

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1040

5 By: Representatives Biviano, Alexander, D. Altes, Ballinger, Bell, Bragg, J. Burris, Clemmer, Collins,  
6 Cozart, Deffenbaugh, D. Douglas, C. Douglas, Gillam, Harris, Hickerson, Hobbs, House, Hutchison,  
7 Jean, Kerr, Lea, Lowery, D. Meeks, S. Meeks, Miller, Rice, Scott, Westerman  
8 By: Senators Holland, Files, Rapert  
9

## For An Act To Be Entitled

11 AN ACT TO CREATE THE STATE PUBLIC CHARTER SCHOOL  
12 COMMISSION AS AN INDEPENDENT STATE COMMISSION WITH  
13 SOLE CHARTER JURISDICTION AND AUTHORITY; AND FOR  
14 OTHER PURPOSES.  
15  
16

## Subtitle

17  
18 TO CREATE THE STATE PUBLIC CHARTER SCHOOL  
19 COMMISSION.  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code §§ 6-23-101--6-23-106 are amended to read as  
25 follows:

26 6-23-101. Title.

27 This chapter shall be known and cited as the Arkansas Quality Public  
28 Charter Schools Act of ~~1999~~ 2013.  
29

30 6-23-102. Legislative intent -- Findings.

31 (a) It is the intent of the General Assembly, by this chapter, to  
32 provide opportunities for teachers, parents, pupils, and community members to  
33 establish and maintain public schools that operate independently from the  
34 existing structure of local school districts as a method to accomplish the  
35 following:

36 (1) Improve student learning;



1 (2) Increase learning opportunities for all students, with  
 2 special emphasis on expanded learning experiences for students who are  
 3 identified as low-achieving;

4 (3) Encourage the use of different and innovative teaching  
 5 methods;

6 (4) Create new professional opportunities for teachers,  
 7 including the opportunity to be responsible for the learning program at the  
 8 school site;

9 (5) Provide parents and pupils with expanded choices in the  
 10 types of educational opportunities that are available within the public  
 11 school system; ~~and~~

12 (6) Hold the schools established under this chapter accountable  
 13 for meeting measurable student achievement standards;

14 (7) Expand quality educational opportunities and choice for all  
 15 students;

16 (8) Provide opportunities for effective and innovative  
 17 educational models;

18 (9) Establish public charter schools that can serve as models of  
 19 effective practices that are shared with others;

20 (10) Establish model practices for public charter schools  
 21 authorizers that are shared with other charter school authorizers; and

22 (11) Establish an independent charter school authorizer to  
 23 provide greater focus on creating and maintaining quality charter schools and  
 24 expanding greater quality public school choice options for students in  
 25 Arkansas.

26 (b) The General Assembly finds that:

27 (1) Alternative designs of public school education are needed to  
 28 address the challenges of ensuring that more students graduate with the  
 29 necessary skills and knowledge to succeed in life; and

30 (2) Current educational shortcomings and the future global  
 31 economy and information age require new models of delivering education at an  
 32 individual student level, school level, and education system level.

33  
 34 6-23-103. Definitions.

35 As used in this chapter:

36 (1) "Application" means the proposal for obtaining conversion

1 public charter school status, open-enrollment public charter school status,  
2 or limited public charter school status;

3 (2) "Charter" means a performance-based contract for an initial  
4 five-year period between the ~~State Board of Education~~ State Public Charter  
5 School Commission and an approved applicant for public charter school status  
6 that exempts the public charter school from state and local rules,  
7 regulations, policies, and procedures specified in the contract and from the  
8 provisions of this title specified in the contract;

9 (3) "Conversion public charter school" means a public school  
10 that has converted to operating under the terms of a charter approved by the  
11 local school board and the ~~state board~~ commission;

12 (4) "Eligible entity" means:

13 (A) A public institution of higher education;

14 (B) A private nonsectarian institution of higher  
15 education;

16 (C) A governmental entity; or

17 (D) An organization that:

18 (i) Is nonsectarian in its program, admissions  
19 policies, employment practices, and operations; and

20 (ii) Has applied for tax exempt status under §  
21 501(c)(3) of the Internal Revenue Code of 1986;

22 (5) "Founding member" means any individual who is either:

23 (A) A member or an employee of the eligible entity  
24 applying for the initial charter for an open-enrollment public charter  
25 school; or

26 (B) A member of the initial governing nonadvisory board of  
27 the open-enrollment public charter school;

28 (6) "Limited public charter school" means a public school that  
29 has converted to operating under the terms of a limited public charter  
30 approved by the local school board and the ~~state board~~ commission;

31 (7) "Local school board" means a board of directors exercising  
32 the control and management of a public school district;

33 (8)(A) "Open-enrollment public charter school" means a public  
34 school that:

35 (i) Is operating under the terms of a charter  
36 granted by the ~~state board~~ commission on the application of an eligible

1 entity;

2 (ii) May draw its students from any public school  
3 district in this state; and

4 (iii) Is a local educational agency under the  
5 Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it  
6 existed on April 10, 2009~~7~~.

7 (B) Open-enrollment public charter school also possesses  
8 the same meaning as given the term "charter school" in the Elementary and  
9 Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April  
10 10, 2009;

11 (9) "Parent" means any parent, legal guardian, or other person  
12 having custody or charge of a school-age child;

13 (10) "Permanent school solution" means a status awarded to a  
14 performance public charter school, which allows the performance public  
15 charter school to convert to an open-enrollment public charter school and  
16 become the permanent school of record if all criteria for open-enrollment  
17 public charter schools are met and maintained;

18 (11) "Public school" means a school that is part of a public  
19 school district under the control and management of a local school board; and

20 ~~(11)~~(12) "Public charter school" means a conversion public  
21 charter school, an open-enrollment public charter school, or a limited public  
22 charter school~~7~~; and

23 (13) "Turnaround" means as a strategy reversing the conditions  
24 that cause a school to be low performing as a strategy to increase academic  
25 achievement.

26

27 6-23-104. Charter form for public charter schools – Requirements –  
28 Revision.

29 (a) A charter for a public charter school shall:

30 (1) Be in the form of a written contract signed by the Chair of  
31 the ~~State Board of Education~~ State Public Charter School Commission and the  
32 chief operating officer of the public charter school;

33 (2) Satisfy the requirements of this chapter; and

34 (3) Ensure that the information required under § 6-23-404 is  
35 consistent with the information provided in the application and any  
36 modification that the ~~State Board of Education~~ commission may require.

1 (b) Any revision or amendment of the charter for a public charter  
2 school may be made only with the approval of the ~~state board~~ commission.

3  
4 6-23-105. Basis and procedure for public charter school probation or  
5 charter modification, revocation, or denial of renewal.

6 (a) ~~The State Board of Education~~ State Public Charter School  
7 Commission may place a public charter school on probation or may modify,  
8 revoke, or deny renewal of its charter if the ~~state board~~ commission  
9 determines that the persons operating the public charter school:

10 (1) Committed a material violation of the charter, including  
11 failure to satisfy accountability provisions prescribed by the charter;

12 (2) Failed to satisfy generally accepted accounting standards of  
13 fiscal management;

14 (3) Failed to comply with this chapter or other applicable law  
15 or regulation; or

16 (4) Failed to meet academic or fiscal performance criteria  
17 deemed appropriate and relevant for the public charter school by the ~~state~~  
18 ~~board~~ commission.

19 (b) Any action the ~~state board~~ commission may take under this section  
20 shall be based on the best interests of the public charter school's students,  
21 the severity of the violation, and any previous violation the public charter  
22 school may have committed.

23 (c) The ~~state board~~ commission shall adopt a procedure to be used for  
24 placing a public charter school on probation or modifying, revoking, or  
25 denying renewal of the school's charter.

26 (d)(1) The procedure adopted under this section shall provide an  
27 opportunity for a hearing to the persons operating the public charter school.

28 (2)(A) The hearing shall be held at the location of the regular  
29 or special meeting of the ~~state board~~ commission.

30 (B) The ~~state board~~ commission shall provide sufficient  
31 written notice of the time and location of the hearing.

32 (3) There is no further right of appeal beyond the determination  
33 of the ~~state board~~ commission.

34 (4) The Arkansas Administrative Procedure Act, § 25-15-201 et  
35 seq., shall not apply to any hearing concerning a public charter school.

36

1           6-23-106. Impact on school desegregation efforts.

2           (a) The applicants for a public charter school, local school board in  
 3 which a proposed public charter school would be located, and the ~~State Board~~  
 4 ~~of Education~~ State Public Charter School Commission shall carefully review  
 5 the potential impact of an application for a public charter school on the  
 6 efforts of a public school district or public school districts to comply with  
 7 court orders and statutory obligations to create and maintain a unitary  
 8 system of desegregated public schools.

9           (b) The ~~state board~~ commission shall attempt to measure the likely  
 10 impact of a proposed public charter school on the efforts of public school  
 11 districts to achieve and maintain a unitary system.

12           (c) The ~~state board~~ commission shall not approve any public charter  
 13 school under this chapter or any other act or any combination of acts that  
 14 hampers, delays, or in any manner negatively affects the desegregation  
 15 efforts of a public school district or public school districts in this state.  
 16

17           SECTION 2. Arkansas Code § 6-23-201(a)(1), concerning conversion  
 18 charter school applications is amended to read as follows:

19           (a)(1) Any public school district may apply to the ~~State Board of~~  
 20 ~~Education~~ State Public Charter School Commission for conversion public  
 21 charter school status for a public school in the public school district in  
 22 accordance with a schedule approved by the ~~state board~~ commission.  
 23

24           SECTION 3. Arkansas Code § 6-23-201(b)(6), concerning conversion  
 25 charter school applications, is amended to read as follows:

26           (6) List the specific provisions of this title and the specific  
 27 rules and regulations promulgated by the ~~state board~~ commission from which  
 28 the conversion public charter school will be exempt.  
 29

30           SECTION 4. Arkansas Code §§ 6-23-202-6-23-204 are amended to read as  
 31 follows:

32           6-23-202. Authorization for conversion public charter school status.

33           As requested by the conversion public charter school applicant, the  
 34 ~~State Board of Education~~ State Public Charter School Commission shall review  
 35 the application for conversion public charter school status and may approve  
 36 any application that:

1 (1) Provides a plan for improvement at the school level for  
 2 improving student learning and for meeting or exceeding the state education  
 3 goals;

4 (2) Includes a set of performance-based objectives and student  
 5 achievement objectives for the term of the charter and the means for  
 6 measuring those objectives on at least a yearly basis;

7 (3) Includes a proposal to directly and substantially involve  
 8 the parents of students to be enrolled in the conversion public charter  
 9 school, as well as the certified employees and the broader community, in the  
 10 process of carrying out the terms of the charter; and

11 (4) Includes an agreement to provide a yearly report to parents,  
 12 the community, the local school board, and the ~~state board~~ commission that  
 13 indicates the progress made by the conversion public charter school in  
 14 meeting the performance objectives during the previous year.

15  
 16 6-23-203. Resubmission of applications.

17 (a) ~~The State Board of Education~~ State Public Charter School  
 18 Commission may allow applicants to resubmit applications for conversion  
 19 public charter school status if the original application was, in the opinion  
 20 of the ~~state board~~ commission, deficient in one (1) or more respects.

21 (b) ~~The Department of Education~~ commission may provide technical  
 22 assistance to the conversion public charter school applicants in the creation  
 23 or modification of these applications.

24  
 25 6-23-204. Charter renewal.

26 The ~~State Board of Education~~ State Public Charter School Commission is  
 27 authorized to renew charters of conversion public charter schools on a one-  
 28 year or multiyear basis, not to exceed five (5) years, after the initial  
 29 five-year period if the renewal is approved by the local school board.

30  
 31 SECTION 5. Arkansas Code § 6-23-206 is amended to read as follows:

32 6-23-206. Rules and regulations.

33 The ~~State Board of Education~~ State Public Charter School Commission is  
 34 authorized and directed to establish rules and regulations for conversion  
 35 public charter schools.

1 SECTION 6. Arkansas Code §§ 6-23-301--6-23-305 are amended to read as  
 2 follows:

3 6-23-301. Application forms and procedures for open-enrollment public  
 4 charter schools.

5 (a) ~~The State Board of Education~~ State Public Charter School  
 6 Commission shall adopt:

7 (1) An application form, a schedule, and a procedure that must  
 8 be used to apply for a charter for an open-enrollment public charter school;  
 9 and

10 (2) Criteria to use in selecting a program for which a charter  
 11 may be granted.

12 (b) The application form must provide space for including all  
 13 information required under this chapter to be contained in the charter.

14 (c) [Repealed.]  
 15

16 6-23-302. Application for an open-enrollment public charter school.

17 (a) ~~Pursuant to~~ Under the provisions of this chapter, an eligible  
 18 entity may apply to the ~~State Board of Education~~ State Public Charter School  
 19 Commission to grant a charter for an open-enrollment public charter school to  
 20 operate in a facility of a commercial or nonprofit entity or a public school  
 21 district.

22 (b) The application to the ~~state board~~ commission for an open-  
 23 enrollment public charter school shall be made in accordance with a schedule  
 24 approved by the ~~state board~~ commission.

25 (c) The application shall:

26 (1)(A) Describe the results of a public hearing called by the  
 27 applicant for the purpose of assessing support for an application for an  
 28 open-enrollment public charter school.

29 (B)(i) Notice of the public hearing shall be published one  
 30 (1) time a week for three (3) consecutive weeks in a newspaper having general  
 31 circulation in the public school district in which the open-enrollment public  
 32 charter school is likely to be located.

33 (ii) The last publication of notice shall be no less  
 34 than seven (7) days ~~prior to~~ before the public meeting.

35 (iii) The notice shall not be published in the  
 36 classified or legal notice section of the newspaper.

1 (C)(i) Within seven (7) calendar days following the first  
2 publication of notice required under subdivision (c)(1)(B) of this section,  
3 letters announcing the public hearing shall be sent to the superintendent of  
4 each of the public school districts from which the open-enrollment public  
5 charter school is likely to draw students for the purpose of enrollment and  
6 the superintendent of any public school district that is contiguous to the  
7 public school district in which the open-enrollment public charter school  
8 will be located.

9 (ii) An affected school district may submit written  
10 comments concerning the application to the ~~state board~~ commission to be  
11 considered at the time of the ~~state board's~~ commission's review of the  
12 application;

13 (2) Describe a plan for academic achievement that addresses how  
14 the open-enrollment public charter school will improve student learning and  
15 meet the state education goals;

16 (3) Outline the proposed performance criteria that will be used  
17 during the initial five-year period of the open-enrollment public charter  
18 school operation to measure its progress in improving student learning and  
19 meeting or exceeding the state education goals;

20 (4) List the specific provisions of this title and the specific  
21 rules and regulations promulgated by the ~~state board~~ commission from which  
22 the open-enrollment public charter school seeks to be exempted;

23 (5)(A) Describe the facility to be used for the open-enrollment  
24 public charter school and state the facility's current use.

25 (B) If the facility to be used for an open-enrollment  
26 public charter school is a public school district facility, the open-  
27 enrollment public charter school must operate in the facility in accordance  
28 with the terms established by the local school board of the public school  
29 district in an agreement governing the relationship between the open-  
30 enrollment public charter school and the public school district.

31 (C) If the facility that will be used for the open-  
32 enrollment public charter school is owned by or leased from a sectarian  
33 organization, the terms of the facility agreement must be disclosed to the  
34 ~~state board~~ commission; and

35 (6) Include a detailed budget and a governance plan for the  
36 operation of the open-enrollment public charter school.

1 (d)(1)(A) The application may be reviewed and approved by the local  
2 school board of the public school district in which the proposed open-  
3 enrollment public charter school will operate.

4 (B) The applicant may submit to the ~~state board~~ commission  
5 for expedited review an application approved by the local school board under  
6 subdivision (d)(1)(A) of this section.

7 (2)(A) However, if the local school board disapproves the  
8 application, the applicant shall have an immediate right to proceed with a  
9 written notice of appeal to the ~~state board~~ commission.

10 (B) The ~~state board~~ commission shall hold a hearing within  
11 forty-five (45) calendar days after receipt of the notice of appeal or a  
12 request for review.

13 (C) All interested parties may appear at the hearing and  
14 present relevant information regarding the application.

15 (e) A licensed teacher employed by a public school district in the  
16 school year immediately preceding the effective date of a charter for an  
17 open-enrollment public charter school operated at a public school facility  
18 may not be transferred to or be employed by the open-enrollment public  
19 charter school over the licensed teacher's objections.

20  
21 6-23-303. Authorization for an open-enrollment public charter school.

22 As requested by the applicant for an open-enrollment public charter  
23 school, the ~~State Board of Education~~ State Public Charter School Commission  
24 shall review the application for an open-enrollment public charter school and  
25 may approve any application that:

26 (1) Provides a plan for academic achievement that addresses how  
27 the open-enrollment public charter school proposes to improve student  
28 learning and meet the state education goals;

29 (2) Includes a set of performance criteria that will be used  
30 during the initial five-year period of the open-enrollment public charter  
31 school's operation to measure its progress in meeting its academic  
32 performance goals;

33 (3) Includes a proposal to directly and substantially involve  
34 the parents of students to be enrolled in the open-enrollment public charter  
35 school, the certified employees, and the broader community in carrying out  
36 the terms of the open-enrollment charter;

1 (4) Includes an agreement to provide an annual report to  
 2 parents, the community, and the ~~state board~~ commission that demonstrates the  
 3 progress made by the open-enrollment public charter school during the  
 4 previous academic year in meeting its academic performance objectives;

5 (5) Includes a detailed budget, a business plan, and a  
 6 governance plan for the operation of the open-enrollment public charter  
 7 school; and

8 (6) Establishes the eligible entity's status as a tax-exempt  
 9 organization under § 501(c)(3) of the Internal Revenue Code of 1986 ~~prior to~~  
 10 before the first day of its operation with students.

11  
 12 6-23-304. Requirements – Preference for certain districts.

13 (a) The ~~State Board of Education~~ State Public Charter School  
 14 Commission may approve or deny an application based on:

15 (1) Criteria provided by law or by rule adopted by the ~~state~~  
 16 ~~board~~ commission;

17 (2) Findings of the ~~state board~~ commission relating to improving  
 18 student performance and encouraging innovative programs; and

19 (3) Written findings or statements received by the ~~state board~~  
 20 commission from any public school district likely to be affected by the open-  
 21 enrollment public charter school.

22 (b) The ~~state board~~ commission shall give preference in approving an  
 23 application for an open-enrollment public charter school to be located in any  
 24 public school district:

25 (1) When the percentage of students who qualify for free or  
 26 reduced-price lunches is above the average for the state;

27 (2) When the district has been classified by the state board as  
 28 in academic distress under § 6-15-428; or

29 (3) When the district has been classified by the Department of  
 30 Education as in some phase of school improvement status under § 6-15-426 or  
 31 some phase of fiscal distress under the Arkansas Fiscal Assessment and  
 32 Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is  
 33 a result of administrative fiscal mismanagement, as determined by the state  
 34 board.

35 (c)(1)(A) Beginning with the 2011-2012 school year, the ~~state board~~  
 36 commission may grant no more than a total of twenty-four (24) charters for

1 open-enrollment public charter schools except as provided under subdivision  
2 (c)(1)(B) of this section.

3 (B) If the cap on the number of charters available for an  
4 open-enrollment public charter school is within two (2) charters of meeting  
5 any existing limitation or cap on available open-enrollment charters, the  
6 number of available charters shall automatically increase by five (5) slots  
7 more than the most recent existing limitation or cap on open-enrollment  
8 charters.

9 (C) By March 1 each year, the department shall issue a  
10 commissioner's memo stating the existing limitation on the number of charters  
11 available for open-enrollment public charter schools and the number of  
12 charters available for open-enrollment public charter schools during the next  
13 application cycle.

14 (2) An open-enrollment public charter applicant's school campus  
15 shall be limited to a single open-enrollment public charter school per  
16 charter except as allowed in subdivision (d)(3) of this section.

17 (3) An open-enrollment public charter school shall not open in  
18 the service area of a public school district administratively reorganized  
19 under § 6-13-1601 et seq. until after the third year of the administrative  
20 reorganization.

21 (4) A private or parochial elementary or secondary school shall  
22 not be eligible for open-enrollment public charter school status.

23 (d) A charter applicant that receives an approved open-enrollment  
24 public charter may petition the ~~state board~~ commission for additional  
25 licenses to establish an open-enrollment public charter school in any of the  
26 various congressional districts in Arkansas if the applicant meets the  
27 following conditions:

28 (1) The approved open-enrollment public charter applicant has  
29 demonstrated success in student achievement gains, as defined by the ~~state~~  
30 ~~board~~ commission;

31 (2) The approved open-enrollment public charter applicant has  
32 not:

33 (A) Been subject to any disciplinary action by the state  
34 board;

35 (B) Been classified as in school improvement or academic  
36 or fiscal distress; and

1 (C) Had its open-enrollment public charter placed on  
 2 charter school probation or suspended or revoked under § 6-23-105; and

3 (3) The ~~state board~~ commission determines in writing by majority  
 4 of a quorum of the ~~state board~~ commission present that the open-enrollment  
 5 public charter applicant has generally established the educational program  
 6 results and criteria set forth in this subsection.

7  
 8 6-23-305. Notice of disapproval – Assistance with resubmission of  
 9 application.

10 (a) If the ~~State Board of Education~~ State Public Charter School  
 11 Commission disapproves an application for an open-enrollment public charter  
 12 school, the ~~state board~~ commission shall notify the applicant in writing of  
 13 the reasons for such disapproval.

14 (b) The ~~state board~~ commission may allow the applicant for an open-  
 15 enrollment public charter school to resubmit its application if the original  
 16 application was found to be deficient by the ~~state board~~ commission.

17 (c) The Department of Education may provide technical assistance to  
 18 the applicant for an open-enrollment public charter school in the creation or  
 19 modification of its application.

20  
 21 SECTION 7. Arkansas Code § 6-23-306(3), concerning contents of open-  
 22 enrollment public charters, is amended to read as follows:

23 (3) Provide that the continuation or renewal of the open-  
 24 enrollment public charter is contingent on acceptable student performance on  
 25 assessment instruments adopted by the ~~State Board of Education~~ State Public  
 26 Charter School Commission and on compliance with any accountability provision  
 27 specified by the open-enrollment public charter, by a deadline, or at  
 28 intervals specified by the open-enrollment public charter;

29  
 30 SECTION 8. Arkansas Code § 6-23-307 is amended to read as follows:

31 6-23-307. Renewal of charter.

32 After the initial five-year period of an open-enrollment public  
 33 charter, the ~~State Board of Education~~ State Public Charter School Commission  
 34 may renew the open-enrollment public charter on a one-year or multiyear  
 35 basis, not to exceed twenty (20) years.

1 SECTION 9. Arkansas Code §§ 6-23-309--6-23-310 are amended to read as  
 2 follows:

3 6-23-309. Rules and regulations.

4 The ~~State Board of Education~~ State Public Charter School Commission is  
 5 authorized to promulgate rules and regulations for the creation of open-  
 6 enrollment public charter schools.

7  
 8 6-23-310. Status report.

9 The ~~State Board of Education~~ State Public Charter School Commission  
 10 shall report on the status of the open-enrollment public charter school  
 11 programs to the General Assembly each biennium and to the House ~~Interim~~  
 12 Committee on Education and the Senate ~~Interim~~ Committee on Education during  
 13 the interim between regular sessions of the General Assembly.

14  
 15 SECTION 10. Arkansas Code § 6-23-401(b), concerning open-enrollment  
 16 charter authority, is amended to read as follows:

17 (b) An open-enrollment public charter school is subject to any  
 18 prohibition, restriction, or requirement imposed by this title and any rule  
 19 and regulation promulgated or utilized by the ~~State Board of Education~~ State  
 20 Public Charter School Commission under this title relating to:

- 21 (1) Monitoring compliance with this chapter, as determined by
- 22 the commissioner;
- 23 (2) Public school accountability under this title;
- 24 (3) High school graduation requirements as established by the
- 25 ~~state board~~ commission;
- 26 (4) Special education programs as provided by this title;
- 27 (5) Conducting criminal background checks for employees as
- 28 provided in this title; and
- 29 (6) Health and safety codes as established by the ~~state board~~
- 30 commission and local governmental entities.

31  
 32 SECTION 11. Arkansas Code § 6-23-404(c), concerning evaluation of  
 33 open-enrollment public charter schools, is amended to read as follows:

34 (c) The ~~State Board of Education~~ State Public Charter School  
 35 Commission may require the charter holder to appear before the ~~state board~~  
 36 commission to discuss the results of the evaluation and to present further

1 information to the ~~state board~~ commission as the department or the ~~state~~  
2 ~~board~~ commission deems necessary.

3  
4 SECTION 12. Arkansas Code § 6-23-406 is amended to read as follows:  
5 6-23-406. Department of Education review.

6 The Department of Education shall:

7 (1) Conduct an end-of-semester review of each open-  
8 enrollment public charter school that is in its initial school year of  
9 operation at the end of the first semester and at the end of the school year;  
10 and

11 (2) Report to the ~~State Board of Education~~ State Public  
12 Charter School Commission on the open-enrollment public charter school's:

13 (A) Overall financial condition; and

14 (B) Overall condition of student enrollment.

15  
16 SECTION 13. Arkansas Code § 6-23-501(a), concerning funding for open-  
17 enrollment public charter schools, is amended to read as follows:

18 (a)(1) An open-enrollment public charter school shall receive funds  
19 equal to the amount that a public school would receive under § 6-20-2305(a)  
20 and (b) as well as any other funding that a public charter school is entitled  
21 to receive under law or under rules promulgated by the ~~State Board of~~  
22 ~~Education~~ State Public Charter School Commission.

23 (2)(A) For the first year of operation and for the first year  
24 the open-enrollment public charter school adds a new grade, the foundation  
25 funding and enhanced educational funding for an open-enrollment public  
26 charter school is determined as follows:

27 (i) The initial funding estimate shall be based on  
28 enrollment as of July 1 of the current school year;

29 (ii) In December, funding will be adjusted based  
30 upon the first quarter average daily membership; and

31 (iii) A final adjustment will be made after the  
32 current three-quarter average daily membership is established.

33 (B) For the second year and each school year thereafter,  
34 the previous year's average daily membership will be used to calculate  
35 foundation funding and any enhanced educational funding amounts.

36 (3) National school lunch state categorical funding under § 6-

1 20-2305(b)(4) shall be provided to an open-enrollment public charter school  
2 as follows:

3 (A) For the first year of operation and in any year when a  
4 grade is added, free or reduced-price meal eligibility data as reported by  
5 October 1 of the current school year will be used to calculate the national  
6 school lunch state categorical funding under the ~~state board~~ commission rules  
7 governing special needs funding; and

8 (B) For the second year and each school year of operation  
9 thereafter, the previous year's October 1 national school lunch student count  
10 as specified in ~~state board~~ commission rules governing special needs funding  
11 will be used to calculate national school lunch state categorical funding for  
12 the open-enrollment public charter school.

13 (4) Professional development funding under § 6-20-2305(b)(5)  
14 shall be provided to an open-enrollment public charter school for the first  
15 year of operation and in any year in which a grade is added as follows:

16 (A) In the first year of operation the open-enrollment  
17 public charter school shall receive professional development funding based  
18 upon the initial projected enrollment student count as of July 1 of the  
19 current school year multiplied by the per-student professional development  
20 funding amount under § 6-20-2305(b)(5) for that school year.

21 (B) For the second year and each school year thereafter,  
22 professional development funding will be based upon the previous year's  
23 average daily membership multiplied by the per-student professional  
24 development funding amount for that school year.

25 (5) The Department of Education shall distribute other  
26 categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment  
27 public charter school is eligible as provided by state law and rules  
28 promulgated or utilized by the ~~state board~~ commission.

29 (6) An open-enrollment public charter school shall not be denied  
30 foundation funding, enhanced educational funding, or categorical funding in  
31 the first year or any year of operation provided that the open-enrollment  
32 public charter school submits to the department the number of students  
33 eligible for funding as specified in applicable rules.

34 (7) Foundation funding for an open-enrollment public charter  
35 school shall be paid in twelve (12) installments each fiscal year.

36

1 SECTION 14. Arkansas Code § 6-23-502 is amended to read as follows:

2 6-23-502. Source of funding.

3 (a) Open-enrollment public charter schools shall be funded each year  
4 through funds set aside from funds appropriated to state foundation funding  
5 aid in the Public School Fund.

6 (b) The amount set aside shall be determined by the ~~State Board of~~  
7 ~~Education~~ State Public Charter School Commission.

8  
9 SECTION 15. Arkansas Code §§ 6-23-505--6-23-507 are amended to read as  
10 follows:

11 6-23-505. Annual audit.

12 An open-enrollment public charter school shall prepare an annual  
13 certified audit of the financial condition and transactions of the open-  
14 enrollment public charter school as of June 30 of each year in accordance  
15 with generally accepted auditing procedures and containing any other data as  
16 determined by the ~~State Board of Education~~ State Public Charter School  
17 Commission.

18  
19 6-23-506. Assets of school as property of state.

20 (a) Upon dissolution of the open-enrollment public charter school or  
21 upon nonrenewal or revocation of the charter, all net assets of the open-  
22 enrollment public charter school, including any interest in real property,  
23 purchased with public funds shall be deemed the property of the state, unless  
24 otherwise specified in the charter of the open-enrollment public charter  
25 school.

26 (b)(1) If the open-enrollment public charter school used state funds  
27 to purchase or finance personal property, real property, or fixtures for use  
28 by the open-enrollment public charter school, the ~~State Board of Education~~  
29 State Public Charter School Commission may require that the property be sold.

30 (2) The state has a perfected priority security interest in the  
31 net proceeds from the sale or liquidation of the property to the extent of  
32 the public funds used in the purchase.

33  
34 6-23-507. Rules and regulations.

35 The ~~State Board of Education~~ State Public Charter School Commission  
36 shall have the authority to promulgate rules and regulations in accordance

1 with other state and federal statutes to implement this subchapter and § 6-  
2 23-402.

3  
4 SECTION 16. Arkansas Code § 6-23-601 is amended to read as follows:

5 6-23-601. Application for limited public charter school status –  
6 Approval – Teacher transfers – Annual evaluation.

7 (a)(1) Any public school may apply to the ~~State Board of Education~~  
8 State Public Charter School Commission for limited public charter school  
9 status for alternative comprehensive staffing and compensation programs  
10 designed to enhance student and teacher performance and improve employee  
11 salaries, opportunities, and incentives, to be known as a limited public  
12 charter school.

13 (2) A limited public charter shall be for the purpose of  
14 instituting alternative staffing practices in accordance with a schedule  
15 approved by the ~~state board~~ commission.

16 (3) A limited public charter shall be initially established for  
17 a period of no more than five (5) years and may be renewed on a one-year or  
18 multiyear basis, not to exceed five (5) years per charter renewal.

19 (b) The application shall:

20 (1)(A) Contain the provisions of this title and the specific  
21 rules and regulations promulgated by the ~~state board~~ commission from which  
22 the limited public charter school will be exempt.

23 (B) The provisions from which the public school district  
24 may be exempt for the limited public charter school only shall be limited to  
25 the following:

26 (i) The duty-free lunch period requirements set  
27 forth in § 6-17-111;

28 (ii) The daily planning period requirements set  
29 forth in § 6-17-114;

30 (iii) The committee on personnel policies  
31 requirements set forth in § 6-17-201 et seq.; and

32 (iv) Standards for accreditation set forth in the  
33 Arkansas Code, set forth by the Department of Education, or set forth by the  
34 ~~state board~~ commission.

35 (C) ~~No~~ A limited public charter school ~~may~~ shall not be  
36 allowed an exemption that would allow a full-time certified employee to be

1 paid less than the salary provided in the public school district's salary  
2 schedule for that employee;

3 (2) Describe a plan for school improvement that addresses how  
4 the limited public charter school will improve student learning and meet the  
5 state education goals;

6 (3) Describe how the certified employees at the limited public  
7 charter school will be involved in developing and implementing the school  
8 improvement plan set forth in subdivision (b)(2) of this section and in  
9 identifying performance criteria;

10 (4) Outline proposed performance criteria that will be used  
11 during the initial five-year period of the charter to measure the progress of  
12 the limited public charter school in improving student learning and meeting  
13 or exceeding the state education goals; and

14 (5) Be reviewed as a regular agenda item and approved after  
15 sufficient public comment by the local school board and the ~~state board~~  
16 commission.

17 (c)(1) Any application to obtain limited public charter school status  
18 approved by a local school board shall be forwarded by the local school board  
19 to the ~~state board~~ commission.

20 (2) If a local school board does not approve a public school's  
21 application, the local school board shall inform the applicants and faculty  
22 of the public school of the local school board's reasons for not approving  
23 the application.

24 (d)(1) A certified teacher employed by a public school in the school  
25 year immediately preceding the effective date of a limited public charter for  
26 a limited public charter school within that public school district may not be  
27 transferred to or be employed by the limited public charter school over the  
28 certified teacher's objections, nor shall that objection be used as a basis  
29 to deny continuing employment within the public school district in another  
30 public school at a similar grade level.

31 (2) If the transfer of a teacher within a public school district  
32 is not possible because only one (1) public school exists for the teacher's  
33 certification level, then the local school board shall call for a vote of the  
34 certified teachers in the proposed limited public charter school site and  
35 proceed, at the local school board's option, with the limited public charter  
36 school application if a majority of the certified teachers approve the

1 proposal.

2 (3)(A) A certified teacher choosing to join the staff of a  
 3 limited public charter school shall be employed by the district by a written  
 4 contract as set forth in § 6-13-620(4), with the contract being subject to  
 5 the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

6 (B)(i) The certified teacher shall also enter into a  
 7 separate supplemental contract specifically for the teacher's employment in  
 8 the limited public charter school, with the supplemental contract being  
 9 exempt from The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and  
 10 from § 6-17-807.

11 (ii) Termination of the supplemental contract shall  
 12 not be used as a basis to deny continued employment of the teacher within the  
 13 public school district in another public school at a similar grade level.

14 (e)(1) Limited public charter schools shall be evaluated annually by  
 15 the department based on criteria approved by the ~~state board~~ commission  
 16 including without limitation:

17 (A) Student performance data in order to determine  
 18 progress in student achievement that has been achieved by the limited public  
 19 charter school; and

20 (B) The limited public charter school's compliance with §  
 21 6-23-107.

22 (2) The department shall annually report its evaluation to the  
 23 ~~state board~~ commission.

24 (3) Based upon that evaluation, the ~~state board~~ commission may  
 25 revoke a limited public charter.

26 (f) The ~~state board~~ commission shall promulgate rules and regulations  
 27 necessary for the implementation of this subchapter.

28  
 29 SECTION 17. Arkansas Code Title 25 is amended to add an additional  
 30 chapter to read as follows:

31  
 32 CHAPTER 43 State Public Charter School Commission

33  
 34 25-43-101. State Public Charter School Commission.

35 (a) The State Public Charter School Commission is established as an  
 36 independent state commission with statewide jurisdiction and authority under

1 the Arkansas Quality Public Charter Schools Act of 2013, § 6-23-101 et seq.

2 (b) The purpose of the commission is to authorize high-quality charter  
3 schools, including conversion, limited, and open-enrollment charter schools,  
4 throughout the state consistent with the Arkansas Quality Public Charter  
5 Schools Act of 2013, § 6-23-101 et seq.

6  
7 25-43-102. Membership.

8 (a)(1) The State Public Charter School Commission shall consist of  
9 five (5) members, with no more than two (2) members from the same  
10 congressional district at any time, as follows:

11 (A) One (1) member shall be appointed by the Governor;

12 (B) One (1) member shall be appointed by the President Pro  
13 Tempore of the Senate;

14 (C) One (1) member shall be appointed by the Speaker of  
15 the House of Representatives;

16 (D) One (1) member shall be appointed by the Chair of the  
17 Senate Committee on Education; and

18 (E) One (1) member shall be appointed by the Chair of the  
19 House Committee on Education.

20 (2) When considering appointments to the commission, the  
21 Governor, President Pro Tempore of the Senate, Speaker of the House, Chair of  
22 the Senate Committee on Education, and Chair of the House Committee on  
23 Education shall ensure statewide geographic diversity among commission  
24 members.

25 (3)(A) Appointed commission members collectively shall possess  
26 strong experience and expertise in public and nonprofit governance,  
27 management, finance, public school leadership, assessment, curriculum and  
28 instruction, and public education law.

29 (B) All commission members shall demonstrate an  
30 understanding and commitment to using public charter schools as a strategy  
31 for strengthening public education.

32 (4) All commission members shall submit to a criminal background  
33 check by the Identification Bureau of the Department of Arkansas State Police  
34 and a Child Maltreatment Central Registry check by the Department of Human  
35 Services.

36 (b)(1) The initial term of office for:

1 (A) Two (2) commission members shall be four (4) years;

2 (B) Two (2) commission members shall be three (3) years;

3 and

4 (C) One (1) commission member shall be two (2) years.

5 (2) After the initial term of office is complete, each member  
 6 shall serve a term of five (5) years with no commission member serving more  
 7 than seven (7) consecutive years.

8 (c) The commission may authorize, by a majority vote of the membership  
 9 cast during the first regularly scheduled meeting of each calendar year,  
 10 expense reimbursements and stipends to commission members for performing  
 11 official commission duties and performing any business of the commission as  
 12 permitted under §§ 25-16-902 and 25-16-904.

13 (d) The commission shall operate with dedicated resources and staff  
 14 within the Department of Education qualified to execute the day-to-day  
 15 responsibilities of authorizing public charter schools under the Arkansas  
 16 Quality Public Charter Schools Act of 2013, § 6-23-101 et seq.

17 (e) The commission shall carry out its work consistent with the best  
 18 practices set forth in Principles and Standards for Quality Charter School  
 19 Authorizing promulgated by the National Association of Charter School  
 20 Authorizers in compliance with the Arkansas Quality Public Charter School Act  
 21 of 2013, § 6-23-101 et seq., and other state and federal laws.

22

23 25-43-103. Duties and responsibilities.

24 (a) The State Public Charter School Commission shall be responsible  
 25 for:

26 (1) All conversion, limited and open-enrollment charter schools  
 27 under the authority of the commission.

28 (A) A charter school shall not be established, maintained,  
 29 or renewed without the express authority of the commission except for any  
 30 charter school currently in existence upon the effective date of this act,  
 31 which shall continue to exist under the terms of the charter school's current  
 32 charter, subject to the authority of the commission and state law.

33 (B) The current forms, procedures, requirements,  
 34 processes, and rules used by the State Board of Education for public charter  
 35 schools shall continue to be used by the commission if practicable;

36 (2) Maintaining high academic, financial, governance, and

1 management standards by:

2 (A) Approving only public charter school applicants that  
3 are:

4 (i) Qualified and capable of a public charter school  
5 operation in all aspects; and

6 (ii) In compliance with federal and state laws and  
7 regulations;

8 (B) Establishing uniform, objective, measurable standards  
9 for all public charter schools;

10 (C) Renewing only those public charter schools that achieve  
11 the standards and revoking the charter of public charter schools that fail to  
12 meet the standards; and

13 (D) Promulgating and maintaining regulatory control and  
14 guidance in governing public charter schools in Arkansas;

15 (3) Ensuring that public charter schools have autonomy by:

16 (A) Exercising the commission's oversight responsibilities  
17 in a manner that secures public charter schools from regulatory interference  
18 by other governmental agencies; and

19 (B) Minimizing the administrative burdens for public  
20 charters schools;

21 (4) Ensuring the interests of public charter school students, as  
22 well as the public, are protected by requiring that:

23 (A) Public charter schools follow policies for student  
24 admissions, special education services, "English-language learner",  
25 discipline, expulsion, safety, and student records that are in accordance  
26 with federal and state law;

27 (B) The governance of public charter schools follow the  
28 best practices of nonprofit governance consistent with providing a public  
29 service through nongovernmental means; and

30 (C) The governing boards of each public charter school  
31 operate with a high degree of transparency and accountability to the public,  
32 including providing periodic financial reporting, conducting annual  
33 independent audits of financial statements, and adhering to applicable state  
34 laws for public information and open meetings.

35 (b)(1) The commission is not required to approve any public charter  
36 school application.

1           (2) Decisions of the commission are final, including decisions  
 2 to:

- 3                   (A) Deny a charter;
- 4                   (B) Deny the renewal of a charter; and
- 5                   (C) Revoke a charter.

6           (3) The commission may require a public charter school applicant  
 7 to modify or supplement a charter application as a condition of approval.

8           (c) The commission shall submit a report to the Senate Committee on  
 9 Education and the House Committee on Education no later than October 1 each  
 10 year addressing:

11                   (1) The academic, operational, and financial performance of all  
 12 operating public charter schools under the jurisdiction of the commission  
 13 based on the performance expectations for public charter schools outlined in  
 14 the Arkansas Quality Public Charter School Act of 2013, § 6-23-101 et seq.  
 15 and other applicable state and federal laws and regulations governing  
 16 academic, operational, and financial performance of public charter schools;

17                   (2) The status of the commission’s public charter school  
 18 portfolio, identifying all public charter schools in each of the following  
 19 categories:

- 20                   (A) Approved but not yet open;
- 21                   (B) Operating;
- 22                   (C) Renewed;
- 23                   (D) Transferred;
- 24                   (E) Revoked;
- 25                   (F) Not renewed;
- 26                   (G) Voluntarily closed; and
- 27                   (H) Never opened; and

28           (3) The authorizing functions provided by the commission to the  
 29 public charter schools under the commissions jurisdiction, including  
 30 operating costs and expenses detailed in annual audited financial statements  
 31 that conform to generally accepted accounting principles.

32  
 33           25-43-104. Activities of the State Public Charter School Commission.  
 34           The State Public Charter School Commission shall:

35                   (1) Assess annually the educational needs of the state and  
 36 release requests for proposals for open-enrollment public charter school

1 solutions to address the identified needs, including converting low-  
2 performing public schools to public charter schools as a part of the state's  
3 plan for improving low-performing traditional public schools, receive  
4 solicited and unsolicited applications, evaluate applications, and make  
5 approval and denial decisions;

6 (2) Execute contracts between the commission and public charter  
7 schools detailing the rights and responsibilities of the commission and the  
8 public charter school, specifically how the public charter school's  
9 performance under the Arkansas Comprehensive Testing, Assessment, and  
10 Accountability Program, § 6-15-401 et seq., will be the primary, but not  
11 sole, basis for renewal;

12 (3) Monitor the performance of public charter schools under the  
13 jurisdiction of the commission on a regular basis;

14 (4) Establish revocation, intervention, and renewal criteria and  
15 processes for the public charter schools under the commission's jurisdiction;

16 (5) Disseminate the commission policies and practices to other  
17 public charter school authorizing entities in the state; and

18 (6) Implement practices to support students affected by school  
19 closures, including without limitation strategies to replace low-performing  
20 public charter schools with high-performing public charter schools.

21  
22 25-24-105. Effective date.

23 Beginning on July 1, 2013, the State Public Charter School Commission  
24 shall be responsible for soliciting, reviewing, authorizing, monitoring,  
25 creating reports, denying, revoking, or altering the charter contracts of all  
26 conversion, limited, open-enrollment, and performance public charter schools,  
27 including all public charter schools established before July 1, 2013.