

1 SB202
2 116003-2
3 By Senators French, Marsh, Waggoner, Sanford, Brooks, Glover,
4 Erwin and Beason
5 RFD: Finance and Taxation Education
6 First Read: 12-JAN-10

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8 SYNOPSIS: This bill is the Alabama Innovative Charter
9 Schools Act.

10 This bill would provide for the creation of
11 charter schools authorized by registered local
12 school boards and the State Board of Education
13 under certain conditions.

14 This bill would establish the process by
15 which local school boards may register as
16 authorizers of charter schools.

17 This bill would establish the processes by
18 which a charter contract may be approved, renewed,
19 and revoked.

20 This bill would prohibit private schools
21 from applying to become a charter school or
22 converting to charter school status.

23 This bill would require that charter
24 contracts contain certain accountability provisions
25 and that authorizers continually monitor the
26 performance and compliance of charter schools.

1 This bill would provide for the organization
2 of a charter school, enrollment of students,
3 employer requirements, and a minimum number of
4 instructional days.

5 This bill would generally relieve charter
6 schools from the requirements of state education
7 statutes while requiring them to follow laws
8 related to civil rights, health, safety, state
9 content standards, accountability and student
10 assessment, competitive bidding, open meetings, and
11 open records.

12 This bill would provide for the funding of
13 charter schools and require an annual independent
14 audit.

15 This bill would provide for the acquisition
16 and use of facilities and require that charter
17 schools follow the same building codes as other
18 public schools.

19 This bill would require the State Board of
20 Education to promulgate rules and regulations to
21 implement this act.

22 Amendment 621 of the Constitution of Alabama
23 of 1901, now appearing as Section 111.05 of the
24 Official Recompilation of the Constitution of
25 Alabama of 1901, as amended, prohibits a general
26 law whose purpose or effect would be to require a
27 new or increased expenditure of local funds from

1 becoming effective with regard to a local
2 governmental entity without enactment by a 2/3 vote
3 unless: it comes within one of a number of
4 specified exceptions; it is approved by the
5 affected entity; or the Legislature appropriates
6 funds, or provides a local source of revenue, to
7 the entity for the purpose.

8 The purpose or effect of this bill would be
9 to require a new or increased expenditure of local
10 funds within the meaning of the amendment. However,
11 the bill does not require approval of a local
12 governmental entity or enactment by a 2/3 vote to
13 become effective because it comes within one of the
14 specified exceptions contained in the amendment.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To establish the Alabama Innovative Charter Schools
21 Act relating to public K-12 education; to provide for the
22 creation of charter schools authorized by registered local
23 school boards and the State Board of Education under certain
24 conditions; to establish the process by which a local school
25 board may register as an authorizer of charter schools; to
26 establish the processes by which a charter contract may be
27 approved, renewed, and revoked; to prohibit a private school

1 from applying to become a charter school or converting to
2 charter school status; to require certain accountability
3 provisions in charter contracts; to require an authorizer to
4 continually monitor the performance and compliance of each
5 charter school; to provide for the organization, enrollment of
6 students, employer requirements, and minimum number of
7 instructional days for each charter school; to generally
8 relieve charter schools from the requirements of state
9 education statutes while requiring them to follow laws related
10 to civil rights, health, safety, state content standards,
11 accountability and student assessment, competitive bidding,
12 open meetings, and open records; to provide for the funding of
13 charter schools; to require independent annual audits; to
14 provide for the acquisition and use of facilities and require
15 that charter schools follow the same building codes as other
16 public schools; to require the State Board of Education to
17 promulgate rules to implement this act; and in connection
18 therewith to have as its purpose or effect the requirement of
19 a new or increased expenditure of local funds within the
20 meaning of Amendment 621 of the Constitution of Alabama of
21 1901, now appearing as Section 111.05 of the Official
22 Recompilation of the Constitution of Alabama of 1901, as
23 amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Alabama Innovative Charter Schools Act.

1 Section 2. Each charter school in the state
2 established pursuant to this act is a public school and part
3 of the public education system of this state. No nonpublic or
4 private school, including church schools, may apply to or
5 become a charter school under this act, and no charter
6 agreement shall be granted pursuant to this act to authorize
7 the conversion of any nonpublic, private, church, or
8 home-based school to charter school status.

9 Section 3. For the purposes of this act, the
10 following terms shall have the following meanings:

11 (1) APPLICANT. Any person or group that develops and
12 submits a charter school application to an authorizer.

13 (2) APPLICATION. A proposal from an applicant to an
14 authorizer to enter into a charter contract whereby the
15 proposed school obtains charter school status.

16 (3) AT-RISK STUDENT. A student who has an economic
17 or academic disadvantage that requires special services and
18 assistance to succeed in educational programs. The term
19 includes, but is not limited to, students who are members of
20 economically disadvantaged families, students who are
21 identified as having special educational needs, students who
22 are limited in English proficiency, students who are at risk
23 of dropping out of high school, and students who do not meet
24 minimum standards of academic proficiency.

25 (4) AUTHORIZER. An entity authorized under this act
26 to review applications, decide whether to approve or reject
27 applications, enter into charter contracts with applicants,

1 oversee charter schools, and decide whether to renew, not
2 renew, or revoke charter contracts.

3 (5) CHARTER CONTRACT. A fixed term, renewable
4 contract between a charter school and an authorizer that
5 outlines the roles, powers, responsibilities, and performance
6 expectations for each party to the contract.

7 (6) CHARTER SCHOOL. A public K-12 school with all of
8 the following qualities:

9 a. Autonomy over decisions including, but not
10 limited to, matters concerning finance, personnel, scheduling,
11 curriculum, and instruction.

12 b. Governed by an independent governing board.

13 c. Established and operating under the terms of a
14 charter contract between the governing board and an
15 authorizer.

16 d. Enrollment pursuant to parental choice.

17 e. Students are admitted on the basis of a random
18 selection process if more students apply for enrollment than
19 the charter school is able to accommodate.

20 f. Program of education includes one or more of the
21 following grades or programs:

22 1. Preschool.

23 2. Prekindergarten.

24 3. Any grade or grades from kindergarten through
25 12th grade.

26 4. Adult community education.

27 5. Adult continuing education.

1 6. Career technical education.

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

4 h. Operates under the oversight of an authorizer in
5 accordance with a charter contract.

6 (7) CHARTER SCHOOL CONVERSION. A charter school that
7 existed as a non-charter public school before becoming a
8 charter school.

9 (8) DEPARTMENT. The State Department of Education.

10 (9) EDUCATION SERVICE PROVIDER. A nonprofit or for
11 profit charter management organization, school design
12 provider, or any other partner entity with which a charter
13 school may contract for educational design, implementation, or
14 comprehensive management.

15 (10) GOVERNING BOARD. The independent board of a
16 charter school that is party to the charter contract with the
17 authorizer and whose members have been selected pursuant to
18 the charter school application.

19 (11) LOCAL SCHOOL BOARD. A city or county board of
20 education exercising management and control of a city or
21 county school district pursuant to state law.

22 (12) LOCAL SCHOOL DISTRICT. A public agency that
23 establishes and supervises one or more non-charter public
24 schools within its geographical limits pursuant to state law.

25 (13) NON-CHARTER PUBLIC SCHOOL. A public K-12 school
26 that is under the direct management, governance, and control
27 of a local school board or the state.

1 (14) PARENT. A parent, guardian, or other person or
2 entity having legal custody of a child.

3 (15) STUDENT. Any child who is eligible to attend
4 public school in the state.

5 Section 4. (a) The State Board of Education, upon
6 the recommendation of the State Superintendent of Education,
7 may authorize charter schools within any local school district
8 in the state.

9 (b) A local school board may register with the
10 department, pursuant to Section 5, for chartering authority
11 within the boundaries of the local school district.

12 Section 5. (a) The department shall publicize to all
13 local school boards the opportunity to register with the
14 department for chartering authority within the local school
15 district. The department shall annually provide information
16 about the opportunity, including a registration deadline, to
17 each local school board. To register with the department as a
18 charter authorizer in the local school district, a local
19 school board shall submit to the department all of the
20 following information in a format established by the
21 department:

22 (1) Written notification of intent to serve as a
23 charter authorizer.

24 (2) An explanation of the strategic vision of the
25 local school board for chartering.

26 (3) An explanation of the budget and the personnel
27 capacity of the local school board and the commitment of the

1 local school board to executing the duties of quality charter
2 authorizing.

3 (4) An explanation of how the local school board
4 plans to solicit charter school applicants.

5 (5) A description or outline of the performance
6 framework the local school board plans to use to establish a
7 charter contract and provide ongoing oversight and evaluation
8 of charter schools.

9 (6) A draft of the renewal, revocation, and
10 nonrenewal processes to be used by the local school board
11 consistent with Section 12.

12 (7) A statement of assurance that the local school
13 board commits to serving as a charter authorizer in
14 fulfillment of the expectations, spirit, and intent of this
15 act, and commits to fully participating in any authorizer
16 training provided or required by the state.

17 (b) Within 60 days after the submission of all
18 registration materials by a local school board pursuant to
19 subsection (a) and satisfaction of all conditions of
20 subsection (a), the department shall register the local school
21 board as a charter authorizer within the local school district
22 and shall provide the local school board with a letter
23 confirming registration as a charter authorizer. No local
24 school board shall engage in any charter-authorizing functions
25 without current state registration as a charter authorizer.
26 Once registered, the registration of the local school board as
27 a charter authorizer shall continue from year to year,

1 provided that the local school board fulfills all
2 charter-authorizing duties and expectations provided by this
3 act and remains an authorizer in good standing with the
4 department.

5 Section 6. (a) (1) An authorizer shall perform all of
6 the following essential powers and duties:

7 a. Solicit and evaluate charter applications.

8 b. Approve charter applications that satisfy
9 identified educational needs and promote a diversity of
10 educational choices.

11 c. Decline to approve incomplete or inadequate
12 charter applications.

13 d. Negotiate and execute sound charter contracts
14 with each approved charter school.

15 e. Monitor, in accordance with charter contract
16 terms, the performance and legal compliance of a charter
17 school.

18 f. Determine whether a charter contract merits
19 renewal, nonrenewal, or revocation.

20 (2) An authorizing entity may delegate its duties to
21 offices, employees, and contractors.

22 (3) Regulation by authorizers shall be limited to
23 the powers and duties listed in subdivision (1) that are
24 consistent with the spirit and intent of this act.

25 (b) (1) An authorizer shall develop and maintain
26 chartering policies and practices consistent with nationally
27 recognized principles and standards for quality charter

1 authorizing in all major areas of authorizing responsibility
2 including, but not limited to, all of the following:

- 3 a. Organizational capacity and infrastructure.
- 4 b. Solicitation and evaluation of charter
5 applications.
- 6 c. Performance contracting.
- 7 d. Ongoing and continuous charter school oversight
8 and evaluation.
- 9 e. Charter renewal decision making.

10 (2) An authorizer shall perform all duties under
11 this act in a manner consistent with nationally recognized
12 principles and standards and the spirit and intent of this
13 act. Evidence of material or persistent failure to perform in
14 such manner shall constitute grounds for loss of charter
15 authorizing powers.

16 (3) The department shall develop model policies and
17 practices for charter authorizing.

18 (c) (1) Each local school board registered as an
19 authorizer shall annually submit to the department a report
20 summarizing all of the following:

21 a. The strategic vision of the local school board
22 for chartering and progress made toward achieving that vision.

23 b. The academic and financial performance of all
24 charter schools operating under the purview of the local
25 school board, according to the performance expectations for
26 charter schools provided in this act.

1 c. The status of the charter school portfolio of the
2 local school board, identifying the number of charter schools
3 in each of the following categories:

- 4 1. Approved, but not yet operational.
- 5 2. Operating.
- 6 3. Renewed.
- 7 4. Transferred.
- 8 5. Revoked.
- 9 6. Not renewed.
- 10 7. Voluntarily closed.
- 11 8. Never opened.

12 d. The authorizing functions provided by the local
13 school board to the charter schools under its purview
14 including, but not limited to, the annual operating costs and
15 expenses of the local school board detailed in audited
16 financial statements that conform to generally accepted
17 accounting principles.

18 e. Any services purchased by a charter school from
19 the local school board including, but not limited to, an
20 itemized accounting of the actual costs of the services
21 pursuant to Section 17.

22 (2) The department shall produce an annual report
23 detailing the authorizing activities of the State Board of
24 Education including, but not limited to, the information
25 required of local school board authorizers in subdivision (1).

26 (d) (1) The State Board of Education may permit an
27 authorizer to assess an oversight fee, of not more than three

1 percent of the annual per student funding provided to a
2 charter school, from the per-student operational funding of
3 each charter school the local school board authorizes.

4 (2) The oversight fee may not include any costs
5 incurred in delivering services purchased by the charter
6 school from the authorizer. The authorizer shall use funding
7 provided under this subsection exclusively for fulfilling
8 authorizing obligations under this act.

9 (3) The State Superintendent of Education shall
10 annually review the effectiveness of any oversight fee
11 adopted, and shall recommend to the State Board of Education
12 any necessary adjustments to the fee in an effort to maximize
13 public benefit and strengthen implementation of this act.

14 (e) No employee, trustee, agent, or representative
15 of an authorizer may simultaneously serve as an employee,
16 trustee, agent, representative, vendor, or contractor of a
17 charter school under the purview of that authorizer.

18 (f) No governmental or other entity, unless
19 expressly granted chartering authority pursuant to this act or
20 other law, may assume any charter authorizing function or duty
21 in any form.

22 (g) (1) With the exception of oversight services
23 provided in subsection (d), a charter school may not be
24 required to purchase services from its authorizer as a
25 condition of charter approval or the execution of a charter
26 contract.

1 (2) If a charter school purchases services from its
2 authorizer, the charter school and authorizer shall execute an
3 annual service contract, separate from the charter contract,
4 specifying the mutual agreement of the charter school and the
5 authorizer regarding the services to be provided and service
6 fees to be charged. An authorizer may not charge more than
7 current market rates for services provided to a charter
8 school.

9 Section 7. The purpose of a charter application is
10 to present the academic and operational vision and plans of
11 the proposed charter school to an authorizer and to
12 demonstrate the capacity of the applicant to execute the
13 proposed vision and plans. An approved charter application is
14 not a charter contract.

15 Section 8. (a) Charter school requests for
16 proposals, application approval decisions, and application
17 denial decisions shall be pursuant to a time line annually
18 established by the department and applied uniformly throughout
19 the state. The department shall issue guidelines regarding the
20 content and format of charter school requests for proposals,
21 application approval decisions, and application denial
22 decisions.

23 (b) To solicit, encourage, and guide the development
24 of quality charter school applications, each authorizer shall
25 issue and broadly publicize requests for proposals.

26 (c) (1) An application to establish a charter school
27 in a local school district where the local school board is

1 registered as an authorizer shall be submitted to the local
2 school board. If the local school board denies the
3 application, the applicant may appeal the denial by submitting
4 an application to the State Board of Education.

5 (2) An application to establish a charter school in
6 a local school district where the local school board is not
7 registered as an authorizer shall be submitted to the State
8 Board of Education.

9 (d) The State Board of Education, upon the
10 recommendation of the State Superintendent of Education, shall
11 consider and may approve an application to establish a charter
12 school submitted pursuant to subsection (c).

13 (e) A charter applicant may submit a proposal for a
14 particular charter school to only one authorizer at a time.

15 (f) An application to establish a charter school
16 submitted to the State Board of Education shall demonstrate
17 the ability of the proposed charter school to serve students
18 who are located in a local school district or attending a
19 non-charter public school that the department has identified
20 as persistently low achieving.

21 (g) An application to establish a charter school by
22 converting an existing non-charter public school to charter
23 school status shall also demonstrate support for the proposed
24 charter school conversion pursuant to a petition signed by a
25 majority of teachers of the non-charter public school and a
26 petition signed by a majority of parents of students enrolled
27 at the existing non-charter public school. A petition is not

1 required if the establishment of the charter school is the
2 result of state intervention due to consistently low academic
3 performance, as determined by state or federal regulation.

4 (h) An application to establish a charter school
5 submitted by an applicant that currently operates one or more
6 charter schools shall also provide documentation detailing
7 past performance and current capacity for growth.

8 Section 9. (a) In reviewing and evaluating a charter
9 application, an authorizer shall employ procedures, practices,
10 and criteria consistent with nationally recognized principles
11 and standards for quality charter authorizing. The application
12 review process shall include a thorough evaluation of each
13 written charter application, a personal interview with the
14 applicant group, and an opportunity in a public forum for
15 residents of the local school district to receive and provide
16 information relating to the application.

17 (b) In deciding whether to approve a charter
18 application, an authorizer shall do all of the following:

19 (1) Grant a charter only to an applicant that
20 demonstrates competence in each element of the published
21 approval criteria of the authorizer and is likely to open and
22 operate a successful charter school.

23 (2) Base decisions on documented evidence collected
24 through the application review process.

25 (3) Follow charter-granting policies and practices
26 that are transparent and based on merit.

27 (4) Avoid any conflict of interest.

1 (c) An authorizer shall adopt by resolution all
2 charter approval or denial decisions during an open meeting of
3 the governing board of the authorizer.

4 (d) The decision to approve a charter application
5 may include reasonable conditions for the charter applicant to
6 satisfy before a charter contract is executed.

7 (e) A decision to deny a charter application shall
8 clearly inform the applicant of the reasons for the denial. A
9 denial does not prohibit an applicant from resubmitting an
10 application to the same authorizer or submitting an
11 application to any other authorizer in the state.

12 (f) An authorizer shall annually submit a written
13 report of all approval and denial actions taken by the
14 authorizer to the department. A copy of the report shall also
15 be provided by the authorizer to any charter applicant
16 mentioned in the report at the same time that the report is
17 submitted to the department. The report shall include a copy
18 of all resolutions adopted by the governing board pursuant to
19 subsection (c), a list of all actions taken, reasons
20 supporting those decisions, and assurances as to compliance
21 with all applicable rules and guidelines adopted pursuant to
22 this act.

23 Section 10. An initial charter shall be granted for
24 a term of up to five operating years. The charter term shall
25 commence on the first day of operation of the charter school.
26 An approved charter school may delay opening for one school
27 year in order to plan and prepare for the physical opening of

1 the charter school. If the approved charter school requires an
2 opening delay of more than one school year, the charter school
3 shall request an extension from the authorizer. The authorizer
4 may grant or deny the extension, depending on the particular
5 circumstances of the charter school.

6 Section 11. (a) The authorizer and the governing
7 board of an approved charter school shall execute a charter
8 contract. The charter contract shall include academic and
9 operational performance expectations for the charter school,
10 measures by which the charter school shall be judged, and
11 specifics relating to the administrative relationship between
12 the authorizer and the charter school, including the rights
13 and duties of both the authorizer and the charter school.
14 Performance expectations and measures contained in the charter
15 contract shall include, but not be limited to, applicable
16 federal and state accountability requirements. Performance
17 provisions in a charter contract may be refined or amended by
18 mutual agreement of the authorizer and the charter school
19 after the charter school begins operation and baseline
20 achievement data has been collected for enrolled students.

21 (b) The charter contract shall be signed by the
22 president of the governing board of the authorizer and the
23 president of the governing board of the charter school. The
24 authorizer shall submit written notification of the charter
25 contract execution to the department, including a copy of the
26 executed charter contract and any attachments.

1 (c) No charter school may commence operations
2 without a charter contract executed in accordance with this
3 section and approved during an open meeting of the governing
4 board of the authorizer.

5 Section 12. An authorizer may establish reasonable
6 preopening requirements or conditions to monitor the startup
7 progress of a newly approved charter school to ensure that the
8 charter school is prepared to open on the agreed date and that
9 all building, health, safety, insurance, and other legal
10 requirements for the opening are satisfied.

11 Section 13. (a) An authorizer may not restrict the
12 number of students a charter school may enroll. The capacity
13 of a charter school shall be determined annually by the
14 governing board of the charter school in conjunction with the
15 authorizer and in consideration of the ability of the charter
16 school to facilitate the academic success of its students, to
17 achieve objectives specified in the charter contract, and to
18 ensure that student enrollment does not exceed the physical
19 limitations of the charter school facility or site.

20 (b) A charter school shall be open to any student
21 who resides in the local school district where a charter
22 school is authorized.

23 (c) A local school district may not require any
24 student enrolled in the local school district to attend a
25 charter school.

26 (d) A charter school may not limit admission based
27 on race, ethnicity, national origin, religion, gender, income

1 level, disabling condition, proficiency in the English
2 language, or academic or athletic ability.

3 (e) A charter school may limit admission to students
4 within a given age group or grade level.

5 (f) A charter school may be organized around a
6 special emphasis, theme, or concept as stated in the charter
7 application.

8 (g) A charter school shall enroll all students who
9 apply for admission, unless the number of students exceeds the
10 capacity of the applicable program, class, grade level, or
11 building.

12 (h) If the capacity of the charter school is
13 insufficient to enroll all students who apply for admission,
14 the charter school shall enroll students through a random
15 selection process.

16 Section 14. Each local school district shall provide
17 and publicize information relating to the existence of a
18 charter school authorized by the local school district as an
19 enrollment option within the local school district to the same
20 extent and through the same means as the local school district
21 provides and publicizes information about non-charter public
22 schools within the local school district.

23 Section 15. (a) (1) A non-charter public school
24 converting to a charter school shall adopt and maintain a
25 policy giving enrollment preference to students enrolled in
26 the non-charter public school.

1 (2) A charter school shall provide enrollment
2 preference to students enrolled in the charter school the
3 previous school year and to siblings of students who are
4 enrolled in the charter school. The enrollment preference
5 provided for returning students and siblings exempts those
6 students from the random selection process.

7 (3) A charter school may also provide enrollment
8 preference to children of charter school founders, governing
9 board members, and full-time employees, so long as the number
10 of children provided enrollment preference does not exceed 10
11 percent of the total student population of the charter school.

12 (b) This section does not preclude the formation of
13 a charter school with a mission of serving students eligible
14 for free or reduced price lunches, students with disabilities,
15 students of the same gender, students who pose such severe
16 disciplinary problems that they warrant a specific educational
17 program, or at-risk students.

18 (c) Credits earned by a student in a charter school
19 shall transfer with the student if he or she transfers to
20 another charter school or non-charter public school in this
21 state. The new school shall accept the credits earned by the
22 student in courses or instructional programs at the charter
23 school in a uniform and consistent manner and according to the
24 same criteria established by the department for accepting
25 academic credits from a non-charter public school.

26 Section 16. (a) The performance provisions of a
27 charter contract shall be based on a performance framework

1 that clearly specifies the academic and operational
2 performance indicators, measures, and methods to guide
3 evaluations by the authorizer of the charter school. The
4 performance framework shall include indicators, measures, and
5 methods to evaluate, at a minimum, all of the following:

6 (1) Student academic proficiency.

7 (2) Student academic growth.

8 (3) Achievement gaps in both proficiency and growth
9 between major student subgroups.

10 (4) Attendance.

11 (5) Recurrent enrollment from year to year.

12 (6) Postsecondary readiness, for charter high
13 schools.

14 (7) Financial performance and sustainability.

15 (8) Board performance and stewardship including, but
16 not limited to, compliance with all applicable law and the
17 charter contract.

18 (b) Annual performance targets shall be established
19 by each charter school, in conjunction with its authorizer,
20 and shall be designed to assist the charter school in meeting
21 or exceeding applicable federal, state, and authorizer
22 expectations.

23 (c) The performance framework shall allow the
24 inclusion of additional rigorous, valid, and reliable
25 indicators proposed by the charter school to augment external
26 evaluations of performance. The authorizer may approve

1 inclusion of the additional indicators if the indicators are
2 consistent with the purposes of this act.

3 (d) The performance framework shall require the
4 disaggregation of all student performance data by major
5 student subgroups including, but not limited to, gender, race,
6 poverty status, special education status, English as a second
7 language status, and gifted status.

8 (e) An authorizer shall collect, analyze, and report
9 all data from state assessments in accordance with the
10 performance framework for each charter school under its
11 purview.

12 (f) Multiple charter schools operating under a
13 single charter contract or under the purview of a single
14 governing board shall report their performance as separate,
15 individual charter schools, and each charter school shall be
16 held independently accountable for its performance.

17 Section 17. (a) The department shall oversee the
18 performance and effectiveness of each authorizer established
19 pursuant to this act.

20 (b) In accordance with subsection (c) of Section 6,
21 each local school board registered as an authorizer shall
22 submit to the department an annual report. The department
23 shall communicate to each authorizer the format, content, and
24 submission requirements for the annual report.

25 (c) If a local school board or the portfolio of
26 charter schools under the purview of the local school board
27 exhibits persistent unsatisfactory performance or is the

1 subject of a pattern of well-founded complaints, or if other
2 objective circumstances exist, the department may perform a
3 special review and evaluation of the local school board
4 utilizing nationally recognized principles and standards for
5 quality charter authorizing. If the department determines that
6 a local school board is not in compliance with an existing
7 charter contract, the authorizing contract with the
8 department, or the requirements of this act, the department
9 shall notify the local school board in writing of the
10 identified problems, and afford the local school board
11 reasonable opportunity to respond and remedy those problems.

12 (d) If a local school board as authorizer continues
13 to violate a charter contract or fails to remedy other
14 authorizing problems after due notice from the department, the
15 department shall notify the local school board that its
16 chartering authority shall be revoked unless the local school
17 board timely and satisfactorily remedies the violation or
18 deficiencies.

19 (e) If the chartering authority of a local school
20 board is revoked, the State Board of Education shall assume
21 the role of authorizer for any existing charter contracts held
22 by the local school board for the remainder of the charter
23 term.

24 (f) If the chartering authority of a local school
25 board is reinstated, the State Board of Education may transfer
26 back to the local school board any existing charter contracts

1 assumed by the State Board of Education pursuant to subsection
2 (e).

3 Section 18. (a) An authorizer shall continually
4 monitor the performance and legal compliance of the charter
5 schools under its purview. Monitoring shall include, but not
6 be limited to, collecting and analyzing data to support
7 ongoing evaluation according to the charter contract. An
8 authorizer may conduct oversight activities that enable the
9 authorizer to fulfill responsibilities under this act. The
10 activities shall include, but not be limited to, conducting
11 appropriate inquiries and performing investigations. Any
12 monitoring and oversight activities conducted by an authorizer
13 pursuant to this section shall adhere to the terms of the
14 charter contract, not unduly inhibit the autonomy granted to
15 the charter school, and be consistent with the intent of this
16 act.

17 (b) An authorizer shall annually publish and
18 provide, as part of its annual report to the department, a
19 performance report for each charter school under its purview,
20 in accordance with the performance framework contained in the
21 charter contract and this act. An authorizer may require each
22 charter school under its purview to submit to the authorizer
23 an annual report to assist the authorizer in gathering
24 complete information about each charter school.

25 (c) If the performance or legal compliance of a
26 charter school appears substandard, the authorizer shall
27 promptly notify the charter school of any perceived problems

1 and shall provide reasonable opportunity for the charter
2 school to remedy the problems. If the problems warrant
3 revocation, specific revocation time frames shall apply.

4 (d) An authorizer may take any appropriate
5 corrective action, including sanctions and excluding
6 revocation, against a charter school in response to apparent
7 deficiencies in performance or legal compliance. Such actions
8 or sanctions may include requiring the charter school to
9 develop and execute a corrective action plan within a
10 specified time frame.

11 Section 19. (a) A charter may be renewed for
12 successive five-year terms of duration. An authorizer may vary
13 the term based on the performance, demonstrated capacities,
14 and particular circumstances of the charter school. An
15 authorizer may also impose certain conditions for renewal,
16 such as making necessary improvements at the charter school.

17 (b) An authorizer shall issue a charter school
18 performance report and provide charter renewal application
19 guidance to any charter school with a charter scheduled to
20 expire the following year. The performance report shall
21 summarize the performance record of the charter school to
22 date, based on the data required by this act and the charter
23 contract, and shall provide notice to the charter school of
24 any weakness or other concern that may jeopardize renewal of
25 the charter school. The charter school shall reply to the
26 performance report and shall correct or clarify any
27 information provided in the report.

1 (c) At a minimum, renewal application guidance shall
2 provide an opportunity for the charter school to do all of the
3 following:

4 (1) Present additional evidence, beyond the data
5 contained in the performance report, supporting charter
6 renewal.

7 (2) Describe any improvements undertaken or planned
8 for the charter school.

9 (3) Detail the plans for the next charter term.

10 (d) Renewal application guidance shall include or
11 explicitly refer to the criteria the authorizer shall use to
12 make a renewal decision. The criteria shall be based on the
13 performance framework contained in the charter contract and
14 consistent with this act.

15 (e) The governing board of a charter school seeking
16 renewal shall submit a renewal application to the authorizer
17 pursuant to renewal application guidance issued by the
18 authorizer. The authorizer, by resolution, shall rule on the
19 renewal application not later than 30 days after submission of
20 the renewal application.

21 (f) In making a charter renewal decision, an
22 authorizer shall do all of the following:

23 (1) Base any decision on evidence of the performance
24 of the charter school, over the term of the charter contract,
25 in accordance with the performance framework provided in the
26 charter contract.

1 (2) Ensure that all data used in making a renewal
2 decision is available to the charter school and the public.

3 (3) Provide a public report summarizing the basis
4 for each decision.

5 (g) An authorizer, at any time, may revoke or not
6 renew a charter contract if the authorizer determines that the
7 charter school has failed to comply with this act or does any
8 of the following:

9 (1) Commits a material or substantial violation of
10 any of the terms, conditions, standards, or procedures
11 required by this act or the charter contract.

12 (2) Fails to meet or make sufficient progress toward
13 the performance expectations contained in the charter
14 contract.

15 (3) Fails to meet generally accepted standards of
16 fiscal management.

17 (4) Substantially violates any material provision of
18 law that applies to the charter school.

19 (h) An authorizer shall develop revocation and
20 nonrenewal processes that satisfy all of the following:

21 (1) Provide the holder of the charter with timely
22 notification of potential revocation or nonrenewal and of the
23 reasons for possible closure.

24 (2) Grant the holder of the charter a reasonable
25 amount of time in which to prepare a response.

26 (3) Provide the holder of the charter with an
27 opportunity to submit documents and give testimony,

1 challenging closure and supporting continuation of the charter
2 school, at an orderly proceeding held for that purpose.

3 (4) Allow the holder of the charter to be
4 represented by counsel and to call witnesses.

5 (5) Permit the recording of proceedings.

6 (6) After a reasonable time period for deliberation,
7 require a final determination to be made and conveyed in
8 writing to the holder of the charter.

9 (i) If an authorizer revokes or does not renew a
10 charter, the reasons for the revocation or nonrenewal shall be
11 clearly stated in a resolution adopted by the governing board
12 of the authorizer.

13 (j) An authorizer shall immediately submit a written
14 report of any action to renew, not renew, or revoke a charter
15 to the department. A copy of the report shall also be provided
16 by the authorizer to the charter school at the same time that
17 the report is submitted to the department. The report shall
18 include a copy of the resolution adopted by the governing
19 board pursuant subsection (i), stating the action taken,
20 reasons supporting the decision, and assurances as to
21 compliance with the requirements of this act.

22 Section 20. (a) An authorizer shall develop a
23 charter school closure protocol. The protocol shall specify
24 tasks, time lines, and responsible parties and shall delineate
25 the respective duties of the charter school and the
26 authorizer. The protocol shall include all of the following
27 elements:

1 (1) Timely notification to parents.

2 (2) Orderly transition of students and student
3 records to new charter schools or non-charter public schools.

4 (3) Proper disposition of charter school funds,
5 property, and assets in accordance with this act.

6 (b) In the event of a charter school closure, the
7 authorizer shall oversee and work with the closing charter
8 school to ensure a smooth and orderly closure and transition
9 for students and parents pursuant to closure protocol.

10 (c) Upon closure of a charter school, the assets of
11 the charter school shall be distributed first to satisfy
12 outstanding payroll obligations for employees of the charter
13 school, next to satisfy creditors of the charter school, and
14 last to the local school board. If the assets of the charter
15 school are insufficient to pay all parties owed,
16 prioritization of the distribution of assets may be determined
17 by court order.

18 Section 21. Transfer of a charter contract and
19 oversight of a charter school from one authorizer to another
20 before the expiration of a charter term is prohibited except
21 upon special petition to the department by the charter school
22 or its authorizer. The department shall review petitions for
23 transfer on a case-by-case basis and may grant a transfer
24 request in response to special circumstances and evidence that
25 the transfer would serve the best interests of the students
26 enrolled in the charter school.

1 Section 22. The department shall annually issue to
2 the Governor, the Legislature, and the public a report on the
3 status of charter schools in the state. The report shall
4 include information provided in the annual reports submitted
5 by the authorizers and any additional relevant data compiled
6 by the department for the school year ending in that calendar
7 year. The annual report shall compare the performance of
8 charter school students with the performance of academically,
9 ethnically, and economically comparable students in
10 non-charter public schools. The annual report shall also
11 include an assessment by the department of the successes,
12 challenges, and areas needing improvement under this act,
13 including an assessment of the sufficiency of funding for
14 charter schools, the efficacy of any adopted fee for
15 authorizer funding, and any suggested changes in state law or
16 policy necessary to strengthen charter schools.

17 Section 23. (a) (1) A charter school is a nonprofit
18 educational organization.

19 (2) A charter school is subject to all federal laws
20 and authorities enumerated in this act or in a charter
21 contract, where the contract is consistent with applicable
22 laws, rules, and regulations.

23 (3) Except as provided in this act, a charter school
24 is not subject to state education law or any state or local
25 rule, regulation, policy, or procedure relating to non-charter
26 public schools.

1 (4) A charter contract may apply to one or more
2 charter schools, to the extent approved by the authorizer and
3 consistent with applicable law. Each charter school covered by
4 a charter contract shall be separate and distinct from any
5 other charter school.

6 (5) A single governing board may hold one or more
7 charter contracts.

8 (b) The local school district in which a charter
9 school is located is the local educational agency (LEA) for
10 the charter school and shall retain responsibility for special
11 education and shall serve students in applicable charter
12 schools in a manner consistent with local school district
13 obligations under applicable federal, state, and local law.

14 Section 24. A charter school shall have all powers
15 necessary for carrying out the terms of its charter contract,
16 including all of the following powers:

17 (1) To receive and disburse funds for charter school
18 purposes.

19 (2) To secure appropriate insurance and to enter
20 into contracts and leases.

21 (3) To contract with an education service provider
22 for the management and operation of the charter school, with
23 the governing board of the charter school retaining oversight
24 authority over the charter school.

25 (4) To incur debt in reasonable anticipation of the
26 receipt of public or private funds.

1 (5) To pledge, assign, or encumber its assets to be
2 used as collateral for loans or extensions of credit.

3 (6) To solicit and accept any gifts or grants for
4 charter school purposes subject to applicable laws and the
5 terms of the charter contract.

6 (7) To acquire real property for use as a facility
7 or facilities, from public or private sources.

8 (8) To sue and be sued in its own name.

9 Section 25. (a) A charter school may not
10 discriminate against any person on the basis of race, creed,
11 color, sex, disability, national origin, limited English
12 proficiency, or any other category that would be unlawful if
13 done by a non-charter public school.

14 (b) A charter school shall be nonsectarian in its
15 educational programs, admissions, employment policies, and
16 operations.

17 (c) Consistent with federal civil rights laws, a
18 charter school shall provide students of limited English
19 proficiency with appropriate services designed to teach the
20 student English and the general curriculum.

21 (d) A charter school may not charge tuition and may
22 only charge such fees as may be imposed by non-charter public
23 schools.

24 (e) The powers, obligations, and responsibilities
25 contained in a charter contract may not be delegated or
26 assigned by the charter school or the authorizer.

1 Section 26. (a) A charter school is subject to the
2 same civil rights, health, and safety requirements applicable
3 to a non-charter public school, except as otherwise
4 specifically provided in this act.

5 (b) A charter school is subject to the same state
6 content standards and student assessment and accountability
7 requirements as are applicable to non-charter public schools.
8 Nothing in this act shall preclude a charter school from
9 establishing additional student assessment or performance
10 measures with the approval of the authorizer.

11 (c) A charter school shall provide, at a minimum,
12 the same number of instructional days required by law for a
13 non-charter public school.

14 (d) A charter school is subject to the same
15 competitive bid requirements as a non-charter public school.

16 (e) A charter school governing board is subject to
17 and shall comply with state open meetings and state open
18 records laws.

19 Section 27. (a) A charter school shall comply with
20 all applicable federal laws, rules, and regulations regarding
21 the qualification of teachers and other instructional staff.
22 At least 75 percent of the teaching faculty of a charter
23 school shall be certified by the department.

24 (b) Charter school employees shall participate in
25 the Teachers' Retirement System of Alabama and the Public
26 Education Employees' Health Insurance Plan.

1 (c) A charter school is not subject to any minimum
2 salary schedule established by the state or local school
3 district and shall compensate employees based on policies set
4 by the governing board of the charter school.

5 (d) A charter contract shall guarantee due process
6 for employees of the charter school pursuant to procedures
7 adopted by the governing board of the charter school.

8 (e) Teachers, employees, and members of the
9 governing board of a charter school shall be subject to
10 criminal history background checks and fingerprinting
11 requirements applicable to non-charter public schools pursuant
12 to the Alabama Child Protection Act of 1999, Chapter 22A,
13 Title 16.

14 Section 28. (a) A charter school is eligible for
15 state-sponsored or district-sponsored interscholastic leagues,
16 competitions, awards, scholarships, and recognition programs
17 for students, educators, administrators, and schools to the
18 same extent as non-charter public schools.

19 (b) Charter school students shall satisfy the same
20 eligibility or participation requirements as non-charter
21 public school students.

22 Section 29. (a) The enrollment of students attending
23 a charter school shall be included in the enrollment,
24 attendance, and, if applicable, count of students with
25 disabilities of the local school district in which the student
26 resides. The charter school shall report all such data to the
27 local school district of residence in a timely manner. Each

1 local school district shall report enrollment, attendance, and
2 count of students with disabilities to the department.

3 (b) The local school district where the charter
4 school is located shall pay directly to the charter school,
5 for each student enrolled in the charter school who resides in
6 the local school district, an amount for that student equal to
7 100 percent of the amount calculated pursuant to the state
8 funding formula for local school districts, notwithstanding
9 any oversight fee reductions made pursuant to this act. A
10 local school board may allocate funding generated at the local
11 level to a charter school.

12 (c) Payments made pursuant to this section shall be
13 made by a local school district in 12 substantially equal
14 installments each year beginning on the first business day of
15 November, and every month thereafter. Amounts payable under
16 this section shall be determined by the department. Amounts
17 payable to a charter school in its first year of operation
18 shall be based on the projections of initial year enrollment
19 as provided in the charter contract. Such projections shall be
20 reconciled with actual enrollment at the end of the first year
21 of operation of the charter school, and any necessary
22 adjustments shall be made to payments during the second year
23 of operation of the charter school.

24 (d) In the event of the failure of a local school
25 district to make payments required by this section, the
26 department shall deduct from any state funds which become due
27 to the local school district an amount equal to the unpaid

1 obligation. The department shall pay over such sum to the
2 charter school upon certification by the department.

3 (e) A local school district shall direct the
4 proportionate share of monies generated under federal and
5 state categorical aid programs to those charter schools
6 serving students eligible for such aid. Each charter school
7 that serves students who may be eligible to receive services
8 provided through such programs shall comply with all reporting
9 requirements to receive the aid.

10 (f) (1) The local school district shall provide
11 special education services to students enrolled in charter
12 schools on the same basis as such services are provided to
13 students enrolled in non-charter public schools in the local
14 school district.

15 (2) The local school district shall retain any
16 federal or state aid attributable to a student with a
17 disability attending a charter school in the same proportion
18 to the level of services for such student with a disability
19 that the local school district provides directly or
20 indirectly.

21 (3) Upon request of either party, the charter school
22 and the local school district may negotiate and include in a
23 contract alternate arrangements for the provision of and
24 payment for special education services. If the charter school
25 and the local school district negotiate to allow the charter
26 school to provide special education services, the
27 proportionate share of state and federal resources generated

1 by such students shall be directed by the local school
2 district to the charter school enrolling such students.

3 (g) (1) A charter school shall adhere to generally
4 accepted accounting principles.

5 (2) A charter school shall annually employ an
6 independent external auditor to perform an independent audit
7 of charter school finances. A copy of the audit report and
8 accompanying management letter shall be filed with the
9 authorizer.

10 (h) (1) The department shall disburse state
11 transportation funding to a local school district for each
12 charter school student residing in the local school district
13 on the same basis and in the same manner as is paid to local
14 school districts. A local school district shall disburse state
15 transportation funding to a charter school in proportion to
16 the amount generated by the students of the charter school who
17 reside in the local school district.

18 (2) A charter school may enter into a contract with
19 a local school district or private provider to provide
20 transportation to charter school students.

21 (i) Any monies received by a charter school from any
22 source and remaining in the accounts of the charter school at
23 the end of any budget year shall remain in the accounts of the
24 charter school for use by the charter school during subsequent
25 budget years.

26 (j) Nothing in this act shall be construed to
27 prohibit any person or organization from providing funding or

1 other assistance to the establishment or operation of a
2 charter school. The governing board of a charter school may
3 accept gifts, donations, and grants of any kind made to the
4 charter school and may expend or use such gifts, donations,
5 and grants in accordance with the conditions prescribed by the
6 donor. No gift, donation, or grant may be accepted if subject
7 to a condition that is contrary to law or the charter
8 contract.

9 Section 30. (a) (1) A charter school may receive
10 funding from the Alabama Public School and College Authority.

11 (2) A charter school is subject to the same building
12 codes as a non-charter public school.

13 (b) A charter school shall have a right of first
14 refusal to purchase or lease, at or below fair market value, a
15 closed non-charter public school facility or property or
16 unused portions of a non-charter public school facility or
17 property located in a local school district from which the
18 charter school enrolls students, if the local school district
19 decides to sell or lease the facility or property. Nothing in
20 this act shall affect the distribution of revenues derived
21 from sixteenth section or indemnity school lands.

22 (c) A charter school may negotiate and contract with
23 a local school district, the governing board of a state
24 college or university or public community college, or any
25 other public or for-profit or nonprofit private entity, at or
26 below fair market value, for the use of a facility for a
27 school building.

1 (d) Library, community service, museum, performing
2 arts, theatre, cinema, church, community college, college, and
3 university facilities may provide space to a charter school
4 within their facilities under preexisting zoning and land use
5 designations.

6 (e) (1) Any facility, or portion thereof, used to
7 house a charter school is exempt from ad valorem taxes.

8 (2) Charter school facilities are exempt from the
9 assessment of fees for building permits, fees for building and
10 occupational licenses, impact fees, service availability fees,
11 and assessments for special benefits to the same extent as
12 non-charter public schools are exempt.

13 Section 31. The State Board of Education shall
14 promulgate necessary rules and regulations consistent with the
15 requirements and intent of this act regarding the
16 implementation and operation of this act. The State
17 Superintendent of Education shall interpret the intent and
18 meaning of this act and shall decide controversies and
19 disputes involving the proper administration of this act.

20 Section 32. To the extent that any provision of this
21 act is inconsistent with any other state or local law, rule,
22 or regulation, the provisions of this act shall govern and be
23 controlling.

24 Section 33. The provisions of this act are
25 severable. If any part of this act is declared invalid or
26 unconstitutional, that declaration shall not affect the part
27 which remains.

1 Section 34. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621 because the
5 bill requires expenditures only by a school board.

6 Section 35. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.