

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 266

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

0642S.02P

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Section A. Section 161.670, RSMo, is repealed and one new  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

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

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  
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

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

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

(3) Pursuant to an education services plan and collaborative agreement under subsection 3 of this section, full-time equivalent students may be allowed to use a physical location of the resident school district for all or 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

determination that doing so is not in the best educational interest of the student, and shall be consistent with the determination that would be made for such course request under the process by which a district student would enroll in a similar course offered by the school district and a charter school student would enroll in a similar course offered by the charter school, except that the determination may consider the suitability of virtual courses for the student based on prior participation in virtual courses by the student. Appeals of any course denials under this subsection shall be considered under a policy that is substantially similar to the typical process by which appeals would be considered for a student seeking to enroll in courses offered by the school district and a charter school student seeking to enroll in courses offered by the charter school.

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

and no more than seven percent of the state adequacy target as described above for any single semester equivalent course.

(4) (a) A student who lives in this state may enroll in a virtual program of their choice as provided in this subdivision, and the provisions of subdivisions (1) to (3) of this subsection shall not apply to such enrollment in a full-time virtual program. Each host school district operating a full-time virtual program under this section shall adopt, operate and implement an enrollment policy as specified by the provisions of this subdivision. The student, the student's parent or guardian if the student is not considered homeless, the virtual program, the host district, and the resident district shall collaborate in good faith to implement the enrollment policy regarding the student's enrollment, and the resident school district and the host school district may mutually agree that the resident district shall offer or continue to offer services for the student under an agreement that includes financial terms for reimbursement by the host school district for the necessary costs of the resident school district providing such services. An enrollment policy specified under this subsection shall:

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

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

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

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

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

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

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

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

(b) The department shall publish an annual report based on the enrollments and enrollment surveys conducted under this subdivision that provides data at the statewide and district levels of sufficient detail to allow analysis of trends regarding the reasons for participation in the virtual program at the statewide and district levels;



provided that no such survey results will be published in a manner that reveals individual student information. The department shall also include, in the annual report, data at the statewide and district levels of sufficient detail to allow detection and analysis of the racial, ethnic, and socio-economic balance of virtual program participation among schools and districts at the statewide and district levels, provided that no such survey results will be published in a manner that reveals individual student information.

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

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

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

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

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

- (a) Online logins to curricula or programs;
- (b) Offline activities;
- (c) Completed assignments within a particular program, curriculum, or class;
- (d) Testing;
- (e) Face-to-face communications or meetings with school staff;
- (f) Telephone or video conferences with school staff;
- (g) School-sanctioned field trips; or
- (h) Orientation.

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

(3) Each full-time virtual school shall develop, adopt, and post on the school's website a policy setting forth the consequences for a student who fails to complete the required instructional activities. Such policy shall state, at a minimum, that if a student fails to complete the instructional activities after receiving a notification under subdivision (2) of this subsection, and after reasonable intervention strategies have been implemented, that the student shall be subject to certain consequences

which may include disenrollment from the school. Prior to any disenrollment, the parent or guardian shall have the opportunity to present any information that the parent deems relevant, and such information shall be considered prior to any final decision.

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

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

6. The department shall:

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

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

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

(b) Meet the criteria described in subdivision (3) of 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, except for college readiness or workforce  
497 readiness assessments provided by a national college and  
498 career readiness assessment provider, in a virtual setting  
499 that aligns with the student's regular academic  
500 instruction. Any administration of a virtual statewide  
501 assessment shall meet the following conditions:

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

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

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

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

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

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

525           **13.** The state board of education through the  
526 rulemaking process and the department of elementary and  
527 secondary education in its policies and procedures shall  
528 ensure that multiple content providers and learning  
529 management systems are allowed, ensure digital content  
530 conforms to accessibility requirements, provide an easily  
531 accessible link for providers to submit courses or full-time  
532 virtual schools on the Missouri course access and virtual  
533 school program website, and allow any person, organization,  
534 or entity to submit courses or full-time virtual schools for  
535 approval. No content provider shall be allowed that is  
536 unwilling to accept payments in the amount and manner as  
537 described under subdivision (3) of subsection 3 of this  
538 section or does not meet performance or quality standards  
539 adopted by the state board of education.

540           **[13.] 14.** Any rule or portion of a rule, as that term  
541 is defined in section 536.010, that is created under the  
542 authority delegated in this section shall become effective  
543 only if it complies with and is subject to all of the  
544 provisions of chapter 536 and, if applicable, section  
545 536.028. This section and chapter 536 are nonseverable and  
546 if any of the powers vested with the general assembly  
547 pursuant to chapter 536 to review, to delay the effective  
548 date, or to disapprove and annul a rule are subsequently  
549 held unconstitutional, then the grant of rulemaking  
550 authority and any rule proposed or adopted after August 28,  
551 2006, shall be invalid and void.

✓