

FIRST REGULAR SESSION

SENATE BILL NO. 266

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

0642S.01H

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Section A. Section 161.670, RSMo, is repealed and one new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 the relevant provisions of
18 subsection 3 of this section for such enrollment. Student

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

19 attendance for full-time virtual program students shall only
20 be included in any district pupil attendance calculation
21 under chapter 163 using current-year pupil attendance for
22 such full-time virtual program pupils. For the purpose of
23 calculating average daily attendance in full-time virtual
24 programs under this section, average daily attendance shall
25 be defined as the quotient or the sum of the quotients
26 obtained by dividing the total number of hours attended in a
27 term by enrolled pupils between the ages of five and twenty-
28 one by the actual number of hours that the program was in
29 session in that term, and the provisions of section 162.1250
30 shall not apply to such funding calculation. Such
31 calculation shall be generated by the virtual provider and
32 provided to the host district for submission to the
33 department of elementary and secondary education. Such
34 students may complete their instructional activities, as
35 defined in subsection 4 of this section, during any hour of
36 the day and during any day of the week. The hours attended
37 for each enrolled pupil shall be documented by the pupil's
38 weekly progress in the educational program according to a
39 process determined by the virtual program and published
40 annually in the virtual program's enrollment handbook or
41 policy. To the average daily attendance of the following
42 school term shall be added the full-time equivalent average
43 daily attendance of summer school students. In the case of
44 a host school district enrolling one or more full-time
45 virtual school students, such enrolling district shall, as
46 part of its monthly state allocation, receive no less under
47 the state aid calculation for such students than an amount
48 equal to the state adequacy target multiplied by the
49 weighted average daily attendance of such full-time
50 students. Students residing in Missouri and enrolled in a

51 full-time virtual school program operated by a public
52 institution of higher education in this state shall be
53 counted for a state aid calculation by the department, and
54 the department shall pay, from funds dedicated to state
55 school aid payments made under section 163.031, to such
56 institution an amount equal to the state adequacy target
57 multiplied by the weighted average daily attendance of such
58 full-time students.

59 (2) The Missouri course access and virtual school
60 program shall report to the district of residence the
61 following information about each student served by the
62 Missouri course access and virtual school program: name,
63 address, eligibility for free or reduced-price lunch,
64 limited English proficiency status, special education needs,
65 and the number of courses in which the student is enrolled.
66 The Missouri course access and virtual school program shall
67 promptly notify the resident district when a student
68 discontinues enrollment. A "full-time equivalent student"
69 is a student who is enrolled in the instructional equivalent
70 of six credits per regular term. Each Missouri course
71 access and virtual school program course shall count as one
72 class and shall generate that portion of a full-time
73 equivalent that a comparable course offered by the school
74 district would generate.

75 (3) Pursuant to an education services plan and
76 collaborative agreement under subsection 3 of this section,
77 full-time equivalent students may be allowed to use a
78 physical location of the resident school district for all or
79 some portion of ongoing instructional activity, and the
80 enrollment plan shall provide for reimbursement of costs of
81 the resident district for providing such access pursuant to
82 rules promulgated under this section by the department.

83 (4) In no case shall more than the full-time
84 equivalency of a regular term of attendance for a single
85 student be used to claim state aid. Full-time equivalent
86 student credit completed shall be reported to the department
87 of elementary and secondary education in the manner
88 prescribed by the department. Nothing in this section shall
89 prohibit students from enrolling in additional courses under
90 a separate agreement that includes terms for paying tuition
91 or course fees.

92 (5) A full-time virtual school program serving full-
93 time equivalent students shall be considered an attendance
94 center in the host school district and shall participate in
95 the statewide assessment system as defined in section
96 160.518. The academic performance of students enrolled in a
97 full-time virtual school program shall be assigned to the
98 designated attendance center of the full-time virtual school
99 program and shall be considered in like manner to other
100 attendance centers. The academic performance of any student
101 who disenrolls from a full-time virtual school program and
102 enrolls in a public school or charter school shall not be
103 used in determining the annual performance report score of
104 the attendance center or school district in which the
105 student enrolls for twelve months from the date of
106 enrollment.

107 (6) For the purposes of this section, a public
108 institution of higher education operating a full-time
109 virtual school program shall be subject to all requirements
110 applicable to a host school district with respect to its
111 full-time equivalent students.

112 3. (1) A student who resides in this state may enroll
113 in Missouri course access and virtual school program courses
114 of his or her choice as a part of the student's annual

115 course load each school year, with any costs associated with
116 such course or courses to be paid by the school district or
117 charter school if:

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

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

125 (2) Each school district or charter school shall adopt
126 a policy that delineates the process by which a student may
127 enroll in courses provided by the Missouri course access and
128 virtual school program that is substantially similar to the
129 typical process by which a district student would enroll in
130 courses offered by the school district and a charter school
131 student would enroll in courses offered by the charter
132 school. The policy may include consultation with the
133 school's counselor and may include parental notification or
134 authorization. The policy shall ensure that available
135 opportunities for in-person instruction are considered prior
136 to moving a student to virtual courses. The policy shall
137 allow for continuous enrollment throughout the school year.
138 If the school district or charter school disapproves a
139 student's request to enroll in a course or courses provided
140 by the Missouri course access and virtual school program,
141 the reason shall be provided in writing and it shall be for
142 good cause. Good cause justification to disapprove a
143 student's request for enrollment in a course shall be a
144 determination that doing so is not in the best educational
145 interest of the student, and shall be consistent with the
146 determination that would be made for such course request

147 under the process by which a district student would enroll
148 in a similar course offered by the school district and a
149 charter school student would enroll in a similar course
150 offered by the charter school, except that the determination
151 may consider the suitability of virtual courses for the
152 student based on prior participation in virtual courses by
153 the student. Appeals of any course denials under this
154 subsection shall be considered under a policy that is
155 substantially similar to the typical process by which
156 appeals would be considered for a student seeking to enroll
157 in courses offered by the school district and a charter
158 school student seeking to enroll in courses offered by the
159 charter school.

160 (3) For students enrolled in any Missouri course
161 access and virtual school program course in which costs
162 associated with such course are to be paid by the school
163 district or charter school as described under this
164 subdivision, the school district or charter school shall pay
165 the content provider directly on a pro rata monthly basis
166 based on a student's completion of assignments and
167 assessments. If a student discontinues enrollment, the
168 district or charter school may stop making monthly payments
169 to the content provider. No school district or charter
170 school shall pay, for any one course for a student, more
171 than the market necessary costs but in no case shall pay
172 more than fourteen percent of the state adequacy target, as
173 defined under section 163.011, as calculated at the end of
174 the most recent school year for any single, year-long course
175 and no more than seven percent of the state adequacy target
176 as described above for any single semester equivalent course.

177 (4) (a) A student who lives in this state may enroll
178 in a virtual program of their choice as provided in this

179 subdivision, and the provisions of subdivisions (1) to (3)
180 of this subsection shall not apply to such enrollment in a
181 full-time virtual program. Each host school district
182 operating a full-time virtual program under this section
183 shall adopt, operate and implement an enrollment policy as
184 specified by the provisions of this subdivision. The
185 student, the student's parent or guardian if the student is
186 not considered homeless, the virtual program, the host
187 district, and the resident district shall collaborate in
188 good faith to implement the enrollment policy regarding the
189 student's enrollment, and the resident school district and
190 the host school district may mutually agree that the
191 resident district shall offer or continue to offer services
192 for the student under an agreement that includes financial
193 terms for reimbursement by the host school district for the
194 necessary costs of the resident school district providing
195 such services. An enrollment policy specified under this
196 subsection shall:

197 a. Require a student's parent or guardian, if the
198 student is not considered homeless, to apply for enrollment
199 in a full-time virtual program directly with the virtual
200 program;

201 b. Specify timelines for timely participation by the
202 virtual program, the host district, and resident district;
203 provided that the resident district shall provide any
204 relevant information and input on the enrollment within ten
205 business days of notice from the virtual program of the
206 enrollment application;

207 c. Include a survey of the reasons for the student's
208 and parent's interests in participating in the virtual
209 program;

210 d. Include consideration of available opportunities
211 for in-person instruction prior to enrolling a student in a
212 virtual program;

213 e. Evaluate requests for enrollment based on meeting
214 the needs for a student to be successful considering all
215 relevant factors;

216 f. Ensure that, for any enrolling student with a
217 covered disability, an individualized education program and
218 a related services agreement, in cases where such agreement
219 is needed, are created to provide all services required to
220 ensure a free and appropriate public education, including
221 financial terms for reimbursement by the host district for
222 the necessary costs of any virtual program, school district,
223 or public or private entity providing all or a portion of
224 such services;

225 g. Require the virtual program to determine whether an
226 enrolling student will be admitted, based on the enrollment
227 policy, in consideration of all relevant factors and provide
228 the basis for its determination and any service plan for the
229 student, in writing, to the student, the student's parent or
230 guardian, the host district, and the resident district; and

231 h. Provide a process for reviewing appeals of
232 decisions made under this subdivision.

233 (b) The department shall publish an annual report
234 based on the enrollments and enrollment surveys conducted
235 under this subdivision that provides data at the statewide
236 and district levels of sufficient detail to allow analysis
237 of trends regarding the reasons for participation in the
238 virtual program at the statewide and district levels;
239 provided that no such survey results will be published in a
240 manner that reveals individual student information. The
241 department shall also include, in the annual report, data at

242 the statewide and district levels of sufficient detail to
243 allow detection and analysis of the racial, ethnic, and
244 socio-economic balance of virtual program participation
245 among schools and districts at the statewide and district
246 levels, provided that no such survey results will be
247 published in a manner that reveals individual student
248 information.

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

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

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

271 (8) The department of elementary and secondary
272 education shall monitor the aggregate performance of

273 providers and make such information available to the public
274 under subsection 11 of this section.

275 (9) Pursuant to rules to be promulgated by the
276 department of elementary and secondary education, when a
277 student transfers into a school district or charter school,
278 credits previously gained through successful passage of
279 approved courses under the Missouri course access and
280 virtual school program shall be accepted by the school
281 district or charter school.

282 (10) Pursuant to rules to be promulgated by the
283 department of elementary and secondary education, if a
284 student transfers into a school district or charter school
285 while enrolled in a Missouri course access and virtual
286 school program course or full-time virtual school, the
287 student shall continue to be enrolled in such course or
288 school.

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

295 (12) Nothing in this subsection shall require any
296 school district, charter school, virtual program, or the
297 state to provide computers, equipment, or internet access to
298 any student unless required under the education services
299 plan created for an eligible student under subdivision (4)
300 of this subsection or for an eligible student with a
301 disability to comply with federal law. An education
302 services plan may require an eligible student to have access
303 to school facilities of the resident school district during
304 regular school hours for participation and instructional

305 activities of a virtual program under this section, and the
306 education services plan shall provide for reimbursement of
307 the resident school district for such access pursuant to
308 rules adopted by the department under this section.

309 (13) The authorization process shall provide for
310 continuous monitoring of approved providers and courses.
311 The department shall revoke or suspend or take other
312 corrective action regarding the authorization of any course
313 or provider no longer meeting the requirements of the
314 program. Unless immediate action is necessary, prior to
315 revocation or suspension, the department shall notify the
316 provider and give the provider a reasonable time period to
317 take corrective action to avoid revocation or suspension.
318 The process shall provide for periodic renewal of
319 authorization no less frequently than once every three years.

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

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

334 (16) A host district may contract with a provider to
335 perform any required services involved with delivering a
336 full-time virtual education.

337 4. (1) As used in this subsection, the term
338 "instructional activities" means classroom-based or
339 nonclassroom-based activities that a student shall be
340 expected to complete, participate in, or attend during any
341 given school day, such as:

342 (a) Online logins to curricula or programs;

343 (b) Offline activities;

344 (c) Completed assignments within a particular program,
345 curriculum, or class;

346 (d) Testing;

347 (e) Face-to-face communications or meetings with
348 school staff;

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

350 (g) School-sanctioned field trips; or

351 (h) Orientation.

352 (2) A full-time virtual school shall submit a
353 notification to the parent or guardian of any student who is
354 not consistently engaged in instructional activities and
355 shall provide regular student progress reports for each
356 student at least four times per school year.

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

369 relevant, and such information shall be considered prior to
370 any final decision.

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

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

387 6. The department shall:

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

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

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

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

398 (3) Review, pursuant to the authorization process,
399 proposals from providers to provide a comprehensive, full-
400 time equivalent course of study for students through the

401 Missouri course access and virtual school program. The
402 department shall ensure that these comprehensive courses of
403 study align to state academic standards and that there is
404 consistency and compatibility in the curriculum used by all
405 providers from one grade level to the next grade level;

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

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

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

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

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

433 under chapter 610, and school accountability report cards
434 under section 160.522. Teachers and administrators employed
435 by a virtual provider shall be considered to be employed in
436 a public school for all certification purposes under chapter
437 168.

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

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

449 (2) The number of authorized providers;

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

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

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

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

461 (7) The costs per course;

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

465 11. (1) The department shall be responsible for
466 creating the Missouri course access and virtual school
467 program catalog providing a listing of all courses
468 authorized and available to students in the state, detailed
469 information, including costs per course, about the courses
470 to inform student enrollment decisions, and the ability for
471 students to submit their course enrollments.

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

494 12. **Any virtual school or program may administer any**
495 **statewide assessment required pursuant to the provisions of**
496 **section 160.518 in a virtual setting that aligns with the**

497 student's regular academic instruction. Any administration
498 of a virtual statewide assessment shall meet the following
499 conditions:

500 (1) The assessment shall be administered to the
501 student at an assigned date and time;

502 (2) The assessment shall be administered during a
503 synchronous assessment session initiated and managed by an
504 employee of the virtual school;

505 (3) The student shall be monitored by an assessment
506 proctor via a camera for the duration of the assessment. If
507 the assessment platform does not allow for integrated camera
508 proctoring, the student shall use two devices during the
509 assessment. The first device shall be used to take the
510 assessment and the second device shall have a functioning
511 camera and be used to monitor the student during the
512 assessment. However, if the assessment platform allows for
513 the proctor to view the student and background, then a
514 second device shall not be required;

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

518 (5) The student shall not exit the assessment platform
519 until instructed to do so by the assigned assessment
520 proctor; and

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

523 13. The state board of education through the
524 rulemaking process and the department of elementary and
525 secondary education in its policies and procedures shall
526 ensure that multiple content providers and learning
527 management systems are allowed, ensure digital content
528 conforms to accessibility requirements, provide an easily

529 accessible link for providers to submit courses or full-time
530 virtual schools on the Missouri course access and virtual
531 school program website, and allow any person, organization,
532 or entity to submit courses or full-time virtual schools for
533 approval. No content provider shall be allowed that is
534 unwilling to accept payments in the amount and manner as
535 described under subdivision (3) of subsection 3 of this
536 section or does not meet performance or quality standards
537 adopted by the state board of education.

538 [13.] 14. Any rule or portion of a rule, as that term
539 is defined in section 536.010, that is created under the
540 authority delegated in this section shall become effective
541 only if it complies with and is subject to all of the
542 provisions of chapter 536 and, if applicable, section
543 536.028. This section and chapter 536 are nonseverable and
544 if any of the powers vested with the general assembly
545 pursuant to chapter 536 to review, to delay the effective
546 date, or to disapprove and annul a rule are subsequently
547 held unconstitutional, then the grant of rulemaking
548 authority and any rule proposed or adopted after August 28,
549 2006, shall be invalid and void.

✓