

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 220
103RD GENERAL ASSEMBLY

0249H.03C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 161.670 and 163.044, RSMo, and to enact in lieu thereof two new sections relating to virtual schools.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 161.670 and 163.044, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 161.670 and 163.044, to read as follows:

161.670. 1. Notwithstanding any other law, prior to July 1, 2007, the state board of
2 education shall establish the "Missouri Course Access and Virtual School Program" to serve
3 school-age students residing in the state. The Missouri course access and virtual school
4 program shall offer nonclassroom-based instruction in a virtual setting using technology,
5 intranet, or internet methods of communication. Any student under the age of twenty-one in
6 grades kindergarten through twelve who resides in this state shall be eligible to enroll in the
7 Missouri course access and virtual school program pursuant to subsection 3 of this section.
8 2. (1) For purposes of calculation and distribution of state school aid, students
9 enrolled in the Missouri course access and virtual school program shall be included in the
10 student enrollment of the school district in which the student is enrolled under the relevant
11 provisions of subsection 3 of this section for such enrollment. Student attendance for full-
12 time virtual program students shall only be included in any district pupil attendance
13 calculation under chapter 163 using current-year pupil attendance for such full-time virtual
14 program pupils. For the purpose of calculating average daily attendance in full-time virtual
15 programs under this section, average daily attendance shall be defined as the quotient or the
16 sum of the quotients obtained by dividing the total number of hours attended in a term by
17 enrolled pupils between the ages of five and twenty-one by the actual number of hours that
18 the program was in session in that term, and the provisions of section 162.1250 shall not

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 apply to such funding calculation. Such calculation shall be generated by the virtual provider
20 and provided to the host district for submission to the department of elementary and
21 secondary education. Such students may complete their instructional activities, as defined in
22 subsection 4 of this section, during any hour of the day and during any day of the week. The
23 hours attended for each enrolled pupil shall be documented by the pupil's weekly progress in
24 the educational program according to a process determined by the virtual program and
25 published annually in the virtual program's enrollment handbook or policy. To the average
26 daily attendance of the following school term shall be added the full-time equivalent average
27 daily attendance of summer school students. In the case of a host school district enrolling one
28 or more full-time virtual school students, such enrolling district shall, as part of its monthly
29 state allocation, receive no less under the state aid calculation for such students than an
30 amount equal to the state adequacy target multiplied by the weighted average daily attendance
31 of such full-time students. Students residing in Missouri and enrolled in a full-time virtual
32 school program operated by a public institution of higher education in this state shall be
33 counted for a state aid calculation by the department, and the department shall pay, from
34 funds dedicated to state school aid payments made under section 163.031, to such institution
35 an amount equal to the state adequacy target multiplied by the weighted average daily
36 attendance of such full-time students.

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

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

52 (4) In no case shall more than the full-time equivalency of a regular term of
53 attendance for a single student be used to claim state aid. Full-time equivalent student credit
54 completed shall be reported to the department of elementary and secondary education in the
55 manner prescribed by the department. Nothing in this section shall prohibit students from

56 enrolling in additional courses under a separate agreement that includes terms for paying
57 tuition or course fees.

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

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

70 3. (1) A student who resides in this state may enroll in Missouri course access and
71 virtual school program courses of his or her choice as a part of the student's annual course
72 load each school year, with any costs associated with such course or courses to be paid by the
73 school district or charter school if:

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

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

79 (2) Each school district or charter school shall adopt a policy that delineates the
80 process by which a student may enroll in courses provided by the Missouri course access and
81 virtual school program that is substantially similar to the typical process by which a district
82 student would enroll in courses offered by the school district and a charter school student
83 would enroll in courses offered by the charter school. The policy may include consultation
84 with the school's counselor and may include parental notification or authorization. The policy
85 shall ensure that available opportunities for in-person instruction are considered prior to
86 moving a student to virtual courses. The policy shall allow for continuous enrollment
87 throughout the school year. If the school district or charter school disapproves a student's
88 request to enroll in a course or courses provided by the Missouri course access and virtual
89 school program, the reason shall be provided in writing and it shall be for good cause. Good
90 cause justification to disapprove a student's request for enrollment in a course shall be a
91 determination that doing so is not in the best educational interest of the student, and shall be
92 consistent with the determination that would be made for such course request under the

93 process by which a district student would enroll in a similar course offered by the school
94 district and a charter school student would enroll in a similar course offered by the charter
95 school, except that the determination may consider the suitability of virtual courses for the
96 student based on prior participation in virtual courses by the student. Appeals of any course
97 denials under this subsection shall be considered under a policy that is substantially similar to
98 the typical process by which appeals would be considered for a student seeking to enroll in
99 courses offered by the school district and a charter school student seeking to enroll in courses
100 offered by the charter school.

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

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

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

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

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

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

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

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

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

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

147 (b) The department shall publish an annual report based on the enrollments and
148 enrollment surveys conducted under this subdivision that provides data at the statewide and
149 district levels of sufficient detail to allow analysis of trends regarding the reasons for
150 participation in the virtual program at the statewide and district levels; provided that no such
151 survey results will be published in a manner that reveals individual student information. The
152 department shall also include, in the annual report, data at the statewide and district levels of
153 sufficient detail to allow detection and analysis of the racial, ethnic, and socio-economic
154 balance of virtual program participation among schools and districts at the statewide and
155 district levels, provided that no such survey results will be published in a manner that reveals
156 individual student information.

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

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

164 (7) Virtual school programs shall monitor individual student success and engagement
165 of students enrolled in their program and, for students enrolled in virtual courses on a part-
166 time basis, the virtual school program shall provide regular student progress reports for each

167 student at least four times per school year to the school district or charter school, provide the
168 host school district and the resident school district ongoing access to academic and other
169 relevant information on student success and engagement, and shall terminate or alter the
170 course offering if it is found the course is not meeting the educational needs of the students
171 enrolled in the course.

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

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

179 (10) Pursuant to rules to be promulgated by the department of elementary and
180 secondary education, if a student transfers into a school district or charter school while
181 enrolled in a Missouri course access and virtual school program course or full-time virtual
182 school, the student shall continue to be enrolled in such course or school.

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

187 (12) Nothing in this subsection shall require any school district, charter school, virtual
188 program, or the state to provide computers, equipment, or internet access to any student
189 unless required under the education services plan created for an eligible student under
190 subdivision (4) of this subsection or for an eligible student with a disability to comply with
191 federal law. An education services plan may require an eligible student to have access to
192 school facilities of the resident school district during regular school hours for participation
193 and instructional activities of a virtual program under this section, and the education services
194 plan shall provide for reimbursement of the resident school district for such access pursuant to
195 rules adopted by the department under this section.

196 (13) The authorization process shall provide for continuous monitoring of approved
197 providers and courses. The department shall revoke or suspend or take other corrective action
198 regarding the authorization of any course or provider no longer meeting the requirements of
199 the program. Unless immediate action is necessary, prior to revocation or suspension, the
200 department shall notify the provider and give the provider a reasonable time period to take
201 corrective action to avoid revocation or suspension. The process shall provide for periodic
202 renewal of authorization no less frequently than once every three years.

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

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

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

214 4. (1) As used in this subsection, the term "instructional activities" means classroom-
215 based or nonclassroom-based activities that a student shall be expected to complete,
216 participate in, or attend during any given school day, such as:

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

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

228 (3) Each full-time virtual school shall develop, adopt, and post on the school's website
229 a policy setting forth the consequences for a student who fails to complete the required
230 instructional activities. Such policy shall state, at a minimum, that if a student fails to
231 complete the instructional activities after receiving a notification under subdivision (2) of this
232 subsection, and after reasonable intervention strategies have been implemented, that the
233 student shall be subject to certain consequences which may include disenrollment from the
234 school. Prior to any disenrollment, the parent or guardian shall have the opportunity to
235 present any information that the parent deems relevant, and such information shall be
236 considered prior to any final decision.

237 (4) If a full-time virtual school disenrolls a student under subdivision (3) of this
238 subsection, the school shall immediately provide written notification to such student's school
239 district of residence. The student's school district of residence shall then provide to the

240 parents or guardian of the student a written list of available educational options and promptly
241 enroll the student in the selected option. Any student disenrolled from a full-time virtual
242 school shall be prohibited from reenrolling in the same virtual school for the remainder of the
243 school year.

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

248 6. The department shall:

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

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

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

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

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

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

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

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

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

273 9. Except as specified in this section and as may be specified by rule of the state board
274 of education, the Missouri course access and virtual school program shall comply with all
275 state laws and regulations applicable to school districts, including but not limited to the
276 Missouri school improvement program (MSIP), annual performance report (APR), teacher

277 certification, curriculum standards, audit requirements under chapter 165, access to public
278 records under chapter 610, and school accountability report cards under section 160.522.
279 Teachers and administrators employed by a virtual provider shall be considered to be
280 employed in a public school for all certification purposes under chapter 168.

281 10. The department shall submit and publicly publish an annual report on the
282 Missouri course access and virtual school program and the participation of entities to the
283 governor, the chair and ranking member of the senate education committee, and the chair and
284 ranking member of the house of representatives elementary and secondary education
285 committee. The report shall at a minimum include the following information:

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

288 (2) The number of authorized providers;

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

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

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

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

297 (7) The costs per course;

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

300 11. (1) The department shall be responsible for creating the Missouri course access
301 and virtual school program catalog providing a listing of all courses authorized and available
302 to students in the state, detailed information, including costs per course, about the courses to
303 inform student enrollment decisions, and the ability for students to submit their course
304 enrollments.

305 (2) On or before January 1, 2023, the department shall publish on its website, and
306 distribute to all school districts and charter schools in this state, a guidance document that
307 details the options for virtual course access and full-time virtual course access for all students
308 in the state. The guidance document shall include a complete and readily understood
309 description of the applicable enrollment processes including the opportunity for students to
310 enroll and the roles and responsibilities of the student, parent, virtual provider, school district
311 or districts, and charter schools, as appropriate. The guidance document shall be distributed
312 in written and electronic form to all school districts, charter schools, and virtual providers.
313 School districts and charter schools shall provide a copy of the guidance document to every

314 pupil and parent or legal guardian of every pupil enrolled in the district or charter school at
315 the beginning of each school year and upon enrollment for every pupil enrolling at a different
316 time of the school year. School districts and charter schools shall provide a readily viewable
317 link to the electronic version of the guidance document on the main page of the district's or
318 charter school's website.

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

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

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

329 **(3) The student shall be monitored by an assessment proctor via a camera for the**
330 **duration of the assessment. If the assessment platform does not allow for integrated**
331 **camera proctoring, the student shall use two devices during the assessment. The first**
332 **device shall be used to take the assessment and the second device shall have a**
333 **functioning camera and be used to monitor the student during the assessment.**
334 **However, if the assessment platform allows for the proctor to view the student and**
335 **background, a second device shall not be required;**

336 **(4) The virtual school or program shall maintain a student-assessment-taker-to-**
337 **assessment-proctor ratio of ten to one or lower;**

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

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

342 **13.** The state board of education through the rulemaking process and the department
343 of elementary and secondary education in its policies and procedures shall ensure that
344 multiple content providers and learning management systems are allowed, ensure digital
345 content conforms to accessibility requirements, provide an easily accessible link for providers
346 to submit courses or full-time virtual schools on the Missouri course access and virtual school
347 program website, and allow any person, organization, or entity to submit courses or full-time
348 virtual schools for approval. No content provider shall be allowed that is unwilling to accept
349 payments in the amount and manner as described under subdivision (3) of subsection 3 of this

350 section or does not meet performance or quality standards adopted by the state board of
351 education.

352 ~~[13.]~~ 14. Any rule or portion of a rule, as that term is defined in section 536.010, that
353 is created under the authority delegated in this section shall become effective only if it
354 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
355 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
356 the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
357 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
358 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid
359 and void.

163.044. 1. Beginning with the 2007 fiscal year and each subsequent fiscal year, the
2 general assembly shall appropriate thirty million dollars to be directed in the following
3 manner to school districts with an average daily attendance of three hundred fifty students or
4 less in the school year preceding the payment year, **provided that nonresident students**
5 **enrolled in such school districts through section 161.670 shall not be included in the total**
6 **for purposes of this section:**

7 (1) Twenty million dollars shall be distributed to the eligible districts in proportion to
8 their average daily attendance; and

9 (2) Ten million dollars shall be directed to the eligible districts that have an operating
10 levy for school purposes in the current year equal to or greater than the performance levy and
11 any school districts which have an operating levy for school purposes in the current year less
12 than the performance levy solely due to a modification of such district's levy required under
13 subdivision (4) of subsection 5 of section 137.073. A tax-rate-weighted average daily
14 attendance shall be calculated for each eligible district in proportion to its operating levy for
15 school purposes for the current year divided by the performance levy with that result
16 multiplied by the district's average daily attendance in the school year preceding the payment
17 year. The total appropriation pursuant to this subdivision shall then be divided by the sum of
18 the tax-rate-weighted average daily attendance of the eligible districts, and the resulting
19 amount per tax-rate-weighted average daily attendance shall be multiplied by each eligible
20 district's tax-rate-weighted average daily attendance to determine the amount to be paid to
21 each eligible district.

22 2. The payment under this section shall not be transferred to the capital projects fund.

23 3. Except as provided in subsection 2 of this section, districts receiving payments
24 under this section may use the moneys for, including but not limited to, the following:

25 (1) Distance learning;

26 (2) Extraordinary transportation costs;

27 (3) Rural teacher recruitment; and

28 (4) Student learning opportunities not available within the district.

✓