

SECOND REGULAR SESSION

HOUSE BILL NO. 1718

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHARNHORST (Sponsor), TILLEY, JONES (89),
DIECKHAUS, DIEHL AND McNARY (Co-sponsors).

4696L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to the Missouri special needs scholarship tax credit program known as Bryce's Law.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be
2 known as section 135.1220, to read as follows:

135.1220. 1. This section shall be known and may be cited as "Bryce's Law".

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

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

5 **(2) "Contribution", a donation of cash, stock, bonds, or other marketable**
6 **securities, or real property;**

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

8 **(4) "Director", the director of the department of elementary and secondary**
9 **education;**

10 **(5) "Educational scholarships", grants to students to cover all or part of the tuition**
11 **and fees at either a qualified nonpublic school or a qualified public school, including**
12 **transportation;**

13 **(6) "Eligible student", any elementary or secondary student who attended public**
14 **school in Missouri the preceding semester, or who will be attending school in Missouri for**
15 **the first time, who is diagnosed as having, or has an individualized education plan based**
16 **on, a special needs condition;**

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 (7) "Parent", includes a guardian, custodian, or other person with authority to act
18 on behalf of the child;

19 (8) "Program", the program established in this section;

20 (9) "Qualified school", either an accredited public elementary or secondary school
21 outside of the district in which a student resides or an accredited nonpublic elementary or
22 secondary school in Missouri that complies with all of the requirements of the program and
23 complies with all state laws that apply to nonpublic schools regarding criminal background
24 checks for employees and excludes from employment any person not permitted by state law
25 to work in a nonpublic school;

26 (10) "Scholarship granting organization", a charitable organization which is
27 exempt from federal income tax that complies with the requirements of this program and
28 provides education scholarships to students attending qualified schools of their parents'
29 choice, and that does not accept contributions on behalf of any eligible student from any
30 taxpayer with any obligation to provide any support for the eligible student;

31 (11) "Special needs", an autism spectrum disorder, Down syndrome, Angelman
32 syndrome, or cerebral palsy;

33 (12) "State tax liability", in the case of a business taxpayer, any liability incurred
34 by such taxpayer under chapters 143, 147, 148, and 153, excluding sections 143.191 to
35 143.265 and related provisions, and in the case of an individual taxpayer, any liability
36 incurred by such taxpayer under chapter 143, excluding sections 143.191 to 143.265 and
37 related provisions;

38 (13) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder
39 in an S corporation doing business in the state of Missouri and subject to the state income
40 tax imposed by the provisions of chapter 143, or a corporation subject to the annual
41 corporation franchise tax imposed by the provisions of chapter 147, or an insurance
42 company paying an annual tax on its gross premium receipts in this state, or other
43 financial institution paying taxes to the state of Missouri or any political subdivision of this
44 state under the provisions of chapter 148, or an express company which pays an annual tax
45 on its gross receipts in this state under chapter 153, or an individual subject to the state
46 income tax imposed by the provisions of chapter 143, or any charitable organization which
47 is exempt from federal income tax and whose Missouri unrelated business taxable income,
48 if any, would be subject to the state income tax imposed under chapter 143.

49 3. For all tax years beginning on or after January 1, 2012, a taxpayer shall be
50 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal
51 to eighty percent of the amount such taxpayer contributed to a scholarship granting

52 organization. No taxpayer shall be issued more than eight hundred thousand dollars in tax
53 credits authorized under this section per tax year.

54 4. The amount of the tax credit claimed shall not exceed fifty percent of a
55 taxpayer's state tax liability for the taxable year for which the credit is claimed. However,
56 any tax credit that cannot be claimed in the taxable year the contribution was made may
57 be carried over to the next four succeeding taxable years until the full credit has been
58 claimed.

59 5. The director shall determine, at least annually, which organizations in this state
60 may be classified as scholarship granting organizations. The director may require of an
61 organization seeking to be classified as a scholarship granting organization whatever
62 information which is reasonably necessary to make such a determination. The director
63 shall classify an organization as a scholarship granting organization if such organization
64 meets the definition set forth in this section.

65 6. The director shall establish a procedure by which a taxpayer can determine if
66 an organization has been classified as a scholarship granting organization. Scholarship
67 granting organizations shall be permitted to decline a contribution from a taxpayer.

68 7. Each scholarship granting organization shall provide information to the director
69 concerning the identity of each taxpayer making a contribution to the scholarship granting
70 organization who is claiming a tax credit under this section and the amount of the
71 contribution. The director shall provide the information to the director of revenue. The
72 director shall be subject to the confidentiality and penalty provisions of section 32.057
73 relating to the disclosure of tax information.

74 8. The director shall annually make a determination on the number of students in
75 Missouri with an individualized education program based upon special needs. The
76 director shall determine ten percent of this number for students to receive a scholarship
77 from a scholarship granting organization in that year, plus a number based on fifty percent
78 of the number of students with special needs-based individualized education programs for
79 scholarships to be granted to students with a medical diagnosis of a special need who do
80 not have an individualized education program based on the special need. The director
81 shall publicly announce the number of special needs scholarship opportunities available
82 each year. Once a scholarship granting organization has decided to provide a student with
83 a scholarship, it shall promptly notify the director. The director shall keep a running tally
84 of the number of scholarships granted in the order in which they were reported. Once the
85 tally reaches the annual limit of eligible students, the director shall notify all of the
86 participating scholarship granting organizations that they may not issue any more
87 scholarships and any more receipts for contributions. If the scholarship granting

88 organizations have not expended all of their available scholarship funds in that year at the
89 time when the limit is reached, the available scholarship funds may be carried over into the
90 next year. These unexpended funds shall not be counted as part of the requirement in
91 subdivision (3) of subsection 10 of this section for that year. Any receipt for a scholarship
92 contribution issued by a scholarship granting organization before the director has publicly
93 announced the student limit has been reached shall be valid for a taxpayer claiming a
94 credit.

95 9. Notwithstanding any other law to the contrary, any tax credits granted under
96 this section may be assigned, transferred, sold, or otherwise conveyed without consent or
97 approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell,
98 assign, exchange, or otherwise transfer earned tax credits:

99 (1) For no less than seventy-five percent of the par value of such credits; and

100 (2) In an amount not to exceed one hundred percent of annual earned credits.

101 10. Each scholarship granting organization participating in the program shall:

102 (1) Notify the department of its intent to provide educational scholarships to
103 students attending qualified schools;

104 (2) Provide a department-approved receipt to taxpayers for contributions made to
105 the organization;

106 (3) Ensure that at least ninety percent of its revenue from donations is spent on
107 educational scholarships, and that all revenue from interest or investments is spent on
108 educational scholarships;

109 (4) Distribute periodic scholarship payments as checks made out to a student's
110 parent and mailed to the qualified school where the student is enrolled. The parent or
111 guardian shall endorse the check before it can be deposited;

112 (5) Cooperate with the department to conduct criminal background checks on all
113 of its employees and board members and exclude from employment or governance any
114 individual who might reasonably pose a risk to the appropriate use of contributed funds;

115 (6) Ensure that scholarships are portable during the school year and can be used
116 at any qualified school that accepts the eligible student according to a parent's wishes. If
117 a student moves to a new qualified school during a school year, the scholarship amount
118 may be prorated;

119 (7) Demonstrate its financial accountability by:

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

123 (b) Having the auditor certify that the report is free of material misstatements;

124 **(8) Demonstrate its financial viability, if the organization is to receive donations of**
125 **fifty thousand dollars or more during the school year, by filing with the department prior**
126 **to the start of the school year:**

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

129 **(b) Financial information that demonstrates the financial viability of the**
130 **scholarship granting organization.**

131 **11. Each scholarship granting organization shall ensure that each participating**
132 **school that accepts its scholarship students shall:**

133 **(1) Comply with all health and safety laws or codes that apply to nonpublic schools;**

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

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

136 **(4) Provide academic accountability to parents of the students in the program by**
137 **regularly reporting to the parent on the student's progress.**

138 **12. Scholarship granting organizations shall not provide educational scholarships**
139 **for students to attend any school with paid staff or board members who are relatives**
140 **within the first degree of consanguinity or affinity.**

141 **13. A scholarship granting organization shall publicly report to the department, by**
142 **June first of each year, the following information prepared by a certified public accountant**
143 **regarding its grants in the previous calendar year:**

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

145 **(2) The total number and total dollar amount of contributions received during the**
146 **previous calendar year; and**

147 **(3) The total number and total dollar amount of educational scholarships awarded**
148 **during the previous calendar year, and the total number and total dollar amount of**
149 **educational scholarships awarded during the previous year to students eligible for free and**
150 **reduced lunch.**

151 **14. The department shall adopt rules and regulations consistent with this section**
152 **as necessary to implement the program.**

153 **15. The department shall provide a standardized format for a receipt to be issued**
154 **by a scholarship granting organization to a taxpayer to indicate the value of a contribution**
155 **received. The department shall require a taxpayer to provide a copy of this receipt when**
156 **claiming the Missouri special needs scholarship tax credit.**

157 **16. The department shall provide a standardized format for scholarship granting**
158 **organizations to report the information in this section.**

159 **17. The department may conduct either a financial review or audit of a scholarship**
160 **granting organization.**

161 **18. If the department believes that a scholarship granting organization has**
162 **intentionally and substantially failed to comply with the requirements of this section, the**
163 **department may hold a hearing before the director, or his or her designee, to bar a**
164 **scholarship granting organization from participating in the program. The director, or his**
165 **or her designee, shall issue a decision within thirty days. A scholarship granting**
166 **organization may appeal the director's decision to the administrative hearing commission**
167 **for a hearing in accordance with the provisions of chapter 621.**

168 **19. If the scholarship granting organization is barred from participating in the**
169 **program, the department shall notify affected scholarship students and their parents of**
170 **this decision within fifteen days.**

171 **20. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
172 **created under the authority delegated in this section shall become effective only if it**
173 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
174 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
175 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
176 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
177 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**
178 **shall be invalid and void.**

179 **21. The department shall conduct a study of the program with funds other than**
180 **state funds. The department may contract with one or more qualified researchers who**
181 **have previous experience evaluating similar programs. The department may accept grants**
182 **to assist in funding this study.**

183 **22. The study shall assess:**

184 **(1) The level of participating students' satisfaction with the program;**

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

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

189 **(4) The percentage of participating students who exhibited behavioral problems at**
190 **their resident school district compared to the percentage exhibiting behavioral problems**
191 **at their qualified school;**

192 **(5) The class size experienced by participating students at their resident school**
193 **district and at their qualified school; and**

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

195 **23. The study shall be completed using appropriate analytical and behavioral**
196 **sciences methodologies to ensure public confidence in the study.**

197 **24. The department shall provide the general assembly with a final copy of the**
198 **evaluation of the program by December 31, 2015.**

199 **25. The public and nonpublic participating schools from which students transfer**
200 **to participate in the program shall cooperate with the research effort by providing student**
201 **assessment instrument scores and any other data necessary to complete this study.**

202 **26. The general assembly may require periodic updates on the status of the study**
203 **from the department. The individuals completing the study shall make their data and**
204 **methodology available for public review while complying with the requirements of the**
205 **Family Educational Rights and Privacy Act, as amended.**

206 **27. Under section 23.253 of the Missouri sunset act:**

207 **(1) The provisions of the new program authorized under this section shall sunset**
208 **automatically on December thirty-first six years after the effective date of this section**
209 **unless reauthorized by an act of the general assembly; and**

210 **(2) If such program is reauthorized, the program authorized under this section**
211 **shall sunset automatically on December thirty-first twelve years after the effective date of**
212 **the reauthorization of this section; and**

213 **(3) This section shall terminate on September first of the calendar year immediately**
214 **following the calendar year in which the program authorized under this section is sunset.**

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