

SENATE BILL NO. 1375

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

5349S.01I

KRISTINA MARTIN, 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Section A. Section 161.670, RSMo, is repealed and one new
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 **the relevant provisions of**
18 subsection 3 of this section[; provided that any such] **for**

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

19 **such enrollment.** Student attendance for full-time virtual
20 program students shall only be included in any district
21 pupil attendance calculation under chapter 163 and any
22 charter school pupil attendance calculation under section
23 160.415, using current-year pupil attendance for such full-
24 time virtual program pupils[; and further provided that].
25 **The average daily attendance of a full-time virtual student**
26 **who is engaged in required instructional activities under**
27 **subsection 4 of this section shall be calculated as if the**
28 **pupil's attendance percentage equaled the host district's or**
29 **charter school's prior-year average attendance percentage,**
30 **and the provisions of section 162.1250 shall not apply to**
31 **such funding calculation.** In the case of a host school
32 district enrolling one or more full-time virtual school
33 students, such enrolling district shall, **as part of its**
34 **monthly state allocation,** receive no less under the state
35 aid calculation for such students than an amount equal to
36 the state adequacy target multiplied by the weighted average
37 daily attendance of such full-time students. Students
38 residing in Missouri and enrolled in a full-time virtual
39 school program operated by a public institution of higher
40 education in this state shall be counted for a state aid
41 calculation by the department, and the department shall pay,
42 from funds dedicated to state school aid payments made under
43 section 163.031, to such institution an amount equal to the
44 state adequacy target multiplied by the weighted average
45 daily attendance of such full-time students.

46 (2) The Missouri course access and virtual school
47 program shall report to the district of residence the
48 following information about each student served by the
49 Missouri course access and virtual school program: name,
50 address, eligibility for free or reduced-price lunch,

51 limited English proficiency status, special education needs,
52 and the number of courses in which the student is enrolled.
53 The Missouri course access and virtual school program shall
54 promptly notify the resident district when a student
55 discontinues enrollment. A "full-time equivalent student"
56 is a student who is enrolled in the instructional equivalent
57 of six credits per regular term. Each Missouri course
58 access and virtual school program course shall count as one
59 class and shall generate that portion of a full-time
60 equivalent that a comparable course offered by the school
61 district would generate.

62 (3) Pursuant to an education services plan and
63 collaborative agreement under subsection 3 of this section,
64 full-time equivalent students may be allowed to use a
65 physical location of the resident school district for all or
66 some portion of ongoing instructional activity, and the
67 enrollment plan shall provide for reimbursement of costs of
68 the resident district for providing such access pursuant to
69 rules promulgated under this section by the department.

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

79 (5) A full-time virtual school program serving full-
80 time equivalent students shall be considered an attendance
81 center in the host school district and shall participate in
82 the statewide assessment system as defined in section

83 160.518. The academic performance of students enrolled in a
84 full-time virtual school program shall be assigned to the
85 designated attendance center of the full-time virtual school
86 program and shall be considered in like manner to other
87 attendance centers. The academic performance of any student
88 who disenrolls from a full-time virtual school program and
89 enrolls in a public school or charter school shall not be
90 used in determining the annual performance report score of
91 the attendance center or school district in which the
92 student enrolls for twelve months from the date of
93 enrollment.

94 (6) For the purposes of this section, a public
95 institution of higher education operating a full-time
96 virtual school program shall be subject to all requirements
97 applicable to a host school district with respect to its
98 full-time equivalent students.

99 3. (1) A student who resides in this state may enroll
100 in Missouri course access and virtual school program courses
101 of his or her choice as a part of the student's annual
102 course load each school year, with any costs associated with
103 such course or courses to be paid by the school district or
104 charter school if:

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

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

112 (2) Each school district or charter school shall adopt
113 a policy that delineates the process by which a student may
114 enroll in courses provided by the Missouri course access and

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

147 (3) For students enrolled in any Missouri course
148 access and virtual school program course in which costs
149 associated with such course are to be paid by the school
150 district or charter school as described under this
151 subdivision, the school district or charter school shall pay
152 the content provider directly on a pro rata monthly basis
153 based on a student's completion of assignments and
154 assessments. If a student discontinues enrollment, the
155 district or charter school may stop making monthly payments
156 to the content provider. No school district or charter
157 school shall pay, for any one course for a student, more
158 than the market necessary costs but in no case shall pay
159 more than fourteen percent of the state adequacy target, as
160 defined under section 163.011, as calculated at the end of
161 the most recent school year for any single, year-long course
162 and no more than seven percent of the state adequacy target
163 as described above for any single semester equivalent course.

164 (4) [For students enrolling in a full-time virtual
165 program, the department of elementary and secondary
166 education shall adopt a policy that delineates the process
167 by which] (a) A student who lives in this state may enroll
168 in a virtual program of their choice as provided in this
169 subdivision, **and the provisions of subdivisions (1) to (3)**
170 **of this subsection shall not apply to such enrollment in a**
171 **full-time virtual program.** Each host school district
172 operating a full-time virtual program under this section
173 shall **adopt**, operate and implement [the state] **an** enrollment
174 policy[, subject to] **as specified by** the provisions of this
175 subdivision. [The policy shall:

176 (a) **Require the good faith collaboration of]** The
177 student, the student's parent or guardian if the student is

178 not considered homeless, the virtual program, the host
179 district, and the resident district[;

180 **[(b)] shall collaborate in good faith to implement the**
181 **enrollment policy regarding the student's enrollment, and**
182 **the resident school district and the host school district**
183 **may mutually agree that the resident district shall offer or**
184 **continue to offer services for the student under an**
185 **agreement that includes financial terms for reimbursement by**
186 **the host school district for the necessary costs of the**
187 **resident school district providing such services. An**
188 **enrollment policy specified under this subsection shall:**

189 **a. Require a student's parent or guardian, if the**
190 **student is not considered homeless, to apply for enrollment**
191 **in a full time virtual program directly with the virtual**
192 **program;**

193 **b. Specify timelines for timely participation by the**
194 **virtual program, the host district, and resident district;**
195 **provided that the resident district shall provide any**
196 **relevant information and input on the enrollment within ten**
197 **business days of notice from the virtual program of the**
198 **enrollment application;**

199 **[(c)] c. Include a survey of the reasons for the**
200 **student's and parent's interests in participating in the**
201 **virtual program;**

202 **[(d)] d. Include consideration of available**
203 **opportunities for in-person instruction prior to enrolling a**
204 **student in a virtual program;**

205 **[(e)] e. Evaluate requests for enrollment based on**
206 **meeting the needs for a student to be successful considering**
207 **all relevant factors;**

208 **[(f)] f. Ensure that, for any enrolling student with a**
209 **covered disability, an individualized education [services**

210 plan and collaborative agreement is] **program and a related**
211 **services agreement, in cases where such agreement is needed,**
212 **are** created to provide all services required to ensure a
213 free and appropriate public education, including financial
214 terms for reimbursement by the host district for the
215 necessary costs of any virtual program, school district, or
216 public or private entity providing all or a portion of such
217 services;

218 [(g)] **g.** Require the virtual program to determine
219 whether an enrolling student will be admitted, based on the
220 enrollment policy, in consideration of all relevant factors
221 and provide the basis for its determination and any service
222 plan for the student, in writing, to the student, the
223 student's parent or guardian, the host district, and the
224 resident district; **and**

225 [(h)] **h.** Provide a process for reviewing appeals of
226 decisions made under this subdivision[; and].

227 [(i) Require] **(b)** The department [to] **shall** publish
228 an annual report based on the enrollments and enrollment
229 surveys conducted under this subdivision that provides data
230 at the statewide and district levels of sufficient detail to
231 allow analysis of trends regarding the reasons for
232 participation in the virtual program at the statewide and
233 district levels; provided that no such survey results will
234 be published in a manner that reveals individual student
235 information. The department shall also include, in the
236 annual report, data at the statewide and district levels of
237 sufficient detail to allow detection and analysis of the
238 racial, ethnic, and socio-economic balance of virtual
239 program participation among schools and districts at the
240 statewide and district levels, provided that no such survey

241 results will be published in a manner that reveals
242 individual student information.

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

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

253 (7) Virtual school programs shall monitor individual
254 student success and engagement of students enrolled in their
255 program[,] **and, for students enrolled in virtual courses on**
256 **a part-time basis, the virtual school program shall** provide
257 regular student progress reports for each student at least
258 four times per school year to the school district or charter
259 school, provide the host school district and the resident
260 school district ongoing access to academic and other
261 relevant information on student success and engagement, and
262 shall terminate or alter the course offering if it is found
263 the course [or full-time virtual school] is not meeting the
264 educational needs of the students enrolled in the course.

265 (8) The department of elementary and secondary
266 education shall monitor the aggregate performance of
267 providers and make such information available to the public
268 under subsection 11 of this section.

269 (9) Pursuant to rules to be promulgated by the
270 department of elementary and secondary education, when a
271 student transfers into a school district or charter school,
272 credits previously gained through successful passage of

273 approved courses under the Missouri course access and
274 virtual school program shall be accepted by the school
275 district or charter school.

276 (10) Pursuant to rules to be promulgated by the
277 department of elementary and secondary education, if a
278 student transfers into a school district or charter school
279 while enrolled in a Missouri course access and virtual
280 school program course or full-time virtual school, the
281 student shall continue to be enrolled in such course or
282 school.

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

289 (12) Nothing in this subsection shall require any
290 school district, charter school, virtual program, or the
291 state to provide computers, equipment, or internet access to
292 any student unless required under the education services
293 plan created for an eligible student under subdivision (4)
294 of this subsection or for an eligible student with a
295 disability to comply with federal law. An education
296 services plan may require an eligible student to have access
297 to school facilities of the resident school district during
298 regular school hours for participation and instructional
299 activities of a virtual program under this section, and the
300 education services plan shall provide for reimbursement of
301 the resident school district for such access pursuant to
302 rules adopted by the department under this section.

303 (13) The authorization process shall provide for
304 continuous monitoring of approved providers and courses.

305 The department shall revoke or suspend or take other
306 corrective action regarding the authorization of any course
307 or provider no longer meeting the requirements of the
308 program. Unless immediate action is necessary, prior to
309 revocation or suspension, the department shall notify the
310 provider and give the provider a reasonable time period to
311 take corrective action to avoid revocation or suspension.
312 The process shall provide for periodic renewal of
313 authorization no less frequently than once every three years.

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

319 (15) Any online course or virtual program offered by a
320 school district or charter school, including those offered
321 prior to August 28, 2018, which meets the requirements of
322 section 162.1250 shall be automatically approved to
323 participate in the Missouri course access and virtual school
324 program. Such course or program shall be subject to
325 periodic renewal. A school district or charter school
326 offering such a course or virtual school program shall be
327 deemed an approved provider.

328 **(16) A host district may contract with a provider to**
329 **perform any required services involved with delivering a**
330 **full time virtual education.**

331 4. (1) As used in this subsection, the term
332 "instructional activities" means classroom-based or
333 nonclassroom-based activities that a student shall be
334 expected to complete, participate in, or attend during any
335 given school day, such as:

336 (a) Online logins to curricula or programs;

337 (b) Offline activities;

338 (c) Completed assignments within a particular program,
339 curriculum, or class;

340 (d) Testing;

341 (e) Face-to-face communications or meetings with
342 school staff;

343 (f) Telephone or video conferences with school staff;

344 (g) School-sanctioned field trips; or

345 (h) Orientation.

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

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

363 (4) If a full-time virtual school disenrolls a student
364 under subdivision (3) of this subsection, the school shall
365 immediately provide written notification to such student's
366 school district of residence. The student's school district
367 of residence shall then provide to the parents or guardian
368 of the student a written list of available educational

369 options and promptly enroll the student in the selected
370 option. Any student disenrolled from a full-time virtual
371 school shall be prohibited from reenrolling in the same
372 virtual school for the remainder of the school year.

373 **(5) For the purpose of subsection 2 of this section,**
374 **the average daily attendance of a full-time virtual student**
375 **who is completing required instructional activities under**
376 **this subsection shall be calculated as if the pupil's**
377 **attendance percentage equaled the host district's or charter**
378 **school's prior-year average attendance percentage.**

379 5. School districts or charter schools shall inform
380 parents of their child's right to participate in the
381 program. Availability of the program shall be made clear in
382 the parent handbook, registration documents, and featured on
383 the home page of the school district or charter school's
384 website.

385 6. The department shall:

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

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

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

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

396 (3) Review, pursuant to the authorization process,
397 proposals from providers to provide a comprehensive, full-
398 time equivalent course of study for students through the
399 Missouri course access and virtual school program. The
400 department shall ensure that these comprehensive courses of

401 study align to state academic standards and that there is
402 consistency and compatibility in the curriculum used by all
403 providers from one grade level to the next grade level;

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

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

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

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

423 9. Except as specified in this section and as may be
424 specified by rule of the state board of education, the
425 Missouri course access and virtual school program shall
426 comply with all state laws and regulations applicable to
427 school districts, including but not limited to the Missouri
428 school improvement program (MSIP), annual performance report
429 (APR), teacher certification, curriculum standards, audit
430 requirements under chapter 165, access to public records
431 under chapter 610, and school accountability report cards
432 under section 160.522. Teachers and administrators employed

433 by a virtual provider shall be considered to be employed in
434 a public school for all certification purposes under chapter
435 168.

436 10. The department shall submit and publicly publish
437 an annual report on the Missouri course access and virtual
438 school program and the participation of entities to the
439 governor, the chair and ranking member of the senate
440 education committee, and the chair and ranking member of the
441 house of representatives elementary and secondary education
442 committee. The report shall at a minimum include the
443 following information:

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

447 (2) The number of authorized providers;

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

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

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

454 (6) Student outcome data, including completion rates,
455 student learning gains, student performance on state or
456 nationally accepted assessments, by subject and grade level
457 per provider. This outcome data shall be published in a
458 manner that protects student privacy;

459 (7) The costs per course;

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

463 11. (1) The department shall be responsible for
464 creating the Missouri course access and virtual school

465 program catalog providing a listing of all courses
466 authorized and available to students in the state, detailed
467 information, including costs per course, about the courses
468 to inform student enrollment decisions, and the ability for
469 students to submit their course enrollments.

470 (2) On or before January 1, 2023, the department shall
471 publish on its website, and distribute to all school
472 districts and charter schools in this state, a guidance
473 document that details the options for virtual course access
474 and full-time virtual course access for all students in the
475 state. The guidance document shall include a complete and
476 readily understood description of the applicable enrollment
477 processes including the opportunity for students to enroll
478 and the roles and responsibilities of the student, parent,
479 virtual provider, school district or districts, and charter
480 schools, as appropriate. The guidance document shall be
481 distributed in written and electronic form to all school
482 districts, charter schools, and virtual providers. School
483 districts and charter schools shall provide a copy of the
484 guidance document to every pupil and parent or legal
485 guardian of every pupil enrolled in the district or charter
486 school at the beginning of each school year and upon
487 enrollment for every pupil enrolling at a different time of
488 the school year. School districts and charter schools shall
489 provide a readily viewable link to the electronic version of
490 the guidance document on the main page of the district's or
491 charter school's website.

492 12. The state board of education through the
493 rulemaking process and the department of elementary and
494 secondary education in its policies and procedures shall
495 ensure that multiple content providers and learning
496 management systems are allowed, ensure digital content

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

507 13. Any rule or portion of a rule, as that term is
508 defined in section 536.010, that is created under the
509 authority delegated in this section shall become effective
510 only if it complies with and is subject to all of the
511 provisions of chapter 536 and, if applicable, section
512 536.028. This section and chapter 536 are nonseverable and
513 if any of the powers vested with the general assembly
514 pursuant to chapter 536 to review, to delay the effective
515 date, or to disapprove and annul a rule are subsequently
516 held unconstitutional, then the grant of rulemaking
517 authority and any rule proposed or adopted after August 28,
518 2006, shall be invalid and void.

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