

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 266
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Section A. Section 161.670, RSMo, is repealed and one new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
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

such full-time virtual program pupils. For the purpose of calculating average daily attendance in full-time virtual programs under this section, average daily attendance shall be defined as the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by enrolled pupils between the ages of five and twenty-one by the actual number of hours that the program was in session in that term, and the provisions of section 162.1250 shall not apply to such funding calculation. Such calculation shall be generated by the virtual provider and provided to the host district for submission to the department of elementary and secondary education. Such students may complete their instructional activities, as defined in subsection 4 of this section, during any hour of the day and during any day of the week. The hours attended for each enrolled pupil shall be documented by the pupil's weekly progress in the educational program according to a process determined by the virtual program and published annually in the virtual program's enrollment handbook or policy. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. In the case of a host school district enrolling one or more full-time virtual school students, such enrolling district shall, as part of its monthly state allocation, receive no less under 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

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

prescribed by the department. Nothing in this section shall prohibit students from enrolling in additional courses under a separate agreement that includes terms for paying tuition or course fees.

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

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

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

(a) The student is enrolled full-time in a public 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

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.

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

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

(10) Pursuant to rules to be promulgated by the department of elementary and secondary education, if a 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.

The process shall provide for periodic renewal of authorization no less frequently than once every three years.

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

(15) Any online course or virtual program offered by a school district or charter school, including those offered prior to August 28, 2018, which meets the requirements of section 162.1250 shall be automatically approved to participate in the Missouri course access and virtual school program. Such course or program shall be subject to periodic renewal. A school district or charter school offering such a course or virtual school program shall be 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

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

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;

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

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

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

7. The department shall publish the process established under this section, including any deadlines and any guidelines applicable to the submission and authorization process for course or full-time virtual school 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;

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

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

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

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

(7) The costs per course;

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

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

(2) On or before January 1, 2023, the department shall publish on its website, and distribute to all school districts and charter schools in this state, a guidance document that details the options for virtual course access and full-time virtual course access for all students in the state. The guidance document shall include a complete and readily understood description of the applicable enrollment processes including the opportunity for students to enroll and the roles and responsibilities of the student, parent, virtual provider, school district or districts, and charter schools, as appropriate. The guidance document shall be

distributed in written and electronic form to all school districts, charter schools, and virtual providers. School districts and charter schools shall provide a copy of the guidance document to every pupil and parent or legal guardian of every pupil enrolled in the district or charter school at the beginning of each school year and upon enrollment for every pupil enrolling at a different time of the school year. School districts and charter schools shall provide a readily viewable link to the electronic version of the guidance document on the main page of the district's or charter school's website.

12. Any virtual school or program may administer any statewide assessment required pursuant to the provisions of section 160.518, except for college readiness or workforce readiness assessments provided by a national college and career readiness assessment provider, in a virtual setting that aligns with the student's regular academic instruction. Any administration of a virtual statewide assessment shall meet the following conditions:

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

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

(3) The student shall be monitored by an assessment proctor via a camera for the duration of the assessment. If the assessment platform does not allow for integrated camera proctoring, the student shall use two devices during the assessment. The first device shall be used to take the assessment and the second device shall have a functioning camera and be used to monitor the student during the assessment. However, if the assessment platform allows for

the proctor to view the student and background, then a second device shall not be required;

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

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

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

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

[13.] 14. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly 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.