

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 95

101ST GENERAL ASSEMBLY

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ADRIANE D. CROUSE, Secretary

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## AN ACT

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

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Section A. Section 161.670, RSMo, is repealed and one new  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

161.670. 1. Notwithstanding any other law, prior to  
2 July 1, 2007, the state board of education shall establish  
3 the "Missouri Course Access and Virtual School Program" to  
4 serve school-age students residing in the state. **The state**  
5 **board of education and the department of elementary and**  
6 **secondary education shall refer to the program as the**  
7 **Missouri course access and virtual school program or the**  
8 **"MCAVSP"**. The Missouri course access and virtual school  
9 program shall offer **nonclassroom-based** instruction in a  
10 virtual setting using technology, intranet, [and/or] **or**  
11 internet methods of communication. Any student under the  
12 age of twenty-one in grades kindergarten through twelve who  
13 resides in this state shall be eligible to enroll in the  
14 Missouri course access and virtual school program pursuant  
15 to subsection 3 of this section.

16 2. For purposes of calculation and distribution of  
17 state school aid, students enrolled in the Missouri course

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 access and virtual school program shall be included in the  
19 student enrollment of the school district in which the  
20 student physically is enrolled under subsection 3 of this  
21 section. The Missouri course access and virtual school  
22 program shall report to the district of residence the  
23 following information about each student served by the  
24 Missouri course access and virtual school program: name,  
25 address, eligibility for free or reduced-price lunch,  
26 limited English proficiency status, special education needs,  
27 and the number of courses in which the student is enrolled.  
28 The Missouri course access and virtual school program shall  
29 promptly notify the resident district when [a] **any** student  
30 discontinues enrollment. A "full-time equivalent student"  
31 is a student who [successfully has completed] **is enrolled in**  
32 the instructional equivalent of six credits per regular  
33 term. Each Missouri course access and virtual school  
34 program course shall count as one class and shall generate  
35 that portion of a full-time equivalent that a comparable  
36 course offered by the school district would generate. **Full-**  
37 **time equivalent students shall not be required by the**  
38 **resident school district to be present at any specific**  
39 **physical location for any ongoing instructional activity.**  
40 In no case shall more than the full-time equivalency of a  
41 regular term of attendance for a single student be used to  
42 claim state aid. Full-time equivalent student credit  
43 completed shall be reported to the department of elementary  
44 and secondary education in the manner prescribed by the  
45 department. **If a school district or charter school fails to**  
46 **make any payment required under the provisions of this**  
47 **section in full within sixty days of receiving an invoice**  
48 **for such payment from a provider, the provider may notify**  
49 **the department. Upon notice of such nonpayment, the**

50 department shall immediately pay the Missouri course access  
51 and virtual school program the total amount invoiced. Any  
52 such department payments shall be offset by withholding the  
53 amount so paid from its next disbursement of funding to the  
54 nonpaying school district or charter school. By November  
55 first annually, the department shall provide a written  
56 report to the joint committee on education detailing each  
57 occasion during the prior school year that a provider  
58 notified the department of an unpaid invoice pursuant to  
59 this subsection, including the name of the provider, the  
60 name of the district or charter school, the amount due, and  
61 how quickly the department made full payment to the provider  
62 after receiving the request. Nothing in this section shall  
63 prohibit students from enrolling in additional courses under  
64 a separate agreement that includes terms for paying tuition  
65 or course fees. **A full-time virtual school program serving**  
66 **full-time equivalent students shall participate in the**  
67 **statewide assessment system as defined in section 160.518.**  
68 **The academic performance of students enrolled in a full-time**  
69 **virtual school program will be assigned to the designated**  
70 **attendance center of the full-time virtual school program,**  
71 **and such academic performance shall not be attributable to**  
72 **the local education authority.**

73 3. (1) A school district or charter school shall  
74 allow any [eligible] student who **is eligible to enroll in a**  
75 **Missouri public school and who** resides in such district to  
76 enroll in Missouri course access and virtual school program  
77 courses of [his or her] **the student's** choice as a part of  
78 the student's annual course load each school year or a full-  
79 time virtual school option[, with any costs associated with  
80 such course or courses to be paid by the school district or  
81 charter school if:

82           (a) The student is enrolled full-time in and has  
83 attended, for at least one semester immediately prior to  
84 enrolling in the Missouri course access and virtual school  
85 program, a public school, including any charter school;  
86 except that, no student seeking to enroll in Missouri course  
87 access and virtual school program courses under this  
88 subdivision shall be required to have attended a public  
89 school during the previous semester if the student has a  
90 documented medical or psychological diagnosis or condition  
91 that prevented the student from attending a school in the  
92 community during the previous semester; and

93           (b) prior to enrolling in any Missouri course access  
94 and virtual school program course, a student has received  
95 approval from his or her school district or charter school  
96 through the procedure described under subdivision (2) of  
97 this subsection].

98           (2) [Each school district or charter school] **For**  
99 **students not enrolled in a full-time virtual school, the**  
100 **department of elementary and secondary education** shall adopt  
101 a policy that delineates the process by which a student may  
102 enroll in courses provided by the Missouri course access and  
103 virtual school program that is substantially similar to the  
104 typical process by which a district student would enroll in  
105 courses offered by the school district and a charter school  
106 student would enroll in courses offered by the charter  
107 school. **The policy shall allow for continuous enrollment**  
108 **throughout the school year.** The policy may include  
109 consultation with the school's counselor and may include  
110 parental notification or authorization. [School counselors  
111 shall not be required to approve or disapprove a student's  
112 enrollment in the Missouri course access and virtual school  
113 program.] If the school district or charter school

114 [disapproves] **believes** a student's request to enroll in a  
115 course or courses provided by the Missouri course access and  
116 virtual school program, including full-time enrollment in  
117 courses provided by the Missouri course access and virtual  
118 school program, **is not in the best educational interest of**  
119 **the student**, the reason shall be provided in writing [and it  
120 shall be for good cause. Good cause justification to  
121 disapprove a student's request for enrollment in a course  
122 shall be a determination that doing so is not in the best  
123 educational interest of the student. In cases of denial by  
124 the school district or charter school, local education  
125 agencies shall inform the student and the student's family  
126 of their right to appeal any enrollment denial in the  
127 Missouri course access and virtual school program to the  
128 local school district board or charter school governing body  
129 where the family shall be given an opportunity to present  
130 their reasons for their child or children to enroll in the  
131 Missouri course access and virtual school program in an  
132 official school board meeting. In addition, the school  
133 district or charter school administration shall provide its  
134 good cause justification for denial at a school board  
135 meeting or governing body meeting. Both the family and  
136 school administration shall also provide their reasons in  
137 writing to the members of the school board or governing body  
138 and the documents shall be entered into the official board  
139 minutes. The members of the board or governing body shall  
140 issue their decision in writing within thirty calendar days,  
141 and then an appeal may be made to the department of  
142 elementary and secondary education, which shall provide a  
143 final enrollment decision within seven calendar days] **to the**  
144 **student's parent or guardian who shall have final decision-**  
145 **making authority. The resident school district or charter**

146 school shall not base any recommendation upon financial  
147 considerations or the offering of virtual courses or  
148 programming by the resident school district or charter  
149 school or a preferred provider. For students enrolling in a  
150 full-time program, the school district or charter school  
151 operating the program shall adopt a policy that delineates  
152 the process by which a student may enroll that is  
153 substantially similar to the typical process by which the  
154 district or charter school enrolls a new resident student of  
155 the district or charter school.

156 (3) For students enrolled in any Missouri course  
157 access and virtual school program course in which costs  
158 associated with such course are to be paid by the school  
159 district or charter school as described under subdivision  
160 (1) of this subsection, the school district [or], charter  
161 school, **or the department** shall pay the content provider  
162 directly [on a pro rata monthly basis based on a student's  
163 completion of assignments and assessments] **once per**  
164 **semester. Each such payment shall be made in full within**  
165 **sixty days of receiving an invoice from the provider.** If a  
166 student discontinues enrollment, the district [or], charter  
167 school, **or the department** may stop making [monthly] payments  
168 to the content provider. No school district or charter  
169 school shall pay, for any one course for a student, [more  
170 than the market necessary costs but in no case shall pay]  
171 more than fourteen percent of the state adequacy target, as  
172 defined under section 163.011, as calculated at the end of  
173 the most recent school year for any single, year-long course  
174 and no more than seven percent of the state adequacy target  
175 as described above for any single semester equivalent  
176 course. Payment for a full-time virtual school student  
177 shall not exceed the state adequacy target, unless the

178 student receives additional federal or state aid, **which**  
179 **shall additionally be included in the payment.** [Nothing in  
180 this subdivision shall prohibit a school district or charter  
181 school from negotiating lower costs directly with course or  
182 full-time virtual school providers, particularly in cases  
183 where several students enroll in a single course or full-  
184 time virtual school.]

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

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

195 (6) The department shall monitor [student success and  
196 engagement of students enrolled in their program and report  
197 the information to the school district or charter school.  
198 Providers and the department may make recommendations to the  
199 school district or charter school regarding the student's  
200 continued enrollment in the program. The school district or  
201 charter school shall consider the recommendations and  
202 evaluate the progress and success of enrolled students that  
203 are enrolled in any course or full-time virtual school  
204 offered under this section and may terminate or alter the  
205 course offering if it is found the course or full-time  
206 virtual school is not meeting the educational needs of the  
207 students enrolled in the course] **the aggregate performance**  
208 **of providers and make such information available to the**  
209 **public under subsection 11 of this section.**

210           (7) [School districts and charter schools] **Virtual**  
211 **school providers** shall monitor **individual** student progress  
212 and success, and [course or full-time virtual school  
213 quality, and annually provide feedback to the department of  
214 elementary and secondary education regarding course quality]  
215 **may remove a student under subsection 4 of this section if**  
216 **the provider believes it to be in the best educational**  
217 **interest of the student.**

218           (8) Pursuant to rules to be promulgated by the  
219 department of elementary and secondary education, when a  
220 student transfers into a school district or charter school,  
221 credits previously gained through successful passage of  
222 approved courses under the Missouri course access and  
223 virtual school program shall be accepted by the school  
224 district or charter school.

225           (9) Pursuant to rules to be promulgated by the  
226 department of elementary and secondary education, if a  
227 student transfers into a school district or charter school  
228 while enrolled in a Missouri course access and virtual  
229 school program course [or full-time virtual school], the  
230 student shall continue to be enrolled in such course or  
231 school.

232           (10) Nothing in this section shall prohibit home  
233 school students, private school students, or students  
234 wishing to take additional courses beyond their regular  
235 course load from enrolling in Missouri course access and  
236 virtual school program courses under an agreement that  
237 includes terms for paying tuition or course fees.

238           (11) Nothing in this subsection shall require any  
239 school district, charter school, or the state to provide  
240 computers, equipment, or internet access to any student



241 unless required by an eligible student with a disability to  
242 comply with federal law.

243 (12) The authorization process shall provide for  
244 continuous monitoring of approved providers and courses.  
245 The department shall revoke or suspend or take other  
246 corrective action regarding the authorization of any course  
247 or provider no longer meeting the requirements of the  
248 program. Unless immediate action is necessary, prior to  
249 revocation or suspension, the department shall notify the  
250 provider and give the provider a reasonable time period to  
251 take corrective action to avoid revocation or suspension.  
252 The process shall provide for periodic renewal of  
253 authorization no less frequently than once every three years.

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

259 (14) Any online course or virtual program offered by a  
260 school district or charter school, including those offered  
261 prior to August 28, 2018, [which] **that** meets the  
262 requirements of section 162.1250 shall be automatically  
263 approved to participate in the Missouri course access and  
264 virtual school program. Such course or program shall be  
265 subject to periodic renewal. A school district or charter  
266 school offering such a course or virtual school program  
267 shall be deemed an approved provider.

268 4. (1) **As used in this subsection, the term**  
269 **"instructional activities" means classroom-based or**  
270 **nonclassroom-based activities that a student shall be**  
271 **expected to complete, participate in, or attend during any**  
272 **given school day, such as:**

- 273           (a) Online logins to curricula or programs;  
274           (b) Offline activities;  
275           (c) Completed assignments within a particular program,  
276 curriculum, or class;  
277           (d) Testing;  
278           (e) Face-to-face communications or meetings with  
279 school staff;  
280           (f) Telephone or video conferences with school staff;  
281           (g) School-sanctioned field trips; or  
282           (h) Orientation.
- 283           (2) A full-time virtual school shall submit a  
284 notification to the parent or guardian of any student who is  
285 not consistently engaged in instructional activities.
- 286           (3) Each full-time virtual school shall develop,  
287 adopt, and post on the school's website a policy setting  
288 forth the consequences for a student who fails to complete  
289 the required instructional activities. Such policy shall  
290 state, at a minimum, that if a student fails to complete the  
291 instructional activities after receiving a notification  
292 under subdivision (2) of this subsection, and after  
293 reasonable intervention strategies have been implemented,  
294 that the student shall be subject to certain consequences  
295 which may include disenrollment from the school. Prior to  
296 any disenrollment, the parent or guardian shall have the  
297 opportunity to present any information that the parent deems  
298 relevant, and such information shall be considered prior to  
299 any final decision.
- 300           (4) If a full-time virtual school disenrolls a student  
301 under subdivision (3) of this subsection, the school shall  
302 immediately provide written notification to such student's  
303 school district of residence. The student's school district  
304 of residence shall then provide to the parents or guardian

305 of the student a written list of available educational  
306 options and promptly enroll the student in the selected  
307 option. Any student disenrolled from a full-time virtual  
308 school shall be prohibited from re-enrolling in the same  
309 virtual school for the remainder of the school year.

310 5. School districts or charter schools shall [inform]  
311 annually issue a separate notification informing parents of  
312 [their] the child's right to participate in the program.  
313 Availability of the program shall also be [made clear]  
314 provided in a clear and conspicuous manner in the parent  
315 handbook, registration documents, and featured on the home  
316 page of the school district or charter school's website.  
317 Such notices shall provide information on the program in an  
318 impartial manner without any favor toward one provider or  
319 program over another. Any school district or charter school  
320 that fails to fully comply with any provision of this  
321 subsection shall be subject to civil penalties in an amount  
322 equal to one hundred dollars for each calendar day the  
323 school district or charter school is not in compliance with  
324 this subsection, including reasonable attorney's fees.

325 [5.] 6. The department shall:

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

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

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

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

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

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

347 [6.] 7. If a course or full-time virtual school  
348 provider is denied authorization, the course provider may  
349 reapply at any point in the future.

350 [7.] 8. The department shall publish the process  
351 established under this section, including any deadlines and  
352 any guidelines applicable to the submission and  
353 authorization process for course or full-time virtual school  
354 providers on its website.

355 [8.] 9. If the department determines that there are  
356 insufficient funds available for evaluating and authorizing  
357 course or full-time virtual school providers, the department  
358 may charge applicant course or full-time virtual school  
359 providers a fee up to, but no greater than, the amount of  
360 the costs in order to ensure that evaluation occurs. The  
361 department shall establish and publish a fee schedule for  
362 purposes of this subsection.

363 [9.] 10. Except as specified in this section and as  
364 may be specified by rule of the state board of education,  
365 the Missouri course access and virtual school program shall  
366 comply with all state laws and regulations applicable to  
367 school districts, including but not limited to the Missouri

368 school improvement program (MSIP), annual performance report  
369 (APR), teacher certification, and curriculum standards.

370 [10.] 11. The department shall submit and publicly  
371 publish an annual report on the Missouri course access and  
372 virtual school program and the participation of entities to  
373 the governor, the chair and ranking member of the senate  
374 education committee, and the chair and ranking member of the  
375 house of representatives elementary and secondary education  
376 committee. The report shall at a minimum include the  
377 following information:

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

381 (2) The number of authorized providers;

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

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

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

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

397 (7) The costs per course;

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

401           **[11.] 12.** The department shall be responsible for  
402 creating the Missouri course access and virtual school  
403 program catalog providing a listing of all courses  
404 authorized and available to students in the state, detailed  
405 information, including costs per course, about the courses  
406 to inform student enrollment decisions, and the ability for  
407 students to submit their course enrollments.

408           **[12.] 13.** The state board of education through the  
409 rulemaking process and the department of elementary and  
410 secondary education in its policies and procedures shall  
411 ensure that multiple content providers and learning  
412 management systems are allowed, ensure digital content  
413 conforms to accessibility requirements, provide an easily  
414 accessible link for providers to submit courses or full-time  
415 virtual schools on the Missouri course access and virtual  
416 school program website, and allow any person, organization,  
417 or entity to submit courses or full-time virtual schools for  
418 approval. No content provider shall be allowed that is  
419 unwilling to accept payments in the amount and manner as  
420 described under subdivision (3) of subsection 3 of this  
421 section or does not meet performance or quality standards  
422 adopted by the state board of education.

423           **[13.] 14.** Any rule or portion of a rule, as that term  
424 is defined in section 536.010, that is created under the  
425 authority delegated in this section shall become effective  
426 only if it complies with and is subject to all of the  
427 provisions of chapter 536 and, if applicable, section  
428 536.028. This section and chapter 536 are nonseverable, and  
429 if any of the powers vested with the general assembly

430 pursuant to chapter 536 to review, to delay the effective  
431 date, or to disapprove and annul a rule are subsequently  
432 held unconstitutional, then the grant of rulemaking  
433 authority and any rule proposed or adopted after August 28,  
434 2006, shall be invalid and void.

✓