

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1614

## 97TH GENERAL ASSEMBLY

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Reported from the Committee on Education, May 12, 2014, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4603S.04C

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### AN ACT

To repeal section 161.825, RSMo, and to enact in lieu thereof one new section relating to educational services for students with qualifying needs.

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

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Section A. Section 161.825, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 161.825, to read as follows:

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

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

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

7 (2) "Contribution", a donation of cash, stock, bonds, or other marketable  
8 securities, or real property;

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

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

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

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **recognition, fluency and comprehension delivered by qualified**  
20 **personnel;**

21 [(5)] (6) "Educational scholarships", grants to students **or children** to  
22 cover all or part of the tuition and fees at a qualified nonpublic school, a qualified  
23 public school, or a qualified service provider, including transportation;

24 [(6)] (7) "Eligible child", any child from birth to age five living in  
25 Missouri who has an individualized family services program under the first steps  
26 program, sections 160.900 to 160.933, and whose parent or guardian has  
27 completed the complaint procedure under the Individuals with Disabilities  
28 Education Act, Part C, and has received an unsatisfactory response; or any child  
29 from birth to age five who has been evaluated for [special] **qualifying** needs as  
30 defined in this section by a person qualified to perform evaluations under the first  
31 steps program and has been determined to have [special needs] **a qualifying**  
32 **need** but who falls below the threshold for eligibility by no less than twenty-five  
33 percent;

34 [(7)] (8) "Eligible student", any elementary or secondary student who  
35 attended public school in Missouri the preceding semester, or who will be  
36 attending school in Missouri for the first time, who has an individualized  
37 education program based on a [special] **qualifying** needs condition or who has  
38 a medical **or clinical** diagnosis by a qualified health professional of a [special]  
39 **qualifying** needs condition **which in the case of dyslexia, may be based on**  
40 **the C-TOPP assessment as an initial indicator of dyslexia and**  
41 **confirmed by further medical or clinical diagnosis;**

42 [(8)] (9) "Parent", includes a guardian, custodian, or other person with  
43 authority to act on behalf of the **student or** child;

44 [(9)] (10) "Program", the program established in this section;

45 [(10)] (11) "Qualified health professional", a person licensed under  
46 chapter 334 or 337 who possesses credentials as described in rules promulgated  
47 jointly by the department of elementary and secondary education and the  
48 department of mental health to make a diagnosis of a student's [special]  
49 **qualifying** needs for this program;

50 [(11)] (12) "Qualified school", either an accredited public elementary or  
51 secondary school in a district that is accredited without provision outside of the  
52 district in which a student resides or an accredited nonpublic elementary or  
53 secondary school in Missouri that complies with all of the requirements of the  
54 program and complies with all state laws that apply to nonpublic schools

55 regarding criminal background checks for employees and excludes from  
56 employment any person not permitted by state law to work in a nonpublic school;

57       [(12)] **(13) "Qualified service provider", a person or agency authorized by**  
58 **the department to provide services under the first steps program, sections**  
59 **160.900 to 160.933, and in the case of a provider offering dyslexia**  
60 **therapy, the term also includes a person with national certification as**  
61 **an academic language therapist;**

62       **(14) "Qualifying needs", an autism spectrum disorder, Down**  
63 **Syndrome, Angelman Syndrome, cerebral palsy, or dyslexia;**

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

65       (a) Is exempt from federal income tax;

66       (b) Complies with the requirements of this program;

67       (c) Provides education scholarships to students attending qualified schools  
68 of their parents' choice or to children receiving services from qualified service  
69 providers; and

70       (d) Does not accept contributions on behalf of any eligible student or  
71 eligible child from any donor with any obligation to provide any support for the  
72 eligible student or eligible child[;

73       (14) "Special needs", an autism spectrum disorder, Down Syndrome,  
74 Angelman Syndrome, or cerebral palsy].

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

84       4. The director shall determine, at least annually, which organizations in  
85 this state may be classified as scholarship granting organizations. The director  
86 may require of an organization seeking to be classified as a scholarship granting  
87 organization whatever information **[which] that** is reasonably necessary to make  
88 such a determination. The director shall classify an organization as a scholarship  
89 granting organization if such organization meets the definition set forth in this  
90 section.

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

95           6. Each scholarship granting organization shall provide information to the  
96 director concerning the identity of each donor making a contribution to the  
97 scholarship granting organization.

98           7. (1) The director shall annually make a determination on the number  
99 of students in Missouri with an individualized education program based upon  
100 **[special] qualifying** needs as defined in this section. The director shall use ten  
101 percent of this number to determine the maximum number of students to receive  
102 scholarships from a scholarship granting organization in that year for students  
103 with **[special] qualifying** needs who have at the time of application an  
104 individualized education program, plus a number calculated by the director by  
105 applying the state's latest available autism, cerebral palsy, Down Syndrome,  
106 **[and] Angelman Syndrome, and dyslexia** incidence rates to the state's  
107 population of children from age five to nineteen who are not enrolled in public  
108 schools and taking ten percent of that number. The total of these two  
109 calculations shall constitute the maximum number of scholarships available to  
110 students.

111           (2) The director shall also annually make a determination on the number  
112 of children in Missouri whose parent or guardian has enrolled the child in first  
113 steps, received an individualized family services program based on  
114 **[special] qualifying** needs, and filed a complaint through the Individuals with  
115 Disabilities Education Act, Part C, and received **[a negative] an unsatisfactory**  
116 response. In addition to this number, the director shall apply the latest available  
117 autism, cerebral palsy, Down Syndrome, **[and] Angelman Syndrome, and**  
118 **dyslexia** incidence rates to the latest available census information for children  
119 from birth to age five and determine ten percent of that number for the maximum  
120 number of scholarships for children.

121           (3) The director shall publicly announce the number of each category of  
122 scholarship opportunities available each year. Once a scholarship granting  
123 organization has decided to provide a student or child with a scholarship, it shall  
124 promptly notify the director. The director shall keep a running tally of the  
125 number of scholarships granted in the order in which they were reported. Once  
126 the tally reaches the annual limit of scholarships for eligible students or children,

127 the director shall notify all of the participating scholarship granting organizations  
128 that they shall not issue any more scholarships and any more receipts for  
129 contributions. If the scholarship granting organizations have not expended all  
130 of their available scholarship funds in that year at the time when the limit is  
131 reached, the available scholarship funds may be carried over into the next  
132 year. These unexpended funds shall not be counted as part of the requirement  
133 in subdivision (3) of subsection [10] 8 of this section for that year. Any receipt  
134 for a scholarship contribution issued by a scholarship granting organization  
135 before the director has publicly announced the student or child limit has been  
136 reached shall be valid. **Beginning with school year 2016-17, the director**  
137 **may adjust the allocation of the proportion of scholarships using**  
138 **information on unmet need and use patterns from the previous school**  
139 **years. The director shall provide notice of the change to the state**  
140 **board of education for its approval.**

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

143 (1) Notify the department of its intent to provide educational scholarships  
144 to students attending qualified schools or children receiving services from  
145 qualified service providers;

146 (2) Provide a department-approved receipt to donors for contributions  
147 made to the organization;

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

151 (4) Ensure that the scholarships provided do not exceed an average of  
152 twenty thousand dollars per eligible child or fifty thousand dollars per eligible  
153 student;

154 (5) Inform the parent or guardian of the student or child applying for a  
155 scholarship that accepting the scholarship is tantamount to a parentally placed  
156 private school student pursuant to 34 CFR 300.130 and, thus, neither the  
157 department nor any Missouri public school is responsible to provide the student  
158 with a free appropriate public education pursuant to the Individuals with  
159 Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973;

160 (6) Distribute periodic scholarship payments as checks made out to a  
161 student's or child's parent and mailed to the qualified school where the student  
162 is enrolled or qualified service provider used by the child. The parent or guardian

163 shall endorse the check before it can be deposited;

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

168 (8) Ensure that scholarships are portable during the school year and can  
169 be used at any qualified school that accepts the eligible student or at a different  
170 qualified service provider for an eligible child according to a parent's wishes. If  
171 a student moves to a new qualified school during a school year or to a different  
172 qualified service provider for an eligible child, the scholarship amount may be  
173 prorated;

174 (9) Demonstrate its financial accountability by:

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

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

180 (10) Demonstrate its financial viability, if the organization is to receive  
181 donations of fifty thousand dollars or more during the school year, by filing with  
182 the department before the start of the school year:

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

186 (b) Financial information that demonstrates the financial viability of the  
187 scholarship granting organization.

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

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

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

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

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

198 (5) Certify that in providing any educational services or behavior

199 strategies to a scholarship recipient with a **medical or clinical** diagnosis of or  
200 an individualized education program based upon autism spectrum disorder it will:

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

203 (b) Not use any evidence-based interventions that have been found  
204 ineffective by the [commission on Medicare] **centers for Medicare and**  
205 **Medicaid services** as described in the Missouri Autism Guidelines Initiative  
206 guide to evidence-based interventions; and

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

211 (6) Certify that in providing any educational services or behavior  
212 strategies to a scholarship recipient with a **medical or clinical** diagnosis of, or  
213 an individualized family services program based upon Down Syndrome, Angelman  
214 Syndrome, [or] cerebral palsy, **or dyslexia**, it will use student, teacher, teaching,  
215 and school influences that rank in the zone of desired effects in the meta-analysis  
216 of John Hattie, or equivalent analyses as determined by the department, or  
217 document why it is using a method that has not been determined by analysis to  
218 rank in the zone of desired effects.

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

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

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

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

229 (3) The total number and total dollar amount of educational scholarships  
230 awarded during the previous calendar year, including the category of each  
231 scholarship, and the total number and total dollar amount of educational  
232 scholarships awarded during the previous year to students eligible for free and  
233 reduced lunch.

234 12. The department shall adopt rules and regulations consistent with this

235 section as necessary to implement the program.

236 13. The department shall provide a standardized format for a receipt to  
237 be issued by a scholarship granting organization to a donor to indicate the value  
238 of a contribution received.

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

241 15. The department may conduct either a financial review or audit of a  
242 scholarship granting organization.

243 16. If the department believes that a scholarship granting organization  
244 has intentionally and substantially failed to comply with the requirements of this  
245 section, the department may hold a hearing before the director or the director's  
246 designee to bar a scholarship granting organization from participating in the  
247 program. The director or the director's designee shall issue a decision within  
248 thirty days. A scholarship granting organization may appeal the director's  
249 decision to the administrative hearing commission for a hearing in accordance  
250 with the provisions of chapter 621.

251 17. If the scholarship granting organization is barred from participating  
252 in the program, the department shall notify affected scholarship students or  
253 children and their parents of this decision within fifteen days.

254 18. Any rule or portion of a rule, as that term is defined in section  
255 536.010, that is created under the authority delegated in this section shall  
256 become effective only if it complies with and is subject to all of the provisions of  
257 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
258 nonseverable and if any of the powers vested with the general assembly pursuant  
259 to chapter 536 to review, to delay the effective date, or to disapprove and annul  
260 a rule are subsequently held unconstitutional, then the grant of rulemaking  
261 authority and any rule proposed or adopted after August 28, 2013, shall be  
262 invalid and void.

263 19. The department shall conduct a study of the program with funds other  
264 than state funds. The department may contract with one or more qualified  
265 researchers who have previous experience evaluating similar programs. The  
266 department may accept grants to assist in funding this study.

267 20. The study shall assess:

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

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



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

274 (4) The percentage of participating students who exhibited behavioral  
275 problems at their resident school district compared to the percentage exhibiting  
276 behavioral problems at their qualified school;

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

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

281 21. The study shall be completed using appropriate analytical and  
282 behavioral sciences methodologies to ensure public confidence in the study.

283 22. The department shall provide the general assembly with a final copy  
284 of the evaluation of the program by December 31, 2016.

285 23. The public and nonpublic participating schools and service providers  
286 from which students transfer to participate in the program shall cooperate with  
287 the research effort by providing student or child assessment instrument scores  
288 and any other data necessary to complete this study.

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

293 25. Under section 23.253 of the Missouri sunset act:

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

297 (2) If such program is reauthorized, the program authorized under this  
298 section shall sunset automatically on December 31, 2031; and

299 (3) This section shall terminate on December thirty-first of the calendar  
300 year immediately following the calendar year in which the program authorized  
301 under this section is sunset.

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