

FIRST REGULAR SESSION

SENATE BILL NO. 218

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

0450S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 160.415, RSMo, and to enact in lieu thereof one new section relating to charter schools, with an emergency clause.

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Section A. Section 160.415, RSMo, is repealed and one new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

160.415. 1. For the purposes of calculation and
2 distribution of state school aid under section 163.031,
3 pupils enrolled in a charter school shall be included in the
4 pupil enrollment of the school district within which each
5 pupil resides. Each charter school shall report the [names,
6 addresses, and] eligibility for free and reduced price
7 lunch, special education, or limited English proficiency
8 status, as well as eligibility for categorical aid, of
9 pupils resident in a school district who are enrolled in the
10 charter school to the school district in which those pupils
11 reside. The charter school shall report the average daily
12 attendance data, free and reduced price lunch count, special
13 education pupil count, and limited English proficiency pupil
14 count to the state department of elementary and secondary
15 education. Each charter school shall promptly notify the
16 state department of elementary and secondary education and
17 the pupil's school district when a student discontinues
18 enrollment at a charter school.

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

19 2. **This subsection shall apply to all school years**
20 **ending on or before June 30, 2021.** Except as provided in
21 subsections 3 and 4 of this section, the aid payments for
22 charter schools shall be as described in this subsection.

23 (1) A school district having one or more resident
24 pupils attending a charter school shall pay to the charter
25 school an annual amount equal to the product of the charter
26 school's weighted average daily attendance and the state
27 adequacy target, multiplied by the dollar value modifier for
28 the district, plus local tax revenues per weighted average
29 daily attendance from the incidental and teachers' funds in
30 excess of the performance levy as defined in section 163.011
31 plus all other state aid attributable to such pupils.

32 (2) The district of residence of a pupil attending a
33 charter school shall also pay to the charter school any
34 other federal or state aid that the district receives on
35 account of such [child] **pupil.**

36 (3) If the department overpays or underpays the amount
37 due to the charter school, such overpayment or underpayment
38 shall be repaid by the [public] charter school or credited
39 to the public charter school in twelve equal payments in the
40 next fiscal year.

41 (4) The amounts provided pursuant to this subsection
42 shall be prorated for partial year enrollment for a pupil.

43 (5) A school district shall pay the amounts due
44 pursuant to this subsection as the disbursal agent and no
45 later than twenty days following the receipt of any such
46 funds. The department of elementary and secondary education
47 shall pay the amounts due when it acts as the disbursal
48 agent within five days of the required due date.

49 3. **This subsection shall apply to all school years**
50 **ending on or before June 30, 2021.** A workplace charter

51 school shall receive payment for each eligible pupil as
52 provided under subsection 2 of this section, except that if
53 the student is not a resident of the district and is
54 participating in a voluntary interdistrict transfer program,
55 the payment for such pupils shall be the same as provided
56 under section 162.1060.

57 **4. This subsection shall apply to all school years**
58 **ending on or before June 30, 2021.** A charter school that
59 has declared itself as a local educational agency shall
60 receive from the department of elementary and secondary
61 education an annual amount equal to the product of the
62 charter school's weighted average daily attendance and the
63 state adequacy target, multiplied by the dollar value
64 modifier for the district, plus local tax revenues per
65 weighted average daily attendance from the incidental and
66 teachers funds in excess of the performance levy as defined
67 in section 163.011 plus all other state aid attributable to
68 such pupils. If a charter school declares itself as a local
69 educational agency, the department of elementary and
70 secondary education shall, upon notice of the declaration,
71 reduce the payment made to the school district by the amount
72 specified in this subsection and pay directly to the charter
73 school the annual amount reduced from the school district's
74 payment.

75 **5. This subsection shall apply to all school years**
76 **ending on or before June 30, 2021.** If a school district
77 fails to make timely payments of any amount for which it is
78 the disbursal agent, the state department of elementary and
79 secondary education shall authorize payment to the charter
80 school of the amount due pursuant to subsection 2 of this
81 section and shall deduct the same amount from the next state
82 school aid apportionment to the owing school district. If a

83 charter school is paid more or less than the amounts due
84 pursuant to this section, the amount of overpayment or
85 underpayment shall be adjusted equally in the next twelve
86 payments by the school district or the department of
87 elementary and secondary education, as appropriate. Any
88 dispute between the school district and a charter school as
89 to the amount owing to the charter school shall be resolved
90 by the department of elementary and secondary education, and
91 the department's decision shall be the final administrative
92 action for the purposes of review pursuant to chapter 536.
93 During the period of dispute, the department of elementary
94 and secondary education shall make every administrative and
95 statutory effort to allow the continued education of
96 children in their current public charter school setting.

97 6. The charter school and a local school board may
98 agree by contract for services to be provided by the school
99 district to the charter school. The charter school may
100 contract with any other entity for services. Such services
101 may include but are not limited to food service, custodial
102 service, maintenance, management assistance, curriculum
103 assistance, media services and libraries and shall be
104 subject to negotiation between the charter school and the
105 local school board or other entity. Documented actual costs
106 of such services shall be paid for by the charter school.

107 7. In the case of a proposed charter school that
108 intends to contract with an education service provider for
109 substantial educational services or management services, the
110 request for proposals shall additionally require the charter
111 school applicant to:

112 (1) Provide evidence of the education service
113 provider's success in serving student populations similar to
114 the targeted population, including demonstrated academic

115 achievement as well as successful management of nonacademic
116 school functions, if applicable;

117 (2) Provide a term sheet setting forth the proposed
118 duration of the service contract; roles and responsibilities
119 of the governing board, the school staff, and the service
120 provider; scope of services and resources to be provided by
121 the service provider; performance evaluation measures and
122 time lines; compensation structure, including clear
123 identification of all fees to be paid to the service
124 provider; methods of contract oversight and enforcement;
125 investment disclosure; and conditions for renewal and
126 termination of the contract;

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

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

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

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

140 8. A charter school may enter into contracts with
141 community partnerships and state agencies acting in
142 collaboration with such partnerships that provide services
143 to children and their families linked to the school.

144 9. A charter school shall be eligible for
145 transportation state aid pursuant to section 163.161 and
146 shall be free to contract with the local district, or any

147 other entity, for the provision of transportation to the
148 students of the charter school.

149 10. (1) The proportionate share of state and federal
150 resources generated by students with disabilities or staff
151 serving them shall be paid in full to charter schools
152 enrolling those students by their school district where such
153 enrollment is through a contract for services described in
154 this section. The proportionate share of money generated
155 under other federal or state categorical aid programs shall
156 be directed to charter schools serving such students
157 eligible for that aid.

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

162 11. A charter school [may] **shall** not charge tuition or
163 impose fees that a school district is prohibited from
164 charging or imposing, except that a charter school may
165 receive tuition payments from districts in the same or an
166 adjoining county for nonresident students who transfer to an
167 approved charter school, as defined in section 167.895, from
168 an unaccredited district.

169 12. A charter school is authorized to incur debt in
170 anticipation of receipt of funds. A charter school may also
171 borrow to finance facilities and other capital items. A
172 school district may incur bonded indebtedness or take other
173 measures to provide for physical facilities and other
174 capital items for charter schools that it sponsors or
175 contracts with. Except as otherwise specifically provided
176 in sections 160.400 to 160.425, upon the dissolution of a
177 charter school, any liabilities of the corporation will be
178 satisfied through the procedures of chapter 355. A charter

179 school shall satisfy all its financial obligations within
180 twelve months of notice from the sponsor of the charter
181 school's closure under subsection 8 of section 160.405.
182 After satisfaction of all its financial obligations, a
183 charter school shall return any remaining state and federal
184 funds to the department of elementary and secondary
185 education for disposition as stated in subdivision (17) of
186 subsection 1 of section 160.405. The department of
187 elementary and secondary education may withhold funding at a
188 level the department determines to be adequate during a
189 school's last year of operation until the department
190 determines that school records, liabilities, and reporting
191 requirements, including a full audit, are satisfied.

192 13. Charter schools shall not have the power to
193 acquire property by eminent domain.

194 14. The governing [body] **board** of a charter school is
195 authorized to accept grants, gifts or donations of any kind
196 and to expend or use such grants, gifts or donations. A
197 grant, gift or donation [may] **shall** not be accepted by the
198 governing [body] **board** if it is subject to any condition
199 contrary to law applicable to the charter school or other
200 public schools, or contrary to the terms of the charter.

201 15. (1) **As used in this subsection, the following**
202 **terms mean:**

203 (a) "Department", the department of elementary and
204 secondary education;

205 (b) "Local aid", all local and county revenue received
206 by the school district and charter schools within the school
207 district.

208 a. The term "local aid" includes, but is not limited
209 to, the following:

210 (i) Property taxes and delinquent taxes;

- 211 (ii) Merchants' and manufacturers' tax revenues;
212 (iii) Financial institutions' tax revenues;
213 (iv) City sales tax revenue, including city sales tax
214 collected in any city not within a county;
215 (v) Payments in lieu of taxes;
216 (vi) Revenues from state-assessed railroad and
217 utilities tax; and
218 (vii) Any future aid.

219 b. The term "local aid" shall not be construed to
220 include charitable contributions, gifts, and grants made to
221 school districts and charter schools; interest earnings of
222 school districts and charter schools; student fees paid to
223 school districts and charter schools; debt service
224 authorized by a public vote for the purpose of making
225 payments on a bond issuance of a school district;
226 Proposition C revenues received for school purposes from the
227 school district trust fund under section 163.087; or any
228 other funding solely intended for a particular school
229 district or charter school and their respective employees,
230 schools, foundations, or organizations.

231 (2) Each charter school and each school district
232 responsible for distributing local aid to charter schools
233 under this subsection shall include as part of their annual
234 independent audit an audit of pupil residency, enrollment,
235 and attendance in order to verify pupil residency in the
236 school district or local education agency.

237 (3) A school district having one or more resident
238 pupils attending a charter school shall pay to the charter
239 school an annual amount equal to the product of the charter
240 school's weighted average daily attendance and the state
241 adequacy target, multiplied by the dollar value modifier for
242 the district, less the charter school's share of local

243 effort as defined in section 163.011 plus all other state
244 aid attributable to such pupils plus local aid received by
245 the school district divided by the total weighted average
246 daily attendance of the school district and all charter
247 schools within the school district.

248 (4) A charter school that has declared itself as a
249 local educational agency shall receive all state aid
250 calculated under this subsection from the department and all
251 local aid calculated under this subsection from the school
252 district. A charter school shall receive an annual amount
253 equal to the product of the charter school's weighted
254 average daily attendance and the state adequacy target,
255 multiplied by the dollar value modifier for the district,
256 less the charter school's share of local effort as defined
257 in section 163.011 plus all other state aid attributable to
258 such pupils plus local aid received by the school district
259 divided by the total weighted average daily attendance of
260 the school district and all charter schools within the
261 school district.

262 (5) Each month the school district shall calculate the
263 amount of local aid received by the school district that is
264 owed to the charter school by the school district under this
265 subsection. The school district shall pay to the charter
266 school the amount of local aid owed to the charter school,
267 as calculated by the school district using the previous
268 month's weighted average daily attendance of the charter
269 school. If any payment of local aid is due, the school
270 district shall make monthly payments on the twenty-first day
271 of each month or upon the closest business day beginning in
272 July of each year.

273 (a) If the school district fails to make timely
274 payment the department shall impose any penalty the
275 department deems appropriate.

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

282 (6) The department shall conduct an annual review of
283 any payments made in the previous fiscal year under
284 subdivision (5) of this subsection to determine if there has
285 been any underpayment or overpayment. The annual review, to
286 be conducted in January of each year, shall include a
287 calculation of the amount of local aid owed to charter
288 schools using the first preceding year's annual audit
289 required by section 165.111. The school district shall pay
290 to the charter school the amount of local aid owed to the
291 charter school as calculated by the department. In the
292 event of an underpayment, the school district shall remit
293 the underpayment amount to the charter school. In the event
294 of an overpayment, the charter school shall remit the
295 overpayment amount to the school district.

296 (a) If the school district fails to remit any
297 underpayment amount to the school district within thirty
298 days of notification of the underpayment amount, the
299 department shall impose any penalty the department deems
300 appropriate.

301 (b) If the charter school fails to remit any
302 overpayment amount to the school district within thirty days
303 of notification of the overpayment amount, the department
304 shall impose any penalty the department deems appropriate.

305 (7) If a prior year correction of the amount of local
306 aid is necessary, the school district shall recalculate the
307 amount owed to a charter school and either remit any
308 underpayment amount to the charter school or provide a bill
309 to the charter school for any overpayment amount. Any
310 underpayment or overpayment amount shall be remitted under
311 the schedules in paragraphs (a) and (b) of subdivision (6)
312 of this subsection.

313 (8) This subsection shall become effective on July 1,
314 2021.

315 16. The department may promulgate rules for the annual
316 review of payments and any penalties to be assessed under
317 subsection 15 of this section. Any rule or portion of a
318 rule, as that term is defined in section 536.010, that is
319 created under the authority delegated in this section shall
320 become effective only if it complies with and is subject to
321 all of the provisions of chapter 536 and, if applicable,
322 section 536.028. Any rule or portion of a rule, as that
323 term is defined in section 536.010, that is created under
324 the authority delegated in the Missouri continuing health
325 improvement act, shall become effective only if it complies
326 with and is subject to all of the provisions of chapter 536
327 and, if applicable, section 536.028. This section and
328 chapter 536 are nonseverable and if any of the powers vested
329 with the general assembly pursuant to chapter 536 to review,
330 to delay the effective date, or to disapprove and annul a
331 rule are subsequently held unconstitutional, then the grant
332 of rulemaking authority and any rule proposed or adopted
333 after the effective date of this act, shall be invalid and
334 void.

Section B. Because of the need to ensure adequate
2 funding for charter schools, section A of this act is deemed

3 necessary for the immediate preservation of the public
4 health, welfare, peace and safety, and is hereby declared to
5 be an emergency act within the meaning of the constitution,
6 and section A of this act shall be in full force and effect
7 upon its passage and approval.

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