

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2782 _____
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

Amendment submitted by: Michael Rogers

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2782

By: Downing

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to schools; amending 70 O.S. 2011,
10 Section 13-101.2, as last amended by Section 1,
11 Chapter 249, O.S.L. 2017 (70 O.S. Supp. 2017, Section
12 13-101.2), which relates to the Lindsey Nicole Henry
13 Scholarships for Students with Disabilities Program
14 Act; modifying scholarship eligibility requirements
15 to include a student who has at least one
16 incarcerated parent; and providing an effective date.

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

18 SECTION 1. AMENDATORY 70 O.S. 2011, Section 13-101.2, as
19 last amended by Section 1, Chapter 249, O.S.L. 2017 (70 O.S. Supp.
20 2017, Section 13-101.2), is amended to read as follows:

21 Section 13-101.2 A. There is hereby created the Lindsey Nicole
22 Henry Scholarships for Students with Disabilities Program. The
23 Lindsey Nicole Henry Scholarships for Students with Disabilities
24 Program is established to provide a scholarship to a private school
of choice for students with disabilities for whom an individualized
education program (IEP) in accordance with the Individuals with

1 Disabilities Education Act (IDEA) or an individualized service plan
2 pursuant to Section 1-4-704 of Title 10A of the Oklahoma Statutes
3 has been developed at any time or a student who has at least one
4 parent who is incarcerated prior to notifying the State Department
5 of Education of the intent to participate in the Program and the IEP
6 is in effect or at least one parent is incarcerated at the time the
7 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 or with at least one parent who is incarcerated may
12 exercise their parental option and request to have a Lindsey Nicole
13 Henry Scholarship awarded for the child to enroll in and attend a
14 private school in accordance with this section and the scholarship
15 shall be awarded if:

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

1 the parent shall be exempt from the requirements of this paragraph
2 but shall be required to meet all other eligibility requirements to
3 participate as provided for in this section. A student who has been
4 provided services under an Individual Family Service Plan through
5 the SoonerStart program and during transition was evaluated and
6 determined to be eligible for school district services shall be
7 exempt from the requirements of this paragraph but shall be required
8 to meet all other eligibility requirements to participate as
9 provided for in this section. A student who was in out-of-home
10 placement with the Department of Human Services, who was adopted
11 while in the permanent custody of the Department of Human Services
12 ~~or~~, who was in out-of-home placement with the Office of Juvenile
13 Affairs or who has at least one parent who is incarcerated shall be
14 exempt from the requirements of this paragraph but shall be required
15 to meet all other eligibility requirements to participate as
16 provided for in this section; and

17 2. The parent or legal guardian has obtained acceptance for
18 admission of the student to a private school that is eligible for
19 the program as provided in subsection H of this section and has
20 notified the State Department of Education of the request for a
21 scholarship. Requests to participate in the program made after
22 December 1 shall be granted, but funding for scholarships requested
23 after December 1 shall not be available until the beginning of the
24 next school year. The request shall be through a communication

1 directly to the Department in a manner that creates a written or
2 electronic record of the request and the date of receipt of the
3 request. The Department shall notify the school district upon
4 receipt of the request. For purposes of continuity of educational
5 choice, the scholarship shall remain in force until the student
6 returns to a public school, graduates from high school or reaches
7 the age of twenty-two (22), whichever occurs first. At any time,
8 the parent or legal guardian of the student may remove the student
9 from the private school and place the student in another private
10 school that is eligible for the program as provided in subsection H
11 of this section or place the student in a public school.

12 C. A student shall be eligible for a scholarship if the parent
13 or legal guardian of the student made a request for a scholarship
14 for the 2010-2011 school year and the student transferred to an
15 eligible private school but was subsequently denied a scholarship
16 because the student did not have an IEP in effect on October 1,
17 2009, but did meet all other eligibility requirements as set forth
18 in the Lindsey Nicole Henry Scholarships for Students with
19 Disabilities Program Act.

20 D. A student shall not be eligible for a Lindsey Nicole Henry
21 Scholarship if the student is not having regular and direct contact
22 with the private school teachers at the physical location of the
23 private school.

24

1 E. School districts shall notify the parent or legal guardian
2 of a public school student with a disability of all options
3 available pursuant to this section and inform the parent or legal
4 guardian of the availability of information about the program from
5 the State Department of Education through the toll-free telephone
6 number or website. The notification shall be provided with or
7 included in the copy of the "Parents Rights in Special Education:
8 Notice of Procedural Safeguards" document given to parents at least
9 annually or as otherwise required by law.

10 F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall
11 have the same effect as a parental revocation of consent to service
12 pursuant to 20 U.S.C., Sections 1414(a)(1)(D) and 1414(C) of the
13 IDEA.

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

18 G. If the parent or legal guardian requests a Lindsey Nicole
19 Henry Scholarship and the student is accepted by the private school
20 pending the availability of a space for the student, the parent or
21 legal guardian of the student shall notify the State Department of
22 Education before entering the private school and before December 1
23 in order to be eligible for the scholarship during the school year
24 when a space becomes available for the student in the private

1 school. If notification is made after December 1, payment of the
2 scholarship shall not begin until the next school year.

3 H. To be eligible to participate in the Lindsey Nicole Henry
4 Scholarships for Students with Disabilities Program, a private
5 school shall notify the State Department of Education of its intent
6 to participate. The notice shall specify the grade levels and
7 services that the private school has available for students with
8 disabilities who are participating in the scholarship program. The
9 State Department of Education shall approve a private school as
10 eligible to participate in the scholarship program upon
11 determination that the private school:

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

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

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

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

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

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

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

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

15 I. 1. Lindsey Nicole Henry Scholarship Program participants
16 shall comply with the following:

17 a. the parent or legal guardian shall select the private
18 school from the schools approved for eligibility
19 pursuant to subsection H of this section and apply for
20 the admission of the child,

21 b. the parent or legal guardian shall request the
22 scholarship no later than December 1 of the school
23 year during which the scholarship is requested,
24

- 1 c. any student participating in the scholarship program
2 shall attend throughout the school year, unless
3 excused by the school for illness or other good cause,
4 and shall comply fully with the code of conduct for
5 the school,
- 6 d. the parent or legal guardian shall fully comply with
7 the parental involvement requirements of the private
8 school, unless excused by the school for illness or
9 other good cause, and
- 10 e. upon issuance of a scholarship warrant, the parent or
11 legal guardian to whom the warrant is made shall
12 restrictively endorse the warrant to the private
13 school for deposit into the account of the private
14 school. The parent or legal guardian may not
15 designate any entity or individual associated with the
16 private school as the attorney in fact for the parent
17 or legal guardian to endorse a warrant. A parent or
18 legal guardian who fails to comply with this
19 subparagraph shall forfeit the scholarship.

20 2. A participant who fails to comply with this subsection
21 forfeits the scholarship.

22 J. Provisions governing payment of a Lindsey Nicole Henry
23 Scholarship shall be as follows:

1 1. The State Department of Education shall calculate the total
2 cost of all scholarships for all eligible students in the state.

3 The State Department of Education shall then reserve or retain from
4 the total amount appropriated to the State Board of Education for
5 State Aid purposes and any other revenue available for allocation
6 for State Aid purposes the total cost for all scholarship payments;

7 2. The maximum scholarship granted for an eligible student with
8 disabilities shall be a calculated amount equivalent to the total
9 State Aid factors for the applicable school year multiplied by the
10 grade and disability weights generated by that student for the
11 applicable school year. The disability weights used in calculating
12 the scholarship amount shall include all disability weights which
13 correspond to the disabilities included in the multidisciplinary
14 evaluation and eligibility group summary for the student at the time
15 the request for a scholarship is made by the parent or legal
16 guardian. The maximum scholarship amount shall be calculated by the
17 State Board of Education for each year the student is participating
18 in the scholarship program;

19 3. The amount of the scholarship shall be the amount calculated
20 in paragraph 2 of this subsection or the amount of tuition and fees
21 for the private school, whichever is less, minus up to two and one-
22 half percent (2 1/2%) of the scholarship amount which may be
23 retained by the State Department of Education as a fee for
24 administrative services rendered. The amount of any assessment fee

1 required by the private school and the amount associated with
2 providing services and therapies to address the disabilities of the
3 student may be paid from the total amount of the scholarship. The
4 amount of the scholarship shall be prorated to reflect the number of
5 days remaining in the current school year, if the scholarship
6 request is granted after the beginning of the school year;

7 4. The State Department of Education shall notify the private
8 school of the amount of the scholarship within ten (10) days after
9 receiving the request for a scholarship, when the total State Aid
10 factors have been determined for the current fiscal year. The
11 initial payment shall be made after the Department verifies
12 admission acceptance and enrollment. Quarterly payments shall be
13 made upon verification of continued enrollment and attendance at the
14 private school. Payment shall be made by the Department with an
15 individual warrant made payable to the parent or legal guardian of
16 the student and mailed by the Department to the private school that
17 the parent or legal guardian chooses. The parent or legal guardian
18 shall restrictively endorse the warrant to the private school for
19 deposit into the account of the private school;

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

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

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

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

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

22 2. If the Superintendent intends to deny, suspend, or revoke
23 the participation of a private school in the scholarship program,
24 the Department shall notify the private school of the proposed

1 action in writing by certified mail and regular mail to the private
2 school's address of record with the Department. The Department
3 shall also notify any parents or legal guardians of scholarship
4 students attending the private school. The notification shall
5 include the reasons for the proposed action and notice of the
6 timelines and procedures set forth in this subsection.

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

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

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

21 L. No liability shall arise on the part of the state, the State
22 Board of Education, the State Department of Education or a school
23 district based on the award or use of any scholarship provided
24

1 through the Lindsey Nicole Henry Scholarships for Students with
2 Disabilities Program.

3 M. The inclusion of private schools within options available to
4 public school students in Oklahoma shall not expand the regulatory
5 authority of the state or any school district to impose any
6 additional regulation of private schools beyond those reasonably
7 necessary to enforce the requirements expressly set forth in this
8 section.

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

22 SECTION 2. This act shall become effective September 1, 2018.

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24 56-2-9980 EK 02/28/18

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