

1 HB347  
2 204381-2  
3 By Representative Collins  
4 RFD: Ways and Means Education  
5 First Read: 27-FEB-20

SYNOPSIS: Under existing law, the Alabama School Choice and Student Opportunity Act provides for the establishment of public charter schools in the state.

This bill would provide further for the membership of the Alabama Public Charter School Commission, would authorize the commission to employ staff, and would allow an applicant to apply directly to the commission to open a public charter school under certain conditions.

This bill would also provide further for the funding of public charter schools based on projected enrollment initially and then on current enrollment, would require the disbursement of funds to a public charter school on a monthly, rather than quarterly, basis, and would provide for the treatment of certain local revenues and local tax allocations.

A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 To amend Sections 16-6F-6, 16-6F-7, 16-6F-9, and  
5 16-6F-10, Code of Alabama 1975, relating to the Alabama School  
6 Choice and Student Opportunity Act; to provide further for the  
7 membership and staff of the Alabama Public Charter School  
8 Commission; to allow an applicant for opening a public charter  
9 school to apply directly to the commission under certain  
10 conditions; to provide further for the funding of public  
11 charter schools based on projected enrollment initially and  
12 then on current enrollment; to require the disbursement of  
13 funds to a public charter school on a monthly, rather than  
14 quarterly, basis; and to provide further for the treatment of  
15 certain local revenues and local tax allocations.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 16-6F-6, 16-6F-7, 16-6F-9, and  
18 16-6F-10 of the Code of Alabama 1975, are amended to read as  
19 follows:

20 "§16-6F-6.

21 "(a) Eligible authorizing entities.

22 "(1) A public charter school shall not be  
23 established in this state unless its establishment is  
24 authorized by this section. No governmental entity or other  
25 entity, other than an entity expressly granted chartering  
26 authority as set forth in this section, may assume any

1 authorizing function or duty in any form. The following  
2 entities shall be authorizers of public charter schools:

3 "a. A local school board, for chartering of schools  
4 within the boundaries of the school system under its  
5 jurisdiction, pursuant to state law.

6 "b. The Alabama Public Charter School Commission,  
7 pursuant to this section.

8 "(2) A local school board that registers as an  
9 authorizer may approve or deny an application to form a public  
10 charter school within the boundaries of the local school  
11 system overseen by the local school board.

12 "(3) All authorizing entities shall prioritize those  
13 applications that are focused on serving at-risk students.

14 "(4) A decision made by a local school board shall  
15 be subject to appeal to the commission. The commission may  
16 hear an application for the formation of a public charter  
17 school by an applicant only if one of the following factors is  
18 met:

19 "a. An application to form a public charter school  
20 is denied by the local school board overseeing that system and  
21 the applicant chooses to appeal the decision of the local  
22 school board to the commission.

23 "b. The applicant wishes to open a start-up public  
24 charter school in a public school system that has chosen not  
25 to register as an authorizer.

26 "(b) Public charter school cap.

1           "(1) Authorizers may not approve more than 10  
2 start-up public charter schools in a fiscal year.

3           "(2) Upon receiving notice of approval of the tenth  
4 start-up public charter school to be approved in a fiscal  
5 year, the department shall provide notice to all authorizers  
6 that the cap has been reached and no new start-up public  
7 charter schools may be approved in that fiscal year.

8           "(3) The cap expires on April 1 immediately  
9 following the conclusion of the fiscal year beginning October  
10 1, 2020.

11           "(4) At the conclusion of the fiscal year beginning  
12 October 1, 2020, the department shall submit a report to the  
13 Legislature outlining the performance of both start-up and  
14 conversion public charter schools. This report shall include,  
15 at a minimum, academic performance of all public charter  
16 schools in the state, a detailed update on the authorizing  
17 process, and recommendations for adjustments to public charter  
18 school governance and oversight.

19           "(5) There is no limit on the number of conversion  
20 public charter schools that may be approved.

21           "(c) The Alabama Public Charter School Commission.

22           "(1) The commission is established as an independent  
23 state entity.

24           "(2) The mission of the commission is to authorize  
25 high quality public charter schools, in accordance with the  
26 powers expressly conferred on the commission in this chapter.

1           "(3) The commission shall be composed of a total of  
2 11 members.

3           "a. The initial membership of the commission shall  
4 consist of the following: The State Board of Education shall  
5 appoint 10 members, made up of four appointees recommended by  
6 the Governor, one appointee recommended by the Lieutenant  
7 Governor, two appointees recommended by the President Pro  
8 Tempore of the Senate, and three appointees recommended by the  
9 Speaker of the House of Representatives. The Governor, the  
10 Lieutenant Governor, the President Pro Tempore of the Senate,  
11 and the Speaker of the House of Representatives shall each  
12 recommend a list of no fewer than two nominees for each  
13 initial appointment to the commission. One recommended initial  
14 appointee of the President Pro Tempore of the Senate and one  
15 recommended initial appointee of the Speaker of the House of  
16 Representatives shall be an appointee recommended by members  
17 of the Senate minority party and members of the House minority  
18 party, respectively. No commission member can be appointed  
19 unless he or she has been recommended by the Governor,  
20 Lieutenant Governor, President Pro Tempore of the Senate, or  
21 the Speaker of the House of Representatives.

22           "b. Commencing on the effective date of the act  
23 adding this paragraph, as the terms of the initial members  
24 expire, the nominating authority for the respective initial  
25 member of the commission shall be the appointing authority for  
26 his or her successor on the commission so that the Governor  
27 shall appoint four members to the commission, the Lieutenant

1 Governor shall appoint one member to the commission, the  
2 President Pro Tempore of the Senate shall appoint two members  
3 to the commission, and the Speaker of the House of  
4 Representatives shall appoint three members to the commission.

5           "(4) The eleventh member of the commission shall be  
6 a rotating position based on the local school system where the  
7 application was denied. This member appointed to the rotating  
8 position shall be appointed by the local school system where  
9 the applicant is seeking to open a public charter school. The  
10 local school system shall appoint a member to the rotating  
11 position through board action specifically to consider that  
12 application.

13           "(5) The appointing authorities of the commission  
14 members shall strive to select individuals that collectively  
15 possess strong experience and expertise in public and  
16 nonprofit governance, strategic planning, management and  
17 finance, public school leadership, assessment, curriculum and  
18 instruction, and public education law. Each member of the  
19 commission shall have demonstrated understanding of and  
20 commitment to charter schooling as a tool for strengthening  
21 public education and shall sign an agreement to hear the  
22 appeal and review documents in a fair and impartial manner.

23           "(6) Membership of the commission shall be inclusive  
24 and reflect the racial, gender, geographic, urban/rural, and  
25 economic diversity of the state. The appointing authority  
26 shall consider the eight State Board of Education districts in  
27 determining the geographical diversity of the commission.

1           "(7) The initial appointments to the commission  
2 shall be made no later than June 1, 2015. Two recommended  
3 initial appointees of the Governor, one recommended initial  
4 appointee of the Lieutenant Governor, one recommended initial  
5 appointee of the Speaker of the House of Representatives, and  
6 one recommended initial appointee of the President Pro Tempore  
7 of the Senate shall serve an initial term of one year and two  
8 recommended initial appointees of the Governor, two  
9 recommended initial appointees of the Speaker of the House of  
10 Representatives, and one recommended initial appointee of the  
11 President Pro Tempore of the Senate shall serve an initial  
12 term of ~~two~~ four years. Thereafter, all appointees shall serve  
13 ~~two-year~~ four-year terms of office. All appointments shall be  
14 eligible for reappointment as determined by the appointing  
15 authority, not to exceed a total of ~~six~~ eight years of  
16 service, unless the member was initially appointed to serve a  
17 one-year term of office. If the initial term of office of an  
18 appointee was one year, he or she may serve a total of ~~five~~  
19 nine years of service on the commission.

20           "(8) A member of the commission may be removed for  
21 failure to perform the duties of the appointment. Whenever a  
22 vacancy on the commission exists, the appointing authority,  
23 within 60 days after the vacancy occurs, shall appoint a  
24 member for the remaining portion of the term in the same  
25 manner as the original appointment was made. A member of the  
26 commission shall abstain from any vote that involves a local  
27 school system of which he or she is an employee or which he or



1 she oversees as a member of a local school board. The  
2 requirement to abstain does not apply to the rotating position  
3 on the commission.

4 "(9) Six members of the commission constitute a  
5 quorum, and a quorum shall be necessary to transact business.  
6 Actions of the commission shall be by a majority vote of the  
7 commission. The commission, in all respects, shall comply with  
8 the Alabama Open Meetings Act and state record laws.

9 Notwithstanding the preceding sentence, members of the  
10 commission may participate in a meeting of the commission by  
11 means of telephone conference, video conference, or similar  
12 communications equipment by means of which all persons  
13 participating in the meeting may hear each other at the same  
14 time. Participation by such means shall constitute presence in  
15 person at a meeting for all purposes, including the  
16 establishment of a quorum. Telephone or video conference or  
17 similar communications equipment shall also allow members of  
18 the public the opportunity to simultaneously listen to or  
19 observe meetings of the commission.

20 "(10) To enhance the effectiveness of its  
21 governance, the commission shall adopt a policy to require an  
22 orientation for its members and the members of all authorizing  
23 boards, and annual ongoing training thereafter. Such  
24 orientation training shall focus on roles and responsibilities  
25 of charter school authorizers, laws impacting commissioners as  
26 public officials and general education laws and best  
27 practices. The commission may seek assistance from national or

1 state organizations with such training expertise to develop  
2 its policy and facilitate training. Prior to the start of each  
3 legislative session, the commission shall provide a report to  
4 the appointing authorities documenting compliance with its  
5 policy. Failure to comply with the policy may constitute  
6 grounds for removal from the commission by the appointing  
7 authority.

8 ~~"(10)~~ (11) If the commission overrules the decision  
9 of a local school board and chooses to authorize the  
10 establishment of a public charter school in that local school  
11 system, the commission shall serve as the authorizer for that  
12 public charter school, pursuant to this chapter.

13 ~~"(11)~~ (12) The commission may do any of the  
14 following:

15 "a. Utilize professional and administrative staff of  
16 the department as recommended by the State Superintendent of  
17 Education.

18 "b. Adopt rules for the operation and organization  
19 of the commission.

20 "c. Review, at least once per year, department rules  
21 and regulations concerning public charter schools and, if  
22 needed, recommend to the State Superintendent of Education any  
23 rule or regulation changes deemed necessary.

24 "d. Convene stakeholder groups and engage experts.

25 "e. Seek and receive state, federal, and private  
26 funds for operational expenses.

27 "f. Employ staff to coordinate commission business.

1           ~~"f.~~(13) A commission member may not receive  
2 compensation, but shall be reimbursed by the department for  
3 travel and per diem expenses at the same rates and in the same  
4 manner as state employees.

5           ~~"g.~~ (14) The commission shall submit an annual  
6 report to the department pursuant to subsection (g).

7           ~~"(12)~~(15) In order to overrule the decision of a  
8 local school board and authorize a public charter school, the  
9 commission, in its own consideration of the application, shall  
10 do all of the following:

11           "a. Find evidence of a thorough and high-quality  
12 public charter school application from the applicant based on  
13 the authorizing standards in subdivision (8) of subsection (a)  
14 of Section 16-6F-7.

15           "b. Hold an open community hearing opportunity for  
16 public comment within the local school system where the  
17 application was denied.

18           "c. Find that the local board's denial of an  
19 original charter application was not supported by the  
20 application and exhibits.

21           "d. Take into consideration 1. other existing  
22 charter school applications, 2. the quality of school options  
23 existing in the affected community, 3. the existence of other  
24 charter schools, and 4. any other factors considered relevant  
25 to ensure the establishment of high-quality charter schools in  
26 accordance with the intent of this chapter.

1            "e. Find evidence that the local school board erred  
2 in its application of nationally recognized authorizing  
3 standards.

4            "(d) A local school board may register with the  
5 department for chartering authority within the boundaries of  
6 the school system overseen by the local school board. The  
7 department shall publicize to all local school boards the  
8 opportunity to register with the state for chartering  
9 authority within the school system they oversee. By June 1 of  
10 each year, the department shall provide information about the  
11 opportunity, including a registration deadline, to all local  
12 school boards. To register as a charter authorizer in its  
13 school system, each interested local school board shall submit  
14 the following information in a format to be established by the  
15 department:

16            "(1) Written notification of intent to serve as a  
17 charter authorizer in accordance with this chapter.

18            "(2) An explanation of the local school board's  
19 capacity and commitment to execute the duties of quality  
20 charter authorizing, as defined by nationally recognized  
21 authorizing standards.

22            "(3) An explanation of the local school board's  
23 strategic vision for chartering.

24            "(4) An explanation of how the local school board  
25 plans to solicit public charter school applicants, in  
26 accordance with this chapter.

1           "(5) A description or outline of the performance  
2 framework the local school board will use to guide the  
3 establishment of a charter contract and for ongoing oversight  
4 and evaluation of public charter schools, consistent with the  
5 requirements of this chapter.

6           "(6) A draft of the local school board's renewal,  
7 revocation, and nonrenewal processes, consistent with  
8 subsection (c) of Section 16-6F-8.

9           "(7) A statement of assurance that the local school  
10 board commits to serving as a charter authorizer and shall  
11 fully participate in any authorizer training provided or  
12 required by the state.

13           "(e) If a local school board chooses not to register  
14 as an authorizer, all applications seeking to open a start-up  
15 public charter school within that local school board's  
16 boundaries shall be denied. Applicants wishing to open a  
17 public charter school physically located in that local school  
18 system may apply directly to the commission.

19           "(f) An authorizer may do all of the following:

20           "(1) Solicit, invite, receive, and evaluate  
21 applications from organizers of proposed public charter  
22 schools.

23           "(2) Approve applications that meet identified  
24 educational needs.

25           "(3) Deny applications that do not meet identified  
26 educational needs.

1           "(4) Create a framework to guide the development of  
2 charter contracts.

3           "(5) Negotiate and execute charter contracts with  
4 each approved public charter school.

5           "(6) Monitor the academic, fiscal, and  
6 organizational performance and compliance of public charter  
7 schools.

8           "(7) Determine whether each charter contract merits  
9 renewal or revocation.

10          "(g) An authorizer shall submit to the State Board  
11 of Education a publicly accessible annual report within 60  
12 days after the end of each school fiscal year summarizing all  
13 of the following:

14           "(1) The authorizer's strategic vision for  
15 chartering and progress toward achieving that vision.

16           "(2) The academic and financial performance of all  
17 operating public charter schools overseen by the authorizer,  
18 according to the performance measures and expectations  
19 specified in the charter contracts.

20           "(3) The status of the public charter school  
21 portfolio of the authorizer, identifying all public charter  
22 schools within that portfolio as one of the following:

23           "a. Approved, but not yet open.

24           "b. Open and operating.

25           "c. Terminated.

26           "d. Closed, including year closed and reason for  
27 closing.

1 "e. Never opened.

2 "(4) The oversight and services, if any, provided by  
3 the authorizer to the public charter schools under the purview  
4 of the authorizer.

5 "(5) The authorizing functions provided by the  
6 authorizer to the public charter schools under its  
7 jurisdiction, including the operating costs and expenses of  
8 the authorizer detailed in annual audited financial statements  
9 that conform to generally accepted accounting principles.

10 "(6) All use of taxpayer dollars including  
11 expenditures, contracts, and revenues.

12 "(h) To cover costs for overseeing and authorizing  
13 public charter schools in accordance with this chapter, a  
14 local school board serving as an authorizer may do all of the  
15 following:

16 "(1) Expend its own resources, seek grant funds, and  
17 establish partnerships to support its public charter school  
18 authorizing activities.

19 "(2) Charge a portion of annual per student state  
20 allocations received by each public charter school it  
21 authorizes based on the following schedule:

22 "a. If the local school board has oversight over one  
23 to three, inclusive, public charter schools: Three percent of  
24 annual per student state allocations.

25 "b. If the local school board has oversight over  
26 four to five, inclusive, public charter schools: Two percent  
27 of annual per student state allocations.

1            "c. If the local school board has oversight over six  
2 to 10, inclusive, public charter schools: One percent of  
3 annual per student state allocations.

4            "d. These funds shall be used to cover the costs for  
5 a local school board to provide authorizing services to its  
6 public charter schools.

7            "(i) An employee, agent, or representative of an  
8 authorizer may not simultaneously serve as an employee, agent,  
9 representative, vendor, or contractor of a public charter  
10 school of that authorizer.

11           " (j) With the exception of charges for oversight  
12 services as required in subsection (h), a public charter  
13 school may not be required to purchase services from its  
14 authorizer as a condition of charter approval or of a charter  
15 contract, nor may any such condition be implied.

16           "(k) A public charter school authorized by a local  
17 school system may choose to purchase services, such as  
18 transportation-related or lunchroom-related services, from its  
19 authorizer. In such event, the public charter school and  
20 authorizer shall execute an annual service contract, separate  
21 from the charter contract, stating the mutual agreement of the  
22 parties concerning any service fees to be charged to the  
23 public charter school. A public charter school authorized by  
24 the commission may not purchase services from the commission,  
25 but consistent with this section, may purchase services from  
26 the local school system where the public charter school is  
27 located.



1           "(l) The department shall oversee the performance  
2 and effectiveness of all authorizers established under this  
3 chapter. Persistently unsatisfactory performance of the  
4 portfolio of the public charter schools of an authorizer, a  
5 pattern of well-founded complaints about the authorizer or its  
6 public charter schools, or other objective circumstances may  
7 trigger a special review by the department. In reviewing and  
8 evaluating the performance of an authorizer, the department  
9 shall apply nationally recognized standards for quality in  
10 charter authorizing. If, at any time, the department finds  
11 that an authorizer is not in compliance with an existing  
12 charter contract or the requirements of all authorizers under  
13 this chapter, the department shall notify the authorizer in  
14 writing of any identified problem, and the authorizer shall  
15 have reasonable opportunity to respond and remedy the problem.

16           "(m) If a local school board acting as an authorizer  
17 persists in violating a material provision of a charter  
18 contract or fails to remedy any other authorizing problem  
19 after due notice from the department, the department shall  
20 notify the local school board, within 60 days, that it intends  
21 to revoke the chartering authority of the local school board  
22 unless the local school board demonstrates a timely and  
23 satisfactory remedy for the violation or deficiencies.

24           "(n) If the commission violates a material provision  
25 of a charter contract or fails to remedy any other authorizing  
26 problems after due notice from the department, the department  
27 shall notify the commission, within 60 days, that it intends

1 to notify the Governor, the Speaker of the House of  
2 Representatives, and the President Pro Tempore of the Senate  
3 of the actions of the commission unless the commission  
4 demonstrates a timely and satisfactory remedy for the  
5 violation of the deficiencies. Along with this notification,  
6 the department shall publicly request in writing that the  
7 Governor, the Speaker of the House of Representatives, and the  
8 President Pro Tempore appointees comply with the requests of  
9 the department or face a revocation of their appointment to  
10 the commission.

11 "(o) In the event of revocation of the chartering  
12 authority of an authorizer, the department shall manage the  
13 timely and orderly transfer of each charter contract held by  
14 that authorizer to another authorizer in the state, with the  
15 mutual agreement of each affected public charter school and  
16 proposed new authorizer. The new authorizer shall assume the  
17 existing charter contract for the remainder of the charter  
18 term.

19 "(p) Authorizer power, duties, and liabilities.  
20 Authorizers are responsible for executing, in accordance with  
21 this chapter, the following essential powers and duties:

22 "(1) Soliciting and evaluating charter applications  
23 based on nationally recognized standards.

24 "(2) Approving quality charter applications that  
25 meet identified educational needs and promote a diversity of  
26 high-quality educational choices.

1           "(3) Declining to approve weak or inadequate charter  
2 applications.

3           "(4) Negotiating and executing charter contracts  
4 with each approved public charter school.

5           "(5) Monitoring, in accordance with charter contract  
6 terms, the performance and legal compliance of public charter  
7 schools.

8           "(6) Determining whether each charter contract  
9 merits renewal, nonrenewal, or revocation.

10          "(q) An authorizer that grants a charter to a  
11 501(c)(3) tax-exempt organization for the purpose of opening  
12 and operating a public charter school is not liable for the  
13 debts or obligations of the public charter school, or for  
14 claims arising from the performance of acts, errors, or  
15 omissions by the charter school, if the authorizer has  
16 complied with all oversight responsibilities required by law,  
17 including, but not limited to, those required by this chapter.

18          "(r) Principles and standards for charter  
19 authorizing.

20          "(1) All authorizers shall be required to develop  
21 and maintain chartering policies and practices consistent with  
22 nationally recognized principles and standards for quality  
23 charter authorizing in all major areas of authorizing  
24 responsibility including: Organizational capacity and  
25 infrastructure; soliciting and evaluating charter  
26 applications; performance contracting; ongoing public charter  
27 school oversight and evaluation; and charter renewal

1 decision-making. The State Board of Education shall promulgate  
2 reasonable rules and regulations to effectuate this section by  
3 June 17, 2015.

4 "(2) Authorizers shall carry out all of their duties  
5 under this chapter in a manner consistent with such nationally  
6 recognized principles and standards and with the spirit and  
7 intent of this chapter. Evidence of material or persistent  
8 failure to do so shall constitute grounds for losing charter  
9 authorizing powers.

10 "§16-6F-7.

11 "(a) Request for proposals.

12 "(1) To solicit, encourage, and guide the  
13 development of quality public charter school applications,  
14 every local school board, in its role as public charter school  
15 authorizer, shall issue and broadly publicize a request for  
16 proposals for public charter school applications by July 17,  
17 2015, and by November 1 in each subsequent year. The content  
18 and dissemination of the request for proposals shall be  
19 consistent with the purposes and requirements of this act.

20 "(2) Public charter school applicants may submit a  
21 proposal for a particular public charter school to no more  
22 than one local school board at a time.

23 "(3) The department shall annually establish and  
24 disseminate a statewide timeline for charter approval or  
25 denial decisions, which shall apply to all authorizers in the  
26 state.

1           "(4) Each local school board's request for proposals  
2 shall present the board's strategic vision for chartering,  
3 including a clear statement of any preferences the board  
4 wishes to grant to applications that help at-risk students.

5           "(5) The request for proposals shall include or  
6 otherwise direct applicants to the performance framework that  
7 the authorizer has developed for public charter school  
8 oversight and evaluation in accordance with this chapter.

9           "(6) The request for proposals shall include the  
10 criteria that will guide the authorizer's decision to approve  
11 or deny a charter application.

12           "(7) The request for proposals shall state clear,  
13 appropriately detailed questions as well as guidelines  
14 concerning the format and content essential for applicants to  
15 demonstrate the capacities necessary to establish and operate  
16 a successful public charter school.

17           "(8) The request for proposals shall require charter  
18 applications to provide or describe thoroughly all of the  
19 following essential elements of the proposed school plan:

20           "a. An executive summary.

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

25           "c. The location or geographic area proposed for the  
26 school.

1 "d. The grades to be served each year for the full  
2 term of the charter contract.

3 "e. Minimum, planned, and maximum enrollment per  
4 grade per year for the term of the charter contract.

5 "f. Evidence of need and community support for the  
6 proposed public charter school.

7 "g. A brief biography regarding the expertise and  
8 background on the proposed founding governing members and the  
9 proposed school leadership and management team.

10 "h. The school's proposed calendar and sample daily  
11 schedule.

12 "i. A description of the academic program.

13 "j. A description of the school's instructional  
14 design, including the type of learning environment, such as  
15 classroom-based or independent study, class size and  
16 structure, curriculum overview, and teaching methods.

17 "k. The school's plan for using internal and  
18 external assessments to measure and report student progress.

19 "l. The school's plan for identifying and  
20 successfully serving students with disabilities, students who  
21 are English language learners, students who are academically  
22 behind, and gifted students, including, but not limited to,  
23 compliance with applicable laws and regulations.

24 "m. A description of cocurricular or extracurricular  
25 programs and how they will be funded and delivered.

1            "n. Plans and timelines for student recruitment and  
2 enrollment, including random selection procedures in the event  
3 that interest exceeds capacity.

4            "o. The school's student discipline policies,  
5 including those for special education students.

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

12           "q. A clear description of the roles and  
13 responsibilities for the governing board, the school's  
14 leadership and management team, and any other entities shown  
15 in the organization chart.

16           "r. A staffing chart for the school's first year,  
17 and a staffing plan for the term of the charter.

18           "s. Plans for recruiting and developing school  
19 leadership and staff.

20           "t. The school's leadership and teacher employment  
21 policies, including performance evaluation plans.

22           "u. Proposed governing bylaws.

23           "v. Explanations of any partnerships or contractual  
24 relationships central to the school's operations or mission.

25           "w. The school's plans for providing transportation,  
26 food service, and all other significant operational or  
27 ancillary services.

1           "x. Opportunities and expectations for parental  
2 involvement.

3           "y. A detailed school start-up plan, identifying  
4 tasks, timelines, and responsible individuals.

5           "z. Description of the school's financial plan and  
6 policies, including financial controls and audit requirements.  
7 This plan shall include a disclosure of all donations of  
8 private funding, if any, including, but not limited to, gifts  
9 received from foreign governments, foreign legal entities,  
10 and, when reasonably known, domestic entities affiliated with  
11 either foreign governments or foreign legal entities.

12           "aa. A description of the insurance coverage the  
13 school will obtain.

14           "bb. Start-up and five-year budgets with clearly  
15 stated assumptions.

16           "cc. Evidence of anticipated fundraising  
17 contributions, if claimed in the application.

18           "dd. A sound facilities plan, including backup or  
19 contingency plans, if appropriate.

20           "ee. In the case of an applicant who has submitted  
21 an application for 501(c)(3) tax-exempt status, but has not  
22 yet been approved for 501(c)(3) tax-exempt status, the  
23 applicant shall submit a copy of the application for 501(c)(3)  
24 tax-exempt status.

25           "ff. Any other item that the authorizer deems  
26 appropriate to assess the applicant's ability to successfully  
27 open and operate a public charter school.



1           "(9) Conversion to public charter schools. A local  
2 school board may convert a non-charter public school to a  
3 public charter school.

4           "a. Any local school board's decision to convert a  
5 school is not appealable to the commission.

6           "1. After identifying the non-charter public school  
7 it has decided to convert to a public charter school, a local  
8 school board shall release a request for proposals, allowing  
9 education service providers the opportunity to submit  
10 applications to manage the specific school as a public charter  
11 school under the terms of this chapter.

12           "2. The conversion must occur at the beginning of an  
13 academic school year and shall be subject to compliance with  
14 this chapter.

15           "3. At the time of conversion to a public charter  
16 school, any teacher or administrator in the newly converted  
17 public charter school shall have the opportunity to interview  
18 for a position in the public charter school. The public  
19 charter school is under no obligation to hire any teacher or  
20 administrator.

21           "4. At the time of conversion to a public charter  
22 school, any teacher or administrator in the public charter  
23 school may be allowed to transfer into vacant positions for  
24 which they are both certified and qualified in other schools  
25 in the school system prior to the hiring of new personnel for  
26 those vacant positions.

1           "5. If personnel reductions are contemplated as the  
2 result of a conversion to a charter model, that shall be  
3 clearly stated in the application. An approved conversion  
4 shall constitute decreased student enrollment or a shortage of  
5 revenues, or both, for the purposes of the local school board  
6 implementing a reduction in force pursuant to Section 16-1-33.

7           "b. After an education service provider has been  
8 identified to manage the non-charter public school, the local  
9 school board shall negotiate a performance contract with the  
10 selected education service provider as set forth in  
11 subdivision (1) of subsection (e).

12           "(10) In the case of a proposed public charter  
13 school that intends to contract with an education service  
14 provider for substantial education services, management  
15 services, or both types of services, the request for proposals  
16 shall additionally require the applicants to do all of the  
17 following:

18           "a. Provide evidence of the education service  
19 provider's success in serving student populations similar to  
20 the targeted population, including demonstrated academic  
21 achievement as well as successful management of nonacademic  
22 school functions, if applicable.

23           "b. Provide a term sheet setting forth the proposed  
24 duration of the service contract; roles and responsibilities  
25 of the governing board; the school staff; and the education  
26 service provider; scope of services and resources to be  
27 provided by the education service provider; performance

1 evaluation measures and timelines; compensation structure,  
2 including clear identification of all fees to be paid to the  
3 education service provider; methods of contract oversight and  
4 enforcement; investment disclosure; and conditions for renewal  
5 and termination of the contract.

6 "c. Disclose and explain any existing or potential  
7 conflicts of interest between the school governing board and  
8 proposed education service provider or any affiliated business  
9 entities.

10 "(11) In the case of a public charter school  
11 proposal from an applicant that currently operates one or more  
12 schools inside or outside of Alabama, the request for  
13 proposals shall additionally require the applicant to provide  
14 evidence of past performance and current ability to manage for  
15 growth.

16 "(b) Application decision-making process.

17 "(1) In evaluating and reviewing charter  
18 applications, authorizers shall employ procedures, practices,  
19 and criteria consistent with nationally recognized principles  
20 and standards for quality charter authorizing. The application  
21 review process shall include thorough evaluation of each  
22 written charter application, an in-person interview with the  
23 applicant group, and an opportunity in a public forum for  
24 local residents to learn about and provide input on each  
25 application.

26 "(2) In deciding whether to approve charter  
27 applications, authorizers shall do all of the following:

1           "a. Grant charters only to applicants that have  
2 demonstrated competence in each element of the authorizer's  
3 published approval criteria and are likely to open and operate  
4 a successful public charter school.

5           "b. Base decisions on documented evidence collected  
6 through the application review process.

7           "c. Follow charter-granting policies and practices  
8 that are transparent, based on merit, and avoid conflicts of  
9 interest or any appearance thereof.

10          "d. In the case of the commission, require  
11 significant and objective evidence of interest for the public  
12 charter school from the community the public charter school  
13 wishes to serve.

14          "(3) An authorizer shall not approve a public  
15 charter school application that includes any of the following:

16           "a. Admissions requirements for entry, including,  
17 but not limited to academic proficiency, particular skills or  
18 competencies, or financial means.

19           "b. Any parochial or religious theme.

20          "(4) No later than 60 days after the filing of the  
21 charter application, the authorizer shall decide to approve or  
22 deny the charter application; however, an application  
23 submitted by a public historically black college or university  
24 (HBCU), in partnership with a national nonprofit public HBCU  
25 support organization, for a charter school to be operated on  
26 or near the campus of the HBCU may be considered for expedited  
27 approval by the authorizer. The authorizer shall adopt by

1 resolution all charter approval or denial decisions in an open  
2 meeting. If no action is taken on the application within 60  
3 days, the application shall be considered denied and the  
4 applicant may appeal the decision to the commission.

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

9 "(6) For any charter denial, the authorizer shall  
10 clearly state, for public record, its reasons for denial. A  
11 denied applicant may subsequently reapply to that board the  
12 following year or appeal the denial to the commission.

13 "(7) Within 30 days of taking action to approve or  
14 deny a charter application, the authorizer shall report to the  
15 department the action it has taken. The authorizer shall  
16 provide a copy of the report to the charter applicant at the  
17 same time that the report is submitted to the department. The  
18 report shall include a copy of the authorizer's resolution  
19 setting forth the action taken and reasons for the decision  
20 and assurances as to compliance with all of the procedural  
21 requirements and application elements set forth in this  
22 section.

23 "(c) (1) The applicant for a public charter school,  
24 the local school board for the district in which a public  
25 charter school is proposed to be located, and the authorizer  
26 shall carefully review the potential impact of an application  
27 for a public charter school on the efforts of the local school

1 system to comply with court orders and statutory obligations  
2 for creating and maintaining a unitary system of desegregated  
3 public schools.

4 "(2) The authorizer shall attempt to measure the  
5 likely impact of a proposed public charter school on the  
6 efforts of local school systems to achieve and maintain a  
7 unitary system.

8 ~~"(3) The authorizer shall not approve any public  
9 charter school under this chapter that hampers, delays, or in  
10 any manner negatively affects the desegregation efforts of a  
11 local school system.~~

12 "(d) Initial charter term. An initial charter shall  
13 be granted for a term of five operating years. The charter  
14 term shall commence on the public charter school's first day  
15 of operation. An approved public charter school may delay its  
16 opening for one school year in order to plan and prepare for  
17 the school's opening. If the school requires an opening delay  
18 of more than one year, the school shall request an extension  
19 from its authorizer. The authorizer may grant or deny the  
20 extension depending on the particular school's circumstances.

21 "(e) Charter contracts.

22 "(1) Within 60 days of approval of a charter  
23 application, the authorizer and the governing board of the  
24 approved public charter school shall execute a charter  
25 contract that clearly sets forth the academic and operational  
26 performance expectations and measures by which the public  
27 charter school will be judged and the administrative

1 relationship between the authorizer and the public charter  
2 school, including each party's rights and duties. The  
3 performance expectations and measures set forth in the charter  
4 contract shall include, but need not be limited to, applicable  
5 federal and state accountability requirements. The performance  
6 provisions may be refined or amended by mutual agreement after  
7 the public charter school is operating and has collected  
8 baseline achievement data for its enrolled students. A  
9 governing board shall have received 501(c)(3) tax exempt  
10 status before beginning charter contract negotiations.

11 "(2) The charter contract shall be signed by the  
12 president of the authorizer's board and the president of the  
13 public charter school's governing body. Within 10 days of  
14 executing a charter contract, the authorizer shall submit to  
15 the department written notification of the executed charter  
16 contract and any attachments.

17 "(3) No public charter school may commence  
18 operations without a charter contract executed in accordance  
19 with this chapter and approved in an open meeting of the  
20 authorizer's governing board.

21 "(f) Preopening requirements or conditions.  
22 Authorizers may establish reasonable preopening requirements  
23 or conditions to monitor the start-up progress of newly  
24 approved public charter schools and ensure that they are  
25 prepared to open smoothly on the date agreed, and to ensure  
26 that each school meets all building, health, safety,  
27 insurance, and other legal requirements for school opening.

1           "§16-6F-9.

2           "(a) Legal status of a public charter school.

3           "(1) Notwithstanding any provision of law to the  
4 contrary, to the extent that any provision of this chapter is  
5 inconsistent with any other state or local law, rule, or  
6 regulation, the provisions of this chapter shall govern and be  
7 controlling.

8           "(2) A public charter school shall be subject to all  
9 federal laws and authorities enumerated herein or arranged by  
10 charter contract with the school's authorizer, where such  
11 contracting is consistent with applicable laws, rules, and  
12 regulations.

13           "(3) Except as provided in this chapter, a public  
14 charter school shall not be subject to the state's education  
15 statutes or any state or local rule, regulation, policy, or  
16 procedure relating to non-charter public schools within an  
17 applicable local school system regardless of whether such  
18 rule, regulation, policy, or procedure is established by the  
19 local school board, the State Board of Education, or the State  
20 Department of Education.

21           "(4) A single governing board may hold one or more  
22 charter contracts. Each public charter school that is part of  
23 a charter contract shall be separate and distinct from any  
24 others.

25           "(5) A start-up public charter school shall function  
26 as a local educational agency (LEA). A public charter school  
27 shall be responsible for meeting the requirements of LEAs



1 under applicable federal, state, and local laws, including  
2 those relating to special education. LEA status shall not  
3 preclude a public charter school from developing partnerships  
4 with school systems for services, resources, and programs by  
5 mutual agreement or formal contract.

6 "(6) A conversion public charter school shall remain  
7 a part of the LEA in which the non-charter public school  
8 existed prior to its conversion to a public charter school.

9 "(7) A public charter school shall have primary  
10 responsibility for special education at the school, including  
11 identification and service provision. It shall be responsible  
12 for meeting the needs of enrolled students with disabilities.  
13 This does not preclude the public charter school from  
14 collaborating with the local school system to meet the needs  
15 of any special education student.

16 "(8) The governing board of a public charter school  
17 shall hold meetings in the local school system in which the  
18 public charter school is located and at times convenient for  
19 parents to attend.

20 "(9) All members of a governing board shall be  
21 subject to the State Ethics Law.

22 "(b) Powers of public charter schools. A public  
23 charter school shall have all the powers necessary for  
24 carrying out the terms of its charter contract including the  
25 following powers:

26 "(1) To receive and disburse funds for school  
27 purposes.

1           "(2) To secure appropriate insurance and to enter  
2 into contracts and leases.

3           "(3) To contract with an education service provider  
4 for the management and operation of the public charter school  
5 so long as the school's governing board retains oversight  
6 authority over the school.

7           "(4) To incur debt in reasonable anticipation of the  
8 receipt of public or private funds.

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

11           "(6) To solicit and accept any gifts or grants for  
12 school purposes subject to applicable laws and the terms of  
13 its charter contract.

14           "(7) To acquire real property for use as its  
15 facility or facilities, from public or private sources.

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

17           "(c) General requirements.

18           "(1) A public charter school shall not discriminate  
19 against any person on the basis of race, creed, color, sex,  
20 disability, or national origin or any other category that  
21 would be unlawful if done by a non-charter public school.

22           "(2) No public charter school may engage in any  
23 sectarian practices in its educational program, admissions or  
24 employment policies, or operations.

25           "(3) A public charter school shall not discriminate  
26 against any student on the basis of national origin minority  
27 status or limited proficiency in English. Consistent with

1 federal civil rights laws, public charter schools shall  
2 provide limited English proficient students with appropriate  
3 services designed to teach them English and the general  
4 curriculum.

5 "(4) A public charter school shall not charge  
6 tuition and may only charge such fees as may be imposed on  
7 other students attending public schools in the state.

8 "(5) The powers, obligations, and responsibilities  
9 set forth in the charter contract cannot be delegated or  
10 assigned by either party.

11 "(d) Applicability of other laws, rules, and  
12 regulations.

13 "(1) Public charter schools shall be subject to the  
14 same civil rights, health, and safety requirements, including,  
15 but not limited to, state and local public health and building  
16 codes, employee fingerprinting and criminal background checks  
17 applicable to other public schools in the state, except as  
18 otherwise specifically provided in this chapter.

19 "(2) Public charter schools shall be subject to the  
20 statewide end-of-year annual standardized assessment as  
21 applicable to other public schools in the state, but nothing  
22 herein shall preclude a public charter school from  
23 establishing additional student assessment measures that go  
24 beyond state requirements if the school's authorizer approves  
25 such measures.

1           "(3) Public charter school governing boards shall be  
2 subject to and comply with the Alabama Open Meetings Act and  
3 public records laws.

4           "(4) Any provision of this chapter to the contrary  
5 notwithstanding, public charter schools shall be subject to  
6 competitive bid laws in the same fashion as local boards of  
7 education.

8           "(e) Public charter school employees.

9           "(1) Public charter schools shall comply with  
10 applicable federal laws, rules, and regulations regarding the  
11 qualification of teachers and other instructional staff. In  
12 accordance with subsection (a), teachers in public charter  
13 schools shall be exempt from state teacher certification  
14 requirements.

15           "(2) Start-up public charter schools may elect to  
16 participate in the Teachers' Retirement System and Public  
17 Education Employees' Health Insurance Plan. Such election must  
18 take place prior to the execution of the charter contract and  
19 once made is irrevocable. Conversion charter schools shall  
20 participate in the Teachers' Retirement System and Public  
21 Education Employees' Health Insurance Plan and shall provide  
22 compensation for teachers and school nurses that complies with  
23 the pro rata daily rate of pay as provided in the state  
24 minimum salary schedules for teachers and school nurses.  
25 Employees of participating start-up public charter schools and  
26 employees of conversion public charter schools shall  
27 participate in the Teachers' Retirement System of Alabama as

1 teachers defined in subdivision (3) of Section 16-25-1, and  
2 are eligible to participate in the Public Education Employees'  
3 Health Insurance Plan as employees defined in ~~subdivision (1)~~  
4 ~~of~~ Section 16-25A-1.

5 "(3) A public charter school may not interfere with  
6 laws and applicable rules protecting the rights of employees  
7 to organize and be free from discrimination.

8 "(4) Public charter school employees, teachers, and  
9 other instructional staff shall be subject to the State Ethics  
10 Law, Chapter 25 of Title 36.

11 "(f) Access to extracurricular and interscholastic  
12 activities. Nothing in this chapter shall be construed to  
13 prevent a public charter school from forming an athletic team  
14 and participating in interscholastic athletics in the State of  
15 Alabama. If a public charter school elects for its students to  
16 participate in athletic contests or competitions, then the  
17 school shall pursue membership in the Alabama High School  
18 Athletic Association and shall adhere to all guidelines,  
19 rules, regulations, and bylaws as other member schools.

20 "§16-6F-10.

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

4 "(1) The following provisions govern operational  
5 funding:

6 "a. In their initial year, ~~and in subsequent years~~  
7 ~~to accommodate growth as articulated in their application,~~  
8 funding for public charter schools shall be provided from the  
9 Education Trust Fund in the Foundation Program appropriation  
10 for current units. ~~Subsequent year funding for public charter~~  
11 ~~schools shall be based on the Foundation Program allocation~~  
12 ~~and other public school Education Trust Fund appropriations.~~  
13 In subsequent years, during the phase of approved enrollment  
14 growth, a public charter school shall be funded based upon the  
15 projected enrollment for the upcoming school year, enumerated  
16 in the approved charter application of the public charter  
17 school. These funds shall be budgeted in the Education Trust  
18 Fund Foundation Program. During the growth years, a public  
19 charter school shall be funded based upon current enrollment  
20 for that year, not the enrollment for the previous year. Funds  
21 shall be disbursed using the Foundation Program allocation  
22 method and other public school Education Trust Fund  
23 appropriations. Following the conclusion of the approved  
24 contractual growth years, a public charter school shall be  
25 funded in the same manner as any other public school.

26 "b. For each of its students, a public charter  
27 school shall receive the same amount of state funds, including

1 funds earmarked for the Foundation Program transportation,  
2 school nurses, technology coordinators, and other line items  
3 that may be included in the appropriation for the Foundation  
4 Program Fund, that, for the then-current fiscal year, would  
5 have otherwise been allocated on behalf of each public charter  
6 school student to the local school system where the student  
7 resides. This amount shall reflect the status of each student  
8 according to grade level, economic disadvantage, limited  
9 English proficiency, and special education needs.

10 "c. For each ~~of its students~~ student residing within  
11 the school district boundaries where the charter school is  
12 located, a public charter school shall receive the same amount  
13 of local tax revenue, that, for the then-current fiscal year,  
14 would have otherwise been allocated on behalf of each public  
15 charter school student to the local non-charter public school  
16 ~~of each student's residence~~, excluding those funds already  
17 earmarked through a vote of the local school board for debt  
18 service, capital expenditures, or transportation. ~~As~~  
19 ~~necessary, the~~ The department shall ~~promulgate~~ annually adopt  
20 processes and procedures to determine the specific anticipated  
21 local revenue allocations according to the Foundation Program  
22 for each operating public charter school as well as for each  
23 public charter school applicant before the deadline for the  
24 submission of applications to the commission or the registered  
25 local authorizer.

26 "d. The state funds described in paragraph a. shall  
27 be forwarded on a ~~quarterly~~ monthly basis to the public

1 charter school by the department. The local funds described in  
2 paragraph b. shall be forwarded on a ~~quarterly~~ monthly basis  
3 to the public charter school by the local educational agency  
4 of the student's residence, notwithstanding the oversight fee  
5 reductions pursuant to Section 16-6F-6. ~~Additionally, any~~  
6 ~~local revenues restricted, earmarked, or committed by~~  
7 ~~statutory provision, constitutional provision, or board~~  
8 ~~covenant pledged or imposed by formal action of the local~~  
9 ~~board of education or other authorizing body of government,~~  
10 ~~shall be excluded by the local educational agency of the~~  
11 ~~student's residence when determining the amount of funds to be~~  
12 ~~forwarded by the agency to the public charter school.~~

13 ~~"e. The maximum annual local tax allocation~~  
14 ~~forwarded to a start-up public charter school from a local~~  
15 ~~school system shall, for each student, not exceed the per~~  
16 ~~student portion of the state required 10 mill ad valorem~~  
17 ~~match.~~

18 ~~"f.e.~~ f.e. The maximum annual local tax allocation  
19 forwarded to a ~~conversion~~ public charter school from a local  
20 school system shall, for each student, equal the amount that  
21 would have been received by the local education agency of the  
22 student's residence for each student who now attends a  
23 ~~conversion~~ public charter school, minus any amounts otherwise  
24 excluded pursuant to this section.

25 ~~"g.f.~~ g.f. If necessary, the department shall adopt rules  
26 governing how to calculate and distribute these per-student  
27 allocations, as well as any rules governing cost-sharing for



1 students participating in specialized gifted, talented,  
2 vocational, technical, or career education programs.

3 "(2) Categorical funding. The department shall  
4 direct the proportionate share of moneys generated under  
5 federal and state categorical aid programs to public charter  
6 schools serving students eligible for such aid. The state  
7 shall ensure that public charter schools with rapidly  
8 expanding enrollments are treated equitably in the calculation  
9 and disbursement of all federal and state categorical aid  
10 program dollars. Each public charter school that serves  
11 students who may be eligible to receive services provided  
12 through such programs shall comply with all reporting  
13 requirements to receive the aid.

14 "(3) Special education funding.

15 "a. The state shall pay directly to a public charter  
16 school any federal or state aid attributable to a student with  
17 a disability attending the school.

18 "b. At either party's request, a public charter  
19 school and its authorizer may negotiate and include in the  
20 charter contract alternate arrangements for the provision of  
21 and payment for special education services.

22 "(4) Generally accepted accounting principles;  
23 independent audit.

24 "a. A public charter school shall adhere to  
25 generally accepted accounting principles.

26 "b. A public charter school shall annually engage an  
27 independent certified public accountant to do an independent

1 audit of the school's finances. A public charter school shall  
2 file a copy of each audit report and accompanying management  
3 letter to its authorizer by June 1. This audit shall include  
4 the same requirements as those required of local school system  
5 pursuant to Section 16-13A-7.

6 "(5) Transportation funding.

7 "a. The department shall disburse state  
8 transportation funding to a public charter school on the same  
9 basis and in the same manner as it is paid to public school  
10 systems.

11 "b. A public charter school may enter into a  
12 contract with a school system or private provider to provide  
13 transportation to the school's students.

14 "c. Public charter schools that do not provide  
15 transportation services shall not be allocated any federal,  
16 state, or local funds otherwise earmarked for  
17 transportation-related expenses."

18 Section 2. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.