HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1264 By: Nelson

COMMITTEE SUBSTITUTE

An Act relating to schools; amending Section 2, Chapter 322, O.S.L. 2012, which relates to the Rethinking Special Education, Competency and Transition Task Force; extending termination date of the Task Force; extending final report filing date; amending 70 O.S. 2011, Sections 13-121, 13-123.1, 13-124, 13-124.1, as amended by Section 605, Chapter 304, O.S.L. 2012, 13-126, 13-127, 13-128 and 13-129 (70 O.S. Supp. 2012, Section 13-124.1), which relate to the Oklahoma Early Intervention Act; updating statutory citations and language; modifying statutory citations; changing administrator of the Interagency Coordinating Council for Early Childhood Intervention; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 322, O.S.L. 2012, is amended to read as follows:

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Section 2. A. There is hereby created until May 31, ~~2013~~ 2014, the Rethinking Special Education, Competency and Transition Task Force.

B. The Task Force shall study and develop a plan to provide for the delivery of special education and related services to students with disabilities for whom an individualized education program (IEP) has been developed in accordance with the Individuals with Disabilities Education Act (IDEA). The Task Force shall study, review and make recommendations on the following, with a focus on improved educational services and outcomes and meaningful postsecondary transition plans:

1. What is the appropriate governance and organizational structure for statewide special education services;

2. What resources are needed and available to support statewide special education services;

3. How special education services can be enhanced through improved economies of scale and collaboration models;

4. How students are enrolled in and provided services through special education;

5. How teachers and other related services are provided through special education services;

6. How equipment, resources and other support services benefit students with an IEP;

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

8. What are the relevant federal IDEA compliance issues;

9. How assessments for placing students on an IEP can be improved;

10. What are the most salient issues reported when a parent files a special education complaint or due process procedure;

11. How the teacher preparation system prepares regular education and special education teachers to accommodate students with learning differences and the continuum of services used to meet the needs of a student;

12. What safeguards are in place to assure annual progress for students in special education considering the waiver Oklahoma received from the Elementary and Secondary Education Act (ESEA);

13. What procedures and policies are in place regarding referral and evaluation for special education services;

14. What procedures and policies are in place regarding postsecondary transition planning for students in special education;

15. What procedures and policies are in place regarding referral and evaluation for assistive technology;

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16. What models of equipment exchange and cooperative councils are already in effect and are being successfully implemented in schools;

17. What issues and barriers exist for students on IEPs who graduate and wish to attend postsecondary education classes;

18. What are the options for restructuring special education and creating a statewide special education entity, what models do other states use and what would work best in Oklahoma;

19. How would a new special education entity improve special education services and student outcomes and how this improvement will be measured and monitored; and

20. Any other relevant issues.

C. The Task Force shall consist of twenty-four (24) members as follows:

1. The State Superintendent of Public Instruction or the Assistant State Superintendent of Special Education Instruction as designated by the State Superintendent;

2. The Secretary of Education or designee;

3. The Director of the Department of Rehabilitation Services or the State Transition Coordinator for the Department of Rehabilitation Services as designated by the Director;

4. A superintendent of an urban public school district, appointed by the Governor;

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5. A superintendent of a rural public school district, appointed by the Speaker of the House of Representatives;

6. A special education director from an urban public school district, appointed by the President Pro Tempore of the Senate;

7. A special education director from a rural public school district, appointed by the Speaker of the House of Representatives;

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

9. A special education teacher, appointed by the State Superintendent of Public Instruction;

10. A parent who is a resident of an urban public school district, appointed by the President Pro Tempore of the Senate;

11. A parent who is a resident of a rural public school district, appointed by the Speaker of the House of Representatives;

12. A parent who is a resident of a suburban public school district, appointed by the Board of the Oklahoma Developmental Disabilities Council;

13. A private employer who employs individuals with disabilities, appointed by the State Director of the Oklahoma Department of Career and Technology Education;

14. A disability coordinator for a higher education institution, appointed by the Governor;

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

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

17. A currently employed self-advocate, appointed by the Board of the Oklahoma Developmental Disabilities Council;

18. A self-advocate who is currently enrolled or was previously enrolled at a technology center in the state, appointed by the President Pro Tempore of the Senate;

19. A self-advocate who is currently enrolled or was previously enrolled at an institution of higher education in the state, appointed by the Speaker of the House of Representatives;

20. A professor in a college of education at an institution in The Oklahoma State System of Higher Education, appointed by the Governor;

21. A person with extensive knowledge of the Regional Education Service Centers which were previously funded through the State Department of Education, appointed by the Governor;

22. A person representing the Special Education Resolution Center, appointed by the Governor;

23. A member of the House of Representatives, appointed by the Speaker of the House of Representatives; and

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

D. The member of the House of Representatives and the member of the Senate shall serve as cochairs of the Task Force. Appointments to the Task Force shall be made within thirty (30) days after the effective date of this act. Meetings of the Task Force shall be held at the call of either cochair of the Task Force. Members shall serve at the pleasure of their appointing authorities. A majority of the members of the Task Force shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Task Force. Except as otherwise provided, a vacancy on the Task Force shall be filled by the original appointing authority. If the original appointing authority fails to make an appointment within thirty (30) days after the effective date of this act, a majority of the members of the Task Force who have been appointed may fill the vacancy to the open positions. Staff support for the Task Force shall be provided by the staff of the House of Representatives, Senate and State Department of Education. The Oklahoma Department of Career and Technology Education, Oklahoma State Regents for Higher Education, Office of Disability Concerns, State Department of Rehabilitation Services, Oklahoma Health Care Authority, Department of Human Services, and the State Use Committee for the Department of

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Central Services shall provide support and information as requested by the Task Force.

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

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

G. The Task Force shall submit a final report by January 1, ~~2013~~ 2014, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 13-121, is amended to read as follows:

Section 13-121. Sections ~~1~~ 13-121 through ~~9~~ 13-129 of this ~~act~~ title shall be known and may be cited as the "Oklahoma Early Intervention Act".

SECTION 3. AMENDATORY 70 O.S. 2011, Section 13-123.1, is amended to read as follows:

Section 13-123.1 Parents or surrogate parents may consent to the delivery of services for the early intervention program for their eligible children.

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For purposes of the Oklahoma Early Intervention Act the terms "parent" and "surrogate parent" shall have the meaning that said terms have in Title 34, Code of Federal Regulations, Part ~~300~~ 303, Sections ~~10~~ 27 and ~~514~~ 422 which implement the Individuals with Disabilities Education Act (IDEA).

SECTION 4. AMENDATORY 70 O.S. 2011, Section 13-124, is amended to read as follows:

Section 13-124. A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part ~~H~~ C of the IDEA.

B. In accordance with Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA), the ~~Oklahoma Commission on Children and Youth~~ State Department of Education shall administer the Interagency Coordinating Council for Early Childhood Intervention which shall advise and assist the lead agency in fulfillment of its responsibilities.

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C. The State Department of Education, the State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services shall continue to provide all services within their respective statutory and constitutional responsibilities to the eligible population except as otherwise provided in Section 13-101 of this title. State and local interagency agreements will delineate responsibility for local and regional procedural safeguards, provision of service and related issues. Funds provided for implementation of the Oklahoma Early Intervention Act, Sections 13-121 through 13-129 of this title, shall not be used to satisfy a financial commitment for services which would have been paid for or provided by another public or private source, but shall be utilized solely for the enactment of Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Such funds may be used whenever considered necessary to prevent delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion. Funds provided for implementation of the Oklahoma Early Intervention Act may be used to pay the provider of services pending reimbursement from the agency which has the ultimate responsibility.

D. Pursuant to the requirements of Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA), all financial resources from

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federal, state, local and private sources shall be coordinated to fund early intervention services. In order to determine the most effective utilization and achieve coordination, a joint funding plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the Senate President Pro Tempore by the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services on or before October 1. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section ~~41.29~~ 34.36 of Title 62 of the Oklahoma Statutes. Such plan shall include, but not be limited to:

1. Utilization of State Aid funds appropriated to the State Board of Education for the purpose of providing early intervention services or provided pursuant to the State Aid Formula for special education services and related services to children with disabilities;

2. Publicly funded personnel and programs in the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population;

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3. Feasibility of utilization of federal Title V funds;

4. Utilization of new state funds as may be appropriated by the Legislature for fiscal year 1990 for the purpose of early intervention, and of additional new funds needed to fully implement early intervention services in accordance with the State of Oklahoma's implementation of Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA);

5. Amendments to expansion of the Medicaid State Plan to include early intervention services for eligible children utilizing state funds designated for early intervention for the purpose of matching federal funds;

6. Feasibility of application for federal funds appropriated pursuant to P.L. 89-313; and

7. Utilization of funds received under Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA).

E. The State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall be authorized to transfer funds enumerated in subsection D of this section to the Oklahoma Early Intervention Revolving Fund created in Section 13-124.1 of this title to the extent that transfers of such funds are authorized by and directed to the fund by the joint funding plan of the Oklahoma Early Intervention Act or by state or federal law.

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F. Monies appropriated to an affected agency and monies identified in the joint funding plan for the purpose of providing early intervention services shall be used by the agency exclusively for the purpose of providing early intervention services.

G. For purposes of implementing the provisions of the Oklahoma Early Intervention Act, the board of education of any school district in this state may execute an agreement with a city/county health department or county health department to share appropriate facilities.

SECTION 5. AMENDATORY 70 O.S. 2011, Section 13-124.1, as amended by Section 605, Chapter 304, O.S.L. 2012 (70 O.S. Supp. 2012, Section 13-124.1), is amended to read as follows:

Section 13-124.1 There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Oklahoma Early Intervention Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of those monies appropriated to the fund by law or deposited in the fund pursuant to direction or authorization by the joint funding plan required in Section 13-124 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of providing early intervention services to children with disabilities in accordance

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with Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 6. AMENDATORY 70 O.S. 2011, Section 13-126, is amended to read as follows:

Section 13-126. Procedural safeguards shall be established in fulfillment of the requirements of Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) through interagency agreements involving the State Department of Education, the Oklahoma State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services as appropriate.

SECTION 7. AMENDATORY 70 O.S. 2011, Section 13-127, is amended to read as follows:

Section 13-127. The legal requirements for timely payment and reimbursement for services under contract pursuant to Sections ~~41.4a~~ 34.71 through ~~41.4d~~ 34.74 of Title 62 of the Oklahoma Statutes shall govern the services, programs and activities for the State of Oklahoma's implementation of Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA).

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SECTION 8. AMENDATORY 70 O.S. 2011, Section 13-128, is amended to read as follows:

Section 13-128. The data collection requirements concerning children with disabilities which are currently utilized by the State Department of Education upon the effective date of this act shall also be utilized to meet the data collection and reporting requirements for the State of Oklahoma under Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA). Further, the Oklahoma State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall fulfill the data collection and reporting requirements established by the United States Department of Education pursuant to Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) for early intervention services provided by their respective agencies pursuant to the purposes of the Oklahoma Early Intervention Act~~, Section 13-121 et seq. of this title~~. The lead agency shall provide technical assistance to the agencies in this endeavor.

SECTION 9. AMENDATORY 70 O.S. 2011, Section 13-129, is amended to read as follows:

Section 13-129. A. The Interagency Coordinating Council for Early Childhood Intervention shall assist the State Department of Education in revising the Oklahoma State Plan for Special Education

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to include areas addressing requirements under Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) necessary for full implementation of ~~this act~~ the Oklahoma Early Intervention Act. Such revision shall be completed by April 1, 1990.

B. Contingent upon the enactment of legislation authorizing implementation of an annual budget submitted which is based upon a joint funding plan provided in subsection D of Section 13-124 of this title, services in compliance with this act and Part ~~H~~ C of the Individuals with Disabilities Education Act (IDEA) shall be in effect no later than July 1, 1990. Subject to such contingency all children eligible for services pursuant to the provisions of Section 13-123 of this title shall be served beginning July 1, 1991.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/27/2013 - DO PASS, As Amended.

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