

SENATE BILL NO. 648

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROWDEN.

4016S.01H

ADRIANE D. CROUSE, Secretary

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Section A. Section 161.670, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.670, to read as follows: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

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

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.

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