

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

2ND CONFERENCE COMMITTEE

SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 3393

By: Nelson, Pittman, Shumate
and Kern of the House

and

Anderson of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to special education; creating the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act; creating the Lindsey Nicole Henry Scholarships for Students with Disabilities Program; stating intent; specifying procedures and initial date; establishing eligibility requirements for students; requiring certain notice; establishing eligibility requirements for a private school; specifying certain compliance requirements for participants; requiring forfeiture for failure to comply; establishing formula for maximum scholarship amount; providing for calculation of scholarship amount; providing for payments; clarifying responsibility for certain additional costs; precluding liability; 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 13-101.1 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 "Lindsey Nicole
2 Henry Scholarships for Students with Disabilities Program Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 13-101.2 of Title 70, unless
5 there is created a duplication in numbering, reads as follows:

6 A. There is hereby created the Lindsey Nicole Henry
7 Scholarships for Students with Disabilities Program. The Lindsey
8 Nicole Henry Scholarships for Students with Disabilities Program is
9 established to provide a scholarship to a private school of choice
10 for students with disabilities for whom an individualized education
11 program (IEP) in accordance with the Individuals with Disabilities
12 Education Act (IDEA) has been developed. Scholarships shall be
13 awarded beginning with the 2010-2011 school year.

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

19 1. The student has spent the prior school year in attendance at
20 a public school in this state. For purposes of this section, "prior
21 school year in attendance" means that the student was enrolled in
22 and reported by a school district for funding purposes during the
23 preceding school year; and
24

1 2. The parent or legal guardian has obtained acceptance for
2 admission of the student to a private school that is eligible for
3 the program as provided in subsection D of this section and has
4 notified, in writing, the school district of the request for a
5 scholarship at least sixty (60) days prior to the date of the first
6 scholarship payment. For purposes of continuity of educational
7 choice, the scholarship shall remain in force until the student
8 returns to a public school or graduates from high school. If the
9 residence of the student changes, the district of residence shall
10 assume responsibility for the scholarship. At any time, the parent
11 or legal guardian of the student may remove the student from the
12 private school and place the student in another private school that
13 is eligible for the program as provided in subsection D of this
14 section.

15 C. If the parent or legal guardian requests a Lindsey Nicole
16 Henry Scholarship and the student is accepted by the private school
17 pending the availability of a space for the student, the parent or
18 legal guardian of the student shall notify the school district sixty
19 (60) days prior to the first scholarship payment and before entering
20 the private school in order to be eligible for the scholarship when
21 a space becomes available for the student in the private school.

22 D. To be eligible to participate in the Lindsey Nicole Henry
23 Scholarships for Students with Disabilities Program, a private
24 school shall notify the State Department of Education of its intent

1 to participate. The notice shall specify the grade levels and
2 services that the private school has available for students with
3 disabilities who are participating in the scholarship program. The
4 State Department of Education shall approve a private school as
5 eligible to participate in the scholarship program upon
6 determination that the private school:

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

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

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

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

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

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

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

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

10 E. 1. Lindsey Nicole Henry Scholarship Program participants
11 shall comply with the following:

- 12 a. the parent or legal guardian shall select the private
13 school from the schools approved for eligibility
14 pursuant to subsection D of this section and apply for
15 the admission of the child,
- 16 b. the parent or legal guardian shall request the
17 scholarship at least sixty (60) days prior to the date
18 of the first scholarship payment,
- 19 c. any student participating in the scholarship program
20 shall attend throughout the school year, unless
21 excused by the school for illness or other good cause,
22 and shall comply fully with the code of conduct for
23 the school,

1 d. the parent or legal guardian shall fully comply with
2 the parental involvement requirements of the private
3 school, unless excused by the school for illness or
4 other good cause, and

5 e. upon issuance of a scholarship warrant, the parent or
6 legal guardian to whom the warrant is made shall
7 restrictively endorse the warrant to the private
8 school for deposit into the account of the private
9 school.

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

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

14 1. The maximum scholarship granted for an eligible student with
15 disabilities shall be a calculated amount equivalent to the local
16 and county revenue for the school district which is chargeable in
17 the State Aid formula, state-dedicated revenue, and state-
18 appropriated funds per weighted average daily membership generated
19 by that student for the applicable school year. The weighted
20 average daily membership shall be determined using the grade and
21 disability weights only. The maximum scholarship amount shall be
22 calculated by the State Board of Education for each year the student
23 is participating in the scholarship program;

1 2. The amount of the scholarship shall be the amount calculated
2 in paragraph 1 of this subsection or the amount of tuition and fees
3 for the private school, whichever is less, minus up to five percent
4 (5%) of the scholarship amount which may be retained by the school
5 district as a fee for administrative services rendered;

6 3. The school district shall annually report for child-count
7 and funding purposes all students who are attending a private school
8 under the Lindsey Nicole Henry Scholarships for Students with
9 Disabilities Program to the State Department of Education;

10 4. The initial payment shall be made after the school district
11 verifies admission acceptance and enrollment. Quarterly payments
12 shall be made upon verification of continued enrollment and
13 attendance at the private school. Payment shall be made by the
14 school district with an individual warrant made payable to the
15 parent or legal guardian of the student and mailed by the school
16 district to the private school that the parent or legal guardian
17 chooses. The parent or legal guardian shall restrictively endorse
18 the warrant to the private school for deposit into the account of
19 the private school; and

20 5. A school district shall not be responsible for any
21 additional costs associated with special education and related
22 services incurred by the private school for the student including
23 the cost of teachers, equipment, material, and special costs
24 associated with the special education class.

1 G. No liability shall arise on the part of the state or a
2 school district based on the award or use of any scholarship
3 provided through the Lindsey Nicole Henry Scholarships for Students
4 with Disabilities Program.

5 SECTION 3. This act shall become effective July 1, 2010.

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

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