

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3398 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jason Nelson

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3398

By: Nelson and Newell

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to schools; creating the Oklahoma
9 Education Savings Account Act; creating the Education
10 Savings Account Program; stating purpose of the act;
11 providing for establishment of individual education
12 savings accounts by certain school year; providing
13 definitions; requiring the parent of an eligible
14 student to sign an agreement for enrollment; listing
15 conditions for enrollment; listing eligible uses of
16 money deposited into an education savings account;
17 prohibiting use of money deposited into an education
18 savings account for certain purposes; requiring
19 annual renewal of an account; requiring submission of
20 certain achievement test results; making the signed
21 agreement represent school attendance for compliance
22 with certain law; establishing dates for submission
23 of requests; allowing for continuance in the Program;
24 providing for calculation of the annual amount to be
deposited into accounts; requiring the State
Department of Education to transfer the annual amount
upon submission of a signed agreement; providing for
source of money; authorizing the Department to retain
a certain amount of funds; requiring the Department
to transfer certain amount to the Office of the State
Treasurer; establishing the Education Savings Account
Administrative Fund; stating use of monies in the
fund; exempting monies from certain laws; allowing
the Department to request certain increases;
establishing the Treasurer's Education Savings
Account Administrative Fund; stating use of monies in
the fund; exempting monies from certain laws;
allowing the Treasurer to request certain increases;
requiring quarterly transfers; directing the
Department to maintain a list of certain tests;

1 prohibiting certain schools and providers from
2 sharing, refunding or rebating certain money to
3 parents or students; prohibiting parents from
4 receiving certain money from a school or provider;
5 providing for closure of an account; providing for
6 the amount of funds to be prorated under certain
7 circumstances; establishing duties of the Department;
8 stating that money is not taxable income; requiring
9 the Treasurer to make quarterly deposits into
10 accounts; authorizing the Treasurer to contract for
11 management of accounts; requiring the Department to
12 make random audits of accounts; directing the
13 Department to establish a notification process for
14 violations; providing process for suspending an
15 eligible student from the Program for certain
16 reasons; allowing a parent to appeal suspension
17 decisions; directing the Department to refer certain
18 cases to the Attorney General; limiting regulatory
19 authority of the state and school districts;
20 directing the State Board of Education to set aside
21 certain amount of money from State Aid
22 appropriations; providing for adding back certain
23 amount of money to State Aid funds; directing the
24 Board to promulgate certain rules; specifying certain
rules; limiting authority of state agencies over
nonpublic schools and certain students; providing for
status of certain providers; limiting requirements
for an eligible private school; limiting liability of
certain entities; providing for a study and report by
an independent research organization; requiring the
reporting and sharing of data to comply with certain
act; prohibiting the disaggregation of certain data;
requiring Department to publish report on the
website; providing for codification; providing an
effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 27-101 of Title 70, unless there
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Oklahoma
2 Education Savings Account Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 27-102 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 A. There is hereby created the Education Savings Account
7 Program.

8 B. The purpose of the Oklahoma Education Savings Account Act is
9 to provide options for the education of students in this state, by
10 creating education accounts for individual students empowering
11 parents to make educational decisions for their children.

12 C. Education savings accounts shall be established for
13 individual students beginning with the 2014-2015 school year.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 27-103 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 As used in the Oklahoma Education Savings Account Act:

18 1. "Account" means an education savings account established for
19 an eligible student pursuant to this act;

20 2. "Board" means the State Board of Education;

21 3. "Department" means the State Department of Education;

22 4. "Eligible postsecondary institution" means an accredited
23 public or private postsecondary institution;

24 5. "Program" means the Education Savings Account Program;

1 6. "Eligible private school" means any school accredited by the
2 Oklahoma Private School Accrediting Council that has notified the
3 Department of its intention to participate in the Program and comply
4 with the antidiscrimination provisions of 42 U.S.C., Section 2000d;

5 7. "Eligible student" means a person who is a resident of and
6 is eligible to attend a public school in Oklahoma that has been
7 designated as a Priority School by the State Board of Education and
8 either:

9 a. is a member of a household where the total annual
10 income does not exceed two times the amount required
11 to qualify for the federal free or reduced-price lunch
12 program and who:

13 (1) is currently eligible to attend prekindergarten
14 or kindergarten,

15 (2) was reported by a school district, including a
16 charter school authorized pursuant to the
17 Oklahoma Charter Schools Act, on the most recent
18 child count for funding purposes, or

19 (3) is a new resident of this state, or

20 b. meets any of the following:

21 (1) is participating in or was participating in the
22 Lindsey Nicole Henry Scholarships for Students
23 with Disabilities Program during the current or a
24 previous school year. A student shall not be

1 eligible to participate in both the Education
2 Savings Account Program and the Lindsey Nicole
3 Henry Scholarships for Students with Disabilities
4 Program concurrently, or

5 (2) is a child in the household of a member of the
6 United States Armed Forces transferred from out
7 of state or from a foreign country pursuant to a
8 permanent change-of-station order of the parent;

9 8. "Parent" means a resident of the state who is a parent,
10 legal guardian or other person with the authority to act on behalf
11 of an eligible student;

12 9. "Resident school district" means the public school district
13 in which the student resides as defined in Section 1-113 of Title 70
14 of the Oklahoma Statutes; and

15 10. "Treasurer" means the Office of State Treasurer.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 27-104 of Title 70, unless there
18 is created a duplication in numbering, reads as follows:

19 A. To enroll an eligible student in an Education Savings
20 Account Program, the parent of the eligible student shall sign an
21 agreement to do all the following:

22 1. Provide an organized appropriate education for the eligible
23 student in at least the subjects of English language arts,
24 mathematics, social studies and science;

1 2. Notify the State Department of Education of the date the
2 eligible student withdraws from the public school to participate in
3 the Program, the date the eligible student stops participating in
4 the Program and the date the eligible student enrolls or reenrolls
5 in a public school or graduates;

6 3. Not enroll the eligible student in a public school or
7 charter school full-time without first notifying the Department of
8 the decision to discontinue participation in the Program;

9 4. Sign a document releasing the resident school district from
10 all obligations to educate the eligible student;

11 5. Use the money deposited in the education savings account
12 established for the eligible student only for the following expenses
13 of the student:

14 a. tuition and fees to an eligible private school,
15 virtual school or virtual course-work provider, or
16 eligible postsecondary institution,

17 b. purchasing, renting, or subscribing to a service that
18 provides textbooks and other learning materials. Any
19 funds from the sale of items purchased using the
20 account funds shall be deposited into the account.
21 Failure to deposit the proceeds may result in the
22 removal of the student from the Program and forfeiture
23 of the account balance,

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- 1 c. educational therapies or services for the eligible
2 student from a licensed or accredited practitioner or
3 provider, including licensed or accredited
4 paraprofessionals or educational aides. The State
5 Board of Education shall promulgate rules defining
6 which therapies and services are eligible under the
7 Program and setting the required qualifications for
8 paraprofessionals and aides,
- 9 d. tutoring services. The Board shall promulgate rules
10 setting the required qualifications for tutors.
11 Tutors shall be registered with the State Department
12 of Education. Account funds shall not be used for
13 tutors who are related to the student within the
14 second degree of consanguinity,
- 15 e. curriculum for a complete course of study for a
16 particular content area or grade level, including any
17 supplemental materials recommended by the curriculum,
- 18 f. services provided by a public school, including
19 individual classes and extracurricular programs,
- 20 g. fees for a nationally standardized norm-referenced
21 achievement test, advanced placement examinations or
22 any exams related to college or university admissions,
- 23 h. contributions to a Coverdell Savings Account
24 established pursuant to 26 U.S.C., Section 530 for the

1 benefit of the eligible student, except that money
2 used for elementary or secondary education expenses
3 shall be for expenses otherwise allowed by this act,

4 i. fees for management of the account by firms or
5 institutions selected by the Treasurer, and

6 j. insurance or surety bond payments as required by the
7 State Board of Education; and

8 6. Not use monies deposited in the account of an eligible
9 student for any of the following:

10 a. purchasing computer hardware, electronic equipment,
11 assistive technological devices, or educational
12 equipment or instruments. Nothing shall prohibit the
13 renting of such items,

14 b. transportation of the student, and

15 c. consumable educational supplies including but not
16 limited to paper, pens or markers.

17 B. A parent shall renew the account of an eligible student on
18 an annual basis by submitting a renewal request to the Department.

19 The renewal request shall also include documentation showing the
20 results of the student on a nationally standardized norm-referenced
21 achievement test taken during that school year.

22 C. A signed agreement under this section shall be deemed school
23 attendance and shall constitute compliance with the compulsory
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1 attendance law as set forth in Section 10-105 of Title 70 of the
2 Oklahoma Statutes.

3 D. The parent of an eligible student shall submit a request to
4 participate in the Education Savings Account Program no later than
5 December 1 of the school year during which an account is requested,
6 in order to receive funding for the same school year. If a request
7 is made after December 1 the account will not begin receiving funds
8 until the following school year.

9 E. Students may continue in the Program once they are
10 determined to be eligible pursuant to this act until they graduate
11 or return to public school.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 27-105 of Title 70, unless there
14 is created a duplication in numbering, reads as follows:

15 A. For a student who is determined to be an eligible student
16 pursuant to subparagraph a of paragraph 7 of Section 3 of this act,
17 the annual amount to be deposited to the education savings account
18 for the student shall be as follows:

19 1. If the total household annual income is equal to or less
20 than the amount required to qualify for the federal free or reduced-
21 price lunch program, the amount granted to the account shall be
22 equal to ninety percent (90%) of the total State Aid factors
23 multiplied by the Grade Level Weight and the Student Category
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1 Weights that would be generated by that student for the applicable
2 school year;

3 2. If the total household annual income is greater than the
4 amount required to qualify for the federal free or reduced-price
5 lunch program but is less than one and one-half (1 1/2) times that
6 amount, the amount granted to the account shall be equal to sixty
7 percent (60%) of the total State Aid factors multiplied by the Grade
8 Level Weight and the Student Category Weights that would be
9 generated by that student for the applicable school year; and

10 3. If the total household annual income is greater than one and
11 one-half (1 1/2) times the amount required to qualify for the
12 federal free or reduced-price lunch program but is less than two (2)
13 times that amount, the amount granted to the account shall be equal
14 to thirty percent (30%) of the total State Aid factors multiplied by
15 the Grade Level Weight and the Student Category Weights that would
16 be generated by that student for the applicable school year.

17 B. For a student who is determined to be an eligible student
18 pursuant to subparagraph b of paragraph 7 of Section 3 of this act,
19 the annual amount granted to the education savings account for the
20 student shall be equal to thirty percent (30%) of the total State
21 Aid factors multiplied by the Grade Level Weight and the Student
22 Category Weights that would be generated by that student for the
23 applicable school year.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 27-106 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Upon submission of the signed agreement by the parent as
5 required pursuant to Section 4 of this act, the State Department of
6 Education shall transfer the amount of funds calculated pursuant to
7 Section 5 of this act into the education savings account for each
8 eligible student. Monies for deposit into the accounts shall be
9 from the funds set aside by the State Board Of Education as provided
10 for in Section 11 of this act for purposes of the Education Savings
11 Account Program and as directed by the Oklahoma Education Savings
12 Account Act.

13 B. The Department may retain an amount equal to five percent
14 (5%) of the total amount set aside for the Program for
15 administrative services. The retained funds shall be deposited in
16 the Education Savings Account Administrative Fund established in
17 subsection C of this section. The Department shall transfer one
18 percent (1%) of the total deposited into the Education Savings
19 Account Administrative Fund to the Treasurer's Education Savings
20 Account Administrative Fund established in subsection D of this
21 section.

22 C. There is hereby established the Education Savings Account
23 Administrative Fund. The fund shall consist of monies retained by
24 the Department pursuant to subsection B of this section. The

1 Department shall administer the fund. Monies in the fund shall be
2 used by the Department for the costs in administering the Education
3 Savings Account Program. Monies in the fund shall be exempt from
4 the provisions of law relating to lapsing of appropriations. If the
5 number of education savings accounts significantly increases after
6 the fiscal year ending June 30, 2015, the Department may request the
7 Legislature to increase the amount allowed to be retained as set
8 forth in subsection B of this section to cover administrative costs
9 for the additional accounts.

10 D. There is hereby established the Treasurer's Education
11 Savings Account Administrative Fund. The fund shall consist of
12 monies transferred by the Department pursuant to subsection B of
13 this section for use by the Treasurer. The Treasurer shall
14 administer the fund. Monies in the fund shall be used by the
15 Treasurer for the costs of administering education savings accounts.
16 Monies in the fund shall be exempt from the provisions of law
17 relating to lapsing of appropriations. If the number of education
18 savings accounts significantly increases after the fiscal year
19 ending June 30, 2015, the Treasurer may request the Legislature to
20 increase the amount allowed to be retained as set forth in
21 subsection B of this section to cover administrative costs for the
22 additional accounts.

23 E. The Department shall make quarterly transfers of the total
24 amount calculated for all eligible students pursuant to Section 5 of

1 this act to the Treasurer for deposit into the account of each
2 eligible student.

3 F. The Department shall maintain and publish a list of
4 nationally norm-referenced tests identified for purposes of
5 satisfying the testing requirements of subsection B of Section 4 of
6 this act. The tests shall meet industry standards of quality in
7 accordance with rules promulgated by the State Board of Education.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 27-107 of Title 70, unless there
10 is created a duplication in numbering, reads as follows:

11 A. An eligible private school or a provider of educational
12 services receiving funds from an education savings account shall not
13 share with, or refund or rebate to the parent or eligible student,
14 in any manner, any of the funds from an education savings account.

15 B. Parents shall not receive or accept rebates, discounts or
16 payments from an eligible private school or a provider of
17 educational services using funds from an education savings account
18 unless those funds are deposited back into the account of the
19 eligible student.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 27-108 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 A. Upon graduation from a postsecondary institution by an
24 eligible student or after a period of four (4) consecutive years

1 after high school graduation if the eligible student is not enrolled
2 in a postsecondary institution, the education savings account of the
3 student shall be closed and any remaining funds shall be returned to
4 the General Revenue Fund of the state.

5 B. If an eligible student begins participation in the Education
6 Savings Account Program after the beginning of a school year, the
7 amount of the funds deposited into an education savings account for
8 the student shall be prorated to reflect the actual amount of time
9 the student participated in the Program during the current school
10 year.

11 C. The State Department of Education shall:

12 1. Notify the parent of an eligible student of the amount of
13 funds the student is eligible to receive in an education savings
14 account within ten (10) days after receiving the signed agreement as
15 required pursuant to Section 4 of this act or within ten (10) days
16 after the total State Aid factors have been determined for the
17 current fiscal year. Upon request of a parent prior to submission
18 of an application, the Department shall provide to the parent an
19 estimate of the approximate amount of funds the student may receive
20 in an education savings account;

21 2. Not be responsible for any additional costs associated with
22 the education of eligible students incurred by the parents;

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1 3. Establish a toll-free telephone number and website that
2 provides information about the Program to parents, private schools
3 and providers;

4 4. Require an annual, notarized, sworn statement by parents
5 participating in the Program certifying compliance with provisions
6 of the Oklahoma Education Savings Account Act, which statement shall
7 be retained by the Department; and

8 5. Cross-check the list of eligible students participating in
9 the Program with the public school enrollments prior to each deposit
10 to avoid duplication of funding.

11 D. Monies received and used by the parent of an eligible
12 student in compliance with the provisions of this act shall not
13 constitute taxable income to the parent.

14 E. The Treasurer shall make quarterly deposits into education
15 savings accounts upon verification by the Department that the
16 student is still participating in the Program.

17 F. The Treasurer may contract with private financial management
18 firms to manage education savings accounts with the supervision of
19 the Treasurer.

20 G. The Department shall conduct or contract for random audits
21 at least quarterly of education savings accounts to ensure
22 compliance with provisions of this act.

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1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 27-109 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The State Department of Education shall establish a process
5 by which the public may notify the Department of any violation of
6 the Oklahoma Education Savings Account Act.

7 B. The Department may suspend an eligible student from the
8 Education Savings Account Program if the parent or the eligible
9 student fails to comply with the provisions of this act or if the
10 Department has reason to believe that the parent or eligible student
11 knowingly failed to comply with the provisions of this act with
12 intent to defraud. Upon the suspension of an eligible student from
13 the Program, the Department shall:

14 1. Notify the Treasurer to suspend the account of the eligible
15 student until a final determination is made by the Department;

16 2. Notify the parent in writing that the account has been
17 suspended and that no further transactions will be allowed. The
18 notification shall specify the reason or reasons for the suspension
19 and state that the parent or student has ten (10) days, not
20 including weekends, to respond and take corrective action;

21 3. If the parent responds within the ten-day period, the
22 Department shall review the information provided by the parent and
23 make a decision to reinstate the student or to terminate
24 participation of the student in the Program; and

1 4. If the parent or eligible student refuses or fails to
2 contact the Department, to furnish any information or make any
3 report that may be required for reinstatement within the ten-day
4 period, the Department shall terminate participation of the student
5 in the Program.

6 C. A parent may appeal the decision made by the Department
7 pursuant to subsection B of this section.

8 D. The Department shall refer cases of misuse of monies to the
9 Attorney General for investigation when it obtains evidence that the
10 parent or eligible student knowingly failed to comply with the
11 provisions of this act with intent to defraud.

12 SECTION 10. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 27-110 of Title 70, unless there
14 is created a duplication in numbering, reads as follows:

15 Participation of private schools in the Education Savings
16 Account Program shall not expand the regulatory authority of the
17 state or any school district to impose any additional regulation on
18 private schools.

19 SECTION 11. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 27-111 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 A. For the 2014-2015 school year, the State Board of Education
23 shall set aside an amount of money from the total amount
24 appropriated to the State Board of Education for State Aid purposes

1 and any other revenue available for allocation for State Aid
2 purposes to cover expected demand for education savings accounts
3 during the 2014-2015 school year. At the beginning of each
4 subsequent school year the Board shall set aside one hundred twenty
5 percent (120%) of the total amount deposited into education savings
6 accounts the previous school year to allow for potential growth in
7 participation.

8 B. Prior to the end of the fiscal year, the Board shall
9 determine the amount of funding that was set aside during that
10 fiscal year for deposit into education savings accounts but was not
11 needed and was not deposited into individual student education
12 savings accounts and shall allocate that amount to school districts
13 through the State Aid funding formula.

14 C. The Board shall promulgate rules necessary for the
15 administration of the Education Savings Account Program, including:

16 1. Provisions for conducting or contracting for examinations of
17 the use of education savings account monies by eligible students;

18 2. Provisions for conducting or contracting for random,
19 quarterly and annual reviews or audits of education savings
20 accounts;

21 3. Establishing or contracting for the establishment of an on-
22 line anonymous fraud reporting service;

23 4. Establishing an anonymous telephone hotline for fraud
24 reporting; and

1 5. Requirements for a surety bond or insurance for education
2 savings account holders.

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 27-112 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Education Savings Account Act shall not be
7 construed to authorize or permit any state agency to exercise
8 control or supervision over any nonpublic school or students being
9 educated by other means. Students who are being provided an
10 education by other means shall not be eligible to participate in the
11 Education Savings Account Program.

12 B. Educational service providers which accept payment from an
13 education savings account shall not be considered agents of the
14 state or federal government.

15 C. An eligible private school shall not be required to alter
16 its creed, practices, admissions policy or curriculum in order to
17 accept students whose tuition or fees are paid from an education
18 savings account.

19 D. No liability shall arise on the part of the state, the State
20 Board of Education, the State Department of Education or a school
21 district based on participation in the Program by an eligible
22 student.

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 27-113 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The State Board of Education shall select an independent
5 research organization, which may be a public or private entity or
6 university, to conduct a study of and report on the academic gains
7 of eligible students participating in the Education Savings Account
8 Program. The Board shall provide the standardized test scores on
9 the nationally norm-referenced tests of eligible students which have
10 been submitted as required pursuant to Section 4 of this act to the
11 independent research organization. Beginning in the third year of
12 the Program the independent research organization shall annually
13 report to the Board on the year-to-year learning gains of
14 participating students on a statewide basis. The report shall also
15 include, to the extent possible, a comparison of the learning gains
16 of participating students to the learning gains of public school
17 students in the state with socioeconomic backgrounds similar to
18 those participating students. To minimize costs and reduce time
19 required for the analysis and evaluation by the independent research
20 organization, the Department shall conduct analyses of matched
21 students from public school assessment data and calculate control-
22 group learning gains using an agreed-upon methodology outlined in
23 the contract approved by the Board with the independent research
24 organization.

1 B. The reporting and sharing of student learning-gain data as
2 required by this section shall be made in accordance with the
3 requirements of the Family Educational Rights and Privacy Act
4 (FERPA) and shall be for the sole purpose of creating the annual
5 report. All parties with access to the data shall preserve the
6 confidentiality of the information as required by law.

7 C. The annual report required pursuant to this section shall
8 not disaggregate data to a level that will identify individual
9 students or providers, or disclose the academic level of individual
10 students.

11 D. The annual report required pursuant to this section shall be
12 published by the Department on its website.

13 SECTION 14. This act shall become effective July 1, 2014.

14 SECTION 15. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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19 54-2-10446 KB 02/26/14

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