

ENROLLED HOUSE
BILL NO. 3393

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

and

Anderson and Branam of the
Senate

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 and providing for codification.

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:

This act shall be known and may be cited as the "Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act".

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

A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities 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 Disabilities Education Act (IDEA) has been developed. Scholarships shall be awarded beginning with the 2010-2011 school year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection D of this section and apply for the admission of the child,
- b. the parent or legal guardian shall request the scholarship at least sixty (60) days prior to the date of the first scholarship payment,
- c. any student participating in the scholarship program shall attend throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school,
- d. the parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause, and
- e. upon issuance of a scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

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

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

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

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

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

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

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

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

Passed the House of Representatives the 21st day of May, 2010.

Presiding Officer of the House of
Representatives

Passed the Senate the 26th day of May, 2010.

Presiding Officer of the Senate