

FIRST REGULAR SESSION

HOUSE BILL NO. 33

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STACY.

0485H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 161.825, RSMo, and to enact in lieu thereof six new sections relating to educational scholarships.

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

Section A. Section 161.825, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 135.725, 135.726, 135.727, 135.728, 135.729, and 161.825, to read as follows:

135.725. For purposes of sections 135.725 to 135.729, the following terms mean:

(1) "Contribution", the same meaning given to the term in section 161.825;

(2) "Program", the program established in section 161.825 and sections 135.725 to 135.729;

(3) "Scholarship granting organization", the same meaning given to the term in section 161.825;

(4) "Taxpayer", an individual subject to the state income tax imposed by chapter 143; an individual, firm, partner in a firm, corporation, or shareholder in an S corporation doing business in this state and subject to the state income tax imposed by chapter 143; or an express company that pays an annual tax on its gross receipts in this state under chapter 153, which files a Missouri income tax return and is not a dependent of any other taxpayer.

135.726. 1. For all tax years beginning on or after January 1, 2020, any taxpayer who makes a contribution to a scholarship granting organization may claim a credit against the tax otherwise due under chapter 143, other than taxes withheld under sections 143.191 to 143.265, and chapter 153, in an amount equal to one hundred percent of the amount the taxpayer contributed during the tax year for which the credit is claimed. No

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.

6 taxpayer shall claim a credit under sections 135.725 to 135.729 for any contribution made
7 by the taxpayer, or an agent of the taxpayer, on behalf of the taxpayer's dependent or, in
8 the case of a business taxpayer, on behalf of the business's agent's dependent.

9 2. The amount of the tax credit claimed shall not exceed fifty percent of the
10 taxpayer's state tax liability for the tax year for which the credit is claimed. The state
11 treasurer shall certify the tax credit amount to the taxpayer and to the department of
12 revenue. A taxpayer may carry the credit forward to any of such taxpayer's four
13 subsequent tax years. All tax credits authorized under the program shall not be
14 transferred, sold, or assigned, and are not refundable.

135.727. Each scholarship granting organization shall:

2 (1) Demonstrate to the state treasurer that it is exempt from federal income tax
3 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

4 (2) Provide a state treasurer-approved receipt to taxpayers for contributions made
5 to the organization.

135.728. 1. The state treasurer shall provide a standardized format for a receipt
2 to be issued by a scholarship granting organization to a taxpayer to indicate the value of
3 a contribution received. The department of revenue shall require a taxpayer to provide
4 a copy of this receipt if claiming the tax credit authorized by the program.

5 2. The state treasurer shall provide a standardized format for scholarship granting
6 organizations to report the information required in subsection 1 of this section.

7 3. There is hereby created in the state treasury the "Bryce's Law Scholarship
8 Fund", which shall consist of moneys collected under this section. The state treasurer shall
9 be custodian of the fund. In accordance with sections 30.170 and 30.180, the state
10 treasurer may approve disbursements. The fund shall be a dedicated fund, and moneys
11 in the fund shall be used solely by the state treasurer for the purposes of sections 135.725
12 to 135.729. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
13 remaining in the fund at the end of the biennium shall not revert to the credit of the
14 general revenue fund. The state treasurer shall invest moneys in the fund in the same
15 manner as other funds are invested. Any interest and moneys earned on such investments
16 shall be credited to the fund.

17 4. No more than two percent of contributions may be deposited in the Bryce's law
18 scholarship fund to be used by the state treasurer for marketing and administrative
19 expenses or the costs incurred in administering the program, whichever is less. The state
20 treasurer shall establish procedures to ensure the percentage of funds for administration
21 of the program is directed to the state treasurer in a timely manner with the necessary

22 information to verify the correct amount has been transmitted. The remaining funds shall
23 be distributed to the scholarship granting organizations.

135.729. 1. The state treasurer and the department of revenue may promulgate
2 rules to implement the provisions of sections 135.725 to 135.729. Any rule or portion of a
3 rule, as that term is defined in section 536.010, that is created under the authority
4 delegated in this section shall become effective only if it complies with and is subject to all
5 of the provisions of chapter 536 and, if applicable, section 536.028. This section and
6 chapter 536 are nonseverable, and if any of the powers vested with the general assembly
7 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
8 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
9 any rule proposed or adopted after August 28, 2019, shall be invalid and void.

10 2. The provisions of section 23.253 of the Missouri sunset act shall not apply to
11 sections 135.725 to 135.729 and section 161.825.

161.825. 1. This section shall be known and may be cited as "Bryce's Law".

2 2. As used in this section, the following terms mean:

3 (1) "Autism spectrum disorder", pervasive developmental disorder; Asperger syndrome;
4 childhood disintegrative disorder; Rett syndrome; and autism;

5 (2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or
6 real property for purposes of claiming a tax credit under sections 135.725 to 135.729;

7 (3) "Department", the department of elementary and secondary education;

8 (4) "Director", the commissioner of education;

9 (5) "Dyslexia therapy", an appropriate specialized dyslexia instructional program that
10 is systematic, multisensory, and research-based offered in a small group setting to teach students
11 the components of reading instruction including but not limited to phonemic awareness,
12 graphophonemic knowledge, morphology, semantics, syntax, and pragmatics, instruction on
13 linguistic proficiency and fluency with patterns of language so that words and sentences are
14 carriers of meaning, and strategies that students use for decoding, encoding, word recognition,
15 fluency and comprehension delivered by qualified personnel;

16 (6) "Educational scholarships", grants to students or children to cover all or part of the
17 tuition and fees at a qualified nonpublic school, a qualified public school, or a qualified service
18 provider, including transportation;

19 (7) "Eligible child", any child from birth to age five living in Missouri who has an
20 individualized family services program under the first steps program, sections 160.900 to
21 ~~160.933~~ 160.925, and whose parent or guardian has completed the complaint procedure under
22 the Individuals with Disabilities Education Act, Part C, and has received an unsatisfactory
23 response; or any child from birth to age five who has been evaluated for qualifying needs as

24 defined in this section by a person qualified to perform evaluations under the first steps program
25 and has been determined to have a qualifying need but who falls below the threshold for
26 eligibility by no less than twenty-five percent;

27 (8) "Eligible student", any elementary or secondary student who attended public school
28 in Missouri the preceding semester, or who will be attending school in Missouri for the first time,
29 who has an individualized education program based on a qualifying needs condition or who has
30 a medical or clinical diagnosis by a qualified health professional of a qualifying needs condition
31 which in the case of dyslexia, may be based on the C-TOPP assessment as an initial indicator of
32 dyslexia and confirmed by further medical or clinical diagnosis;

33 (9) "Parent", includes a guardian, custodian, or other person with authority to act on
34 behalf of the student or child;

35 (10) "Program", the program established in this section **and sections 135.725 to**
36 **135.729**;

37 (11) "Qualified health professional", a person licensed under chapter 334 or 337 who
38 possesses credentials as described in rules promulgated jointly by the department of elementary
39 and secondary education and the department of mental health to make a diagnosis of a student's
40 qualifying needs for this program;

41 (12) "Qualified school", either an accredited public elementary or secondary school in
42 a district that is accredited without provision outside of the district in which a student resides or
43 an accredited nonpublic elementary or secondary school in Missouri that complies with all of the
44 requirements of the program and complies with all state laws that apply to nonpublic schools
45 regarding criminal background checks for employees and excludes from employment any person
46 not permitted by state law to work in a nonpublic school;

47 (13) "Qualified service provider", a person or agency authorized by the department to
48 provide services under the first steps program, sections 160.900 to [~~160.933~~] **160.925**, and in the
49 case of a provider offering dyslexia therapy, the term also includes a person with national
50 certification as an academic language therapist;

51 (14) "Qualifying needs", an autism spectrum disorder, Down Syndrome, Angelman
52 Syndrome, cerebral palsy, or dyslexia;

53 (15) "Scholarship granting organization", a charitable organization that:

54 (a) Is exempt from federal income tax;

55 (b) **Is certified by the state treasurer**;

56 (c) Complies with the requirements of this program;

57 [~~(e)~~] **(d)** Provides education scholarships to students attending qualified schools of their
58 parents' choice or to children receiving services from qualified service providers; and

59 ~~[(d)]~~ (e) Does not accept contributions on behalf of any eligible student or eligible child
60 from any donor with any obligation to provide any support for the eligible student or eligible
61 child.

62 3. The department of elementary and secondary education shall develop a master list of
63 resources available to the parents of children with an autism spectrum disorder or dyslexia and
64 shall maintain a web page for the information. The department shall also actively seek financial
65 resources in the form of grants and donations that may be devoted to scholarship funds or to
66 clinical trials for behavioral interventions that may be undertaken by qualified service providers.
67 The department may contract out or delegate these duties to a nonprofit organization. Priority
68 in referral for funding shall be given to children who have not yet entered elementary school.

69 4. The director shall determine, at least annually, which organizations in this state may
70 be classified as scholarship granting organizations. The director may require of an organization
71 seeking to be classified as a scholarship granting organization whatever information that is
72 reasonably necessary to make such a determination. The director shall classify an organization
73 as a scholarship granting organization if such organization meets the definition set forth in this
74 section.

75 5. The director shall establish a procedure by which a donor can determine if an
76 organization has been classified as a scholarship granting organization. Scholarship granting
77 organizations shall be permitted to decline a contribution from a donor.

78 6. Each scholarship granting organization shall provide information to the director
79 concerning the identity of each donor making a contribution to the scholarship granting
80 organization.

81 7. (1) The director shall annually make a determination on the number of students in
82 Missouri with an individualized education program based upon qualifying needs as defined in
83 this section. The director shall use ten percent of this number to determine the maximum
84 number of students to receive scholarships from a scholarship granting organization in that year
85 for students with qualifying needs who have at the time of application an individualized
86 education program, plus a number calculated by the director by applying the state's latest
87 available autism, cerebral palsy, Down Syndrome, Angelman Syndrome, and dyslexia incidence
88 rates to the state's population of children from age five to nineteen who are not enrolled in public
89 schools and taking ten percent of that number. The total of these two calculations shall
90 constitute the maximum number of scholarships available to students.

91 (2) The director shall also annually make a determination on the number of children in
92 Missouri whose parent or guardian has enrolled the child in first steps, received an individualized
93 family services program based on qualifying needs, and filed a complaint through the Individuals
94 with Disabilities Education Act, Part C, and received an unsatisfactory response. In addition to

95 this number, the director shall apply the latest available autism, cerebral palsy, Down Syndrome,
96 Angelman Syndrome, and dyslexia incidence rates to the latest available census information for
97 children from birth to age five and determine ten percent of that number for the maximum
98 number of scholarships for children.

99 (3) The director shall publicly announce the number of each category of scholarship
100 opportunities available each year. Once a scholarship granting organization has decided to
101 provide a student or child with a scholarship, it shall promptly notify the director. The director
102 shall keep a running tally of the number of scholarships granted in the order in which they were
103 reported. Once the tally reaches the annual limit of scholarships for eligible students or children,
104 the director shall notify all of the participating scholarship granting organizations that they shall
105 not issue any more scholarships and any more receipts for contributions. If the scholarship
106 granting organizations have not expended all of their available scholarship funds in that year at
107 the time when the limit is reached, the available scholarship funds may be carried over into the
108 next year. These unexpended funds shall not be counted as part of the requirement in
109 subdivision ~~[(3)]~~ (2) of subsection 8 of this section for that year. Any receipt for a scholarship
110 contribution issued by a scholarship granting organization before the director has publicly
111 announced the student or child limit has been reached shall be valid. Beginning with school year
112 2016-17, the director may adjust the allocation of the proportion of scholarships using
113 information on unmet need and use patterns from the previous school years. The director shall
114 provide notice of the change to the state board of education for its approval.

115 8. Each scholarship granting organization participating in the program shall:

116 (1) Notify the department **and the state treasurer** of its intent to provide educational
117 scholarships to students attending qualified schools or children receiving services from qualified
118 service providers;

119 ~~(2) [Provide a department-approved receipt to donors for contributions made to the~~
120 ~~organization;~~

121 ~~———(3)]~~ Ensure that at least ninety percent of its revenue from donations is spent on
122 educational scholarships, and that all revenue from interest or investments is spent on
123 educational scholarships;

124 ~~[(4)]~~ (3) Ensure that the scholarships provided do not exceed an average of twenty
125 thousand dollars per eligible child or fifty thousand dollars per eligible student;

126 ~~[(5)]~~ (4) Inform the parent or guardian of the student or child applying for a scholarship
127 that accepting the scholarship is tantamount to a parentally placed private school student
128 pursuant to 34 CFR 300.130 and, thus, neither the department nor any Missouri public school
129 is responsible to provide the student with a free appropriate public education pursuant to the
130 Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973;

131 ~~[(6)]~~ (5) Distribute periodic scholarship payments as checks made out to a student's or
132 child's parent and mailed to the qualified school where the student is enrolled or qualified service
133 provider used by the child. The parent or guardian shall endorse the check before it can be
134 deposited;

135 ~~[(7)]~~ (6) Cooperate with the department to conduct criminal background checks on all
136 of its employees and board members and exclude from employment or governance any
137 individual who might reasonably pose a risk to the appropriate use of contributed funds;

138 ~~[(8)]~~ (7) Ensure that scholarships are portable during the school year and can be used
139 at any qualified school that accepts the eligible student or at a different qualified service provider
140 for an eligible child according to a parent's wishes. If a student moves to a new qualified school
141 during a school year or to a different qualified service provider for an eligible child, the
142 scholarship amount may be prorated;

143 ~~[(9)]~~ (8) Demonstrate its financial accountability by:

144 (a) Submitting a financial information report for the organization that complies with
145 uniform financial accounting standards established by the department and conducted by a
146 certified public accountant; and

147 (b) Having the auditor certify that the report is free of material misstatements; **and**

148 ~~[(10)]~~ (9) Demonstrate its financial viability, if the organization is to receive donations
149 of fifty thousand dollars or more during the school year, by filing with the department before the
150 start of the school year:

151 (a) A surety bond payable to the state in an amount equal to the aggregate amount of
152 contributions expected to be received during the school year; or

153 (b) Financial information that demonstrates the financial viability of the scholarship
154 granting organization.

155 9. Each scholarship granting organization shall ensure that each participating school or
156 service provider that accepts its scholarship students or children shall:

157 (1) Comply with all health and safety laws or codes that apply to nonpublic schools or
158 service providers;

159 (2) Hold a valid occupancy permit if required by its municipality;

160 (3) Certify that it will comply with 42 U.S.C. Section 1981, as amended;

161 (4) Provide academic accountability to parents of the students or children in the program
162 by regularly reporting to the parent on the student's or child's progress;

163 (5) Certify that in providing any educational services or behavior strategies to a
164 scholarship recipient with a medical or clinical diagnosis of or an individualized education
165 program based upon autism spectrum disorder it will:

166 (a) Adhere to the best practices recommendations of the Missouri Autism Guidelines
167 Initiative or document why it is varying from the guidelines;

168 (b) Not use any evidence-based interventions that have been found ineffective by the
169 Centers for Medicare and Medicaid Services as described in the Missouri Autism Guidelines
170 Initiative guide to evidence-based interventions; and

171 (c) Provide documentation in the student's or child's record of the rationale for the use
172 of any intervention that is categorized as unestablished, insufficient evidence, or level 3 by the
173 Missouri Autism Guidelines Initiative guide to evidence-based interventions; and

174 (6) Certify that in providing any educational services or behavior strategies to a
175 scholarship recipient with a medical or clinical diagnosis of, or an individualized family services
176 program based upon Down Syndrome, Angelman Syndrome, cerebral palsy, or dyslexia, it will
177 use student, teacher, teaching, and school influences that rank in the zone of desired effects in
178 the meta-analysis of John Hattie, or equivalent analyses as determined by the department, or
179 document why it is using a method that has not been determined by analysis to rank in the zone
180 of desired effects.

181 10. Scholarship granting organizations shall not provide educational scholarships for
182 students to attend any school or children to receive services from any qualified service provider
183 with paid staff or board members who are relatives within the first degree of consanguinity or
184 affinity.

185 11. A scholarship granting organization shall publicly report to the department, by June
186 first of each year, the following information prepared by a certified public accountant regarding
187 its grants in the previous calendar year:

188 (1) The name and address of the scholarship granting organization;

189 (2) The total number and total dollar amount of contributions received during the
190 previous calendar year; and

191 (3) The total number and total dollar amount of educational scholarships awarded during
192 the previous calendar year, including the category of each scholarship, and the total number and
193 total dollar amount of educational scholarships awarded during the previous year to students
194 eligible for free and reduced **price** lunch.

195 12. The department shall adopt rules and regulations consistent with this section as
196 necessary to implement the program.

197 13. ~~[The department shall provide a standardized format for a receipt to be issued by a~~
198 ~~scholarship granting organization to a donor to indicate the value of a contribution received.~~

199 ~~14. The department shall provide a standardized format for scholarship granting~~
200 ~~organizations to report the information in this section.~~

201 ~~—15.]~~ The department may conduct either a financial review or audit of a scholarship
202 granting organization.

203 ~~[16.]~~ **14.** If the department believes that a scholarship granting organization has
204 intentionally and substantially failed to comply with the requirements of this section **or with the**
205 **requirements of sections 135.725 to 135.729**, the department may hold a hearing before the
206 director or the director's designee to bar a scholarship granting organization from participating
207 in the program. The director or the director's designee shall issue a decision within thirty days.
208 A scholarship granting organization may appeal the director's decision to the administrative
209 hearing commission for a hearing in accordance with the provisions of chapter 621.

210 ~~[17.]~~ **15.** If the scholarship granting organization is barred from participating in the
211 program, the department shall notify affected scholarship students or children and their parents
212 of this decision within fifteen days.

213 ~~[18.]~~ **16.** Any rule or portion of a rule, as that term is defined in section 536.010, that
214 is created under the authority delegated in this section shall become effective only if it complies
215 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
216 This section and chapter 536 are nonseverable and if any of the powers vested with the general
217 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
218 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
219 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

220 ~~[19.]~~ **17.** The department shall conduct a study of the program with funds other than
221 state funds. The department may contract with one or more qualified researchers who have
222 previous experience evaluating similar programs. The department may accept grants to assist
223 in funding this study.

224 ~~[20.]~~ **18.** The study shall assess:

225 (1) The level of participating students' and children's satisfaction with the program in a
226 manner suitable to the student or child;

227 (2) The level of parental satisfaction with the program;

228 (3) The percentage of participating students who were bullied or harassed because of
229 their special needs status at their resident school district compared to the percentage so bullied
230 or harassed at their qualified school;

231 (4) The percentage of participating students who exhibited behavioral problems at their
232 resident school district compared to the percentage exhibiting behavioral problems at their
233 qualified school;

234 (5) The class size experienced by participating students at their resident school district
235 and at their qualified school; and

236 (6) The fiscal impact to the state and resident school districts of the program.

237 ~~[21.]~~ **19.** The study shall be completed using appropriate analytical and behavioral
 238 sciences methodologies to ensure public confidence in the study.

239 ~~[22.]~~ **20.** The department shall provide the general assembly with a final copy of the
 240 evaluation of the program by December 31, 2016.

241 ~~[23.]~~ **21.** The public and nonpublic participating schools and service providers from
 242 which students transfer to participate in the program shall cooperate with the research effort by
 243 providing student or child assessment instrument scores and any other data necessary to complete
 244 this study.

245 ~~[24.]~~ **22.** The general assembly may require periodic updates on the status of the study
 246 from the department. The individuals completing the study shall make their data and
 247 methodology available for public review while complying with the requirements of the Family
 248 Educational Rights and Privacy Act, as amended.

249 ~~[25. Under section 23.253 of the Missouri sunset act:~~

250 ~~—— (1) The provisions of the new program authorized under this section shall sunset~~
 251 ~~automatically on December 31, 2019, unless reauthorized by an act of the general assembly; and~~

252 ~~—— (2) If such program is reauthorized, the program authorized under this section shall~~
 253 ~~sunset automatically on December 31, 2031; and~~

254 ~~—— (3) This section shall terminate on December thirty-first of the calendar year immediately~~
 255 ~~following the calendar year in which the program authorized under this section is sunset.]~~

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