

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

965Q0527

SENATE BILL NO. 191

Introduced by: Senators Dempster, Adelstein, Ahlers, Bartling, Fryslie, Garnos, Gillespie, Heidepriem, Jerstad, Knudson, Nelson, Nesselhuf, Peterson, Tieszen, and Turbak Berry and Representatives Krebs, Blake, Curd, Cutler, Deadrick, Feinstein, Gibson, Gosch, Kirkeby, Lederman, Lucas, McLaughlin, Rave, Romkema, Solberg, Street, Turbiville, and Vanderlinde

1 FOR AN ACT ENTITLED, An Act to establish eligibility criteria, community planning
2 processes, and quality benchmarks for state-supported prekindergarten programs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Board," the South Dakota Board of Education;
- 6 (2) "Community," the area described and recorded by the Department of Education
7 pursuant to § 13-5-17;
- 8 (3) "Community early learning advisory group," a local level planning committee that
9 develops the community prekindergarten plan;
- 10 (4) "Department," the Department of Education;
- 11 (5) "Early Learning Council," the council established pursuant to the Improving Head
12 Start for School Readiness Act of 2007, as amended to January 1, 2009;
- 13 (6) "Prekindergarten," a program open to children at least four years old and completed



1 prior to the entry age of kindergarten pursuant to § 13-28-2 that provides children
2 with educational experiences to prepare them for kindergarten.

3 Section 2. Under the provisions of this Act, no child may be required to attend a
4 prekindergarten program, and no public school district, private school, private prekindergarten
5 program, private preschool program, private child care provider, or any other entity may be
6 required to participate in state-supported prekindergarten programs.

7 Section 3. Any funding appropriated by the Legislature for prekindergarten programs shall
8 be used to provide prekindergarten programs to children from families whose countable income
9 is at or below one hundred thirty percent of the federal poverty level, as updated annually by the
10 Department of Social Services in administrative rules promulgated pursuant to chapter 1-26.

11 Section 4. The board shall promulgate rules pursuant to chapter 1-26 to establish evidence-
12 based quality benchmarks for prekindergarten programs receiving state funds. The Early
13 Learning Council shall review research on age-appropriate environments for small children,
14 develop the quality benchmarks with public input, and deliver their recommendations to the
15 board for rule promulgation. The Early Learning Council shall also review any proposed
16 revisions to the benchmarks before the board acts on them. The department may not require
17 compliance with the benchmarks from any prekindergarten program not receiving state funds,
18 but any such program may voluntarily apply to be certified by the department as meeting the
19 benchmarks.

20 Section 5. Communities seeking state funding for prekindergarten programs shall engage
21 in a community planning process and submit a community plan to the department for approval.
22 The plan shall identify or estimate the number of three and four-year old children in the
23 community and the number of children served in existing public and private prekindergarten
24 programs. The plan shall also identify the community need, the providers who will serve eligible

1 children using state funds, the number of children in the community to be served by state
2 prekindergarten funds, and the allocation of funds among providers. Contiguous communities
3 may form a single community for planning purposes if each affected school district agrees to
4 participate in the planning process and implement an approved plan.

5 Section 6. The community prekindergarten plan shall include the following:

- 6 (1) A requirement that the same quality benchmarks be applied to all providers
7 participating in the program;
- 8 (2) A requirement that each provider receive equal per-child funding;
- 9 (3) A requirement that parents of an eligible child be allowed to choose a provider as
10 long as the chosen provider has a state-funded opening for the child;
- 11 (4) A requirement that providers continue to serve every child enrolled in the provider's
12 program and do not remove or suspend any child from the program once it has
13 begun;
- 14 (5) An explanation of how state funding for prekindergarten programs will preserve or
15 expand the existing infrastructure in Head Start, private preschool, and private
16 center-based or home-based day care; and
- 17 (6) An explanation of how state funding will be used to maximize parental choice.

18 Section 7. A community early learning advisory group shall develop the community
19 prekindergarten plan. At a minimum, the group shall include a community representative within
20 each of the following categories, except that if a category is not present in the community, no
21 representative of that category is required in that community's group:

- 22 (1) A representative of local parents;
- 23 (2) A representative of each affected school district;
- 24 (3) A representative of Head Start;

- 1 (4) A representative of tribal Head Start;
- 2 (5) A representative of private preschools;
- 3 (6) A representative of faith-based preschools;
- 4 (7) A representative of child care;
- 5 (8) A representative of the local business community; and
- 6 (9) A representative of the local military community.

7 The community early learning advisory group shall hold public meetings and solicit public
8 comment before finalizing its plan. If any member of the community early learning advisory
9 group disagrees with the content of the plan, that member may prepare a dissenting opinion that
10 shall be included with the plan.

11 Section 8. The board may promulgate rules pursuant to chapter 1-26 to establish the
12 community plan submission process, timelines for the submission and review of community
13 plans, further guidelines for the community plans, and a system to monitor the progress of
14 participating communities to ensure compliance with the approved plan.

15 Section 9. The department shall review all community plans and approve those that meet
16 the requirements established in this Act. If a community plan fails to meet the requirements
17 established in this Act and is not approved by the department, the department shall notify the
18 community early learning advisory group of the plan deficiency and allow the group fourteen
19 days to cure the deficiency. If an approved plan includes a dissenting opinion, the department
20 shall provide a written response to the dissent stating its reasons for approving the plan.

21 Section 10. The department shall, by December fifteenth of each year, report to the Governor
22 and the Legislature the community plans it has approved and recommended for funding for the
23 coming fiscal year, the number of children to be funded within each community, and the
24 projected budget.