

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1903
101ST GENERAL ASSEMBLY

4414H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 161.670, RSMo, and to enact in lieu thereof one new section relating to the virtual school program, with a penalty provision.

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Section A. Section 161.670, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.670, to read as follows: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, ~~[and/or]~~ **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. 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]~~ **local education agency (LEA)** in which the student physically is enrolled under subsection 3 of this section. The Missouri course access and virtual school program shall report to the ~~[district]~~ **LEA** of residence the following information about each student served by the Missouri course access and virtual school program: name, address, eligibility for free or reduced-price lunch, limited English proficiency status, special education needs, and the number of courses in which the student is enrolled. The Missouri course access and virtual school program shall promptly notify the resident ~~[district]~~ **LEA** when ~~[a]~~ **any** student discontinues enrollment. A "full-time

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.

19 equivalent student" is a student who [~~successfully has completed~~] **is enrolled in** the
20 instructional equivalent of six credits per regular term. Each Missouri course access and
21 virtual school program course shall count as one class and shall generate that portion of a full-
22 time equivalent that a comparable course offered by the [~~school district~~] LEA would
23 generate. **Full-time equivalent students shall not be required by the resident LEA to be**
24 **present at any specific physical location for any ongoing instructional activity.** In no case
25 shall more than the full-time equivalency of a regular term of attendance for a single student
26 be used to claim state aid. Full-time equivalent student credit completed shall be reported to
27 the department of elementary and secondary education in the manner prescribed by the
28 department. **If an LEA fails to make any payment required under the provisions of this**
29 **section in full within sixty days of receiving an invoice for such payment from a**
30 **provider, the provider may notify the department. Upon notice of such nonpayment, the**
31 **department shall immediately pay the Missouri course access and virtual school**
32 **program the total amount invoiced. Any such department payments shall be offset by**
33 **withholding the amount so paid from its next disbursement of funding to the nonpaying**
34 **LEA. By November first annually, the department shall provide a written report to the**
35 **joint committee on education detailing each occasion during the prior school year that a**
36 **provider notified the department of an unpaid invoice under this subsection, including**
37 **the name of the provider, the name of the LEA, the amount due, and how quickly the**
38 **department made full payment to the provider after receiving the request.** Nothing in
39 this section shall prohibit students from enrolling in additional courses under a separate
40 agreement that includes terms for paying tuition or course fees. **A full-time virtual school**
41 **program serving full-time equivalent students shall participate in the statewide**
42 **assessment system as defined in section 160.518. The academic performance of**
43 **students enrolled in a full-time virtual school program shall be assigned to the**
44 **designated attendance center of the full-time virtual school program and such academic**
45 **performance shall not be attributable to the LEA.**

46 3. (1) A [~~school district or charter school~~] LEA shall allow any [~~eligible~~] student
47 who **is eligible to enroll in a Missouri public school and who** resides in such [~~district~~] LEA
48 to enroll in Missouri course access and virtual school program courses of [~~his or her~~] **the**
49 **student's** choice as a part of the student's annual course load each school year or **in** a full-
50 time virtual school option[~~], with any costs associated with such course or courses to be paid~~
51 ~~by the school district or charter school if:~~

52 (a) ~~The student is enrolled full-time in and has attended, for at least one semester~~
53 ~~immediately prior to enrolling in the Missouri course access and virtual school program, a~~
54 ~~public school, including any charter school; except that, no student seeking to enroll in~~
55 ~~Missouri course access and virtual school program courses under this subdivision shall be~~

56 required to have attended a public school during the previous semester if the student has a
57 documented medical or psychological diagnosis or condition that prevented the student from
58 attending a school in the community during the previous semester; and

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

62 (2) ~~[Each school district or charter school]~~ **For students not enrolled in a full-time**
63 **virtual school, the LEA** shall adopt a policy that delineates the process by which a student
64 may enroll in courses provided by the Missouri course access and virtual school program that
65 is substantially similar to the typical process by which a ~~[district]~~ student would enroll in
66 courses offered by the ~~[school district and a charter school student would enroll in courses~~
67 ~~offered by the charter school]~~ **LEA. The policy shall allow for continuous enrollment**
68 **throughout the school year.** The policy may include consultation with the school's
69 counselor and may include parental notification or authorization. ~~[School counselors shall~~
70 ~~not be required to approve or disapprove a student's enrollment in the Missouri course access~~
71 ~~and virtual school program.]~~ **For students not enrolled in a full-time virtual school, the**
72 **policy may include the right for the LEA to disapprove the requested course enrollment**
73 **or enrollments if the LEA determines enrollment in the course or courses is not in the**
74 **best educational interests of the specific student. If a LEA disapproves a requested**
75 **enrollment in a course or courses, the LEA shall present to the student's parent or**
76 **guardian the reason in writing specific to that student and that student's educational**
77 **situation. A student's parent or guardian shall have the right to appeal any such denial**
78 **to the school board or governing board of a LEA at the next board meeting where the**
79 **student or the student's parent or guardian shall be given the opportunity to present**
80 **their reasons for seeking the enrollment. The parent or guardian may, at the parent's or**
81 **guardian's option, delay the agenda item to a subsequent board meeting if the next**
82 **board meeting does not provide enough notice for the parent or guardian to prepare for**
83 **such appearance. The resident LEA shall not base any recommendation upon financial**
84 **considerations or the offering of virtual courses or programming by the LEA or a**
85 **preferred provider. For students enrolling into a full-time program, the LEA operating**
86 **the program shall adopt a policy that describes the process by which a student may**
87 **enroll that is substantially similar to the typical process by which the LEA enrolls a new**
88 **resident student of the LEA. If the [school district or charter school disapproves] student's**
89 **resident LEA believes a student's [request to enroll in a course or courses provided by the**
90 **Missouri course access and virtual school program, including full time enrollment in courses**
91 **provided by the Missouri course access and virtual school program,] enrollment into a full-**
92 **time virtual school program is not in the best educational interest of the student, the**

93 reason shall be provided in writing ~~[and it shall be for good cause. Good cause justification to~~
94 ~~disapprove a student's request for enrollment in a course shall be a determination that doing~~
95 ~~so is not in the best educational interest of the student. In cases of denial by the school district~~
96 ~~or charter school, local education agencies shall inform the student and the student's family of~~
97 ~~their right to appeal any enrollment denial in the Missouri course access and virtual school~~
98 ~~program to the local school district board or charter school governing body where the family~~
99 ~~shall be given an opportunity to present their reasons for their child or children to enroll in the~~
100 ~~Missouri course access and virtual school program in an official school board meeting. In~~
101 ~~addition, the school district or charter school administration shall provide its good cause~~
102 ~~justification for denial at a school board meeting or governing body meeting. Both the family~~
103 ~~and school administration shall also provide their reasons in writing to the members of the~~
104 ~~school board or governing body and the documents shall be entered into the official board~~
105 ~~minutes. The members of the board or governing body shall issue their decision in writing~~
106 ~~within thirty calendar days, and then an appeal may be made to the department of elementary~~
107 ~~and secondary education, which shall provide a final enrollment decision within seven~~
108 ~~calendar days]~~ **to the student's parent or guardian who shall have final decision-making**
109 **authority.**

110 (3) For students enrolled in any Missouri course access and virtual school program
111 course in which costs associated with such course are to be paid by the ~~[school district or~~
112 ~~charter school]~~ **LEA** as described under subdivision (1) of this subsection, the ~~[school district~~
113 ~~or charter school]~~ **LEA or the department** shall pay the content provider directly ~~[on a pro~~
114 ~~rata monthly basis based on a student's completion of assignments and assessments]~~ **at the**
115 **end of each semester upon the receipt of an invoice.** ~~[If a student discontinues enrollment,~~
116 ~~the district or charter school may stop making monthly payments to the content provider.]~~
117 **Each such payment shall be made in full within sixty days of receiving an invoice from**
118 **the provider. The provider shall invoice the LEA for those days, on a pro rata basis,**
119 **that the student was enrolled in the course or virtual school program.** No ~~[school district~~
120 ~~or charter school]~~ **LEA** shall pay, for any one course for a student, ~~[more than the market~~
121 ~~necessary costs but in no case shall pay]~~ more than fourteen percent of the state adequacy
122 target, as defined under section 163.011, as calculated at the end of the most recent school
123 year for any single, year-long course and no more than seven percent of the state adequacy
124 target as described above for any single semester equivalent course. Payment for a full-time
125 virtual school student shall not exceed the state adequacy target, unless the student receives
126 additional federal or state aid, **which shall additionally be included in the payment. All**
127 **payments to virtual education providers shall be derived from the aggregate amount of**
128 **state funding provided to the LEA. No local funding revenue shall be used toward**
129 **payment for a student enrolling in a full-time program.** ~~[Nothing in this subdivision shall~~

130 ~~prohibit a school district or charter school from negotiating lower costs directly with course or~~
131 ~~full-time virtual school providers, particularly in cases where several students enroll in a~~
132 ~~single course or full-time virtual school.]~~

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

136 (5) The Missouri course access and virtual school program shall ensure that
137 individual learning plans designed by certified teachers and professional staff are developed
138 for all students enrolled in more than two full-time course access program courses or a full-
139 time virtual school.

140 (6) The department shall monitor ~~[student success and engagement of students~~
141 ~~enrolled in their program and report the information to the school district or charter school.~~
142 ~~Providers and the department may make recommendations to the school district or charter~~
143 ~~school regarding the student's continued enrollment in the program. The school district or~~
144 ~~charter school shall consider the recommendations and evaluate the progress and success of~~
145 ~~enrolled students that are enrolled in any course or full-time virtual school offered under this~~
146 ~~section and may terminate or alter the course offering if it is found the course or full-time~~
147 ~~virtual school is not meeting the educational needs of the students enrolled in the course]~~ **the**
148 **aggregate performance of providers and make such information available to the public**
149 **under subsection 11 of this section.**

150 (7) ~~[School districts and charter schools]~~ **Virtual school providers** shall monitor
151 **individual** student progress and success~~], and course or full-time virtual school quality, and~~
152 ~~annually provide]~~ **by providing** feedback to the department of elementary and secondary
153 education ~~[regarding course quality]~~ **on a regular basis and may remove a student under**
154 **subsection 4 of this section if the provider believes it to be in the best educational interest**
155 **of the student.**

156 (8) 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]~~ **LEA,**
158 credits previously gained through successful passage of approved courses under the Missouri
159 course access and virtual school program shall be accepted by the ~~[school district or charter~~
160 ~~school]~~ **LEA.**

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

165 (10) Nothing in this section shall prohibit home school students, private school
166 students, or students wishing to take additional courses beyond their regular course load from

167 enrolling in Missouri course access and virtual school program courses under an agreement
168 that includes terms for paying tuition or course fees.

169 (11) Nothing in this subsection shall require any [~~school district, charter school,~~
170 LEA or the state to provide computers, equipment, or internet access to any student unless
171 required by an eligible student with a disability to comply with federal law.

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

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

182 (14) Any online course or virtual program offered by a [~~school district or charter~~
183 ~~school~~] LEA, including those offered prior to August 28, 2018, [~~which~~] **that** meets the
184 requirements of section 162.1250 shall be automatically approved to participate in the
185 Missouri course access and virtual school program. Such course or program shall be subject
186 to periodic renewal. A [~~school district or charter school~~] LEA offering such a course or
187 virtual school program shall be deemed an approved provider.

188 4. **(1) As used in this subsection, the term "instructional activities" means**
189 **classroom-based or nonclassroom-based activities that a student shall be expected to**
190 **complete, participate in, or attend during any given school day, such as:**

- 191 **(a) Online logins to curricula or programs;**
- 192 **(b) Offline activities;**
- 193 **(c) Completed assignments within a particular program, curriculum, or class;**
- 194 **(d) Testing;**
- 195 **(e) Face-to-face communications or meetings with school staff;**
- 196 **(f) Telephone or video conferences with school staff;**
- 197 **(g) School-sanctioned field trips; or**
- 198 **(h) Orientation.**

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

201 **(3) Each full-time virtual school shall develop, adopt, and post on the school's**
202 **website a policy setting forth the consequences for a student who fails to complete the**
203 **required instructional activities. Such policy shall state, at a minimum, that if a student**

204 fails to complete the instructional activities after receiving a notification under
205 subdivision (2) of this subsection, and after reasonable intervention strategies have been
206 implemented, the student shall be subject to certain consequences that may include
207 disenrollment from the school. Prior to any disenrollment, the parent or guardian shall
208 have the opportunity to present any information that the parent or guardian deems
209 relevant and such information shall be considered prior to any final decision.

210 (4) If a full-time virtual school disenrolls a student under subdivision (3) of this
211 subsection, the school shall immediately provide written notification to such student's
212 LEA of residence. The student's LEA of residence shall provide to the parent or
213 guardian of the student a written list of available educational options and promptly
214 enroll the student in the selected option. Any student disenrolled from a full-time
215 virtual school shall be prohibited from re-enrolling in the same virtual school for the
216 remainder of the school year.

217 ~~[School districts or charter schools]~~ 5. LEAs shall ~~[inform]~~ annually issue a
218 separate notification informing parents or guardians of ~~[their]~~ the child's right to
219 participate in the program. Availability of the program shall also be ~~[made clear]~~ provided in
220 a clear and conspicuous manner in the parent handbook, registration documents, and
221 featured on the home page of the ~~[school district or charter school's]~~ LEA's website. Such
222 notices shall provide information on the program in an impartial manner without any
223 favor toward one provider or program over another. Any LEA that fails to fully comply
224 with any provision of this subsection shall be subject to civil penalties in an amount
225 equal to one hundred dollars for each calendar day the LEA is not in compliance with
226 this subsection, including reasonable attorney's fees.

227 ~~[5-]~~ 6. The department shall:

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

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

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

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

234 (3) Review, pursuant to the authorization process, proposals from providers to
235 provide a comprehensive, full-time equivalent course of study for students through the
236 Missouri course access and virtual school program. The department shall ensure that these
237 comprehensive courses of study align to state academic standards and that there is
238 consistency and compatibility in the curriculum used by all providers from one grade level to
239 the next grade level;

240 (4) Within ~~[thirty]~~ **ten calendar** days of any denial, provide a written explanation to
241 any course or full-time virtual school providers that are denied authorization.

242 ~~[6-]~~ 7. If a course or full-time virtual school provider is denied authorization, the
243 course provider may reapply at any point in the future.

244 ~~[7-]~~ 8. The department shall publish the process established under this section,
245 including any deadlines and any guidelines applicable to the submission and authorization
246 process for course or full-time virtual school providers on its website.

247 ~~[8-]~~ 9. If the department determines that there are insufficient funds available for
248 evaluating and authorizing course or full-time virtual school providers, the department may
249 charge applicant course or full-time virtual school providers a fee up to, but no greater than,
250 the amount of the costs in order to ensure that evaluation occurs. The department shall
251 establish and publish a fee schedule for purposes of this subsection.

252 ~~[9-]~~ 10. Except as specified in this section and as may be specified by rule of the state
253 board of education, the Missouri course access and virtual school program shall comply with
254 all state laws and regulations applicable to ~~[school districts]~~ **LEAs**, including but not limited
255 to the Missouri school improvement program (MSIP), annual performance report (APR),
256 teacher certification, and curriculum standards.

257 ~~[10-]~~ 11. The department shall submit and publicly publish an annual report on the
258 Missouri course access and virtual school program and the participation of entities to the
259 governor, the chair and ranking member of the senate education committee, and the chair and
260 ranking member of the house of representatives elementary and secondary education
261 committee. The report shall at a minimum include the following information:

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

264 (2) The number of authorized providers;

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

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

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

270 (6) Student outcome data, including completion rates, student learning gains, student
271 performance on state or nationally accepted assessments, **comparative data to gains and**
272 **performance by students in prior educational settings, four- and five-year graduation**
273 **rates, credit status upon enrollment, and progress towards graduation. If possible, data**
274 **shall be presented** by subject and grade level per provider. This outcome data shall be
275 published in a manner that protects student privacy;

276 (7) The costs per course;

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

279 ~~[11.]~~ **12.** The department shall be responsible for creating the Missouri course access
280 and virtual school program catalog providing a listing of all courses authorized and available
281 to students in the state, detailed information, including costs per course, about the courses to
282 inform student enrollment decisions, and the ability for students to submit their course
283 enrollments.

284 ~~[12.]~~ **13.** The state board of education through the rulemaking process and the
285 department of elementary and secondary education in its policies and procedures shall ensure
286 that multiple content providers and learning management systems are allowed, ensure digital
287 content conforms to accessibility requirements, provide an easily accessible link for providers
288 to submit courses or full-time virtual schools on the Missouri course access and virtual school
289 program website, and allow any person, organization, or entity to submit courses or full-time
290 virtual schools for approval. No content provider shall be allowed that is unwilling to accept
291 payments in the amount and manner as described under subdivision (3) of subsection 3 of this
292 section or does not meet performance or quality standards adopted by the state board of
293 education.

294 ~~[13.]~~ **14.** Any rule or portion of a rule, as that term is defined in section 536.010, that
295 is created under the authority delegated in this section shall become effective only if it
296 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
297 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
298 the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
299 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
300 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid
301 and void.

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