

1 SB513
2 140913-1
3 By Senators Brewbaker and Holtzclaw
4 RFD: Education
5 First Read: 12-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

1 A BILL
2 TO BE ENTITLED
3 AN ACT

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

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Short title.

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

3 Section 2. Overview.

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

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

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

15 Section 3. Legislative findings and purposes.

16 (a) The Legislature finds and declares all of the
17 following:

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

22 (2) It is necessary to continue to search for ways
23 to strengthen the performance of elementary and secondary
24 public school students.

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

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

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

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

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

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

16 (2) Encourage innovative education ideas that
17 improve student learning through high standards for student
18 performance.

19 (3) Allow public schools freedom and flexibility in
20 exchange for exceptional levels of results-driven
21 accountability.

22 (4) Provide students, parents, community members,
23 and local entities with expanded opportunities for involvement
24 in the public education system.

1 (5) Provide additional high quality educational
2 options to all students, especially students in low performing
3 schools.

4 Section 4. Definitions.

5 For the purposes of this act, the following terms
6 shall have the following meanings:

7 (1) APPLICANT. Any person or group that develops and
8 submits an application for a public charter school to an
9 authorizer.

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

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

22 (4) AUTHORIZER. An entity authorized under this act
23 to review applications, decide whether to approve or reject
24 applications, enter into charter contracts with applicants,
25 oversee public charter schools, and decide whether to renew,
26 not renew, or revoke charter contracts.

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

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

8 (7) COUNCIL. The Charter School Application Review
9 Council created in Section 6.

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

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

14 (10) GOVERNING BOARD. The independent board of a
15 public charter school that is party to the charter contract
16 with the authorizer and whose members have been elected or
17 selected pursuant to the application of the public charter
18 school. At least two members of the board shall be a parent of
19 a student attending the public charter school. Each governing
20 board is a state agency with local jurisdiction.

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

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

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

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

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

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

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

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

1 a. Has autonomy over key decisions including, but
2 not limited to, decisions concerning finance, personnel,
3 scheduling, curriculum, instruction, and procurement.

4 b. Is governed by an independent governing board.

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

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

11 e. Provides a program of education that:

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

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

16 3. May include a specific academic approach or
17 theme, including, but not limited to, vocational and technical
18 training; natural resources and the environment; foreign
19 language and culture; visual and performing arts; liberal arts
20 and classical education; or science, mathematics, and
21 technology.

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

24 g. Operates under the oversight of its authorizer in
25 accordance with its charter contract.

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

1 (19) SCHOOL FLEXIBILITY CONTRACT. A school
2 flexibility contract between the local school system and the
3 state wherein local school systems may apply for flexibility
4 from state laws, including State Board of Education rules,
5 regulations, and policies.

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

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

11 Section 5. Innovative school system status.

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

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

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

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

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

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

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

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

1 school system at least two weeks prior to any public hearing
2 discussing the contract or plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (3) Specification of procedures that a local school
26 system shall follow in the event that its original school

1 flexibility contract and innovation plan is not approved,
2 including the steps that may be taken to amend and resubmit
3 its school flexibility contract and innovation plan.

4 Section 6. The Charter School Application Review
5 Council.

6 (a) The Charter School Application Review Council is
7 established within the department.

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

12 (c) The council shall consist of the following
13 eleven members:

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

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

18 (3) The member of the State Board of Education in
19 whose district is to be located the public charter school that
20 is the subject of the application before the council, or, if
21 no application is before the council, the Vice-President of
22 the State Board of Education.

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

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

1 (6) Two persons appointed by the President Pro
2 Tempore of the Senate.

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

22 (e) Membership of the council shall be inclusive and
23 reflect the racial, gender, geographic, urban/rural, and
24 economic diversity of the state.

25 (f) The initial appointments to the council shall be
26 made no later than 90 days after December 31, 2012. Three

1 initial appointees, including one appointee of the Speaker of
2 the House of Representatives and one appointee of the
3 President Pro Tempore of the Senate, shall serve one-year
4 terms; three initial appointees, including one appointee of
5 the Speaker of the House of Representatives and one appointee
6 of the President Pro Tempore of the Senate, shall serve
7 two-year terms; and the remaining initial appointees shall
8 serve three-year terms. After the first term of each initial
9 appointee has ended, the term of office for all council
10 members shall be three years. All members of the council shall
11 serve on the council until their successor is appointed, but
12 no member may serve more than three consecutive terms.

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

22 (h) A majority of the council constitutes a quorum,
23 and any action of the council must be approved by a majority
24 of the council. The council, in all respects, shall comply
25 with the Alabama Open Meetings Act and state open records
26 laws. Notwithstanding the preceding sentence, members of the

1 council may participate in a meeting of the council by means
2 of telephone conference, video conference, or similar
3 communications equipment by means of which all persons
4 participating in the meeting may hear each other at the same
5 time. Participation by such means shall constitute presence in
6 person at a meeting for all purposes, including the
7 establishment of a quorum. Such telephone or video conference
8 or similar communications equipment shall also allow members
9 of the public the opportunity to simultaneously listen to or
10 observe such meetings.

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

12 (1) Engage professional and administrative staff,
13 including staff of the department.

14 (2) Adopt rules for the operation and organization
15 of the council.

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

20 (4) Convene stakeholder groups and engage experts.

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

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

1 Section 7. Role of the department in the formation
2 of public charter schools.

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

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

16 (1) Establishing a public charter school office in
17 the department.

18 (2) Providing information and technical assistance
19 to public charter school organizers and authorizers.

20 (3) Allocating funds to support the work of
21 authorizers.

22 (c) The department may promulgate administrative
23 rules pursuant to the Alabama Administrative Procedure Act to
24 implement this act or carry out its responsibilities under
25 this act.

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

5 (1) Organizational capacity and infrastructure.

6 (2) Soliciting and evaluating applications.

7 (3) Ongoing public charter school oversight and
8 evaluation.

9 (4) Charter renewal decision making.

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

14 (f) The department shall assume decision-making
15 responsibilities on behalf of priority schools if the
16 administrator or local board does not act to provide an
17 appropriate intervention to address the needs of the priority
18 schools at the end of the third year of priority status.

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

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

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

11 Section 8. Public charter school enrollment

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

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

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

1 school regardless of whether they reside in the local school
2 system where the public charter school is located.

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

8 (3) The student body of a public charter school
9 shall be inclusive and reflect the racial, gender, geographic,
10 urban/rural, and economic diversity of the state.

11 (4) A public charter school shall enroll all
12 students who wish to attend the school. Enrollment may not
13 exceed the capacity level as approved by the authorizer and
14 included in the charter contract.

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

19 (6) If capacity is insufficient to enroll all
20 students who wish to attend the public charter school, the
21 school shall select students through a random selection
22 process. The selection shall take place in a public meeting,
23 called by the authorizer, that is held no earlier than seven
24 days after the place and time of the meeting has been widely
25 disseminated to the general public. While public charter
26 schools are required to have an open enrollment process, a

1 public charter school shall give enrollment preference to
2 certain students or potential students, but only as provided
3 below by paragraphs a., b., and c. Students or potential
4 students given enrollment preference shall be exempt from the
5 random selection process. Enrollment preference may be
6 provided only to the following:

7 a. Students enrolled in the public charter school
8 the previous year.

9 b. Siblings of students already enrolled in the
10 public charter school.

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

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

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

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

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

26 Section 9. Public charter school authorizers.

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

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

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

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

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

23 a. An application to form a public charter school in
24 a priority local school system is either denied by the local
25 school board overseeing that system or the application is not
26 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 doing
5 any of the following:

6 a. Authorizing the formation of a public charter
7 school in a local school system that is not a priority local
8 school system.

9 b. Authorizing a charter school in any priority
10 system where the local school board has established one or
11 more charter schools.

12 (3) While any public charter school, consistent with
13 subdivision (1) of subsection (b) of Section 8, may accept
14 enrollment applications from any student residing in the local
15 school system where the public charter school is to be
16 located, any public charter school whose formation is
17 authorized by the council must be a conversion charter school
18 established within the low-performing priority school.

19 (d) 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 sound charter contracts
4 with each approved public charter school.

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

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

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

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

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

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

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

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

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

10 (1) Expend its own resources, seek grant funds, and
11 establish partnerships to support its public charter school
12 authorizing activities.

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

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

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

1 (2) A public charter school authorized by a local
2 school system may choose to purchase services, such as
3 transportation-related or lunchroom-related services, from its
4 authorizer. In such event, the public charter school and
5 authorizer shall execute an annual service contract, separate
6 from the charter contract, stating the mutual agreement of the
7 parties concerning any services to be provided by the
8 authorizer and any service fees to be charged to the public
9 charter school. A public charter school authorized by the
10 council may not purchase services from the council but,
11 consistent with this subdivision, may purchase services from
12 the local school system where the public charter school is
13 located.

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

17 (j) (1) The department shall oversee the performance
18 and effectiveness of all authorizers established under this
19 act.

20 (2) Persistently unsatisfactory performance of the
21 portfolio of the public charter schools of an authorizer, a
22 pattern of well-founded complaints about the authorizer or its
23 public charter schools, or other objective circumstances may
24 trigger a special review by the department. In reviewing and
25 evaluating the performance of an authorizer, the department
26 shall apply nationally recognized principles and standards for

1 quality and equity in charter authorizing. If, at any time,
2 the department finds that an authorizer is not in compliance
3 with an existing charter contract or the requirements of all
4 authorizers under this act, the department shall notify the
5 authorizer in writing of any identified problem, and the
6 authorizer shall have reasonable opportunity to respond and
7 remedy the problem.

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

25 (4) If the council persists in violating a material
26 provision of a charter contract or fails to remedy any other

1 authorizing problem after due notice from the department, the
2 department shall notify the council, within 60 days, that it
3 intends to notify the Governor, the Speaker of the House of
4 Representatives, and the President Pro Tempore of the Senate
5 of the actions of the council unless the council demonstrates
6 a timely and satisfactory remedy for the violation or
7 deficiencies. Along with this notification, the department
8 shall publicly request in writing that the Governor, the
9 Speaker of the House of Representatives, and the President Pro
10 Tempore of the Senate demand that the appointee or appointees
11 either comply with the requests of the department or face a
12 revocation of their appointment to the council.

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

24 (k) Disputes between a governing board and an
25 authorizer shall be mediated and resolved by the State

1 Superintendent of Education, whose decision is final and
2 binding.

3 Section 10. Public charter school requests for
4 proposals.

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

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

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

20 a. The vision of the proposed public charter school,
21 including:

22 1. An executive summary.

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

1 3. Evidence of need and community support for the
2 proposed public charter school.

3 b. The governance plan of the proposed public
4 charter school, including:

5 1. Background information on proposed board members
6 and any assurances or certifications required by the
7 authorizer.

8 2. Proposed governing bylaws.

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

15 4. A clear description of the roles and
16 responsibilities for the governing board, the leadership and
17 management team of the school, and any other entities shown on
18 the organization chart.

19 5. Identification of the proposed founding governing
20 board members and, if identified, the proposed school leader
21 or leaders.

22 6. Background information on the leadership and
23 management team of the school, if identified.

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

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

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

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

6 4. The proposed calendar and sample daily schedule
7 of the school.

8 5. Plans and timelines for student recruitment and
9 enrollment, including random selection procedures and a
10 detailed explanation of how students will be recruited from
11 all racial, ethnic, geographic, and income groups in the
12 service area.

13 6. Explanations of any partnerships or contractual
14 relationships central to the operations or mission of the
15 school.

16 7. The proposals for providing transportation, food
17 service, and other significant operational or ancillary
18 services.

19 8. A facilities plan, including backup or
20 contingency plans if appropriate.

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

23 10. A closure protocol, outlining orderly plans and
24 timelines for transitioning students and student records to
25 new schools and for appropriately disposing of school funds,
26 property, and assets in the event of school closure.

1 d. The finances of the proposed public charter
2 school, including all of the following:

3 1. A description of the financial plan and policies
4 of the school, including financial controls and audit
5 requirements.

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

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

10 4. Evidence of anticipated fundraising
11 contributions, if claimed in the application.

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

15 6. A description of the insurance coverage the
16 school proposes to obtain.

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

19 1. Plans for identifying, recruiting, and
20 successfully serving students with the wide range of learning
21 needs and styles typically found in schools of the sending
22 area.

23 2. Plans for compliance with applicable state and
24 federal laws, rules, and regulations, including special
25 education and antidiscrimination laws.

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

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

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

8 1. A description of the academic program.

9 2. A description of the instructional design of the
10 school, including the type of learning environment, class size
11 and structure, curriculum overview, teaching methods, and
12 research basis.

13 3. A description of cocurricular and extracurricular
14 programs and how each shall be funded and delivered.

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

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

19 2. Plans for recruiting and developing school
20 leadership and staff.

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

23 4. Opportunities and expectations for parent
24 involvement and how the school plans to afford flexibility in
25 the expectations for those parents with significant barriers
26 to involvement.

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

6 (1) Explain how and why the education service
7 provider was selected.

8 (2) Provide evidence of the success of the education
9 service provider in serving student populations similar to the
10 targeted population, including demonstrated academic
11 achievement and successful management of nonacademic school
12 functions, if applicable.

13 (3) Provide information on the proposed duration of
14 the service contract; roles and responsibilities; scope of
15 services and resources to be provided by the education service
16 provider; performance evaluation measures and timelines;
17 compensation structure, including clear identification of all
18 fees to be paid to the education service provider; methods of
19 contract oversight and enforcement; investment disclosure; and
20 conditions for renewal and termination of the contract.

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

23 (5) Explain the relationship between the governing
24 board and the education service provider, specifying how the
25 governing board shall monitor and evaluate the performance of
26 the education service provider, the internal controls that

1 shall guide the relationship, and how the governing board
2 shall ensure fulfillment of performance expectations.

3 (6) Provide a statement of assurance that the
4 governing board is legally and operationally independent from
5 the education service provider.

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

10 (d) With respect to a public charter school proposal
11 from an applicant that currently operates one or more schools,
12 in addition to the other requirements of this section, the
13 request for proposals shall require applicants to provide
14 evidence of past performance and current capacity for growth.

15 Section 11. Public charter school applicants.

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

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

1 board shall notify the council of the decision to appeal
2 within 30 days after the denial of the application. The
3 council shall hear the appeal within 30 days of receiving this
4 notice. The denied application as well as any records related
5 to the denial of the application may be reviewed by the
6 council. The council, at its discretion, may also permit oral
7 testimony at any council meeting or hearing. All decisions
8 made by the council shall be final and may not be appealed.

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

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

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

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

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

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

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

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

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

24 a. Grant charters to applicants that have
25 demonstrated competence in each element of the published

1 approval criteria of the authorizer and are likely to open and
2 operate a successful public charter school.

3 b. Base decisions on documented evidence collected
4 through the application review process.

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

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

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

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

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

1 authorizer shall provide a copy of the report to the applicant
2 at the same time that the report is submitted to the State
3 Superintendent of Education.

4 (4) The State Superintendent of Education shall
5 register the charters approved by all chartering authorities
6 in chronological order by date of approval. No public charter
7 school may begin operating until its charter has been
8 registered by the State Superintendent of Education. The State
9 Superintendent of Education may register a cumulative total of
10 no more than 20 public charter schools. Once this cap is
11 reached, the State Superintendent of Education may not accept
12 further registrations from any authorizer.

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

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

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

23 (f) Under no circumstances may this act be
24 interpreted to allow any applicant, or any entity with which
25 the applicant contracts, to provide financial incentives of

1 any sort to the parent of a public charter school student or a
2 potential public charter school student.

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

13 Section 12. Charter contracts.

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

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

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

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

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

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

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

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

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

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

- 20 1. Student academic proficiency.
- 21 2. Student academic growth.
- 22 3. Achievement gaps in both proficiency and growth
23 between major student subgroups.
- 24 4. Attendance.
- 25 5. Recurrent enrollment from year to year.

1 6. With respect to high school, postsecondary
2 readiness and graduation rates.

3 7. Financial performance and sustainability.

4 8. Governing board performance and stewardship.

5 9. Parent and community engagement.

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

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

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

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

1 collecting and analyzing all data to support ongoing
2 evaluation according to the charter contract. In the event
3 that the performance or legal compliance of a public charter
4 school appears unsatisfactory, the authorizer shall promptly
5 notify the public charter school of perceived problems and
6 provide reasonable opportunity for the school to remedy the
7 problems.

8 (d) Terms of a charter contract shall be mutually
9 agreed upon by the applicant and the authorizer. If necessary,
10 either party to a contract may request that the State
11 Superintendent of Education review and mediate any terms of a
12 charter contract that the parties cannot agree upon after due
13 diligence.

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

20 Section 13. Charter term and renewal.

21 (a) An initial charter shall be granted for a term
22 of five operating years. The charter term commences on the
23 first day of operation of the public charter school. An
24 approved public charter school may delay its opening for one
25 school year in order to plan and prepare for the opening. If
26 the public charter school requires an opening delay of more

1 than one school year, the public charter school shall request
2 an extension from its authorizer. The authorizer may grant or
3 deny the extension depending on the particular circumstances
4 of the public charter school.

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

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

21 (1) The performance report required in this
22 subsection shall summarize the performance record of the
23 public charter school to date, based on the data required by
24 this act and the charter contract, and shall provide notice of
25 any weaknesses or concerns perceived by the authorizer
26 concerning the school that may jeopardize its position in

1 seeking renewal if not timely notified. The school shall be
2 given the opportunity to respond to the performance report and
3 submit any corrections or clarifications for the report.

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

12 a. Present additional evidence, beyond the data
13 contained in the performance report, supporting its case for
14 charter renewal.

15 b. Describe improvements undertaken or planned for
16 the school.

17 c. Detail the plans of the school for the next
18 charter term.

19 (d) No later than September 30 of the final
20 authorized year of operation of a public charter school under
21 a term of a charter contract, the governing board of a public
22 charter school seeking renewal shall submit a renewal
23 application to the authorizer pursuant to any renewal
24 application guidance offered by the authorizer.

25 (e) An authorizer shall rule by resolution on a
26 renewal application under this section no later than 45 days

1 after the filing of the renewal application. In making charter
2 renewal decisions, every authorizer shall do all of the
3 following:

4 (1) Ground its decision in evidence of the
5 performance of the public charter school over the term of the
6 charter in accordance with the performance framework set forth
7 in the charter contract.

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

10 (3) Provide a public report summarizing the evidence
11 basis for each decision.

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

15 (1) A charter shall be revoked at any time or not
16 renewed if the authorizer determines that the public charter
17 school failed to comply with this act or did any of the
18 following:

19 a. Committed a material violation of any of the
20 terms, conditions, standards, or procedures required under
21 this act or the charter contract.

22 b. Failed to meet or make sufficient progress toward
23 the performance expectations set forth in the charter
24 contract.

25 c. Failed to meet generally accepted standards of
26 fiscal management.

1 d. Violated any provision of law from which the
2 school was not exempted.

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

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

18 (h) In the event a public charter school closes for
19 any reason:

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

25 (2) The assets of the public charter school shall be
26 distributed first to satisfy outstanding payroll obligations

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

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

15 Section 14. Public charter school operations.

16 (a) Notwithstanding any provision of law to the
17 contrary, to the extent that any provision of this act is
18 inconsistent with any other state or local law, rule, or
19 regulation, this act shall govern and is controlling.

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

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

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

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

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

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

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

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

24 (2) Contract or cooperate with non-charter public
25 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) The student body of a public charter school
22 shall be inclusive and reflect the racial, gender, geographic,
23 urban/rural, and economic diversity of the state.

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

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

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

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

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

17 (1) Public charter schools are subject to the same
18 civil rights and health and safety requirements applicable to
19 other public schools in the state.

20 (2) Public charter schools are subject to the same
21 student standards, assessment, and accountability requirements
22 applicable to other public schools in the state, but nothing
23 in this act precludes a public charter school from
24 establishing additional student assessment measures that go
25 beyond state requirements if the authorizer of the school
26 approves such measures.

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

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

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

14 (f) This subsection governs teacher employment in a
15 public charter school.

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

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

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

6 Section 15. Public charter school funding.

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

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

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

1 student according to grade level, economic disadvantage,
2 limited English proficiency, and special education needs.

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

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

24 (c) The following provisions govern special
25 education funding.

1 (1) The funding and educational decision-making
2 process for special education students attending a public
3 charter school is the sole responsibility of the public
4 charter school, and all current options available to the
5 parents and the public charter school through the student's
6 local educational agency of residence shall be retained.
7 Nothing in this act precludes the local educational agency of
8 residence from participating in the development of a student's
9 individualized education plan.

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

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

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

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

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

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

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

24 (h) Any money received by a public charter school
25 from any source and remaining in the accounts of the school at
26 the end of any fiscal year shall remain in the accounts of

1 that school for use by that school during subsequent fiscal
2 years and does not revert to the authorizer or to the state.

3 (i) Nothing in this act may be construed to prohibit
4 any person or organization from providing funding or other
5 assistance for the establishment or operation of a public
6 charter school. The governing board of a public charter school
7 may accept gifts, donations, or grants of any kind made to the
8 public charter school and expend or use such gifts, donations,
9 or grants in accordance with the conditions prescribed by the
10 donor except that a gift, donation, or grant may not be
11 accepted if subject to a condition that is contrary to any
12 provision of law, including state ethics laws, or term of the
13 charter contract.

14 Section 16. Public charter school facilities.

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

17 (1) A public charter school may purchase or lease a
18 closed public school facility or property or unused portions
19 of a public school facility or property located in a local
20 school system from which it draws its students if the local
21 school system decides to sell or lease the public school
22 facility or property. The local school system may not require
23 purchase or lease payments that exceed the fair market value
24 of the property.

25 (2) A public charter school may negotiate and
26 contract with a local school system, the governing body of a

1 state college or university or public community college or any
2 other public or for-profit or nonprofit private entity for the
3 use of a school building.

4 (3) Library, community service, museum, performing
5 arts, theater, cinema, church, community college, college, and
6 university facilities may provide space to public charter
7 schools within their facilities under their preexisting zoning
8 and land use designations.

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

16 (5) The same zoning rules that apply to other public
17 schools apply to public charter schools.

18 (b) The State Building Commission shall be the
19 agency that has jurisdiction for the purpose of inspection of
20 the facility and issuance of a certificate of occupancy for
21 the facility. A facility of a public charter school is subject
22 to the same building codes, regulations, and fees that apply
23 to other public schools.

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

1 (d) Nothing in this act shall be interpreted to
2 preclude facilities used by a public charter school from being
3 insured in the same manner as facilities used by a non-charter
4 public school.

5 Section 17. Extracurricular and interscholastic
6 activities at public charter schools.

7 (a) A public charter school is eligible for
8 state-sponsored or local school system-sponsored
9 interscholastic leagues or competitions, private governing
10 agency-sponsored leagues or competitions, such as leagues or
11 competitions sponsored by the Alabama High School Athletic
12 Association, awards, scholarships, and recognition programs
13 for students, educators, administrators, and schools to the
14 same extent as non-charter public schools.

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

1 Section 18. The provisions of this act are
2 severable. If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

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