

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-NINTH SESSION**

**S.F. No. 3095**

(SENATE AUTHORS: SIEBEN)

DATE	D-PG	OFFICIAL STATUS
03/23/2016	5224	Introduction and first reading Referred to Finance

A bill for an act

1.1 relating to education; providing for four-year-old prekindergarten instruction;  
 1.2 amending Minnesota Statutes 2014, sections 124D.1158, subdivisions 3, 4;  
 1.3 126C.10, subdivision 2d; Minnesota Statutes 2015 Supplement, sections  
 1.4 120A.41; 122A.415, subdivision 1; 123B.595, subdivision 1; 124D.59,  
 1.5 subdivision 2; 124E.11; 126C.05, subdivision 1; proposing coding for new law  
 1.6 in Minnesota Statutes, chapter 124D.  
 1.7

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2015 Supplement, section 120A.41, is amended to read:

1.10 **120A.41 LENGTH OF SCHOOL YEAR; HOURS OF INSTRUCTION.**

1.11 A school board's annual school calendar must include at least 425 hours of  
 1.12 instruction for a kindergarten student without a disability, 935 hours of instruction for a  
 1.13 student in grades 1 through 6, and 1,020 hours of instruction for a student in grades 7  
 1.14 through 12, not including summer school. The school calendar for all-day kindergarten  
 1.15 must include at least 850 hours of instruction for the school year. The school calendar for  
 1.16 prekindergarten, if offered by the district, must include at least 350 hours of instruction  
 1.17 for the school year. A school board's annual calendar must include at least 165 days of  
 1.18 instruction for a student in grades 1 through 11 unless a four-day week schedule has been  
 1.19 approved by the commissioner under section 124D.126.

1.20 **EFFECTIVE DATE.** This section is effective for the 2017-2018 school year and  
 1.21 later.

1.22 Sec. 2. Minnesota Statutes 2015 Supplement, section 122A.415, subdivision 1, is  
 1.23 amended to read:

2.1 Subdivision 1. **Revenue amount.** (a) A school district, intermediate school district,  
 2.2 cooperative unit as defined in section 123A.24, subdivision 2, school site, or charter  
 2.3 school that meets the conditions of section 122A.414 and submits an application approved  
 2.4 by the commissioner is eligible for alternative teacher compensation revenue.

2.5 (b) For school district and intermediate school district applications, the commissioner  
 2.6 must consider only those applications to participate that are submitted jointly by a  
 2.7 district and the exclusive representative of the teachers. The application must contain an  
 2.8 alternative teacher professional pay system agreement that:

2.9 (1) implements an alternative teacher professional pay system consistent with  
 2.10 section 122A.414; and

2.11 (2) is negotiated and adopted according to the Public Employment Labor Relations  
 2.12 Act under chapter 179A, except that notwithstanding section 179A.20, subdivision 3, a  
 2.13 district may enter into a contract for a term of two or four years.

2.14 Alternative teacher compensation revenue for a qualifying school district or site in  
 2.15 which the school board and the exclusive representative of the teachers agree to place  
 2.16 teachers in the district or at the site on the alternative teacher professional pay system  
 2.17 equals ~~\$260~~ the alternative teacher compensation allowance times the number of pupils  
 2.18 enrolled at the district or site on October 1 of the previous fiscal year. The alternative  
 2.19 teacher compensation allowance equals \$260 for fiscal years 2015 through 2018, \$246 for  
 2.20 fiscal year 2019, and \$244 for fiscal year 2020 and later. Alternative teacher compensation  
 2.21 revenue for a qualifying intermediate school district or cooperative must be calculated  
 2.22 under subdivision 4, paragraph (b).

2.23 (c) For a newly combined or consolidated district, the revenue shall be computed  
 2.24 using the sum of pupils enrolled on October 1 of the previous year in the districts entering  
 2.25 into the combination or consolidation. The commissioner may adjust the revenue computed  
 2.26 for a site using prior year data to reflect changes attributable to school closings, school  
 2.27 openings, or grade level reconfigurations between the prior year and the current year.

2.28 (d) The revenue is available only to school districts, intermediate school districts,  
 2.29 cooperatives, school sites, and charter schools that fully implement an alternative teacher  
 2.30 professional pay system by October 1 of the current school year.

2.31 Sec. 3. Minnesota Statutes 2015 Supplement, section 123B.595, subdivision 1, is  
 2.32 amended to read:

2.33 Subdivision 1. **Long-term facilities maintenance revenue.** (a) For fiscal year  
 2.34 2017 only, long-term facilities maintenance revenue equals the greater of (1) \$193 times  
 2.35 the district's adjusted pupil units times the lesser of one or the ratio of the district's

3.1 average building age to 35 years, plus the cost approved by the commissioner for indoor  
 3.2 air quality, fire alarm and suppression, and asbestos abatement projects under section  
 3.3 123B.57, subdivision 6, with an estimated cost of \$100,000 or more per site or (2) the  
 3.4 sum of the amount the district would have qualified for under Minnesota Statutes 2014,  
 3.5 section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota Statutes  
 3.6 2014, section 123B.591.

3.7 (b) For fiscal year 2018 only, long-term facilities maintenance revenue equals the  
 3.8 greater of (1) the sum of (i) \$292 times the district's adjusted pupil units times the lesser  
 3.9 of one or the ratio of the district's average building age to 35 years, plus (ii) the cost  
 3.10 approved by the commissioner for indoor air quality, fire alarm and suppression, and  
 3.11 asbestos abatement projects under section 123B.57, subdivision 6, with an estimated  
 3.12 cost of \$100,000 or more per site, plus (iii) the cost approved by the commissioner for  
 3.13 remodeling existing instructional space to accommodate prekindergarten instruction,  
 3.14 or (2) the sum of (i) the amount the district would have qualified for under Minnesota  
 3.15 Statutes 2014, section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota  
 3.16 Statutes 2014, section 123B.591, and (ii) the cost approved by the commissioner for  
 3.17 remodeling existing instructional space to accommodate prekindergarten instruction.

3.18 (c) For fiscal year 2019 and later, long-term facilities maintenance revenue equals  
 3.19 the greater of (1) the sum of (i) \$380 times the district's adjusted pupil units times the  
 3.20 lesser of one or the ratio of the district's average building age to 35 years, plus (ii) the cost  
 3.21 approved by the commissioner for indoor air quality, fire alarm and suppression, and  
 3.22 asbestos abatement projects under section 123B.57, subdivision 6, with an estimated  
 3.23 cost of \$100,000 or more per site, plus (iii) the cost approved by the commissioner for  
 3.24 remodeling existing instructional space to accommodate prekindergarten instruction,  
 3.25 or (2) the sum of (i) the amount the district would have qualified for under Minnesota  
 3.26 Statutes 2014, section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota  
 3.27 Statutes 2014, section 123B.591, and (ii) the cost approved by the commissioner for  
 3.28 remodeling existing instructional space to accommodate prekindergarten instruction.

3.29 **EFFECTIVE DATE.** This section is effective for revenue beginning in fiscal year  
 3.30 2018.

3.31 Sec. 4. Minnesota Statutes 2014, section 124D.1158, subdivision 3, is amended to read:

3.32 Subd. 3. **Program reimbursement.** Each school year, the state must reimburse  
 3.33 each participating school 30 cents for each reduced-price breakfast, 55 cents for each fully  
 3.34 paid breakfast served to students in grades 1 to 12, and \$1.30 for each fully paid breakfast  
 3.35 served to a prekindergarten or kindergarten student.

4.1 **EFFECTIVE DATE.** This section is effective for revenue in fiscal year 2018 and  
4.2 later.

4.3 Sec. 5. Minnesota Statutes 2014, section 124D.1158, subdivision 4, is amended to read:

4.4 Subd. 4. **No fees.** A school that receives school breakfast aid under this section must  
4.5 make breakfast available without charge to all participating students in grades 1 to 12 who  
4.6 qualify for free or reduced-price meals and to all prekindergarten or kindergarten students.

4.7 **EFFECTIVE DATE.** This section is effective for revenue in fiscal year 2018 and  
4.8 later.

4.9 Sec. 6. **[124D.171] PREKINDERGARTEN PROGRAM.**

4.10 Subdivision 1. **Programs authorized.** A school district or charter school may offer  
4.11 a voluntary prekindergarten program for all four-year-old children.

4.12 Subd. 2. **Program characteristics.** (a) High-quality, state-funded prekindergarten  
4.13 must prepare children for kindergarten and meet the state prekindergarten program criteria,  
4.14 which include the following:

4.15 (1) compensatory instruction that accelerates children's language and literacy skills,  
4.16 mathematical thinking, and social skills;

4.17 (2) instructional content and activities that are of sufficient length and intensity to  
4.18 address learning needs;

4.19 (3) measurement of each child's cognitive and social skills using a formative  
4.20 measure when the child enters and again before the child leaves the program, screening  
4.21 measures such as literacy, and others from the state-approved menu of kindergarten  
4.22 entrance measures;

4.23 (4) class size of 20 or fewer children and child-staff ratios of ten-to-one or less;

4.24 (5) an individualized learning plan for each child created by the family and teacher,  
4.25 which includes a transition plan to kindergarten;

4.26 (6) a lead teacher in each classroom who is appropriately licensed and trained in  
4.27 child development, language and literacy development, early education instruction, and  
4.28 native and English language development;

4.29 (7) prekindergarten instructional staff salaries comparable to the salaries of local  
4.30 kindergarten through grade 12 instructional staff;

4.31 (8) community collaboration and planning, including community health and social  
4.32 service agencies to ensure children have access to comprehensive services;

4.33 (9) coordination with all relevant school programs and services, including special  
4.34 education, homeless, and English learners;

5.1 (10) parent engagement strategies aligned with culturally and linguistically  
 5.2 responsive activities in prekindergarten through grade 3;

5.3 (11) development and implementation of curriculum, assessment, and instructional  
 5.4 strategies aligned with the state's early learning guidelines and academic standards for  
 5.5 prekindergarten through grade 3;

5.6 (12) inclusion of children with disabilities in the prekindergarten program;

5.7 (13) coordinated professional development and training for both school and  
 5.8 community-based early learning providers that is informed by a measure of adult-child  
 5.9 interactions; and

5.10 (14) a plan for mixed delivery that may include partnerships with child care centers,  
 5.11 family child care programs licensed under section 245A.03, and Head Start programs that  
 5.12 comply with the state prekindergarten program requirements. Plan components include  
 5.13 strategies for recruitment, contracting, and monitoring of fiscal compliance and program  
 5.14 quality.

5.15 (b) Districts must include their strategy for implementing and measuring the impact  
 5.16 of their state-funded prekindergarten program in their world's best workforce plan.

5.17 (c) Notwithstanding paragraph (a), clause (6), for fiscal year 2018, every district  
 5.18 receiving prekindergarten funding under section 126C.05, subdivision 1, must ensure at  
 5.19 least 25 percent of classroom teachers have the required license or special permission,  
 5.20 50 percent for fiscal year 2019, 75 percent for fiscal year 2020, and 100 percent for each  
 5.21 classroom by fiscal year 2021 and thereafter.

5.22 Subd. 3. **Child eligibility.** A child may participate in a prekindergarten program if  
 5.23 the child:

5.24 (1) is not yet in kindergarten and is four years old on September 1 of that school year;

5.25 (2) has completed the early childhood health and development screening under  
 5.26 sections 121A.16 to 121A.19 within 45 days of enrollment; and

5.27 (3) provides documentation of required immunizations under section 121A.15.

5.28 Subd. 4. **Hours of instruction.** A school board's annual school calendar for  
 5.29 prekindergarten must meet the minimum hours requirement in section 120A.41.

5.30 **EFFECTIVE DATE.** This section is effective July 1, 2017.

5.31 Sec. 7. Minnesota Statutes 2015 Supplement, section 124D.59, subdivision 2, is  
 5.32 amended to read:

5.33 Subd. 2. **English learner.** (a) "English learner" means a pupil in kindergarten  
 5.34 prekindergarten through grade 12 who meets the requirements under subdivision 2a or the  
 5.35 following requirements:

6.1 (1) the pupil, as declared by a parent or guardian first learned a language other than  
6.2 English, comes from a home where the language usually spoken is other than English, or  
6.3 usually speaks a language other than English; and

6.4 (2) the pupil is determined by a valid assessment measuring the pupil's English  
6.5 language proficiency and by developmentally appropriate measures, which might include  
6.6 observations, teacher judgment, parent recommendations, or developmentally appropriate  
6.7 assessment instruments, to lack the necessary English skills to participate fully in  
6.8 academic classes taught in English.

6.9 (b) A pupil enrolled in a Minnesota public school in any grade 4 through 12 who in  
6.10 the previous school year took a commissioner-provided assessment measuring the pupil's  
6.11 emerging academic English, shall be counted as an English learner in calculating English  
6.12 learner pupil units under section 126C.05, subdivision 17, and shall generate state English  
6.13 learner aid under section 124D.65, subdivision 5, if the pupil scored below the state cutoff  
6.14 score or is otherwise counted as a nonproficient participant on the assessment measuring  
6.15 the pupil's emerging academic English, or, in the judgment of the pupil's classroom  
6.16 teachers, consistent with section 124D.61, clause (1), the pupil is unable to demonstrate  
6.17 academic language proficiency in English, including oral academic language, sufficient to  
6.18 successfully and fully participate in the general core curriculum in the regular classroom.

6.19 (c) Notwithstanding paragraphs (a) and (b), a pupil in kindergarten through grade  
6.20 12 shall not be counted as an English learner in calculating English learner pupil units  
6.21 under section 126C.05, subdivision 17, and shall not generate state English learner aid  
6.22 under section 124D.65, subdivision 5, if:

6.23 (1) the pupil is not enrolled during the current fiscal year in an educational program  
6.24 for English learners under sections 124D.58 to 124D.64; or

6.25 (2) the pupil has generated seven or more years of average daily membership in  
6.26 Minnesota public schools since July 1, 1996.

6.27 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2018.

6.28 Sec. 8. Minnesota Statutes 2015 Supplement, section 124E.11, is amended to read:

6.29 **124E.11 ADMISSION REQUIREMENTS AND ENROLLMENT.**

6.30 (a) A charter school may limit admission to:

6.31 (1) pupils within an age group or grade level;

6.32 (2) pupils who are eligible to participate in the graduation incentives program under  
6.33 section 124D.68; or

7.1 (3) residents of a specific geographic area in which the school is located when the  
7.2 majority of students served by the school are members of underserved populations.

7.3 (b) A charter school shall enroll an eligible pupil who submits a timely application,  
7.4 unless the number of applications exceeds the capacity of a program, class, grade level, or  
7.5 building. In this case, pupils must be accepted by lot. The charter school must develop  
7.6 and publish, including on its Web site, a lottery policy and process that it must use when  
7.7 accepting pupils by lot.

7.8 (c) A charter school shall give enrollment preference to a sibling of an enrolled  
7.9 pupil and to a foster child of that pupil's parents and may give preference for enrolling  
7.10 children of the school's staff before accepting other pupils by lot. A charter school that  
7.11 is located in Duluth township in St. Louis County and admits students in kindergarten  
7.12 through grade 6 must give enrollment preference to students residing within a five-mile  
7.13 radius of the school and to the siblings of enrolled children. If a charter school has a  
7.14 preschool or prekindergarten program under section 124E.06, subdivision 3, paragraph  
7.15 (a), that is free to all participants, the charter school may give enrollment preference to  
7.16 children currently enrolled in the school's free preschool or prekindergarten program under  
7.17 section 124E.06, subdivision 3, paragraph (a), who are eligible to enroll in kindergarten  
7.18 in the next school year.

7.19 (d) A person shall not be admitted to a charter school (1) as a kindergarten pupil,  
7.20 unless the pupil is at least five years of age on September 1 of the calendar year in which  
7.21 the school year for which the pupil seeks admission commences; or (2) as a first grade  
7.22 student, unless the pupil is at least six years of age on September 1 of the calendar year in  
7.23 which the school year for which the pupil seeks admission commences or has completed  
7.24 kindergarten; except that a charter school may establish and publish on its Web site a  
7.25 policy for admission of selected pupils at an earlier age, consistent with the enrollment  
7.26 process in paragraphs (b) and (c).

7.27 (e) Except as permitted in paragraph (d), a charter school may not limit admission  
7.28 to pupils on the basis of intellectual ability, measures of achievement or aptitude, or  
7.29 athletic ability and may not establish any criteria or requirements for admission that are  
7.30 inconsistent with this section.

7.31 (f) The charter school shall not distribute any services or goods of value to students,  
7.32 parents, or guardians as an inducement, term, or condition of enrolling a student in a  
7.33 charter school.

7.34 (g) Once a student is enrolled in the school, the student is considered enrolled in the  
7.35 school until the student formally withdraws or is expelled under the Pupil Fair Dismissal

8.1 Act in sections 121A.40 to 121A.56. A charter school is subject to and must comply with  
8.2 the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56.

8.3 (h) A charter school with at least 90 percent of enrolled students who are eligible  
8.4 for special education services and have a primary disability of deaf or hard-of-hearing  
8.5 may enroll prekindergarten pupils with a disability under section 126C.05, subdivision 1,  
8.6 paragraph (a), and must comply with the federal Individuals with Disabilities Education Act  
8.7 under Code of Federal Regulations, title 34, section 300.324, subsection (2), clause (iv).

8.8 Sec. 9. Minnesota Statutes 2015 Supplement, section 126C.05, subdivision 1, is  
8.9 amended to read:

8.10 Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the  
8.11 age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph  
8.12 (c), in average daily membership enrolled in the district of residence, in another district  
8.13 under sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school  
8.14 under chapter 124E; or for whom the resident district pays tuition under section 123A.18,  
8.15 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04,  
8.16 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this  
8.17 subdivision.

8.18 (a) A prekindergarten pupil with a disability who is enrolled in a program approved  
8.19 by the commissioner and has an individualized education program is counted as the ratio  
8.20 of the number of hours of assessment and education service to 825 times 1.0 with a  
8.21 minimum average daily membership of 0.28, but not more than 1.0 pupil unit.

8.22 (b) A prekindergarten pupil who is assessed but determined not to be disabled is  
8.23 counted as the ratio of the number of hours of assessment service to 825 times 1.0.

8.24 (c) A kindergarten pupil with a disability who is enrolled in a program approved  
8.25 by the commissioner is counted as the ratio of the number of hours of assessment and  
8.26 education services required in the fiscal year by the pupil's individualized education  
8.27 program to 875, but not more than one.

8.28 (d) A prekindergarten pupil who is not included in paragraph (a) or (b) is counted as  
8.29 0.6 pupil unit if the pupil is enrolled in a free prekindergarten program available to all  
8.30 prekindergarten pupils at the pupil's school that meets the minimum hours requirement in  
8.31 section 120A.41 and the requirements in section 124D.171.

8.32 ~~(d)~~ (e) A kindergarten pupil who is not included in paragraph (c) is counted as 1.0  
8.33 pupil unit if the pupil is enrolled in a free all-day, every day kindergarten program available  
8.34 to all kindergarten pupils at the pupil's school that meets the minimum hours requirement in

9.1 section 120A.41, or is counted as .55 pupil unit, if the pupil is not enrolled in a free all-day,  
9.2 every day kindergarten program available to all kindergarten pupils at the pupil's school.

9.3 ~~(e)~~ (f) A pupil who is in any of grades 1 to 6 is counted as 1.0 pupil unit.

9.4 ~~(f)~~ (g) A pupil who is in any of grades 7 to 12 is counted as 1.2 pupil units.

9.5 ~~(g)~~ (h) A pupil who is in the postsecondary enrollment options program is counted  
9.6 as 1.2 pupil units.

9.7 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2018  
9.8 and later.

9.9 Sec. 10. Minnesota Statutes 2014, section 126C.10, subdivision 2d, is amended to read:

9.10 Subd. 2d. **Declining enrollment revenue.** (a) A school district's declining  
9.11 enrollment revenue equals the greater of zero or the product of: (1) 28 percent of the  
9.12 formula allowance for that year and (2) the difference between the adjusted pupil units for  
9.13 the preceding year and the adjusted pupil units for the current year.

9.14 (b) Notwithstanding paragraph (a), for fiscal years 2015, 2016, and 2017 only, a pupil  
9.15 enrolled at the Crosswinds school shall not generate declining enrollment revenue for the  
9.16 district or charter school in which the pupil was last counted in average daily membership.

9.17 (c) Notwithstanding paragraph (a), for fiscal years 2018, 2019, and 2020 only,  
9.18 prekindergarten pupil units under section 126C.05, subdivision 1, paragraph (d), must be  
9.19 excluded from the calculation of declining enrollment revenue.