

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 95

AN ACT

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

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Section A. Section 161.670, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.670, to read as follows: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 state board of education and the department of elementary and secondary education shall refer to the program as the Missouri course access and virtual school program or the "MCAVSP". 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 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 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 when [a] any student discontinues enrollment. A "full-time equivalent student" is a student who [successfully has completed] is enrolled in the instructional equivalent of six credits per regular term. Each Missouri course access and virtual school program course shall count as one class and shall generate that portion of a full-time equivalent that a comparable course offered by the school district would generate. Full-time equivalent students shall not be required by the resident school district to be present at any specific physical location for any ongoing instructional activity. In no case shall more than the full-time equivalency of a regular term of attendance for a single student be used to claim state aid. Full-time equivalent student credit completed shall be reported to the department of elementary and secondary education in the manner prescribed by the department. If a school district or charter school fails to make any payment required under the provisions of this section in full within sixty days of receiving an invoice for such payment from a provider, the provider may notify the department. Upon notice of such nonpayment, the department shall immediately pay the Missouri course access and virtual school program the total amount invoiced. Any such department payments shall be offset by withholding the amount so paid from its next disbursement of funding to the nonpaying school district or charter school. By November

first annually, the department shall provide a written report to the joint committee on education detailing each occasion during the prior school year that a provider notified the department of an unpaid invoice pursuant to this subsection, including the name of the provider, the name of the district or charter school, the amount due, and how quickly the department made full payment to the provider after receiving the request. Nothing in this section shall prohibit students from enrolling in additional courses under a separate agreement that includes terms for paying tuition or course fees. A full-time virtual school program serving full-time equivalent students shall participate in the statewide assessment system as defined in section 160.518. The academic performance of students enrolled in a full-time virtual school program will be assigned to the designated attendance center of the full-time virtual school program, and such academic performance shall not be attributable to the local education authority.

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

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

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

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

(2) ~~Each school district or charter school~~ For students not enrolled in a full-time virtual school, the department of elementary and secondary education shall adopt a policy that delineates the process by which a student may enroll in courses provided by the Missouri course access and virtual school program that is substantially similar to the typical process by which a district student would enroll in courses offered by the school district and a charter school student would enroll in courses offered by the charter school. The policy shall allow for continuous enrollment throughout the school year. The policy may include consultation with the school's counselor and may include parental notification or authorization. ~~Each school district or charter school~~ believes a student's request to enroll in a course or courses provided by the Missouri course access and virtual school program, including full-time enrollment in courses provided by the Missouri course access and virtual school program, is not in the best educational interest of the student, the reason shall be provided in writing ~~and it shall be for good cause.~~ Good cause justification to

disapprove a student's request for enrollment in a course shall be a determination that doing so is not in the best educational interest of the student. In cases of denial by the school district or charter school, local education agencies shall inform the student and the student's family of their right to appeal any enrollment denial in the Missouri course access and virtual school program to the local school district board or charter school governing body where the family shall be given an opportunity to present their reasons for their child or children to enroll in the Missouri course access and virtual school program in an official school board meeting. In addition, the school district or charter school administration shall provide its good cause justification for denial at a school board meeting or governing body meeting. Both the family and school administration shall also provide their reasons in writing to the members of the school board or governing body and the documents shall be entered into the official board minutes. The members of the board or governing body shall issue their decision in writing within thirty calendar days, and then an appeal may be made to the department of elementary and secondary education, which shall provide a final enrollment decision within seven calendar days] to the student's parent or guardian who shall have final decision-making authority. The resident school district or charter school shall not base any recommendation upon financial considerations or the offering of virtual courses or programming by the resident school district or charter school or a preferred provider. For students enrolling in a full-time program, the school district or charter school operating the program shall adopt a policy that delineates the process by which a student may enroll that is substantially similar to the typical process by which the

district or charter school enrolls a new resident student of the district or charter school.

(3) For students enrolled in any Missouri course access and virtual school program course in which costs associated with such course are to be paid by the school district or charter school as described under subdivision (1) of this subsection, the school district [or], charter school, or the department shall pay the content provider directly [on a pro rata monthly basis based on a student's completion of assignments and assessments] once per semester. Each such payment shall be made in full within sixty days of receiving an invoice from the provider. If a student discontinues enrollment, the district [or], charter school, or the department may stop making [monthly] payments to the content provider. No school district or charter school shall pay, for any one course for a student, [more than the market necessary costs but in no case shall pay] more than fourteen percent of the state adequacy target, as defined under section 163.011, as calculated at the end of the most recent school year for any single, year-long course and no more than seven percent of the state adequacy target as described above for any single semester equivalent course. Payment for a full-time virtual school student shall not exceed the state adequacy target, unless the student receives additional federal or state aid, which shall additionally be included in the payment. [Nothing in this subdivision shall prohibit a school district or charter school from negotiating lower costs directly with course or full-time virtual school providers, particularly in cases where several students enroll in a single course or full-time virtual school.]

(4) In the case of a student who is a candidate for A+ tuition reimbursement and taking a virtual course under this

section, the school shall attribute no less than ninety-five percent attendance to any such student who has completed such virtual course.

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

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

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

(8) Pursuant to rules to be promulgated by the department of elementary and secondary education, when a

student transfers into a school district or charter school, credits previously gained through successful passage of approved courses under the Missouri course access and virtual school program shall be accepted by the school district or charter school.

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

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

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

(12) The authorization process shall provide for continuous monitoring of approved providers and courses. The department shall revoke or suspend or take other corrective action regarding the authorization of any course or provider no longer meeting the requirements of the program. Unless immediate action is necessary, prior to revocation or suspension, the department shall notify the provider and give the provider a reasonable time period to take corrective action to avoid revocation or suspension.

The process shall provide for periodic renewal of authorization no less frequently than once every three years.

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

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

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

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

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

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

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

5. School districts or charter schools shall [inform] annually issue a separate notification informing parents of [their] the child's right to participate in the program. Availability of the program shall also be [made clear] provided in a clear and conspicuous manner in the parent handbook, registration documents, and featured on the home

page of the school district or charter school's website. Such notices shall provide information on the program in an impartial manner without any favor toward one provider or program over another. Any school district or charter school that fails to fully comply with any provision of this subsection shall be subject to civil penalties in an amount equal to one hundred dollars for each calendar day the school district or charter school is not in compliance with this subsection, including reasonable attorney's fees.

[5.] 6. The department shall:

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

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

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

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

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

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

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

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

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

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

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

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

(2) The number of authorized providers;

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

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

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

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

(7) The costs per course;

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

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

[12.] 13. The state board of education through the rulemaking process and the department of elementary and secondary education in its policies and procedures shall

ensure that multiple content providers and learning management systems are allowed, ensure digital content conforms to accessibility requirements, provide an easily accessible link for providers to submit courses or full-time virtual schools on the Missouri course access and virtual school program website, and allow any person, organization, or entity to submit courses or full-time virtual schools for approval. No content provider shall be allowed that is unwilling to accept payments in the amount and manner as described under subdivision (3) of subsection 3 of this section or does not meet performance or quality standards adopted by the state board of education.

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