

1 HB650  
2 140304-1  
3 By Representatives Williams (P), Fincher, Love, McClurkin,  
4 Ison, McMillan and Hubbard (M)  
5 RFD: Ways and Means Education  
6 First Read: 05-APR-12

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

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

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

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Short title.

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

27 Section 2. Overview.

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

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

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

12 Section 3. Legislative findings and purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Section 4. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           (14) NON-CHARTER PUBLIC SCHOOL. A public school  
22 other than a school formed pursuant to this act which is  
23 established by a city or county board of education for the  
24 purpose of providing educational services for students under  
25 its jurisdiction.

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

1 (16) PRIORITY LOCAL SCHOOL. A non-charter public  
2 school labeled as persistently low-performing by the State  
3 Department of Education, in the then-most recent United States  
4 Department of Education School Improvement Grant application,  
5 or, if no such application is submitted, a non-charter public  
6 school listed in the lowest 5 percent of non-charter public  
7 schools on the state accountability plan.

8 (17) PRIORITY LOCAL SCHOOL SYSTEM. A local school  
9 system which contains a priority local school.

10 (18) PUBLIC CHARTER SCHOOL. A public school formed  
11 pursuant to this act that satisfies all of the following:

12 a. Has autonomy over key decisions including, but  
13 not limited to, decisions concerning finance, personnel,  
14 scheduling, curriculum, instruction, and procurement.

15 b. Is governed by an independent governing board.

16 c. Is established and operated under the terms of a  
17 charter contract between the governing board and its  
18 authorizer, in accordance with this act.

19 d. Is a school that admits students on the basis of  
20 a random selection process if more students attempt to enroll  
21 for admission than can be accommodated.

22 e. Provides a program of education that:

23 1. Includes any grade or grades from prekindergarten  
24 to 12th grade, inclusive.

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

1           3. May include a specific academic approach or  
2 theme, including, but not limited to, vocational and technical  
3 training; natural resources and the environment; foreign  
4 language and culture; visual and performing arts; liberal arts  
5 and classical education; or science, mathematics, and  
6 technology.

7           f. Operates in pursuit of a specific set of  
8 educational objectives as defined in its charter contract.

9           g. Operates under the oversight of its authorizer in  
10 accordance with its charter contract.

11           h. Is located in a priority local school system.

12           (19) SCHOOL FLEXIBILITY CONTRACT. A school  
13 flexibility contract between the local school system and the  
14 state wherein local school systems may apply for flexibility  
15 from state laws, including State Board of Education rules,  
16 regulations, and policies.

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

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

22           Section 5. Innovative school system status.

23           (a) Notwithstanding any other provision of law, a  
24 public school or local school system may achieve innovative  
25 school system status in accordance with this section. All  
26 local school systems shall have an equal opportunity to  
27 achieve innovative school system status as provided in this

1 section, and in no way shall one local school system be  
2 favored over another local school system based upon its size,  
3 location, student population, or some other possible measure.

4 (b) In order to be considered an innovative school  
5 system, a local school system shall successfully comply with  
6 the requirements and procedures as set forth in the  
7 department's guidance on school flexibility contracts, which  
8 shall include, but not be limited to:

9 (1) Submission by a local school superintendent to  
10 the department of a letter of intent to pursue a school  
11 flexibility contract.

12 (2) Submission by a local school board to the  
13 department of a resolution supporting the intent of the local  
14 school system to pursue a school flexibility contract.

15 (3) Submission by a local school board to the  
16 department of a document of assurance that the local school  
17 board will provide consistency in leadership and remain  
18 committed to state standards, assessments, and academic rigor.

19 (4) Submission by a local school board to the  
20 department of a resolution supporting the school flexibility  
21 contract proposal and the anticipated timeline of the local  
22 school system.

23 (c) Local school systems pursuing a school  
24 flexibility contract shall have a superintendent who has  
25 served a minimum of one calendar year in the local school  
26 system. This subsection may be waived by the State  
27 Superintendent of Education.

1 (d) Pursuant to State Board of Education rules, all  
2 local school systems shall provide an opportunity for full  
3 discussion and public input prior to submitting a final school  
4 flexibility contract proposal to the department. Additionally,  
5 local school systems shall ensure that their school  
6 flexibility contract and innovation plan proposals are easily  
7 accessible to the general public on the website of the local  
8 school system at least two weeks prior to any public hearing  
9 discussing the contract or plan.

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

12 (1) The school year the local school system expects  
13 the school flexibility contract to begin.

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

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

19 (4) The accountability measures and targets the  
20 local school system seeks to achieve as justification for  
21 granting the flexibility being sought.

22 (f) Local school systems are accountable to the  
23 state for the performance of all schools in their systems,  
24 including innovative schools, under state and federal  
25 accountability requirements.

26 (g) Local school systems may not seek to waive  
27 requirements imposed by federal law, requirements related to

1 the health and safety of students or employees, requirements  
2 imposed by open records or open meetings laws, requirements  
3 related to financial or academic accountability or  
4 transparency, requirements for state assessments, requirements  
5 designed to protect the civil rights of students or employees,  
6 requirements related to participation in a state retirement  
7 system or state health insurance plan, or any requirements  
8 related to tenure or fair dismissal including, specifically,  
9 the Teacher Accountability Act and the Students First Act.

10 (h) Once finalized, the school flexibility contract  
11 and innovation plan shall be submitted by the local school  
12 superintendent, with the approval of the local school board,  
13 to the State Superintendent of Education.

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

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

25 (1) Specification of timelines for submission and  
26 approval of the school flexibility contract and innovation  
27 plan of the local school system.

1                   (2) Authorization for the State Superintendent of  
2 Education, upon approval by the State Board of Education, to  
3 revoke a school flexibility contract for noncompliance or  
4 nonperformance by a local school system.

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

10                   Section 6. The Charter School Application Review  
11 Council.

12                   (a) The Charter School Application Review Council is  
13 established within the department.

14                   (b) The mission of the council shall be to authorize  
15 high quality public charter schools in accordance with the  
16 powers expressly conferred on the council in subsection (c) of  
17 Section 9.

18                   (c) The council shall consist of the following  
19 eleven members:

20                   (1) The President of the State Board of Education,  
21 who shall serve as chair of the council.

22                   (2) The State Superintendent of Education, who shall  
23 serve as vice-chair of the council.

24                   (3) The member of the State Board of Education in  
25 whose district is to be located the public charter school that  
26 is the subject of the application before the council, or, if

1 no application is before the council, the Vice-President of  
2 the State Board of Education.

3 (4) Four persons appointed by the President of the  
4 State Board of Education.

5 (5) Two persons appointed by the Speaker of the  
6 House of Representatives.

7 (6) Two persons appointed by the President Pro  
8 Tempore of the Senate.

9 (d) At least one member of the council shall be a  
10 current or retired public school principal, at least one  
11 member of the council shall be a current or retired public  
12 school teacher, at least one member of the council shall be a  
13 current or retired local public school superintendent, and at  
14 least one member of the council shall be a current or retired  
15 member of a local school board. Also, at least two members of  
16 the council shall be parents who reside in a priority local  
17 school system. All members of the council shall reside in  
18 Alabama. Members appointed to the council shall collectively  
19 possess strong experience and expertise in public and  
20 nonprofit governance, strategic planning, management and  
21 finance, public school leadership, assessment, curriculum and  
22 instruction, and public education law. Each appointed member  
23 of the council shall have demonstrated understanding of  
24 charter schooling as a tool for strengthening public  
25 education. Members of the council may not be members of the  
26 Legislature and do not serve at the pleasure of their  
27 appointing authority.

1           (e) Membership of the council shall be inclusive and  
2 reflect the racial, gender, geographic, urban/rural, and  
3 economic diversity of the state.

4           (f) The initial appointments to the council shall be  
5 made no later than 90 days after December 31, 2012. Three  
6 initial appointees, including one appointee of the Speaker of  
7 the House of Representatives and one appointee of the  
8 President Pro Tempore of the Senate, shall serve one-year  
9 terms; three initial appointees, including one appointee of  
10 the Speaker of the House of Representatives and one appointee  
11 of the President Pro Tempore of the Senate, shall serve  
12 two-year terms; and the remaining initial appointees shall  
13 serve three-year terms. After the first term of each initial  
14 appointee has ended, the term of office for all council  
15 members shall be three years. All members of the council shall  
16 serve on the council until their successor is appointed, but  
17 no member may serve more than three consecutive terms.

18           (g) A member of the council may be removed from the  
19 council by the Governor for any cause that renders the member  
20 incapable or unfit to discharge his or her duties as a council  
21 member. Whenever a vacancy on the council exists, the  
22 appointing authority, within 90 days after the vacancy occurs,  
23 shall appoint a member for the remaining portion of the term.  
24 A member of the council shall abstain from any vote that  
25 involves a local school system of which they are an employee  
26 or of which they oversee as a member of a local school board.

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

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

17 (1) Engage professional and administrative staff,  
18 including staff of the department.

19 (2) Adopt rules for the operation and organization  
20 of the council.

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

25 (4) Convene stakeholder groups and engage experts.

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

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

4           Section 7. Role of the department in the formation  
5 of public charter schools.

6           (a) The department shall disseminate information on  
7 how to form and operate a public charter school and on how to  
8 enroll in a public charter school once the school is created.  
9 The department may provide assistance and guidance to  
10 authorizers in developing effective authorization and  
11 oversight procedures.

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

19           (1) Establishing a public charter school office in  
20 the department.

21           (2) Providing information and technical assistance  
22 to public charter school organizers and authorizers.

23           (3) Allocating funds to support the work of  
24 authorizers.

25           (c) The department may promulgate administrative  
26 rules pursuant to the Alabama Administrative Procedure Act to

1 implement this act or carry out its responsibilities under  
2 this act.

3 (d) The department shall establish policies and  
4 practices consistent with nationally recognized principles and  
5 professional standards for authorizers of public charter  
6 schools, including standards relating to all of the following:

7 (1) Organizational capacity and infrastructure.

8 (2) Soliciting and evaluating applications.

9 (3) Ongoing public charter school oversight and  
10 evaluation.

11 (4) Charter renewal decision making.

12 (e) Consistent with the policies and practices  
13 established in subsection (d), the department may investigate  
14 and, as appropriate, institute sanctions in response to  
15 deficiencies in authorizer performance or legal compliance.

16 (f) Three years after December 31, 2012, the State  
17 Superintendent of Education shall issue to the Governor, the  
18 Legislature, and the public a report on the public charter  
19 school program in the state. The State Superintendent of  
20 Education shall determine the content of the report, but the  
21 report, at a minimum, shall include an assessment of the  
22 successes, challenges, and areas for improvement in meeting  
23 the purposes of this act of the public charter school program,  
24 as well as any suggested changes in state law or policy  
25 necessary to strengthen the public charter school program. The  
26 State Superintendent of Education shall issue a similar report  
27 December 31, 2018, and every three years thereafter.

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

7 Section 8. Public charter school enrollment

8 (a) Public charter school organizers, in their  
9 recruitment efforts, shall include all segments of the  
10 populations served by the existing public schools in the area  
11 where they propose to locate a public charter school,  
12 especially those students who reside in the attendance zone of  
13 a priority local school.

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

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

25 (2) A local school system may not require any  
26 student enrolled in the local school system to attend a  
27 start-up public charter school, but any student in the local

1 school system may choose to submit an enrollment application  
2 to attend a start-up public charter school.

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

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

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

23 (6) If capacity is insufficient to enroll all  
24 students who wish to attend the public charter school, the  
25 school shall select students through a random selection  
26 process. The selection shall take place in a public meeting,  
27 called by the authorizer, that is held no earlier than seven

1 days after the place and time of the meeting has been widely  
2 disseminated to the general public. While public charter  
3 schools are required to have an open enrollment process, a  
4 public charter school shall give enrollment preference to  
5 certain students or potential students, but only as provided  
6 below by paragraphs a., b., and c. Students or potential  
7 students given enrollment preference shall be exempt from the  
8 random selection process. Enrollment preference may be  
9 provided only to the following:

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

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

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

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

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

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

21 (c) If a student who was previously enrolled in a  
22 public charter school enrolls in another public school in this  
23 state, the new school of the student shall accept credits  
24 earned by the student in courses or instructional programs at  
25 the public charter school in a uniform and consistent manner  
26 and according to the same criteria that are used to accept  
27 academic credits from other public schools.

1                   Section 9. Public charter school authorizers.

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

10                   (1) A local school board that oversees a priority  
11 local school system, pursuant to subsection (b).

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

14                   (b) A local school board that oversees a priority  
15 local school system, at its sole discretion, may approve or  
16 deny an application to form a public charter school within the  
17 boundaries of the local school system overseen by the local  
18 school board. Decisions made by a local school board that  
19 oversees a priority local school system shall be subject to  
20 appeal to the council pursuant to subsection (c).

21                   (c) (1) The council may authorize the formation of a  
22 public charter school only if both of the following factors  
23 are met:

24                   a. An application to form a public charter school in  
25 a priority local school system is either denied by the local  
26 school board overseeing that system or the application is not  
27 acted on within 90 days of its submission.

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

4           (2) The council is expressly prohibited from  
5 authorizing the formation of a public charter school in a  
6 local school system that is not a priority local school  
7 system. The council is also expressly prohibited from  
8 authorizing the formation of a conversion public charter  
9 school.

10           (3) While any public charter school, consistent with  
11 subdivision (1) of subsection (b) of Section 8, may accept  
12 enrollment applications from any student residing in the local  
13 school system where the public charter school is to be  
14 located, any public charter school whose formation is  
15 authorized by the council must be located within a priority  
16 local school's attendance zone.

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

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

21           (2) Approve applications that meet identified  
22 educational needs.

23           (3) Deny applications that do not meet identified  
24 educational needs.

25           (4) Create a framework to guide the development of  
26 charter contracts.

1           (5) Negotiate and execute sound charter contracts  
2 with each approved public charter school.

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

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

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

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

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

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

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

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

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

7           (1) Expend its own resources, seek grant funds, and  
8 establish partnerships to support its public charter school  
9 authorizing activities.

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

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

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

24          (2) A public charter school authorized by a local  
25 school system may choose to purchase services, such as  
26 transportation-related or lunchroom-related services, from its  
27 authorizer. In such event, the public charter school and

1 authorizer shall execute an annual service contract, separate  
2 from the charter contract, stating the mutual agreement of the  
3 parties concerning any services to be provided by the  
4 authorizer and any service fees to be charged to the public  
5 charter school. A public charter school authorized by the  
6 council may not purchase services from the council but,  
7 consistent with this subdivision, may purchase services from  
8 the local school system where the public charter school is  
9 located.

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

13 (j) (1) The department shall oversee the performance  
14 and effectiveness of all authorizers established under this  
15 act.

16 (2) Persistently unsatisfactory performance of the  
17 portfolio of the public charter schools of an authorizer, a  
18 pattern of well-founded complaints about the authorizer or its  
19 public charter schools, or other objective circumstances may  
20 trigger a special review by the department. In reviewing and  
21 evaluating the performance of an authorizer, the department  
22 shall apply nationally recognized principles and standards for  
23 quality and equity in charter authorizing. If, at any time,  
24 the department finds that an authorizer is not in compliance  
25 with an existing charter contract or the requirements of all  
26 authorizers under this act, the department shall notify the  
27 authorizer in writing of any identified problem, and the

1 authorizer shall have reasonable opportunity to respond and  
2 remedy the problem.

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

20 (4) If the council persists in violating a material  
21 provision of a charter contract or fails to remedy any other  
22 authorizing problem after due notice from the department, the  
23 department shall notify the council, within 60 days, that it  
24 intends to notify the Governor, the Speaker of the House of  
25 Representatives, and the President Pro Tempore of the Senate  
26 of the actions of the council unless the council demonstrates  
27 a timely and satisfactory remedy for the violation or

1 deficiencies. Along with this notification, the department  
2 shall publicly request in writing that the Governor, the  
3 Speaker of the House of Representatives, and the President Pro  
4 Tempore of the Senate demand that the appointee or appointees  
5 either comply with the requests of the department or face a  
6 revocation of their appointment to the council.

7 (5) In the event of revocation of the chartering  
8 authority of an authorizer, the department shall manage the  
9 timely and orderly transfer of each charter contract held by  
10 that authorizer to another authorizer in the state, with the  
11 mutual agreement of each affected public charter school and  
12 proposed new authorizer. The new authorizer shall assume the  
13 existing charter contract for the remainder of the charter  
14 term. In the event a new authorizer cannot be secured, the  
15 department shall manage the timely and orderly transfer of  
16 affected students from the public charter school or schools to  
17 the appropriate non-charter public school.

18 (k) Disputes between a governing board and an  
19 authorizer shall be mediated and resolved by the State  
20 Superintendent of Education, whose decision is final and  
21 binding.

22 Section 10. Public charter school requests for  
23 proposals.

24 (a) To invite, solicit, encourage, and guide the  
25 development of high quality public charter school  
26 applications, the department shall issue and broadly publicize  
27 a request for proposals. The content and dissemination of the

1 request for proposals shall be consistent with the purposes  
2 and requirements of this act.

3 (b) (1) A request for proposals shall state clear,  
4 appropriately detailed questions as well as guidelines  
5 concerning the format and content essential for applicants to  
6 demonstrate the capacities necessary to establish and operate  
7 a successful public charter school.

8 (2) A request for proposals shall require  
9 applications to provide or describe thoroughly, at a minimum,  
10 all of the following essential elements of the proposed public  
11 charter school plan:

12 a. The vision of the proposed public charter school,  
13 including:

14 1. An executive summary.

15 2. The mission of the proposed public charter  
16 school, including identification of the targeted student  
17 population and the community the school hopes to serve.

18 3. Evidence of need and community support for the  
19 proposed public charter school.

20 b. The governance plan of the proposed public  
21 charter school, including:

22 1. Background information on proposed board members  
23 and any assurances or certifications required by the  
24 authorizer.

25 2. Proposed governing bylaws.

26 3. An organization chart that clearly presents the  
27 organizational structure of the school, including lines of

1 authority and reporting between the governing board, staff,  
2 and any related bodies such as advisory bodies or parent and  
3 teacher councils, and any external organizations that may play  
4 a role in managing the school.

5 4. A clear description of the roles and  
6 responsibilities for the governing board, the leadership and  
7 management team of the school, and any other entities shown on  
8 the organization chart.

9 5. Identification of the proposed founding governing  
10 board members and, if identified, the proposed school leader  
11 or leaders.

12 6. Background information on the leadership and  
13 management team of the school, if identified.

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

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

17 2. The grades to be served each year for the full  
18 term of the charter.

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

22 4. The proposed calendar and sample daily schedule  
23 of the school.

24 5. Plans and timelines for student recruitment and  
25 enrollment, including random selection procedures and a  
26 detailed explanation of how students will be recruited from

1 all racial, ethnic, geographic, and income groups in the  
2 service area.

3 6. Explanations of any partnerships or contractual  
4 relationships central to the operations or mission of the  
5 school.

6 7. The proposals for providing transportation, food  
7 service, and other significant operational or ancillary  
8 services.

9 8. A facilities plan, including backup or  
10 contingency plans if appropriate.

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

13 10. A closure protocol, outlining orderly plans and  
14 timelines for transitioning students and student records to  
15 new schools and for appropriately disposing of school funds,  
16 property, and assets in the event of school closure.

17 d. The finances of the proposed public charter  
18 school, including all of the following:

19 1. A description of the financial plan and policies  
20 of the school, including financial controls and audit  
21 requirements.

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

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

26 4. Evidence of anticipated fundraising  
27 contributions, if claimed in the application.

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

4                   6. A description of the insurance coverage the  
5 school proposes to obtain.

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

8                   1. Plans for identifying, recruiting, and  
9 successfully serving students with the wide range of learning  
10 needs and styles typically found in schools of the sending  
11 area.

12                   2. Plans for compliance with applicable state and  
13 federal laws, rules, and regulations, including special  
14 education and antidiscrimination laws.

15                   3. Student discipline plans and policies, including  
16 those for special education students, and an explanation of  
17 the research basis for the plan and policies.

18                   4. Student transfers out of the school to  
19 non-charter public schools.

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

22                   1. A description of the academic program.

23                   2. A description of the instructional design of the  
24 school, including the type of learning environment, class size  
25 and structure, curriculum overview, teaching methods, and  
26 research basis.

1                   3. A description of cocurricular and extracurricular  
2 programs and how each shall be funded and delivered.

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

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

7                   2. Plans for recruiting and developing school  
8 leadership and staff.

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

11                   4. Opportunities and expectations for parent  
12 involvement and how the school plans to afford flexibility in  
13 the expectations for those parents with significant barriers  
14 to involvement.

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

20                   (1) Explain how and why the education service  
21 provider was selected.

22                   (2) Provide evidence of the success of the education  
23 service provider in serving student populations similar to the  
24 targeted population, including demonstrated academic  
25 achievement and successful management of nonacademic school  
26 functions, if applicable.

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

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

11           (5) Explain the relationship between the governing  
12 board and the education service provider, specifying how the  
13 governing board shall monitor and evaluate the performance of  
14 the education service provider, the internal controls that  
15 shall guide the relationship, and how the governing board  
16 shall ensure fulfillment of performance expectations.

17           (6) Provide a statement of assurance that the  
18 governing board is legally and operationally independent from  
19 the education service provider.

20           (7) Disclose and explain any existing or potential  
21 conflicts of interest between the governing board and the  
22 education service provider or any affiliated business  
23 entities.

24           (d) With respect to a public charter school proposal  
25 from an applicant that currently operates one or more schools,  
26 in addition to the other requirements of this section, the

1 request for proposals shall require applicants to provide  
2 evidence of past performance and current capacity for growth.

3 Section 11. Public charter school applicants.

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

6 (1) An application seeking to establish a start-up  
7 public charter school in a priority local school system, upon  
8 the recommendation of the local school superintendent, shall  
9 be first submitted to the local school board overseeing that  
10 local school system. If an application submitted to a local  
11 school board pursuant to the preceding sentence is denied, the  
12 applicant may appeal the decision to the council. The council  
13 may hear the appeal pursuant to subsection (c) of Section 9.  
14 Applicants wishing to appeal the decision of a local school  
15 board shall notify the council of the decision to appeal  
16 within 30 days after the denial of the application. The  
17 council shall hear the appeal within 30 days of receiving this  
18 notice. The denied application as well as any records related  
19 to the denial of the application may be reviewed by the  
20 council. The council, at its discretion, may also permit oral  
21 testimony at any council meeting or hearing. All decisions  
22 made by the council shall be final and may not be appealed.

23 (2) An application seeking to establish a conversion  
24 public charter school in a priority local school system, upon  
25 the recommendation of the local school superintendent, shall  
26 be submitted to the local school board overseeing the  
27 non-charter public school that is the subject of the

1 application. Decisions made by a local school system acting on  
2 an application seeking to establish a conversion public  
3 charter school shall be final and may not be appealed.

4 (3) An applicant may submit a proposal for a  
5 particular public charter school to no more than one  
6 authorizer at a time. Furthermore, an applicant shall submit a  
7 separate application for each public charter school it seeks  
8 to open.

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

12 (2) An application to establish a conversion public  
13 charter school may be submitted only by the superintendent of  
14 the local school system where the non-charter public school  
15 that is the subject of the application is located.  
16 Furthermore, in addition to any other requirements in this  
17 act, an application to establish a conversion public charter  
18 school shall include a petition signed by a majority of  
19 parents of students in the existing non-charter public school  
20 that is the subject of the application.

21 (c) In reviewing and evaluating applications,  
22 authorizers are encouraged to employ procedures, practices,  
23 criteria, and standards consistent with nationally recognized  
24 principles and standards for authorizing high quality public  
25 charter schools.

26 (1) The application review process, at a minimum,  
27 may include substantive participation by a team of reviewers

1 who collectively possess appropriate academic expertise and  
2 operational experience with charter schools.

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

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

10 a. Grant charters to applicants that have  
11 demonstrated competence in each element of the published  
12 approval criteria of the authorizer and are likely to open and  
13 operate a successful public charter school.

14 b. Base decisions on documented evidence collected  
15 through the application review process.

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

19 (d) No later than 90 days after the filing of an  
20 application, or, in the case of the council, after receiving  
21 the notice of appeal of an applicant, an authorizer shall  
22 decide to approve or deny an application. The authorizer shall  
23 make and announce all charter approval or denial decisions in  
24 a meeting of the governing entity of the authorizer that is  
25 open to the public.

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

4           (2) If the authorizer denies an application, the  
5 authorizer, for public record, shall specifically state in  
6 writing its reasons for denial. An authorizer is immune from  
7 legal liability stemming from the mere denial of an  
8 application. An applicant may subsequently reapply to that  
9 authorizer, but not more than once during any two-year period.

10          (3) Within 10 days of taking action to approve or  
11 deny an application, the authorizer shall report to the State  
12 Superintendent of Education the action it has taken. The  
13 authorizer shall provide a copy of the report to the applicant  
14 at the same time that the report is submitted to the State  
15 Superintendent of Education.

16          (4) The State Superintendent of Education shall  
17 register the charters approved by all chartering authorities  
18 in chronological order by date of approval. No public charter  
19 school may begin operating until its charter has been  
20 registered by the State Superintendent of Education. The State  
21 Superintendent of Education may register a cumulative total of  
22 no more than 20 public charter schools. Once this cap is  
23 reached, the State Superintendent of Education may not accept  
24 further registrations from any authorizer.

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

1           (6) A decision on an application shall be conveyed  
2 in writing to the applicant. A decision may grant approval or  
3 conditional approval, request resubmission, or reject the  
4 application, and shall include written reasons for the  
5 decisions.

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

8           (f) Under no circumstances may this act be  
9 interpreted to allow any applicant, or any entity with which  
10 the applicant contracts, to provide financial incentives of  
11 any sort to the parent of a public charter school student or a  
12 potential public charter school student.

13           (g) Each authorizer, at its discretion, may  
14 establish a separate and expedited application process for  
15 applicants that operate high performing public charter schools  
16 so that high performing public charter schools may be  
17 replicated. The public charter school replication application  
18 shall require evidence of academic success for the school  
19 design that the authorizer intends to replicate, along with  
20 proof that the applicant has the financial and human resources  
21 necessary to replicate the design successfully. Applications  
22 without such evidence and proof shall be denied.

23           Section 12. Charter contracts.

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

26           (1) After approval of an application and no later  
27 than 60 days before the opening date of the public charter

1 school, the authorizer and the governing board shall execute a  
2 charter contract that sets forth:

3 a. Performance provisions describing the academic  
4 and operational performance expectations and measures by which  
5 the public charter school shall be judged.

6 b. Administrative provisions articulating the  
7 administrative relationship between the authorizer and the  
8 public charter school, including the rights and duties of each  
9 party.

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

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

14 b. May be refined or amended by mutual agreement of  
15 the parties to the charter contract after the public charter  
16 school is operating and has collected baseline achievement  
17 data for its enrolled students.

18 c. Shall be set by a public charter school in  
19 conjunction with its authorizer and must be designed to help  
20 the school meet applicable federal and state requirements and  
21 authorizer expectations.

22 d. Shall require the disaggregation of all student  
23 performance data by major student subgroups.

24 e. Shall be based on a performance framework  
25 developed by the authorizer that sets forth annual academic  
26 and operational performance targets that shall guide the

1 evaluations of the authorizer of each public charter school,  
2 including:

- 3 1. Student academic proficiency.
- 4 2. Student academic growth.
- 5 3. Achievement gaps in both proficiency and growth  
6 between major student subgroups.
- 7 4. Attendance.
- 8 5. Recurrent enrollment from year to year.
- 9 6. With respect to high school, postsecondary  
10 readiness and graduation rates.
- 11 7. Financial performance and sustainability.
- 12 8. Governing board performance and stewardship.
- 13 9. Parent and community engagement.

14 (3) A charter contract shall be signed by the  
15 president of the governing entity of the authorizer and the  
16 president of the governing board.

17 (4) A public charter school may not commence  
18 operations without a charter contract executed in accordance  
19 with this section and approved in a meeting open to the public  
20 of the governing entity of the authorizer.

21 (b) An authorizer may establish reasonable  
22 requirements or conditions before the opening of a public  
23 charter school to monitor the start-up progress of a newly  
24 approved public charter school, ensure that it is prepared to  
25 open smoothly on the date agreed, and ensure that the school  
26 meets all building, health, safety, insurance, and other legal  
27 requirements for school opening.

1 (c) For each public charter school it oversees, the  
2 authorizer is responsible for annually collecting, analyzing,  
3 and publicly reporting all data from state assessments and  
4 other measures of performance in accordance with the  
5 performance framework developed pursuant to this act. An  
6 authorizer shall monitor the performance and legal compliance  
7 of the public charter schools it oversees, including  
8 collecting and analyzing all data to support ongoing  
9 evaluation according to the charter contract. In the event  
10 that the performance or legal compliance of a public charter  
11 school appears unsatisfactory, the authorizer shall promptly  
12 notify the public charter school of perceived problems and  
13 provide reasonable opportunity for the school to remedy the  
14 problems.

15 (d) Terms of a charter contract shall be mutually  
16 agreed upon by the applicant and the authorizer. If necessary,  
17 either party to a contract may request that the State  
18 Superintendent of Education review and mediate any terms of a  
19 charter contract that the parties cannot agree upon after due  
20 diligence.

21 (e) Nothing in this section shall preclude a charter  
22 contract from including terms that require the holder of a  
23 charter from posting a bond to cover expenses associated with  
24 moving equipment to a public charter school or expenses  
25 incurred as a result of the closure of a public charter  
26 school.

27 Section 13. Charter term and renewal.

1           (a) An initial charter shall be granted for a term  
2 of five operating years. The charter term commences on the  
3 first day of operation of the public charter school. An  
4 approved public charter school may delay its opening for one  
5 school year in order to plan and prepare for the opening. If  
6 the public charter school requires an opening delay of more  
7 than one school year, the public charter school shall request  
8 an extension from its authorizer. The authorizer may grant or  
9 deny the extension depending on the particular circumstances  
10 of the public charter school.

11           (b) A charter may be renewed for successive terms of  
12 five years, although an authorizer may grant a renewal for a  
13 term not to exceed 10 years based on the performance,  
14 demonstrated capacities, and particular circumstances of each  
15 public charter school. If a charter is renewed for more than  
16 five years, the authorizer shall issue a charter school  
17 performance report every five years as called for by  
18 subsection (c). An authorizer may grant renewal with specific  
19 conditions for necessary improvements to a public charter  
20 school.

21           (c) No later than June 30 of the fourth year of  
22 operation under each five-year term of a charter contract, the  
23 authorizer shall issue a charter school performance report. If  
24 the charter of the public charter school is expiring, the  
25 authorizer shall offer charter renewal application guidance to  
26 the school.

1           (1) The performance report required in this  
2 subsection shall summarize the performance record of the  
3 public charter school to date, based on the data required by  
4 this act and the charter contract, and shall provide notice of  
5 any weaknesses or concerns perceived by the authorizer  
6 concerning the school that may jeopardize its position in  
7 seeking renewal if not timely notified. The school shall be  
8 given the opportunity to respond to the performance report and  
9 submit any corrections or clarifications for the report.

10           (2) The renewal application guidance required by  
11 this subsection shall include or refer explicitly to the  
12 criteria and standards that shall guide the renewal decisions  
13 of the authorizer, which shall be based on the performance  
14 framework set forth in the charter contract and consistent  
15 with this act. The renewal application guidance, at a minimum,  
16 shall require and provide an opportunity for the public  
17 charter school to do all of the following:

18           a. Present additional evidence, beyond the data  
19 contained in the performance report, supporting its case for  
20 charter renewal.

21           b. Describe improvements undertaken or planned for  
22 the school.

23           c. Detail the plans of the school for the next  
24 charter term.

25           (d) No later than September 30 of the final  
26 authorized year of operation of a public charter school under  
27 a term of a charter contract, the governing board of a public

1 charter school seeking renewal shall submit a renewal  
2 application to the authorizer pursuant to any renewal  
3 application guidance offered by the authorizer.

4 (e) An authorizer shall rule by resolution on a  
5 renewal application under this section no later than 45 days  
6 after the filing of the renewal application. In making charter  
7 renewal decisions, every authorizer shall do all of the  
8 following:

9 (1) Ground its decision in evidence of the  
10 performance of the public charter school over the term of the  
11 charter in accordance with the performance framework set forth  
12 in the charter contract.

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

15 (3) Provide a public report summarizing the evidence  
16 basis for each decision.

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

20 (1) A charter shall be revoked at any time or not  
21 renewed if the authorizer determines that the public charter  
22 school failed to comply with this act or did any of the  
23 following:

24 a. Committed a material violation of any of the  
25 terms, conditions, standards, or procedures required under  
26 this act or the charter contract.

1           b. Failed to meet or make sufficient progress toward  
2 the performance expectations set forth in the charter  
3 contract.

4           c. Failed to meet generally accepted standards of  
5 fiscal management.

6           d. Violated any provision of law from which the  
7 school was not exempted.

8           (2) If an authorizer revokes or does not renew a  
9 charter, the authorizer shall clearly state, in a resolution  
10 of its governing entity, the reasons for the revocation or  
11 nonrenewal. The resolution may only be adopted at a public  
12 meeting of the governing entity that is held after notice of  
13 the meeting has been made available to the general public for  
14 no fewer than seven days in advance of the meeting.

15           (g) Within 10 days of taking action to renew, not  
16 renew, or revoke a charter under this section, the authorizer  
17 shall report to the State Superintendent of Education the  
18 action taken and shall provide a copy of the report to the  
19 public charter school at the same time that the report is  
20 submitted to the State Superintendent of Education. The report  
21 shall include a copy of the governing entity of the resolution  
22 setting forth the action taken and reasons for the decision.

23           (h) In the event a public charter school closes for  
24 any reason:

25           (1) The authorizer shall oversee and work with the  
26 closing public charter school to ensure timely notification to  
27 parents, orderly transition of students and student records to

1 new schools, and proper disposition of school funds, property,  
2 and assets in accordance with the requirements of this act.

3 (2) The assets of the public charter school shall be  
4 distributed first to satisfy outstanding payroll obligations  
5 for employees of the school, next to satisfy outstanding  
6 obligations owed to local school boards or authorizers  
7 providing services to the public charter school, and finally  
8 to creditors of the school. Any remaining funds must be paid  
9 to the State Treasurer to the credit of the local school board  
10 overseeing the local school system where the public charter  
11 school is located. If the assets of the school are  
12 insufficient to pay all parties to whom the school owes  
13 compensation, the prioritization of the distribution of assets  
14 may be determined by decree of a court of law.

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

19 Section 14. Public charter school operations.

20 (a) Notwithstanding any provision of law to the  
21 contrary, to the extent that any provision of this act is  
22 inconsistent with any other state or local law, rule, or  
23 regulation, this act shall govern and is controlling.

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

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

3           (3) Each public charter school shall operate  
4 pursuant to its own distinct charter as a state agency with  
5 local jurisdiction.

6           (b)(1) A public charter school established in  
7 accordance with this act functions for all purposes as a local  
8 educational agency. Local educational agency status does not  
9 preclude a public charter school from developing links to  
10 local school systems for services, resources, and programs, by  
11 mutual agreement or by formal contract.

12           (2) The public charter school is responsible for  
13 meeting the requirements of local educational agencies under  
14 applicable federal, state, and local law, including those  
15 relating to special education, receipt of funds,  
16 interscholastic athletics, and compliance with funding  
17 requirements.

18           (3) The public charter school has sole  
19 responsibility for special education at the school, including  
20 identification and provision of service, and is responsible  
21 for meeting the needs of enrolled students with disabilities.

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

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

26           (2) Contract or cooperate with non-charter public  
27 schools for service for students with special needs, English

1 language learner students, and other specialized populations,  
2 as well as for mutually agreed administrative services.

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

5 (4) Contract with an education service provider for  
6 the management and operation of the school, as long as the  
7 governing board of the school retains oversight authority over  
8 the school.

9 (5) Incur debt, upon the approval of the State  
10 Superintendent of Education, in reasonable anticipation of the  
11 receipt of public or private funds.

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

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

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

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

21 (1) A public charter school may not discriminate  
22 against any person on the basis of race, creed, color,  
23 ethnicity, national origin, religion, gender, income level,  
24 sexual orientation, disabling condition, proficiency in the  
25 English language, academic or athletic ability, or on any  
26 other basis that would be unlawful if done by a public school.

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

4           (3) A public charter school may not charge tuition  
5 and may only charge such fees as may be imposed by other  
6 public schools in the local school system in which the public  
7 charter school is located.

8           (4) If the public charter school operates its own  
9 transportation system, the public charter school shall have a  
10 plan that describes how the school shall meet the  
11 transportation needs of its students, and such plan shall be  
12 consistent with applicable federal and state school-related  
13 transportation safety regulations.

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

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

20           (1) Public charter schools are subject to the same  
21 civil rights and health and safety requirements applicable to  
22 other public schools in the state.

23           (2) Public charter schools are subject to the same  
24 student standards, assessment, and accountability requirements  
25 applicable to other public schools in the state, but nothing  
26 in this act precludes a public charter school from  
27 establishing additional student assessment measures that go

1 beyond state requirements if the authorizer of the school  
2 approves such measures.

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

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

10 (5) A public charter school is exempt from the  
11 restrictions normally associated with any state-funded  
12 categorical education funding program, including,  
13 specifically, any restrictions required for participation in  
14 the apportionment of funds appropriated from the Foundation  
15 Program Fund.

16 (f) This subsection governs teacher employment in a  
17 public charter school.

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

21 (2) All full-time teachers in a public charter  
22 school shall either hold an appropriate teaching certificate  
23 issued by the Alabama Department of Education or become  
24 certified within two years of the date they are hired, except  
25 that certification is not necessarily required for those  
26 full-time teachers with an advanced degree in the curricular  
27 area in which they teach, professional certification in the

1 curricular area in which they teach, or unique expertise or  
2 experience in the curricular area in which they teach.

3 (3) Teachers in charter schools have the same rights  
4 and privileges as other public school teachers except as  
5 otherwise provided in this act, except that a public charter  
6 school is expressly exempt from, but may choose to comply  
7 with, state laws related to employee tenure and principal  
8 contracts.

9 (4) Teachers and other public charter school  
10 personnel, as well as governing board members, are subject to  
11 criminal history record checks and fingerprinting requirements  
12 applicable to other public schools.

13 (5) Any other provision of this act notwithstanding,  
14 a non-charter public school converting entirely to a public  
15 charter school shall adopt and maintain a policy that gives a  
16 hiring opportunity to those who are full-time employees of the  
17 non-charter public school at the time the charter contract  
18 becomes effective. This provision may not be interpreted to  
19 mandate the hiring of such employees.

20 (g) A public charter school shall adhere to  
21 generally accepted accounting principles and shall annually  
22 engage, at the expense of the public charter school, the  
23 Alabama Department of Examiners of Public Accounts to do an  
24 independent audit of the finances of the school.

25 (h) Public charter schools have the option of  
26 allowing their employees to be enrolled in and participate in

1 the Alabama Teachers' Retirement System and the Public  
2 Education Employees' Health Insurance Plan.

3 (1) Within the first year of operation, a public  
4 charter school shall make a one-time irrevocable election of  
5 whether it will allow its employees to be enrolled in and  
6 participate in the Alabama Teachers' Retirement System and the  
7 Public Education Employees' Health Insurance Plan.

8 (2) Notwithstanding the provisions of Section 15, if  
9 a public charter school elects to not allow its employees to  
10 be enrolled in and participate in the Alabama Teachers'  
11 Retirement System and the Public Education Employees' Health  
12 Insurance Plan, then any funds attributed to an appropriation  
13 for the expenses of participating in the system and plan shall  
14 not be forwarded by any local educational agency to a public  
15 charter school. If applicable, employees must sign a form  
16 designed by the Retirement Systems of Alabama indicating that  
17 they are aware that the public charter school where they are  
18 employed has elected for its employees to not participate in  
19 the system and plan. Service in a public charter school that  
20 elects to not allow its employees to be enrolled in and  
21 participate in the Alabama Teachers' Retirement System shall  
22 not be considered as eligible service credit for purposes of  
23 calculating public retirement benefits.

24 (i) Employees of a public charter school, as well as  
25 members of the governing board of a public charter school,  
26 shall demonstrate to the authorizer of the public charter  
27 school that they are citizens of or lawfully present in the

1 United States. Additionally, employees of a public charter  
2 school, at the time of their employment, shall either reside  
3 in Alabama or demonstrate their intent to establish residency  
4 in Alabama within 120 days of when their employment begins.

5 Section 15. Public charter school funding.

6 (a) Students enrolled in and attending public  
7 charter schools shall be included in all enrollment and  
8 attendance counts of students of the local school systems in  
9 which the students reside. The public charter school shall  
10 report all such data to the local school systems of residence  
11 in a timely manner. Each local school system shall report such  
12 enrollment, attendance, and other counts of students to the  
13 department in the manner required by the department.

14 (b) The following provisions govern operational  
15 funding.

16 (1) For each of its students, a public charter  
17 school shall receive the same amount of state and local funds,  
18 including funds earmarked for transportation, school nurses,  
19 technology coordinators, and other line items that may be  
20 included in the appropriation for the Foundation Program Fund,  
21 that, for the then-current fiscal year, would have otherwise  
22 been allocated on behalf of each public charter school student  
23 to the local non-charter public school of each student's  
24 residence. This amount shall reflect the status of each  
25 student according to grade level, economic disadvantage,  
26 limited English proficiency, and special education needs.

1                   (2) The state funds described in subdivision (1)  
2 shall be forwarded on a quarterly basis to the public charter  
3 school by the department. The local funds described in  
4 subdivision (1) shall be forwarded on a quarterly basis to the  
5 public charter school by the local educational agency of the  
6 student's residence. Additionally, any local revenues  
7 restricted, earmarked, or committed by statutory provision,  
8 constitutional provision, or bond covenant pledged or imposed  
9 by formal action of the local board of education or other  
10 authorizing body of government, shall be excluded by the local  
11 educational agency of the student's residence when determining  
12 the amount of funds to be forwarded by the agency to the  
13 public charter school. Similarly, public charter schools that  
14 do not provide transportation services shall not be allocated  
15 any federal, state, or local funds otherwise earmarked for  
16 transportation-related expenses.

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

22                   (c) The following provisions govern special  
23 education funding.

24                   (1) The funding and educational decision-making  
25 process for special education students attending a public  
26 charter school is the sole responsibility of the public  
27 charter school, and all current options available to the

1 parents and the public charter school through the student's  
2 local educational agency of residence shall be retained.  
3 Nothing in this act precludes the local educational agency of  
4 residence from participating in the development of a student's  
5 individualized education plan.

6 (2) The department shall pay directly to the public  
7 charter school any federal or state aid attributable to a  
8 student with a disability attending the public school. The  
9 local school system of residence shall pay directly to the  
10 public charter school any local aid attributable to a student  
11 with a disability attending the public school. The state and  
12 local payments shall be made in the same manner and based on  
13 the same funding assumptions that would have otherwise been  
14 used by the local school system of residence of the student.

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

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

22 (2) A public charter school shall be considered a  
23 local educational agency for purposes of applying for  
24 competitive grants.

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

1 (f) A public charter school may not levy taxes or  
2 issue bonds secured by tax revenues, although nothing in this  
3 act precludes a public charter school from issuing bonds  
4 secured by other sources of revenue, including allocations of  
5 federal, state, or local funds, just as nothing in this act  
6 precludes one or more public charter schools from pooling  
7 their resources together to issue bonds. The proceeds from the  
8 sale of any bonds secured by state or local funds shall be  
9 used solely for public charter schools located in Alabama.

10 (g) In the event of the failure of the local school  
11 system to make payments required by subsections (b) and (c),  
12 the State Treasurer shall deduct from any state funds that  
13 become due to the local school system an amount equal to the  
14 unpaid obligation. The State Treasurer shall pay over the  
15 amount to the public charter school upon certification of the  
16 department. Any dispute over payments required by subsections  
17 (b) and (c) shall be resolved by the State Superintendent of  
18 Education.

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

24 (i) Nothing in this act may be construed to prohibit  
25 any person or organization from providing funding or other  
26 assistance for the establishment or operation of a public  
27 charter school. The governing board of a public charter school

1 may accept gifts, donations, or grants of any kind made to the  
2 public charter school and expend or use such gifts, donations,  
3 or grants in accordance with the conditions prescribed by the  
4 donor except that a gift, donation, or grant may not be  
5 accepted if subject to a condition that is contrary to any  
6 provision of law, including state ethics laws, or term of the  
7 charter contract.

8 Section 16. Public charter school facilities.

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

11 (1) A public charter school may purchase or lease a  
12 closed public school facility or property or unused portions  
13 of a public school facility or property located in a local  
14 school system from which it draws its students if the local  
15 school system decides to sell or lease the public school  
16 facility or property. The local school system may not require  
17 purchase or lease payments that exceed the fair market value  
18 of the property.

19 (2) A public charter school may negotiate and  
20 contract with a local school system, the governing body of a  
21 state college or university or public community college or any  
22 other public or for-profit or nonprofit private entity for the  
23 use of a school building.

24 (3) Library, community service, museum, performing  
25 arts, theater, cinema, church, community college, college, and  
26 university facilities may provide space to public charter

1 schools within their facilities under their preexisting zoning  
2 and land use designations.

3 (4) A public charter school may purchase or lease at  
4 or below fair market value part or all of any surplus or  
5 unused state-owned facility or property located in the local  
6 school system from which it draws its students. The state  
7 agency in control of the facility may not require purchase or  
8 lease payments that exceed the fair market value of the  
9 property.

10 (5) The same zoning rules that apply to other public  
11 schools apply to public charter schools.

12 (b) The State Building Commission shall be the  
13 agency that has jurisdiction for the purpose of inspection of  
14 the facility and issuance of a certificate of occupancy for  
15 the facility. A facility of a public charter school is subject  
16 to the same building codes, regulations, and fees that apply  
17 to other public schools.

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

20 (d) Nothing in this act shall be interpreted to  
21 preclude facilities used by a public charter school from being  
22 insured in the same manner as facilities used by a non-charter  
23 public school.

24 Section 17. Extracurricular and interscholastic  
25 activities at public charter schools.

26 (a) A public charter school is eligible for  
27 state-sponsored or local school system-sponsored

1 interscholastic leagues or competitions, private governing  
2 agency-sponsored leagues or competitions, such as leagues or  
3 competitions sponsored by the Alabama High School Athletic  
4 Association, awards, scholarships, and recognition programs  
5 for students, educators, administrators, and schools to the  
6 same extent as non-charter public schools.

7 (b) A local school system or public school may not  
8 impose additional requirements on a public charter school  
9 student to participate in extracurricular activities that are  
10 not imposed on full-time students of the public school. All  
11 applicable Alabama High School Athletic Association  
12 eligibility rules apply to a public charter school, including  
13 transfer, attendance zone, and enrollment rules. If a public  
14 charter school does not have an athletic program in any sport,  
15 the students attending that public charter school may be  
16 eligible for athletics at the non-charter public school for  
17 which they are zoned under Alabama High School Athletic  
18 Association rules.

19 Section 18. The provisions of this act are  
20 severable. If any part of this act is declared invalid or  
21 unconstitutional, that declaration shall not affect the part  
22 which remains.

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