

SB 453-FN-A-LOCAL - AS INTRODUCED

2022 SESSION

22-3095

10/04

SENATE BILL        ***453-FN-A-LOCAL***

AN ACT            relative to statewide pre-kindergarten funding.

SPONSORS:        Sen. Sherman, Dist 24

COMMITTEE:      Education

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ANALYSIS

This bill establishes the requirement for school districts to provide pre-kindergarten (pre-K) education to pupils in the district and for state funding of the cost of pre-K education programs.

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Explanation:     Matter added to current law appears in ***bold italics***.  
                      Matter removed from current law appears ~~in brackets and struck through.~~  
                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to statewide pre-kindergarten funding.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

- 1 1 State Board of Education; Pre-K Added. Amend RSA 186:6-a to read as follows:  
2 186:6-a Limitation of Education. Notwithstanding any other provision of law, the authority of  
3 the state department of education shall be limited to the problems associated with **pre-**  
4 **kindergarten (pre-K)**, kindergarten, and grades one through 12~~[-provided, however, that the state~~  
5 ~~board of education shall be authorized to accept, distribute and supervise funds for pre-kindergarten~~  
6 ~~programs]~~.
- 7 2 Definition; Average Daily Membership in Attendance. Amend RSA 189:1-d, III to read as  
8 follows:  
9 III. "Average daily membership in attendance" means the aggregate half-day membership of  
10 pupils attending schools operated by a school district divided by the number of half-days of  
11 instruction offered. The average daily membership in attendance for preschool, **pre-K**, and  
12 kindergarten pupils shall be divided by the number of instructional days offered to higher-level  
13 elementary grades.
- 14 3 Elementary School; Pre-K Added. Amend RSA 189:25 to read as follows:  
15 189:25 Elementary School. An elementary school is any school approved by the state board of  
16 education in which the subjects taught are those prescribed by the state board for the grades **pre-K**,  
17 kindergarten, **and one** through 8 of the public schools. However, a separate organization consisting  
18 of grades 7 through 9, or any grouping of these grades, may be recognized as a junior high school and  
19 so approved by the board. Also a separate organization consisting of grades 4 through 8 or any  
20 grouping of these grades may be recognized as a middle school and so approved by the state board.  
21 Any elementary school may include a **pre-K and** kindergarten program which, if it is provided, shall  
22 precede the other elementary grades.
- 23 4 School Districts; Pre-K Education Program. Amend RSA 189 by inserting after section 25-a  
24 the following new section:  
25 189:25-b Pre-K Education Program. All children who are at least 4 years of age but not more  
26 than 5 years of age on or before September 1 and who have not attended a public school  
27 kindergarten shall be entitled to attend half-day or full-day pre-K programs at any public school in  
28 the state where such programs are offered; provided no child shall be required to attend any pre-K  
29 education program. The following paragraphs shall govern pre-K programs:  
30 I. Children who are at least 4 years of age but not more than 5 years of age on or before  
31 September 1 shall be entitled to attend either half-day or full-day pre-K programs in their district of

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1 residence free of charge as long as the district has the physical facilities and teaching personnel to  
2 accommodate the child. For purposes of calculation of grants under RSA 198, children in a pre-K  
3 education program shall be included in the average daily membership in residence of the district  
4 providing the program.

5 II. A child who has not reached the age of 5 years on or before September 1 and who resides  
6 in a district which does not offer a pre-K program shall be eligible for transfer to a district where an  
7 early childhood program is offered if the district that offers the pre-K program agrees to the transfer.  
8 A district offering pre-K programs may refuse to accept a nonresident child if the district does not  
9 have the physical facilities or teaching personnel to accommodate the child in a pre-K education  
10 class. If the child requesting the transfer has not reached the age of 4 years on or before September  
11 1, the district may refuse to accept the nonresident child if the district determines the child is not  
12 ready for a pre-K program. Children who are accepted in a program outside their district of  
13 residence as provided in this paragraph shall be included in the average daily membership in  
14 attendance of the district providing the program for funding of grants under RSA 198.

15 III. School districts shall not be required to provide transportation to pre-K pupils under  
16 RSA 189:6 or RSA 189:9. Transportation of pre-K pupils shall be the responsibility of the pupil's  
17 parent or guardian.

18 5 Educational Content of an Adequate Education; Pre-K. Amend RSA 193-E:2-a, II and II-a to  
19 read as follows:

20 II. The standards shall cover *pre-K*, kindergarten, *and first* through twelfth grade and  
21 shall clearly set forth the opportunities to acquire the communication, analytical and research skills  
22 and competencies, as well as the substantive knowledge expected to be possessed by students at the  
23 various grade levels, including the credit requirement necessary to earn a high school diploma.

24 II-a. Instruction in support of *pre-K and* kindergarten standards shall be engaging and  
25 shall foster children's development and learning in all domains including physical, social, cognitive,  
26 and language. Educators shall create a learning environment that facilitates high quality, child-  
27 directed experiences based upon early childhood best teaching practices and play-based learning that  
28 comprise movement, creative expression, exploration, socialization, and music. Educators shall  
29 develop literacy through guided reading and shall provide unstructured time for the discovery of  
30 each child's individual talents, abilities, and needs.

31 6 Chartered Public Schools; Definitions; Pre-K Added. Amend RSA 194-B:1, I and II to read as  
32 follows:

33 I. "Average cost per pupil" means the total of education expenditures in a particular district  
34 and at the elementary, middle/junior, and high school levels, less tuition, transportation, capital  
35 outlays, and net debt service, as compiled by the department of education. *Pre-K and* kindergarten  
36 cost shall be calculated at 1/2 the cost of elementary school.

1 II. "Average daily membership in attendance" or "ADMA" relative to chartered public  
2 schools means the average daily membership in attendance, as defined in RSA 189:1-d, III, of pupils  
3 in **pre-K**, kindergarten, **and grade one** through grade 12, in the determination year, provided that  
4 no **pre-K or** kindergarten pupil shall count as more than 1/2 day attendance per school year. ADMA  
5 shall only include pupils who are legal residents of New Hampshire pursuant to RSA 193:12 and  
6 educated at the charter school's expense. In this paragraph, "determination year" shall have the  
7 same meaning as in RSA 198:38, IV.

8 7 Cooperative School Districts; Definitions; Pre-K Added. Amend RSA 195:1, II to read as  
9 follows:

10 II. "Elementary school" shall mean all grades from [~~the~~] **pre-K**, kindergarten, or grade one  
11 through grade 6, or **pre-K**, kindergarten, or grade one through grade 8.

12 8 Area Schools; Definition; Pre-K Added. Amend RSA 195-A:1, II to read as follows:

13 II. "Elementary school" shall mean a program comprising all grades from [~~the~~] **pre-K**,  
14 kindergarten, or grade one through grade 6, or **pre-K**, kindergarten, or grade one through grade 8.

15 9 School Building Aid Grants. Amend RSA 198:15-a, III to read as follows:

16 III. Facilities constructed using school building aid grants shall be used as instructional  
17 facilities for **pre-K and** kindergarten through grade 12 for at least 20 years. A school district that  
18 discontinues the use of the facilities within 20 years shall be required to repay the state 100 percent  
19 of the state grant received. Upon a showing of good cause by the school district, the commissioner of  
20 the department of education may waive this penalty in whole or part on a case by case basis.

21 10 Kindergarten Construction Program; Pre-K Added. Amend RSA 198:15-r to read as follows:

22 198:15-r **Pre-K and** Kindergarten Construction Program Established.

23 I. There is established in the department of education a **pre-K and** kindergarten  
24 construction program to provide certain construction grants which shall be available to eligible  
25 school districts that currently do not operate a public **pre-K and** kindergarten program. These  
26 grants shall be available until all school districts in the state operate a **pre-K and** kindergarten  
27 program within an approved public school. Such eligible districts shall receive, at their election,  
28 either:

29 (a) A construction grant to cover 75 percent of the actual cost of construction of **pre-K**  
30 **and** kindergarten facilities, exclusive of site acquisition and core facilities; or

31 (b) A construction grant to cover 100 percent of the actual cost of the design and  
32 construction of a basic code compliant **pre-K and** kindergarten facility, but shall not include site  
33 acquisition and core facilities. In this subparagraph, "basic code compliant **pre-K and** kindergarten  
34 facility" means a new building or an addition to an existing building that the commissioner of the  
35 department of education determines satisfies the minimum standards for school approval for a **pre-**  
36 **K and** kindergarten program and all applicable building code standards. The commissioner shall  
37 establish specifications pursuant RSA 198:15-s, IV for such a basic code compliant facility.

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1           II. A school district that displaces pupils from an existing classroom space in order to use  
2 such space to provide a **pre-K and** kindergarten program shall be eligible for a construction grant  
3 under subparagraphs I(a) or (b) to cover the costs incurred in constructing or renovating new  
4 classroom space for the displaced pupils.

5           III. Grants under subparagraphs I(a) or (b) shall also cover the cost of initial furniture,  
6 fixtures, and equipment needed to operate a **pre-K and** kindergarten program.

7           IV. [Repealed.]

8           V. A school district may contract with another school district to provide a public **pre-K and**  
9 kindergarten program that meets or exceeds the minimum standards for school approval as adopted  
10 by the department of education.

11          VI. The provisions of RSA 32:8 and RSA 32:11 shall not apply to costs incurred by a school  
12 district under this section.

13          VII. Nothing in this subdivision shall prohibit the inclusion of the site and related facilities  
14 that are not eligible for funding by the state under this subdivision as part of **pre-K and**  
15 kindergarten construction costs from being included in a regular building aid funding request as  
16 provided in RSA 198:15-b. However, no school district which receives any funding under this  
17 subdivision shall be eligible to receive school building aid under RSA 198:15-b for the same project.

18          VIII. **Pre-K and** Kindergarten facilities constructed under this subdivision shall be the  
19 property of the school district or the city maintaining a school department.

20          IX. A district shall not be deemed ineligible from receiving the full amount of a construction  
21 or transition grant for which it is otherwise eligible as a result of the district already expending  
22 funds for construction or transition costs related to providing a kindergarten program beginning in  
23 the 2008-2009 or 2009-2010 school years.

24          11 Education Trust Fund; Definition; Average Daily Membership in Attendance. Amend RSA  
25 198:38, I(a) to read as follows:

26           I.(a) "Average daily membership in attendance" or "ADMA" means the average daily  
27 membership in attendance, as defined in RSA 189:1-d, III, of pupils in **pre-K and** kindergarten  
28 through grade 12, in the determination year. ADMA shall only include pupils who are legal  
29 residents of New Hampshire pursuant to RSA 193:12 and educated at school district expense which  
30 may include public academies or out-of-district placements. For the purpose of calculating funding  
31 for municipalities, the ADMA shall not include pupils attending chartered public schools, but shall  
32 include pupils attending a charter conversion school approved by the school district in which the  
33 pupil resides.

34          12 Education Trust Fund; Pupils Eligible for Free or Reduced-price Meals. Amend RSA 198:38,  
35 VII to read as follows:

36           VII. "Pupils eligible for a free or reduced-price meal" means the ADMA of pupils in **pre-K**  
37 **and** kindergarten through grade 12 who are eligible for the federal free or reduced-price meal

1 program. No pupil or school shall be required to participate in the federal free or reduced price meal  
2 program.

3 13 Education Trust Fund; Purpose; Pre-K Added. Amend the introductory paragraph of RSA  
4 198:39, I to read as follows:

5 I. The state treasurer shall establish an education trust fund in the treasury. Moneys in  
6 such fund shall not be used for any purpose other than to distribute adequate education grants to  
7 municipalities' school districts and to approved charter schools pursuant to RSA 198:42, to provide  
8 low and moderate income homeowners property tax relief under RSA 198:56-198:61, to distribute  
9 school building aid to school districts and approved chartered public schools pursuant to RSA 198:15-  
10 b, to distribute tuition and transportation funds to school districts for students attending career and  
11 technical education programs pursuant to RSA 188-E:9, to distribute special education aid to school  
12 districts pursuant to RSA 186-C:18, to fund department of education operating costs for a state  
13 student data collection and reporting system, and to fund *pre-K and* kindergarten programs as may  
14 be determined by the general court. The state treasurer shall deposit into this fund immediately  
15 upon receipt:

16 14 Alternative Kindergarten Programs; Grants; Pre-K Added. Amend RSA 198:48-a and 48-b to  
17 read as follows:

18 198:48-a Alternative *Pre-K and* Kindergarten Programs.

19 I. A school district that currently does not operate a *pre-K or* kindergarten program within  
20 an approved public school maintained by the local district or currently does not contract with  
21 another established public *pre-K and* kindergarten program for the education of its resident *pre-K*  
22 *or* kindergarten pupils, may submit to the commissioner of the department of education a local plan  
23 for an alternative *pre-K and* kindergarten program based upon contractual arrangements with one  
24 or more nonpublic, non-sectarian schools or facilities. An alternative *pre-K and* kindergarten  
25 program shall be:

26 (a) Offered immediately preceding the other elementary grades.

27 (b) Designed primarily for 5-year-olds.

28 (c) Available at district expense to all *pre-K and* kindergarten-aged children who reside  
29 in the district.

30 II. An alternative *pre-K and* kindergarten program shall satisfy the same criteria  
31 established for public *pre-K and* kindergarten programs in the New Hampshire standards for school  
32 approval.

33 III. A local plan for an alternative *pre-K and* kindergarten program shall be approved by  
34 the school board. A local plan for an alternative *pre-K and* kindergarten program shall be  
35 submitted to the commissioner of the department of education at times established by the  
36 commissioner.

37 IV. A local plan shall contain the following information:

1 (a) A description of the alternative *pre-K and* kindergarten program.

2 (b) A list of the nonpublic, non-sectarian schools or facilities to be utilized.

3 (c) Evidence that the alternative *pre-K and* kindergarten program satisfies the same  
4 criteria established for public *pre-K and* kindergarten programs in the New Hampshire minimum  
5 standards for the approval of schools.

6 (d) Procedures for coordinating and articulating curriculum, instruction, and support  
7 services provided under the alternative *pre-K and* kindergarten program with curriculum,  
8 instruction, and support services provided in the other elementary grades.

9 (e) An explanation of how *kindergarten* students will be transported to and from the  
10 schools or facilities to be utilized.

11 V. The plan shall be reviewed by the department of education for compliance with statutory  
12 requirements.

13 VI. If an approved alternative *pre-K and* kindergarten program utilizes more than one  
14 school or facility, the school board or the superintendent or other administrative officer designated  
15 by the school board may take into consideration parental preference when assigning students to  
16 schools or facilities.

17 VII.(a) Upon the effective date of this paragraph, and for each fiscal year through June 30,  
18 2003, an adequate education grant of \$1,200 per pupil shall be distributed to school districts, from  
19 the education trust fund created in RSA 198:39, for the education of its resident kindergarten pupils  
20 enrolled in an approved alternative kindergarten program established under this section.

21 (b) Once pupils enrolled in an approved alternative *pre-K and* kindergarten program  
22 have been counted in the average daily membership in residence, school districts shall receive, for  
23 each such pupil, an adequate education grant calculated in accordance with RSA 198:41 through  
24 RSA 198:42.

25 VIII. Notwithstanding the provisions of this section, alternative kindergarten programs  
26 which were approved and in effect prior to April 29, 1999 may continue to operate and shall continue  
27 to receive per pupil adequate education grant amounts in accordance with RSA 198:41 through RSA  
28 198:42.

29 198:48-b *Pre-K and* Kindergarten Adequate Education Grants. Notwithstanding any provision  
30 of law to the contrary:

31 I. A school district which operates a full-day *pre-K and* kindergarten program in any school  
32 year in which the adequate education grant provided pursuant to RSA 198:42 does not include a  
33 count of the full-day *pre-K and* kindergarten students, shall receive an additional adequate  
34 education grant based on the number of pupils attending *pre-K and* kindergarten in the district as  
35 of the beginning of the school year.

36 II. The per pupil amount of the additional education grant provided in this section shall be  
37 50 percent of the amount distributed under RSA 198:40-a, II(a), based on the number of pupils

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1 enrolled and present on the first day of school in the current year in a full-day *pre-K and*  
2 kindergarten program in the district. Once pupils enrolled in an approved *pre-K and* kindergarten  
3 program have been counted in the average daily membership, school districts shall receive, for each  
4 such pupil, an adequate education grant calculated in accordance with RSA 198:40-a, II.

5         III. For the fiscal year ending June 30, 2021, and every fiscal year thereafter, the amount  
6 necessary to fund the grants under this section is hereby appropriated to the department from the  
7 education trust fund established in RSA 198:39. If the balance in the education trust fund is less  
8 than zero, the governor is authorized to draw a warrant for sufficient funds to eliminate such deficit  
9 out of any money in the treasury not otherwise appropriated. The commissioner of the department  
10 of administrative services shall inform the fiscal committee and the governor and council of such  
11 balance. This reporting shall not in any way prohibit or delay the distribution of *pre-K and*  
12 kindergarten adequate education grants.

13         15 Effective Date. This act shall take effect July 1, 2023.



**SB 453-FN-A-LOCAL- FISCAL NOTE**  
AS INTRODUCED

AN ACT relative to statewide pre-kindergarten funding.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$227,000	See Methodology Below	See Methodology Below
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input checked="" type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**LOCAL:**

<b>Revenue</b>	\$0	\$0	See Methodology Below	See Methodology Below
<b>Expenditures</b>	\$0	\$0	\$0	\$0

**METHODOLOGY:**

This bill, effective July 1, 2023, would add pre-kindergarten (“pre-K”) as a requirement for school districts, and provide state funding for pre-K programs. The Department of Education (Department) states in adding pre-K to the definition of an approved elementary school, it would need to include pre-K and its associated required standards as part of the state school approval process. The state school approval process is defined by state regulation Ed 306 (administrative rules), under the minimum standards for the operation of public schools. There are currently no educational standards applied to any pre-k programs, including independently operated early childhood learning centers licensed by the Department of Health and Human Services (DHHS). To include pre-k in the school approval process, the Department would need to define and adopt regulations and standards for the appropriate and safe operation of an early childhood learning program which defines, at a minimum, facility safety, health code requirements, staffing ratio requirements, and programmatic standards, likely utilizing current DHHS regulations as an example. Using past examples of similar work, the Department states it would need to engage the services of a qualified contractor to work with them and DHHS, as well as school leaders and early childhood learning programs to develop appropriate regulations for the approval process and train Department staff in the use of these new regulations as part of the state school approval process. This includes the development of templates, forms, and site-visit protocols. The Department estimates a one-time general fund cost of \$150,000 for a

contractor in FY 2023. The Department states it would also need to hire a full-time staff position (education consultant II, labor grade 27) to administer the new pre-k regulations, including oversight of the regulations, health and safety requirements, programmatic elements, site-visit requirements, and related approval criteria related to pre-k standards. The Department assumes these position costs (\$52,000 in FY 2023, \$104,000 in FY 2024, and \$107,000 in FY 2025) would be to the general fund (assuming a position start date of January 1, 2023, to allow for program “ramp-up”).

Since this bill is not effective until FY 2024, estimates on its impact to state adequate education grant payments to districts is indeterminable. However, the Department has provided an estimate below, based on the following data and assumptions:

- To estimate average daily membership (ADM), FY 2021 pre-K ADM was added to the estimated K-12 ADM for FY 2023 (calculated on November 15, 2021).
- The estimate is based on existing pre-k programs that are not funded through tuition. If any existing programs currently funded through tuition were to transfer to a public funded program, then this bill would make these programs eligible for pre-k start up grants at a rate of half of base adequacy based on the number of students present on the first day of school. As of October 1, 2021, 1,120 pre-k students attended a public school but paid tuition for pre-kindergarten programming. An indeterminable amount of these programs may opt to be publicly funded due to this bill, thereby increasing education trust fund expenditures.
- A 2 percent consumer price index (CPI) adjustment was made to the base and differentiated aid amounts (current law requires a biennial CPI adjustment). All other calculations remained the same and consistent with the FY24 adequacy calculation based on current law.

Based on the assumptions stated above, the Department estimates this bill could increase state education trust fund adequacy payments to districts by approximately \$4.5 million per year, beginning in FY 2024. Furthermore, the Department states this bill will have an indeterminable impact on state payments to charter schools and education freedom accounts. The Department states this bill would create changes to its data collection, coding, reviewing, tracking, and processing procedures, which would necessitate the hiring of a part-time data/finance position. The Department estimates this position would be an expense of the general fund and cost \$25,000 in FY 2023 and \$50,000 in FY 2024 and FY 2025.

Below is a summary of this bill's potential impacts:

<b>Program/Cost</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
<b>Education Trust Fund Expenditures</b>			
Local School District Adequacy	\$0	Approximately \$4.5 million increase in each year	
Charter School Adequacy	\$0	Indeterminable increase (expected to be minimal)	
Education Freedom Account	\$0	Indeterminable Increase	
Pre-K Start-up Grants	\$0	Indeterminable Increase	
<b>Education Trust Fund Total</b>	<b>\$0</b>	<b>Likely more than \$4.5 million per year</b>	
<b>General Fund Expenditures</b>			
Contractor Accountability Cost	\$150,000	\$0	\$0
Accountability Full-Time Position	\$52,000	\$104,000	\$107,000
Data/Finance Part-time Position	\$25,000	\$50,000	\$50,000
<b>General Fund Total</b>	<b>\$227,000</b>	<b>\$154,000</b>	<b>\$157,000</b>

**AGENCIES CONTACTED:**

Department of Education