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HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1744

By: Nelson of the House and Anderson of the Senate

Title: Schools; modifying the Lindsey Nicole Henry Scholarships for Student with Disabilities Program Act; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from Amendments No. 1, No. 2, No. 3, No. 4 and No. 5.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Blackwell _____

Cannaday _____

Casey Dennis Casey

Coody Bob Coody

Cooksey Marian Cooksey

Denney Lee Denney

Hall Glise Hall

Holland Conny Holland

Kouplen _____

McDaniel
(Jeannie) _____

Nollan Jadine Nollan

Shumate _____

Thomsen Jodd Thomsen

HB1744 CCR A

SENATE CONFEREES

Anderson

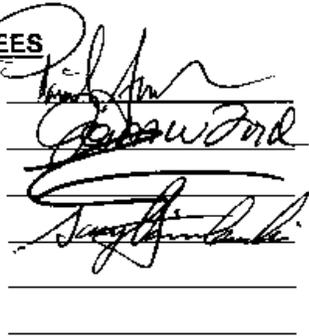
Ford

Jolley

Stanislawski

Garrison

Burrage



House Action _____ Date _____

Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1744

By: Nelson, Kern and Dank of
the House

7 and

8 Anderson of the Senate

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to schools; amending Section 2,
11 Chapter 381, O.S.L. 2010 (70 O.S. Supp. 2010, Section
12 13-101.2), which relates to the Lindsey Nicole Henry
13 Scholarships for Student with Disabilities Program
14 Act; modifying scope of the program; providing an
15 exception to certain attendance requirement for
16 certain students; modifying certain notification
17 requirements; requiring certain direct
18 communications; requiring certain notification to
19 school districts; adding age limitation; deleting
20 provision for a change of residence; adding
21 eligibility for certain students who made a
22 scholarship request during certain school year;
23 requiring regular teacher contact; requiring school
24 districts to notify parents of the available options
and information sources in a certain manner; stating
effect of acceptance of a Lindsey Nicole Henry
Scholarship; specifying parental responsibility upon
acceptance of a scholarship; changing notification
requirements; changing request requirement;
prohibiting certain designation; directing the State
Department of Education to make certain calculation;
directing the Department to reserve or retain
scholarship payments from certain amounts; modifying
calculation of maximum scholarship amount; specifying
use of disability weights; modifying authorization
for administrative service fee; allowing for payment
of an assessment fee and other certain amounts;

1 deleting certain reporting requirement by a school
2 district; requiring certain notification of
3 scholarship amount; changing payment and cost
4 responsibilities; directing the Department to
5 establish a toll-free number or website for certain
6 purpose; requiring an annual sworn compliance
7 statement; directing the Department to cross-check
8 enrollments; providing for suspension or revocation
9 of a private school participation approval by the
10 State Superintendent of Public Instruction for
11 certain purpose; providing process for denying,
12 revoking or suspending approval; authorizing certain
13 hearing procedures; allowing for immediate suspension
14 under certain circumstances; modifying liability
15 limitations; limiting regulatory authority;
16 authorizing the Department to reduce certain payments
17 to or require repayment by certain school districts
18 for failure to make certain scholarship payments;
19 creating the Special Education State-wide Cooperative
20 Task Force; directing the Task Force to study certain
21 issues and make recommendations; specifying certain
22 issues; establishing membership; providing for
23 cochairs, meetings, service, quorum, vacancies and
24 staff support; directing certain state agencies to
provide support and information; allowing for travel
reimbursement; allowing the Task Force to seek
certain assistance for certain purpose; requiring the
Task Force to submit certain reports; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 381, O.S.L.
2010 (70 O.S. Supp. 2010, Section 13-101.2), is amended to read as
follows:

Section 13-101.2 A. There is hereby created the Lindsey Nicole
Henry Scholarships for Students with Disabilities Program. The
Lindsey Nicole Henry Scholarships for Students with Disabilities

1 Program is established to provide a scholarship to a private school
2 of choice for students with disabilities for whom an individualized
3 education program (IEP) in accordance with the Individuals with
4 Disabilities Education Act (IDEA) has been developed at any time
5 prior to notifying the State Department of Education of the intent
6 to participate in the Program and the IEP is in effect at the time
7 the request for a scholarship is received by the State Department of
8 Education. Scholarships shall be awarded beginning with the 2010-
9 2011 school year.

10 B. The parent or legal guardian of a public school student with
11 a disability may exercise their parental option and request to have
12 a Lindsey Nicole Henry Scholarship awarded for the child to enroll
13 in and attend a private school in accordance with this section and
14 the scholarship shall be awarded if:

15 1. The student has spent the prior school year in attendance at
16 a public school in this state. For purposes of this section, "prior
17 school year in attendance" means that the student was enrolled in
18 and reported by a school district for funding purposes during the
19 preceding school year regardless of whether or not the student had
20 an IEP at the time the student was counted for funding purposes. A
21 student who is a child of a member of the United States Armed Forces
22 who transfers to a school in this state from out of state or from a
23 foreign country pursuant to a permanent change of station orders of
24 the parent shall be exempt from the requirements of this paragraph

1 but shall be required to meet all other eligibility requirements to
2 participate as provided for in this section; and

3 2. The parent or legal guardian has obtained acceptance for
4 admission of the student to a private school that is eligible for
5 the program as provided in subsection ~~D~~ H of this section and has
6 notified, ~~in writing,~~ the ~~school district~~ State Department of
7 Education of the request for a scholarship ~~at least sixty (60) days~~
8 ~~prior to the date of the first scholarship payment~~ no later than
9 December 1 of the school year during which the scholarship is
10 requested. The request shall be through a communication directly to
11 the Department in a manner that creates a written or electronic
12 record of the request and the date of receipt of the request. The
13 Department shall notify the school district upon receipt of the
14 request. For purposes of continuity of educational choice, the
15 scholarship shall remain in force until the student returns to a
16 public school ~~or,~~ graduates from high school or reaches the age of
17 twenty-two (22), whichever occurs first. ~~If the residence of the~~
18 ~~student changes, the district of residence shall assume~~
19 ~~responsibility for the scholarship.~~ At any time, the parent or
20 legal guardian of the student may remove the student from the
21 private school and place the student in another private school that
22 is eligible for the program as provided in subsection ~~D~~ H of this
23 section or place the student in a public school.

24

1 C. A student shall be eligible for a scholarship if the parent
2 or legal guardian of the student made a request for a scholarship
3 for the 2010-2011 school year and the student transferred to an
4 eligible private school but was subsequently denied a scholarship
5 because the student did not have an IEP in effect on October 1,
6 2009, but did meet all other eligibility requirements as set forth
7 in the Lindsey Nicole Henry Scholarships for Students with
8 Disabilities Program Act.

9 D. A student shall not be eligible for a Lindsey Nicole Henry
10 Scholarship if the student is not having regular and direct contact
11 with the private school teachers at the physical location of the
12 private school.

13 E. School districts shall notify the parent or legal guardian
14 of a public school student with a disability of all options
15 available pursuant to this section and inform the parent or legal
16 guardian of the availability of information about the program from
17 the State Department of Education through the toll-free telephone
18 number or website. The notification shall be provided with or
19 included in the copy of the "Parents Rights in Special Education:
20 Notice of Procedural Safeguards" document given to parents at least
21 annually or as otherwise required by law.

22 F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall
23 have the same effect as a parental refusal to consent to service
24 pursuant to 20 U.S.C., Section 614(a)(1) of the IDEA.

1 2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the
2 parent or legal guardian shall assume full financial responsibility
3 for the education of the student, including but not limited to
4 transportation to and from the private school.

5 G. If the parent or legal guardian requests a Lindsey Nicole
6 Henry Scholarship and the student is accepted by the private school
7 pending the availability of a space for the student, the parent or
8 legal guardian of the student shall notify the State Department of
9 Education ~~the school district sixty (60) days prior to the first~~
10 ~~scholarship payment and before entering the private school and~~
11 before December 1 in order to be eligible for the scholarship during
12 the school year when a space becomes available for the student in
13 the private school. If notification is made after December 1,
14 payment of the scholarship shall not begin until the next school
15 year.

16 ~~D.~~ H. To be eligible to participate in the Lindsey Nicole Henry
17 Scholarships for Students with Disabilities Program, a private
18 school shall notify the State Department of Education of its intent
19 to participate. The notice shall specify the grade levels and
20 services that the private school has available for students with
21 disabilities who are participating in the scholarship program. The
22 State Department of Education shall approve a private school as
23 eligible to participate in the scholarship program upon
24 determination that the private school:

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

4 2. Demonstrates fiscal soundness by having been in operation
5 for one (1) school year or providing the State Department of
6 Education with a statement by a certified public accountant
7 confirming that the private school desiring to participate is
8 insured and the owner or owners have sufficient capital or credit to
9 operate the school for the upcoming year by serving the number of
10 students anticipated with expected revenues from tuition and other
11 sources that may be reasonably expected. In lieu of a statement, a
12 surety bond or letter of credit for the amount equal to the
13 scholarship funds for any quarter may be filed with the Department;

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

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

17 5. Will be academically accountable to the parent or legal
18 guardian for meeting the educational needs of the student;

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

24

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

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

5 ~~E.~~ I. 1. Lindsey Nicole Henry Scholarship Program participants
6 shall comply with the following:

7 a. the parent or legal guardian shall select the private
8 school from the schools approved for eligibility
9 pursuant to subsection ~~D~~ H of this section and apply
10 for the admission of the child,

11 b. the parent or legal guardian shall request the
12 scholarship ~~at least sixty (60) days prior to the date~~
13 ~~of the first scholarship payment~~ no later than
14 December 1 of the school year during which the
15 scholarship is requested,

16 c. any student participating in the scholarship program
17 shall attend throughout the school year, unless
18 excused by the school for illness or other good cause,
19 and shall comply fully with the code of conduct for
20 the school,

21 d. the parent or legal guardian shall fully comply with
22 the parental involvement requirements of the private
23 school, unless excused by the school for illness or
24 other good cause, and

1 e. upon issuance of a scholarship warrant, the parent or
2 legal guardian to whom the warrant is made shall
3 restrictively endorse the warrant to the private
4 school for deposit into the account of the private
5 school. The parent or legal guardian may not
6 designate any entity or individual associated with the
7 private school as the attorney in fact for the parent
8 or legal guardian to endorse a warrant. A parent or
9 legal guardian who fails to comply with this
10 subparagraph shall forfeit the scholarship.

11 2. A participant who fails to comply with this subsection
12 forfeits the scholarship.

13 ~~F.~~ J. Provisions governing payment of a Lindsey Nicole Henry
14 Scholarship shall be as follows:

15 1. The State Department of Education shall calculate the total
16 cost of all scholarships for all eligible students in the state.
17 The State Department of Education shall then reserve or retain from
18 the total amount appropriated to the State Board of Education for
19 State Aid purposes and any other revenue available for allocation
20 for State Aid purposes the total cost for all scholarship payments;

21 2. The maximum scholarship granted for an eligible student with
22 disabilities shall be a calculated amount equivalent to the ~~local~~
23 ~~and county revenue for the school district which is chargeable in~~
24 ~~the State Aid formula, state-dedicated revenue, and state-~~

1 ~~appropriated funds per weighted average daily membership~~ total State
2 Aid factors for the applicable school year multiplied by the grade
3 and disability weights generated by that student for the applicable
4 school year. ~~The weighted average daily membership shall be~~
5 ~~determined using the grade and disability weights only.~~ The
6 disability weights used in calculating the scholarship amount shall
7 include all disability weights which correspond to the disabilities
8 included in the multidisciplinary evaluation and eligibility group
9 summary for the student at the time the request for a scholarship is
10 made by the parent or legal guardian. The maximum scholarship
11 amount shall be calculated by the State Board of Education for each
12 year the student is participating in the scholarship program;

13 ~~2.~~ 3. The amount of the scholarship shall be the amount
14 calculated in paragraph ~~4~~ 2 of this subsection or the amount of
15 tuition and fees for the private school, whichever is less, minus up
16 to ~~five percent (5%)~~ two and one-half percent (2 1/2%) of the
17 scholarship amount which may be retained by the ~~school district~~
18 State Department of Education as a fee for administrative services
19 rendered. The amount of any assessment fee required by the private
20 school and the amount associated with providing services and
21 therapies to address the disabilities of the student may be paid
22 from the total amount of the scholarship;

23 ~~3.~~ ~~The school district shall annually report for child count~~
24 ~~and funding purposes all students who are attending a private school~~

1 ~~under the Lindsey Nicole Henry Scholarships for Students with~~
2 ~~Disabilities Program to the State Department of Education;~~

3 4. The State Department of Education shall notify the private
4 school of the amount of the scholarship within ten (10) days after
5 receiving the request for a scholarship. The initial payment shall
6 be made after the ~~school-district~~ Department verifies admission
7 acceptance and enrollment. Quarterly payments shall be made upon
8 verification of continued enrollment and attendance at the private
9 school. Payment shall be made by the ~~school-district~~ Department
10 with an individual warrant made payable to the parent or legal
11 guardian of the student and mailed by the ~~school-district~~ Department
12 to the private school that the parent or legal guardian chooses.
13 The parent or legal guardian shall restrictively endorse the warrant
14 to the private school for deposit into the account of the private
15 school; ~~and~~

16 5. ~~A school-district~~ The State Department of Education shall
17 not be responsible for any additional costs associated with special
18 education and related services incurred by the private school for
19 the student including the cost of teachers, equipment, material, and
20 special costs associated with the special education class;

21 6. The State Department of Education shall establish a toll-
22 free telephone number or website that provides parents or legal
23 guardians and private schools with information about the program;
24

1 7. The State Department of Education shall require an annual,
2 notarized, sworn compliance statement by participating private
3 schools certifying compliance with state laws and shall retain all
4 records received from a participating private school; and

5 8. The State Department of Education shall cross-check the list
6 of participating scholarship students with the public school
7 enrollments prior to each scholarship payment to avoid duplication.

8 K. 1. The State Superintendent of Public Instruction shall
9 deny, suspend, or revoke the participation of a private school in
10 the scholarship program if it is determined that the private school
11 has failed to comply with the provisions of this section. However,
12 in instances in which the noncompliance is correctable within a
13 reasonable amount of time and in which the health, safety, or
14 welfare of the students is not threatened, the Superintendent may
15 issue a notice of noncompliance which shall provide the private
16 school with a time frame within which to provide evidence of
17 compliance prior to taking action to suspend or revoke participation
18 in the scholarship program.

19 2. If the Superintendent intends to deny, suspend, or revoke
20 the participation of a private school in the scholarship program,
21 the Department shall notify the private school of the proposed
22 action in writing by certified mail and regular mail to the private
23 school's address of record with the Department. The Department
24 shall also notify any parents or legal guardians of scholarship

1 students attending the private school. The notification shall
2 include the reasons for the proposed action and notice of the
3 timelines and procedures set forth in this subsection.

4 3. The private school that is adversely affected by the
5 proposed action shall have fifteen (15) days from receipt of the
6 notice of proposed action to file with the Department a request for
7 an administrative hearing proceeding pursuant to the Administrative
8 Procedures Act.

9 4. Upon receipt of a request for a hearing, the State Board of
10 Education shall commence a hearing within sixty (60) days after the
11 receipt of the formal written request and enter an order within
12 thirty (30) days after the hearing.

13 5. The Board may immediately suspend payment of scholarship
14 funds if it is determined that there is probable cause to believe
15 that there is an imminent threat to the health, safety, or welfare
16 of the students or fraudulent activity on the part of the private
17 school.

18 G. L. No liability shall arise on the part of the state, the
19 State Board of Education, the State Department of Education or a
20 school district based on the award or use of any scholarship
21 provided through the Lindsey Nicole Henry Scholarships for Students
22 with Disabilities Program.

23 M. The inclusion of private schools within options available to
24 public school students in Oklahoma shall not expand the regulatory

1 authority of the state or any school district to impose any
2 additional regulation of private schools beyond those reasonably
3 necessary to enforce the requirements expressly set forth in this
4 section.

5 N. If the State Department of Education determines that a
6 school district prior to the effective date of this act has failed
7 to comply with the provisions of the Lindsey Nicole Henry
8 Scholarships for Students with Disabilities Program Act and has
9 failed to make full or partial scholarship payments for eligible
10 students, the Department shall have authority to reduce the amount
11 of State Aid allocated to the school district or require the school
12 district to make repayment to the Department of State Aid
13 allocations in an amount equal to the amount of scholarship payments
14 the school district failed to make. The Department shall make
15 payment to the parent or legal guardian in the amount the school
16 district failed to make in the manner as provided for in subsection
17 J of this section.

18 SECTION 2. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 A. There is hereby created until May 31, 2012, the Special
21 Education Statewide Cooperative Task Force.

22 B. The Task Force shall study and develop a plan to provide for
23 the delivery of special education and related services to students
24 with disabilities for whom an individualized education program (IEP)

1 has been developed in accordance with the Individuals with
2 Disabilities Education Act (IDEA) through a statewide special
3 education cooperative which will result in improved outcomes. The
4 Task Force shall study, review and make recommendations on the
5 following:

6 1. The appropriate governance and organizational structure for
7 a statewide special education cooperative;

8 2. What resources are needed and available to support a
9 statewide special education cooperative;

10 3. Which students should participate in the statewide special
11 education cooperative;

12 4. How special education services can be improved through
13 improved economies of scale;

14 5. How students will be enrolled in or provided services
15 through the statewide special education cooperative;

16 6. How the services of teachers and other related personnel
17 will be provided by the statewide special education cooperative;

18 7. How equipment and other resources that support and benefit
19 students with an IEP will be provided by the statewide special
20 education cooperative;

21 8. How partnerships with school districts, technology center
22 school districts, higher education institutions, and any other
23 public or private entities will benefit students with an IEP;

24 9. The relevant federal IDEA compliance issues;

1 10. How assessments for placing students on an IEP can be
2 improved; and

3 11. Any other relevant issues.

4 C. The Task Force shall consist of sixteen (16) members as
5 follows:

6 1. The State Superintendent of Public Instruction or designee;

7 2. The Secretary of Education or designee;

8 3. An executive director of a special education cooperative,
9 appointed by the Governor;

10 4. A special education director of a special education
11 cooperative, appointed by the Speaker of the House of
12 Representatives;

13 5. A service provider of special-education-related services,
14 appointed by the President Pro Tempore of the Senate;

15 6. A special education teacher, appointed by the State
16 Superintendent of Public Instruction;

17 7. A parent representing the federally funded parent training
18 and information center for Oklahoma known as the Oklahoma Parent
19 Center, appointed by the Governor;

20 8. A parent representing a private association which advocates
21 for individual with disabilities, appointed by the Speaker of the
22 House of Representatives;

23 9. A person representing a sheltered workshop, appointed by the
24 President Pro Tempore of the Senate;

1 10. A private employer who employees individuals with
2 disabilities, appointed by the State Superintendent of Public
3 Instruction;

4 11. A disability coordinator for a higher education
5 institution, appointed by the Governor;

6 12. A representative of a technology center school district,
7 appointed by the Speaker of the House of Representatives;

8 13. A representative of the federally funded protection and
9 advocacy system for Oklahoma known as the Oklahoma Disability Law
10 Center, appointed by the President Pro Tempore of the Senate;

11 14. A self advocate, appointed by the State Superintendent of
12 Public Instruction;

13 15. A member of the House of Representatives, appointed by the
14 Speaker of the House of Representatives; and

15 16. A member of the Senate, appointed by the President Pro
16 Tempore of the Senate.

17 D. The member of the House of Representative and the member of
18 the Senate shall serve as cochairs of the Task Force. Appointments
19 to the Task Force shall be made by July 31, 2011. Meetings of the
20 Task Force shall be held at the call of either cochair of the Task
21 Force. Members shall serve at the pleasure of their appointing
22 authorities. A majority of the members of the Task Force shall
23 constitute a quorum to transact business, but no vacancy shall
24 impair the right of the remaining members to exercise all of the

1 powers of the Task Force. A vacancy on the Task Force shall be
2 filled by the original appointing authority. Staff support for the
3 Task Force shall be provided by the staff of the House of
4 Representatives, Senate and State Department of Education. The
5 Oklahoma Department of Career and Technology Education, Oklahoma
6 State Regents for Higher Education, Office of Disability Concerns,
7 State Department of Rehabilitation Services, Oklahoma Health Care
8 Authority, Department of Human Services, and the State Use Committee
9 for the Department of Central Services shall provide support and
10 information as requested by the Task Force.

11 E. Members of the Task Force shall receive no compensation for
12 serving on the Task Force, but may receive travel reimbursement,
13 contingent on the availability of public or private funds for this
14 purpose.

15 F. The Task Force may seek the assistance of the Legislative
16 Service Bureau or the State Board of Education to contract with an
17 independent consultant as necessary to fulfill the duties specified
18 in this section contingent on the availability of funds.

19 G. The Task Force shall submit a preliminary report by December
20 31, 2011, and a final report by May 31, 2012, to the Governor, the
21 President Pro Tempore of the Senate, and the Speaker of the House of
22 Representatives.

23 SECTION 3. This act shall become effective July 1, 2011.
24

1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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6 53-1-7792 KB 05/13/11

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