

FIRST REGULAR SESSION

# HOUSE BILL NO. 311

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES YATES (Sponsor), SKAGGS, DUSENBERG, TALBOY,  
DOUGHERTY, MCGHEE AND SCHARNHORST (Co-sponsors).

0768L.03I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 160.400, 160.405, and 160.410, RSMo, and to enact in lieu thereof three new sections relating to charter schools.

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

Section A. Sections 160.400, 160.405, and 160.410, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.400, 160.405, and 160.410, to read as follows:

160.400. 1. A charter school is an independent public school.

2. Charter schools may be operated only in a [metropolitan school district or in an urban school district containing most or all of a] city, **county directly adjacent to a city not within a county, or a city not within a county** with a population greater than three hundred fifty thousand inhabitants and may be sponsored by any of the following:

(1) The school board of the district;

(2) [A] **Any public or private** four-year college or university with its primary campus in the [school district or in a county adjacent to the county in which the district is located] **state of Missouri**, with an approved teacher education program that meets regional or national standards of accreditation;

(3) A community college located in the district; or

(4) [Any private four-year college or university located in a city not within a county with an enrollment of at least one thousand students, and with an approved teacher preparation program] **The mayor of a city not within a county.**

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.

15           3. The mayor of a city not within a county may request a sponsor under subdivision (2),  
16 (3), or (4) of subsection 2 of this section to consider sponsoring a workplace charter school,  
17 which is defined for purposes of sections 160.400 to 160.420 as a charter school with the ability  
18 to target prospective students whose parent or parents are employed in a business district, as  
19 defined in the charter, which is located in the city.

20           4. No sponsor shall receive from an applicant for a charter school any fee of any type for  
21 the consideration of a charter, nor may a sponsor condition its consideration of a charter on the  
22 promise of future payment of any kind.

23           5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant  
24 to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the  
25 sponsor and the charter school.

26           6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter  
27 school shall select the method for election of officers pursuant to section 355.326, RSMo, based  
28 on the class of corporation selected. Meetings of the governing board of the charter school shall  
29 be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

30           7. A sponsor of a charter school, its agents and employees are not liable for any acts or  
31 omissions of a charter school that it sponsors, including acts or omissions relating to the charter  
32 submitted by the charter school, the operation of the charter school and the performance of the  
33 charter school.

34           8. A charter school may affiliate with a four-year college or university, including a  
35 private college or university, or a community college as otherwise specified in subsection 2 of  
36 this section when its charter is granted by a sponsor other than such college, university or  
37 community college. Affiliation status recognizes a relationship between the charter school and  
38 the college or university for purposes of teacher training and staff development, curriculum and  
39 assessment development, use of physical facilities owned by or rented on behalf of the college  
40 or university, and other similar purposes. The primary campus of the college or university must  
41 be located within the [county in which the school district lies wherein the charter school is  
42 located or in a county adjacent to the county in which the district is located] **state of Missouri**.  
43 A university, college or community college may not charge or accept a fee for affiliation status.

44           9. The expenses associated with sponsorship of charter schools shall be defrayed by the  
45 department of elementary and secondary education retaining one and five-tenths percent of the  
46 amount of state and local funding allocated to the charter school under section 160.415, not to  
47 exceed one hundred twenty-five thousand dollars, adjusted for inflation. Such amount shall not  
48 be withheld when the sponsor is a school district or the state board of education. The department  
49 of elementary and secondary education shall remit the retained funds for each charter school to  
50 the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship

51 obligations under sections 160.400 to 160.420 and 167.349, RSMo, with regard to each charter  
52 school it sponsors, **including appropriate demonstration of the following:**

53 **(1) Expends no less than ninety percent of its charter school sponsorship funds in**  
54 **support of its charter school sponsorship program, or as a direct investment in the**  
55 **sponsored schools;**

56 **(2) Maintains a comprehensive application process that follows fair procedures and**  
57 **rigorous criteria and grants charters only to those developers who demonstrate strong**  
58 **capacity for establishing and operating a quality charter school;**

59 **(3) Negotiates contracts with charter schools that clearly articulate the rights and**  
60 **responsibilities of each party regarding school autonomy, expected outcomes, measures for**  
61 **evaluating success or failure, performance consequences, and other material terms; and**

62 **(4) Conducts contract oversight that evaluates performance, monitors compliance,**  
63 **informs intervention and renewal decisions, and ensures autonomy provided under**  
64 **applicable law.**

65 10. No university, college or community college shall grant a charter to a nonprofit  
66 corporation if an employee of the university, college or community college is a member of the  
67 corporation's board of directors.

68 11. No sponsor shall grant a charter under sections 160.400 to 160.420 and 167.349,  
69 RSMo, without ensuring that a criminal background check and child abuse registry check are  
70 conducted for all members of the governing board of the charter schools or the incorporators of  
71 the charter school if initial directors are not named in the articles of incorporation, nor shall a  
72 sponsor renew a charter without ensuring a criminal background check and child abuse registry  
73 check are conducted for each member of the governing board of the charter school.

74 12. No member of the governing board of a charter school shall hold any office or  
75 employment from the board or the charter school while serving as a member, nor shall the  
76 member have any substantial interest, as defined in section 105.450, RSMo, in any entity  
77 employed by or contracting with the board. No board member shall be an employee of a  
78 company that provides substantial services to the charter school. All members of the governing  
79 board of the charter school shall be considered decision-making public servants as defined in  
80 section 105.450, RSMo, for the purposes of the financial disclosure requirements contained in  
81 sections 105.483, 105.485, 105.487, and 105.489, RSMo.

82 13. A sponsor shall provide timely submission to the state board of education of all data  
83 necessary to demonstrate that the sponsor is in material compliance with all requirements of  
84 sections 160.400 to 160.420 and 167.349, RSMo.

85 14. The state board of education shall ensure each sponsor is in compliance with all  
86 requirements under sections 160.400 to 160.420 and 167.349, RSMo, for each charter school

87 sponsored by any sponsor. The state board shall notify each sponsor of the standards for  
88 sponsorship of charter schools, delineating both what is mandated by statute and what best  
89 practices dictate. The state board, after a public hearing, may require remedial action for a  
90 sponsor that it finds has not fulfilled its obligations of sponsorship, such remedial actions  
91 including withholding the sponsor's funding and suspending for a period of up to one year the  
92 sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional  
93 school. If the state board removes the authority to sponsor a currently operating charter school,  
94 the state board shall become the interim sponsor of the school for a period of up to three years  
95 until the school finds a new sponsor or until the charter contract period lapses.

160.405. 1. A person, group or organization seeking to establish a charter school shall  
2 submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a  
3 school board, the applicant shall give a copy of its application to the school board of the district  
4 in which the charter school is to be located and to the state board of education, within five  
5 business days of the date the application is filed with the proposed sponsor. The school board  
6 may file objections with the proposed sponsor, and, if a charter is granted, the school board may  
7 file objections with the state board of education. The charter shall include a mission statement  
8 for the charter school, a description of the charter school's organizational structure and bylaws  
9 of the governing body, which will be responsible for the policy and operational decisions of the  
10 charter school, a financial plan for the first three years of operation of the charter school  
11 including provisions for annual audits, a description of the charter school's policy for securing  
12 personnel services, its personnel policies, personnel qualifications, and professional development  
13 plan, a description of the grades or ages of students being served, the school's calendar of  
14 operation, which shall include at least the equivalent of a full school term as defined in section  
15 160.011, and an outline of criteria specified in this section designed to measure the effectiveness  
16 of the school. The charter shall also state:

17 (1) The educational goals and objectives to be achieved by the charter school;

18 (2) A description of the charter school's educational program and curriculum;

19 (3) The term of the charter, which shall be not less than five years, nor greater than ten  
20 years and shall be renewable;

21 (4) A description of the charter school's pupil performance standards, which must meet  
22 the requirements of subdivision (6) of subsection 5 of this section. The charter school program  
23 must be designed to enable each pupil to achieve such standards;

24 (5) A description of the governance and operation of the charter school, including the  
25 nature and extent of parental, professional educator, and community involvement in the  
26 governance and operation of the charter school; and

27 (6) A description of the charter school's policies on student discipline and student  
28 admission, which shall include a statement, where applicable, of the validity of attendance of  
29 students who do not reside in the district but who may be eligible to attend under the terms of  
30 judicial settlements.

31 2. Proposed charters shall be subject to the following requirements:

32 (1) A charter may be approved when the sponsor determines that the requirements of this  
33 section are met and determines that the applicant is sufficiently qualified to operate a charter  
34 school. The sponsor's decision of approval or denial shall be made within ninety days of the  
35 filing of the proposed charter;

36 (2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as  
37 to the reasons for its denial and forward a copy to the state board of education within five  
38 business days following the denial;

39 (3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted  
40 to the state board of education, along with the sponsor's written reasons for its denial. If the state  
41 board determines that the applicant meets the requirements of this section, that the applicant is  
42 sufficiently qualified to operate the charter school, and that granting a charter to the applicant  
43 would be likely to provide educational benefit to the children of the district, the state board may  
44 grant a charter and act as sponsor of the charter school. The state board shall review the  
45 proposed charter and make a determination of whether to deny or grant the proposed charter  
46 within sixty days of receipt of the proposed charter, provided that any charter to be considered  
47 by the state board of education under this subdivision shall be submitted no later than March first  
48 prior to the school year in which the charter school intends to begin operations. The state board  
49 of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

50 (4) The sponsor of a charter school shall give priority to charter school applicants that  
51 propose a school oriented to high-risk students and to the reentry of dropouts into the school  
52 system. If a sponsor grants three or more charters, at least one-third of the charters granted by  
53 the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student  
54 body and address the needs of dropouts or high-risk students through their proposed mission,  
55 curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk"  
56 student is one who is at least one year behind in satisfactory completion of course work or  
57 obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime  
58 within the preceding six months, has limited English proficiency, has been suspended from  
59 school three or more times, is eligible for free or reduced-price school lunch, or has been referred  
60 by the school district for enrollment in an alternative program. "Dropout" shall be defined  
61 through the guidelines of the school core data report. The provisions of this subsection do not  
62 apply to charters sponsored by the state board of education.

63           3. If a charter is approved by a sponsor, the charter application shall be submitted to the  
64 state board of education, along with a statement of finding that the application meets the  
65 requirements of sections 160.400 to 160.420 and section 167.439, RSMo, and a monitoring plan  
66 under which the charter sponsor will evaluate the academic performance of students enrolled in  
67 the charter school. The state board of education may, within sixty days, disapprove the granting  
68 of the charter. The state board of education may disapprove a charter on grounds that the  
69 application fails to meet the requirements of sections 160.400 to 160.420 and section 167.349,  
70 RSMo, or that a charter sponsor previously failed to meet the statutory responsibilities of a  
71 charter sponsor.

72           4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject  
73 to judicial review pursuant to chapter 536, RSMo.

74           5. A charter school shall, as provided in its charter:

75           (1) Be nonsectarian in its programs, admission policies, employment practices, and all  
76 other operations;

77           (2) Comply with laws and regulations of the state, county, or city relating to health,  
78 safety, and state minimum educational standards, as specified by the state board of education,  
79 including the requirements relating to student discipline under sections 160.261, 167.161,  
80 167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement authorities  
81 under sections 167.115 to 167.117, RSMo, academic assessment under section 160.518,  
82 transmittal of school records under section 167.020, RSMo, and the minimum number of school  
83 days and hours required under section 160.041;

84           (3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules  
85 relating to schools, governing boards and school districts;

86           (4) Be financially accountable, use practices consistent with the Missouri financial  
87 accounting manual, provide for an annual audit by a certified public accountant, publish audit  
88 reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual  
89 financial report may be published on the department of elementary and secondary education's  
90 Internet web site in addition to other publishing requirements, and provide liability insurance to  
91 indemnify the school, its board, staff and teachers against tort claims. A charter school that  
92 receives local educational agency status under subsection 6 of this section shall meet the  
93 requirements imposed by the Elementary and Secondary Education Act for audits of such  
94 agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school  
95 shall be treated as a political subdivision on the same terms and conditions as the school district  
96 in which it is located. For the purposes of securing such insurance, a charter school shall be  
97 eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo.  
98 A charter school that incurs debt must include a repayment plan in its financial plan;

99 (5) Provide a comprehensive program of instruction for at least one grade or age group  
100 from kindergarten through grade twelve, which may include early childhood education if funding  
101 for such programs is established by statute, as specified in its charter;

102 (6) (a) Design a method to measure pupil progress toward the pupil academic standards  
103 adopted by the state board of education pursuant to section 160.514, collect baseline data during  
104 at least the first three years for determining how the charter school is performing and to the  
105 extent applicable, participate in the statewide system of assessments, comprised of the essential  
106 skills tests and the nationally standardized norm-referenced achievement tests, as designated by  
107 the state board pursuant to section 160.518, complete and distribute an annual report card as  
108 prescribed in section 160.522, which shall also include a statement that background checks have  
109 been completed on the charter school's board members, report to its sponsor, the local school  
110 district, and the state board of education as to its teaching methods and any educational  
111 innovations and the results thereof, and provide data required for the study of charter schools  
112 pursuant to subsection 4 of section 160.410. No charter school will be considered in the  
113 Missouri school improvement program review of the district in which it is located for the  
114 resource or process standards of the program.

115 (b) For proposed high risk or alternative charter schools, sponsors shall approve  
116 performance measures based on mission, curriculum, teaching methods, and services. Sponsors  
117 shall also approve comprehensive academic and behavioral measures to determine whether  
118 students are meeting performance standards on a different time frame as specified in that school's  
119 charter. Student performance shall be assessed comprehensively to determine whether a high  
120 risk or alternative charter school has documented adequate student progress. Student  
121 performance shall be based on sponsor-approved comprehensive measures as well as  
122 standardized public school measures. Annual presentation of charter school report card data to  
123 the department of elementary and secondary education, the state board, and the public shall  
124 include comprehensive measures of student progress.

125 (c) Nothing in this [paragraph] **subdivision** shall be construed as permitting a charter  
126 school to be held to lower performance standards than other public schools within a district;  
127 however, the charter of a charter school may permit students to meet performance standards on  
128 a different time frame as specified in its charter;

129 (7) Assure that the needs of special education children are met in compliance with all  
130 applicable federal and state laws and regulations;

131 (8) Provide along with any request for review by the state board of education the  
132 following:

133 (a) Documentation that the applicant has provided a copy of the application to the school  
134 board of the district in which the charter school is to be located, except in those circumstances  
135 where the school district is the sponsor of the charter school; and

136 (b) A statement outlining the reasons for approval or disapproval by the sponsor,  
137 specifically addressing the requirements of sections 160.400 to 160.420 and 167.349, RSMo.

138 6. The charter of a charter school may be amended at the request of the governing body  
139 of the charter school and on the approval of the sponsor. The sponsor and the governing board  
140 and staff of the charter school shall jointly review the school's performance, management and  
141 operations at least once every two years or at any point where the operation or management of  
142 the charter school is changed or transferred to another entity, either public or private. The  
143 governing board of a charter school may amend the charter, if the sponsor approves such  
144 amendment, or the sponsor and the governing board may reach an agreement in writing to reflect  
145 the charter school's decision to become a local educational agency [for the sole purpose of  
146 seeking direct access to federal grants]. In such case the sponsor shall give the department of  
147 elementary and secondary education written notice no later than March first of any year, with the  
148 agreement to become effective July first. The department may waive the March first notice date  
149 in its discretion. The department shall identify and furnish a list of its regulations that pertain  
150 to local educational agencies to such schools within thirty days of receiving such notice.

151 7. (1) A sponsor may revoke a charter at any time if the charter school commits a serious  
152 breach of one or more provisions of its charter or on any of the following grounds: failure to  
153 meet academic performance standards as set forth in its charter, failure to meet generally  
154 accepted standards of fiscal management, failure to provide information necessary to confirm  
155 compliance with all provisions of the charter and sections 160.400 to 160.420 and 167.349,  
156 RSMo, within forty-five days following receipt of written notice requesting such information,  
157 or violation of law.

158 (2) The sponsor may place the charter school on probationary status to allow the  
159 implementation of a remedial plan, which may require a change of methodology, a change in  
160 leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

161 (3) At least sixty days before acting to revoke a charter, the sponsor shall notify the  
162 governing board of the charter school of the proposed action in writing. The notice shall state  
163 the grounds for the proposed action. The school's governing board may request in writing a  
164 hearing before the sponsor within two weeks of receiving the notice.

165 (4) The sponsor of a charter school shall establish procedures to conduct administrative  
166 hearings upon determination by the sponsor that grounds exist to revoke a charter. Final  
167 decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial  
168 review pursuant to chapter 536, RSMo.

169 (5) A termination shall be effective only at the conclusion of the school year, unless the  
170 sponsor determines that continued operation of the school presents a clear and immediate threat  
171 to the health and safety of the children.

172 (6) A charter sponsor shall make available the school accountability report card  
173 information as provided under section 160.522 and the results of the academic monitoring  
174 required under subsection 3 of this section.

175 8. A sponsor shall take all reasonable steps necessary to confirm that each charter school  
176 sponsored by such sponsor is in material compliance and remains in material compliance with  
177 all material provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo.  
178 Every charter school shall provide all information necessary to confirm ongoing compliance with  
179 all provisions of its charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely  
180 manner to its sponsor.

181 9. A school district may enter into a lease with a charter school for physical facilities.

182 10. A governing board or a school district employee who has control over personnel  
183 actions shall not take unlawful reprisal against another employee at the school district because  
184 the employee is directly or indirectly involved in an application to establish a charter school. A  
185 governing board or a school district employee shall not take unlawful reprisal against an  
186 educational program of the school or the school district because an application to establish a  
187 charter school proposes the conversion of all or a portion of the educational program to a charter  
188 school. As used in this subsection, "unlawful reprisal" means an action that is taken by a  
189 governing board or a school district employee as a direct result of a lawful application to  
190 establish a charter school and that is adverse to another employee or an educational program.

191 11. Charter school board members shall be subject to the same liability for acts while  
192 in office as if they were regularly and duly elected members of school boards in any other public  
193 school district in this state. The governing board of a charter school may participate, to the same  
194 extent as a school board, in the Missouri public entity risk management fund in the manner  
195 provided under sections 537.700 to 537.756, RSMo.

196 12. Any entity, either public or private, operating, administering, or otherwise managing  
197 a charter school shall be considered a quasi-public governmental body and subject to the  
198 provisions of sections 610.010 to 610.035, RSMo.

199 13. The chief financial officer of a charter school shall maintain:

200 (1) A surety bond in an amount determined by the sponsor to be adequate based on the  
201 cash flow of the school; or

202 (2) **An insurance policy issued by an insurance company licensed to do business in**  
203 **Missouri on all employees in the amount of five hundred thousand dollars or more that**  
204 **provides coverage in the event of employee theft.**

160.410. 1. A charter school shall enroll:

2 (1) All pupils resident in the district in which it operates;

3 (2) Nonresident pupils eligible to attend a district's school under an urban voluntary  
4 transfer program; [and]

5 (3) **In the case of a charter school whose mission includes student drop-out**  
6 **prevention or recovery, a nonresident pupil from within the county or an adjacent county**  
7 **who submits a timely application; and**

8 (4) In the case of a workplace charter school, any student eligible to attend under  
9 subdivision (1) or (2) of this subsection whose parent is employed in the business district, who  
10 submits a timely application, unless the number of applications exceeds the capacity of a  
11 program, class, grade level or building. The configuration of a business district shall be set forth  
12 in the charter and shall not be construed to create an undue advantage for a single employer or  
13 small number of employers.

14 2. If capacity is insufficient to enroll all pupils who submit a timely application, the  
15 charter school shall have an admissions process that assures all applicants of an equal chance of  
16 gaining admission except that:

17 (1) A charter school may establish a geographical area around the school whose residents  
18 will receive a preference for enrolling in the school, provided that such preferences do not result  
19 in the establishment of racially or socioeconomically isolated schools and provided such  
20 preferences conform to policies and guidelines established by the state board of education; [and]

21 (2) A charter school may also give a preference for admission of children whose siblings  
22 attend the school or whose parents are employed at the school or in the case of a workplace  
23 charter school, a child whose parent is employed in the business district or at the business site  
24 of such school; **and**

25 (3) **A charter school whose mission includes student drop-out prevention or**  
26 **recovery as described in subdivision (3) of subsection 1 of this section shall give preference**  
27 **for admission to resident pupils over nonresident pupils.**

28 3. A charter school shall not limit admission based on race, ethnicity, national origin,  
29 disability, gender, income level, proficiency in the English language or athletic ability, but may  
30 limit admission to pupils within a given age group or grade level.

31 4. The department of elementary and secondary education shall commission a study of  
32 the performance of students at each charter school in comparison with a comparable group and  
33 a study of the impact of charter schools upon the districts in which they are located, to be  
34 conducted by a contractor selected through a request for proposal. The department of elementary  
35 and secondary education shall reimburse the contractor from funds appropriated by the general  
36 assembly for the purpose. The study of a charter school's student performance in relation to a

37 comparable group shall be designed to provide information that would allow parents and  
38 educators to make valid comparisons of academic performance between the charter school's  
39 students and a group of students comparable to the students enrolled in the charter school. The  
40 impact study shall be undertaken every two years to determine the effect of charter schools on  
41 education stakeholders in the districts where charter schools are operated. The impact study may  
42 include, but is not limited to, determining if changes have been made in district policy or  
43 procedures attributable to the charter school and to perceived changes in attitudes and  
44 expectations on the part of district personnel, school board members, parents, students, the  
45 business community and other education stakeholders. The department of elementary and  
46 secondary education shall make the results of the studies public and shall deliver copies to the  
47 governing boards of the charter schools, the sponsors of the charter schools, the school board and  
48 superintendent of the districts in which the charter schools are operated.

49         5. A charter school shall make available for public inspection, and provide upon request,  
50 to the parent, guardian, or other custodian of any school-age pupil resident in the district in which  
51 the school is located the following information:

52             (1) The school's charter;

53             (2) The school's most recent annual report card published according to section 160.522;

54 and

55             (3) The results of background checks on the charter school's board members.

56

57 The charter school may charge reasonable fees, not to exceed the rate specified in section  
58 610.026, RSMo, for furnishing copies of documents under this subsection.

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