

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

SENATE BILL 841

4  
5 By: Senator Bryles  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO AUTHORIZE THE CREATION OF DISTANCE  
10 LEARNING CHARTER SCHOOLS; TO ESTABLISH OPERATING,  
11 RECORD KEEPING, ACCOUNTABILITY, AND REPORTING  
12 REQUIREMENTS FOR DISTANCE LEARNING CHARTER SCHOOLS;  
13 TO PROVIDE STATE FUNDING FOR DISTANCE LEARNING  
14 CHARTER SCHOOLS; TO AUTHORIZE LOCAL SCHOOL DISTRICTS  
15 AND CHARTER SCHOOLS TO OPERATE BLENDED SCHOOL  
16 PROGRAMS; AND FOR OTHER PURPOSES.  
17

## Subtitle

18  
19 DISTANCE LEARNING CHARTER SCHOOLS ACT OF  
20 2007.  
21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24  
25

26 SECTION 1. Arkansas Code Title 6, Chapter 23, is amended to add an  
27 additional subchapter to read as follows:  
28

### SUBCHAPTER 7 – DISTANCE LEARNING CHARTER SCHOOLS

#### 6-23-701. Title.

31  
32 This subchapter shall be known and may be cited as the “Distance  
33 Learning Charter Schools Act of 2007”.  
34

#### 6-23-702. Legislative intent.

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36 It is the intent of the General Assembly to provide opportunities for



1 teachers, parents, students, and community members to establish and maintain  
 2 public distance learning charter schools that operate independently from the  
 3 existing structure of the local school districts as a method to accomplish  
 4 the following:

5 (1) Improve student learning;

6 (2) Use distance learning to:

7 (A) Increase learning opportunities for all students; and

8 (B) Encourage the use of innovative teaching and education  
 9 delivery methods;

10 (3) Create new professional opportunities for teachers;

11 (4) Provide parents and students with expanded choices in the types of  
 12 educational opportunities that are available within the public school system;  
 13 and

14 (5) Hold the schools established under this subchapter accountable for  
 15 meeting measurable student achievement standards.

16  
 17 6-23-703. Definitions.

18 As used in this subchapter:

19 (1) "Average daily membership" means the total number of days  
 20 attended plus the total number of days absent by Arkansas students in grades  
 21 two through twelve (2-12) during the first three (3) quarters of each school  
 22 year divided by the number of school days actually taught in the distance  
 23 learning charter school during that period of time rounded up to the nearest  
 24 hundredth.

25 (2) "Distance learning" means an interactive telecommunications  
 26 system that utilizes information technology, audio, video, and similar  
 27 technological elements, for the purpose of providing educational  
 28 opportunities for public school students in a virtual or remote setting;

29 (3) "Distance learning charter school" means a performance-based  
 30 charter school that:

31 (A) May serve students in more than one (1) school  
 32 district; and

33 (B) Delivers synchronous or asynchronous instruction from  
 34 a teacher to a student primarily through distance learning;

35 (4) "Eligible entity" means a public institution of higher  
 36 education, a private nonsectarian institution of higher education, a

1 governmental entity, or an organization that is nonsectarian in its program,  
2 admissions policies, employment practices, and operations and is exempt from  
3 taxation under § 501(c)(3) of the Internal Revenue Code of 1986;

4 (5) “Eligible student” means any student who:

5 (A) For any period of time during the previous year was  
6 enrolled in and attended a traditional public school;

7 (B) Seeks to enroll in public school for the first time in  
8 kindergarten or first grade; or

9 (C) Was not enrolled in a public or private school and  
10 seeks to enroll in grades two through twelve (2-12) under § 6-23-710(a).

11  
12 6-23-704. Application for charter.

13 (a) Pursuant to the provisions of this subchapter, an eligible entity  
14 may submit an application to operate a distance learning charter school.

15 (b) The State Board of Education shall review and may approve an  
16 application for a distance learning charter school that:

17 (1) Provides a plan for academic achievement that addresses how  
18 the distance learning charter school proposes to improve student learning and  
19 meet the state’s education goals;

20 (2) Includes a set of performance criteria that will be used  
21 during the initial five-year period of the distance learning charter school’s  
22 operation to measure its progress in meeting its academic performance goals;

23 (3) Includes a proposal to directly and substantially involve  
24 the parents of students to be enrolled in the distance learning charter  
25 school, and the certified employees in carrying out the terms of the distance  
26 learning charter school charter;

27 (4) Includes an agreement to provide an annual report to parents  
28 and the state board that demonstrates the progress made by the distance  
29 learning charter school during the previous academic year in meeting its  
30 academic performance objectives;

31 (5) Includes a detailed budget, a business plan, and a  
32 governance plan for the operation of the distance learning charter school;

33 (6) Includes a proposal to utilize a web-based interactive  
34 technology platform that monitors and tracks student achievement and  
35 attendance;

36 (7) Includes policies for employing highly qualified teachers

1 licensed in Arkansas;

2 (8) Designates a central office of operations where school  
 3 records, both student and financial, will be maintained;

4 (9) Ensures equitable access for all students by providing one  
 5 (1) or more of the following options:

6 (A) Computer and printer equipment when necessary to  
 7 ensure the student has access to the distance learning charter school; and

8 (B) Internet reimbursement program at a set rate  
 9 determined by the distance learning charter school that provides  
 10 reimbursement for at least the minimum connection speed needed to access the  
 11 school's network;

12 (10) Provides students with the materials that the distance  
 13 learning charter school requires in order to complete a lesson, which may  
 14 include without limitation textbooks, manipulatives, or instructional items;  
 15 and

16 (11) Conducts school-sponsored optional events at least six (6)  
 17 times a year that are regionally located to provide for easy access for all  
 18 students of the distance learning charter school.

19  
 20 6-23-705. Charter.

21 (a) A charter for a distance learning charter school shall be in the  
 22 form of a written contract signed by the Commissioner of Education and the  
 23 chief operating officer of the school.

24 (b) The charter for a distance learning charter school may only be  
 25 revised with the approval of the State Board of Education.

26 (c) A charter granted under this subchapter shall:

27 (1) Describe the educational program to be offered;

28 (2) Specify the period for which the charter or any charter  
 29 renewal is valid;

30 (3) Provide that the continuation or renewal of the charter is  
 31 contingent on acceptable student performance on assessment instruments  
 32 adopted by the state board and on compliance with any accountability  
 33 provision specified in the charter, by a deadline, or at intervals specified  
 34 in the charter;

35 (4) Establish the level of student performance that is  
 36 considered acceptable for purposes of subdivision (c)(3) of this section;

1           (5) Specify any basis, in addition to a basis specified by this  
 2 subchapter, on which the distance learning charter school may be placed on  
 3 probation or its charter revoked or on which renewal of the charter may be  
 4 denied;

5           (6) Specify the grade levels to be offered;

6           (7) Describe the governing structure of the distance learning  
 7 charter school;

8           (8) Specify the qualifications to be met by professional  
 9 employees of the distance learning charter school;

10          (9) Describe the process by which the persons administering the  
 11 distance learning charter school will adopt an annual budget;

12          (10) Describe the manner in which the annual audit of the  
 13 financial and programmatic operations of the distance learning charter school  
 14 is to be conducted;

15          (11) Describe the location and function of the administrative  
 16 offices of the distance learning charter school;

17          (12) Specify methods that the distance learning charter school  
 18 will use for:

19                   (A) Applying for admission;

20                   (B) Establishing enrollment criteria; and

21                   (C) Recruiting and selecting students; and

22          (13) Include a statement that the eligible entity will not  
 23 discriminate on the basis of race, gender, national origin, ethnicity,  
 24 religion, age, or disability in employment decisions including hiring and  
 25 retention of administrators, teachers, and other employees whose salaries or  
 26 benefits are derived from any public moneys.

27  
 28          6-23-706. Authority under a charter.

29          (a) A distance learning charter school:

30                   (1) Shall be governed by an eligible entity that is fiscally  
 31 accountable and under the governing structure as described by the charter;

32                   (2) Shall provide instruction to students at one (1) or more  
 33 elementary or secondary grade levels from grades two through twelve (2-12) as  
 34 provided by the charter;

35                   (3) Shall retain authority to operate under the charter  
 36 contingent on satisfactory student performance as provided by the charter and

1 in accordance with this subchapter;

2 (4) Shall have no authority to impose taxes;

3 (5) Shall not incur any debts without the prior review and  
4 approval of the Commissioner of Education;

5 (6) Shall not charge students tuition or fees that would not be  
6 allowable charges in the public school districts; and

7 (7) Shall not be religious in its operations or programmatic  
8 offerings.

9 (b) A distance learning charter school is subject to any prohibition,  
10 restriction, or requirement imposed by this title and any rule established by  
11 the State Board of Education under this title relating to:

12 (1) Monitoring compliance with this subchapter, as determined by  
13 the commissioner;

14 (2) Public school accountability under this title;

15 (3) High school graduation requirements as established by the  
16 state board;

17 (4) Special education programs as provided by this title;

18 (5) Conducting criminal background checks for employees as  
19 provided in this title; and

20 (6) Health and safety codes as established by the state board  
21 and local governmental entities.

22  
23 6-23-707. Evaluation of distance learning charter schools.

24 (a) The Department of Education shall cause to be conducted an annual  
25 evaluation of distance learning charter schools.

26 (b) The annual evaluation shall include without limitation  
27 consideration of:

28 (1) Student scores on state-mandated assessments;

29 (2) Student attendance;

30 (3) Student grades or other measurements of student progress;

31 (4) Incidents involving student discipline;

32 (5) Socioeconomic data on students' families;

33 (6) Parent satisfaction with the distance learning charter  
34 schools; and

35 (7) Student satisfaction with the distance learning charter  
36 schools.

1  
2 6-23-708. Student performance.

3 (a) The Department of Education shall promulgate rules that apply the  
4 principles and objectives of the Arkansas Comprehensive Testing, Assessment,  
5 and Accountability Program, § 6-15-401 et seq., to distance learning charter  
6 schools and students enrolled in distance learning charter schools.

7  
8 6-23-709. Approval.

9 (a) The State Board of Education shall approve no more than three (3)  
10 charters for distance learning charter schools.

11 (b) The three (3) distance learning charter schools may be in addition  
12 to the total number of open-enrollment charter schools permitted by § 6-23-  
13 304(c).

14 (c) Distance learning charter schools are not bound by geographical  
15 constraints and may draw enrollment statewide.

16 (d) Any statewide virtual public school or program that operated  
17 during the 2006-2007 school year shall receive priority for approval as one  
18 (1) of the three (3) distance learning charter schools for the 2007-2008  
19 school year, subject to the virtual public school or program meeting all of  
20 the requirements of this subchapter.

21  
22 6-23-710. Limited enrollment.

23 (a) Enrollment shall be limited to eligible students comprising not  
24 more than fifty percent (50%) of the total enrollment of the distance  
25 learning charter school.

26 (b) The distance learning charter school's enrollment policies shall  
27 prohibit discrimination on the basis of sex, race, national origin,  
28 ethnicity, religion, disability, or academic or athletic eligibility, except  
29 as follows:

30 (1) The charter may allow a weighted lottery to be used in the  
31 student selection process when necessary to comply with Title VI of the  
32 federal Civil Rights Act of 1964, Title IX of the federal Education  
33 Amendments of 1972, the Equal Protection Clause of the Fourteenth Amendment  
34 to the United States Constitution, a court order, or a federal or state law  
35 requiring desegregation; and

36 (2) The charter may provide for the exclusion of a student who

1 has been expelled from a public school district.

3 6-23-711. Funding for distance learning charter schools.

4 (a)(1) A distance learning charter school shall receive funds equal to  
5 the per student foundation funding amount provided in § 6-20-2305(a)(2)  
6 calculated as provided in subdivision (a)(2) of this section.

7 (2) Funding for a distance learning charter school shall be  
8 based upon the current year's three-quarter average daily membership of the  
9 Arkansas students attending the distance learning charter school as follows:

10 (A) The initial funding estimate for each school year  
11 shall be based on enrollment of Arkansas students as of July 1 preceding the  
12 school year in which the students are to attend,

13 (B) In December of the school year for which funding is  
14 paid, funding will be adjusted based on the average daily membership of  
15 Arkansas students during the first quarter of the school year; and

16 (C) A final adjustment will be made after the average  
17 daily membership of Arkansas students for the first three quarters of the  
18 school year is determined.

19 (b) Funding for a distance learning charter school shall be paid in  
20 twelve (12) installments each fiscal year.

21 (c) A distance learning charter school may receive other state and  
22 federal aids, grants, and revenue as may be provided by law.

23 (d) Distance learning charter schools may receive gifts and grants  
24 from private sources in whatever manner is available to public school  
25 districts.

27 6-23-712. Use of funding.

28 (a) A distance learning charter school may not use the moneys that it  
29 receives from the state for any sectarian program or activity or as  
30 collateral for debt.

31 (b)(1) No indebtedness of any kind incurred or created by the distance  
32 learning charter school shall constitute an indebtedness of the state or its  
33 political subdivisions, and no indebtedness of the distance learning charter  
34 school shall involve or be secured by the faith, credit, or taxing power of  
35 the state or its political subdivisions.

36 (2) Every contract or lease into which a distance learning



1 charter school enters shall include the wording of subdivision (b)(1) of this  
2 section.

3  
4 6-23-713. Annual audit.

5 A distance learning charter school shall prepare an annual certified  
6 audit of the financial condition and transactions of the distance learning  
7 charter school as of June 30 of each year in accordance with generally  
8 accepted auditing procedures and containing any other data as determined by  
9 the State Board of Education.

10  
11 6-23-714. Assets of school as property of state.

12 Upon dissolution of the distance learning charter school or upon  
13 nonrenewal of the charter, all net assets of the distance learning charter  
14 school purchased with public funds shall be deemed the property of the state,  
15 unless otherwise specified in the charter of the distance learning charter  
16 school.

17  
18 6-23-715. Status report.

19 The State Board of Education shall report on the status of distance  
20 learning charter schools to the General Assembly each biennium and to the  
21 House Interim Committee on Education and the Senate Interim Committee on  
22 Education during the interim between sessions of the General Assembly.

23  
24 6-23-716. Rules.

25 The State Board of Education shall establish rules to implement the  
26 provisions of this subchapter.

27  
28 SECTION 2. NOT TO BE CODIFIED. The State Board of Education may  
29 establish temporary timelines to allow for the opening of distance learning  
30 charter schools for the 2007-2008 school year.

31  
32 SECTION 3. Arkansas Code § 6-47-403 is amended to read as follows:

33 6-47-403. Definitions.

34 As used in this subchapter:

35 (1) "Blended school" means a program offered by a public school  
36 district or charter school in which students receive curriculum instruction

1 on-site for a designated period of time and also receive instruction in a  
2 virtual or remote setting via Internet-based curriculum;

3 ~~(1) "Board" means the State Board of Education;~~

4 ~~(2) "Commissioner" means the Commissioner of Education;~~

5 ~~(3) "Department" means the Department of Education;~~

6 ~~(4)~~(2) "Distance learning" means an interactive  
7 telecommunications system that utilizes information technology, audio, video,  
8 and similar technological elements, is compatible with other distance  
9 learning networks, and is used for the purpose of enhancing instructional  
10 opportunities in Arkansas public schools;

11 ~~(5)~~(3) "Infrastructure" means an interlinked system of wires,  
12 cables, fiber optics, or other wireline or wireless communications media;

13 ~~(6)~~(4) "Program" means the Arkansas Distance Learning  
14 Development Project; and

15 ~~(7)~~(5) "Public telecommunications" means the facilities used in  
16 providing telecommunication services to the public, including, but not  
17 limited to, facilities owned and operated by public utilities.

18  
19 SECTION 4. Arkansas Code § 6-47-406(g), concerning public school  
20 district and charter school distance learning programs, is amended as  
21 follows:

22 ~~(g) No public school district or open enrollment charter school shall~~  
23 ~~establish or provide a virtual school or distance learning course except as~~  
24 ~~allowed by this section.~~

25 (g)(1) Public school districts and open-enrollment charter schools may  
26 offer blended school programs.

27 (2) Curriculum used in blended schools must be approved by the  
28 State Board of Education.

29 (3) The state board shall establish rules for approving online  
30 curriculum and providers.

31  
32 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
33 General Assembly of the State of Arkansas that the Department of Education  
34 needs sufficient time to establish all necessary rules, processes,  
35 adjustments, and approvals necessary to allow for distance learning charter  
36 schools and blended school programs to operate during the 2007-2008 school

1 year; that a delay in the effective date of this act will cause students to  
2 be denied that educational benefits of distance learning charter schools and  
3 blended school programs as schools will not have sufficient time to develop  
4 the programs and participate in an appropriate approval process to ensure the  
5 quality of this program. Therefore, an emergency is declared to exist and  
6 this act being immediately necessary for the preservation of the public  
7 peace, health, and safety shall become effective on:

8 (1) The date of its approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor, the  
10 expiration of the period of time during which the Governor may veto the bill;

11 or

12 (3) If the bill is vetoed by the Governor and the veto is overridden,  
13 the date the last house overrides the veto.

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