

1 HB189  
2 116003-2  
3 By Representatives McClurkin, Hubbard, Allen, Sanderford,  
4 Williams (P), Wren, Bridges and Gipson  
5 RFD: Education Appropriations  
6 First Read: 12-JAN-10

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

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

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

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

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

12 b. Governed by an independent governing board.

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

16 d. Enrollment pursuant to parental choice.

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

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

22 1. Preschool.

23 2. Prekindergarten.

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

26 4. Adult community education.

27 5. Adult continuing education.

1                   6. Career technical education.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 a. Solicit and evaluate charter applications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

27 (4) Avoid any conflict of interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) Student academic proficiency.

7 (2) Student academic growth.

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

10 (4) Attendance.

11 (5) Recurrent enrollment from year to year.

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

14 (7) Financial performance and sustainability.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (5) Permit the recording of proceedings.

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

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

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

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

1 (1) Timely notification to parents.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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