

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 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 1163

4
5 By: Senators Baker, Bryles
6
7

For An Act To Be Entitled

8
9 AN ACT TO AUTHORIZE THE CHARTER OF DISTANCE
10 LEARNING SCHOOLS; TO ESTABLISH OPERATING,
11 RECORDKEEPING, ACCOUNTABILITY, AND REPORTING
12 REQUIREMENTS FOR DISTANCE LEARNING CHARTER
13 SCHOOLS; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 THE ARKANSAS DISTANCE LEARNING SCHOOLS
17 ACT OF 2005.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

24 6-23-701. Title.

25 This subchapter shall be known and may be cited as the "Arkansas
26 Distance Learning Schools Act of 2005".
27

28 6-23-702. Purpose.

29 It is the intent of the General Assembly to provide
30 opportunities for teachers, parents, students, and community members
31 to establish and maintain public distance learning schools that
32 operate independently from the existing structure of local school
33 districts as a method to accomplish the following:

34 (1) Improve student learning;

35 (2) Increase educational opportunities for students in low-
36 performing schools in order to assist in closing the achievement gaps between



1 high-performing and low-performing students, minority and nonminority
 2 students, and economically disadvantaged students and their more advantaged
 3 peers;

4 (3) Use technology to provide parents and students with
 5 expanded choices in the types of educational opportunities that are
 6 available within the public school system;

7 (4) Establish equitable access to educational resources for
 8 every public school in the State of Arkansas;

9 (5) Increase learning opportunities for all students;

10 (6) Provide families with an alternative choice to access
 11 additional educational resources in an effort to improve academic
 12 achievement;

13 (7) Encourage the use of innovative teaching and
 14 education delivery methods;

15 (8) Create new professional opportunities for teachers;
 16 and

17 (9) Hold the schools established under this subchapter
 18 accountable.

19
 20 6-23-703. Definitions.

21 As used in this subchapter:

22 (1) "Distance learning charter school" means a
 23 performance-based open-enrollment charter school where students
 24 primarily work from a location other than a traditional school
 25 building on assignments provided through an Internet-based or other
 26 computer-based instructional method;

27 (2) "Distance learning" means an interactive
 28 telecommunications system that uses information technology, audio,
 29 video, and similar technological elements for the purpose of
 30 providing educational opportunities for public school students;

31 (3) "Eligible entity" means:

32 (A) A public institution of higher education;

33 (B) A private nonsectarian institution of higher
 34 education;

35 (C) A governmental entity; or

36 (D) An organization that is nonsectarian in its

1 program, admissions policies, employment practices, and operations
 2 and is exempt from taxation under § 501(c)(3) of the Internal Revenue
 3 Code of 1986, as in existence on January 1, 2005;

4 (4) "Eligible student" means:

5 (A) Any public school student who was enrolled in
 6 and attended a traditional public school at any time during the
 7 previous school year;

8 (B) Any student who is seeking enrollment in public
 9 school kindergarten or grade one (K-1) for the first time; or

10 (C) Any student who has not been enrolled in a
 11 public or private school and is seeking enrollment in grades two
 12 through twelve (2-12) under § 6-23-710(c).

13
 14 6-23-704. Distance learning charter schools -- Petition.

15 The State Board of Education shall review a petition for a
 16 distance learning charter school and may approve any petition that:

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

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

24 (3) Includes a proposal to directly and substantially
 25 involve parents and certified employees in carrying out the terms of
 26 the open-enrollment charter of the distance learning charter school;

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

34 (6) Indicates that the distance learning charter school
 35 will operate using a web-based interactive technology platform that
 36 monitors and tracks student progress and attendance;

1 (7) Indicates that the distance learning charter school
 2 will employ highly qualified teachers based in the State of Arkansas;

3 (8) Designates a central office of operations for the
 4 distance learning charter school where school records, including,
 5 without limitation, student and financial records, will be
 6 maintained;

7 (9) Indicates that the distance learning charter school
 8 will provide equitable access to instruction by providing at least
 9 one (1) of the following:

10 (A) Computer and printer equipment when necessary to
 11 ensure that a student has access to the distance learning charter
 12 school; or

13 (B) A program that provides reimbursement to parents
 14 or guardians for costs associated with maintaining at least the
 15 minimum needed connection speed necessary to access the distance
 16 learning charter school at a rate determined by the school;

17 (10) Indicates that the distance learning charter school
 18 will provide students with the materials that the distance learning
 19 school requires in order to complete a lesson, which may include,
 20 without limitation:

21 (A) Textbooks;

22 (B) Manipulatives; or

23 (C) Instructional materials;

24 (11) Provides that the distance learning charter school
 25 will conduct optional school-sponsored events that are regionally
 26 located to provide reasonable access for all students at least six
 27 (6) times a year; and

28 (12) Includes a copy of the charter for the distance
 29 learning charter school.

30
 31 6-23-705. Distance learning charter schools -- Charter.

32 (a) A charter for a distance learning school shall:

33 (1) Satisfy the requirements of this subchapter;

34 (2) Satisfy all the requirements of §§ 6-23-301 – 6-23-
 35 310 for open-enrollment charter schools; and

36 (3) Include the following;

1 (A) A description of the educational program to be
2 offered through the distance learning charter school;

3 (B) Identification of the period of time for which
4 the charter or any charter renewal will be valid;

5 (C) Provision for the continuation or renewal of the
6 charter contingent on acceptable student performance on assessment
7 instruments adopted by the State Board of Education and on compliance
8 with any accountability standards specified by the charter, by a
9 deadline, or at intervals specified by the charter;

10 (D) Identification of an acceptable level of student
11 performance for purposes of subdivision (a)(3)(C) of this section;

12 (E) Identification of the bases, in addition to the
13 bases specified by this subchapter, on which the distance learning
14 charter school may be placed on probation or its charter revoked or
15 on which renewal of the charter may be denied;

16 (F) Identification of the grade levels to be offered
17 through the distance learning charter school;

18 (G) A description of the governing structure of the
19 distance learning charter school;

20 (H) A description of the qualifications to be met by
21 professional employees of the distance learning charter school;

22 (I) A description of the process by which the
23 distance learning charter school will adopt an annual budget;

24 (J) A description of the manner in which annual
25 audits of the financial and programmatic operations of the distance
26 learning charter school will be conducted, including the manner in
27 which the persons administering the distance learning charter school
28 will provide information necessary for the public school district in
29 which the distance learning charter school is located to participate
30 in the audit;

31 (K) A description of the location and function of
32 the administrative offices of the distance learning charter school;

33 (L) A description of the methods for applying for
34 admission, enrollment criteria, and student recruitment and selection
35 processes at the distance learning charter school; and

36 (M) A statement that the eligible entity operating

1 the distance learning charter school will not discriminate on the
 2 basis of race, sex, national origin, ethnicity, religion, age, or
 3 disability in employment decisions, including, without limitation,
 4 hiring and retention of administrators, teachers, and other employees
 5 whose salaries or benefits are derived from any public moneys; and

6 (4) Be in the form of a written contract signed by the
 7 Chair of the State Board of Education and the chief operating officer
 8 of the distance learning charter school.

9 (b) Any revision of the charter for a distance learning charter
 10 school may be made only with the consent and approval of the state
 11 board.

12
 13 6-23-706. Distance learning charter schools -- Requirements.

14 (a) A distance learning charter school shall:

15 (1) Be operated by an eligible entity that is fiscally
 16 accountable to the governing structure of the distance learning
 17 school as described by the charter;

18 (2) Provide instruction to students at one (1) or more
 19 elementary or secondary grade levels as provided by the charter;

20 (3) Retain authority to operate under the charter
 21 contingent on satisfactory student performance as provided by the
 22 charter and in accordance with this subchapter;

23 (4) Have no authority to impose taxes;

24 (5) Not incur any debts without the prior review and
 25 approval of the Director of the Department of Education;

26 (6) Not charge students tuition or fees that would not be
 27 authorized in a public school; and

28 (7) Not be religious in its operations or programmatic
 29 offerings.

30 (b) A distance learning charter school is subject to any
 31 prohibition, restriction, or requirement imposed by Title 6 and any
 32 rule and regulation promulgated by the State Board of Education under
 33 Title 6 relating to:

34 (1) Monitoring compliance with this subchapter;

35 (2) Public school accountability;

36 (3) High school graduation requirements;

1 (4) Special education programs;

2 (5) Conducting criminal background checks for employees;

3 and

4 (6) Health and safety codes.

5
6 6-23-707. Distance learning charter schools -- Evaluation.

7 (a) The Department of Education shall evaluate annually a
8 distance learning charter school.

9 (b) An annual evaluation shall include, without limitation,
10 consideration of:

11 (1) Student scores on assessment instruments;

12 (2) Student attendance;

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

15 (4) Incidents involving student discipline;

16 (5) Socioeconomic data on student families;

17 (6) Parental satisfaction with the school; and

18 (7) Student satisfaction with the school.

19
20 6-23-708. Distance learning charter schools -- Student
21 performance.

22 The Department of Education shall promulgate rules that apply
23 the principles and objectives of the Arkansas Comprehensive Testing,
24 Assessment, and Accountability Program to distance learning charter
25 schools and students enrolled in distance learning charter schools.

26
27 6-23-709. Distance learning charter schools -- Approval.

28 (a)(1) The State Board of Education shall approve no more than
29 three (3) distance learning charter schools.

30 (2) The number of distance learning charter schools
31 approved by the state board under this subchapter shall not impact
32 the total number of charter schools allowed under Title 6, Chapter
33 23.

34 (b) Distance learning charter schools shall not be bound by
35 geographical constraints and may draw enrollment from across the
36 entire State of Arkansas.

1
2 6-23-710. Distance learning charter schools -- Enrollment.

3 (a)(1) A distance learning charter school may initially enroll
4 one-thousand 1,000 students.

5 (2) A distance learning charter school shall provide the
6 Department of Education with a list of enrolled students by April 15
7 of each year.

8 (3)(A) If a distance learning charter school is unable to
9 enroll one thousand (1,000) students by April 15, the excess student
10 openings may be allocated to another distance learning charter school
11 or schools if:

12 (i) The other distance learning charter school
13 or schools provides a list of students seeking enrollment that
14 exceeds one thousand (1,000); and

15 (ii) The additional students seeking enrollment
16 are eligible under subsection (c) of this section.

17 (B) The department shall allocate excess student
18 openings equally between the other two (2) distance learning charter
19 schools or as necessary to meet the demand for enrollment, whichever
20 option results in the allocation of the least number of student
21 openings.

22 (C) If excess student openings are unallocated due
23 to lack of student enrollment, the distance learning charter school
24 that originally held the student openings may recapture the excess
25 student openings for the next school year.

26 (4) The total number of students between all distance
27 learning charter schools during any school year shall not exceed
28 three thousand (3,000).

29 (c) Enrollment in a distance learning charter school shall be
30 limited to eligible students, except that the number of students who
31 were not enrolled the previous year in a public or private school and
32 are seeking enrollment in grades two through twelve (2-12) shall not
33 exceed twenty-five percent (25%) of the total enrollment of the
34 distance learning charter school.

35 (d) A distance learning charter school shall not discriminate
36 in enrollment on the basis of sex, race, national origin, ethnicity,

1 religion, disability, or academic or athletic eligibility, except as
2 follows:

3 (1) The distance learning charter school may allow a
4 weighted lottery to be used in the student selection process when
5 necessary to comply with Title VI of the federal Civil Rights Act of
6 1964 as in existence on January 1, 2005, Title IX of the federal
7 Education Amendments of 1972 as in existence on January 1, 2005, the
8 equal protection clause of the Fourteenth Amendment to the United
9 States Constitution, a court order, or a federal or state law or
10 court order requiring desegregation; and

11 (2) The distance learning charter school may provide for
12 the exclusion of a student who has been expelled from a public school
13 district.

14
15 6-23-711. Distance learning charter schools -- Funding.

16 (a)(1) A distance learning charter school shall receive funds
17 from the state in an amount equal to the minimum amount per student
18 as defined in the Public School Funding Act of 2003, § 6-20-2301 et
19 seq.

20 (2) Funding for a distance learning charter school shall
21 be based upon the current year three-quarter average daily membership
22 of the distance learning charter school as follows:

23 (A) The initial funding estimate for each school
24 year shall be based on enrollment as of April 15 preceding the school
25 year in which the students are to attend;

26 (B) In December of the school year for which funding
27 is paid, funding will be adjusted based on the average daily
28 membership during the first quarter of the school year; and

29 (C) A final adjustment will be made after the
30 average daily membership or the first three quarters of the school
31 year is determined.

32 (b) The Department of Education shall provide funding payments
33 to a distance learning charter school in twelve (12) equal
34 installments each fiscal year.

35 (c) Except for state transportation aid funds, a distance
36 learning school may receive other state and federal aid moneys,

1 grants, and other revenues as may be provided by law.

2 (d) Distance learning charter school may receive gifts and
3 grants from private sources in the same manner as school districts.

4 (e) A distance learning charter school shall receive full
5 foundation funding for each eligible student. A distance learning
6 charter school is not eligible for categorical funding as provided in
7 the Supplemental School District Funding Act of 2003, § 6-20-2401 et
8 seq.

9
10 6-23-712. Distance learning charter schools – Limitations on
11 use of state funds.

12 (a) A distance learning charter school shall not use the moneys
13 that it receives from the state for any sectarian program or activity
14 or as collateral for debt.

15 (b)(1) No indebtedness of any kind incurred or created by the
16 distance learning charter school shall constitute an indebtedness of
17 the state or its political subdivisions, and no indebtedness of the
18 distance learning charter school shall involve or be secured by the
19 faith, credit, or taxing power of the state or its political
20 subdivisions.

21 (2) Every contract or lease into which a distance
22 learning school enters shall include the subdivision (b)(1) of this
23 section.

24
25 6-23-713. Distance learning charter schools -- Audit.

26 A distance learning charter school shall prepare an annual
27 certified audit of the financial condition and transactions of the
28 distance learning charter school as of June 30 of each year in
29 accordance with generally accepted auditing procedures and containing
30 any other data required by the State Board of Education.

31
32 6-23-714. Distance learning charter schools -- Dissolution.

33 Upon dissolution of a distance learning charter school or upon
34 nonrenewal of the charter, all net assets of the distance learning
35 charter school purchased with public funds shall be the property of
36 the state, unless otherwise specified in the charter of the distance

1 learning charter school.

2
3 6-23-715. Distance learning charter schools -- Status report.
4 The State Board of Education shall report on the status of the
5 distance learning school programs to the General Assembly each
6 biennium and to the House Interim Committee on Education and the
7 Senate Interim Committee on Education during the interim between
8 sessions of the General Assembly.

9
10 6-23-716. Distance learning schools advisory committee.

11 (a) There is created the Distance Learning Schools Advisory
12 Committee.

13 (b) The committee shall consist of five (5) members to be
14 appointed as follows:

15 (1) One (1) member appointed by the Governor;

16 (2) One (1) member appointed by the President Pro Tempore
17 of the Senate;

18 (3) One (1) member appointed by the Speaker of the House
19 of Representatives;

20 (4) The Director of the Department of Education or the
21 director's designee; and

22 (5) The Chair of the State Board of Education or the
23 chair's designee.

24 (c) All members of the committee shall have:

25 (1) Professional training and experience in the education
26 of elementary and secondary students by distance learning; and

27 (2) Knowledge and understanding of public school choice
28 options for students under state and federal law, including, without
29 limitation, the No Child Left Behind Act of 2001, Pub.L. No. 107-110.

30 (d)(1) The committee members shall serve terms of four (4)
31 years.

32 (2) A vacancy on the committee shall be filled by
33 appointment by the person who appointed the departing or deceased
34 member. The appointed member shall serve out the remainder of the
35 term of the vacated position.

36 (e)(1) A member of the committee is not entitled to

1 compensation for his or her services.

2 (2) A member may receive expense reimbursement under §
3 25-16-902.

4 (f)(1) The committee shall hold its first meeting within thirty
5 (30) days after appointment of the members to organize as necessary
6 to carry out its purposes as prescribed by this section.

7 (2) The member appointed by the governor shall call and
8 preside at the first meeting.

9 (g) The committee shall select by majority vote one (1) of its
10 members to serve as chair and one (1) to serve as vice chair.

11 (h)(1) The committee shall meet as necessary to carry out the
12 duties of the committee.

13 (2) Meetings may be called by the chair or as provided by
14 the rules of the committee.

15 (i) The committee shall provide advice to the State Board of
16 Education concerning:

17 (1) The review of applications for charters under this
18 subchapter; and

19 (2) The development of rules and regulations for the
20 operation and administration of this subchapter.

21
22 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that the Arkansas Supreme Court in
24 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the
25 current system of education to be unconstitutional because it is both
26 inequitable and inadequate; and the Arkansas Supreme Court set forth the test
27 for a constitutional system to be one in which the state has an “absolute
28 duty” to provide an “equal opportunity to an adequate education”; the
29 Arkansas Supreme Court instructed the General Assembly to undertake actions
30 as necessary to provide an opportunity for an adequate and equitable
31 education for the children of Arkansas; and the provisions of this act are
32 necessary steps toward accomplishing that goal. Therefore, an emergency is
33 declared to exist and this act being immediately necessary for the
34 preservation of the public peace, health, and safety shall become effective
35 on:

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

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

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36