

SECOND REGULAR SESSION

SENATE BILL NO. 734

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2019, and ordered printed.

4109S.01I

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 160.415, RSMo, and to enact in lieu thereof one new section relating to funding for charter schools, with a delayed effective date.

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

Section A. Section 160.415, RSMo, is repealed and one new section 2 enacted in lieu thereof, to be known as section 160.415, to read as follows:

160.415. 1. As used in this section, the following terms mean:

2 **(1) "Department", the department of elementary and secondary 3 education;**

4 **(2) "Local aid", all local and county revenue received by the 5 school district and charter schools within the school district.**

6 **(a) The term "local aid" includes, but is not limited to, the 7 following:**

8 **a. Merchants' and manufacturers' tax revenues;**

9 **b. Financial institutions tax revenues;**

10 **c. City sales tax revenue, including city sales tax collected in any 11 city not within a county;**

12 **d. Fines and escheats;**

13 **e. Payments in lieu of taxes;**

14 **f. Revenues from state-assessed railroad and utilities tax; and**

15 **g. Any future aid.**

16 **(b) The term "local aid" shall not be construed to include 17 charitable contributions, gifts, and grants made to school districts and 18 charter schools, interest earnings of school districts and charter 19 schools, student fees paid to school districts and charter schools, or any**

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

20 **other funding solely intended for a particular school district or charter**
21 **school and their respective employees, schools, foundations, or**
22 **organizations.**

23 2. For the purposes of calculation and distribution of state school aid
24 under section 163.031, pupils enrolled in a charter school shall be included in the
25 pupil enrollment of the school district within which each pupil resides. Each
26 charter school shall report the [names, addresses, and] eligibility for free and
27 reduced price lunch, special education, or limited English proficiency status, as
28 well as eligibility for categorical aid, of pupils [resident] **residing** in a school
29 district who are enrolled in the charter school to the school district in which those
30 pupils reside. The charter school shall report the average daily attendance data,
31 free and reduced price lunch count, special education pupil count, and limited
32 English proficiency pupil count to the state department of elementary and
33 secondary education. Each charter school shall promptly notify the state
34 department of elementary and secondary education and the pupil's school district
35 when a student discontinues enrollment at a charter school.

36 [2.] 3. Except as provided in subsections [3] **5** and [4] **6** of this section,
37 the aid payments for charter schools shall be as described in this subsection.

38 (1) A school district having one or more resident pupils attending a
39 charter school shall pay to the charter school an annual amount equal to the
40 product of the charter school's weighted average daily attendance and the state
41 adequacy target, multiplied by the dollar value modifier for the district, plus local
42 tax revenues per weighted average daily attendance from the incidental and
43 teachers' funds in excess of the performance levy as defined in section 163.011
44 plus all other state aid attributable to such pupils, **plus local aid received by**
45 **the school district divided by the total weighted average daily**
46 **attendance of the school district and all charter schools within the**
47 **school district.**

48 (2) A charter school that has declared itself as a local educational
49 agency shall receive all state aid calculated under this subsection from
50 the department and all local aid calculated under this subsection from
51 the school district. A charter school shall receive an annual amount
52 equal to the product of the charter school's weighted average daily
53 attendance and the state adequacy target, multiplied by the dollar
54 value modifier for the district, plus local tax revenues per weighted
55 average daily attendance from the incidental and teachers funds in

56 excess of the performance levy as defined in section 163.011 plus all
57 other state aid attributable to such pupils plus local aid received by the
58 school district divided by the total weighted average daily attendance
59 of the school district and all charter schools within the school district.

60 (3) Each month the school district shall calculate the amount of
61 local aid owed to the charter school by the school district under this
62 subsection. The school district shall pay to the charter school the
63 amount of local aid owed to the charter school, as calculated by the
64 school district using the previous month's weighted average daily
65 attendance of the charter school. If any payment of local aid is due, the
66 school district shall make monthly payments on the twenty-first day of
67 each month beginning in July of each year.

68 (a) If the school district fails to make timely payment the
69 department shall impose any penalty the department deems
70 appropriate.

71 (b) The school district shall, as part of its annual audit as
72 required by section 165.111, include a report converting the local aid
73 received from an accrual basis to a cash basis. Such report shall be
74 made publicly available on its district website in a searchable format
75 or as a downloadable and searchable document.

76 (4) The department shall conduct an annual review of any
77 payments made in the previous fiscal year under subdivision (3) of this
78 subsection to determine if there has been any underpayment or
79 overpayment. The annual review, to be conducted in January of each
80 year, shall include a calculation of the amount of local aid owed to
81 charter schools using the first preceding year's annual audit required
82 by section 165.111. The school district shall pay to the charter school
83 the amount of local aid owed to the charter school as calculated by the
84 department. In the event of an underpayment, the school district shall
85 remit the underpayment amount to the charter school. In the event of
86 an overpayment, the charter school shall remit the overpayment
87 amount to the school district.

88 (a) If the school district fails to remit any underpayment amount
89 to the school district within thirty days of notification of the
90 underpayment amount, the department shall impose any penalty the
91 department deems appropriate.

92 (b) If the charter school fails to remit any overpayment amount

93 to the school district within thirty days of notification of the
94 overpayment amount, the department shall impose any penalty the
95 department deems appropriate.

96 (5) If a prior year correction of the amount of local aid is
97 necessary, the school district shall recalculate the amount owed to a
98 charter school and either remit any underpayment amount to the
99 charter school or provide a bill to the charter school for any
100 overpayment amount. Any underpayment or overpayment amount shall
101 be remitted under the schedules in paragraphs (a) and (b) of
102 subdivision (4) of this subsection.

103 (6) The district of residence of a pupil attending a charter school shall
104 also pay to the charter school any other federal or state aid that the district
105 receives on account of such [child] **pupil**.

106 [(3)] (7) If the department overpays or underpays the amount due to the
107 charter school, such overpayment or underpayment shall be repaid by the public
108 charter school or credited to the [public] charter school in twelve equal payments
109 in the next fiscal year.

110 [(4)] (8) The amounts provided pursuant to this subsection shall be
111 prorated for partial year enrollment for a pupil.

112 [(5)] (9) A school district shall pay the amounts due pursuant to this
113 subsection as the disbursal agent and no later than twenty days following the
114 receipt of any such funds. The department of elementary and secondary
115 education shall pay the amounts due when it acts as the disbursal agent within
116 five days of the required due date.

117 **4. Each charter school and each school district responsible for
118 distributing local aid to charter schools under subsection 3 of this
119 section shall include as part of their annual independent audit an audit
120 of pupil residency, enrollment, and attendance in order to verify pupil
121 residency in the school district or local education agency.**

122 [3.] 5. A workplace charter school shall receive payment for each eligible
123 pupil as provided under subsection [2] 3 of this section, except that if the student
124 is not a resident of the district and is participating in a voluntary interdistrict
125 transfer program, the payment for such pupils shall be the same as provided
126 under section 162.1060.

127 [4.] 6. A charter school that has declared itself as a local educational
128 agency shall receive from the department of elementary and secondary education

129 an annual amount equal to the product of the charter school's weighted average
130 daily attendance and the state adequacy target, multiplied by the dollar value
131 modifier for the district, plus local tax revenues per weighted average daily
132 attendance from the incidental and teachers funds in excess of the performance
133 levy as defined in section 163.011 plus all other state aid attributable to such
134 pupils. If a charter school declares itself as a local educational agency, the
135 department of elementary and secondary education shall, upon notice of the
136 declaration, reduce the payment made to the school district by the amount
137 specified in this subsection and pay directly to the charter school the annual
138 amount reduced from the school district's payment.

139 [5.] 7. If a school district fails to make timely payments of any amount
140 for which it is the disbursal agent, the state department of elementary and
141 secondary education shall authorize payment to the charter school of the amount
142 due pursuant to subsection [2] 3 of this section and shall deduct the same
143 amount from the next state school aid apportionment to the owing school district.
144 If a charter school is paid more or less than the amounts due pursuant to this
145 section, the amount of overpayment or underpayment shall be adjusted equally
146 in the next twelve payments by the school district or the department of
147 elementary and secondary education, as appropriate. Any dispute between the
148 school district and a charter school as to the amount owing to the charter school
149 shall be resolved by the department of elementary and secondary education, and
150 the department's decision shall be the final administrative action for the purposes
151 of review pursuant to chapter 536. During the period of dispute, the department
152 of elementary and secondary education shall make every administrative and
153 statutory effort to allow the continued education of children in their current
154 public charter school setting.

155 [6.] 8. The charter school and a local school board may agree by contract
156 for services to be provided by the school district to the charter school. The
157 charter school may contract with any other entity for services. Such services may
158 include but are not limited to food service, custodial service, maintenance,
159 management assistance, curriculum assistance, media services and libraries and
160 shall be subject to negotiation between the charter school and the local school
161 board or other entity. Documented actual costs of such services shall be paid for
162 by the charter school.

163 [7.] 9. In the case of a proposed charter school that intends to contract
164 with an education service provider for substantial educational services or

165 management services, the request for proposals shall additionally require the
166 charter school applicant to:

167 (1) Provide evidence of the education service provider's success in serving
168 student populations similar to the targeted population, including demonstrated
169 academic achievement as well as successful management of nonacademic school
170 functions, if applicable;

171 (2) Provide a term sheet setting forth the proposed duration of the service
172 contract; roles and responsibilities of the governing board, the school staff, and
173 the service provider; scope of services and resources to be provided by the service
174 provider; performance evaluation measures and time lines; compensation
175 structure, including clear identification of all fees to be paid to the service
176 provider; methods of contract oversight and enforcement; investment disclosure;
177 and conditions for renewal and termination of the contract;

178 (3) Disclose any known conflicts of interest between the school governing
179 board and proposed service provider or any affiliated business entities;

180 (4) Disclose and explain any termination or nonrenewal of contracts for
181 equivalent services for any other charter school in the United States within the
182 past five years;

183 (5) Ensure that the legal counsel for the charter school shall report
184 directly to the charter school's governing board; and

185 (6) Provide a process to ensure that the expenditures that the education
186 service provider intends to bill to the charter school shall receive prior approval
187 of the governing board or its designee.

188 [8.] **10.** A charter school may enter into contracts with community
189 partnerships and state agencies acting in collaboration with such partnerships
190 that provide services to children and their families linked to the school.

191 [9.] **11.** A charter school shall be eligible for transportation state aid
192 pursuant to section 163.161 and shall be free to contract with the local district,
193 or any other entity, for the provision of transportation to the students of the
194 charter school.

195 [10.] **12.** (1) The proportionate share of state and federal resources
196 generated by students with disabilities or staff serving them shall be paid in full
197 to charter schools enrolling those students by their school district where such
198 enrollment is through a contract for services described in this section. The
199 proportionate share of money generated under other federal or state categorical
200 aid programs shall be directed to charter schools serving such students eligible

201 for that aid.

202 (2) A charter school shall provide the special services provided pursuant
203 to section 162.705 and may provide the special services pursuant to a contract
204 with a school district or any provider of such services.

205 [11.] 13. A charter school [may] **shall** not charge tuition or impose fees
206 that a school district is prohibited from charging or imposing, except that a
207 charter school may receive tuition payments from districts in the same or an
208 adjoining county for nonresident students who transfer to an approved charter
209 school, as defined in section 167.895, from an unaccredited district.

210 [12.] 14. A charter school is authorized to incur debt in anticipation of
211 receipt of funds. A charter school may also borrow to finance facilities and other
212 capital items. A school district may incur bonded indebtedness or take other
213 measures to provide for physical facilities and other capital items for charter
214 schools that it sponsors or contracts with. Except as otherwise specifically
215 provided in sections 160.400 to 160.425, upon the dissolution of a charter school,
216 any liabilities of the corporation will be satisfied through the procedures of
217 chapter 355. A charter school shall satisfy all its financial obligations within
218 twelve months of notice from the sponsor of the charter school's closure under
219 subsection 8 of section 160.405. After satisfaction of all its financial obligations,
220 a charter school shall return any remaining state and federal funds to the
221 department of elementary and secondary education for disposition as stated in
222 subdivision (17) of subsection 1 of section 160.405. The department of elementary
223 and secondary education may withhold funding at a level the department
224 determines to be adequate during a school's last year of operation until the
225 department determines that school records, liabilities, and reporting
226 requirements, including a full audit, are satisfied.

227 [13.] 15. Charter schools shall not have the power to acquire property by
228 eminent domain.

229 [14.] 16. The governing [body] **board** of a charter school is authorized
230 to accept grants, gifts or donations of any kind and to expend or use such grants,
231 gifts or donations. A grant, gift or donation [may] **shall** not be accepted by the
232 governing [body] **board** if it is subject to any condition contrary to law applicable
233 to the charter school or other public schools, or contrary to the terms of the
234 charter.

235 17. The department may promulgate rules for the annual review
236 of payments and any penalties to be assessed under subsection 3 of this

237 **section. Any rule or portion of a rule, as that term is defined in section**
238 **536.010, that is created under the authority delegated in this section**
239 **shall become effective only if it complies with and is subject to all of**
240 **the provisions of chapter 536 and, if applicable, section 536.028. This**
241 **section and chapter 536 are nonseverable, and if any of the powers**
242 **vested with the general assembly pursuant to chapter 536 to review, to**
243 **delay the effective date, or to disapprove and annul a rule are**
244 **subsequently held unconstitutional, then the grant of rulemaking**
245 **authority and any rule proposed or adopted after August 28, 2020, shall**
246 **be invalid and void.**

Section B. The repeal and reenactment of section 160.415 shall become
2 effective July 1, 2021.

✓

Bill

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