

**HB363 ENGROSSED**



1 JRCCYF-2  
2 By Representatives Collins, DuBose, Baker, Holk-Jones,  
3 Paramore, Estes, Moore (P)  
4 RFD:  
5 First Read: 20-Apr-23  
6  
7 2023 Regular Session



## HB363 Engrossed

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Alabama School Choice and Student Opportunity Act; to amend Sections 16-6F-5, 16-6F-6, and 16-6F-10, Code of Alabama 1975, to change the appointment process for the Alabama Public Charter School Commission; to authorize the commission to hire staff; to require commissioners to receive annual training; to provide additional guidelines for the authorizing and application review process; to provide further for the operational and categorical funding of public charter schools in their first year of operation; and to clarify the per pupil federal, state, and local funding of conversion public charter schools during their first year of operation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-6F-5, 16-6F-6, and 16-6F-10 of the Code of Alabama 1975, are amended to read as follows:

"§16-6F-5

(a) Open enrollment.

(1) A public charter school shall be open to any student residing in the state.

(2) A school system shall not require any student enrolled in the school system to attend a start-up public



## HB363 Engrossed

29 charter school.

30 (3) A public charter school shall not limit admission  
31 based on ethnicity, national origin, religion, gender, income  
32 level, disability, proficiency in the English language, or  
33 academic or athletic ability.

34 (4) A public charter school may limit admission to  
35 students within a given age group or grade level and may be  
36 organized around a special emphasis, theme, or concept as  
37 stated in the school's charter application, but fluency or  
38 competence in the theme may not be used as a standard for  
39 enrollment.

40 (5) A public charter school shall enroll all students  
41 who wish to attend the school, unless the number of students  
42 exceeds the capacity of the facility identified for the public  
43 charter school.

44 (6) If facility capacity is insufficient to enroll all  
45 students who wish to attend a start-up public charter school,  
46 the school shall select students through a random selection  
47 process. The school shall first enroll students who reside  
48 within the school system in which the public charter school is  
49 located. If the number of local students wanting to enroll  
50 exceeds the facility's capacity, then the school shall conduct  
51 a random selection process to enroll students who reside in  
52 the local school system. If the school has additional capacity  
53 after admitting students from the local school system, then  
54 the school shall admit any students without regard to their  
55 residency by a random selection process. The selection shall  
56 take place in a public meeting, called by the governing body



## HB363 Engrossed

57 of the public charter school, and following all posting and  
58 notice requirements prescribed by the Alabama Open Meetings  
59 Act.

60 (7) Any non-charter public school converting partially  
61 or entirely to a public charter school shall adopt and  
62 maintain a policy giving enrollment preference to students who  
63 reside within the former attendance area of that public  
64 school.

65 After all students who reside within the former  
66 attendance area of that public school are enrolled, enrollment  
67 shall first be opened to students residing within the local  
68 school system and then outside the local school system, as set  
69 forth in subdivision (6).

70 (8) A public charter school shall give enrollment  
71 preference to students enrolled in the public charter school  
72 the previous school year and to siblings of students already  
73 enrolled in the public charter school.

74 (9) A public charter school may give enrollment  
75 preference to children of a public charter school's founders,  
76 governing board members, and full-time employees, so long as  
77 they constitute no more than 10 percent of the school's total  
78 student population.

79 (10) A public charter school may give enrollment  
80 preference to children living within a certain geographical  
81 boundary, so long as the overall enrollment of the public  
82 charter school includes a majority of at-risk students. The  
83 proposed boundary shall be approved by the authorizer.

84 ~~(10)~~ (11) This subsection does not preclude the



## HB363 Engrossed

85 formation of a public charter school whose mission is focused  
86 on serving special education students, students of the same  
87 gender, students who pose such severe disciplinary problems  
88 that they warrant a specific educational program, or students  
89 who are at risk of academic failure. Notwithstanding the  
90 stated mission of the public charter school, any student may  
91 attend.

92 ~~(11)~~ (12) This subsection does not preclude the  
93 formation of a public charter school, that is located on or  
94 within one mile of a military installation, whose mission is  
95 focused on serving students who are dependents of military  
96 members or Department of Defense civilian employees that are  
97 permanently assigned to that military installation. If the  
98 number of dependent students wanting to enroll exceeds the  
99 facility's capacity, then the school shall conduct a random  
100 selection process to enroll those students. If the school has  
101 additional capacity after admitting those dependent students  
102 of parents assigned to the military installation, then the  
103 school shall admit students first from the local school system  
104 by a random selection process and then without regard to their  
105 residency by a random selection process, as capacity permits.  
106 The selection shall take place in a public meeting, called by  
107 the governing body of the public charter school, and following  
108 all posting and notice requirements prescribed by the Alabama  
109 Open Meetings Act. Once the total number of students enrolled  
110 in the school reaches 400, all additional admitted students  
111 shall be dependents of military members or Department of  
112 Defense civilian employees who are permanently assigned to



## HB363 Engrossed

113 that military installation.

114 (b) Credit transferability. If a student who was  
115 previously enrolled in a public charter school enrolls in  
116 another public school in Alabama, the student's new school  
117 shall accept credits earned by the student in courses or  
118 instructional programs at the public charter school in a  
119 uniform and consistent manner and according to the same  
120 criteria that are used to accept academic credits from other  
121 public schools. Nothing in this chapter shall prevent local  
122 school systems from administering placement tests for newly  
123 enrolled students who were previously enrolled in a public  
124 charter school.

125 (c) Determination of student capacity of public charter  
126 schools. The capacity of the public charter school shall be  
127 determined annually by the governing board of the public  
128 charter school in conjunction with the authorizer and in  
129 consideration of the public charter school's ability to  
130 facilitate the academic success of its students, to achieve  
131 the other objectives specified in the charter contract, and to  
132 ensure that its student enrollment does not exceed the  
133 capacity of its facility or site.

134 (d) Student information. A public charter school shall  
135 maintain records on all enrolled students utilizing the state  
136 adopted Alabama Student Information System (ASIM)."

137 "§16-6F-6

138 (a) Eligible authorizing entities.

139 (1) A public charter school shall not be established in  
140 this state unless its establishment is authorized by this



## HB363 Engrossed

141 section. No governmental entity or other entity, other than an  
142 entity expressly granted chartering authority as set forth in  
143 this section, may assume any authorizing function or duty in  
144 any form. The following entities shall be authorizers of  
145 public charter schools:

146 a. A local school board, for chartering of schools  
147 within the boundaries of the school system under its  
148 jurisdiction, pursuant to state law.

149 b. The Alabama Public Charter School Commission,  
150 pursuant to this section.

151 (2) A local school board that registers as an  
152 authorizer may approve or deny an application to form a public  
153 charter school within the boundaries of the local school  
154 system overseen by the local school board.

155 (3) All authorizing entities shall prioritize those  
156 applications that are focused on serving at-risk students.

157 (4) A decision made by a local school board shall be  
158 subject to appeal to the commission. The commission may hear  
159 an application for the formation of a public charter school by  
160 an applicant only if one of the following factors is met:

161 a. An application to form a public charter school is  
162 denied by the local school board overseeing that system and  
163 the applicant chooses to appeal the decision of the local  
164 school board to the commission.

165 b. The applicant wishes to open a start-up public  
166 charter school in a public school system that has chosen not  
167 to register as an authorizer.

168 (b) Public charter school cap.



## HB363 Engrossed

169 (1) Authorizers may not approve more than 10 start-up  
170 public charter schools in a fiscal year.

171 (2) Upon receiving notice of approval of the tenth  
172 start-up public charter school to be approved in a fiscal  
173 year, the department shall provide notice to all authorizers  
174 that the cap has been reached and no new start-up public  
175 charter schools may be approved in that fiscal year.

176 (3) The cap expires on April 1 immediately following  
177 the conclusion of the fiscal year beginning October 1, 2020.

178 (4) At the conclusion of the fiscal year beginning  
179 October 1, 2020, the department shall submit a report to the  
180 Legislature outlining the performance of both start-up and  
181 conversion public charter schools. This report shall include,  
182 at a minimum, academic performance of all public charter  
183 schools in the state, a detailed update on the authorizing  
184 process, and recommendations for adjustments to public charter  
185 school governance and oversight.

186 (5) There is no limit on the number of conversion  
187 public charter schools that may be approved.

188 (c) The Alabama Public Charter School Commission.

189 (1) The commission is established as an independent  
190 state entity.

191 (2) The mission of the commission is to authorize high  
192 quality public charter schools, in accordance with the powers  
193 expressly conferred on the commission in this chapter.

194 (3) a. The initial membership of the commission shall~~be~~  
195 ~~composed of a total of 11 members.~~ consist of the following:

196 The State Board of Education shall appoint 10 members, made up





## HB363 Engrossed

197 of four appointees recommended by the Governor, one appointee  
198 recommended by the Lieutenant Governor, two appointees  
199 recommended by the President Pro Tempore of the Senate, and  
200 three appointees recommended by the Speaker of the House of  
201 Representatives. The Governor, the Lieutenant Governor, the  
202 President Pro Tempore of the Senate, and the Speaker of the  
203 House of Representatives shall each recommend a list of no  
204 fewer than two nominees for each initial appointment to the  
205 commission. One recommended initial appointee of the President  
206 Pro Tempore of the Senate and one recommended initial  
207 appointee of the Speaker of the House of Representatives shall  
208 be an appointee recommended by members of the Senate minority  
209 party and members of the House minority party, respectively.  
210 No commission member can be appointed unless he or she has  
211 been recommended by the Governor, Lieutenant Governor,  
212 President Pro Tempore of the Senate, or the Speaker of the  
213 House of Representatives.

214 b. Commencing on the effective date of the act adding  
215 this paragraph, as the terms of the then serving members  
216 expire, the nominating authority for that respective serving  
217 member shall become the appointing authority for his or her  
218 successor on the commission so that the Governor shall appoint  
219 four members to the commission, the Lieutenant Governor shall  
220 appoint two members to the commission, the President Pro  
221 Tempore of the Senate shall appoint two members to the  
222 commission, and the Speaker of the House of Representatives  
223 shall appoint three members to the commission. At least one  
224 member appointed by the President Pro Tempore of the Senate



## HB363 Engrossed

225 shall be an appointee recommended by the Minority Leader of  
226 the Senate and at least one member appointed by the Speaker of  
227 the House of Representatives shall be an appointee recommended  
228 by the Minority Leader of the House of Representative.

229 ~~(4) The eleventh member of the commission shall be a~~  
230 ~~rotating position based on the local school system where the~~  
231 ~~application was denied. This member appointed to the rotating~~  
232 ~~position shall be appointed by the local school system where~~  
233 ~~the applicant is seeking to open a public charter school. The~~  
234 ~~local school system shall appoint a member to the rotating~~  
235 ~~position through board action specifically to consider that~~  
236 ~~application.~~

237 ~~(5)~~ (4) The appointing authorities of the commission  
238 members shall strive to select individuals that collectively  
239 possess strong experience and expertise in public and  
240 nonprofit governance, strategic planning, management and  
241 finance, public school leadership, assessment, curriculum and  
242 instruction, and public education law. Each member of the  
243 commission shall have demonstrated understanding of and  
244 commitment to charter schooling as a tool for strengthening  
245 public education and shall sign an agreement to hear the  
246 appeal and review documents in a fair and impartial manner.

247 ~~(6)~~ (5) Membership of the commission shall be inclusive  
248 and reflect the racial, gender, geographic, urban/rural, and  
249 economic diversity of the state. ~~The appointing authority~~  
250 ~~shall consider the eight State Board of Education districts in~~  
251 ~~determining the geographical diversity of the commission.~~

252 ~~(7)~~ (6) The initial appointments to the commission shall



## HB363 Engrossed

253 be made no later than June 1, 2015. Two recommended initial  
254 appointees of the Governor, one recommended initial appointee  
255 of the Lieutenant Governor, one recommended initial appointee  
256 of the Speaker of the House of Representatives, and one  
257 recommended initial appointee of the President Pro Tempore of  
258 the Senate shall serve an initial term of one year and two  
259 recommended initial appointees of the Governor, two  
260 recommended initial appointees of the Speaker of the House of  
261 Representatives, and one recommended initial appointee of the  
262 President Pro Tempore of the Senate shall serve an initial  
263 term of two years. Thereafter, all appointees shall serve  
264 ~~two-year~~ four-year terms of office. All appointments shall be  
265 eligible for reappointment as determined by the appointing  
266 authority, not to exceed a total of ~~six~~ eight years of  
267 service, unless the member was initially appointed to serve a  
268 one-year term of office. If the initial term of office of an  
269 appointee was one year, he or she may serve a total of ~~five~~  
270 nine years of service on the commission.

271 ~~(8)~~ (7) A member of the commission may be removed for  
272 failure to perform the duties of the appointment. Whenever a  
273 vacancy on the commission exists, the appointing authority,  
274 within 60 days after the vacancy occurs, shall appoint a  
275 member for the remaining portion of the term in the same  
276 manner as the original appointment was made. A member of the  
277 commission shall abstain from any vote that involves a local  
278 school system of which he or she is an employee or which he or  
279 she oversees as a member of a local school board. The  
280 requirement to abstain does not apply to the rotating position



## HB363 Engrossed

281 on the commission.

282 ~~(9)~~ (8) Six members of the commission constitute a  
283 quorum, and a quorum shall be necessary to transact business.  
284 Actions of the commission shall be by a majority vote of the  
285 commission. The commission, in all respects, shall comply with  
286 the Alabama Open Meetings Act and state record laws.  
287 Notwithstanding the preceding sentence, members of the  
288 commission may participate in a meeting of the commission by  
289 means of telephone conference, video conference, or similar  
290 communications equipment by means of which all persons  
291 participating in the meeting may hear each other at the same  
292 time. Participation by such means shall constitute presence in  
293 person at a meeting for all purposes, including the  
294 establishment of a quorum. Telephone or video conference or  
295 similar communications equipment shall also allow members of  
296 the public the opportunity to simultaneously listen to or  
297 observe meetings of the commission.

298 ~~(10)~~ (9) If the commission overrules the decision of a  
299 local school board and chooses to authorize the establishment  
300 of a public charter school in that local school system, the  
301 commission shall serve as the authorizer for that public  
302 charter school, pursuant to this chapter.

303 (10) Each member of the commission, upon assuming  
304 office, shall complete an orientation program, and an annual  
305 training program thereafter, as developed by the commission.  
306 The orientation program shall focus on roles and  
307 responsibilities of charter school authorizers, laws impacting  
308 commissioners as public officials, general education laws, and



## HB363 Engrossed

309 best practices. In developing and implementing the programs,  
310 the commission may consult national or state organizations  
311 with training expertise. Before the start of each regular  
312 legislative session, the commission shall provide a report to  
313 each appointing authority regarding the implementation and  
314 effectiveness of the programs. Failure to attend and complete  
315 a required orientation or annual training program may  
316 constitute grounds for removal from the commission by the  
317 appointing authority.

318 (11) The commission may do any of the following:

319 ~~a. Utilize professional and administrative staff of the~~  
320 ~~department as recommended by the State Superintendent of~~  
321 ~~Education.~~

322 a. Upon evaluation and agreement, share services,  
323 facilities, supplies, and related costs with the department.

324 b. Adopt rules for the operation and organization of  
325 the commission.

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

330 d. Convene stakeholder groups and engage experts.

331 e. Seek and receive state, federal, and private funds  
332 for operational expenses.

333 f. Employ professional, administrative, technical, and  
334 clerical staff, without regard to the state Merit System, who  
335 shall serve at the pleasure of the commission. Staff employed  
336 pursuant to this paragraph shall receive compensation and



## HB363 Engrossed

337 benefits established by the commission, payable in the same  
338 manner as state employees.

339 ~~f.~~ (12) A commission member may not receive  
340 compensation, but shall be reimbursed by the department for  
341 travel and per diem expenses at the same rates and in the same  
342 manner as state employees.

343 ~~g.~~ (13) The commission shall submit an annual report to  
344 the department pursuant to subsection (g).

345 ~~(12)~~ (14) In order to overrule the decision of a local  
346 school board and authorize a public charter school, the  
347 commission, in its own consideration of the application, shall  
348 do all of the following:

349 a. Find evidence of a thorough and high-quality public  
350 charter school application from the applicant based on the  
351 authorizing standards in subdivision (8) of subsection (a) of  
352 Section 16-6F-7.

353 b. Hold an open community hearing opportunity for  
354 public comment within the local school system where the  
355 application was denied.

356 c. Find that the local board's denial of an original  
357 charter application ~~was~~ is not supported by the then current  
358 application and exhibits.

359 d. Take into consideration all of the following:

360 1. ~~other~~ Other existing charter school applications~~.~~.

361 2. ~~the~~ The quality of school options existing in the  
362 affected community~~.~~.

363 3. ~~the~~ The existence of other charter schools~~, and.~~.

364 4. ~~any~~ Any other factors considered relevant to ensure



## HB363 Engrossed

365 the establishment of high-quality charter schools in  
366 accordance with the intent of this chapter.

367 ~~e. Find evidence that the local school board erred in~~  
368 ~~its application of nationally recognized authorizing~~  
369 ~~standards.~~

370 e. At least 15 days prior to consideration of the  
371 application, send a letter to the chair of the local school  
372 board where the denial originated informing the local school  
373 board that the commission will hear the appeal pursuant to a  
374 public hearing and will provide the chair, or his or her  
375 designee, the opportunity to address the commission at that  
376 public hearing.

377 (d) (1) A local school board may ~~register with~~ apply to  
378 the department for chartering authority within the boundaries  
379 of the school system overseen by the local school board. The  
380 department shall publicize to all local school boards the  
381 opportunity to ~~register with~~ apply to the state for chartering  
382 authority within the school system they oversee. By June 1 of  
383 each year, the department shall provide information about the  
384 opportunity, including ~~a registration~~ an application deadline,  
385 to all local school boards. To ~~register~~ apply as a charter  
386 authorizer in its school system, each interested local school  
387 board shall submit the following information in a format to be  
388 established by the department:

389 ~~(1)~~ a. Written notification of intent to serve as a  
390 charter authorizer in accordance with this chapter.

391 ~~(2)~~ b. An explanation of the local school board's  
392 capacity and commitment to execute the duties of quality



## HB363 Engrossed

393 charter authorizing, as defined by nationally recognized  
394 authorizing standards.

395 ~~(3)~~c. An explanation of the local school board's  
396 strategic vision for chartering.

397 ~~(4)~~d. An explanation of how the local school board  
398 plans to solicit public charter school applicants, in  
399 accordance with this chapter.

400 ~~(5)~~e. A description or outline of the performance  
401 framework the local school board will use to guide the  
402 establishment of a charter contract and for ongoing oversight  
403 and evaluation of public charter schools, consistent with the  
404 requirements of this chapter.

405 ~~(6)~~f. A draft of the local school board's renewal,  
406 revocation, and nonrenewal processes, consistent with  
407 subsection (c) of Section 16-6F-8.

408 ~~(7)~~g. A statement of assurance that the local school  
409 board commits to serving as a charter authorizer and shall  
410 fully participate in ~~any~~ an annual authorizer training  
411 ~~provided or required by the state~~ approved by the department.

412 (2) Once chartering authority is granted, the  
413 registered local school board shall reapply to be an  
414 authorizer every five years if the local school board wishes  
415 to continue serving as an authorizer.

416 (e) If a local school board chooses not to register as  
417 an authorizer, all applications seeking to open a start-up  
418 public charter school within that local school board's  
419 boundaries shall be denied. Applicants wishing to open a  
420 public charter school physically located in that local school





## HB363 Engrossed

421 system may apply directly to the commission.

422 (f) An authorizer may do all of the following:

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

425 (2) Approve applications that meet identified  
426 educational needs.

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

429 (4) Create a framework to guide the development of  
430 charter contracts.

431 (5) Negotiate and execute charter contracts with each  
432 approved public charter school.

433 (6) Monitor the academic, fiscal, and organizational  
434 performance and compliance of public charter schools.

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

437 (g) An authorizer shall submit to the State Board of  
438 Education a publicly accessible annual report within 60 days  
439 after the end of each school fiscal year summarizing all of  
440 the following:

441 (1) The authorizer's strategic vision for chartering  
442 and progress toward achieving that vision.

443 (2) The academic and financial performance of all  
444 operating public charter schools overseen by the authorizer,  
445 according to the performance measures and expectations  
446 specified in the charter contracts.

447 (3) The status of the public charter school portfolio  
448 of the authorizer, identifying all public charter schools



## HB363 Engrossed

449 within that portfolio as one of the following:

450 a. Approved, but not yet open.

451 b. Open and operating.

452 c. Terminated.

453 d. Closed, including year closed and reason for  
454 closing.

455 e. Never opened.

456 (4) The oversight and services, if any, provided by the  
457 authorizer to the public charter schools under the purview of  
458 the authorizer.

459 (5) The authorizing functions provided by the  
460 authorizer to the public charter schools under its  
461 jurisdiction, including the operating costs and expenses of  
462 the authorizer detailed in annual audited financial statements  
463 that conform to generally accepted accounting principles.

464 (6) All use of taxpayer dollars including expenditures,  
465 contracts, and revenues.

466 (h) To cover costs for overseeing and authorizing  
467 public charter schools in accordance with this chapter, a  
468 local school board serving as an authorizer may do all of the  
469 following:

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

473 (2) Charge a portion of annual per student state  
474 allocations received by each public charter school it  
475 authorizes based on the following schedule:

476 a. If the local school board~~authorizer~~ has oversight



## HB363 Engrossed

477 over one to three, inclusive, public charter schools: Three  
478 percent of annual per student state allocations.

479 b. If the local school board authorizer has oversight  
480 over four to five, inclusive, public charter schools: Two  
481 percent of annual per student state allocations.

482 c. If the local school board authorizer has oversight  
483 over six to 10, inclusive, public charter schools: One percent  
484 of annual per student state allocations.

485 d. These funds shall be used to cover the costs for a  
486 local school board an authorizer to provide authorizing  
487 services to its public charter schools.

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

492 (j) With the exception of charges for oversight  
493 services as required in subsection (h), a public charter  
494 school may not be required to purchase services from its  
495 authorizer as a condition of charter approval or of a charter  
496 contract, nor may any such condition be implied.

497 (k) A public charter school authorized by a local  
498 school system may choose to purchase services, such as  
499 transportation-related or lunchroom-related services, from its  
500 authorizer. In such event, the public charter school and  
501 authorizer shall execute an annual service contract, separate  
502 from the charter contract, stating the mutual agreement of the  
503 parties concerning any service fees to be charged to the  
504 public charter school. A public charter school authorized by



## HB363 Engrossed

505 the commission may not purchase services from the commission,  
506 but consistent with this section, may purchase services from  
507 the local school system where the public charter school is  
508 located.

509 (1) The department shall oversee the performance and  
510 effectiveness of all authorizers established under this  
511 chapter. Persistently unsatisfactory performance of the  
512 portfolio of the public charter schools of an authorizer, a  
513 pattern of well-founded complaints about the authorizer or its  
514 public charter schools, or other objective circumstances may  
515 trigger a special review by the department. In reviewing and  
516 evaluating the performance of an authorizer, the department  
517 shall apply nationally recognized standards for quality in  
518 charter authorizing. If, at any time, the department finds  
519 that an authorizer is not in compliance with an existing  
520 charter contract or the requirements of all authorizers under  
521 this chapter, the department shall notify the authorizer in  
522 writing of any identified problem, and the authorizer shall  
523 have reasonable opportunity to respond and remedy the problem.

524 (m) If a local school board acting as an authorizer  
525 persists in violating a material provision of a charter  
526 contract or fails to remedy any other authorizing problem  
527 after due notice from the department, the department shall  
528 notify the local school board, within 60 days, that it intends  
529 to revoke the chartering authority of the local school board  
530 unless the local school board demonstrates a timely and  
531 satisfactory remedy for the violation or deficiencies.

532 (n) If the commission violates a material provision of



## HB363 Engrossed

533 a charter contract or fails to remedy any other authorizing  
534 problems after due notice from the department, the department  
535 shall notify the commission, within 60 days, that it intends  
536 to notify the Governor, the Speaker of the House of  
537 Representatives, and the President Pro Tempore of the Senate  
538 of the actions of the commission unless the commission  
539 demonstrates a timely and satisfactory remedy for the  
540 violation of the deficiencies. Along with this notification,  
541 the department shall publicly request in writing that the  
542 Governor, the Speaker of the House of Representatives, and the  
543 President Pro Tempore appointees comply with the requests of  
544 the department or face a revocation of their appointment to  
545 the commission.

546 (o) In the event of revocation of the chartering  
547 authority of an authorizer, the department shall manage the  
548 timely and orderly transfer of each start-up public charter  
549 contract held by that authorizer to another authorizer in the  
550 state, with the mutual agreement of each affected start-up  
551 public charter school and proposed new authorizer. The new  
552 authorizer shall assume the existing charter contract for the  
553 remainder of the charter term.

554 (p) Authorizer power, duties, and liabilities.  
555 Authorizers are responsible for executing, in accordance with  
556 this chapter, the following essential powers and duties:

557 (1) Soliciting and evaluating charter applications  
558 based on nationally recognized standards.

559 (2) Approving quality charter applications that meet  
560 identified educational needs and promote a diversity of



## HB363 Engrossed

561 high-quality educational choices.

562 (3) Declining to approve weak or inadequate charter  
563 applications.

564 (4) Negotiating and executing charter contracts with  
565 each approved public charter school.

566 (5) Monitoring, in accordance with charter contract  
567 terms, the performance and legal compliance of public charter  
568 schools.

569 (6) Determining whether each charter contract merits  
570 renewal, nonrenewal, or revocation.

571 (q) An authorizer that grants a charter to a 501(c)(3)  
572 tax-exempt organization for the purpose of opening and  
573 operating a public charter school is not liable for the debts  
574 or obligations of the public charter school, or for claims  
575 arising from the performance of acts, errors, or omissions by  
576 the charter school, if the authorizer has complied with all  
577 oversight responsibilities required by law, including, but not  
578 limited to, those required by this chapter.

579 (r) Principles and standards for charter authorizing.

580 (1) All authorizers shall be required to develop and  
581 maintain chartering policies and practices consistent with  
582 nationally recognized principles and standards for quality  
583 charter authorizing in all major areas of authorizing  
584 responsibility including: Organizational capacity and  
585 infrastructure; soliciting and evaluating charter  
586 applications; performance contracting; ongoing public charter  
587 school oversight and evaluation; and charter renewal  
588 decision-making. The State Board of Education shall promulgate



## HB363 Engrossed

589 reasonable rules and regulations to effectuate this section by  
590 June 17, 2015.

591 (2) Authorizers shall carry out all of their duties  
592 under this chapter in a manner consistent with such nationally  
593 recognized principles and standards and with the spirit and  
594 intent of this chapter. Evidence of material or persistent  
595 failure to do so shall constitute grounds for losing charter  
596 authorizing powers."

597 "§16-6F-10

598 (a) Enrollment. ~~Students enrolled in and attending~~  
599 ~~public charter schools shall be included in all enrollment and~~  
600 ~~attendance counts of students of the local school system in~~  
601 ~~which the students reside. The public charter school shall~~  
602 ~~report all such data to the local school systems of residence~~  
603 ~~in a timely manner.~~ Each local school system public charter  
604 school shall report ~~such~~ enrollment, attendance, and other  
605 counts of students to the department in the manner required by  
606 the department.

607 (b) Operational funding.

608 (1) The following provisions govern operational  
609 funding:

610 a. 1. ~~In their initial year, and in subsequent years to~~  
611 ~~accommodate growth as articulated in their application,~~  
612 ~~funding for public charter schools shall be provided from the~~  
613 ~~Education Trust Fund in the Foundation Program appropriation~~  
614 ~~for current units. Subsequent year funding for public charter~~  
615 ~~schools shall be based on the Foundation Program allocation~~  
616 ~~and other public school Education Trust Fund appropriations.~~



## HB363 Engrossed

617 1. In their initial year, and in subsequent years to  
618 accommodate growth as articulated in their application,  
619 start-up public charter schools shall be provided Foundation  
620 Program funding by inclusion of anticipated enrollment as  
621 provided in the approved charter application. During the  
622 fiscal year, the resulting Foundation Program allocation shall  
623 be adjusted to reconcile the variance between anticipated and  
624 actual funded enrollment.

625 2. A conversion public charter school shall be funded  
626 at the same level as the school was funded prior to its  
627 conversion to a conversion public charter school. All federal,  
628 state, and local dollars allocated to support the conversion  
629 public charter school shall be directly appropriated by the  
630 local school board to the conversion public charter school  
631 operator. Under no circumstances may the local school board  
632 withhold funds for services without mutual agreement from the  
633 conversion public charter school operator.

634 3. In addition to Foundation Program allocation, all  
635 start-up public charter schools shall participate in other  
636 Education Trust Fund and Public School Fund appropriations in  
637 the same manner as any other non-charter public school system.  
638 ~~In addition to Foundation Program allocation, all conversion~~  
639 ~~public charter schools shall be funded as they would have been~~  
640 ~~prior to their conversion to a conversion public charter~~  
641 ~~school from other Education Trust Fund and Public School Fund~~  
642 ~~appropriations.~~ In addition to Foundation Program allocation,  
643 all conversion public charter schools shall receive from the  
644 local school board a pro rata share of other Education Trust





## HB363 Engrossed

645 Fund appropriations.

646           b. For each of its students, a public charter school  
647 shall receive the same amount of state funds, including funds  
648 earmarked for the Foundation Program transportation, school  
649 nurses, technology coordinators, and other line items that may  
650 be included in the appropriation for the Foundation Program  
651 Fund, that, for the then-current fiscal year, would have  
652 otherwise been allocated on behalf of each public charter  
653 school student to the local school system where the student  
654 resides. This amount shall reflect the status of each student  
655 according to grade level, economic disadvantage, limited  
656 English proficiency, and special education needs.

657           c. For each of its students, a public charter school  
658 shall receive the same amount of local tax revenue, that, for  
659 the then-current fiscal year, would have otherwise been  
660 allocated on behalf of each public charter school student to  
661 the local non-charter public school of each student's  
662 residence, excluding those funds already earmarked through a  
663 vote of the local school board for debt service, capital  
664 expenditures, or transportation. As necessary, the department  
665 shall promulgate processes and procedures to determine the  
666 specific local revenue allocations according to the Foundation  
667 Program for each public charter school.

668           d. The state funds described in paragraph ~~b.~~a. shall be  
669 forwarded ~~on a quarterly basis to the~~ by the department to all  
670 start-up public charter ~~school~~ schools on the same schedule as  
671 funds are forwarded to local school systems by the department.  
672 The state funds described in paragraph a. shall be forwarded



## HB363 Engrossed

673 to conversion public charter schools by the local school  
674 system on the same schedule as funds are forwarded to local  
675 school systems by the department. The local funds described in  
676 paragraph c. shall be forwarded on a quarterly basis to the  
677 public charter school by the local educational agency of the  
678 student's residence, notwithstanding the oversight fee  
679 reductions pursuant to Section 16-6F-6. Additionally, any  
680 local revenues restricted, earmarked, or committed by  
681 statutory provision, constitutional provision, or board  
682 covenant pledged or imposed by formal action of the local  
683 board of education or other authorizing body of government,  
684 shall be excluded by the local educational agency of the  
685 student's residence when determining the amount of funds to be  
686 forwarded by the agency to the public charter school.

687 e. The maximum annual local tax allocation forwarded to  
688 a start-up public charter school from a local school system  
689 shall, for each student, not exceed the per student portion of  
690 the state required 10 mill ad valorem match.

691 f. The ~~maximum~~ annual local tax allocation forwarded to  
692 a conversion public charter school from a local school system  
693 shall, for each student, equal the amount that would have been  
694 received by the local education agency of the student's  
695 residence for each student who now attends a conversion public  
696 charter school, ~~minus any amounts otherwise excluded pursuant~~  
697 ~~to this section.~~ In the event a local school system fails to  
698 honor an agreement with a conversion public charter school  
699 operator or if the local school system fails to forward the  
700 annual local tax allocation to a conversion public charter



## HB363 Engrossed

701 school as required by this subsection, the State  
702 Superintendent of Education shall intervene pursuant to  
703 Section 16-4-4, and allocate the local funds to the conversion  
704 public charter school accordingly.

705 g. ~~If necessary~~ Annually, the department shall ~~adopt~~  
706 ~~rules governing how to~~ calculate ~~and distribute~~ these  
707 per-student allocations, ~~as well as any~~ and ensure that these  
708 per-student allocations are distributed directly to start-up  
709 public charter schools and conversion public charter schools  
710 on a per-student basis. The department shall adopt rules  
711 governing cost-sharing for students participating in  
712 specialized gifted, talented, vocational, technical, or career  
713 education programs.

714 (2) Categorical funding. The department shall direct  
715 the proportionate share of ~~moneys~~ monies generated under  
716 federal and state categorical aid programs to all public  
717 charter schools, including start-up public charter schools and  
718 conversion public charter schools, serving students eligible  
719 for such aid. The state shall ensure that all public charter  
720 schools with rapidly expanding enrollments are treated  
721 equitably in the calculation and disbursement of all federal  
722 and state categorical aid program dollars. Each public charter  
723 school that serves students who may be eligible to receive  
724 services provided through such programs shall comply with all  
725 reporting requirements to receive the aid.

726 (3) Special education funding.

727 a. The state or a local school board shall pay directly  
728 to a public charter school, including start-up public charter



## HB363 Engrossed

729 schools and conversion public charter schools, any federal or  
730 state aid attributable to a student with a disability  
731 attending the school.

732           b. At either party's request, a public charter school  
733 and its authorizer may negotiate and include in the charter  
734 contract alternate arrangements for the provision of and  
735 payment for special education services.

736           (4) Generally accepted accounting principles;  
737 independent audit.

738           a. A public charter school shall adhere to generally  
739 accepted accounting principles.

740           b. A public charter school shall annually engage an  
741 independent certified public accountant to do an independent  
742 audit of the school's finances. A public charter school shall  
743 file a copy of each audit report and accompanying management  
744 letter to its authorizer by June 1. This audit shall include  
745 the same requirements as those required of local school system  
746 pursuant to Section 16-13A-7.

747           (5) Transportation funding.

748           a. The department shall disburse state transportation  
749 funding to a public charter school on the same basis and in  
750 the same manner as it is paid to public school systems.

751           b. A public charter school may enter into a contract  
752 with a school system or private provider to provide  
753 transportation to the school's students.

754           c. Public charter schools that do not provide  
755 transportation services shall not be allocated any federal,  
756 state, or local funds otherwise earmarked for

## HB363 Engrossed



757 transportation-related expenses."

758           Section 2. This act shall become effective immediately  
759 following its passage and approval by the Governor, or its  
760 otherwise becoming law.



## HB363 Engrossed

761  
762  
763

### House of Representatives

764 Read for the first time and referred .....20-Apr-23  
765 to the House of Representatives  
766 committee on

767  
768 Read for the second time and placed .....03-May-23  
769 on the calendar:  
770 1 amendment

771  
772 Read for the third time and passed .....11-May-23  
773 as amended  
774 Yeas 76  
775 Nays 25  
776 Abstains 1

777  
778  
779  
780  
781

John Treadwell  
Clerk