

SECOND REGULAR SESSION

HOUSE BILL NO. 1820

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEWIS (6).

4210H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 161.670, RSMo, and to enact in lieu thereof one new section relating to assessment of virtual school students.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 161.670, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.670, to read as follows:

161.670. 1. Notwithstanding any other law, prior to July 1, 2007, the state board of education shall establish the "Missouri Course Access and Virtual School Program" to serve school-age students residing in the state. The Missouri course access and virtual school program shall offer nonclassroom-based instruction in a virtual setting using technology, intranet, or internet methods of communication. Any student under the age of twenty-one in grades kindergarten through twelve who resides in this state shall be eligible to enroll in the Missouri course access and virtual school program pursuant to subsection 3 of this section.

2. (1) For purposes of calculation and distribution of state school aid, students enrolled in the Missouri course access and virtual school program shall be included in the student enrollment of the school district in which the student is enrolled under subsection 3 of this section; provided that any such student attendance for full-time virtual program students shall only be included in any district pupil attendance calculation under chapter 163 and any charter school pupil attendance calculation under section 160.415, using current-year pupil attendance for such full-time virtual program pupils; and further provided that in the case of a host school district enrolling one or more full-time virtual school students, such enrolling district shall receive no less under the state aid calculation for such students than an amount equal to the state adequacy target multiplied by the weighted average daily attendance of such

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 full-time students. Students residing in Missouri and enrolled in a full-time virtual school
19 program operated by a public institution of higher education in this state shall be counted for a
20 state aid calculation by the department, and the department shall pay, from funds dedicated to
21 state school aid payments made under section 163.031, to such institution an amount equal to
22 the state adequacy target multiplied by the weighted average daily attendance of such full-
23 time students.

24 (2) The Missouri course access and virtual school program shall report to the district
25 of residence the following information about each student served by the Missouri course
26 access and virtual school program: name, address, eligibility for free or reduced-price lunch,
27 limited English proficiency status, special education needs, and the number of courses in
28 which the student is enrolled. The Missouri course access and virtual school program shall
29 promptly notify the resident district when a student discontinues enrollment. A "full-time
30 equivalent student" is a student who is enrolled in the instructional equivalent of six credits
31 per regular term. Each Missouri course access and virtual school program course shall count
32 as one class and shall generate that portion of a full-time equivalent that a comparable course
33 offered by the school district would generate.

34 (3) Pursuant to an education services plan and collaborative agreement under
35 subsection 3 of this section, full-time equivalent students may be allowed to use a physical
36 location of the resident school district for all or some portion of ongoing instructional activity,
37 and the enrollment plan shall provide for reimbursement of costs of the resident district for
38 providing such access pursuant to rules promulgated under this section by the department.

39 (4) In no case shall more than the full-time equivalency of a regular term of
40 attendance for a single student be used to claim state aid. Full-time equivalent student credit
41 completed shall be reported to the department of elementary and secondary education in the
42 manner prescribed by the department. Nothing in this section shall prohibit students from
43 enrolling in additional courses under a separate agreement that includes terms for paying
44 tuition or course fees.

45 (5) A full-time virtual school program serving full-time equivalent students shall be
46 considered an attendance center in the host school district and shall participate in the
47 statewide assessment system as defined in section 160.518. The academic performance of
48 students enrolled in a full-time virtual school program shall be assigned to the designated
49 attendance center of the full-time virtual school program and shall be considered in like
50 manner to other attendance centers. The academic performance of any student who disenrolls
51 from a full-time virtual school program and enrolls in a public school or charter school shall
52 not be used in determining the annual performance report score of the attendance center or
53 school district in which the student enrolls for twelve months from the date of enrollment.

54 (6) For the purposes of this section, a public institution of higher education operating
55 a full-time virtual school program shall be subject to all requirements applicable to a host
56 school district with respect to its full-time equivalent students.

57 3. (1) A student who resides in this state may enroll in Missouri course access and
58 virtual school program courses of his or her choice as a part of the student's annual course
59 load each school year, with any costs associated with such course or courses to be paid by the
60 school district or charter school if:

61 (a) The student is enrolled full-time in a public school, including any charter school;
62 and

63 (b) Prior to enrolling in any Missouri course access and virtual school program
64 course, a student has received approval from his or her school district or charter school
65 through the procedure described under subdivision (2) of this subsection.

66 (2) Each school district or charter school shall adopt a policy that delineates the
67 process by which a student may enroll in courses provided by the Missouri course access and
68 virtual school program that is substantially similar to the typical process by which a district
69 student would enroll in courses offered by the school district and a charter school student
70 would enroll in courses offered by the charter school. The policy may include consultation
71 with the school's counselor and may include parental notification or authorization. The policy
72 shall ensure that available opportunities for in-person instruction are considered prior to
73 moving a student to virtual courses. The policy shall allow for continuous enrollment
74 throughout the school year. If the school district or charter school disapproves a student's
75 request to enroll in a course or courses provided by the Missouri course access and virtual
76 school program, the reason shall be provided in writing and it shall be for good cause. Good
77 cause justification to disapprove a student's request for enrollment in a course shall be a
78 determination that doing so is not in the best educational interest of the student, and shall be
79 consistent with the determination that would be made for such course request under the
80 process by which a district student would enroll in a similar course offered by the school
81 district and a charter school student would enroll in a similar course offered by the charter
82 school, except that the determination may consider the suitability of virtual courses for the
83 student based on prior participation in virtual courses by the student. Appeals of any course
84 denials under this subsection shall be considered under a policy that is substantially similar to
85 the typical process by which appeals would be considered for a student seeking to enroll in
86 courses offered by the school district and a charter school student seeking to enroll in courses
87 offered by the charter school.

88 (3) For students enrolled in any Missouri course access and virtual school program
89 course in which costs associated with such course are to be paid by the school district or
90 charter school as described under this subdivision, the school district or charter school shall

91 pay the content provider directly on a pro rata monthly basis based on a student's completion
92 of assignments and assessments. If a student discontinues enrollment, the district or charter
93 school may stop making monthly payments to the content provider. No school district or
94 charter school shall pay, for any one course for a student, more than the market necessary
95 costs but in no case shall pay more than fourteen percent of the state adequacy target, as
96 defined under section 163.011, as calculated at the end of the most recent school year for any
97 single, year-long course and no more than seven percent of the state adequacy target as
98 described above for any single semester equivalent course.

99 (4) For students enrolling in a full-time virtual program, the department of elementary
100 and secondary education shall adopt a policy that delineates the process by which a student
101 who lives in this state may enroll in a virtual program of their choice as provided in this
102 subdivision. Each host school district operating a full-time virtual program under this section
103 shall operate and implement the state enrollment policy, subject to the provisions of this
104 subdivision. The policy shall:

105 (a) Require the good faith collaboration of the student, the student's parent or
106 guardian if the student is not considered homeless, the virtual program, the host district, and
107 the resident district;

108 (b) Specify timelines for timely participation by the virtual program, the host district,
109 and resident district; provided that the resident district shall provide any relevant information
110 and input on the enrollment within ten business days of notice from the virtual program of the
111 enrollment application;

112 (c) Include a survey of the reasons for the student's and parent's interests in
113 participating in the virtual program;

114 (d) Include consideration of available opportunities for in-person instruction prior to
115 enrolling a student in a virtual program;

116 (e) Evaluate requests for enrollment based on meeting the needs for a student to be
117 successful considering all relevant factors;

118 (f) Ensure that, for any enrolling student, an education services plan and collaborative
119 agreement is created to provide all services required to ensure a free and appropriate public
120 education, including financial terms for reimbursement by the host district for the necessary
121 costs of any virtual program, school district, or public or private entity providing all or a
122 portion of such services;

123 (g) Require the virtual program to determine whether an enrolling student will be
124 admitted, based on the enrollment policy, in consideration of all relevant factors and provide
125 the basis for its determination and any service plan for the student, in writing, to the student,
126 the student's parent or guardian, the host district, and the resident district;

127 (h) Provide a process for reviewing appeals of decisions made under this subdivision;
128 and

129 (i) Require the department to publish an annual report based on the enrollments and
130 enrollment surveys conducted under this subdivision that provides data at the statewide and
131 district levels of sufficient detail to allow analysis of trends regarding the reasons for
132 participation in the virtual program at the statewide and district levels; provided that no such
133 survey results will be published in a manner that reveals individual student information. The
134 department shall also include, in the annual report, data at the statewide and district levels of
135 sufficient detail to allow detection and analysis of the racial, ethnic, and socio-economic
136 balance of virtual program participation among schools and districts at the statewide and
137 district levels, provided that no such survey results will be published in a manner that reveals
138 individual student information.

139 (5) In the case of a student who is a candidate for A+ tuition reimbursement and
140 taking a virtual course under this section, the school shall attribute no less than ninety-five
141 percent attendance to any such student who has completed such virtual course.

142 (6) The Missouri course access and virtual school program shall ensure that
143 individual learning plans designed by certified teachers and professional staff are developed
144 for all students enrolled in more than two full-time course access program courses or a full-
145 time virtual school.

146 (7) Virtual school programs shall monitor individual student success and engagement
147 of students enrolled in their program, provide regular student progress reports for each student
148 at least four times per school year to the school district or charter school, provide the host
149 school district and the resident school district ongoing access to academic and other relevant
150 information on student success and engagement, and shall terminate or alter the course
151 offering if it is found the course or full-time virtual school is not meeting the educational
152 needs of the students enrolled in the course.

153 (8) The department of elementary and secondary education shall monitor the
154 aggregate performance of providers and make such information available to the public under
155 subsection 11 of this section.

156 (9) Pursuant to rules to be promulgated by the department of elementary and
157 secondary education, when a student transfers into a school district or charter school, credits
158 previously gained through successful passage of approved courses under the Missouri course
159 access and virtual school program shall be accepted by the school district or charter school.

160 (10) Pursuant to rules to be promulgated by the department of elementary and
161 secondary education, if a student transfers into a school district or charter school while
162 enrolled in a Missouri course access and virtual school program course or full-time virtual
163 school, the student shall continue to be enrolled in such course or school.

164 (11) Nothing in this section shall prohibit home school students, private school
165 students, or students wishing to take additional courses beyond their regular course load from
166 enrolling in Missouri course access and virtual school program courses under an agreement
167 that includes terms for paying tuition or course fees.

168 (12) Nothing in this subsection shall require any school district, charter school, virtual
169 program, or the state to provide computers, equipment, or internet access to any student
170 unless required under the education services plan created for an eligible student under
171 subdivision (4) of this subsection or for an eligible student with a disability to comply with
172 federal law. An education services plan may require an eligible student to have access to
173 school facilities of the resident school district during regular school hours for participation
174 and instructional activities of a virtual program under this section, and the education services
175 plan shall provide for reimbursement of the resident school district for such access pursuant to
176 rules adopted by the department under this section.

177 (13) The authorization process shall provide for continuous monitoring of approved
178 providers and courses. The department shall revoke or suspend or take other corrective action
179 regarding the authorization of any course or provider no longer meeting the requirements of
180 the program. Unless immediate action is necessary, prior to revocation or suspension, the
181 department shall notify the provider and give the provider a reasonable time period to take
182 corrective action to avoid revocation or suspension. The process shall provide for periodic
183 renewal of authorization no less frequently than once every three years.

184 (14) Courses approved as of August 28, 2018, by the department to participate in the
185 Missouri virtual instruction program shall be automatically approved to participate in the
186 Missouri course access and virtual school program, but shall be subject to periodic renewal.

187 (15) Any online course or virtual program offered by a school district or charter
188 school, including those offered prior to August 28, 2018, which meets the requirements of
189 section 162.1250 shall be automatically approved to participate in the Missouri course access
190 and virtual school program. Such course or program shall be subject to periodic renewal. A
191 school district or charter school offering such a course or virtual school program shall be
192 deemed an approved provider.

193 4. (1) As used in this subsection, the term "instructional activities" means classroom-
194 based or nonclassroom-based activities that a student shall be expected to complete,
195 participate in, or attend during any given school day, such as:

- 196 (a) Online logins to curricula or programs;
- 197 (b) Offline activities;
- 198 (c) Completed assignments within a particular program, curriculum, or class;
- 199 (d) Testing;
- 200 (e) Face-to-face communications or meetings with school staff;

- 201 (f) Telephone or video conferences with school staff;
202 (g) School-sanctioned field trips; or
203 (h) Orientation.

204 (2) A full-time virtual school shall submit a notification to the parent or guardian of
205 any student who is not consistently engaged in instructional activities.

206 (3) Each full-time virtual school shall develop, adopt, and post on the school's website
207 a policy setting forth the consequences for a student who fails to complete the required
208 instructional activities. Such policy shall state, at a minimum, that if a student fails to
209 complete the instructional activities after receiving a notification under subdivision (2) of this
210 subsection, and after reasonable intervention strategies have been implemented, that the
211 student shall be subject to certain consequences which may include disenrollment from the
212 school. Prior to any disenrollment, the parent or guardian shall have the opportunity to
213 present any information that the parent deems relevant, and such information shall be
214 considered prior to any final decision.

215 (4) If a full-time virtual school disenrolls a student under subdivision (3) of this
216 subsection, the school shall immediately provide written notification to such student's school
217 district of residence. The student's school district of residence shall then provide to the
218 parents or guardian of the student a written list of available educational options and promptly
219 enroll the student in the selected option. Any student disenrolled from a full-time virtual
220 school shall be prohibited from reenrolling in the same virtual school for the remainder of the
221 school year.

222 5. School districts or charter schools shall inform parents of their child's right to
223 participate in the program. Availability of the program shall be made clear in the parent
224 handbook, registration documents, and featured on the home page of the school district or
225 charter school's website.

226 6. The department shall:

227 (1) Establish an authorization process for course or full-time virtual school providers
228 that includes multiple opportunities for submission each year;

229 (2) Pursuant to the time line established by the department, authorize course or full-
230 time virtual school providers that:

231 (a) Submit all necessary information pursuant to the requirements of the process; and

232 (b) Meet the criteria described in subdivision (3) of this subsection;

233 (3) Review, pursuant to the authorization process, proposals from providers to
234 provide a comprehensive, full-time equivalent course of study for students through the
235 Missouri course access and virtual school program. The department shall ensure that these
236 comprehensive courses of study align to state academic standards and that there is

237 consistency and compatibility in the curriculum used by all providers from one grade level to
238 the next grade level;

239 (4) Within thirty days of any denial, provide a written explanation to any course or
240 full-time virtual school providers that are denied authorization;

241 (5) Allow a course or full-time virtual school provider denied authorization to reapply
242 at any point in the future.

243 7. The department shall publish the process established under this section, including
244 any deadlines and any guidelines applicable to the submission and authorization process for
245 course or full-time virtual school providers on its website.

246 8. If the department determines that there are insufficient funds available for
247 evaluating and authorizing course or full-time virtual school providers, the department may
248 charge applicant course or full-time virtual school providers a fee up to, but no greater than,
249 the amount of the costs in order to ensure that evaluation occurs. The department shall
250 establish and publish a fee schedule for purposes of this subsection.

251 9. Except as specified in this section and as may be specified by rule of the state board
252 of education, the Missouri course access and virtual school program shall comply with all
253 state laws and regulations applicable to school districts, including but not limited to the
254 Missouri school improvement program (MSIP), annual performance report (APR), teacher
255 certification, curriculum standards, audit requirements under chapter 165, access to public
256 records under chapter 610, and school accountability report cards under section 160.522.
257 Teachers and administrators employed by a virtual provider shall be considered to be
258 employed in a public school for all certification purposes under chapter 168.

259 10. The department shall submit and publicly publish an annual report on the
260 Missouri course access and virtual school program and the participation of entities to the
261 governor, the chair and ranking member of the senate education committee, and the chair and
262 ranking member of the house of representatives elementary and secondary education
263 committee. The report shall at a minimum include the following information:

264 (1) The annual number of unique students participating in courses authorized under
265 this section and the total number of courses in which students are enrolled in;

266 (2) The number of authorized providers;

267 (3) The number of authorized courses and the number of students enrolled in each
268 course;

269 (4) The number of courses available by subject and grade level;

270 (5) The number of students enrolled in courses broken down by subject and grade
271 level;

272 (6) Student outcome data, including completion rates, student learning gains, student
273 performance on state or nationally accepted assessments, by subject and grade level per
274 provider. This outcome data shall be published in a manner that protects student privacy;

275 (7) The costs per course;

276 (8) Evaluation of in-school course availability compared to course access availability
277 to ensure gaps in course access are being addressed statewide.

278 11. (1) The department shall be responsible for creating the Missouri course access
279 and virtual school program catalog providing a listing of all courses authorized and available
280 to students in the state, detailed information, including costs per course, about the courses to
281 inform student enrollment decisions, and the ability for students to submit their course
282 enrollments.

283 (2) On or before January 1, 2023, the department shall publish on its website, and
284 distribute to all school districts and charter schools in this state, a guidance document that
285 details the options for virtual course access and full-time virtual course access for all students
286 in the state. The guidance document shall include a complete and readily understood
287 description of the applicable enrollment processes including the opportunity for students to
288 enroll and the roles and responsibilities of the student, parent, virtual provider, school district
289 or districts, and charter schools, as appropriate. The guidance document shall be distributed
290 in written and electronic form to all school districts, charter schools, and virtual providers.
291 School districts and charter schools shall provide a copy of the guidance document to every
292 pupil and parent or legal guardian of every pupil enrolled in the district or charter school at
293 the beginning of each school year and upon enrollment for every pupil enrolling at a different
294 time of the school year. School districts and charter schools shall provide a readily viewable
295 link to the electronic version of the guidance document on the main page of the district's or
296 charter school's website.

297 12. **Any virtual school or program may administer any statewide assessment**
298 **required pursuant to the provisions of section 160.518 in a virtual setting that aligns**
299 **with the student's regular academic instruction. Any administration of a virtual**
300 **statewide assessment shall meet the following conditions:**

301 (1) **The assessment shall be administered to the student at an assigned date and**
302 **time;**

303 (2) **The assessment shall be administered during a synchronous assessment**
304 **session initiated and managed by an employee of the virtual school;**

305 (3) **The student shall be monitored by an assessment proctor via a camera for the**
306 **duration of the assessment. If the assessment platform does not allow for integrated**
307 **camera proctoring, the student shall use two devices during the assessment. The first**
308 **device shall be used to take the assessment and the second device shall have a**

309 **functioning camera and be used to monitor the student during the assessment.**
310 **However, if the assessment platform allows for the proctor to view the student and**
311 **background, a second device shall not be required;**

312 **(4) The virtual school or program shall make every reasonable effort to maintain**
313 **a student assessment taker to assessment proctor ratio of ten to one or lower;**

314 **(5) The student shall not exit the assessment platform until instructed to do so by**
315 **the assigned assessment proctor; and**

316 **(6) The student's submission of the completed assessment shall be verified by the**
317 **assessment administrator.**

318 **13.** The state board of education through the rulemaking process and the department
319 of elementary and secondary education in its policies and procedures shall ensure that
320 multiple content providers and learning management systems are allowed, ensure digital
321 content conforms to accessibility requirements, provide an easily accessible link for providers
322 to submit courses or full-time virtual schools on the Missouri course access and virtual school
323 program website, and allow any person, organization, or entity to submit courses or full-time
324 virtual schools for approval. No content provider shall be allowed that is unwilling to accept
325 payments in the amount and manner as described under subdivision (3) of subsection 3 of this
326 section or does not meet performance or quality standards adopted by the state board of
327 education.

328 ~~[13.]~~ **14.** Any rule or portion of a rule, as that term is defined in section 536.010, that
329 is created under the authority delegated in this section shall become effective only if it
330 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
331 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
332 the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
333 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
334 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid
335 and void.

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