

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
4

As Engrossed: S4/4/05
A Bill

SENATE BILL 1163

5 By: Senators Baker, Bryles
6
7

For An Act To Be Entitled

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 THE ARKANSAS DISTANCE LEARNING SCHOOLS
16 ACT OF 2005.
17
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)(A) "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 (B) A public school shall not be eligible to operate a distance
28 learning charter school;

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

33 (3) "Eligible entity" means:

34 (A) A public institution of higher education;

35 (B) A private nonsectarian institution of higher
36 education;

1 (C) A governmental entity, except for a public school; or

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

6 (4) "Eligible student" means:

7 (A) Any public or private school student who was enrolled in and
8 attended a traditional public or private school in a traditional classroom
9 setting for at least one (1) year prior to the year in which the student
10 seeks enrollment in the distance learning charter school;

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

13 (C) Any student who is referred specifically to a distance
14 learning charter school by the public or private school that the student is
15 currently attending; and

16 (5)(A) "Public school" means a school that is part of a public school
17 district under the control and management of a local board.

18 (B) "Public school" includes the Arkansas School for
19 Mathematics, Sciences, and the Arts.

20
21 6-23-704. Distance learning charter schools -- Petition.

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

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

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

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

34 (4) Includes an agreement to provide an annual report to
35 parents and the state board that demonstrates the progress made by
36 the distance learning charter school during the previous academic

1 school year in meeting its academic performance objectives;

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

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

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

10 (8) Designates a central office of operations for the
11 distance learning charter school where school records, including,
12 without limitation, student and financial records, will be
13 maintained;

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

17 (A) Computer and printer equipment when necessary to
18 ensure that a student has access to the distance learning charter
19 school; or

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

24 (10) Indicates that the distance learning charter school
25 will provide students with the materials that the distance learning
26 school requires in order to complete a lesson, which may include,
27 without limitation:

28 (A) Textbooks;

29 (B) Manipulatives; or

30 (C) Instructional materials;

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

35 (12) Includes a copy of the charter for the distance
36 learning charter school.

1
2 6-23-705. Distance learning charter schools -- Charter.

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

4 (1) Satisfy the requirements of this subchapter;

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

7 (3) Include the following;

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

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

12 (C) Provision for the continuation or renewal of the
13 charter contingent on acceptable student performance on assessment
14 instruments adopted by the State Board of Education and on compliance
15 with any accountability standards specified by the charter, by a
16 deadline, or at intervals specified by the charter;

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

19 (E) Identification of the bases, in addition to the
20 bases specified by this subchapter, on which the distance learning
21 charter school may be placed on probation or its charter revoked or
22 on which renewal of the charter may be denied;

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

25 (G) A description of the governing structure of the
26 distance learning charter school;

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

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

31 (J) A description of the manner in which annual
32 audits of the financial and programmatic operations of the distance
33 learning charter school will be conducted, including the manner in
34 which the persons administering the distance learning charter school
35 will provide information necessary for the public school district in
36 which the distance learning charter school is located to participate

1 in the audit;

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

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

7 (M) A statement that the eligible entity operating
8 the distance learning charter school will not discriminate on the
9 basis of race, sex, national origin, ethnicity, religion, age, or
10 disability in employment decisions, including, without limitation,
11 hiring and retention of administrators, teachers, and other employees
12 whose salaries or benefits are derived from any public moneys; and

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

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

19
20 6-23-706. Distance learning charter schools -- Requirements.

21 (a) A distance learning charter school shall:

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

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

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

30 (4) Have no authority to impose taxes;

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

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

35 (7) Not be religious in its operations or programmatic
36 offerings.

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

- 5 (1) Monitoring compliance with this subchapter;
- 6 (2) Public school accountability;
- 7 (3) High school graduation requirements;
- 8 (4) Special education programs;
- 9 (5) Conducting criminal background checks for employees;

10 and

- 11 (6) Health and safety codes.

12
13 6-23-707. Distance learning charter schools -- Evaluation.

14 (a) The Department of Education shall evaluate annually a
15 distance learning charter school.

16 (b) An annual evaluation shall include, without limitation,
17 consideration of:

- 18 (1) Student scores on assessment instruments;
- 19 (2) Student attendance;
- 20 (3) Student grades or other measurements of student
21 progress;
- 22 (4) Incidents involving student discipline;
- 23 (5) Socioeconomic data on student families;
- 24 (6) Parental satisfaction with the school; and
- 25 (7) Student satisfaction with the school.

26
27 6-23-708. Distance learning charter schools -- Student
28 performance.

29 The Department of Education shall promulgate rules that apply
30 the principles and objectives of the Arkansas Comprehensive Testing,
31 Assessment, and Accountability Program to distance learning charter
32 schools and students enrolled in distance learning charter schools.

33
34 6-23-709. Distance learning charter schools -- Approval.

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

1 (2) The number of distance learning charter schools
2 approved by the state board under this subchapter shall not impact
3 the total number of charter schools allowed under Title 6, Chapter
4 23.

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

8
9 6-23-710. Distance learning charter schools -- Enrollment.

10 (a)(1) A distance learning charter school may initially enroll
11 five hundred (500) students.

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

15 (3)(A) If a distance learning charter school is unable to
16 enroll five hundred (500) students by April 15, the excess student
17 openings may be allocated to another distance learning charter school
18 or schools if:

19 (i) The other distance learning charter school
20 or schools provides a list of students seeking enrollment that
21 exceeds five hundred (500); and

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

24 (B) The department shall allocate excess student
25 openings equally between the other two (2) distance learning charter
26 schools or as necessary to meet the demand for enrollment, whichever
27 option results in the allocation of the least number of student
28 openings.

29 (C) If excess student openings are unallocated due
30 to lack of student enrollment, the distance learning charter school
31 that originally held the student openings may recapture the excess
32 student openings for the next school year.

33 (4) The total number of students between all distance
34 learning charter schools during any school year shall not exceed one
35 thousand five hundred (1,500).

36 (c) A distance learning charter school shall not discriminate

1 in enrollment on the basis of sex, race, national origin, ethnicity,
2 religion, disability, or academic or athletic eligibility, except as
3 follows:

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

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

15
16 6-23-711. Distance learning charter schools -- Funding.

17 (a)(1) A distance learning charter school shall receive funds
18 from the state in an amount established by the State Board of Education,
19 which shall not exceed an amount equal to the foundation funding per student
20 as determined under the Public School Funding Act of 2003, § 6-20-2301 et
21 seq., plus funding for additional education categories under § 6-20-2305 in
22 amounts determined by the state board as appropriate to support the needs of
23 students attending the distance learning charter school.

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

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

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

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

36 (b) The Department of Education shall provide funding payments

1 to a distance learning charter school in twelve (12) equal
2 installments each fiscal year.

3 (c) Except for state transportation aid funds, a distance
4 learning school may receive other state and federal aid moneys,
5 grants, and other revenues as may be provided by law and approved by the
6 state board.

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

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

14
15 6-23-712. Distance learning charter schools – Limitations on
16 use of state funds.

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

20 (b)(1) No indebtedness of any kind incurred or created by the
21 distance learning charter school shall constitute an indebtedness of
22 the state or its political subdivisions, and no indebtedness of the
23 distance learning charter school shall involve or be secured by the
24 faith, credit, or taxing power of the state or its political
25 subdivisions.

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

29
30 6-23-713. Distance learning charter schools -- Audit.

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

36

1 6-23-714. Distance learning charter schools -- Dissolution.

2 Upon dissolution of a distance learning charter school or upon
3 nonrenewal of the charter, all net assets of the distance learning
4 charter school purchased with public funds shall be the property of
5 the state, unless otherwise specified in the charter of the distance
6 learning charter school.

7
8 6-23-715. Distance learning charter schools -- Status report.

9 The State Board of Education shall report on the status of the
10 distance learning school programs to the General Assembly each
11 biennium and to the House Interim Committee on Education and the
12 Senate Interim Committee on Education during the interim between
13 sessions of the General Assembly.

14
15 6-23-716. Distance learning schools advisory committee.

16 (a) There is created the Distance Learning Schools Advisory
17 Committee.

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

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

21 (2) One (1) member appointed by the President Pro Tempore
22 of the Senate;

23 (3) One (1) member appointed by the Speaker of the House
24 of Representatives;

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

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

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

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

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

35 (d)(1) The committee members shall serve terms of four (4)
36 years.

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

5 (e)(1) A member of the committee is not entitled to
6 compensation for his or her services.

7 (2) A member may receive expense reimbursement under §
8 25-16-902.

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

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

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

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

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

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

22 (1) The review of applications for charters under this
23 subchapter; and

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

26
27 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that the Arkansas Supreme Court in
29 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the
30 current system of education to be unconstitutional because it is both
31 inequitable and inadequate; and the Arkansas Supreme Court set forth the test
32 for a constitutional system to be one in which the state has an “absolute
33 duty” to provide an “equal opportunity to an adequate education”; the
34 Arkansas Supreme Court instructed the General Assembly to undertake actions
35 as necessary to provide an opportunity for an adequate and equitable
36 education for the children of Arkansas; and the provisions of this act are

1 necessary steps toward accomplishing that goal. Therefore, an emergency is
2 declared to exist and this act being immediately necessary for the
3 preservation of the public peace, health, and safety shall become effective
4 on:

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

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

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

11
12 */s/ Baker*
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