

# HOUSE BILL NO. 2123

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SPENCER.

5754H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 161, RSMo, by adding thereto eleven new sections relating to the establishment of the Missouri course access program, with an effective date.

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

Section A. Chapter 161, RSMo, is amended by adding thereto eleven new sections, to be known as sections 161.1010, 161.1011, 161.1012, 161.1013, 161.1014, 161.1015, 161.1016, 161.1017, 161.1018, 161.1019, and 161.1020, to read as follows:

**161.1010. 1. There is hereby established the "Missouri Course Access Program" to allow public school students to enroll in online, blended, and face-to-face courses to supplement coursework offered at the school where the student is enrolled. The Missouri course access program is separate and distinct from the virtual online school program established under section 161.670 and shall not be considered part of the virtual online school program for any purpose.**

**2. For purposes of sections 161.1010 to 161.1020, the following terms mean:**

**(1) "Course provider", an entity authorized by the department of elementary and secondary education to offer individual courses in person, online, or a combination of the two including, but not limited to, online education providers, public or private elementary and secondary education institutions, education service agencies, private for-profit or not-for-profit providers, postsecondary education institutions, and vocational or technical course providers;**

**(2) "Department", the department of elementary and secondary education;**

**(3) "Eligible funded student", any eligible participating student who is currently enrolled in a public school, including a public charter school;**

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.

17 (4) "Eligible participating student", any K-12 student who resides in the state;

18 (5) "Local education agency", a public authority legally constituted by the state as  
19 an administrative agency to provide control and direction for K-12 public educational  
20 institutions, including public charter schools;

21 (6) "State course access catalog", the website developed for the department of  
22 elementary and secondary education that provides a listing of all courses authorized and  
23 available to students in the state, detailed information about the courses to inform student  
24 enrollment decisions, and the ability for students to submit their course enrollments;

25 (7) "State course access program" or "program", the program created under  
26 sections 161.1010 to 161.1020.

161.1011. 1. Any eligible participating student may enroll in state course access  
2 program courses with the approval of such student's guidance counselor, as provided  
3 under subsection 3 of this section. An eligible funded student may enroll in state course  
4 access program courses that are funded by the program up to a maximum of seven credit  
5 hours per semester.

6 2. The families of eligible funded students and other eligible participating students  
7 may pay to enroll in state course access program courses above the maximum seven-credit  
8 hour limit specified in subsection 1 of this section.

9 3. Prior to enrolling in any state course access program course, a student shall first  
10 receive approval from his or her guidance counselor. Guidance counselors shall approve  
11 or disapprove a student's request to enroll based on the counselor's assessment of whether  
12 participation in the program and enrollment in a particular course is in the student's best  
13 interest. The department shall develop a procedure under which a student may appeal the  
14 decision of a guidance counselor made under the provisions of this section.

15 4. The local education agency where eligible funded students are enrolled full time  
16 may review enrollment requests to ensure courses are academically appropriate,  
17 logistically feasible, keep the student on track for an on-time graduation, and do not extend  
18 a student beyond a full-time course load. The local education agency may reject  
19 enrollment requests only for those reasons.

20 5. Local education agencies shall inform students and families of their right to  
21 appeal any enrollment denials in state course access program courses to the department,  
22 which shall provide a final enrollment decision within seven calendar days.

161.1012. 1. The department shall:

2 (1) Establish an authorization process for course providers that includes multiple  
3 opportunities for submission each year;

4           **(2) Not later than ninety calendar days from initial submission date, authorize**  
5 **course providers that:**

6           **(a) Meet the criteria established under section 161.1013; and**

7           **(b) Provide courses that offer the instructional rigor and scope required under**  
8 **section 161.1013; and**

9           **(3) Not later than ninety calendar days from initial submission date, provide a**  
10 **written explanation to any course providers that are denied.**

11           **2. If a course provider is denied authorization, the provider may reapply in the**  
12 **future.**

13           **3. The department shall publish the process established under this section,**  
14 **including any deadlines and any guidelines applicable to the submission and authorization**  
15 **process for providers.**

16           **4. If the department determines that there are insufficient funds available for**  
17 **evaluating and authorizing course providers, the department may charge applicant**  
18 **providers a fee up to, but no greater than, the amount of the costs in order to ensure that**  
19 **evaluation occurs. The department shall establish and publish a fee schedule for purposes**  
20 **of this subsection.**

**161.1013. 1. To be authorized to offer a course through the state course access**  
2 **program, a provider shall:**

3           **(1) Comply with all applicable anti-discrimination provisions as well as applicable**  
4 **state and federal student data privacy provisions such as the Family Educational Rights**  
5 **and Privacy Act (FERPA);**

6           **(2) Provide an assurance that all online information and resources for online or**  
7 **blended courses are fully accessible for students of all abilities, including that:**

8           **(a) All of the courses submitted for approval are reviewed to ensure they meet legal**  
9 **accessibility standards;**

10           **(b) The provider has created and promulgated an accessibility online learning**  
11 **policy;**

12           **(c) The provider has designated an ADA coordinator, a grievance policy, and**  
13 **annual notifications;**

14           **(d) The provider has policies and activities to ensure their organizational and**  
15 **course websites meet accessibility requirements; and**

16           **(e) The provider has no gateway exam or test in which a specific score is required**  
17 **to participate in course access program courses beyond completion of prerequisite**  
18 **coursework or demonstrated mastery of prerequisite material;**

19           **(3) Demonstrate either:**

20 (a) Prior evidence of delivering quality outcomes for students as demonstrated by  
21 completion rates, student level growth, proficiency, or other quantifiable outcomes; or

22 (b) For course providers applying to offer a subject or grade level for the first time,  
23 a detailed justification, in a manner determined by the department, of how their  
24 organization's subject matter, instructional, or technical expertise will lead to successful  
25 outcomes for students;

26 (4) Ensure instructional and curricular quality through a detailed curriculum and  
27 student performance accountability plan that aligns with, and measures student attainment  
28 of, relevant state academic standards or other relevant standards in courses without state  
29 academic standards; and

30 (5) Provide assurances that the course provider shall electronically provide, in a  
31 manner and format determined by the department, a detailed student record of  
32 enrollment, performance, completion, and grading information with the school systems  
33 where eligible participating students are enrolled full time.

34 2. Additional criteria developed by the department shall be used to evaluate  
35 providers and may include nationally recognized third-party quality standards.

161.1014. 1. The department shall establish a course review and approval process.  
2 The process may be implemented by the department or by an entity designated by the  
3 department.

4 2. In order to be approved and added to the state course access catalog, a course  
5 shall:

6 (1) Be, at a minimum, the equivalent in instructional rigor and scope to a course  
7 that is provided in a traditional classroom setting;

8 (2) Be aligned to relevant state academic standards or industry standards;

9 (3) Possess an assessment component for determining student proficiency, as well  
10 as student growth if applicable; and

11 (4) Be designed and implemented consistently with criteria established by the  
12 department and nationally recognized third-party quality standards.

13 3. The department may negotiate changes in the proposal to offer a course if the  
14 department determines that changes are necessary in order to authorize the course.

161.1015. 1. The initial authorization of the course provider and approved courses  
2 shall be for a period of three years.

3 2. Providers shall annually report, in such a manner as directed by the department:

4 (1) Student enrollment data;

5 (2) Student outcomes, growth measures if available, proficiency rates, and  
6 completion rates for each subject area and grade level; and

7           **(3) Student and parental comments and feedback on overall satisfaction and**  
8 **quality, including availability of support from teachers.**

9           **3. After the second year of the initial authorization period, the department shall**  
10 **conduct a thorough review of the course provider's activities and the academic**  
11 **performance of the students enrolled in courses offered by the course provider.**

12           **4. If the performance of the students enrolled in courses offered by the course**  
13 **provider does not meet agreed-upon performance standards at any time, the course**  
14 **provider shall be placed on probation and required to submit a plan for improvement to**  
15 **the department. The department shall establish terms of probation and develop specific**  
16 **criteria the provider shall meet in order to return to good standing. Course providers shall**  
17 **be given at least sixty days to meet the terms of probation. Determinations as to whether**  
18 **the provider has met the conditions of probation shall be at the sole discretion of the**  
19 **department. If the department determines that the provider has failed to meet the**  
20 **conditions of probation within the time frame established by the department, the**  
21 **department may terminate the provider's status. Course providers who are terminated by**  
22 **the department under the provisions of this subsection shall be ineligible for reinstatement**  
23 **as a course provider for two years from the time the provider's status was terminated.**

24           **5. After the initial three-year authorization period, the department may reauthorize**  
25 **the course provider for additional periods of not less than three years after thorough**  
26 **review of the course provider's activities and the achievement of students enrolled in**  
27 **courses offered by the course provider.**

28           **6. The department may exclude a course provided by an authorized provider at any**  
29 **time if the department determines that:**

30           **(1) The course is no longer adequately aligned with the state academic standards;**

31           **(2) The course no longer provides a detailed and quality curriculum and**  
32 **accountability plan; or**

33           **(3) The course fails to deliver outcomes as measured by course completion or**  
34 **student outcomes and performance on state or nationally accepted assessments.**

35           **161.1016. The department may enter into a reciprocity agreement with other states**  
36 **for the purpose of authorizing and approving high-quality providers and courses for the**  
37 **state course access program and the operation of the state course access catalog.**

**161.1017. 1. The department shall:**

2           **(1) Publish the criteria required by section 161.1014 for courses that may be offered**  
3 **through the state course access program;**

4           **(2) Be responsible for creating the state course access catalog. The department may**  
5 **enter into an agreement with other states or organizations to develop or operate one or**  
6 **more aspects of the state course access catalog and state course access program;**

7           **(3) Publish a link to the state course access catalog in a prominent location on the**  
8 **department's website, which includes a listing of courses offered by authorized providers**  
9 **available through the state course access program, a detailed description of the courses,**  
10 **and any available student completion and outcome data; and**

11           **(4) Establish and publish a time frame or specific dates by which students are able**  
12 **to withdraw from a course provided through the state course access program without the**  
13 **student, local education agency, or course provider incurring a penalty.**

14           **2. The department shall maintain on its official website in a prominent location an**  
15 **informed choice report. Each report under this section shall:**

16           **(1) Be updated within thirty calendar days of additional provider authorizations;**

17           **(2) Describe each course offered through the state course access program and**  
18 **include information such as course requirements and the school year calendar for the**  
19 **course, including any options for continued participation outside of the standard school**  
20 **year calendar;**

21           **(3) Include student and parental comments and feedback as detailed under section**  
22 **161.1015; and**

23           **(4) Be published online in an open format that can be retrieved, downloaded,**  
24 **indexed, and searched by commonly used web search applications.**

25           **3. The department shall submit an annual report on the state course access**  
26 **program and the participation of entities to the governor and the chairperson and vice-**  
27 **chairperson of the joint committee on education. The report shall, at a minimum, include**  
28 **the following information:**

29           **(1) The annual number of unique students participating in courses authorized**  
30 **under sections 161.1010 to 161.1020 and the total number of courses students are enrolled**  
31 **in;**

32           **(2) The number of authorized providers;**

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

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

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

37           **(6) Student outcome data, including completion rates, student learning gains, and**  
38 **student performance on state or nationally accepted assessments, by subject and grade**

39 level by provider. This outcome data shall be published in a manner that protects student  
40 privacy; and

41 (7) The department shall note any data that is not yet available at the time of  
42 publication and when it will become available, and include that data in future reports.

43 4. The report and underlying data shall be published online in an open format that  
44 can be retrieved, downloaded, indexed, and searched by commonly used web search  
45 applications.

46 5. For purposes of this section, an "open format" is one that is platform  
47 independent, machine readable, and made available to the public without restrictions that  
48 would impede the reuse of that information.

161.1018. 1. A school district or charter school shall:

2 (1) Notify students and parents as part of any course enrollment period or process  
3 of the availability of state course access program courses in correspondence that is written  
4 in simple and accurate language;

5 (2) Provide information by letter or email to students and parents at home and by  
6 at least two other means, such as community flyers, newspaper postings, on student report  
7 cards, or other methods; and

8 (3) Publish information and eligibility guidelines on the websites of the school and  
9 school district.

10 2. Each local school system shall establish policies and procedures whereby, for  
11 each eligible participating student as identified in section 161.1011, the following shall  
12 apply:

13 (1) Credits earned through the course provider shall appear on each student's  
14 official transcript and count fully toward the requirements of any approved state diploma;  
15 and

16 (2) Coordinate with course providers to ensure that required state assessments are  
17 administered to each such student attending a public school.

18 3. The performance data of students who are enrolled in a course under sections  
19 161.1010 to 161.1020 and in accordance with subsection 2 of this section shall be counted  
20 in the school performance score for the school in which the student is enrolled full time.

21 4. Nothing in sections 161.1010 to 161.1020 shall be construed to prevent a school  
22 entity from establishing its own online course or program in accordance with sections  
23 161.1010 to 161.1020.

24 5. The department shall adopt rules necessary to implement sections 161.1010 to  
25 161.1020 including, but not limited to, the requirements of school-governing authorities or  
26 local school systems whose students enroll in courses offered by authorized course

27 providers. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
28 created under the authority delegated in this section shall become effective only if it  
29 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
30 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers  
31 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
32 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
33 grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,  
34 shall be invalid and void.

161.1019. 1. Per-course tuition shall be determined as follows:

2 (1) The course provider shall receive per-course tuition for each eligible funded  
3 student at a fair and reasonable rate negotiated by the department and the course provider  
4 that is inclusive of all required course materials. Determinations of course prices may take  
5 into account prices for similar levels of service in other jurisdictions. Funding for courses  
6 in which students are enrolled shall be made by the department to the local education  
7 agency where the student is enrolled full time. Within ninety days of receiving funding  
8 from the department, the local education agency shall remit appropriate payment to the  
9 authorized course provider;

10 (2) The course provider shall receive payment from the local education agency only  
11 for the courses in which an eligible funded student is enrolled. The remaining funds  
12 received from the department by the local education agency shall remain with the local  
13 education agency in which the student is enrolled full time;

14 (3) The course provider shall accept the amount specified in subdivision (1) of this  
15 subsection as total tuition and fees for the eligible funded student; and

16 (4) The course provider may charge tuition to any eligible participating student up  
17 to an amount determined by the course provider and department.

18 2. Payment of tuition to course providers shall be based upon student success and  
19 made as follows:

20 (1) Fifty percent of the amount of tuition to be paid or transferred to the course  
21 provider shall be transferred upon student enrollment in a course and fifty percent shall  
22 be dependent upon student success in the course. Student success may initially be  
23 measured based on course completion, but the department shall create new measures of  
24 student success within three years of the effective date of sections 161.1010 to 161.1020 for  
25 use in courses where externally validated measures are available. These measures of  
26 student outcomes, based on either proficiency or growth, shall include results from  
27 independent end-of-course exams, advanced placement exams, receipt of industry-



28 recognized credentials, receipt of credit from institutions of higher education, or other  
29 externally validated measures;

30 (2) Partial payments for delayed completions shall be determined as follows: if a  
31 student does not successfully complete a course according to the published course length  
32 in which the course provider has received the first payment under subsection 1 of this  
33 section, the provider shall receive twenty percent of the tuition that is dependent upon  
34 student success as defined in subsection 1 of this section only if the student completes and  
35 receives credit for the course within one additional semester. At that point, remaining  
36 tuition shall be returned to the local education agency where a student is enrolled full time.

161.1020. Under section 23.253 of the Missouri sunset act:

2 (1) The provisions of the new program authorized under sections 161.1010 to  
3 161.1020 shall automatically sunset six years after the effective date of sections 161.1010  
4 to 161.1020 unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections  
6 161.1010 to 161.1020 shall automatically sunset twelve years after the effective date of the  
7 reauthorization of sections 161.1010 to 161.1020; and

8 (3) Sections 161.1010 to 161.1020 shall terminate on September first of the calendar  
9 year immediately following the calendar year in which the program authorized under  
10 sections 161.1010 to 161.1020 is sunset.

Section B. Section A of this act shall become effective January 1, 2017.

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