

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

389R0149

## SENATE EDUCATION ENGROSSED NO. **SB 191** - 2/11/2010

Introduced by: Senators Dempster, Abdallah, Adelstein, Ahlers, Bartling, Bradford, Garnos, Gillespie, Hanson (Gary), Heidepriem, Hundstad, Jerstad, Knudson, Merchant, Miles, Nelson, Nesselhuf, Peterson, Turbak Berry, and Vehle and Representatives Krebs, Blake, Cutler, Elliott, Engels, Faehn, Fargen, Feinstein, Gibson, Hunhoff (Bernie), Killer, Lederman, Lucas, McLaughlin, Rave, Romkema, Sorenson, Street, Thompson, Tidemann, Turbiville, and Vanderlinde

1 FOR AN ACT ENTITLED, An Act to establish the South Dakota Early Learning Council, and  
2 to establish community planning processes and eligibility criteria for entities seeking state  
3 funding to provide voluntary prekindergarten programs to children from low-income  
4 families.

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

6 Section 1. Terms used in this Act mean:

7 (1) "Community early learning advisory group," a local level planning committee that  
8 develops the community prekindergarten plan; and

9 (2) "Prekindergarten," a program open to children at least three or four years old that is  
10 completed prior to the entry age of kindergarten pursuant to § 13-28-2 and provides  
11 children with educational experiences to prepare them for kindergarten.

12 Section 2. Under the provisions of this Act, no child may be required to attend a



1 prekindergarten program, and no public school district, private school, private prekindergarten  
2 program, private preschool program, private child care provider, or any other entity may be  
3 required to participate in voluntary prekindergarten programs.

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

9 In order to receive any state or federal funds pursuant to this Act to provide voluntary  
10 prekindergarten programs to eligible children, a prekindergarten program shall be licensed as  
11 a child welfare agency pursuant to § 26-6-14, be registered as a family day care provider  
12 pursuant to § 26-6-14.2, be a federally funded Head Start program pursuant to 42 USC 9801 et  
13 seq., as amended to January 1, 2010, or be a school or part of a school that is accredited pursuant  
14 to § 13-1-12.1, and shall:

- 15 (1) Maintain a staff to child ratio of at least one staff member for every ten children;
- 16 (2) Divide participating children into groups of no more than twenty children;
- 17 (3) Employ teachers who either have a bachelor's degree in early childhood education or  
18 who have a valid Child Development Associate (CDA) Credential awarded by the  
19 Council for Professional Recognition and a defined professional development plan,  
20 and are demonstrating ongoing progress toward earning a bachelor's degree;
- 21 (4) Employ teachers' assistants who have a valid Child Development Associate (CDA)  
22 Credential awarded by the Council for Professional Recognition or who have earned  
23 a passing score on a designated state test for early childhood education providers  
24 approved by the Early Learning Council;

- 1 (5) Follow early learning guidelines approved by the Early Learning Council and use  
2 research-based, developmentally-appropriate curriculum and assessment; and
- 3 (6) Annually report on the developmental progress of each child in the program to the  
4 child's parent or guardian, and annually report to the community and to the Early  
5 Learning Council on the aggregate progress of all children in the program according  
6 to protocols established by the Early Learning Council.

7 All programs that meet the requirements in this section, including sectarian programs, are  
8 eligible to provide voluntary prekindergarten programs pursuant to this Act. Any state funding  
9 provided shall be provided equally per child and is for the benefit of children from low-income  
10 families pursuant to section 3 of this Act. No state funding provided for voluntary  
11 prekindergarten programs may be expended for sectarian curriculum, supplies, or instruction.

12 Section 4. Communities seeking funding for voluntary prekindergarten programs pursuant  
13 to this Act shall engage in a community planning process and submit a community  
14 prekindergarten plan to the South Dakota Early Learning Council established in section 7 of this  
15 Act. The plan shall identify or estimate the number of three and four-year old children in the  
16 community, and the number of children served in existing public and private prekindergarten  
17 programs. The plan shall also identify the community need, the providers who may serve  
18 eligible children using the funds provided, the number of children in the community to be served  
19 using those funds, and the allocation of those funds. Communities may join together to form a  
20 single community for planning purposes.

21 Section 5. A community early learning advisory group shall develop the community  
22 prekindergarten plan. The group shall include one community representative within each of the  
23 following categories, except that if a category is not present in the community, no representative  
24 of that category is required in that community's group:

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

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

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

- 15 (1) A requirement that the same quality benchmarks be applied to all providers  
16 participating in the program;
- 17 (2) A requirement for equal per-child funding;
- 18 (3) A requirement that parents of an eligible child be allowed to choose a provider as  
19 long as the chosen provider has an opening for the child;
- 20 (4) A requirement that providers continue to serve every child enrolled in the provider's  
21 program and do not remove or suspend any child from the program once it has  
22 begun;
- 23 (5) An explanation of how funding for prekindergarten programs will preserve or expand  
24 the existing infrastructure in Head Start, private preschool, and private center-based

1 or home-based day care;

2 (6) An explanation of how funding will be used to maximize parental choice, enhance  
3 parent involvement, and strengthen families; and

4 (7) An explanation of how the providers will support the transition of participating  
5 children to kindergarten.

6 Section 7. There is hereby established the South Dakota Early Learning Council consisting  
7 of sixteen members appointed by the Governor. The council, established pursuant to the  
8 Improving Head Start for School Readiness Act of 2007, as amended to January 1, 2010, is  
9 within the Department of Social Services, and both the Department of Social Services and the  
10 Department of Education shall provide the council with administrative support.

11 Section 8. The Governor shall appoint members to the South Dakota Early Learning Council  
12 who have training, experience, or special knowledge of early childhood education and care, and  
13 the appointees shall include one representative from each of the following categories:

14 (1) The Department of Education;

15 (2) The Department of Health;

16 (3) The Department of Human Services;

17 (4) The Department of Social Services;

18 (5) The Legislature;

19 (6) A local education agency (LEA);

20 (7) An institution of higher education;

21 (8) A provider of early childhood education;

22 (9) A faith-based provider of early childhood education;

23 (10) A provider of Head Start;

24 (11) A provider of tribal Head Start;

- 1 (12) The state's director of Head Start Collaboration;
- 2 (13) A licensed provider of child care;
- 3 (14) Parents;
- 4 (15) The business community; and
- 5 (16) Child advocacy groups.

6 The initial members to be appointed shall draw lots to determine who will hold the six four-  
7 year terms, the five three-year terms, and the five two-year terms. Thereafter, each member  
8 shall serve a term of four years. The council shall annually elect a chairperson from among its  
9 members by a majority vote of the members present at the first meeting of each fiscal year.

10 Section 9. The South Dakota Early Learning Council shall review all community  
11 prekindergarten plans prepared pursuant to section 4 of this Act and approve those that meet the  
12 requirements established in section 6 of this Act. If a plan fails to meet the established  
13 requirements and is not approved by the council, the council shall notify the community early  
14 learning advisory group of the plan deficiency and allow the group sixty days to cure the  
15 deficiency. If an approved plan includes a dissenting opinion, the council shall provide a written  
16 response to the dissent stating its reasons for approving the plan.

17 Section 10. The Department of Social Services, with the advice of the Early Learning  
18 Council, shall promulgate rules pursuant to chapter 1-26 to establish the community  
19 prekindergarten plan submission process, to establish timelines for the submission, review, and  
20 approval of community prekindergarten plans in a timely manner, to provide for the monitoring  
21 of participating communities to ensure compliance with the approved community  
22 prekindergarten plans, and to establish certain protocols that voluntary prekindergarten  
23 programs must follow when reporting on the aggregate progress of participating children.