and in the same manner as state employees.

9 Section 7. Role of the department in the formation
10 of public charter schools.

11 (a) The department shall disseminate information on
12 how to form and operate a public charter school and on how to
13 enroll in a public charter school once the school is created.
14 The department may provide assistance and guidance to
15 authorizers in developing effective authorization and
16 oversight procedures.

17 (b) The department may apply for assistance from a
18 federal charter school grant program on behalf of public
19 charter schools in the state. If the department receives a
20 grant from a federal charter school grant program, the grant
21 shall be used according to the applicable federal law, for
22 planning and start-up grants to public charter school
23 organizers, or for such activities as:

24 (1) Establishing a public charter school office in
25 the department.

26 (2) Providing information and technical assistance
27 to public charter school organizers and authorizers.

1 (3) Allocating funds to support the work of
2 authorizers.

3 (c) The department may promulgate administrative
4 rules pursuant to the Alabama Administrative Procedure Act to
5 implement this act or carry out its responsibilities under
6 this act.

7 (d) The department shall establish policies and
8 practices consistent with nationally recognized principles and
9 professional standards for authorizers of public charter
10 schools, including standards relating to all of the following:

11 (1) Organizational capacity and infrastructure.

12 (2) Soliciting and evaluating applications.

13 (3) Ongoing public charter school oversight and
14 evaluation.

15 (4) Charter renewal decision making.

16 (e) Consistent with the policies and practices
17 established in subsection (d), the department may investigate
18 and, as appropriate, institute sanctions in response to
19 deficiencies in authorizer performance or legal compliance.

20 (f) Three years after December 31, 2012, the State
21 Superintendent of Education shall issue to the Governor, the
22 Legislature, and the public a report on the public charter
23 school program in the state. The State Superintendent of
24 Education shall determine the content of the report, but the
25 report, at a minimum, shall include an assessment of the
26 successes, challenges, and areas for improvement in meeting
27 the purposes of this act of the public charter school program,

1 as well as any suggested changes in state law or policy
2 necessary to strengthen the public charter school program. The
3 State Superintendent of Education shall issue a similar report
4 December 31, 2018, and every three years thereafter.

5 (g) On or before December 31, 2015, the State
6 Superintendent of Education shall recommend to the Governor
7 and the Legislature what changes, if any, should be made to
8 the definition of a priority local school system in Section 4
9 including, specifically, recommendations for what measurements
10 should be used to define a priority local school system.

11 Section 8. Public charter school enrollment

12 (a) Public charter school organizers, in their
13 recruitment efforts, shall include all segments of the
14 populations served by the existing public schools in the area
15 where they propose to locate a public charter school.

16 (b) A public charter school shall enroll students in
17 accordance with this subsection.

18 (1) A public charter school may only accept
19 enrollment applications from students residing in the local
20 school system where the public charter school is to be
21 located, except that, subject to the limitations of paragraph
22 c. of subdivision (6), the children of the founders of a
23 public charter school, governing board members, and full-time
24 employees may apply for enrollment to the charter school
25 regardless of whether they reside in the local school system
26 where the public charter school is located.

1 (2) A local school system may not require any
2 student enrolled in the local school system to attend a public
3 charter school, but any student in the local school system may
4 choose to submit an enrollment application to attend a public
5 charter school.

6 (3) A public charter school may not discriminate on
7 the basis of race, ethnicity, national origin, religion,
8 gender, income level, sexual orientation, disabling condition,
9 proficiency in the English language, or academic or athletic
10 ability. Additionally, a public charter school shall comply
11 with all applicable federal special education and
12 antidiscrimination laws and regulations. This subdivision may
13 not be construed to limit the formation of a public charter
14 school that is dedicated, for example, to focusing education
15 services on at-risk students or students with disabilities.

16 (4) A public charter school shall enroll all
17 students who wish to attend the school. Enrollment may not
18 exceed the capacity level as approved by the authorizer and
19 included in the charter contract.

20 (5) A public charter school may limit enrollment to
21 students within a given age group or grade level and may be
22 organized around a special emphasis, theme, or concept as
23 stated in the application for a charter contract.

24 (6) If capacity is insufficient to enroll all
25 students who wish to attend the public charter school, the
26 school shall select students through a random selection
27 process. The selection shall take place in a public meeting,

1 called by the authorizer, that is held no earlier than seven
2 days after the place and time of the meeting has been widely
3 disseminated to the general public. While public charter
4 schools are required to have an open enrollment process, a
5 public charter school shall give enrollment preference to
6 certain students or potential students, but only as provided
7 below by paragraphs a., b., and c. Students or potential
8 students given enrollment preference shall be exempt from the
9 random selection process. Enrollment preference may be
10 provided only to the following:

11 a. Students enrolled in the public charter school
12 the previous year.

13 b. Siblings of students already enrolled in the
14 public charter school.

15 c. Children of the founders, governing board
16 members, and full-time employees of the public charter school,
17 as long as the students given an enrollment preference
18 pursuant to this paragraph, collectively, constitute no more
19 than five percent of the total student population of the
20 public charter school.

21 (7) The at-risk composition of the public charter
22 school enrollment shall reflect that of the students in
23 similar grades in the local school system from which the
24 public charter school is expected to enroll students, to be
25 defined for the purposes of this act as differing by no more
26 than 20 percent from that population. In the event the at-risk
27 composition of an applicant's or public charter school's

1 enrollment differs from the enrollment of students in similar
2 grades in the local school system from which the public
3 charter school is expected to enroll students by more than 20
4 percent, despite its best efforts, the authorizer from which
5 the applicant is seeking approval shall consider the
6 recruitment efforts and at-risk composition of the applicant
7 pool in determining whether the applicant or charter school is
8 operating in a non-discriminatory manner. A finding by the
9 authorizer that the applicant is not operating in a
10 discriminatory manner justifies approval of the charter
11 without regard to the at-risk percentage requirement if the
12 application is acceptable in all other aspects. A finding by
13 the authorizer that the applicant or charter school is
14 operating in a discriminatory manner justifies the denial of a
15 charter school application or the revocation of a charter, as
16 applicable.

17 (8) Any non-charter public school converting
18 entirely to a public charter school shall adopt and maintain a
19 policy that gives enrollment preference to students who reside
20 within the former attendance area of that non-charter public
21 school.

22 (c) If a student who was previously enrolled in a
23 public charter school enrolls in another public school in this
24 state, the new school of the student shall accept credits
25 earned by the student in courses or instructional programs at
26 the public charter school in a uniform and consistent manner

1 and according to the same criteria that are used to accept
2 academic credits from other public schools.

3 Section 9. Public charter school authorizers.

4 (a) A public charter school may not be established
5 in this state unless its establishment is authorized by this
6 section. No governmental entity or other entity, other than an
7 entity expressly granted chartering authority as set forth in
8 this section, may assume any authorizing function or duty in
9 any form. The following entities may become authorizers of
10 public charter schools:

11 (1) A local school board, pursuant to subsection
12 (b).

13 (2) The Charter School Application Review Council,
14 pursuant to subsection (c).

15 (b) A local school board, at its sole discretion,
16 may approve or deny an application to form a public charter
17 school within the boundaries of the local school system
18 overseen by the local school board. Decisions made by a local
19 school board that oversees a local school system that is not a
20 priority local school system shall be final and not subject to
21 appeal. Decisions made by a local school board that oversees a
22 priority local school system shall be subject to appeal to the
23 council pursuant to subsection (c).

24 (c) (1) The council may authorize the formation of a
25 public charter school only if both of the following factors
26 are met:

1 a. An application to form a public charter school in
2 a priority local school system is denied by the local school
3 board overseeing that system.

4 b. The applicant chooses to appeal the decision of
5 the local school board to the council consistent with
6 subdivision (2) of subsection (a) of Section 11.

7 (2) The council is expressly prohibited from
8 authorizing the formation of a public charter school in a
9 local school system that is not a priority local school
10 system. The council is also expressly prohibited from
11 authorizing the formation of a conversion public charter
12 school, regardless of whether the conversion public charter
13 school is located in a priority local school system or a local
14 school system that is not a priority local school system.

15 (d) An authorizer may do all of the following:

16 (1) Solicit, invite, receive, and evaluate
17 applications from organizers of proposed public charter
18 schools.

19 (2) Approve applications that meet identified
20 educational needs.

21 (3) Deny applications that do not meet identified
22 educational needs.

23 (4) Create a framework to guide the development of
24 charter contracts.

25 (5) Negotiate and execute sound charter contracts
26 with each approved public charter school.

1 (6) Monitor the performance and compliance of public
2 charter schools, including no fewer than three site visits per
3 year, two of which shall take place when school is in session.

4 (7) Determine whether each charter contract merits
5 renewal or revocation.

6 (e) An authorizer shall submit to the Governor, the
7 Legislature, and the State Superintendent of Education a
8 publicly accessibly annual report within 60 days of the end of
9 each school fiscal year summarizing all of the following:

10 (1) The performance of all operating public charter
11 schools overseen by the authorizer, according to the
12 performance measures and expectations specified in the charter
13 contracts.

14 (2) The status of the public charter school
15 portfolio of the authorizer, identifying all public charter
16 schools within that portfolio as one of the following:

- 17 a. Approved, but not yet open.
- 18 b. Operating.
- 19 c. Terminated.
- 20 d. Closed.
- 21 e. Never opened.

22 (3) The oversight and services, if any, provided by
23 the authorizer to the public charter schools under the purview
24 of the authorizer.

25 (4) The authorizing functions provided by the
26 authorizer to the public charter schools under its oversight,
27 including the operating costs and expenses of the authorizer.

1 (f) To cover costs for overseeing public charter
2 schools in accordance with this act, an authorizer may do all
3 of the following:

4 (1) Expend its own resources, seek grant funds, and
5 establish partnerships to support its public charter school
6 authorizing activities.

7 (2) Charge up to three percent of annual per student
8 allocations received by each public charter school it
9 authorizes. These funds shall be used to cover the costs for
10 an authorizer to provide oversight services to its public
11 charter schools.

12 (g) An employee, agent, or representative of an
13 authorizer may not simultaneously serve as an employee, agent,
14 representative, vendor, or contractor of a public charter
15 school of that authorizer.

16 (h) (1) With the exception of charges for oversight
17 services as required by subsection (f), a public charter
18 school may not be required to purchase services from its
19 authorizer as a condition of charter approval or of a charter
20 contract, nor may any such condition be implied.

21 (2) A public charter school authorized by a local
22 school system may choose to purchase services, such as
23 transportation-related or lunchroom-related services, from its
24 authorizer. In such event, the public charter school and
25 authorizer shall execute an annual service contract, separate
26 from the charter contract, stating the mutual agreement of the
27 parties concerning any services to be provided by the

1 authorizer and any service fees to be charged to the public
2 charter school. An authorizer may not charge more than market
3 rates for services provided to a public charter school. A
4 public charter school authorized by the council may not
5 purchase services from the council but, consistent with this
6 subdivision, may purchase services from the local school
7 system where the public charter school is located.

8 (3) Within 90 days after the end of each school
9 fiscal year, an authorizer shall provide to each public
10 charter school it oversees an itemized accounting of all the
11 actual costs of services purchased by the public charter
12 school from the authorizer.

13 (4) Any difference between the amount initially
14 charged to the public charter school and the actual cost shall
15 be reconciled and paid to the owed party. If either party
16 disputes the itemized accounting, any charges included in such
17 accounting, or charges to either party, the disputing party is
18 entitled to request a third-party review at its own expense.

19 (i) An authorizer or a designated representative of
20 an authorizer, at any time, may conduct a compliance
21 inspection of a public charter school under its oversight.

22 (j) (1) The department shall oversee the performance
23 and effectiveness of all authorizers established under this
24 act.

25 (2) Persistently unsatisfactory performance of the
26 portfolio of the public charter schools of an authorizer, a
27 pattern of well-founded complaints about the authorizer or its

1 public charter schools, or other objective circumstances may
2 trigger a special review by the department. In reviewing and
3 evaluating the performance of an authorizer, the department
4 shall apply nationally recognized principles and standards for
5 quality and equity in charter authorizing. If, at any time,
6 the department finds that an authorizer is not in compliance
7 with an existing charter contract or the requirements of all
8 authorizers under this act, the department shall notify the
9 authorizer in writing of any identified problem, and the
10 authorizer shall have reasonable opportunity to respond and
11 remedy the problem.

12 (3) If a local school board acting as an authorizer
13 persists in violating a material provision of a charter
14 contract or fails to remedy any other authorizing problem
15 after due notice from the department, the department shall
16 notify the local school board, within 60 days, that it intends
17 to terminate the chartering authority of the local school
18 board unless the local school board demonstrates a timely and
19 satisfactory remedy for the violation or deficiencies. If the
20 local school board acting as an authorizer persists, after due
21 notice from the department, in violating a material provision
22 of a charter contract or fails to remedy other identified
23 authorizing problems, the department shall notify the local
24 school board, within a reasonable amount of time under the
25 circumstances, that it intends to revoke the chartering
26 authority of the local school board unless the local school

1 board demonstrates a timely and satisfactory remedy for the
2 violation or deficiencies.

3 (4) If the council persists in violating a material
4 provision of a charter contract or fails to remedy any other
5 authorizing problem after due notice from the department, the
6 department shall notify the council, within 60 days, that it
7 intends to notify the Governor, the Speaker of the House of
8 Representatives, and the President Pro Tempore of the Senate
9 of the actions of the council unless the council demonstrates
10 a timely and satisfactory remedy for the violation or
11 deficiencies. Along with this notification, the department
12 shall publicly request in writing that the Governor, the
13 Speaker of the House of Representatives, and the President Pro
14 Tempore of the Senate demand that the appointee or appointees
15 either comply with the requests of the department or face a
16 revocation of their appointment to the council.

17 (5) In the event of revocation of the chartering
18 authority of an authorizer, the department shall manage the
19 timely and orderly transfer of each charter contract held by
20 that authorizer to another authorizer in the state, with the
21 mutual agreement of each affected public charter school and
22 proposed new authorizer. The new authorizer shall assume the
23 existing charter contract for the remainder of the charter
24 term. In the event a new authorizer cannot be secured, the
25 department shall manage the timely and orderly transfer of
26 affected students from the public charter school or schools to
27 the appropriate non-charter public school.

1 Section 10. Public charter school requests for
2 proposals.

3 (a) To invite, solicit, encourage, and guide the
4 development of high quality public charter school
5 applications, the department shall issue and broadly publicize
6 a request for proposals. The content and dissemination of the
7 request for proposals shall be consistent with the purposes
8 and requirements of this act.

9 (b) (1) A request for proposals shall state clear,
10 appropriately detailed questions as well as guidelines
11 concerning the format and content essential for applicants to
12 demonstrate the capacities necessary to establish and operate
13 a successful public charter school.

14 (2) A request for proposals shall require
15 applications to provide or describe thoroughly, at a minimum,
16 all of the following essential elements of the proposed public
17 charter school plan:

18 a. The vision of the proposed public charter school,
19 including:

20 1. An executive summary.

21 2. The mission of the proposed public charter
22 school, including identification of the targeted student
23 population and the community the school hopes to serve.

24 3. Evidence of need and community support for the
25 proposed public charter school.

26 b. The governance plan of the proposed public
27 charter school, including:

1 1. Background information on proposed board members
2 and any assurances or certifications required by the
3 authorizer.

4 2. Proposed governing bylaws.

5 3. An organization chart that clearly presents the
6 organizational structure of the school, including lines of
7 authority and reporting between the governing board, staff,
8 and any related bodies such as advisory bodies or parent and
9 teacher councils, and any external organizations that may play
10 a role in managing the school.

11 4. A clear description of the roles and
12 responsibilities for the governing board, the leadership and
13 management team of the school, and any other entities shown on
14 the organization chart.

15 5. Identification of the proposed founding governing
16 board members and, if identified, the proposed school leader
17 or leaders.

18 6. Background information on the leadership and
19 management team of the school, if identified.

20 c. The proposed plan of organization of the public
21 charter school, including all of the following:

22 1. The location or geographic area of the school.

23 2. The grades to be served each year for the full
24 term of the charter.

25 3. Minimum, planned, and maximum enrollment per
26 grade per year for the term of the charter, based upon the
27 capacity of a program, class, grade level, or building.

1 4. The proposed calendar and sample daily schedule
2 of the school.

3 5. Plans and timelines for student recruitment and
4 enrollment, including random selection procedures and a
5 detailed explanation of how students will be recruited from
6 all racial, ethnic, geographic, and income groups in the
7 service area.

8 6. Explanations of any partnerships or contractual
9 relationships central to the operations or mission of the
10 school.

11 7. The proposals for providing transportation, food
12 service, and other significant operational or ancillary
13 services.

14 8. A facilities plan, including backup or
15 contingency plans if appropriate.

16 9. A detailed school start-up plan, identifying
17 tasks, timelines, and responsible individuals.

18 10. A closure protocol, outlining orderly plans and
19 timelines for transitioning students and student records to
20 new schools and for appropriately disposing of school funds,
21 property, and assets in the event of school closure.

22 d. The finances of the proposed public charter
23 school, including all of the following:

24 1. A description of the financial plan and policies
25 of the school, including financial controls and audit
26 requirements.

1 2. Start-up and three-year budgets with clearly
2 stated assumptions.

3 3. Start-up and first-year cash-flow projections
4 with clearly stated assumptions.

5 4. Evidence of anticipated fundraising
6 contributions, if claimed in the application.

7 5. Evidence of financial accountability measures
8 that shall be implemented by the school that are consistent
9 with Section 16-6B-4, Code of Alabama 1975.

10 6. A description of the insurance coverage the
11 school proposes to obtain.

12 e. The student policy of the proposed public charter
13 school, including all of the following:

14 1. Plans for identifying, recruiting, and
15 successfully serving students with the wide range of learning
16 needs and styles typically found in schools of the sending
17 area.

18 2. Plans for compliance with applicable state and
19 federal laws, rules, and regulations, including special
20 education and antidiscrimination laws.

21 3. Student discipline plans and policies, including
22 those for special education students, and an explanation of
23 the research basis for the plan and policies.

24 4. Student transfers out of the school to
25 non-charter public schools.

26 f. The academic program of the proposed public
27 charter school, including all of the following:

1 1. A description of the academic program.

2 2. A description of the instructional design of the
3 school, including the type of learning environment, class size
4 and structure, curriculum overview, teaching methods, and
5 research basis.

6 3. A description of cocurricular and extracurricular
7 programs and how each shall be funded and delivered.

8 g. The staff policy of the proposed public charter
9 school, including all of the following:

10 1. A staffing chart for the first year of the school
11 and a staffing plan for the term of the charter.

12 2. Plans for recruiting and developing school
13 leadership and staff.

14 3. The leadership and teacher employment policies of
15 the school, including performance evaluation plans.

16 4. Opportunities and expectations for parent
17 involvement and how the school plans to afford flexibility in
18 the expectations for those parents with significant barriers
19 to involvement.

20 (c) With respect to a proposed charter school that
21 intends to contract with an education service provider for
22 substantial education or management services, in addition to
23 the other requirements of this section, the request for
24 proposals shall require applicants to do all of the following:

25 (1) Explain how and why the education service
26 provider was selected.

1 (2) Provide evidence of the success of the education
2 service provider in serving student populations similar to the
3 targeted population, including demonstrated academic
4 achievement and successful management of nonacademic school
5 functions, if applicable.

6 (3) Provide information on the proposed duration of
7 the service contract; roles and responsibilities; scope of
8 services and resources to be provided by the education service
9 provider; performance evaluation measures and timelines;
10 compensation structure, including clear identification of all
11 fees to be paid to the education service provider; methods of
12 contract oversight and enforcement; investment disclosure; and
13 conditions for renewal and termination of the contract.

14 (4) Provide a draft of the proposed service contract
15 including all of the terms in subdivisions (1), (2), and (3).

16 (5) Explain the relationship between the governing
17 board and the education service provider, specifying how the
18 governing board shall monitor and evaluate the performance of
19 the education service provider, the internal controls that
20 shall guide the relationship, and how the governing board
21 shall ensure fulfillment of performance expectations.

22 (6) Provide a statement of assurance that the
23 governing board is legally and operationally independent from
24 the education service provider.

25 (7) Disclose and explain any existing or potential
26 conflicts of interest between the governing board and the

1 education service provider or any affiliated business
2 entities.

3 (d) With respect to a public charter school proposal
4 from an applicant that currently operates one or more schools
5 in any other state or nation, in addition to the other
6 requirements of this section, the request for proposals shall
7 require applicants to provide evidence of past performance and
8 current capacity for growth.

9 Section 11. Public charter school applicants.

10 (a) An applicant for approval as a public charter
11 school shall submit an application as set out in this section.

12 (1) An application seeking to establish a start-up
13 public charter school in a local school system that is not a
14 priority local school system shall be submitted to the local
15 school board overseeing that local school system. Such an
16 application may not, under any circumstances, be submitted to
17 the council, either initially or on appeal. The decision of
18 whether to approve or deny such an application shall be final
19 and shall be made at the sole discretion of the local school
20 board that received the application.

21 (2) An application seeking to establish a start-up
22 public charter school in a priority local school system shall
23 first be submitted to the local school board overseeing that
24 local school system. If an application submitted to a local
25 school board pursuant to the preceding sentence is denied, the
26 applicant may appeal the decision to the council. The council
27 may hear the appeal pursuant to subsection (c) of Section 9.

1 Applicants wishing to appeal the decision of a local school
2 board shall notify the council of the decision to appeal
3 within 30 days after the denial of the application. The
4 council shall hear the appeal within 30 days of receiving this
5 notice. Applications that come before the council shall be
6 given a de novo review. All decisions made by the council
7 shall be final and may not be appealed.

8 (3) An application seeking to establish a conversion
9 public charter school, regardless of whether the conversion
10 public charter school is to be located in a priority local
11 school system or a local school system that is not a priority
12 local school system, shall be submitted to the local school
13 board overseeing the non-charter public school that is the
14 subject of the application. Decisions made by a local school
15 system acting on an application seeking to establish a
16 conversion public charter school shall be final and may not be
17 appealed.

18 (4) An applicant may submit a proposal for a
19 particular public charter school to no more than one
20 authorizer at a time. Furthermore, an applicant shall submit a
21 separate application for each public charter school it seeks
22 to open.

23 (b) (1) An application to establish a start-up public
24 charter school may be submitted only by a nonprofit,
25 nonreligious organization.

26 (2) An application to establish a conversion public
27 charter school may be submitted only by the superintendent of

1 the local school system where the non-charter public school
2 that is the subject of the application is located.
3 Furthermore, in addition to any other requirements in this
4 act, an application to establish a conversion public charter
5 school shall include a petition signed by a majority of
6 parents of students in the existing non-charter public school
7 that is the subject of the application.

8 (c) In reviewing and evaluating applications,
9 authorizers are encouraged to employ procedures, practices,
10 criteria, and standards consistent with nationally recognized
11 principles and standards for authorizing high quality public
12 charter schools.

13 (1) The application review process, at a minimum,
14 may include substantive participation by a team of reviewers
15 who collectively possess appropriate academic expertise and
16 operational experience with charter schools.

17 (2) The application review process may also include
18 a thorough evaluation of each application, an in-person
19 interview with the applicant, and a public hearing, notice of
20 which shall be posted on the website of the authorizer at
21 least two weeks prior to the hearing.

22 (3) In deciding whether to approve applications,
23 authorizers, at their discretion, may:

24 a. Grant charters to applicants that have
25 demonstrated competence in each element of the published
26 approval criteria of the authorizer and are likely to open and
27 operate a successful public charter school.

1 b. Base decisions on documented evidence collected
2 through the application review process.

3 c. Follow charter granting policies and practices
4 that are transparent, based on merit, and avoid conflicts of
5 interest or any appearance of a conflict of interest.

6 (d) No later than 90 days after the filing of an
7 application, or, in the case of the council, after receiving
8 the notice of appeal of an applicant, an authorizer shall
9 decide to approve or deny an application. The authorizer shall
10 make and announce all charter approval or denial decisions in
11 a meeting of the governing entity of the authorizer that is
12 open to the public.

13 (1) An approval decision, if appropriate, may
14 include reasonable conditions that the applicant shall meet
15 before a charter contract may be executed.

16 (2) If the authorizer denies an application, the
17 authorizer, for public record, shall specifically state its
18 reasons for denial, providing specific detail for each
19 application component that was deemed insufficient. An
20 authorizer is immune from legal liability stemming from the
21 mere denial of an application. An applicant may subsequently
22 reapply to that authorizer.

23 (3) Within 10 days of taking action to approve or
24 deny an application, the authorizer shall report to the State
25 Superintendent of Education the action it has taken. The
26 authorizer shall provide a copy of the report to the applicant

1 at the same time that the report is submitted to the State
2 Superintendent of Education.

3 (4) The State Superintendent of Education shall
4 register the charters approved by all chartering authorities
5 in chronological order by date of approval. No public charter
6 school may begin operating until its charter has been
7 registered by the State Superintendent of Education. Before
8 December 31, 2016, the State Superintendent of Education may
9 register a cumulative total of no more than 50 public charter
10 schools. Once this cap is reached, the State Superintendent of
11 Education may not accept further registrations from any
12 authorizer before December 31, 2016. After December 31, 2016,
13 there shall be no cap on the number of public charter schools
14 that may be registered by the State Superintendent of
15 Education.

16 (5) An approved application may not serve as the
17 charter contract of a school nor may it be incorporated by
18 reference into the charter contract.

19 (6) A decision on an application shall be conveyed
20 in writing to the applicant. A decision may grant approval or
21 conditional approval, request resubmission, or reject the
22 application, and shall include written reasons for the
23 decisions.

24 (e) This act may not be interpreted to allow the
25 conversion of a private school into a public charter school.

26 (f) Under no circumstances may this act be
27 interpreted to allow any applicant, or any entity with which

1 the applicant contracts, to provide financial incentives of
2 any sort to the parent of a public charter school student or a
3 potential public charter school student.

4 (g) Each authorizer, at its discretion, may
5 establish a separate and expedited application process for
6 applicants that operate high performing public charter schools
7 so that high performing public charter schools may be
8 replicated. The public charter school replication application
9 shall require evidence of academic success for the school
10 design that the authorizer intends to replicate, along with
11 proof that the applicant has the financial and human resources
12 necessary to replicate the design successfully. Applications
13 without such evidence and proof shall be denied.

14 Section 12. Charter contracts.

15 (a) When an application is approved, a charter
16 contract shall be executed in accordance with this section.

17 (1) After approval of an application and no later
18 than 60 days before the opening date of the public charter
19 school, the authorizer and the governing board shall execute a
20 charter contract that sets forth:

21 a. Performance provisions describing the academic
22 and operational performance expectations and measures by which
23 the public charter school shall be judged.

24 b. Administrative provisions articulating the
25 administrative relationship between the authorizer and the
26 public charter school, including the rights and duties of each
27 party.

1 (2) The performance provisions set forth in a
2 charter contract under paragraph a. of subdivision (1):

3 a. Shall include, but need not be limited to,
4 applicable federal and state accountability requirements.

5 b. May be refined or amended by mutual agreement of
6 the parties to the charter contract after the public charter
7 school is operating and has collected baseline achievement
8 data for its enrolled students.

9 c. Shall be set by a public charter school in
10 conjunction with its authorizer and must be designed to help
11 each school meet applicable federal and state requirements and
12 authorizer expectations.

13 d. Shall require the disaggregation of all student
14 performance data by major student subgroups.

15 e. Shall be based on a performance framework
16 developed by the authorizer that sets forth annual academic
17 and operational performance targets that shall guide the
18 evaluations of the authorizer of each public charter school,
19 including:

- 20 1. Student academic proficiency.
- 21 2. Student academic growth.
- 22 3. Achievement gaps in both proficiency and growth
23 between major student subgroups.
- 24 4. Attendance.
- 25 5. Recurrent enrollment from year to year.
- 26 6. With respect to high school, postsecondary
27 readiness.

- 1 7. Financial performance and sustainability.
- 2 8. Governing board performance and stewardship.
- 3 9. Parent and community engagement.

4 (3) A charter contract shall be signed by the
5 president of the governing entity of the authorizer and the
6 president of the governing board.

7 (4) A public charter school may not commence
8 operations without a charter contract executed in accordance
9 with this section and approved in a meeting open to the public
10 of the governing entity of the authorizer.

11 (b) An authorizer may establish reasonable
12 requirements or conditions before the opening of a public
13 charter school to monitor the start-up progress of a newly
14 approved public charter school, ensure that it is prepared to
15 open smoothly on the date agreed, and ensure that the school
16 meets all building, health, safety, insurance, and other legal
17 requirements for school opening.

18 (c) For each public charter school it oversees, the
19 authorizer is responsible for annually collecting, analyzing,
20 and publicly reporting all data from state assessments and
21 other measures of performance in accordance with the
22 performance framework developed pursuant to this act. An
23 authorizer shall monitor the performance and legal compliance
24 of the public charter schools it oversees, including
25 collecting and analyzing all data to support ongoing
26 evaluation according to the charter contract. In the event
27 that the performance or legal compliance of a public charter

1 school appears unsatisfactory, the authorizer shall promptly
2 notify the public charter school of perceived problems and
3 provide reasonable opportunity for the school to remedy the
4 problems.

5 (d) Terms of a charter contract shall be mutually
6 agreed upon by the applicant and the authorizer. If necessary,
7 either party to a contract may request that the council review
8 and mediate any terms of a charter contract that the parties
9 cannot agree upon after due diligence.

10 (e) Nothing in this section shall preclude a charter
11 contract from including terms that require the holder of a
12 charter from posting a bond to cover expenses associated with
13 moving equipment to a public charter school or expenses
14 incurred as a result of the closure of a public charter
15 school.

16 Section 13. Charter term and renewal.

17 (a) An initial charter shall be granted for a term
18 of five operating years. The charter term commences on the
19 first day of operation of the public charter school. An
20 approved public charter school may delay its opening for one
21 school year in order to plan and prepare for the opening. If
22 the public charter school requires an opening delay of more
23 than one school year, the public charter school shall request
24 an extension from its authorizer. The authorizer may grant or
25 deny the extension depending on the particular circumstances
26 of the public charter school.

1 (b) A charter may be renewed for successive terms of
2 five years, although an authorizer may grant a renewal for a
3 term not to exceed 10 years based on the performance,
4 demonstrated capacities, and particular circumstances of each
5 public charter school. If a charter is renewed for more than
6 five years, the authorizer shall issue a charter school
7 performance report every five years as called for by
8 subsection (c). An authorizer may grant renewal with specific
9 conditions for necessary improvements to a public charter
10 school.

11 (c) No later than June 30 of the fourth year of
12 operation under each five-year term of a charter contract, the
13 authorizer shall issue a charter school performance report. If
14 the charter of the public charter school is expiring, the
15 authorizer shall offer charter renewal application guidance to
16 the school.

17 (1) The performance report required in this
18 subsection shall summarize the performance record of the
19 public charter school to date, based on the data required by
20 this act and the charter contract, and shall provide notice of
21 any weaknesses or concerns perceived by the authorizer
22 concerning the school that may jeopardize its position in
23 seeking renewal if not timely notified. The school shall be
24 given the opportunity to respond to the performance report and
25 submit any corrections or clarifications for the report.

26 (2) The renewal application guidance required by
27 this subsection shall include or refer explicitly to the

1 criteria and standards that shall guide the renewal decisions
2 of the authorizer, which shall be based on the performance
3 framework set forth in the charter contract and consistent
4 with this act. The renewal application guidance, at a minimum,
5 shall require and provide an opportunity for the public
6 charter school to do all of the following:

7 a. Present additional evidence, beyond the data
8 contained in the performance report, supporting its case for
9 charter renewal.

10 b. Describe improvements undertaken or planned for
11 the school.

12 c. Detail the plans of the school for the next
13 charter term.

14 (d) No later than September 30 of the final
15 authorized year of operation of a public charter school under
16 a term of a charter contract, the governing board of a public
17 charter school seeking renewal shall submit a renewal
18 application to the authorizer pursuant to any renewal
19 application guidance offered by the authorizer.

20 (e) An authorizer shall rule by resolution on a
21 renewal application under this section no later than 45 days
22 after the filing of the renewal application. In making charter
23 renewal decisions, every authorizer shall do all of the
24 following:

25 (1) Ground its decision in evidence of the
26 performance of the public charter school over the term of the

1 charter in accordance with the performance framework set forth
2 in the charter contract.

3 (2) Ensure that data used in making renewal
4 decisions are available to the school and the public.

5 (3) Provide a public report summarizing the evidence
6 basis for each decision.

7 (f) A decision by an authorizer to revoke or not to
8 renew the charter of a public charter school shall be made in
9 accordance with this subsection.

10 (1) A charter shall be revoked at any time or not
11 renewed if the authorizer determines that the public charter
12 school failed to comply with this act or did any of the
13 following:

14 a. Committed a material violation of any of the
15 terms, conditions, standards, or procedures required under
16 this act or the charter contract.

17 b. Failed to meet or make sufficient progress toward
18 the performance expectations set forth in the charter
19 contract.

20 c. Failed to meet generally accepted standards of
21 fiscal management.

22 d. Violated any provision of law from which the
23 school was not exempted.

24 (2) If an authorizer revokes or does not renew a
25 charter, the authorizer shall clearly state, in a resolution
26 of its governing entity, the reasons for the revocation or
27 nonrenewal. The resolution may only be adopted at a public

1 meeting of the governing entity that is held after notice of
2 the meeting has been made available to the general public for
3 no fewer than seven days in advance of the meeting.

4 (g) Within 10 days of taking action to renew, not
5 renew, or revoke a charter under this section, the authorizer
6 shall report to the State Superintendent of Education the
7 action taken and shall provide a copy of the report to the
8 public charter school at the same time that the report is
9 submitted to the State Superintendent of Education. The report
10 shall include a copy of the governing entity of the resolution
11 setting forth the action taken and reasons for the decision.

12 (h) In the event a public charter school closes for
13 any reason:

14 (1) The authorizer shall oversee and work with the
15 closing public charter school to ensure timely notification to
16 parents, orderly transition of students and student records to
17 new schools, and proper disposition of school funds, property,
18 and assets in accordance with the requirements of this act.

19 (2) The assets of the public charter school shall be
20 distributed first to satisfy outstanding payroll obligations
21 for employees of the school and then to creditors of the
22 school. Any remaining funds must be paid to the State
23 Treasurer to the credit of the Education Trust Fund. If the
24 assets of the school are insufficient to pay all parties to
25 whom the school owes compensation, the prioritization of the
26 distribution of assets may be determined by decree of a court
27 of law.

1 (3) A charter contract and its oversight may not be
2 transferred from one authorizer to another before the
3 expiration of the charter contract term except by mutual
4 agreement of all parties.

5 Section 14. Public charter school operations.

6 (a) Notwithstanding any provision of law to the
7 contrary, to the extent that any provision of this act is
8 inconsistent with any other state or local law, rule, or
9 regulation, this act shall govern and is controlling.

10 (1) A public charter school is subject to all
11 federal laws and authorities, to local law not inconsistent
12 with this act, and to the charter contract.

13 (2) A single governing board may be issued one or
14 more charter contracts.

15 (3) Each public charter school shall operate
16 pursuant to its own distinct charter as a discrete legal
17 entity, separate from any others.

18 (b) (1) A public charter school established in
19 accordance with this act functions for all purposes as a local
20 educational agency. Local educational agency status does not
21 preclude a public charter school from developing links to
22 local school systems for services, resources, and programs, by
23 mutual agreement or by formal contract.

24 (2) To the extent permitted by federal, state, or
25 local law, the public charter school is responsible for
26 meeting the requirements of local educational agencies under
27 applicable federal, state, and local law, including those

1 relating to special education, receipt of funds,
2 interscholastic athletics, and compliance with funding
3 requirements.

4 (3) To the extent permitted by federal, state, or
5 local law, the public charter school has sole responsibility
6 for special education at the school, including identification
7 and provision of service, and is responsible for meeting the
8 needs of enrolled students with disabilities.

9 (c) A public charter school has all the powers
10 necessary for carrying out the terms of its charter contract,
11 including the power to do all of the following:

12 (1) Receive and disburse funds for school purposes.

13 (2) Contract or cooperate with non-charter public
14 schools for service for students with special needs, English
15 language learner students, and other specialized populations,
16 as well as for mutually agreed administrative services.

17 (3) Secure appropriate insurance and enter into
18 contracts and leases.

19 (4) Contract with an education service provider for
20 the management and operation of the school, as long as the
21 governing board of the school retains oversight authority over
22 the school.

23 (5) Incur debt, upon the approval of the State
24 Superintendent of Education, in reasonable anticipation of the
25 receipt of public or private funds.

26 (6) Pledge, assign, or encumber its assets to be
27 used as collateral for loans or extensions of credit.

1 (7) Solicit and accept any gifts or grants for
2 school purposes subject to applicable laws and the terms of
3 its charter contract.

4 (8) Acquire real property for use as its facility or
5 facilities from public or private sources.

6 (d) A public charter school is subject to the
7 general requirements set out in this subsection.

8 (1) A public charter school may not discriminate
9 against any person on the basis of race, creed, color, sex,
10 disability, or national origin or on any other basis that
11 would be unlawful if done by a public school.

12 (2) A public charter school may not engage in any
13 religious practices in its educational program, admissions, or
14 employment policies or operations.

15 (3) A public charter school may not charge tuition
16 and may only charge such fees as may be imposed by other
17 public schools in the state.

18 (4) If the public charter school operates its own
19 transportation system, the public charter school shall have a
20 plan that describes how the school shall meet the
21 transportation needs of its students, and such plan shall be
22 consistent with applicable federal and state school-related
23 transportation safety regulations.

24 (5) The powers, obligations, and responsibilities
25 set forth in a charter contract may not be delegated or
26 assigned by either party.

1 (e) The applicability of other laws, rules, and
2 regulations to public charter schools is as set out in this
3 subsection.

4 (1) Public charter schools are subject to the same
5 civil rights and health and safety requirements applicable to
6 other public schools in the state, except as otherwise
7 specifically provided in this act.

8 (2) Public charter schools are subject to the same
9 student assessment and accountability requirements applicable
10 to other public schools in the state, but nothing in this act
11 precludes a public charter school from establishing additional
12 student assessment measures that go beyond state requirements
13 if the authorizer of the school approves such measures.

14 (3) Governing boards are subject to and shall comply
15 with all open records and open meetings laws of the state.

16 (4) Except as provided in this act and its charter
17 contract, a public charter school is exempt from all statutes
18 and rules applicable to a public school, a local school board,
19 or a local school system, although it may elect to comply with
20 one or more provisions of these statutes or rules.

21 (5) A public charter school is exempt from the
22 restrictions normally associated with any state-funded
23 categorical education funding program, including,
24 specifically, any restrictions required for participation in
25 the apportionment of funds appropriated from the Foundation
26 Program Fund.

1 (f) This subsection governs teacher employment in a
2 public charter school.

3 (1) A public charter school shall comply with
4 applicable federal laws and regulations regarding the
5 qualification of teachers and other instructional staff.

6 (2) All full-time teachers in a public charter
7 school shall either hold an appropriate teaching certificate
8 or become certified within two years of the date they are
9 hired, except that certification is not necessarily required
10 for those full-time teachers with an advanced degree in the
11 curricular area in which they teach, professional
12 certification in the curricular area in which they teach, or
13 unique expertise or experience in the curricular area in which
14 they teach.

15 (3) Teachers in charter schools have the same rights
16 and privileges as other public school teachers except as
17 otherwise provided in this act, except that a public charter
18 school is expressly exempt from, but may choose to comply
19 with, state laws related to teacher tenure and fair dismissal.

20 (4) Teachers and other public charter school
21 personnel, as well as governing board trustees, are subject to
22 criminal history record checks and fingerprinting requirements
23 applicable to other public schools.

24 (5) Any other provision of this act notwithstanding,
25 a non-charter public school converting entirely to a public
26 charter school shall adopt and maintain a policy that gives a
27 hiring opportunity to those who are full-time employees of the

1 non-charter public school at the time the charter contract
2 becomes effective. This provision may not be interpreted to
3 mandate the hiring of such employees.

4 (g) A public charter school shall adhere to
5 generally accepted accounting principles and shall annually
6 engage, at the expense of the public charter school, the
7 Alabama Department of Examiners of Public Accounts to do an
8 independent audit of the finances of the school.

9 (h) Public charter schools have the option of
10 allowing their employees to be enrolled in and participate in
11 the Alabama Teachers' Retirement System as well as the Public
12 Education Employees' Health Insurance Plan.

13 (i) Employees of a public charter school, as well as
14 members of the governing board of a public charter school,
15 shall demonstrate to the authorizer of the public charter
16 school that they are citizens of or lawfully present in the
17 United States. Additionally, employees of a public charter
18 school, at the time of their employment, shall either reside
19 in Alabama or demonstrate their intent to establish residency
20 in Alabama within 120 days of when their employment begins.

21 Section 15. Public charter school funding.

22 (a) Students enrolled in and attending public
23 charter schools shall be included in all enrollment and
24 attendance counts of students of the local school systems in
25 which the students reside. The public charter school shall
26 report all such data to the local school systems of residence
27 in a timely manner. Each local school system shall report such

1 enrollment, attendance, and other counts of students to the
2 department in the manner required by the department.

3 (b) The following provisions govern operational
4 funding.

5 (1) For each of its students, a public charter
6 school shall receive the same amount of state and local funds,
7 including funds earmarked for transportation, school nurses,
8 technology coordinators, and other line items that may be
9 included in the appropriation for the Foundation Program Fund,
10 that, for the then-current fiscal year, would have otherwise
11 been allocated on behalf of each public charter school student
12 to the local non-charter public school of each student's
13 residence. This amount shall reflect the status of each
14 student according to grade level, economic disadvantage,
15 limited English proficiency, and special education needs.

16 (2) The state funds described in subdivision (1)
17 shall be forwarded on a quarterly basis to the public charter
18 school by the department. The local funds described in
19 subdivision (1) shall be forwarded on a quarterly basis to the
20 public charter school by the local educational agency of the
21 student's residence. Additionally, any local revenues
22 restricted, earmarked, or committed by statutory provision,
23 constitutional provision, or board covenant pledged or imposed
24 by formal action of the local board of education or other
25 authorizing body of government, shall be excluded by the local
26 educational agency of the student's residence when determining
27 the amount of funds to be forwarded by the agency to the

1 public charter school. Similarly, public charter schools that
2 do not provide transportation services shall not be allocated
3 any federal, state, or local funds otherwise earmarked for
4 transportation-related expenses.

5 (3) If necessary, the department shall adopt rules
6 governing how to calculate and distribute these per-student
7 allocations, as well as any rules governing cost-sharing for
8 students participating in gifted, talented, vocational,
9 technical, or career education programs.

10 (c) The following provisions govern special
11 education funding.

12 (1) The funding and educational decision-making
13 process for special education students attending a public
14 charter school is the sole responsibility of the public
15 charter school, and all current options available to the
16 parents and the public charter school through the student's
17 local educational agency of residence shall be retained.
18 Nothing in this act precludes the local educational agency of
19 residence from participating in the development of a student's
20 individualized education plan.

21 (2) The department shall pay directly to the public
22 charter school any federal or state aid attributable to a
23 student with a disability attending the public charter school
24 in proportion to the level of services for the student with a
25 disability that the public charter school provides directly or
26 indirectly. The local school system of residence shall pay
27 directly to the public charter school any local aid

1 attributable to a student with a disability attending the
2 public charter school in proportion to the level of services
3 for the student with a disability that the public charter
4 school provides directly or indirectly. The payments shall be
5 made in the same manner and based on the same funding
6 assumptions that would have otherwise been used by the local
7 school system of residence of the student.

8 (d) Except as otherwise provided in this chapter,
9 the state shall send applicable federal funds directly to
10 public charter schools attended by eligible students.

11 (1) Public charter schools with students eligible
12 for funds under Title I of the federal Elementary and
13 Secondary Education Act of 1965 shall receive and use these
14 funds in accordance with federal and state law.

15 (2) A public charter school shall be considered a
16 local educational agency for purposes of applying for
17 competitive grants.

18 (e) A public charter school may receive gifts and
19 grants from private sources.

20 (f) A public charter school may not levy taxes or
21 issue bonds secured by tax revenues, although nothing in this
22 act precludes a public charter school from issuing bonds
23 secured by other sources of revenue, including allocations of
24 federal, state, or local funds, just as nothing in this act
25 precludes one or more public charter schools from pooling
26 their resources together to issue bonds. The proceeds from the
27 sale of any bonds secured by state or local funds shall be

1 used solely for public charter schools located in Alabama.
2 Additionally, the Legislature finds that the state has a moral
3 obligation to repay any bonds issued by a public charter
4 school or a group of public charter schools.

5 (g) In the event of the failure of the local school
6 system to make payments required by subsections (b) and (c),
7 the State Treasurer shall deduct from any state funds that
8 become due to the local school system an amount equal to the
9 unpaid obligation. The State Treasurer shall pay over the
10 amount to the public charter school upon certification of the
11 department.

12 (h) Any money received by a public charter school
13 from any source and remaining in the accounts of the school at
14 the end of any fiscal year shall remain in the accounts of
15 that school for use by that school during subsequent fiscal
16 years and does not revert to the authorizer or to the state.

17 (i) Nothing in this act may be construed to prohibit
18 any person or organization from providing funding or other
19 assistance for the establishment or operation of a public
20 charter school. The governing board of a public charter school
21 may accept gifts, donations, or grants of any kind made to the
22 public charter school and expend or use such gifts, donations,
23 or grants in accordance with the conditions prescribed by the
24 donor except that a gift, donation, or grant may not be
25 accepted if subject to a condition that is contrary to any
26 provision of law or term of the charter contract.

27 Section 16. Public charter school facilities.

1 (a) A public charter school may acquire facilities
2 and property in accordance with this section.

3 (1) A public charter school has a right of first
4 refusal to purchase or lease at or below fair market value a
5 closed public school facility or property or unused portions
6 of a public school facility or property located in a local
7 school system from which it draws its students if the local
8 school system decides to sell or lease the public school
9 facility or property. The local school system may not require
10 purchase or lease payments that exceed the fair market value
11 of the property.

12 (2) A public charter school may negotiate and
13 contract with a local school system, the governing body of a
14 state college or university or public community college or any
15 other public or for-profit or nonprofit private entity for the
16 use of a school building.

17 (3) Library, community service, museum, performing
18 arts, theater, cinema, church, community college, college, and
19 university facilities may provide space to public charter
20 schools within their facilities under their preexisting zoning
21 and land use designations.

22 (4) A public charter school may purchase or lease at
23 or below fair market value part or all of any surplus or
24 unused state-owned facility or property located in the state.
25 The state agency in control of the facility may not require
26 purchase or lease payments that exceed the fair market value
27 of the property.

1 (5) The same zoning rules that apply to other public
2 schools apply to public charter schools.

3 (b) The State Building Commission shall be the
4 agency that has jurisdiction for the purpose of inspection of
5 the facility and issuance of a certificate of occupancy for
6 the facility. If the facility is located in an unorganized
7 area of the state, the county has jurisdiction for those
8 purposes. A facility of a public charter school is subject to
9 the same building codes, regulations, and fees that apply to
10 other public schools.

11 (c) A facility, or portion thereof, used to house a
12 public charter school is exempt from property taxes.

13 Section 17. Extracurricular and interscholastic
14 activities at public charter schools.

15 (a) A public charter school is eligible for
16 state-sponsored or local school system-sponsored
17 interscholastic leagues or competitions, private governing
18 agency-sponsored leagues or competitions, such as leagues or
19 competitions sponsored by the Alabama High School Athletic
20 Association, awards, scholarships, and recognition programs
21 for students, educators, administrators, and schools to the
22 same extent as non-charter public schools.

23 (b) A local school system or public school may not
24 impose additional requirements on a public charter school
25 student to participate in extracurricular activities that are
26 not imposed on full-time students of the public school. All
27 applicable Alabama High School Athletic Association

1 eligibility rules apply to a public charter school, including
2 transfer, attendance zone, and enrollment rules. If a public
3 charter school does not have an athletic program in any sport,
4 the students attending that public charter school may be
5 eligible for athletics at the non-charter public school for
6 which they are zoned under Alabama High School Athletic
7 Association rules.

8 Section 18. The provisions of this act are
9 severable. If any part of this act is declared invalid or
10 unconstitutional, that declaration shall not affect the part
11 which remains.

12 Section 19. This act shall become effective on
13 December 31, 2012, following its passage and approval by the
14 Governor, or its otherwise becoming law.