

SECOND REGULAR SESSION

# HOUSE BILL NO. 1886

## 94TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES SCHARNHORST (Sponsor), SELF, FLOOK, MARSH, LEMBKE, WALTON, YAEGER, NASHEED, BROWN (50), DIXON, JETTON, TILLEY, CUNNINGHAM (145), SCHOELLER, FISHER, FAITH, ROORDA, NOLTE, STREAM, MAY, COX, ROBB, DAVIS, MUSCHANY, EMERY, HUNTER, SCHAAF, ERVIN, FRANZ, ONDER, POLLOCK, WILSON (119), SMITH (14), BIVINS, SCHLOTTACH, GUEST, COOPER (120), ICET, CUNNINGHAM (86), LIPKE, NIEVES, CASEY, MEINERS, DAUS, VILLA, DOUGHERTY, MOORE, RUESTMAN, WETER, McGHEE, HOSKINS, SUTHERLAND, RICHARD, SCHAD, JONES (117), PARSON, DAY, NANCE, KELLY, JONES (89), HUGHES, SILVEY, HOBBS AND BRUNS (Co-sponsors).

Read 1st time January 28, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4675L.011

---

### AN ACT

To amend chapter 163, RSMo, by adding thereto six new sections relating to the Missouri special needs scholarship tax credit program.

---

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

Section A. Chapter 163, RSMo, is amended by adding thereto six new sections, to be  
2 known as sections 163.403, 163.405, 163.407, 163.409, 163.411, and 163.415, to read as  
3 follows:

**163.403. Sections 163.403 to 163.415 shall be known and may be cited as "Bryce's  
2 Law".**

**163.405. 1. As used in sections 163.403 to 163.415, the following terms mean:**

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

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

6 **(3) "Department", the department of economic development;**

7 **(4) "Director", the director of the department of economic development;**

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.

8           (5) "Educational scholarships", grants to students to cover all or part of the tuition  
9 and fees at either a qualified nonpublic school or a qualified public school, including  
10 transportation to a public school outside of a student's resident school district;

11           (6) "Eligible student", any elementary or secondary student attending public school  
12 in Missouri with an individualized education program, including but not limited to  
13 students who are mentally handicapped, speech and language impaired, deaf or hard of  
14 hearing, visually impaired, dual sensory impaired, physically impaired, emotionally  
15 handicapped, specific learning disabled, diagnosed with an autism spectrum disorder, or  
16 hospitalized or homebound due to illness or disability;

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 sections 163.403 to 163.415;

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

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

35           (12) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder  
36 in an S corporation doing business in the state of Missouri and subject to the state income  
37 tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual  
38 corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance  
39 company paying an annual tax on its gross premium receipts in this state, or other  
40 financial institution paying taxes to the state of Missouri or any political subdivision of this  
41 state under the provisions of chapter 148, RSMo, or an express company which pays an  
42 annual tax on its gross receipts in this state under chapter 153, RSMo, or an individual  
43 subject to the state income tax imposed by the provisions of chapter 143, RSMo, or any

44 charitable organization which is exempt from federal income tax and whose Missouri  
45 unrelated business taxable income, if any, would be subject to the state income tax imposed  
46 under chapter 143, RSMo.

47 2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be  
48 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal  
49 to eighty percent of the amount such taxpayer contributed to a scholarship granting  
50 organization. No taxpayer shall be issued more than eight hundred thousand dollars in tax  
51 credits authorized under this section per tax year.

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

57 4. The director shall determine, at least annually, which organizations in this state  
58 may be classified as scholarship granting organizations. The director may require of an  
59 organization seeking to be classified as a scholarship granting organization whatever  
60 information which is reasonably necessary to make such a determination. The director  
61 shall classify an organization as a scholarship granting organization if such organization  
62 meets the definition set forth in subsection 1 of this section.

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

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

72 7. Notwithstanding any other law to the contrary, any tax credits granted under  
73 this section may be assigned, transferred, sold, or otherwise conveyed without consent or  
74 approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell,  
75 assign, exchange, or otherwise transfer earned tax credits:

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

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

163.407. 1. Each scholarship granting organization participating in the program  
2 under sections 163.403 to 163.415 shall:

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

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

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

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

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

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

20          (7) Demonstrate its financial accountability by:

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

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

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

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

30           (b) Financial information that demonstrates the financial viability of the  
31 scholarship granting organization.

32          2. Each scholarship granting organization shall ensure participating schools that  
33 accept its scholarship students shall:

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

35           (2) Hold a valid occupancy permit if required by their municipality;

36           (3) Certify that they shall not discriminate in admissions on the basis of race, color,  
37 national origin, or religion; and

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

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

43           **4. A scholarship granting organization shall publicly report to the department, by**  
44 **June first of each year, the following information prepared by a certified public accountant**  
45 **regarding their grants in the previous calendar year:**

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

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

49           **(3) The total number and total dollar amount of educational scholarships awarded**  
50 **during the previous calendar year, and the total number and total dollar amount of**  
51 **educational scholarships awarded during the previous year to students eligible for free and**  
52 **reduced lunch.**

**163.409. 1. The department shall adopt rules and regulations consistent with**  
2 **sections 163.403 to 163.415 as necessary to implement the program.**

3           **2. The department shall provide a standardized format for a receipt to be issued**  
4 **by a scholarship granting organization to a taxpayer to indicate the value of a contribution**  
5 **received. The department shall require a taxpayer to provide a copy of this receipt when**  
6 **claiming the Missouri special needs scholarship tax credit.**

7           **3. The department shall provide a standardized format for scholarship granting**  
8 **organizations to report the information in section 163.407.**

9           **4. The department may conduct either a financial review or audit of a scholarship**  
10 **granting organization.**

11           **5. If the department believes that a scholarship granting organization has**  
12 **intentionally and substantially failed to comply with the requirements of section 163.407,**  
13 **the department may hold a hearing before the director, or his or her designee, to bar a**  
14 **scholarship granting organization from participating in the program. The director, or his**  
15 **or her designee, shall issue a decision within thirty days. A scholarship granting**  
16 **organization may appeal the director's decision to the administrative hearing commission**  
17 **for a hearing in accordance with the provisions of chapter 621, RSMo.**

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

21           **7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
22 **that is created under the authority delegated in this section shall become effective only if**  
23 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
24 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
25 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
26 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
27 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
28 **adopted after August 28, 2008, shall be invalid and void.**

**163.411. 1. The department shall conduct a study of the program with funds other**  
2 **than state funds. The department may contract with one or more qualified researchers**  
3 **who have previous experience evaluating similar programs. The department may accept**  
4 **grants to assist in funding this study.**

5           **2. The study shall assess:**

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

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

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

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

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

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

17           **3. The study shall be completed using appropriate analytical and behavioral**  
18 **sciences methodologies to ensure public confidence in the study.**

19           **4. The department shall provide the general assembly with a final copy of the**  
20 **evaluation of the program by December 31, 2009.**

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

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

**163.415. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

2           (1) The provisions of the new program authorized under sections 163.403 to  
3 163.415 shall sunset automatically on December thirty-first six years after the effective date  
4 of sections 163.403 to 163.415 unless reauthorized by an act of the general assembly; and

5           (2) If such program is reauthorized, the program authorized under sections 163.403  
6 to 163.415 shall sunset automatically on December thirty-first twelve years after the  
7 effective date of the reauthorization of sections 163.403 to 163.415; and

8           (3) Sections 163.403 to 163.415 shall terminate on September first of the calendar  
9 year immediately following the calendar year in which the program authorized under  
10 sections 163.403 to 163.415 is sunset.

✓