

This Document can be made available  
in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **2345**

March 23, 2007

Authored by Peppin

The bill was read for the first time and referred to the Committee on E-12 Education

1.1 A bill for an act  
1.2 relating to education; providing parent choice in education; appropriating money;  
1.3 proposing coding for new law in Minnesota Statutes, chapter 124D.

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

1.5 Section 1. [124D.031] TITLE.

1.6 Sections 124D.032 to 124D.0391 are known as the "Parent Choice in Education Act."

1.7 Sec. 2. [124D.032] FINDINGS AND PURPOSE.

1.8 The legislature finds that:

1.9 (1) parents are best informed to make decisions for their children, including the  
1.10 educational setting that will best serve their children's interests and educational needs;

1.11 (2) the establishment of this choice in education program is justified on the basis of  
1.12 funding the educational needs of school-age children as determined by their parents;

1.13 (3) school-age children are the primary beneficiaries of the choice in education  
1.14 program and any benefit to nonpublic schools, whether sectarian or secular, is indirect  
1.15 and incidental;

1.16 (4) the choice in education program is available to the parents of school-age  
1.17 children, solely on the basis of income level for the year immediately preceding the year  
1.18 for which a scholarship is sought, and not on the basis of sex, race, religion, national  
1.19 origin, or any other criteria; and

1.20 (5) the choice in education program is:

1.21 (i) enacted for the valid secular purpose of tailoring a child's education to that child's  
1.22 specific needs as determined by the parent;

1.23 (ii) neutral with respect to religion; and

2.1 (iii) limited in its assistance to a parent, who may choose to use the scholarship to  
 2.2 offset tuition or fees charged by a nonpublic school, either sectarian or secular, in which  
 2.3 enrollment of the parent's child is sought, solely as a result of the parent's genuine and  
 2.4 independent private choices.

2.5 **Sec. 3. [124D.033] DEFINITIONS.**

2.6 Subdivision 1. **Scope.** For the purposes of sections 124D.031 to 124D.0391, the  
 2.7 definitions in this section have the meanings given them.

2.8 Subd. 2. **Eligible nonpublic school.** "Eligible nonpublic school" means a nonpublic  
 2.9 school that meets the requirements of section 124D.035.

2.10 Subd. 3. **Income eligibility guideline.** "Income eligibility guideline" means the  
 2.11 maximum annual income allowed to qualify for free and reduced-price meals for the  
 2.12 applicable household size as published by the United States Department of Agriculture  
 2.13 by notice in the Federal Register.

2.14 Subd. 4. **Parent.** "Parent" includes a child's legal guardian.

2.15 Subd. 5. **Scholarship student.** "Scholarship student" means a student who receives  
 2.16 a scholarship under sections 124D.031 to 124D.0391.

2.17 Subd. 6. **Tuition.** "Tuition" means amounts charged for attending a nonpublic  
 2.18 school, excluding fees for extracurricular activities or transportation to the nonpublic  
 2.19 school.

2.20 **Sec. 4. [124D.034] ESTABLISHMENT; ELIGIBILITY; APPLICATION.**

2.21 Subdivision 1. **Establishment.** The parent choice in education program is  
 2.22 established to award scholarships to students to attend a nonpublic school.

2.23 Subd. 2. **Eligibility.** To qualify for a scholarship under this section:

2.24 (1) the student's custodial parent is a Minnesota resident;

2.25 (2) the student meets the age limitations under section 120A.20; and

2.26 (3) the student meets one or more of the following criteria:

2.27 (i) the student was born after September 1, 2001;

2.28 (ii) the student was enrolled as a full-time student in a Minnesota public school  
 2.29 on January 1, 2007;

2.30 (iii) the student was not a Minnesota resident on January 1, 2007; or

2.31 (iv) the student's parents had an annual income less than or equal to 100 percent of  
 2.32 the income eligibility guideline in the calendar year immediately preceding the school  
 2.33 year for which a scholarship is sought.

3.1 Subd. 3. **Application.** (a) To receive a scholarship, the parent of a student shall  
 3.2 submit an application to the commissioner by the June 1 preceding the school year for  
 3.3 which a scholarship is sought, except the deadline for submitting an application for the  
 3.4 2007-2008 school year is July 1, 2007. In addition to the application, the student's parent  
 3.5 shall submit documentation verifying income as required by the commissioner. The  
 3.6 commissioner may waive the application deadline.

3.7 (b) The commissioner shall award scholarships by the July 1 preceding the school  
 3.8 year for which a scholarship is sought, except the deadline for awarding scholarships for  
 3.9 the 2007-2008 school year is August 1, 2007.

3.10 (c) The scholarship application form must contain the following statement:

3.11 "I acknowledge that:

3.12 (1) A nonpublic school may not provide the same level of services that are provided  
 3.13 in a public school.

3.14 (2) The nonpublic school in which I have chosen to enroll my child has disclosed to  
 3.15 me the teaching credentials of the school's teachers and the school's accreditation status.

3.16 (3) I will assume full financial responsibility for the education of my scholarship  
 3.17 student if I accept this scholarship.

3.18 (4) Special education instruction and services are provided according to section  
 3.19 125A.18 for students attending a nonpublic school.

3.20 (d) Upon acceptance of the scholarship, the parent assumes full financial  
 3.21 responsibility for the education of the scholarship student for the period in which the  
 3.22 student receives the scholarship.

3.23 (e) A student's parent, at any time, may remove the student from a nonpublic school  
 3.24 and place the student in another eligible nonpublic school and retain the scholarship.

3.25 **Sec. 5. [124D.035] ELIGIBLE NONPUBLIC SCHOOLS.**

3.26 (a) To be eligible to enroll a scholarship student, a nonpublic school must:

3.27 (1) have a physical location in Minnesota where the scholarship students attend  
 3.28 classes and have direct contact with the school's teachers;

3.29 (2) contract with an independent certified public accountant to perform the following  
 3.30 duties:

3.31 (i)(A) determine that working capital is at least 80 percent of average quarterly  
 3.32 expenditures by taking total expenditures for a year and dividing it by four and then  
 3.33 dividing average quarterly expenditures into working capital; and

3.34 (B) for a school in the first year of operation, use the estimated budget to estimate  
 3.35 average quarterly expenditures;

4.1 (ii)(A) determine that scholarship payments are accounted for separately and  
4.2 reconciled to student records; and

4.3 (B) for the first year of operation, determine that procedures are in place for this  
4.4 accounting;

4.5 (iii)(A) determine that expenditures of scholarship funds have been made for  
4.6 education expenses and are consistent with other tuition expenditures; and

4.7 (B) for the first year of operation, determine that procedures are in place for the  
4.8 accounting under this paragraph; and

4.9 (iv) submit a report that includes the information from items (i) to (iii) to the  
4.10 commissioner when the nonpublic school applies to accept scholarship students and every  
4.11 four years thereafter, except that the commissioner may delay the date when the report  
4.12 shall be submitted for nonpublic schools applying to accept scholarship students in the  
4.13 2007-2008 school year;

4.14 (3) comply with chapter 363A and section 121A.04;

4.15 (4) meet state and local health and safety laws;

4.16 (5) disclose to the parent of each prospective student, before the student is enrolled,  
4.17 that special education services will be provided to the student according to section  
4.18 125A.18;

4.19 (6) annually assess the achievement of students by participating in the statewide  
4.20 testing and reporting system under section 120B.30;

4.21 (7) employ or contract with teachers as defined under section 122A.15, subdivision  
4.22 1, who hold valid licenses to perform the particular service for which they are employed  
4.23 in the school;

4.24 (8) provide to parents the teaching credentials of the school's teachers; and

4.25 (9) provide, upon request to any person, a statement indicating which, if any,  
4.26 organizations have accredited the nonpublic school.

4.27 (b) The following nonpublic schools are not eligible to enroll scholarship students:

4.28 (1) a school with an enrollment of fewer than 40 students;

4.29 (2) a school that operates in a residence; or

4.30 (3) a residential treatment facility licensed by the state.

4.31 (c) Except as provided in paragraph (a), a nonpublic school intending to enroll  
4.32 scholarship students shall submit an application to the commissioner by April 1 of the  
4.33 school year preceding the school year in which it intends to enroll scholarship students. A  
4.34 nonpublic school intending to enroll scholarship students in the 2007-2008 school year  
4.35 shall submit an application by June 15, 2007.

4.36 (d) The commissioner shall:

5.1 (1) approve a nonpublic school's application to enroll scholarship students if the  
 5.2 nonpublic school meets the eligibility requirements of this section; and

5.3 (2) make available to the public a list of eligible nonpublic schools:

5.4 (i) for the 2008-2009 school year and each school year thereafter, by the April 30  
 5.5 preceding the school year; and

5.6 (ii) for the 2007-2008 school year, by July 1, 2007.

5.7 **Sec. 6. [124D.036] SCHOLARSHIP PAYMENTS; APPROPRIATION.**

5.8 (a) Scholarships shall be awarded by the commissioner to the extent money is  
 5.9 appropriated by the legislature for that purpose. The legislature shall annually appropriate  
 5.10 money to the commissioner from the general fund to make scholarship payments for  
 5.11 all students projected to apply for scholarships. If money is not available to pay for all  
 5.12 scholarships requested, the scholarships shall be allocated on a random basis except that  
 5.13 preference shall be given to students who received scholarships in the previous year. If  
 5.14 money is insufficient in a school year to pay for all the continuing scholarships:

5.15 (1) new scholarships must not be awarded during that school year;

5.16 (2) the money available for scholarships shall be prorated among the eligible  
 5.17 students who received scholarships in the previous year; and

5.18 (3) the commissioner shall request a supplemental appropriation from the legislature  
 5.19 to make full scholarship payments.

5.20 (b) Scholarships shall be awarded based upon the income of a scholarship student's  
 5.21 parents in the calendar year immediately preceding the school year for which a scholarship  
 5.22 is sought. The commissioner shall specify how the income of a prospective scholarship  
 5.23 student's parents shall be determined according to this paragraph. A scholarship shall  
 5.24 be based upon parent income as follows:

5.25 (1) if the parents are married, the income of both parents;

5.26 (2) if a parent is widowed, the income of the widowed parent;

5.27 (3) if a parent is widowed and has remarried, the income of the parent and stepparent;

5.28 (4) if the parents are divorced, the income of the parent with whom the scholarship  
 5.29 student resided for the greatest amount of time during the past 12 months;

5.30 (5) if the parents are divorced and the scholarship student resided with each parent  
 5.31 an equal amount of time, the income of the parent who provided more financial support  
 5.32 during the past 12 months;

5.33 (6) if the divorced parent with whom the scholarship student resided for the greatest  
 5.34 amount of time or who provided the greatest financial support has remarried, the income  
 5.35 of the parent and stepparent; and

6.1 (7) if the scholarship student resides with a guardian, the income of the guardian,  
 6.2 unless the guardian's income is exempt by the commissioner.

6.3 (c) Parent income is determined as follows:

6.4 (1) if a parent filed federal or state income tax forms, income shall be based upon  
 6.5 adjusted gross income as listed on the income tax forms;

6.6 (2) if a parent was exempt from filing federal and state income tax forms, income  
 6.7 shall be based on income earned from work; and

6.8 (3) documentation from a parent verifying income.

6.9 (d) The commissioner shall compare the income of a scholarship student's parents  
 6.10 to the maximum annual incomes listed in the income eligibility guideline as defined in  
 6.11 section 124D.033, subdivision 3, to set the scholarship amount. In determining scholarship  
 6.12 amounts, the commissioner shall use:

6.13 (1) the income eligibility guideline in effect for the school year immediately  
 6.14 preceding the school year for which a scholarship is sought; and

6.15 (2) the scholarship student's household size as the applicable household size for the  
 6.16 purpose of determining maximum annual income under the income eligibility guideline.

6.17 (e) Full-year scholarships shall be awarded in the amounts shown in the following  
 6.18 table, or for the actual amount of tuition at the nonpublic school for a full year, whichever  
 6.19 is less.

<u>Annual Income:</u>	<u>Scholarship Amount:</u>
<u>Less than or equal to 100 percent of the</u> <u>income eligibility guideline</u>	<u>\$3,000</u>
<u>Greater than 100 percent but less than</u> <u>or equal to 125 percent of the income</u> <u>eligibility guideline</u>	<u>\$2,750</u>
<u>Greater than 125 percent but less than</u> <u>or equal to 150 percent of the income</u> <u>eligibility guideline</u>	<u>\$2,500</u>
<u>Greater than 150 percent but less than</u> <u>or equal to 175 percent of the income</u> <u>eligibility guideline</u>	<u>\$2,250</u>
<u>Greater than 175 percent but less than</u> <u>or equal to 200 percent of the income</u> <u>eligibility guideline</u>	<u>\$2,000</u>
<u>Greater than 200 percent but less than</u> <u>or equal to 225 percent of the income</u> <u>eligibility guideline</u>	<u>\$1,750</u>
<u>Greater than 225 percent but less than</u> <u>or equal to 250 percent of the income</u> <u>eligibility guideline</u>	<u>\$1,000</u>
<u>Greater than 250 percent of the income</u> <u>eligibility guideline</u>	<u>\$500</u>

7.1 (f) The full-year scholarship amounts shown in the table in paragraph (e) apply to  
 7.2 scholarships for all grades except kindergarten. The full-year scholarship amount for  
 7.3 kindergarten shall be .55 times the amounts shown in the table in paragraph (e).

7.4 (g) The commissioner shall annually increase the full-year scholarship amounts  
 7.5 shown in the table in paragraph (e) by the same percentage inflationary increase in the  
 7.6 value of the weighted pupil unit.

7.7 (h) Except as provided in this section, upon review and receipt of documentation that  
 7.8 verifies a student's admission to, or continuing enrollment and attendance at, a nonpublic  
 7.9 school, the commissioner shall make scholarship payments in four equal amounts no later  
 7.10 than September 1, November 1, February 1, and April 15 of each school year in which  
 7.11 the scholarship student attends the nonpublic school. The commissioner shall make a  
 7.12 scholarship payment before the first quarterly payment of the school year, if a nonpublic  
 7.13 school requires partial payment of tuition before the start of the school year to reserve  
 7.14 space for a student admitted to the school.

7.15 (i) A parent of a scholarship student and the student's nonpublic school shall notify  
 7.16 the commissioner if the student does not have continuing enrollment and attendance  
 7.17 at the nonpublic school.

7.18 (j)(1) The commissioner shall make scholarship payments by check made payable to  
 7.19 the student's parent and sent by the commissioner to the nonpublic school. The parent  
 7.20 shall restrictively endorse the check for the nonpublic school's use.

7.21 (2) A person, on behalf of a nonpublic school, may not accept a power of attorney  
 7.22 from a parent to sign a warrant referred to in clause (1), and a parent of a scholarship  
 7.23 student may not give a power of attorney designating a person, on behalf of a nonpublic  
 7.24 school, as the parent's attorney in fact.

7.25 **Sec. 7. [124D.037] DISTRICT IMPACT MONEY.**

7.26 (a) A school district shall receive money to lessen potential impacts due to the  
 7.27 reduction in general education revenue resulting from the transfer of scholarship students  
 7.28 from the district to a nonpublic school.

7.29 (b) A school district shall count in adjusted average daily membership for purposes  
 7.30 of receiving general revenue under section 126C.10, each scholarship student who:

7.31 (1) transfers from the school district to a nonpublic school; and

7.32 (2) resides within the boundaries of the school district.

7.33 (c) Each transferred scholarship student meeting the criteria of paragraph (b) shall  
 7.34 be counted in adjusted average daily membership in the resident school district as the  
 7.35 lesser of:

- 8.1 (1) for five years following the transfer;  
 8.2 (2) until the student graduates from high school if within five years of the date of  
 8.3 transfer;  
 8.4 (3) the student leaves school; or  
 8.5 (4) until the student transfers back to the school district, if the student transfers  
 8.6 back to the school district within five years.

8.7 (d) For each year a school district counts transferred scholarship students in adjusted  
 8.8 average daily membership as provided in this section, the commissioner shall deduct from  
 8.9 general education revenue distributed to the school district an amount equal to the number  
 8.10 of transferred scholarship students counted in adjusted average daily membership times  
 8.11 the average scholarship amount for scholarship students statewide.

8.12 **Sec. 8. [124D.038] ENFORCEMENT AND PENALTIES.**

8.13 (a) The commissioner shall require nonpublic schools to submit signed affidavits  
 8.14 ensuring the nonpublic school will comply with the requirements of sections 124D.034  
 8.15 to 124D.036. If a school fails to submit a signed affidavit after having an opportunity to  
 8.16 provide explanations and request delays, the commissioner may:

- 8.17 (1) deny the nonpublic school permission to enroll scholarship students; and  
 8.18 (2) interrupt disbursement of or withhold scholarship payments.

8.19 (b) The commissioner may investigate complaints for an alleged violation of  
 8.20 sections 124D.034 to 124D.036. Upon a finding that sections 124D.034 to 124D.036 are  
 8.21 violated, the commissioner may:

- 8.22 (1) deny a nonpublic school permission to enroll scholarship students;  
 8.23 (2) interrupt disbursement of or withhold scholarship payments; or  
 8.24 (3) issue an order for repayment of scholarship payments obtained.

8.25 **Sec. 9. [124D.039] LIMITATION ON REGULATION OF NONPUBLIC**  
 8.26 **SCHOOLS.**

8.27 Nothing in sections 124D.031 to 124D.0391 grants additional authority to any state  
 8.28 agency or school district to regulate nonpublic schools except as expressly set forth in  
 8.29 sections 124D.031 to 124D.0391.

8.30 **Sec. 10. [124D.0391] REPORT.**

8.31 The commissioner shall evaluate the parent choice in education program and its  
 8.32 impact on student achievement after the end of the 2013-2014 school year and report on

9.1 its finding to the house of representatives and senate committees having jurisdiction over  
9.2 kindergarten through grade 12 education.

9.3 **Sec. 11. RULEMAKING AUTHORITY.**

9.4 In accordance with chapter 14, the commissioner shall adopt rules consistent with  
9.5 sections 124D.031 to 124D.0391:

9.6 (1) establishing the application process for the scholarship program, including  
9.7 procedures to allow a parent to apply for a scholarship online;

9.8 (2) establishing how the income of a scholarship student's parents shall be  
9.9 determined; and

9.10 (3) the application process for nonpublic schools and scholarship students.

9.11 **Sec. 12. APPROPRIATION.**

9.12 \$..... in fiscal year 2008 is appropriated from the general fund to the commissioner  
9.13 of education for the Parent Choice in Education program established in section 124D.034.

9.14 **Sec. 13. EFFECTIVE DATE.**

9.15 Sections 1 to 11 are effective the day following final enactment.