HB650

140304-1

By Representatives Williams (P), Fincher, Love, McClurkin, Ison, McMillan and Hubbard (M)

RFD: Ways and Means Education

First Read: 05-APR-12
SYNOPSIS: This bill would establish the Education Options Act of 2012.

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

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

A BILL
Establishing the Education Options Act of 2012; to provide an overview of the act; to provide legislative findings and purposes; to provide definitions; to authorize school systems to enter into school flexibility contracts with the state; to provide for the Charter School Application Review Council; to provide for the process to be followed before a school flexibility contract is executed; to provide for the roles and responsibilities of the State Department of Education relating to public charter schools; to provide enrollment requirements for public charter schools; to provide for the roles and responsibilities of public charter school authorizers; to provide for the process of requesting proposals for public charter school applications; to specify who may apply to open a public charter school; to provide for the charter contract; to provide for the operation and funding of public charter schools; to provide for public charter school facilities; to provide for extracurricular and interscholastic opportunities; and to provide for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

Section 3. Legislative findings and purposes.

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

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

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

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

(4) Parents and educators have a right and a responsibility to participate in the education institutions which serve the children of Alabama.
(5) Public school programs, whenever possible, should be customized to fit the needs of individual students.

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

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

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

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

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

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

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

Section 4. Definitions.

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

(1) APPLICANT. Any person or group that develops and submits an application for a public charter school to an authorizer.
(2) APPLICATION. A proposal from an applicant to an
authorizer to enter into a charter contract whereby the
proposed school obtains public charter school status.

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

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

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

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

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

(8) DEPARTMENT. The Alabama Department of Education.
(9) EDUCATION SERVICE PROVIDER. An entity with which a public charter school intends to contract for educational design, implementation, or management.

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

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

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

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

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

(15) PARENT. A parent, guardian, or other person or entity having legal custody of a child.
(16) PRIORITY LOCAL SCHOOL. A non-charter public school labeled as persistently low-performing by the State Department of Education, in the then-most recent United States Department of Education School Improvement Grant application, or, if no such application is submitted, a non-charter public school listed in the lowest 5 percent of non-charter public schools on the state accountability plan.

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

(18) PUBLIC CHARTER SCHOOL. A public school formed pursuant to this act that satisfies all of the following:
   a. Has autonomy over key decisions including, but not limited to, decisions concerning finance, personnel, scheduling, curriculum, instruction, and procurement.
   b. Is governed by an independent governing board.
   c. Is established and operated under the terms of a charter contract between the governing board and its authorizer, in accordance with this act.
   d. Is a school that admits students on the basis of a random selection process if more students attempt to enroll for admission than can be accommodated.
   e. Provides a program of education that:
      1. Includes any grade or grades from prekindergarten to 12th grade, inclusive.
      2. May include a focus on students with special needs, such as at-risk students.
May include a specific academic approach or theme, including, but not limited to, vocational and technical training; natural resources and the environment; foreign language and culture; visual and performing arts; liberal arts and classical education; or science, mathematics, and technology.

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

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

h. Is located in a priority local school system.

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

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

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

Section 5. Innovative school system status.

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

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

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

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

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

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

(c) Local school systems pursuing a school
flexibility contract shall have a superintendent who has
served a minimum of one calendar year in the local school
system. This subsection may be waived by the State
Superintendent of Education.
(d) Pursuant to State Board of Education rules, all local school systems shall provide an opportunity for full discussion and public input prior to submitting a final school flexibility contract proposal to the department. Additionally, local school systems shall ensure that their school flexibility contract and innovation plan proposals are easily accessible to the general public on the website of the local school system at least two weeks prior to any public hearing discussing the contract or plan.

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

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

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

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

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

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

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

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

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

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

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

(1) Specification of timelines for submission and
approval of the school flexibility contract and innovation
plan of the local school system.
(2) Authorization for the State Superintendent of Education, upon approval by the State Board of Education, to revoke a school flexibility contract for noncompliance or nonperformance by a local school system.

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


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

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

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

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

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

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

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

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

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

(d) At least one member of the council shall be a current or retired public school principal, at least one member of the council shall be a current or retired public school teacher, at least one member of the council shall be a current or retired local public school superintendent, and at least one member of the council shall be a current or retired member of a local school board. Also, at least two members of the council shall be parents who reside in a priority local school system. All members of the council shall reside in Alabama. Members appointed to the council shall collectively possess strong experience and expertise in public and nonprofit governance, strategic planning, management and finance, public school leadership, assessment, curriculum and instruction, and public education law. Each appointed member of the council shall have demonstrated understanding of charter schooling as a tool for strengthening public education. Members of the council may not be members of the Legislature and do not serve at the pleasure of their appointing authority.
(e) Membership of the council shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

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

(g) A member of the council may be removed from the council by the Governor for any cause that renders the member incapable or unfit to discharge his or her duties as a council member. Whenever a vacancy on the council exists, the appointing authority, within 90 days after the vacancy occurs, shall appoint a member for the remaining portion of the term. A member of the council shall abstain from any vote that involves a local school system of which they are an employee or of which they oversee as a member of a local school board.
(h) A majority of the council constitutes a quorum, and any action of the council must be approved by a majority of the council. The council, in all respects, shall comply with the Alabama Open Meetings Act and state open records laws. Notwithstanding the preceding sentence, members of the council may participate in a meeting of the council by means of telephone conference, video conference, or similar communications equipment by means of which all persons participating in the meeting may hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for all purposes, including the establishment of a quorum. Such telephone or video conference or similar communications equipment shall also allow members of the public the opportunity to simultaneously listen to or observe such meetings.

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

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

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

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

(4) Convene stakeholder groups and engage experts.

(5) Seek and receive state, federal, and private funds.
(j) A council member may not receive compensation, but shall be reimbursed by the department for travel expenses at the same rates and in the same manner as state employees.

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

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

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

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

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

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

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

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

(1) Organizational capacity and infrastructure.
(2) Soliciting and evaluating applications.
(3) Ongoing public charter school oversight and evaluation.
(4) Charter renewal decision making.

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

(f) Three years after December 31, 2012, the State Superintendent of Education shall issue to the Governor, the Legislature, and the public a report on the public charter school program in the state. The State Superintendent of Education shall determine the content of the report, but the report, at a minimum, shall include an assessment of the successes, challenges, and areas for improvement in meeting the purposes of this act of the public charter school program, as well as any suggested changes in state law or policy necessary to strengthen the public charter school program. The State Superintendent of Education shall issue a similar report December 31, 2018, and every three years thereafter.
(g) On or before December 31, 2015, the State Superintendent of Education shall recommend to the Governor and the Legislature what changes, if any, should be made to the definition of a priority local school system in Section 4 including, specifically, recommendations for what measurements should be used to define a priority local school system.

Section 8. Public charter school enrollment

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

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

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

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

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

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

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

(6) If capacity is insufficient to enroll all students who wish to attend the public charter school, the school shall select students through a random selection process. The selection shall take place in a public meeting, called by the authorizer, that is held no earlier than seven
days after the place and time of the meeting has been widely
disseminated to the general public. While public charter
schools are required to have an open enrollment process, a
public charter school shall give enrollment preference to
certain students or potential students, but only as provided
below by paragraphs a., b., and c. Students or potential
students given enrollment preference shall be exempt from the
random selection process. Enrollment preference may be
provided only to the following:

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

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

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

(7) The at-risk composition of the public charter
school enrollment shall reflect that of the students in
similar grades in the local school system from which the
public charter school is expected to enroll students, to be
defined for the purposes of this act as differing by no more
than 20 percent from that population. In the event the at-risk
composition of an applicant's or public charter school's
enrollment differs from the enrollment of students in similar
grades in the local school system from which the public
charter school is expected to enroll students by more than 20
percent, despite its best efforts, the authorizer from which
the applicant is seeking approval shall consider the
recruitment efforts and at-risk composition of the applicant
pool in determining whether the applicant or charter school is
operating in a non-discriminatory manner. A finding by the
authorizer that the applicant is not operating in a
discriminatory manner justifies approval of the charter
without regard to the at-risk percentage requirement if the
application is acceptable in all other aspects. A finding by
the authorizer that the applicant or charter school is
operating in a discriminatory manner justifies the denial of a
charter school application or the revocation of a charter, as
applicable.

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

(c) If a student who was previously enrolled in a
public charter school enrolls in another public school in this
state, the new school of the student shall accept credits
earned by the student in courses or instructional programs at
the public charter school in a uniform and consistent manner
and according to the same criteria that are used to accept
academic credits from other public schools.
Section 9. Public charter school authorizers.

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

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

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

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

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

a. An application to form a public charter school in a priority local school system is either denied by the local school board overseeing that system or the application is not acted on within 90 days of its submission.
b. The applicant chooses to appeal the decision of
the local school board to the council consistent with
subdivision (2) of subsection (a) of Section 11.

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

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

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

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

(2) Approve applications that meet identified
educational needs.

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

(4) Create a framework to guide the development of
charter contracts.
(5) Negotiate and execute sound charter contracts with each approved public charter school.

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

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

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

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

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

   a. Approved, but not yet open.
   b. Operating.
   c. Terminated.
   d. Closed.
   e. Never opened.

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

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

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

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

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

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

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

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

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

(2) Persistently unsatisfactory performance of the portfolio of the public charter schools of an authorizer, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the department. In reviewing and evaluating the performance of an authorizer, the department shall apply nationally recognized principles and standards for quality and equity in charter authorizing. If, at any time, the department finds that an authorizer is not in compliance with an existing charter contract or the requirements of all authors under this act, the department shall notify the authorizer in writing of any identified problem, and the
authorizer shall have reasonable opportunity to respond and
remedy the problem.

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

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

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

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

Section 10. Public charter school requests for proposals.

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

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

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

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

1. An executive summary.

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

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

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

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

2. Proposed governing bylaws.

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

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

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

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

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

1. The location or geographic area of the school.
2. The grades to be served each year for the full term of the charter.
3. Minimum, planned, and maximum enrollment per grade per year for the term of the charter, based upon the capacity of a program, class, grade level, or building.

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

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

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

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

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

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

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

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

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

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

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

4. Evidence of anticipated fundraising
contributions, if claimed in the application.
5. Evidence of financial accountability measures that shall be implemented by the school that are consistent with Section 16-6B-4, Code of Alabama 1975.

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

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

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

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

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

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

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

1. A description of the academic program.

2. A description of the instructional design of the school, including the type of learning environment, class size and structure, curriculum overview, teaching methods, and research basis.
3. A description of cocurricular and extracurricular programs and how each shall be funded and delivered.

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

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

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

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

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

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

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

(2) Provide evidence of the success of the education service provider in serving student populations similar to the targeted population, including demonstrated academic achievement and successful management of nonacademic school functions, if applicable.
(3) Provide information on the proposed duration of the service contract; roles and responsibilities; scope of services and resources to be provided by the education service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the education service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract.

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

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

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

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

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

Section 11. Public charter school applicants.

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

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

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

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

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

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

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

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

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

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

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

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

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

   d) No later than 90 days after the filing of an
application, or, in the case of the council, after receiving
the notice of appeal of an applicant, an authorizer shall
decide to approve or deny an application. The authorizer shall
make and announce all charter approval or denial decisions in
a meeting of the governing entity of the authorizer that is
open to the public.
(1) An approval decision, if appropriate, may include reasonable conditions that the applicant shall meet before a charter contract may be executed.

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

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

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

(5) An approved application may not serve as the charter contract of a school nor may it be incorporated by reference into the charter contract.
(6) A decision on an application shall be conveyed in writing to the applicant. A decision may grant approval or conditional approval, request resubmission, or reject the application, and shall include written reasons for the decisions.

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

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

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

Section 12. Charter contracts.

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

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

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

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

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

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

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

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

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

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

1. Student academic proficiency.
2. Student academic growth.
3. Achievement gaps in both proficiency and growth between major student subgroups.
4. Attendance.
5. Recurrent enrollment from year to year.
6. With respect to high school, postsecondary readiness and graduation rates.
7. Financial performance and sustainability.

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

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

(b) An authorizer may establish reasonable requirements or conditions before the opening of a public charter school to monitor the start-up progress of a newly approved public charter school, ensure that it is prepared to open smoothly on the date agreed, and ensure that the school meets all building, health, safety, insurance, and other legal requirements for school opening.
(c) For each public charter school it oversees, the authorizer is responsible for annually collecting, analyzing, and publicly reporting all data from state assessments and other measures of performance in accordance with the performance framework developed pursuant to this act. An authorizer shall monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing all data to support ongoing evaluation according to the charter contract. In the event that the performance or legal compliance of a public charter school appears unsatisfactory, the authorizer shall promptly notify the public charter school of perceived problems and provide reasonable opportunity for the school to remedy the problems.

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

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

Section 13. Charter term and renewal.
(a) An initial charter shall be granted for a term of five operating years. The charter term commences on the first day of operation of the public charter school. An approved public charter school may delay its opening for one school year in order to plan and prepare for the opening. If the public charter school requires an opening delay of more than one school year, the public charter school shall request an extension from its authorizer. The authorizer may grant or deny the extension depending on the particular circumstances of the public charter school.

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

(c) No later than June 30 of the fourth year of operation under each five-year term of a charter contract, the authorizer shall issue a charter school performance report. If the charter of the public charter school is expiring, the authorizer shall offer charter renewal application guidance to the school.
(1) The performance report required in this subsection shall summarize the performance record of the public charter school to date, based on the data required by this act and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely notified. The school shall be given the opportunity to respond to the performance report and submit any corrections or clarifications for the report.

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

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

b. Describe improvements undertaken or planned for the school.

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

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

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

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

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

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

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

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

a. Committed a material violation of any of the terms, conditions, standards, or procedures required under this act or the charter contract.
b. Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract.

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

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

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

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

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

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

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

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

Section 14. Public charter school operations.

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

(1) A public charter school is subject to all federal laws and authorities, to local law not inconsistent with this act, and to the charter contract.
A single governing board may be issued one or more charter contracts.

Each public charter school shall operate pursuant to its own distinct charter as a state agency with local jurisdiction.

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

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

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

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

(1) Receive and disburse funds for school purposes.

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

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

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

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

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

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

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

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

(1) A public charter school may not discriminate  
against any person on the basis of race, creed, color,  
etnicity, national origin, religion, gender, income level,  
sexual orientation, disabling condition, proficiency in the  
English language, academic or athletic ability, or on any  
other basis that would be unlawful if done by a public school.
(2) A public charter school may not engage in any religious practices in its educational program, admissions, or employment policies or operations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15. Public charter school funding.

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

(b) The following provisions govern operational funding.

(1) For each of its students, a public charter school shall receive the same amount of state and local funds, including funds earmarked for transportation, school nurses, technology coordinators, and other line items that may be included in the appropriation for the Foundation Program Fund, that, for the then-current fiscal year, would have otherwise been allocated on behalf of each public charter school student to the local non-charter public school of each student's residence. This amount shall reflect the status of each student according to grade level, economic disadvantage, limited English proficiency, and special education needs.
(2) The state funds described in subdivision (1) shall be forwarded on a quarterly basis to the public charter school by the department. The local funds described in subdivision (1) shall be forwarded on a quarterly basis to the public charter school by the local educational agency of the student's residence. Additionally, any local revenues restricted, earmarked, or committed by statutory provision, constitutional provision, or bond covenant pledged or imposed by formal action of the local board of education or other authorizing body of government, shall be excluded by the local educational agency of the student's residence when determining the amount of funds to be forwarded by the agency to the public charter school. Similarly, public charter schools that do not provide transportation services shall not be allocated any federal, state, or local funds otherwise earmarked for transportation-related expenses.

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

(c) The following provisions govern special education funding.

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

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

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

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

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

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

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

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

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

Section 16. Public charter school facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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