

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 563

By: Pruitt

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2001, Section 13-101, which relates to special education services for children with disabilities; authorizing districts to provide scholarships for certain students to attend certain private schools; creating the Scholarships for Students with Disabilities Program; stating intent; establishing eligibility requirements for students and parents; requiring certain notice to school district; establishing eligibility requirements for participating private schools; requiring certain notice to State Department of Education; stating compliance provisions for participants; specifying forfeiture of scholarship for certain noncompliance; requiring school district to provide notice and certain information to State Department of Education by certain deadline; requiring State Department of Education to provide certain information to private school by certain deadline; specifying school district to separately report scholarship students for certain purpose; establishing formula for maximum scholarship amount; specifying amount of scholarship; authorizing payment of certain fee and reduction of total scholarship amount; authorizing partial payment for reservation and providing procedures; establishing procedures for State Department of Education to transfer certain funds for scholarship program; requiring review and approval of certain documentation; providing for quarterly scholarship payments; providing procedures; clarifying school districts not responsible for additional costs; precluding liability; directing State Board of Education to adopt certain rules; directing State Department of Education to make available certain information on website; authorizing State Department of Education to conduct certain investigations and suspend or remove certain participating private schools from program; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2001, Section 13-101, is amended to read as follows:

Section 13-101. A. The several school districts of Oklahoma are hereby authorized to provide special education and related services necessary for children with disabilities as hereinafter defined. Two or more school districts may establish cooperative programs of special education for children with disabilities when such arrangement is approved by the State Board of Education. Funds may be expended for school services for an additional period during the summer months for approved programs for qualified children with disabilities, provided their individualized education program (I.E.P.) states the need for extended school year special education and related services. Children with disabilities shall mean children, as defined in the Individuals with Disabilities Education Act (IDEA), ~~P.L. No. 105-17~~ 20 U.S.C., Section 1400 et seq., who are three (3) years of age.

Provided, on and after July 1, 1991, children from age birth through two (2) years (0-36 months) of age who meet the eligibility criteria specified in Section 13-123 of this title, shall be served pursuant to the provisions of the Oklahoma Early Intervention Act. The attendance of said children in special education classes shall be included in the average daily membership computations for State Aid purposes.

B. The State Board of Education is authorized to modify and redefine by regulation the eligibility definitions whenever such modification is required to receive federal assistance under the Individuals with Disabilities Education Act (IDEA), ~~P.L. No. 105-17~~ 20 U.S.C., Section 1400 et seq. Rules developed pursuant to Section 18-109.5 of this title shall provide for such modification and revised definitions.

C. It shall be the duty of each school district to provide special education and related services for all children with disabilities as herein defined who reside in that school district in accordance with the Individuals with Disabilities Education Act

(IDEA), ~~P.L. No. 105-17~~ 20 U.S.C., Section 1400 et seq. ~~This duty may be satisfied by~~ The district may satisfy this duty by:

1. ~~The district directly~~ Directly providing special education for such children;

2. ~~The district joining~~ Joining in a cooperative program with another district or districts to provide special education for such children;

3. ~~The district joining~~ Joining in a written agreement with a private or public institution, licensed residential child care and treatment facility or day treatment facility within such district to provide special education for children who are deaf or hard-of-hearing, children who are blind or partially blind or other eligible children with disabilities; ~~or~~

4. Transferring eligible children and youth with disabilities to other school districts which accept them and provide special education and related services for such children, with the district in which the child resides paying tuition therefor as hereinafter provided. For those students who transfer pursuant to the provisions of the Education Open Transfer Act, the receiving school district shall assume all responsibility for education and shall count the student for federal and state funding purposes according to the provisions of subsection B of Section 13-103 of this title; or

5. Beginning with the 2006-2007 school year, providing a scholarship, at the parent's request, for a student to attend a private school pursuant to Section 2 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 13-101.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Scholarships for Students with Disabilities Program. The Scholarships for Students with Disabilities Program is established to provide a scholarship for a

student with disabilities for whom an individualized education program (I.E.P.) has been developed to attend a private school of choice.

B. The parent of a public school student with a disability as defined in the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq., and for whom an individualized education program (I.E.P.) has been developed, may request and receive a scholarship for the student to enroll in and attend a private school in accordance with this section if:

1. The student has spent the prior school year or will have spent the current school year in attendance at a public school in this state during the school year preceding the school year for which the scholarship is desired. "Prior or current school year in attendance" means that the student was enrolled in and reported by a school district for funding during the preceding school year or current school year, as applicable; and

2. The parent has obtained acceptance for admission of the student to a private school that is eligible for the program as provided in subsection C of this section and has notified, in writing, the superintendent of the school district of the request for a scholarship no later than March 1 of the school year preceding the school year for which the scholarship is desired.

C. To be eligible to participate in the Scholarships for Students with Disabilities Program, a private school shall notify the State Department of Education of its intent to participate by January 1 of the school year preceding the school year in which it intends to participate. The notice must specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. The State Department of Education shall approve a private school as eligible to participate in the Scholarships for Students with Disabilities Program upon determination that such private school:

1. Meets the accreditation requirements set by the State Board of Education or another accrediting association approved by the State Board of Education;

2. Demonstrates fiscal soundness by having been in operation for one school year and provides the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year by serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected;

3. Complies with the antidiscrimination provisions of 42 U.S.C., Section 2000d;

4. Meets state and local health and safety laws and codes;

5. Will be academically accountable to the parent for meeting the educational needs of the student;

6. Employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;

7. Complies with all state laws relating to general regulation of private schools;

8. Adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student;

9. Maintains a physical location in this state where scholarship students attend classes and receive regular direct on-site contact with teachers; and

10. Ensures that no employee has been convicted of any felony offense in this state, the United States or another state or any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender

registration provisions, unless ten (10) years has elapsed since the date of the criminal conviction or the employee has received a presidential or gubernatorial pardon for the criminal offense. A private school seeking eligibility to participate in the Scholarships for Students with Disabilities Program may submit a felony search request to the State Board of Education in the same manner as a felony search is afforded school districts by Section 5-142 of Title 70 of the Oklahoma Statutes.

D. Scholarship program participants shall comply with the following:

1. The parent shall select a private school from the schools approved for eligibility pursuant to subsection C of this section and apply for the admission of the student;

2. The parent shall request the scholarship in writing to the superintendent of the school district no later than March 1 of the school year preceding the school year for which the scholarship is desired;

3. Any student participating in the scholarship program must attend throughout the school year, unless excused by the school for illness or other good cause, and must comply with the school's code of conduct;

4. The parent must comply with the private school's parental involvement requirements, unless excused by the school for illness or other good cause;

5. Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school;

6. The parent agrees to accept responsibility for any additional costs associated with special education and related services for the student that may be required beyond the amount provided by the scholarship pursuant to this act, and the parent further agrees that the school district will not be liable for any

additional costs associated with special education and related services;

7. The scholarship shall continue until the student returns to a public school or graduates from high school. If the student's residence changes, the parent shall notify the new district of residence of the student's scholarship status and the new district shall assume responsibility for the scholarship.

8. A participant who fails to comply with this subsection forfeits the scholarship.

E. 1. Within ten (10) days after receipt of a parent's request for a scholarship for a student with a disability, the school district shall notify the State Department of Education of the request along with the categorical and grade level weights applicable to the student and per student funding amounts as set forth in paragraph 1 of subsection F of this section.

2. The State Department of Education shall notify the private school of the amount of the scholarship within thirty (30) days after it receives the school district's notification pursuant to paragraph 1 of this subsection.

3. The school district shall separately report all students who are attending a private school under the Scholarships for Students with Disabilities program to the State Department of Education for purposes of State Aid;

F. Provisions governing payment of scholarships shall be as follows:

1. The maximum scholarship granted for an eligible student with disabilities shall be an amount equivalent to the State Aid generated by that student plus a proportionate amount of state appropriated funds provided to the district on a per-student basis for the school year preceding the school year for which the scholarship is desired;

2. The amount of the scholarship shall be the amount calculated in paragraph 1 of this subsection or the amount of the private school's tuition and fees, whichever is less. The amount of any initial assessment fee required by the participating private school may be paid from the total amount of the scholarship;

3. If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the State Department of Education prior to the first quarterly payment of the year in which the scholarship is awarded, up to a maximum of one thousand dollars (\$1,000.00), and shall be deducted from subsequent scholarship payments. If a student decides not to attend the participating private school, the partial reservation payment must be returned to the State Department of Education by the participating private school. Each student shall be limited to one reservation payment per year.

4. The State Department of Education shall transfer the amount calculated pursuant to paragraph 2 of this subsection from the school district's total funding entitlement under the State Aid program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. When a student enters the scholarship program, the Department must receive all documentation required for the student's participation, including the private school's and student's fee schedules, at least thirty (30) days prior to the first quarterly scholarship payment is made for the student. The Department shall not make any retroactive payments.

5. Upon proper documentation reviewed and approved by the State Department of Education, the Department shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force. The initial payment shall be made after

verification of admission acceptance and enrollment, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed to the private school of the parent's choice. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school; and

6. A school district shall not be responsible for any additional costs associated with special education and related services for the student including the cost of teachers, equipment, material, and special costs associated with the special education class.

G. No liability shall arise on the part of the state based on the award or use of any scholarship provided by the Scholarships for Students with Disabilities Program.

H. The State Board of Education shall adopt rules to implement the provisions of this act in accordance with requirements of the Individuals with Disabilities Education Improvement Act of 2004, as enacted by House Resolution No. 1350 of the 108th Congress, P.L. No. 108-446.

I. The State Department of Education shall make available on its website information about the program, deadlines, the application process, scholarship request forms, private school application forms, private schools that have been approved by the Department, services provided or available at each school as applicable, and any other information the Department deems useful.

J. The State Department of Education is authorized to:

1. Investigate a participating private school for an alleged violation of eligibility requirements pursuant to this act;

2. Suspend or revoke eligibility of a participating private school for failure to comply with requirements of this act; and

3. Remove the name of a participating private school that is found to have violated the provisions of this act from the list of approved schools.

SECTION 3. This act shall become effective November 1, 2005.

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