

SENATE BILL NO. 1049

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

3698S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 161.670, RSMo, and to enact in lieu thereof one new section relating to assessment of virtual school students.

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Section A. Section 161.670, RSMo, is repealed and one new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
5 Missouri course access and virtual school program shall
6 offer nonclassroom-based instruction in a virtual setting
7 using technology, intranet, or internet methods of
8 communication. Any student under the age of twenty-one in
9 grades kindergarten through twelve who resides in this state
10 shall be eligible to enroll in the Missouri course access
11 and virtual school program pursuant to subsection 3 of this
12 section.

13 2. (1) For purposes of calculation and distribution
14 of state school aid, students enrolled in the Missouri
15 course access and virtual school program shall be included
16 in the student enrollment of the school district in which
17 the student is enrolled under subsection 3 of this section;
18 provided that any such student attendance for full-time

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

19 virtual program students shall only be included in any
20 district pupil attendance calculation under chapter 163 and
21 any charter school pupil attendance calculation under
22 section 160.415, using current-year pupil attendance for
23 such full-time virtual program pupils; and further provided
24 that in the case of a host school district enrolling one or
25 more full-time virtual school students, such enrolling
26 district shall receive no less under the state aid
27 calculation for such students than an amount equal to the
28 state adequacy target multiplied by the weighted average
29 daily attendance of such full-time students. Students
30 residing in Missouri and enrolled in a full-time virtual
31 school program operated by a public institution of higher
32 education in this state shall be counted for a state aid
33 calculation by the department, and the department shall pay,
34 from funds dedicated to state school aid payments made under
35 section 163.031, to such institution an amount equal to the
36 state adequacy target multiplied by the weighted average
37 daily attendance of such full-time students.

38 (2) The Missouri course access and virtual school
39 program shall report to the district of residence the
40 following information about each student served by the
41 Missouri course access and virtual school program: name,
42 address, eligibility for free or reduced-price lunch,
43 limited English proficiency status, special education needs,
44 and the number of courses in which the student is enrolled.
45 The Missouri course access and virtual school program shall
46 promptly notify the resident district when a student
47 discontinues enrollment. A "full-time equivalent student"
48 is a student who is enrolled in the instructional equivalent
49 of six credits per regular term. Each Missouri course
50 access and virtual school program course shall count as one

51 class and shall generate that portion of a full-time
52 equivalent that a comparable course offered by the school
53 district would generate.

54 (3) Pursuant to an education services plan and
55 collaborative agreement under subsection 3 of this section,
56 full-time equivalent students may be allowed to use a
57 physical location of the resident school district for all or
58 some portion of ongoing instructional activity, and the
59 enrollment plan shall provide for reimbursement of costs of
60 the resident district for providing such access pursuant to
61 rules promulgated under this section by the department.

62 (4) In no case shall more than the full-time
63 equivalency of a regular term of attendance for a single
64 student be used to claim state aid. Full-time equivalent
65 student credit completed shall be reported to the department
66 of elementary and secondary education in the manner
67 prescribed by the department. Nothing in this section shall
68 prohibit students from enrolling in additional courses under
69 a separate agreement that includes terms for paying tuition
70 or course fees.

71 (5) A full-time virtual school program serving full-
72 time equivalent students shall be considered an attendance
73 center in the host school district and shall participate in
74 the statewide assessment system as defined in section
75 160.518. The academic performance of students enrolled in a
76 full-time virtual school program shall be assigned to the
77 designated attendance center of the full-time virtual school
78 program and shall be considered in like manner to other
79 attendance centers. The academic performance of any student
80 who disenrolls from a full-time virtual school program and
81 enrolls in a public school or charter school shall not be
82 used in determining the annual performance report score of

83 the attendance center or school district in which the
84 student enrolls for twelve months from the date of
85 enrollment.

86 (6) For the purposes of this section, a public
87 institution of higher education operating a full-time
88 virtual school program shall be subject to all requirements
89 applicable to a host school district with respect to its
90 full-time equivalent students.

91 3. (1) A student who resides in this state may enroll
92 in Missouri course access and virtual school program courses
93 of his or her choice as a part of the student's annual
94 course load each school year, with any costs associated with
95 such course or courses to be paid by the school district or
96 charter school if:

97 (a) The student is enrolled full-time in a public
98 school, including any charter school; and

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

104 (2) Each school district or charter school shall adopt
105 a policy that delineates the process by which a student may
106 enroll in courses provided by the Missouri course access and
107 virtual school program that is substantially similar to the
108 typical process by which a district student would enroll in
109 courses offered by the school district and a charter school
110 student would enroll in courses offered by the charter
111 school. The policy may include consultation with the
112 school's counselor and may include parental notification or
113 authorization. The policy shall ensure that available
114 opportunities for in-person instruction are considered prior

115 to moving a student to virtual courses. The policy shall
116 allow for continuous enrollment throughout the school year.
117 If the school district or charter school disapproves a
118 student's request to enroll in a course or courses provided
119 by the Missouri course access and virtual school program,
120 the reason shall be provided in writing and it shall be for
121 good cause. Good cause justification to disapprove a
122 student's request for enrollment in a course shall be a
123 determination that doing so is not in the best educational
124 interest of the student, and shall be consistent with the
125 determination that would be made for such course request
126 under the process by which a district student would enroll
127 in a similar course offered by the school district and a
128 charter school student would enroll in a similar course
129 offered by the charter school, except that the determination
130 may consider the suitability of virtual courses for the
131 student based on prior participation in virtual courses by
132 the student. Appeals of any course denials under this
133 subsection shall be considered under a policy that is
134 substantially similar to the typical process by which
135 appeals would be considered for a student seeking to enroll
136 in courses offered by the school district and a charter
137 school student seeking to enroll in courses offered by the
138 charter school.

139 (3) For students enrolled in any Missouri course
140 access and virtual school program course in which costs
141 associated with such course are to be paid by the school
142 district or charter school as described under this
143 subdivision, the school district or charter school shall pay
144 the content provider directly on a pro rata monthly basis
145 based on a student's completion of assignments and
146 assessments. If a student discontinues enrollment, the

147 district or charter school may stop making monthly payments
148 to the content provider. No school district or charter
149 school shall pay, for any one course for a student, more
150 than the market necessary costs but in no case shall pay
151 more than fourteen percent of the state adequacy target, as
152 defined under section 163.011, as calculated at the end of
153 the most recent school year for any single, year-long course
154 and no more than seven percent of the state adequacy target
155 as described above for any single semester equivalent course.

156 (4) For students enrolling in a full-time virtual
157 program, the department of elementary and secondary
158 education shall adopt a policy that delineates the process
159 by which a student who lives in this state may enroll in a
160 virtual program of their choice as provided in this
161 subdivision. Each host school district operating a full-
162 time virtual program under this section shall operate and
163 implement the state enrollment policy, subject to the
164 provisions of this subdivision. The policy shall:

165 (a) Require the good faith collaboration of the
166 student, the student's parent or guardian if the student is
167 not considered homeless, the virtual program, the host
168 district, and the resident district;

169 (b) Specify timelines for timely participation by the
170 virtual program, the host district, and resident district;
171 provided that the resident district shall provide any
172 relevant information and input on the enrollment within ten
173 business days of notice from the virtual program of the
174 enrollment application;

175 (c) Include a survey of the reasons for the student's
176 and parent's interests in participating in the virtual
177 program;

178 (d) Include consideration of available opportunities
179 for in-person instruction prior to enrolling a student in a
180 virtual program;

181 (e) Evaluate requests for enrollment based on meeting
182 the needs for a student to be successful considering all
183 relevant factors;

184 (f) Ensure that, for any enrolling student, an
185 education services plan and collaborative agreement is
186 created to provide all services required to ensure a free
187 and appropriate public education, including financial terms
188 for reimbursement by the host district for the necessary
189 costs of any virtual program, school district, or public or
190 private entity providing all or a portion of such services;

191 (g) Require the virtual program to determine whether
192 an enrolling student will be admitted, based on the
193 enrollment policy, in consideration of all relevant factors
194 and provide the basis for its determination and any service
195 plan for the student, in writing, to the student, the
196 student's parent or guardian, the host district, and the
197 resident district;

198 (h) Provide a process for reviewing appeals of
199 decisions made under this subdivision; and

200 (i) Require the department to publish an annual report
201 based on the enrollments and enrollment surveys conducted
202 under this subdivision that provides data at the statewide
203 and district levels of sufficient detail to allow analysis
204 of trends regarding the reasons for participation in the
205 virtual program at the statewide and district levels;
206 provided that no such survey results will be published in a
207 manner that reveals individual student information. The
208 department shall also include, in the annual report, data at
209 the statewide and district levels of sufficient detail to

210 allow detection and analysis of the racial, ethnic, and
211 socio-economic balance of virtual program participation
212 among schools and districts at the statewide and district
213 levels, provided that no such survey results will be
214 published in a manner that reveals individual student
215 information.

216 (5) In the case of a student who is a candidate for A+
217 tuition reimbursement and taking a virtual course under this
218 section, the school shall attribute no less than ninety-five
219 percent attendance to any such student who has completed
220 such virtual course.

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

226 (7) Virtual school programs shall monitor individual
227 student success and engagement of students enrolled in their
228 program, provide regular student progress reports for each
229 student at least four times per school year to the school
230 district or charter school, provide the host school district
231 and the resident school district ongoing access to academic
232 and other relevant information on student success and
233 engagement, and shall terminate or alter the course offering
234 if it is found the course or full-time virtual school is not
235 meeting the educational needs of the students enrolled in
236 the course.

237 (8) The department of elementary and secondary
238 education shall monitor the aggregate performance of
239 providers and make such information available to the public
240 under subsection 11 of this section.

241 (9) Pursuant to rules to be promulgated by the
242 department of elementary and secondary education, when a
243 student transfers into a school district or charter school,
244 credits previously gained through successful passage of
245 approved courses under the Missouri course access and
246 virtual school program shall be accepted by the school
247 district or charter school.

248 (10) Pursuant to rules to be promulgated by the
249 department of elementary and secondary education, if a
250 student transfers into a school district or charter school
251 while enrolled in a Missouri course access and virtual
252 school program course or full-time virtual school, the
253 student shall continue to be enrolled in such course or
254 school.

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

261 (12) Nothing in this subsection shall require any
262 school district, charter school, virtual program, or the
263 state to provide computers, equipment, or internet access to
264 any student unless required under the education services
265 plan created for an eligible student under subdivision (4)
266 of this subsection or for an eligible student with a
267 disability to comply with federal law. An education
268 services plan may require an eligible student to have access
269 to school facilities of the resident school district during
270 regular school hours for participation and instructional
271 activities of a virtual program under this section, and the
272 education services plan shall provide for reimbursement of

273 the resident school district for such access pursuant to
274 rules adopted by the department under this section.

275 (13) The authorization process shall provide for
276 continuous monitoring of approved providers and courses.
277 The department shall revoke or suspend or take other
278 corrective action regarding the authorization of any course
279 or provider no longer meeting the requirements of the
280 program. Unless immediate action is necessary, prior to
281 revocation or suspension, the department shall notify the
282 provider and give the provider a reasonable time period to
283 take corrective action to avoid revocation or suspension.
284 The process shall provide for periodic renewal of
285 authorization no less frequently than once every three years.

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

291 (15) Any online course or virtual program offered by a
292 school district or charter school, including those offered
293 prior to August 28, 2018, which meets the requirements of
294 section 162.1250 shall be automatically approved to
295 participate in the Missouri course access and virtual school
296 program. Such course or program shall be subject to
297 periodic renewal. A school district or charter school
298 offering such a course or virtual school program shall be
299 deemed an approved provider.

300 4. (1) As used in this subsection, the term
301 "instructional activities" means classroom-based or
302 nonclassroom-based activities that a student shall be
303 expected to complete, participate in, or attend during any
304 given school day, such as:

- 305 (a) Online logins to curricula or programs;
306 (b) Offline activities;
307 (c) Completed assignments within a particular program,
308 curriculum, or class;
309 (d) Testing;
310 (e) Face-to-face communications or meetings with
311 school staff;
312 (f) Telephone or video conferences with school staff;
313 (g) School-sanctioned field trips; or
314 (h) Orientation.
- 315 (2) A full-time virtual school shall submit a
316 notification to the parent or guardian of any student who is
317 not consistently engaged in instructional activities.
- 318 (3) Each full-time virtual school shall develop,
319 adopt, and post on the school's website a policy setting
320 forth the consequences for a student who fails to complete
321 the required instructional activities. Such policy shall
322 state, at a minimum, that if a student fails to complete the
323 instructional activities after receiving a notification
324 under subdivision (2) of this subsection, and after
325 reasonable intervention strategies have been implemented,
326 that the student shall be subject to certain consequences
327 which may include disenrollment from the school. Prior to
328 any disenrollment, the parent or guardian shall have the
329 opportunity to present any information that the parent deems
330 relevant, and such information shall be considered prior to
331 any final decision.
- 332 (4) If a full-time virtual school disenrolls a student
333 under subdivision (3) of this subsection, the school shall
334 immediately provide written notification to such student's
335 school district of residence. The student's school district
336 of residence shall then provide to the parents or guardian

337 of the student a written list of available educational
338 options and promptly enroll the student in the selected
339 option. Any student disenrolled from a full-time virtual
340 school shall be prohibited from reenrolling in the same
341 virtual school for the remainder of the school year.

342 5. School districts or charter schools shall inform
343 parents of their child's right to participate in the
344 program. Availability of the program shall be made clear in
345 the parent handbook, registration documents, and featured on
346 the home page of the school district or charter school's
347 website.

348 6. The department shall:

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

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

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

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

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

367 (4) Within thirty days of any denial, provide a
368 written explanation to any course or full-time virtual
369 school providers that are denied authorization;

370 (5) Allow a course or full-time virtual school
371 provider denied authorization to reapply at any point in the
372 future.

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

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

386 9. Except as specified in this section and as may be
387 specified by rule of the state board of education, the
388 Missouri course access and virtual school program shall
389 comply with all state laws and regulations applicable to
390 school districts, including but not limited to the Missouri
391 school improvement program (MSIP), annual performance report
392 (APR), teacher certification, curriculum standards, audit
393 requirements under chapter 165, access to public records
394 under chapter 610, and school accountability report cards
395 under section 160.522. Teachers and administrators employed
396 by a virtual provider shall be considered to be employed in
397 a public school for all certification purposes under chapter
398 168.

399 10. The department shall submit and publicly publish
400 an annual report on the Missouri course access and virtual
401 school program and the participation of entities to the
402 governor, the chair and ranking member of the senate
403 education committee, and the chair and ranking member of the
404 house of representatives elementary and secondary education
405 committee. The report shall at a minimum include the
406 following information:

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

410 (2) The number of authorized providers;

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

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

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

417 (6) Student outcome data, including completion rates,
418 student learning gains, student performance on state or
419 nationally accepted assessments, by subject and grade level
420 per provider. This outcome data shall be published in a
421 manner that protects student privacy;

422 (7) The costs per course;

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

426 11. (1) The department shall be responsible for
427 creating the Missouri course access and virtual school
428 program catalog providing a listing of all courses
429 authorized and available to students in the state, detailed
430 information, including costs per course, about the courses

431 to inform student enrollment decisions, and the ability for
432 students to submit their course enrollments.

433 (2) On or before January 1, 2023, the department shall
434 publish on its website, and distribute to all school
435 districts and charter schools in this state, a guidance
436 document that details the options for virtual course access
437 and full-time virtual course access for all students in the
438 state. The guidance document shall include a complete and
439 readily understood description of the applicable enrollment
440 processes including the opportunity for students to enroll
441 and the roles and responsibilities of the student, parent,
442 virtual provider, school district or districts, and charter
443 schools, as appropriate. The guidance document shall be
444 distributed in written and electronic form to all school
445 districts, charter schools, and virtual providers. School
446 districts and charter schools shall provide a copy of the
447 guidance document to every pupil and parent or legal
448 guardian of every pupil enrolled in the district or charter
449 school at the beginning of each school year and upon
450 enrollment for every pupil enrolling at a different time of
451 the school year. School districts and charter schools shall
452 provide a readily viewable link to the electronic version of
453 the guidance document on the main page of the district's or
454 charter school's website.

455 12. **Any virtual school or program may administer any**
456 **statewide assessment required pursuant to the provisions of**
457 **section 160.518 in a virtual setting that aligns with the**
458 **student's regular academic instruction. Any administration**
459 **of a virtual statewide assessment shall meet the following**
460 **conditions:**

461 (1) **The assessment shall be administered to the**
462 **student at an assigned date and time;**

463 (2) The assessment shall be administered during a
464 synchronous assessment session initiated and managed by an
465 employee of the virtual school;

466 (3) The student shall be monitored by an assessment
467 proctor via a camera for the duration of the assessment. If
468 the assessment platform does not allow for integrated camera
469 proctoring, the student shall use two devices during the
470 assessment. The first device shall be used to take the
471 assessment and the second device shall have a functioning
472 camera and be used to monitor the student during the
473 assessment. However, if the assessment platform allows for
474 the proctor to view the student and background, then a
475 second device shall not be required;

476 (4) The virtual school or program shall make every
477 reasonable effort to maintain a student assessment taker to
478 assessment proctor ratio of ten to one or lower;

479 (5) The student shall not exit the assessment platform
480 until instructed to do so by the assigned assessment
481 proctor; and

482 (6) The student's submission of the completed
483 assessment shall be verified by the assessment administrator.

484 13. The state board of education through the
485 rulemaking process and the department of elementary and
486 secondary education in its policies and procedures shall
487 ensure that multiple content providers and learning
488 management systems are allowed, ensure digital content
489 conforms to accessibility requirements, provide an easily
490 accessible link for providers to submit courses or full-time
491 virtual schools on the Missouri course access and virtual
492 school program website, and allow any person, organization,
493 or entity to submit courses or full-time virtual schools for
494 approval. No content provider shall be allowed that is

495 unwilling to accept payments in the amount and manner as
496 described under subdivision (3) of subsection 3 of this
497 section or does not meet performance or quality standards
498 adopted by the state board of education.

499 [13.] 14. Any rule or portion of a rule, as that term
500 is defined in section 536.010, that is created under the
501 authority delegated in this section shall become effective
502 only if it complies with and is subject to all of the
503 provisions of chapter 536 and, if applicable, section
504 536.028. This section and chapter 536 are nonseverable and
505 if any of the powers vested with the general assembly
506 pursuant to chapter 536 to review, to delay the effective
507 date, or to disapprove and annul a rule are subsequently
508 held unconstitutional, then the grant of rulemaking
509 authority and any rule proposed or adopted after August 28,
510 2006, shall be invalid and void.

✓