A bill for an act

relating to education; providing for prekindergarten through grade 12 education, including general education, education excellence, special programs, libraries, and self-sufficiency and lifelong learning; making technical corrections; amending Minnesota Statutes 2008, sections 16A.06, subdivision 11; 120A.40; 120B.021, subdivision 1; 120B.022, subdivision 1; 120B.024; 120B.13, subdivision 1; 120B.30; 120B.31; 120B.35; 120B.36; 121A.15, subdivision 8; 121A.41, subdivision 7; 122A.07, subdivisions 2, 3; 122A.18, subdivision 4; 122A.31, subdivision 4; 122A.40, subdivisions 6, 8; 122A.41, subdivisions 3, 5; 122A.413, subdivision 2; 122A.414, subdivisions 2, 2b; 122A.60, subdivision 2; 123A.05; 123A.06; 123A.08; 123B.03, subdivision 1; 123B.14, subdivision 7; 123B.51, by adding a subdivision; 123B.77, subdivision 3; 123B.81, subdivisions 3, 4, 5; 123B.83, subdivision 3; 124D.095, subdivisions 2, 3, 4, 7, 10; 124D.128, subdivisions 2, 3; 124D.68, subdivisions 2, 3, 4, 5; 124D.83, subdivision 4; 125A.02; 125A.07; 125A.08; 125A.091; 125A.11, subdivision 1; 125A.15; 125A.28; 125A.51; 125A.57, subdivision 2; 125A.62, subdivision 8; 125A.63, subdivisions 2, 4; 125A.744, subdivision 3; 125A.76, subdivision 1; 126C.05, subdivisions 2, 15, 20; 126C.10, subdivisions 2, 34; 126C.15, subdivisions 2, 4; 126C.40, subdivision 6; 127A.08, by adding a subdivision; 127A.47, subdivisions 5, 7; 134.31, subdivision 4a, by adding a subdivision; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 181A.05, subdivision 1; 299A.297; proposing coding for new law in Minnesota Statutes, chapters 120B; 125A; 127A; repealing Minnesota Statutes 2008, sections 120B.362; 121A.27; 121A.43; 121A.66; 121A.67, subdivision 1; 125A.03; 125A.05; 125A.18; Minnesota Rules, parts 3525.0210, subparts 5, 6, 9, 13, 17, 29, 30, 34, 43, 46, 47; 3525.0400; 3525.1100, subpart 2, item F; 3525.2445; 3525.2900, subpart 5; 3525.4220.

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

ARTICLE 1
GENERAL EDUCATION

Section 1. Minnesota Statutes 2008, section 16A.06, subdivision 11, is amended to read:

Subd. 11. **Permanent school fund reporting.** The commissioner shall biannually report to the Permanent School Fund Advisory Committee and the legislature ~~on the~~

~~management of the permanent school trust fund that shows how the commissioner~~ the amount of the permanent school fund transfer and information about the investment of the permanent school fund provided by the State Board of Investment. The State Board of Investment shall provide information about how they maximized the long-term economic return of the permanent school ~~trust~~ fund.

Sec. 2. Minnesota Statutes 2008, section 120A.40, is amended to read:

120A.40 SCHOOL CALENDAR.

(a) Except for learning programs during summer, flexible learning year programs authorized under sections 124D.12 to 124D.127, and learning year programs under section 124D.128, a district must not commence an elementary or secondary school year before Labor Day, except as provided under paragraph (b). Days devoted to teachers' workshops may be held before Labor Day. Districts that enter into cooperative agreements are encouraged to adopt similar school calendars.

(b) A district may begin the school year on any day before Labor Day:

(1) to accommodate a construction or remodeling project of $400,000 or more affecting a district school facility~~.~~;

(2) if the district has an agreement under section 123A.30, 123A.32, or 123A.35 with a district that qualifies under clause (1); or

~~A school~~ (3) if the district ~~that~~ agrees to the same schedule with a school district in an adjoining state ~~also may begin the school year before Labor Day as authorized under this paragraph~~.

Sec. 3. Minnesota Statutes 2008, section 123B.77, subdivision 3, is amended to read:

Subd. 3. **Statement for comparison and correction.** (a) By November 30 of the calendar year of the submission of the unaudited financial data, the district must provide to the commissioner audited financial data for the preceding fiscal year. The audit must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, and the Minnesota legal compliance guide issued by the Office of the State Auditor. An audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited financial data shall be submitted to the commissioner and the state auditor by December 31. The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance and a copy of the management letter submitted to the district by the school district's auditor.

(b) By ~~January~~ February 15 of the calendar year following the submission of the unaudited financial data, the commissioner shall convert the audited financial data required by this subdivision into the consolidated financial statement format required under subdivision 1a and publish the information on the department's Web site.

Sec. 4. Minnesota Statutes 2008, section 123B.83, subdivision 3, is amended to read:

Subd. 3. **Failure to limit expenditures.** If a district does not limit its expenditures in accordance with this section, the commissioner may so notify the appropriate committees of the legislature by no later than ~~January 1~~ February 15 of the year following the end of that fiscal year.

Sec. 5. Minnesota Statutes 2008, section 125A.11, subdivision 1, is amended to read:

Subdivision 1. **Nonresident tuition rate; other costs.** (a) For fiscal year 2006, when a school district provides instruction and services outside the district of residence, board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any child with a disability, excluding a pupil for whom tuition is calculated according to section 127A.47, subdivision 7, paragraph (d), must be the sum of (1) the actual cost of providing special instruction and services to the child including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, plus (2) the amount of general education revenue and referendum aid attributable to the pupil, minus (3) the amount of special education aid for children with a disability received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. Notwithstanding chapter 14, the commissioner must then set a date for a hearing or request a written statement from each board, giving each board at least ten days' notice, and after the hearing or review of the written statements the commissioner must make an order fixing the tuition rate, which is binding on both school districts. General education revenue and referendum equalization aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit.

(b) For fiscal year 2007 and later, when a school district provides special instruction and services for a pupil with a disability as defined in section 125A.02 outside the district of residence, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraph (e), special education aid paid to the resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, plus (2) the amount of general education revenue and referendum equalization aid attributable to that pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue, minus (3) the amount of special education aid for children with a disability received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue and the serving district's basic skills revenue, elementary sparsity revenue and secondary sparsity revenue per adjusted pupil unit. Notwithstanding clauses (1) and (4), for pupils served by a cooperative unit without a fiscal agent school district, the general education revenue and referendum equalization aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum equalization aid excluding <u>compensatory revenue, </u>elementary sparsity revenue<u>,</u> and secondary sparsity revenue. Special education aid paid to the district or cooperative providing special instruction and services for the pupil must be increased by the amount of the reduction in the aid paid to the resident district. Amounts paid to cooperatives under this subdivision and section 127A.47, subdivision 7, shall be recognized and reported as revenues and expenditures on the resident school district's books of account under sections 123B.75 and 123B.76. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aid due to the district.

(c) Notwithstanding paragraphs (a) and (b) and section 127A.47, subdivision 7, paragraphs (d) and (e), a charter school where more than 30 percent of enrolled students receive special education and related services, a site approved under section 125A.515, an intermediate district, a special education cooperative, or a school district that served as the applicant agency for a group of school districts for federal special education aids for fiscal year 2006 may apply to the commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving pupils with a disability. The application must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under this paragraph must be included in the tuition billings or aid adjustments under paragraph (a) or (b), or section 127A.47, subdivision 7, paragraph (d) or (e), as applicable.

(d) For purposes of this subdivision and section 127A.47, subdivision 7, paragraphs (d) and (e), "general education revenue and referendum equalization aid" means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, plus the referendum equalization aid according to section 126C.17, subdivision 7, as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c).

Sec. 6. Minnesota Statutes 2008, section 126C.05, subdivision 2, is amended to read:

Subd. 2. **Foreign exchange pupils.** Notwithstanding section 124D.02, subdivision 3, or any other law to the contrary, a foreign exchange pupil enrolled in a district under a cultural exchange program registered with the Office of the Secretary of State under section 5A.02 may be counted as a resident pupil for the purposes of this chapter and chapters 120B, 122A, 123A, 123B, 124D, 125A, and 127A, even if the pupil has graduated from high school or the equivalent.

Sec. 7. Minnesota Statutes 2008, section 126C.10, subdivision 2, is amended to read:

Subd. 2. **Basic revenue.** The basic revenue for each district equals the formula allowance times the adjusted marginal cost pupil units for the school year. The formula allowance for fiscal year 2007 is $4,974. The formula allowance for fiscal year 2008 is $5,074 and the formula allowance for fiscal year 2009 and subsequent years is ~~$5,124~~ $........

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 126C.15, subdivision 2, is amended to read:

Subd. 2. **Building allocation.** (a) A district must allocate its compensatory revenue to each school building in the district where the children who have generated the revenue are served unless the school district has received permission under Laws 2005, First Special Session chapter 5, article 1, section 50, to allocate compensatory revenue according to student performance measures developed by the school board.

(b) Notwithstanding paragraph (a), a district may allocate up to five percent of the amount of compensatory revenue that the district receives to school sites according to a plan adopted by the school board. The money reallocated under this paragraph must be spent for the purposes listed in subdivision 1, but may be spent on students in any grade, including students attending school readiness or other prekindergarten programs.

(c) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

(d) ~~If the pupil is served at a site other than one owned and operated by the district, the revenue shall be paid to the district and used for services for pupils who generate the revenue~~ Notwithstanding section 123A. 26, subdivision 1, compensatory revenue generated by students served at a cooperative unit shall be paid to the cooperative unit.

(e) A district with school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics between the prior year and the current year may reallocate compensatory revenue among sites to reflect these changes. A district must report to the department any adjustments it makes according to this paragraph and the department must use the adjusted compensatory revenue allocations in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

Sec. 9. Minnesota Statutes 2008, section 126C.15, subdivision 4, is amended to read:

Subd. 4. **Separate accounts.** Each district and cooperative unit that receives basic skills revenue shall maintain separate accounts to identify expenditures for salaries and programs related to basic skills revenue.

Sec. 10. Minnesota Statutes 2008, section 126C.40, subdivision 6, is amended to read:

Subd. 6. **Lease purchase; installment buys.** (a) Upon application to, and approval by, the commissioner in accordance with the procedures and limits in subdivision 1, paragraphs (a) and (b), a district, as defined in this subdivision, may:

(1) purchase real or personal property under an installment contract or may lease real or personal property with an option to purchase under a lease purchase agreement, by which installment contract or lease purchase agreement title is kept by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any; and

(2) annually levy the amounts necessary to pay the district's obligations under the installment contract or lease purchase agreement.

(b) The obligation created by the installment contract or the lease purchase agreement must not be included in the calculation of net debt for purposes of section 475.53, and does not constitute debt under other law. An election is not required in connection with the execution of the installment contract or the lease purchase agreement.

(c) The proceeds of the levy authorized by this subdivision must not be used to acquire a facility to be primarily used for athletic or school administration purposes.

(d) For the purposes of this subdivision, "district" means:

(1) a school district ~~required to have a comprehensive plan for the elimination of segregation~~ which is eligible for revenue under section 124D.86, subdivision 3, clause (1), (2), or (3), and whose plan has been determined by the commissioner to be in compliance with Department of Education rules relating to equality of educational opportunity and school desegregation and, for a district eligible for revenue under section 124D.86, subdivision 3, clause (4) or (5), where the acquisition of property under this subdivision is determined by the commissioner to contribute to the implementation of the desegregation plan; or

(2) a school district that participates in a joint program for interdistrict desegregation with a district defined in clause (1) if the facility acquired under this subdivision is to be primarily used for the joint program and the commissioner determines that the joint programs are being undertaken to implement the districts' desegregation plan.

(e) Notwithstanding subdivision 1, the prohibition against a levy by a district to lease or rent a district-owned building to itself does not apply to levies otherwise authorized by this subdivision.

(f) For the purposes of this subdivision, any references in subdivision 1 to building or land shall include personal property.

Sec. 11. Minnesota Statutes 2008, section 127A.47, subdivision 7, is amended to read:

Subd. 7. **Alternative attendance programs.** The general education aid and special education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the greater of (1) the referendum equalization aid attributable to the pupil in the nonresident district; or (2) the product of the district's open enrollment concentration index, the maximum amount of referendum revenue in the first tier, and the district's net open enrollment pupil units for that year. A district's open enrollment concentration index equals the greater of: (i) zero, or (ii) the lesser of 1.0, or the difference between the district's ratio of open enrollment pupil units served to its resident pupil units for that year and 0.2. This clause does not apply to a school district where more than 50 percent of the open enrollment students are enrolled solely in online learning courses.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) For fiscal year 2006, the district of residence must pay tuition to a district or an area learning center, operated according to paragraph (f), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit.

(e) For fiscal year 2007 and later, special education aid paid to a resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services, including special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, for a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit. Special education aid paid to the district or cooperative providing special instruction and services for the pupil, or to the fiscal agent district for a cooperative, must be increased by the amount of the reduction in the aid paid to the resident district. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aids due to the district.

(f) An area learning center operated by a service cooperative, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d) or (e), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without ~~basic skills~~ compensatory revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center~~, plus the amount of compensatory revenue generated by pupils attending the area learning center~~.

ARTICLE 2
EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2008, section 120B.022, subdivision 1, is amended to read:

Subdivision 1. **Elective standards.** (a) A district must establish its own standards in the following subject areas:

(1) vocational and technical education; and

(2) world languages.

A school district must offer courses in all elective subject areas.

(b) World languages teachers and other school staff should develop and implement world languages programs that acknowledge and reinforce the language proficiency and cultural awareness that non-English language speakers already possess, and encourage students' proficiency in multiple world languages. Programs under this paragraph must encompass indigenous American Indian languages and cultures, among other world languages and cultures. The department shall consult with postsecondary institutions in developing related professional development opportunities.

(c) Any Minnesota public, charter, or nonpublic school may award Minnesota World Language Proficiency Certificates or Minnesota World Language Proficiency High Achievement Certificates, consistent with this subdivision.

The Minnesota World Language Proficiency Certificate recognizes students who demonstrate listening, speaking, reading, and writing language skills at the American Council on the Teaching of Foreign Languages' Intermediate-Low level on a valid and reliable assessment tool. For languages listed as Category 3 by the United States Foreign Service Institute or Category 4 by the United States Defense Language Institute, the standard is Intermediate-Low for listening and speaking and Novice-High for reading and writing.

The Minnesota World Language Proficiency High Achievement Certificate recognizes students who demonstrate listening, speaking, reading, and writing language skills at the American Council on the Teaching of Foreign Languages' Pre-Advanced level for K-12 learners on a valid and reliable assessment tool. For languages listed as Category 3 by the United States Foreign Service Institute or Category 4 by the United States Defense Language Institute, the standard is Pre-Advanced for listening and speaking and Intermediate-Mid for reading and writing.

Sec. 2. Minnesota Statutes 2008, section 120B.024, is amended to read:

120B.024 GRADUATION REQUIREMENTS; COURSE CREDITS.

(a) Students beginning 9th grade in the 2004-2005 school year and later must successfully complete the following high school level course credits for graduation:

(1) four credits of language arts;

(2) three credits of mathematics, encompassing at least algebra, geometry, statistics, and probability sufficient to satisfy the academic standard;

(3) three credits of science, including at least one credit in biology;

(4) three and one-half credits of social studies, encompassing at least United States history, geography, government and citizenship, world history, and economics or three credits of social studies encompassing at least United States history, geography, government and citizenship, and world history, and one-half credit of economics taught in a school's social studies, agriculture education, or business department;

(5) one credit in the arts; and

(6) a minimum of seven elective course credits.

A course credit is equivalent to a student successfully completing an academic year of study or a student mastering the applicable subject matter of the state academic standards or local academic standards where state standards do not apply, as determined by the local school district.

(b) An agriculture science course may fulfill a science credit requirement in addition to the specified science credits in biology and chemistry or physics under paragraph (a), clause (3).

(c) A career and technical education course may fulfill a science, mathematics, or arts credit requirement in addition to the specified science, mathematics, or arts credits under paragraph (a), clause (2), (3), or (5).

EFFECTIVE DATE. This section is effective August 1, 2012, and applies to students entering grade 9 in the 2012-2013 school year and later.

Sec. 3. **[120B.0245] EDUCATIONAL INNOVATION.**

(a) A school district must use five percent of the increased basic revenue it receives each year to implement evidence-based innovation premised on research-based curriculum, instruction, and other education measures and practices that are known to improve academic performance for diverse groups of students. To this end, the school district must develop and implement a comprehensive plan to narrow and eliminate differences in student academic achievement in reading, math, and science based on student measures of mobility, attendance, race and ethnicity, gender, English language learner status, eligibility for free or reduced price lunch, and special education. A school district must file its plan with the commissioner that describes how the district proposes to use its innovation revenue to supplement state reading requirements under section 120B.12, subdivision 1, and state math and science requirements under section 120B.023, subdivision 2, paragraphs (b) and (d), and improve student outcomes. The plan must identify specific education goals and the indicators to demonstrate progress toward achieving those goals. Once the commissioner approves the district's plan, the district must spend its innovation revenue consistent with that plan.

(b) A district under paragraph (a) must:

(1) pursue specific education goals premised on (i) efficient use of resources, (ii) performance incentives for educators that take into account variables in educational performance, and (iii) continuous adaptation of best teaching practices;

(2) show how evidence-based practices, efficient use of resources, and data-informed evaluations enable the district to achieve its goals under clause (1); and

(3) use the district's measures under clause (2) to demonstrate to the commissioner the amount of progress the district achieved toward realizing its goals.

EFFECTIVE DATE. This section is effective for the 2014-2015 school year and later.

Sec. 4. Minnesota Statutes 2008, section 120B.13, subdivision 1, is amended to read:

Subdivision 1. **Program structure; training programs for teachers.** (a) The advanced placement and international baccalaureate programs are well-established academic programs for mature, academically directed high school students. These programs, in addition to providing academic rigor, offer sound curricular design, accountability, comprehensive external assessment, feedback to students and teachers, and the opportunity for high school students to compete academically on a global level. Advanced placement and international baccalaureate programs allow students to leave high school with the academic skills and self-confidence to succeed in college and beyond. The advanced placement and international baccalaureate programs help provide Minnesota students with world-class educational opportunity.

(b) Critical to schools' educational success is ongoing advanced placement/international baccalaureate-approved teacher training. A secondary teacher assigned by a district to teach an advanced placement or international baccalaureate course or other interested educator may participate in a training program offered by The College Board or International Baccalaureate North America, Inc. The state may pay a portion of the tuition, room, board, and out-of-state travel costs a teacher or other interested educator incurs in participating in a training program. The commissioner shall determine application procedures and deadlines, select teachers and other interested educators to participate in the training program, and determine the payment process and amount of the subsidy. The procedures determined by the commissioner shall, to the extent possible, ensure that advanced placement and international baccalaureate courses become available in all parts of the state and that a variety of course offerings are available in school districts. This subdivision does not prevent teacher or other interested educator participation in training programs offered by The College Board or International Baccalaureate North America, Inc., when tuition is paid by a source other than the state.

(c) The commissioner may award state-funded competitive grants designed to create advanced placement summer training institutes for secondary teachers. Two-year grants, beginning and ending on October 1, may be awarded to Minnesota institutions of higher education that comply with the training requirements outlined by the College Board. The commissioner shall determine award criteria and the selection process.

Sec. 5. **[120B.299] DEFINITIONS.**

Subdivision 1. **Definitions.** The definitions in this section apply to this chapter.

Subd. 2. **Adequate yearly progress.** A school or district makes "adequate yearly progress" if, for every student subgroup under the federal 2001 No Child Left Behind Act in the school or district, its proficiency index or other approved adjustments for performance, based on statewide assessment scores, meets or exceeds federal expectations. To make adequate yearly progress, the school or district also must satisfy applicable federal requirements related to student attendance, graduation, and test participation rates.

Subd. 3. **Growth.** "Growth" compares the difference in a student's achievement score at two or more distinct points in time.

Subd. 4. **Growth and progress toward proficiency.** The categories of low growth, medium growth, and high growth shall be used to indicate both growth and progress toward grade-level proficiency that is consistent with subdivision 8.

Subd. 5. **High growth.** "High growth" is an assessment score one-half standard deviation or more above the state growth target.

Subd. 6. **Low growth.** "Low growth" is an assessment score one-half standard deviation below the state growth target.

Subd. 7. **Medium growth.** "Medium growth" is an assessment score within one-half standard deviation above or below the state growth target.

Subd. 8. **Proficiency.** "Proficiency" for purposes of reporting growth on school performance report cards under section 120B.36, subdivision 1, means those students who, in the previous school year, scored at or above "meets standards" on the statewide assessments under section 120B.30. Each year, school performance report cards must separately display: (1) the numbers and percentages of students who achieved low growth, medium growth, and high growth and achieved proficiency in the previous school year; and (2) the numbers and percentages of students who achieved low growth, medium growth, and high growth and did not achieve proficiency in the previous school year.

Subd. 9. **State growth target.** (a) "State growth target" is the average year-two assessment scores for students with similar year-one assessment scores.

(b) The state growth targets for each grade and subject are benchmarked as follows until the assessment scale changes:

(1) beginning in the 2008-2009 school year, the state growth target for grades 3 to 8 is benchmarked to 2006-2007 and 2007-2008 school year data;

(2) beginning in the 2008-2009 school year the state growth target for grade 10 is benchmarked to 2005-2006 and 2006-2007 school year data;

(3) for the 2008-2009 school year, the state growth target for grade 11 is benchmarked to 2005-2006 school year data; and

(4) beginning in the 2009-2010 school year, the state growth target for grade 11 is benchmarked to 2005-2006 and 2006-2007 school year data.

(c) Each time before the assessment scale changes, a stakeholder group that includes assessment and evaluation directors and staff and researchers must recommend a new state growth target that the commissioner must consider when revising standards under section 120B.023, subdivision 2.

Subd. 10. **Value added.** "Value added" is the amount of achievement a student demonstrates above an established baseline. The difference between the student's score and the baseline defines value added.

Subd. 11. **Value-added growth.** "Value-added growth" is based on a student's growth score. In a value-added growth system, the student's first test is the baseline, and the difference between the student's first and next test scores within a defined period is the measure of value added. Value-added growth models use student-level data to measure what portion of a student's growth can be explained by inputs related to the educational environment.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2008, section 120B.30, is amended to read:

120B.30 STATEWIDE TESTING AND REPORTING SYSTEM.

Subdivision 1. **Statewide testing.** (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, consistent with subdivision 1a, shall include in the comprehensive assessment system, for each grade level to be tested, state-constructed tests developed ~~from and~~ to be computer-adaptive reading and mathematics assessments for general education students that are aligned with the state's required academic standards under section 120B.021, include both multiple choice and constructed response questions, and are administered annually to all students in grades 3 through 8 ~~and at the high school level~~. ~~A~~ State-developed ~~test~~ high school tests aligned with the state's required academic standards under section 120B.021 and administered to all high school students in a subject other than writing~~, developed after the 2002-2003 school year,~~ must include both ~~machine-scoreable~~ multiple choice and constructed response questions. The commissioner shall establish one or more months during which schools shall administer the tests to students each school year. Schools that the commissioner identifies for stand-alone field testing or other national sampling must participate as directed. Superintendents or charter school directors may appeal in writing to the commissioner for an exemption from a field test based on undue hardship. The commissioner's decision regarding the appeal is final. For students enrolled in grade 8 before the 2005-2006 school year, ~~only~~ Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of basic skills tests in reading and mathematics are the equivalent of 75 percent correct for students entering grade 9 ~~in 1997 and thereafter, as~~ based on the first uniform test ~~administration of~~ administered in February 1998. Students who have not successfully passed a Minnesota basic skills test by the end of the 2011-2012 school year must pass the graduation-required assessments for diploma under paragraph (b).

(b) For students enrolled in grade 8 in the 2005-2006 school year and later, only the following options shall fulfill students' state graduation test requirements:

(1) for reading and mathematics:

(i) obtaining an achievement level equivalent to or greater than proficient as determined through a standard setting process on the Minnesota comprehensive assessments in grade 10 for reading and grade 11 for mathematics or achieving a passing score as determined through a standard setting process on the graduation-required assessment for diploma in grade 10 for reading and grade 11 for mathematics or subsequent retests;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in reading and the mathematics test for English language learners or the graduation-required assessment for diploma equivalent of those assessments for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan;

(iv) obtaining achievement level equivalent to or greater than proficient as determined through a standard setting process on the state-identified alternate assessment or assessments in grade 10 for reading and grade 11 for mathematics for students with an individual education plan; or

(v) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan; and

(2) for writing:

(i) achieving a passing score on the graduation-required assessment for diploma;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in writing for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan; or

(iv) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan.

(c) Students enrolled in grade 8 in any school year from the 2005-2006 school year to the 2009-2010 school year who do not pass the mathematics graduation-required assessment for diploma under paragraph (b) are eligible to receive a high school diploma with a passing state notation if they:

(1) complete with a passing score or grade all state and local coursework and credits required for graduation by the school board granting the students their diploma;

(2) participate in district-prescribed academic remediation in mathematics; and

(3) fully participate in at least two retest attempts after the initial spring administration of the mathematics graduation-required assessment for diploma or until they pass the mathematics graduation-required assessment for diploma, whichever comes first. A school board issuing a student a high school diploma in any school year from the 2009-2010 school year through the 2013-2014 school year must record on the student's high school transcript the student's score on the mathematics graduation-required assessments for diploma under this subdivision.

In addition, the school board granting the students their diplomas may formally decide to include a notation of high achievement on the high school diplomas of those graduating seniors who, according to established school board criteria, demonstrate exemplary academic achievement during high school.

(d) The 3rd through 8th grade computer-adaptive assessments and high school ~~level~~ test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the computer-adaptive assessments and high school test results upon receiving those results.

~~(d) State~~ (e) The 3rd through 8th grade computer-adaptive assessments and high school tests must be ~~constructed and~~ aligned with state academic standards. The commissioner shall determine the testing process and the order of administration ~~shall be~~

~~determined by the commissioner~~. The statewide results shall be aggregated at the site and district level, consistent with subdivision 1a.

~~(e)~~ (f) In addition to the testing and reporting requirements under this section, the commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide testing of all students in grades 3 through 8 and at the high school level that provides appropriate, technically sound accommodations~~,~~ or alternate assessments~~, or exemptions consistent with applicable federal law, only with parent or guardian approval, for those very few students for whom the student's individual education plan team under sections 125A.05 and 125A.06 determines that the general statewide test is inappropriate for a student, or for a limited English proficiency student under section 124D.59, subdivision 2~~;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) state results on the American College Test; and

(4) state results from participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

Subd. 1a. **Statewide and local assessments; results.** (a) For purposes of this section, the following definitions have the meanings given them.

"Above-grade level" test items contain subject area content that is above the grade level of the student taking the assessment and are considered aligned with state academic standards to the extent they are aligned with content represented in state academic standards above the grade level of the student taking the assessment. Notwithstanding the student's grade level, administering above-grade level test items to a student does not violate the requirement that state assessments must be aligned with state standards.

"Below-grade level" test items contain subject area content that is below the grade level of the student taking the test and are considered aligned with state academic standards to the extent they are aligned with content represented in state academic standards below the student's current grade level. Notwithstanding the student's grade level, administering below-grade level test items to a student does not violate the requirement that state assessments must be aligned with state standards.

"Computer-adaptive assessments" means fully adaptive assessments or partially adaptive assessments.

"Fully adaptive assessments" include test items that are on-grade level and items that may be above or below a student's grade level.

"On-grade level" test items contain subject area content that is aligned to state academic standards for the grade level of the student taking the assessment.

"Partially adaptive assessments" include two portions of test items, where one portion is limited to on-grade level test items and a second portion includes test items that are on-grade level or above or below a student's grade level.

(b) The commissioner must use fully adaptive assessments to the extent no net loss of federal and state funds occurs as a result of using these assessments. If a net loss of federal and state funds were to occur under this subdivision, then the commissioner must use partially adaptive assessments to meet existing federal educational accountability requirements.

(c) For purposes of conforming with existing federal educational accountability requirements, the commissioner must ~~develop~~ implement computer-adaptive reading~~,~~ and mathematics~~, and science~~ assessments for grades 3 through 8, state-developed high school reading and mathematics tests aligned with state academic standards, and science assessments under clause (2) that districts and sites must use to monitor student growth toward achieving those standards. The commissioner must not develop statewide assessments for academic standards in social studies, health and physical education, and the arts. The commissioner must require:

(1) annual computer-adaptive reading and mathematics assessments in grades 3 through 8, and ~~at the high school level for the 2005-2006 school year and later~~ high school reading and mathematics tests; and

(2) annual science assessments in one grade in the grades 3 through 5 span, the grades 6 through ~~9~~ 8 span, and a life sciences assessment in the grades ~~10~~ 9 through 12 span ~~for the 2007-2008 school year and later~~, and the commissioner must not require students to achieve a passing score on high school science assessments as a condition of receiving a high school diploma.

The commissioner must ensure that for annual computer-adaptive assessments:

(i) individual student performance data and achievement and summary reports are available within three school days of when students take an assessment;

(ii) growth information is available for each student from the student's first assessment to each proximate assessment using a constant measurement scale;

(iii) parents, teachers, and school administrators are able to use elementary and middle school student performance data to project student achievement in high school; and

(iv) useful diagnostic information about areas of students' academic strengths and weaknesses is available to teachers and school administrators for purposes of improving student instruction and indicating the specific skills and concepts that should be introduced and developed for students at given score levels, organized by strands within subject areas, and linked to state academic standards.

When contracting for computer-adaptive assessments under this section, the commissioner must give priority to contracting with providers able to offer school districts an option of providing supplementary, locally financed formative assessments that align with state academic standards.

~~(b)~~ (d) The commissioner must ensure that all statewide tests administered to elementary and secondary students measure students' academic knowledge and skills and not students' values, attitudes, and beliefs.

~~(c)~~ (e) Reporting of assessment results must:

(1) provide timely, useful, and understandable information on the performance of individual students, schools, school districts, and the state;

(2) include~~, by no later than the 2008-2009 school year,~~ a value-added ~~component that is in addition to a measure for student achievement growth over time~~ growth indicator of student achievement under section 120B.35, subdivision 3, paragraph (b); and

(3)(i) for students enrolled in grade 8 before the 2005-2006 school year, determine whether students have met the state's basic skills requirements; and

(ii) for students enrolled in grade 8 in the 2005-2006 school year and later, determine whether students have met the state's academic standards.

~~(d)~~ (f) Consistent with applicable federal law and subdivision 1, paragraph (d), clause (1), the commissioner must include appropriate, technically sound accommodations or alternative assessments for the very few students with disabilities for whom statewide assessments are inappropriate and for students with limited English proficiency.

~~(e)~~ (g) A school, school district, and charter school must administer statewide assessments under this section, as the assessments become available, to evaluate student ~~progress in achieving the~~ proficiency in the context of the state's grade level academic standards. If a state assessment is not available, a school, school district, and charter school must determine locally if a student has met the required academic standards. A school, school district, or charter school may use a student's performance on a statewide assessment as one of multiple criteria to determine grade promotion or retention. A school, school district, or charter school may use a high school student's performance on a statewide assessment as a percentage of the student's final grade in a course, or place a student's assessment score on the student's transcript.

(h) Annually by February 1, the commissioners of education and finance must certify to the education policy and finance committees of the legislature that the assessments required under this section have been implemented so as to:

(1) satisfy the requirements of this section at the lowest combined total cost to the state and local schools and school districts in terms of test development and local technology infrastructure; and

(2) eliminate duplicative testing.

Subd. 2. **Department of Education assistance.** The Department of Education shall contract for professional and technical services according to competitive bidding procedures under chapter 16C for purposes of this section.

Subd. 3. **Reporting.** The commissioner shall report test data publicly and to stakeholders, including the performance achievement levels developed from students' unweighted test scores in each tested subject and a listing of demographic factors that strongly correlate with student performance. The commissioner shall also report data that compares performance results among school sites, school districts, Minnesota and other states, and Minnesota and other nations. The commissioner shall disseminate to schools and school districts a more comprehensive report containing testing information that meets local needs for evaluating instruction and curriculum.

Subd. 4. **Access to tests.** The commissioner must adopt and publish a policy to provide public and parental access for review of basic skills tests, Minnesota Comprehensive Assessments, or any other such statewide test and assessment. Upon receiving a written request, the commissioner must make available to parents or guardians a copy of their student's actual responses to the test questions ~~to be reviewed by the parent~~ for their review.

EFFECTIVE DATE. This section is effective the day following final enactment. Subdivision 1, paragraph (c), applies to the 2009-2010 through 2013-2014 school years only. Notwithstanding any other law to the contrary, requirements related to the math graduation-required assessment for diploma under this section are repealed June 30, 2014, and the commissioner of education must not implement any alternative to the math graduation-required assessment for diploma without specific legislative authority. Computer-adaptive test requirements apply to the 2010-2011 school year and later.

Sec. 7. Minnesota Statutes 2008, section 120B.31, is amended to read:

120B.31 SYSTEM ACCOUNTABILITY AND STATISTICAL ADJUSTMENTS.

Subdivision 1. **Educational accountability and public reporting.** Consistent with the ~~process~~ direction to adopt ~~a results-oriented graduation rule~~ statewide academic standards under section 120B.02, the department, in consultation with education and other system stakeholders, must establish a coordinated and comprehensive system of educational accountability and public reporting that promotes ~~higher~~ greater academic achievement, preparation for higher academic education, preparation for the world of work, citizenship under sections 120B.021, subdivision 1, clause (4), and 120B.024, paragraph (a), clause (4), and the arts.

Subd. 2. **Statewide testing.** Each school year, all school districts shall give a uniform statewide test to students at specified grades to provide information on the status, needs and performance of Minnesota students.

Subd. 3. **Educational accountability.** (a) The Independent Office of Educational Accountability, as authorized by Laws 1997, First Special Session chapter 4, article 5, section 28, subdivision 2, is established, and shall be funded through the Board of Regents of the University of Minnesota. The office shall advise the education committees of the legislature and the commissioner of education, at least on a biennial basis, on:

(1) the degree to which the statewide educational accountability and reporting system includes a comprehensive assessment framework that measures school accountability for students achieving the goals described in the state's ~~results-oriented~~ high school graduation rule;

(2) the completeness, integrity, and use of the information provided by the statewide educational accountability and reporting system in the context of enabling legislators and other stakeholders to make fully informed education policy decisions consistent with the best and most current academic research available; and

(3) the impact the statewide educational accountability and reporting system has on prekindergarten through grade 12 education policy, effectiveness, resource distribution, and structure.

(b) The office shall determine and annually report to the legislature whether and how effectively:

(1) the statewide system of educational accountability ~~utilizes~~ uses multiple indicators to provide valid and reliable comparative and contextual data on students, schools, districts, and the state, and if not, recommend ways to improve the accountability reporting system;

(2) ~~the commissioner makes statistical adjustments when reporting student data over time, consistent with clause (4);~~

~~(3) the commissioner uses indicators of student achievement growth~~ a value-added growth indicator of student achievement over time ~~and a value-added assessment model that~~ estimates the effects of the school and school district on student achievement ~~to measure~~ and measures school performance, consistent with section ~~120B.36, subdivision 1~~ 120B.35, subdivision 3, paragraph (b);

~~(4) the commissioner makes~~ (3) data are available on students who do not pass one or more of the state's required GRAD tests and do not receive a diploma as a consequence, and ~~categorizes~~ these data are categorized according to gender, race, eligibility for free or reduced lunch, and English language proficiency; and

~~(5) the commissioner fulfills~~ (4) the requirements under section 127A.095, subdivision 2, are met.

~~(b)~~ (c) When the office reviews the statewide educational accountability and reporting system, it shall also consider:

(1) the objectivity and neutrality of the state's educational accountability system; and

(2) the impact of a testing program on school curriculum and student learning.

Subd. 4. **Statistical adjustments; student performance data.** In developing policies and assessment processes to hold schools and districts accountable for high levels of academic standards under section 120B.021, the commissioner shall aggregate student data over time to report student performance and growth levels measured at the school, school district, ~~regional, or~~ and statewide level. When collecting and reporting the performance data, the commissioner shall: (1) acknowledge the impact of significant demographic factors such as residential instability, the number of single parent families, parents' level of education, and parents' income level on school outcomes; and (2) organize and report the data so that state and local policy makers can understand the educational implications of changes in districts' demographic profiles over time. Any report the commissioner disseminates containing summary data on student performance must integrate student performance and the demographic factors that strongly correlate with that performance.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2008, section 120B.35, is amended to read:

120B.35 STUDENT ACADEMIC ACHIEVEMENT AND ~~PROGRESS~~ GROWTH.

Subdivision 1. ~~**Adequate yearly progress of schools and students**~~ **School and student indicators of growth and achievement.** The commissioner must develop and implement a system for measuring and reporting academic achievement and individual student ~~progress~~ growth, consistent with the statewide educational accountability and reporting system. The system components ~~of the system~~ must measure and separately report the adequate yearly progress of schools and the growth of individual students: students' current achievement in schools under subdivision 2; and individual students' educational ~~progress~~ growth over time under subdivision 3. The system also must include statewide measures of student academic ~~achievement~~ growth that identify schools with high levels of ~~achievement~~ growth, and also schools with low levels of ~~achievement~~ growth that need improvement. When determining a school's effect, the data must include both statewide measures of student achievement and, to the extent annual tests are administered, indicators of achievement growth that take into account a student's prior achievement. Indicators of achievement and prior achievement must be based on highly reliable statewide or districtwide assessments. Indicators that take into account a student's prior achievement must not be used to disregard a school's low achievement or to exclude a school from a program to improve low achievement levels. ~~The commissioner by January 15, 2002, must submit a plan for integrating these components to the chairs of the legislative committees having policy and budgetary responsibilities for elementary and secondary education.~~

Subd. 2. **Federal expectations for student academic achievement.** (a) Each school year, a school district must determine if the student achievement levels at each school site meet ~~state and local~~ federal expectations. If student achievement levels at a school site do not meet ~~state and local~~ federal expectations and the site has not made adequate yearly progress for two consecutive school years, beginning with the 2001-2002 school year, the district must work with the school site to adopt a plan to raise student achievement levels to meet ~~state and local~~ federal expectations. The commissioner of education shall establish student academic achievement levels to comply with this paragraph.

(b) School sites identified as not meeting federal expectations must develop continuous improvement plans in order to meet ~~state and local~~ federal expectations for student academic achievement. The department, at a district's request, must assist the district and the school site in developing a plan to improve student achievement. The plan must include parental involvement components.

(c) The commissioner must:

(1) ~~provide assistance to~~ assist school sites and districts identified as not meeting federal expectations; and

(2) provide technical assistance to schools that integrate student ~~progress~~ achievement measures ~~under subdivision 3 in~~ into the school continuous improvement plan.

(d) The commissioner shall establish and maintain a continuous improvement Web site designed to make data on every school and district available to parents, teachers, administrators, community members, and the general public.

Subd. 3. **~~Student progress assessment~~ State growth target; other state measures.** (a) The state's educational assessment system ~~component~~ measuring individual students' educational ~~progress must be~~ growth is based~~, to the extent annual tests are administered,~~ on indicators of achievement growth that show an individual student's prior achievement. Indicators of achievement and prior achievement must be based on highly reliable statewide or districtwide assessments.

(b) The commissioner, in consultation with a stakeholder group that includes assessment and evaluation directors and staff and researchers must ~~identify effective models for measuring individual student progress that enable a school district or school site to perform gains-based analysis, including evaluating the effects of the teacher, school, and school district on student achievement over time. At least one model must be a "value-added" assessment model that reliably estimates those effects for classroom settings where a single teacher teaches multiple subjects to the same group of students, for team teaching arrangements, and for other teaching circumstances.~~ implement a model that uses a value-added growth indicator and includes criteria for identifying schools and school districts that demonstrate medium and high growth under section 120B.299, subdivisions 5 and 7, and may recommend other value-added measures under section 120B.299, subdivision 10. The model may be used to advance educators' professional development and replicate programs that succeed in meeting students' diverse learning needs. Data on individual teachers generated under the model are personnel data under section 13.43. The model must allow users to:

(1) report student growth consistent with this paragraph; and

(2) for all student categories, report and compare aggregated and disaggregated state growth data using the nine student categories identified under the federal 2001 No Child Left Behind Act and two student gender categories of male and female, respectively, following appropriate reporting practices to protect nonpublic student data.

The commissioner must report separate measures of student growth and proficiency, consistent with this paragraph.

(c) ~~If a district has an accountability plan that includes gains-based analysis or "value-added" assessment, the commissioner shall, to the extent practicable, incorporate~~

~~those measures in determining whether the district or school site meets expectations. The department must coordinate with the district in evaluating school sites and continuous improvement plans, consistent with best practices.~~ When reporting student performance under section 120B.36, subdivision 1, the commissioner annually, beginning July 1, 2011, must report two core measures indicating the extent to which current high school graduates are being prepared for postsecondary academic and career opportunities:

(1) a preparation measure indicating the number and percentage of high school graduates in the most recent school year who completed course work important to preparing them for postsecondary academic and career opportunities, consistent with the core academic subjects required for admission to Minnesota's public colleges and universities as determined by the Office of Higher Education under chapter 136A; and

(2) a rigorous coursework measure indicating the number and percentage of high school graduates in the most recent school year who successfully completed one or more college-level advanced placement, international baccalaureate, postsecondary enrollment options including concurrent enrollment, other rigorous courses of study under section 120B.021, subdivision 1a, or industry certification courses or programs.

When reporting the core measures under clauses (1) and (2), the commissioner must also analyze and report separate categories of information using the nine student categories identified under the federal 2001 No Child Left Behind Act and two student gender categories of male and female, respectively following appropriate reporting practices to protect nonpublic student data.

(d) When reporting student performance under section 120B.36, subdivision 1, the commissioner annually, beginning July 1, 2013, must report summary data on school safety and students' engagement and connection at school. The summary data under this paragraph are separate from and must not be used for any purpose related to measuring or evaluating the performance of classroom teachers. The commissioner, in consultation with qualified experts on student engagement and connection and classroom teachers, must identify highly reliable variables that generate summary data under this paragraph. The summary data may be used at school, district, and state levels only. Any data on individuals received, collected, or created that are used to generate the summary data under this paragraph are nonpublic data under section 13.02, subdivision 9.

Subd. 4. **Improving schools.** Consistent with the requirements of this section, beginning June 20, 2012, the commissioner of education must ~~establish a second achievement benchmark to identify improving schools. The commissioner must recommend to~~ annually report to the public and the legislature ~~by February 15, 2002, indicators in addition to the achievement benchmark for identifying improving schools,~~

~~including an indicator requiring a school to demonstrate ongoing successful use of best teaching practices~~ the organizational and curricular practices implemented in those schools that demonstrate medium and high growth compared to the state growth target.

Subd. 5. **Improving graduation rates for students with emotional or behavioral disorders.** (a) A district must develop strategies in conjunction with parents of students with emotional or behavioral disorders and the county board responsible for implementing sections 245.487 to 245.4889 to keep students with emotional or behavioral disorders in school, when the district has a drop-out rate for students with an emotional or behavioral disorder in grades 9 through 12 exceeding 25 percent.

(b) A district must develop a plan in conjunction with parents of students with emotional or behavioral disorders and the local mental health authority to increase the graduation rates of students with emotional or behavioral disorders. A district with a drop-out rate for children with an emotional or behavioral disturbance in grades 9 through 12 that is in the top 25 percent of all districts shall submit a plan for review and oversight to the commissioner.

EFFECTIVE DATE. Subdivision 3, paragraph (b), applies to students in the 2008-2009 school year and later. Subdivision 3, paragraph (c), applies to students in the 2010-2011 school year and later. Subdivision 3, paragraph (d), applies to data that are collected in the 2010-2011 school year and later and reported annually beginning July 1, 2013, consistent with advice the commissioner receives from recognized and qualified experts on student engagement and connection and classroom teachers. Subdivision 4 applies in the 2011-2012 school year and later.

Sec. 9. Minnesota Statutes 2008, section 120B.36, is amended to read:

120B.36 SCHOOL ACCOUNTABILITY; APPEALS PROCESS.

Subdivision 1. **School performance report cards.** (a) The commissioner shall ~~use objective criteria based on levels of student performance to~~ report ~~at least~~ student academic performance under section 120B.35, subdivision 2, the percentages of students showing low, medium, and high growth under section 120B.35, subdivision 3, paragraph (b), school safety and student engagement and connection under section 120B.35, subdivision 3, paragraph (d), rigorous coursework under section 120B.35, subdivision 3, paragraph (c), two separate student-to-teacher ratios that clearly indicate the definition of teacher consistent with sections 122A.06 and 122A.15 for purposes of determining these ratios, ~~and~~ staff characteristics excluding salaries, ~~with a value-added component added no later than the 2008-2009 school year~~ student enrollment demographics, district mobility, and extracurricular activities. The report also must indicate a school's adequate yearly progress status, and must not set any designations applicable to high- and low-performing schools due solely to adequate yearly progress status.

(b) The commissioner shall develop, annually update, and post on the department Web site school performance report cards.

(c) The commissioner must make available ~~the first~~ performance report cards by ~~November 2003, and during~~ the beginning of each school year ~~thereafter~~.

(d) A school or district may appeal its adequate yearly progress status in writing to the commissioner within 30 days of receiving the notice of its status. The commissioner's decision to uphold or deny an appeal is final.

(e) School performance report ~~cards~~ card data are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in paragraph (d) concludes. The department shall annually post school performance report cards to its public Web site no later than September 1.

Subd. 2. **Adequate yearly progress and other data.** All data the department receives, collects, or creates ~~for purposes of determining~~ to determine adequate yearly progress ~~designations~~ status under Public Law 107-110, section 1116, set state growth targets, and determine student growth are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in subdivision 1, paragraph (d), concludes. Districts must provide parents sufficiently detailed summary data to permit parents to appeal under Public Law 107-110, section 1116(b)(2). The department shall annually post federal adequate yearly progress data and state student growth data to its public Web site no later than September 1.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2008, section 121A.15, subdivision 8, is amended to read:

Subd. 8. **Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the district in which the person resides by October 1 of ~~each school year~~ the first year of their homeschooling and the 7th grade year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.05 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 11. Minnesota Statutes 2008, section 122A.07, subdivision 2, is amended to read:

Subd. 2. **Eligibility; board composition.** Except for the representatives of higher education and the public, to be eligible for appointment to the Board of Teaching a person must be a teacher currently teaching in a Minnesota school and fully licensed for the position held and have at least five years teaching experience in Minnesota, including the two years immediately preceding nomination and appointment. Each nominee, other than a public nominee, must be selected on the basis of professional experience and knowledge of teacher education, accreditation, and licensure. The board must be composed of:

(1) six teachers who are currently teaching in a Minnesota school or who were teaching at the time of the appointment, at least four of whom must be teaching in a public school;

(2) one higher education representative, who must be a faculty member preparing teachers;

(3) one school administrator; and

(4) three members of the public, two of whom must be present or former members of school boards.

Sec. 12. Minnesota Statutes 2008, section 122A.07, subdivision 3, is amended to read:

Subd. 3. **Vacant position.** With the exception of a teacher who retires from teaching during the course of completing a board term, the position of a member who leaves Minnesota or whose employment status changes to a category different from that from which appointed is deemed vacant.

Sec. 13. Minnesota Statutes 2008, section 122A.18, subdivision 4, is amended to read:

Subd. 4. **Expiration and renewal.** (a) Each license the Department of Education issues through its licensing section must bear the date of issue. Licenses must expire and be renewed according to the respective rules the Board of Teaching, the Board of School Administrators, or the commissioner of education adopts. Requirements for renewing a license must include showing satisfactory evidence of successful teaching or administrative experience for at least one school year during the period covered by the license in grades or subjects for which the license is valid or completing such additional preparation as the Board of Teaching prescribes. The Board of School Administrators shall establish requirements for renewing the licenses of supervisory personnel except athletic coaches. The State Board of Teaching shall establish requirements for renewing the licenses of athletic coaches.

(b) Relicensure applicants, as a condition of relicensure, must present to their local continuing education and relicensure committee or other local relicensure committee evidence of work that demonstrates professional reflection and growth in best teaching practices. The applicant must include a reflective statement of professional accomplishment and the applicant's own assessment of professional growth showing evidence of:

(1) support for student learning;

(2) use of best practices techniques and their applications to student learning;

(3) collaborative work with colleagues that includes examples of collegiality such as attested-to committee work, collaborative staff development programs, and professional learning community work; or

(4) continual professional development that may include job-embedded or other ongoing formal professional learning during the relicensure period.

The Board of Teaching must ensure that its teacher relicensing requirements also include this paragraph.

~~(b)~~ (c) The Board of Teaching shall offer alternative continuing relicensure options for teachers who are accepted into and complete the National Board for Professional Teaching Standards certification process, and offer additional continuing relicensure options for teachers who earn National Board for Professional Teaching Standards certification. Continuing relicensure requirements for teachers who do not maintain National Board for Professional Teaching Standards certification are those the board prescribes, consistent with this section.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to licensees seeking relicensure beginning July 1, 2012.

Sec. 14. Minnesota Statutes 2008, section 122A.40, subdivision 6, is amended to read:

Subd. 6. **~~Peer review~~ Mentoring for probationary teachers.** A school board and an exclusive representative of the teachers in the district must develop a probationary teacher peer review process through joint agreement. The process may include having trained observers serve as mentors or coaches or having teachers participate in professional learning communities.

EFFECTIVE DATE. This section is effective for the 2009-2010 school year and later.

Sec. 15. Minnesota Statutes 2008, section 122A.40, subdivision 8, is amended to read:

Subd. 8. **Peer ~~review~~ coaching for continuing contract teachers.** A school board and an exclusive representative of the teachers in the district shall develop a peer review process for continuing contract teachers through joint agreement. The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities.

EFFECTIVE DATE. This section is effective for the 2009-2010 school year and later.

Sec. 16. Minnesota Statutes 2008, section 122A.41, subdivision 3, is amended to read:

Subd. 3. **~~Peer review~~ Mentoring for probationary teachers.** A board and an exclusive representative of the teachers in the district must develop a probationary teacher peer review process through joint agreement. The process may include having trained observers serve as mentors or coaches or having teachers participate in professional learning communities.

EFFECTIVE DATE. This section is effective for the 2009-2010 school year and later.

Sec. 17. Minnesota Statutes 2008, section 122A.41, subdivision 5, is amended to read:

Subd. 5. **Peer ~~review~~ coaching for continuing contract teachers.** A school board and an exclusive representative of the teachers in the district must develop a peer review process for nonprobationary teachers through joint agreement. The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities.

EFFECTIVE DATE. This section is effective for the 2009-2010 school year and later.

Sec. 18. Minnesota Statutes 2008, section 122A.413, subdivision 2, is amended to read:

Subd. 2. **Plan components.** The educational improvement plan must be approved by the school board and have at least these elements:

(1) assessment and evaluation tools to measure student performance and progress;

(2) performance goals and benchmarks for improvement;

(3) measures of student attendance and completion rates;

(4) a rigorous research and practice-based professional development system, based on national and state standards of effective teaching practice and consistent with section 122A.60, that is aligned with educational improvement~~,~~ and designed to achieve ongoing and schoolwide progress and growth in teaching ~~quality improvement, and consistent with clearly defined research-based standards~~ practice;

(5) measures of student, family, and community involvement and satisfaction;

(6) a data system about students and their academic progress that provides parents and the public with understandable information;

(7) a teacher induction and mentoring program for probationary teachers that provides continuous learning and sustained teacher support; and

(8) substantial participation by the exclusive representative of the teachers in developing the plan.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to plans developed in the 2009-2010 school year and later.

Sec. 19. Minnesota Statutes 2008, section 122A.414, subdivision 2, is amended to read:

Subd. 2. **Alternative teacher professional pay system.** (a) To participate in this program, a school district, intermediate school district, school site, or charter school must have an educational improvement plan under section 122A.413 and an alternative teacher professional pay system agreement under paragraph (b). A charter school participant also must comply with subdivision 2a.

(b) The alternative teacher professional pay system agreement must:

(1) describe how teachers can achieve career advancement and additional compensation;

(2) describe how the school district, intermediate school district, school site, or charter school will provide teachers with career advancement options that allow teachers to retain primary roles in student instruction and facilitate site-focused professional development that helps other teachers improve their skills;

(3) reform the "steps and lanes" salary schedule, prevent any teacher's compensation paid before implementing the pay system from being reduced as a result of participating in this system, and base at least 60 percent of any compensation increase on teacher performance using:

(i) schoolwide student achievement gains under section 120B.35 or locally selected standardized assessment outcomes, or both;

(ii) measures of student achievement; and

(iii) an objective evaluation program and evidence of effective practice that includes:

(A) individual teacher evaluations aligned with the educational improvement plan under section 122A.413 and the staff development plan under section 122A.60; and

(B) ~~objective evaluations using multiple criteria conducted by a locally selected and periodically trained evaluation team that understands teaching and learning~~ reflection and growth in best teaching practices shown through support for student learning, collaborative work with colleagues, or continual professional learning, consistent with section 122A.18, subdivision 4, paragraph (b), clauses (1) to (3);

(4) provide integrated ongoing site-based professional development activities to improve instructional skills and learning that are aligned with student needs under section 122A.413, consistent with the staff development plan under section 122A.60 and led

during the school day by trained teacher leaders such as master or mentor teachers or peer coaches;

(5) allow any teacher in a participating school district, intermediate school district, school site, or charter school that implements an alternative pay system to participate in that system without any quota or other limit; and

(6) encourage collaboration rather than competition among teachers.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all alternative teacher professional pay system agreements entered into or modified after that date.

Sec. 20. Minnesota Statutes 2008, section 122A.414, subdivision 2b, is amended to read:

Subd. 2b. **Approval process.** (a) Consistent with the requirements of this section and sections 122A.413 and 122A.415, the department must prepare and transmit to interested school districts, intermediate school districts, school sites, and charter schools a standard form for applying to participate in the alternative teacher professional pay system. The commissioner annually must establish three dates as deadlines by which interested applicants must submit an application to the commissioner under this section. An interested school district, intermediate school district, school site, or charter school must submit to the commissioner a completed application executed by the district superintendent and the exclusive bargaining representative of the teachers if the applicant is a school district, intermediate school district, or school site, or executed by the charter school board of directors if the applicant is a charter school. The application must include the proposed alternative teacher professional pay system agreement under subdivision 2. The department must ~~convene a~~ review ~~committee that at least includes teachers and administrators~~ a completed application within 30 days of ~~receiving a completed application to~~ the most recent application deadline and recommend to the commissioner whether to approve or disapprove the application. The commissioner must approve applications on a first-come, first-served basis. The applicant's alternative teacher professional pay system agreement must be legally binding on the applicant and the collective bargaining representative before the applicant receives alternative compensation revenue. The commissioner must approve or disapprove an application based on the requirements under subdivisions 2 and 2a.

(b) If the commissioner disapproves an application, the commissioner must give the applicant timely notice of the specific reasons in detail for disapproving the application. The applicant may revise and resubmit its application and related documents to the commissioner within 30 days of receiving notice of the commissioner's disapproval and the commissioner must approve or disapprove the revised application, consistent with this subdivision. Applications that are revised and then approved are considered submitted on the date the applicant initially submitted the application.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all applications submitted after that date.

Sec. 21. Minnesota Statutes 2008, section 122A.60, subdivision 2, is amended to read:

Subd. 2. **Contents of the plan.** The plan must include the staff development outcomes under subdivision 3, the means to achieve the outcomes, and procedures for evaluating progress at each school site toward meeting education outcomes~~.~~, consistent with relicensure requirements under section 122A.18, subdivision 2, paragraph (b). The plan also must:

(1) support stable and productive professional communities achieved through ongoing and schoolwide progress and growth in teaching practice;

(2) emphasize coaching, professional learning communities, classroom action research, and other job-embedded models;

(3) maintain a strong subject matter focus premised on students' learning goals;

(4) ensure specialized preparation and learning about issues related to teaching students with special needs and limited English proficiency; and

(5) reinforce national and state standards of effective teaching practice.

EFFECTIVE DATE. This section is effective for the 2009-2010 school year and later.

Sec. 22. Minnesota Statutes 2008, section 123A.05, is amended to read:

123A.05 ~~AREA LEARNING CENTER~~ STATE-APPROVED ALTERNATIVE PROGRAM ORGANIZATION.

Subdivision 1. **Governance.** (a) A district may establish an area learning center ~~either by itself or in cooperation with other districts~~, alternative learning program, or contract alternative in accordance with sections 124D.68, subdivision 3, paragraph (d), and 124D.69.

(b) An area learning center is encouraged to cooperate with a service cooperative, an intermediate school district, a local education and employment transitions partnership, public and private secondary and postsecondary institutions, public agencies, businesses, and foundations. Except for a district located in a city of the first class, ~~a~~ an area learning center must be established in cooperation with other districts and must serve the geographic area of at least two districts. An area learning center must provide comprehensive educational services to enrolled secondary students throughout the year, including a daytime school within a school or separate site for both high school and middle school level students.

(c) An alternative learning program may serve the students of one or more districts, may designate which grades are served, and may make program hours and a calendar optional.

(d) A contract alternative is an alternative learning program operated by a private organization that has contracted with a school district to provide educational services for students under section 124D.68, subdivision 2.

Subd. 2. **Reserve revenue.** Each district that is a member of an area learning center or alternative learning program must reserve revenue in an amount equal to the sum of (1) at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue and transportation sparsity revenue, times the number of pupil units attending an area learning center or alternative learning program under this section, plus (2) the amount of basic skills revenue generated by pupils attending the area learning center or alternative learning program. The amount of reserved revenue under this subdivision may only be spent on program costs associated with the area learning center or alternative learning program.

Subd. 3. **Access to services.** A ~~center~~ state-approved alternative program shall have access to the district's regular education programs, special education programs, technology facilities, and staff. It may contract with individuals or postsecondary institutions. It shall seek the involvement of community education programs, postsecondary institutions, interagency collaboratives, culturally based organizations, mutual assistance associations, and other community resources, businesses, and other federal, state, and local public agencies.

Subd. 4. **Nonresident pupils.** A pupil who does not reside in the district may attend a ~~center~~ state-approved alternative program without consent of the school board of the district of residence.

Sec. 23. Minnesota Statutes 2008, section 123A.06, is amended to read:

123A.06 ~~CENTER~~ STATE-APPROVED ALTERNATIVE PROGRAMS AND SERVICES.

Subdivision 1. **Program focus.** (a) The programs and services of a ~~center~~ state-approved alternative program must focus on academic and learning skills, applied learning opportunities, trade and vocational skills, work-based learning opportunities, work experience, youth service to the community, transition services, and English language and literacy programs for children whose primary language is a language other than English. Applied learning, work-based learning, and service learning may best be developed in collaboration with a local education and transitions partnership, culturally based organizations, mutual assistance associations, or other community resources. In addition to offering programs, the ~~center~~ state-approved alternative program shall coordinate the use of other available educational services, special education services, social services, health services, and postsecondary institutions in the community and services area.

(b) Consistent with the requirements of sections 121A.40 to 121A.56, a school district may provide an alternative education program for a student who is within the compulsory attendance age under section 120A.20, and who is involved in severe or repeated disciplinary action.

Subd. 2. **People to be served.** A ~~center~~ state-approved alternative program shall provide programs for secondary pupils and adults. A center may also provide programs and services for elementary and secondary pupils who are not attending the ~~center~~ state-approved alternative program to assist them in being successful in school. A center shall use research-based best practices for serving limited English proficient students and their parents. An individual education plan team may identify a ~~center~~ state-approved alternative program as an appropriate placement to the extent a ~~center~~ state-approved alternative program can provide the student with the appropriate special education services described in the student's plan. Pupils eligible to be served are those who qualify under the graduation incentives program in section 124D.68, subdivision 2, those enrolled under section 124D.02, subdivision 2, or those pupils who are eligible to receive special education services under sections 125A.03 to 125A.24, and 125A.65.

Subd. 3. **Hours of instruction exemption.** Notwithstanding any law to the contrary, the area learning center programs must be available throughout the entire year. ~~A center may petition the state board under Minnesota Rules, part 3500.1000, for exemption from other rules.~~

Subd. 4. **Granting a diploma.** Upon successful completion of the area learning center program, a pupil is entitled to receive a high school diploma. The pupil may elect to receive a diploma from either the district of residence or the district in which the area learning center is located.

Sec. 24. Minnesota Statutes 2008, section 123A.08, is amended to read:

123A.08 ~~CENTER~~ STATE-APPROVED ALTERNATIVE PROGRAM FUNDING.

Subdivision 1. **Outside sources for resources and services.** A ~~center~~ state-approved alternative program may accept:

(1) resources and services from postsecondary institutions serving ~~center~~ state-approved alternative program pupils;

(2) resources from ~~Job Training Partnership~~ Workforce Investment Act programs, including funding for jobs skills training for various groups and the percentage reserved for education;

(3) resources from the Department of Human Services and county welfare funding;

(4) resources from a local education and employment transitions partnership; or

(5) private resources, foundation grants, gifts, corporate contributions, and other grants.

Subd. 2. **General education aid.** Payment of general education aid for nonresident pupils enrolled in ~~the center~~ area learning centers and alternative learning programs must be made according to section 127A.47, subdivision 7.

Subd. 3. **Special education revenue.** Payment of special education revenue for nonresident pupils enrolled in the ~~center~~ state-approved alternative program must be made according to section ~~125A.15~~ 127A.47, subdivision 7.

Sec. 25. Minnesota Statutes 2008, section 123B.03, subdivision 1, is amended to read:

Subdivision 1. **Background check required.** (a) A school hiring authority shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all individuals who are offered employment in a school and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to a school, regardless of whether any compensation is paid. In order for an individual to be eligible for employment or to provide the services, the individual must provide an executed criminal history consent form and a money order or check payable to either the Bureau of Criminal Apprehension or the school hiring authority, at the discretion of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. A school hiring authority deciding to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the Bureau of Criminal Apprehension directly to conduct the background check. The superintendent of the Bureau of Criminal Apprehension shall conduct the background check by retrieving criminal history data maintained in the criminal justice information system computers. A school hiring authority, at its discretion, may decide not to request a criminal history background check on an individual who holds an initial entrance license issued by the State Board of Teaching or the commissioner of education within the 12 months preceding an offer of employment.

(b) A school hiring authority may use the results of a criminal background check conducted at the request of another school hiring authority if:

(1) the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;

(2) the other school hiring authority conducted a criminal background check within the previous 12 months;

(3) the individual who is the subject of the criminal background check executes a written consent form giving a school hiring authority access to the results of the check; and

(4) there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment.

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority decides to request a criminal history background check on the individual, the individual first must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. ~~Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual~~ A school hiring authority may decide to pay the cost of conducting a background check under this paragraph, in which case the individual who is the subject of the background check need not pay for the background check.

(d) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the Bureau of Criminal Apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(e) At the beginning of each school year or when a student enrolls, a school hiring authority must notify parents and guardians about the school hiring authority's policy requiring a criminal history background check on employees and other individuals who provide services to the school, and identify those positions subject to a background check and the extent of the hiring authority's discretion in requiring a background check. The school hiring authority may include the notice in the student handbook, a school policy guide, or other similar communication. Nothing in this paragraph affects a school hiring authority's ability to request a criminal history background check on an individual under paragraph (c).

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 26. Minnesota Statutes 2008, section 123B.51, is amended by adding a subdivision to read:

Subd. 5a. **Temporary closing.** A school district that proposes to temporarily close a schoolhouse or that intends to lease the facility to another entity for use as a schoolhouse for three or fewer years is not subject to subdivision 5 if the school board holds a public meeting and allows public comment on the schoolhouse's future.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 27. Minnesota Statutes 2008, section 124D.095, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Online learning" is an interactive course or program that delivers instruction from a teacher to a student by computer; is combined with other traditional delivery methods that include frequent student assessment and may include actual teacher contact time; and meets or exceeds state academic standards.

(b) "Online learning provider" is a school district, an intermediate school district, an organization of two or more school districts operating under a joint powers agreement, or a charter school located in Minnesota that provides online learning to students.

(c) "Student" is a Minnesota resident enrolled in a school under section 120A.22, subdivision 4, in kindergarten through grade 12.

(d) "Online learning student" is a student enrolled in an online learning course or program delivered by an online provider under paragraph (b).

(e) "Enrolling district" means the school district or charter school in which a student is enrolled under section 120A.22, subdivision 4, for purposes of compulsory attendance.

(f) "Supplemental online learning" means an online course taken in place of a course period during the regular school day at a local district school.

(g) "Full-time online provider" means an enrolling school authorized by the department to deliver comprehensive public education at any or all of the elementary, middle, or high school levels.

<u>(h) "Online course syllabus" is a written document that an online learning provider makes available to the enrolling district using a format prescribed by the commissioner to identify the state academic standards embedded in an online course, the course content outline, required course assessments, expectations for actual teacher contact time and other student-to-teacher communications, and academic support available to the online learning student.</u>

Sec. 28. Minnesota Statutes 2008, section 124D.095, subdivision 3, is amended to read:

Subd. 3. **Authorization; notice; limitations on enrollment.** (a) A student may apply for full-time enrollment in an approved online learning program under section 124D.03, 124D.08 or 124D.10~~, or for supplemental online learning~~. Notwithstanding sections 124D.03, 124D.08, and 124D.10, procedures for enrolling in <u>supplemental</u> online learning shall be as provided in this subdivision. A student age 17 or younger must have the written consent of a parent or guardian to apply. No school district or charter school may prohibit a student from applying to enroll in online learning. In order that a student may enroll in online learning, the student and the student's parents must submit an application to the online learning provider and identify the reason for enrolling in online learning. The online learning provider that accepts a student under this section must within ten days notify the student and the enrolling district in writing if the enrolling district is not the online learning provider. The student and family must notify the online learning provider of their intent to enroll in online learning within ten days of acceptance, at which time the student and parent must sign a statement of assurance that they have reviewed the online course or program and understand the expectations of online learning enrollment. The online learning provider must notify the enrolling district of the student's ~~enrollment~~ <u>application to enroll</u> in online learning in writing on a form provided by the department.

(b) Supplemental online learning notification to the enrolling district upon student ~~enrollment in~~ application to the online learning ~~program~~ provider will include the courses or program, credits to be awarded, and the start date of online enrollment~~, and confirmation that the courses will meet the student's graduation plan~~. An online learning provider must provide the enrolling district with an online course syllabus. Within 15 days after the online learning provider makes the supplemental online course syllabus available to the enrolling district, the enrolling district must notify the online provider whether or not the student, parent or guardian, and enrolling district agree that the course meets the enrolling district's graduation requirements. A student may enroll in supplemental online learning courses up to the midpoint of the enrolling district's term. The enrolling district may waive this requirement for special circumstances and upon acceptance by the online provider. An online learning course or program that meets or exceeds a graduation standard or grade progression requirements at the enrolling district as demonstrated on the online provider's syllabus must be considered to meet the corresponding graduation requirements of the student in the enrolling district. If the enrolling district decides that the course does not meet its graduation requirements, then:

(1) the district shall provide a written explanation of its decision upon request by the student, parent or guardian, or online provider;

(2) the district shall allow the online provider the opportunity to respond in writing to the district's written explanation of its decision for the purpose of describing how the course may meet the district's graduation requirement; and

(3) the student, parent or guardian, or online provider may request that the Department of Education review the district's decision to determine whether it is consistent with this section.

(c) An online learning provider must notify the commissioner that it is delivering online learning and report the number of online learning students it is accepting and the online learning courses and programs it is delivering.

(d) An online learning provider may limit enrollment if the provider's school board or board of directors adopts by resolution specific standards for accepting and rejecting students' applications.

(e) An enrolling district may reduce an online learning student's regular classroom instructional membership in proportion to the student's membership in online learning courses.

(f) The online provider must report or provide access to information on an individual student's progress and accumulated credit to the student, parent or guardian, and enrolling district in a manner specified by the commissioner unless another manner is agreed upon by the enrolling district and the online provider and submitted to the commissioner. The enrolling district must designate a contact person to assist in facilitating and monitoring the student's progress and accumulated credit towards graduation.

Sec. 29. Minnesota Statutes 2008, section 124D.095, subdivision 4, is amended to read:

Subd. 4. **Online learning parameters.** (a) An online learning student must receive academic credit for completing the requirements of an online learning course or program. Secondary credits granted to an online learning student must be counted toward the graduation and credit requirements of the enrolling district. ~~An online learning provider must make available to the enrolling district the course syllabus, standard alignment, content outline, assessment requirements, and contact information for supplemental online courses taken by students in the enrolling district.~~ The enrolling district must apply the same graduation requirements to all students, including online learning students, and must continue to provide nonacademic services to online learning students. If a student completes an online learning course or program that meets or exceeds a graduation standard or grade progression requirement at the enrolling district, that standard or requirement is met. The enrolling district must use the same criteria for accepting online learning credits or courses as it does for accepting credits or courses for transfer students under section 124D.03, subdivision 9. The enrolling district may reduce the course schedule of an online learning student in proportion to the number of online learning courses the student takes from an online learning provider that is not the enrolling district.

(b) An online learning student may:

(1) enroll in supplemental online learning courses during a single school year to a maximum of 50 percent of the student's full schedule of courses per term. A student may exceed the supplemental online learning registration limit if the enrolling district grants permission for supplemental online learning enrollment above the limit, or if an agreement is made between the enrolling district and the online learning provider for instructional services;

(2) complete course work at a grade level that is different from the student's current grade level; and

(3) enroll in additional courses with the online learning provider under a separate agreement that includes terms for payment of any tuition or course fees.

(c) An online learning student has the same access to the computer hardware and education software available in a school as all other students in the enrolling district. An online learning provider must assist an online learning student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software for online learning purposes.

(d) An enrolling district may offer online learning to its enrolled students. Such online learning does not generate online learning funds under this section. An enrolling district that offers online learning only to its enrolled students is not subject to the reporting requirements or review criteria under subdivision 7, unless the enrolling district is a full-time online provider. A teacher with a Minnesota license must assemble and deliver instruction to enrolled students receiving online learning from an enrolling district. The delivery of instruction occurs when the student interacts with the computer or the teacher and receives ongoing assistance and assessment of learning. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.

(e) ~~An~~ Both full-time and supplemental online learning ~~provider that is not the enrolling district is~~ providers are subject to the reporting requirements and review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to online learning students. The delivery of instruction occurs when the student interacts with the computer or the teacher and receives ongoing assistance and assessment of learning. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license. Unless the commissioner grants a waiver, a teacher providing online learning instruction must not instruct more than 40 students in any one online learning course or program.

(f) To enroll in more than 50 percent of the student's full schedule of courses per term in online learning, the student must qualify to exceed the supplemental online learning registration limit under paragraph (b) or apply for enrollment to an approved full-time online learning program following appropriate procedures in subdivision 3, paragraph (a). Full-time online learning students may enroll in classes at a local school per contract for instructional services between the online learning provider and the school district.

Sec. 30. Minnesota Statutes 2008, section 124D.095, subdivision 7, is amended to read:

Subd. 7. **Department of Education.** (a) The department must review and certify online learning providers. The online learning courses and programs must be rigorous, aligned with state academic standards, and contribute to grade progression in a single subject. ~~Online learning providers must demonstrate to the commissioner that online learning courses have equivalent standards or instruction, curriculum, and assessment requirements as other courses offered to enrolled students. The online learning provider must also demonstrate expectations for actual teacher contact time or other student-to-teacher communication~~ The online provider must provide a written statement that: (1) all courses meet state academic standards; and (2) the online learning curriculum, instruction, and assessment, expectations for actual teacher-contact time or other student-to-teacher communication, and academic support meet nationally recognized professional standards and are demonstrated as such in a syllabus provided according to the commissioner's requirements. Once an online learning provider is approved under this paragraph, all of its online learning course offerings are eligible for payment under this section unless a course is successfully challenged by an enrolling district or the department under paragraph (b).

(b) An enrolling district may challenge the validity of a course offered by an online learning provider. The department must review such challenges based on the certification procedures under paragraph (a). The department may initiate its own review of the validity of an online learning course offered by an online learning provider.

(c) The department may collect a fee not to exceed $250 for certifying online learning providers or $50 per course for reviewing a challenge by an enrolling district.

(d) The department must develop, publish, and maintain a list of approved online learning providers and online learning courses and programs that it has reviewed and certified.

Sec. 31. Minnesota Statutes 2008, section 124D.095, subdivision 10, is amended to read:

Subd. 10. **Online Learning Advisory Council.** (a) An Online Learning Advisory Council is established ~~under section 15.059, except that~~. The term for each council member shall be three years. The advisory council is composed of 12 members from throughout the state who have demonstrated experience with or interest in online learning. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to online learning and provide input to the department in matters related, but not restricted, to:

(1) quality assurance;

(2) teacher qualifications;

(3) program approval;

(4) special education;

(5) attendance;

(6) program design and requirements; and

(7) fair and equal access to programs.

(b) The Online Learning Advisory Council under this subdivision expires June 30, ~~2008~~ 2013.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 32. Minnesota Statutes 2008, section 124D.128, subdivision 2, is amended to read:

Subd. 2. **Commissioner designation.** (a) ~~An area learning center~~ A state-approved alternative program designated by the state must be a site. ~~An area learning center~~ A state-approved alternative program must provide services to students who meet the criteria in section 124D.68 and who are enrolled in:

(1) a district that is served by the ~~center~~ state-approved alternative program; or

(2) a charter school located within the geographic boundaries of a district that is served by the ~~center~~ state-approved alternative program.

(b) A school district or charter school may be approved biennially by the state to provide additional instructional programming that results in grade level acceleration. The program must be designed so that students make grade progress during the school year and graduate prior to the students' peers.

(c) To be designated, a district, charter school, or ~~center~~ state-approved alternative program must demonstrate to the commissioner that it will:

(1) provide a program of instruction that permits pupils to receive instruction throughout the entire year; and

(2) develop and maintain a separate record system that, for purposes of section 126C.05, permits identification of membership attributable to pupils participating in the program. The record system and identification must ensure that the program will not have the effect of increasing the total average daily membership attributable to an individual pupil as a result of a learning year program. The record system must include the date the pupil originally enrolled in a learning year program, the pupil's grade level, the date of each grade promotion, the average daily membership generated in each grade level, the number of credits or standards earned, and the number needed to graduate.

(d) A student who has not completed a school district's graduation requirements may continue to enroll in courses the student must complete in order to graduate until the student satisfies the district's graduation requirements or the student is 21 years old, whichever comes first.

Sec. 33. Minnesota Statutes 2008, section 124D.128, subdivision 3, is amended to read:

Subd. 3. **Student planning.** A district, charter school, or ~~area learning center~~ state-approved alternative program must inform all pupils and their parents about the learning year program and that participation in the program is optional. A continual learning plan must be developed at least annually for each pupil with the participation of the pupil, parent or guardian, teachers, and other staff; each participant must sign and date the plan. The plan must specify the learning experiences that must occur during the entire fiscal year and are necessary for grade progression or, for secondary students, graduation. The plan must include:

(1) the pupil's learning objectives and experiences, including courses or credits the pupil plans to complete each year and, for a secondary pupil, the graduation requirements the student must complete;

(2) the assessment measurements used to evaluate a pupil's objectives;

(3) requirements for grade level or other appropriate progression; and

(4) for pupils generating more than one average daily membership in a given grade, an indication of which objectives were unmet.

The plan may be modified to conform to district schedule changes. The district may not modify the plan if the modification would result in delaying the student's time of graduation.

Sec. 34. Minnesota Statutes 2008, section 124D.68, subdivision 2, is amended to read:

Subd. 2. **Eligible pupils.** A pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), is eligible to participate in the graduation incentives program, if the pupil:

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is ~~at least one year~~ behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

(4) has been assessed as chemically dependent;

(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;

(7) is a victim of physical or sexual abuse;

(8) has experienced mental health problems;

(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or has limited English proficiency; or

(11) has withdrawn from school or has been chronically truant; or

(12) is being treated in a hospital in the seven-county metropolitan area for cancer or other life threatening illness or is the sibling of an eligible pupil who is being currently

treated, and resides with the pupil's family at least 60 miles beyond the outside boundary of the seven-county metropolitan area.

Sec. 35. Minnesota Statutes 2008, section 124D.68, subdivision 3, is amended to read:

Subd. 3. **Eligible programs.** (a) A pupil who is eligible according to subdivision 2 may enroll in ~~area learning centers~~ a state-approved alternative program under sections 123A.05 to 123A.08.

(b) A pupil who is eligible according to subdivision 2 and who is ~~between the ages of 16 and 21~~ a high school junior or senior may enroll in postsecondary courses under section 124D.09.

(c) A pupil who is eligible under subdivision 2, may enroll in any public elementary or secondary education program.

(d) A pupil who is eligible under subdivision 2, may enroll in any nonpublic, nonsectarian school that has contracted with the serving school district to provide educational services. However, notwithstanding other provisions of this section, only a pupil who is eligible under subdivision 2, clause (12), may enroll in a contract alternative school that is specifically structured to provide educational services to such a pupil.

(e) A pupil who is between the ages of 16 and 21 may enroll in any adult basic education programs approved under section 124D.52 and operated under the community education program contained in section 124D.19.

Sec. 36. Minnesota Statutes 2008, section 124D.68, subdivision 4, is amended to read:

Subd. 4. **Additional eligible program.** A pupil who is at least 16 years of age, who is eligible under subdivision 2, ~~clause (a),~~ and who has been enrolled only in a public school, if the pupil has been enrolled in any school, during the year immediately before transferring under this subdivision, may transfer to any nonpublic school that has contracted with the serving school district to provide nonsectarian educational services. The school must enroll every eligible pupil who seeks to transfer to the school under this program subject to available space.

Sec. 37. Minnesota Statutes 2008, section 124D.68, subdivision 5, is amended to read:

Subd. 5. **Pupil enrollment.** Any eligible pupil may apply to enroll in an eligible program. Approval of the resident district is not required for:

(1) an eligible pupil to enroll in any eligible program in a nonresident district under subdivision 3 or 4 or ~~an area learning center~~ a state-approved alternative program established under section 123A.05; or

(2) an eligible pupil under subdivision 2, to enroll in an adult basic education program approved under section 124D.52.

Sec. 38. Minnesota Statutes 2008, section 124D.83, subdivision 4, is amended to read:

Subd. 4. **Early childhood family education revenue.** A school receiving aid under this section ~~is eligible~~ may apply annually to the commissioner to receive an early childhood family education ~~revenue~~ grant to provide early childhood family education programs for parents and children who are enrolled or eligible for enrollment in a federally recognized tribe. ~~The revenue equals 1.5 times the statewide average expenditure per participant under section 124D.135, times the number of children and parents participating full time in the program.~~ The ~~program must~~ grant must be used for programs and services that comply with section 124D.13, except that the school is not required to provide a community education program or establish a community education advisory council. The program must be designed to improve the skills of parents and promote American Indian history, language, and culture. The school must make affirmative efforts to encourage participation by fathers. Admission may not be limited to those enrolled in or eligible for enrollment in a federally recognized tribe.

Sec. 39. Minnesota Statutes 2008, section 126C.05, subdivision 15, is amended to read:

Subd. 15. **Learning year pupil units.** (a) When a pupil is enrolled in a learning year program under section 124D.128, an area learning center or an alternative learning program approved by the commissioner under sections 123A.05 and 123A.06, ~~an alternative program approved by the commissioner,~~ or a contract alternative program under section 124D.68, subdivision 3, paragraph (d), or subdivision 3a, for more than 1,020 hours in a school year for a secondary student, more than 935 hours in a school year for an elementary student, or more than 425 hours in a school year for a kindergarten student without a disability, that pupil may be counted as more than one pupil in average daily membership for purposes of section 126C.10, subdivision 2a. The amount in excess of one pupil must be determined by the ratio of the number of hours of instruction provided to that pupil in excess of: (i) the greater of 1,020 hours or the number of hours required for a full-time secondary pupil in the district to 1,020 for a secondary pupil; (ii) the greater of 935 hours or the number of hours required for a full-time elementary pupil in the district to 935 for an elementary pupil in grades 1 through 6; and (iii) the greater of 425 hours or the number of hours required for a full-time kindergarten student without a disability in the district to 425 for a kindergarten student without a disability. Hours that occur after the close of the instructional year in June shall be attributable to the following fiscal year. A kindergarten student must not be counted as more than 1.2 pupils in average daily membership under this subdivision. A student in grades 1 through 12 must not be counted as more than 1.2 pupils in average daily membership under this subdivision.

(b)(i) To receive general education revenue for a pupil in an area learning center or alternative learning program that has an independent study component, a district must meet the requirements in this paragraph. The district must develop, for the pupil, a continual learning plan consistent with section 124D.128, subdivision 3. Each school district that has ~~a state-approved public~~ an area learning center or alternative learning program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit ~~less compensatory revenue per pupil unit~~, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills and transportation sparsity revenue, times the number of pupil units generated by students attending ~~a state-approved public~~ an area learning center or alternative learning program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the ~~state-approved public~~ area learning center or alternative learning program. ~~Compensatory revenue must be allocated according to section 126C.15, subdivision 2.~~ Basic skills revenue generated according to section 126C.10, subdivision 4, by pupils attending the eligible program must be allocated to the program.

(ii) General education revenue for a pupil in ~~an approved~~ a state-approved alternative program without an independent study component must be prorated for a pupil participating for less than a full year, or its equivalent. The district must develop a continual learning plan for the pupil, consistent with section 124D.128, subdivision 3. Each school district that has ~~a state-approved public~~ an area learning center or alternative learning program must reserve revenue in an amount equal to at least 90 percent of the district average general education revenue per pupil unit ~~less compensatory revenue per pupil unit~~, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills and transportation sparsity revenue, times the number of pupil units generated by students attending ~~a state-approved public~~ an area learning center or alternative learning program. The amount of reserved revenue available under this subdivision may only be spent for program costs associated with the ~~state-approved public~~ area learning center or alternative learning program. ~~Compensatory revenue must be allocated according to section 126C.15, subdivision 2.~~ Basic skills revenue generated according to section 126C.10, subdivision 4, by pupils attending the eligible program must be allocated to the program.

(iii) General education revenue for a pupil in ~~an approved~~ a state-approved alternative program that has an independent study component must be paid for each hour of teacher contact time and each hour of independent study time completed toward a credit or graduation standards necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by 1,020.

(iv) For ~~an~~ a state-approved alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

Sec. 40. Minnesota Statutes 2008, section 126C.05, subdivision 20, is amended to read:

Subd. 20. **Project-based average daily membership.** (a) Project-based is an instructional program where students complete coursework for credit at an individual pace that is primarily student-led and may be completed on site, in the community, or online. A project-based program may be made available to all or designated students and grades in a school. To receive general education revenue for a pupil enrolled in a public school with a project-based program, a school must meet the requirements in this paragraph. The school must:

(1) ~~register with the commissioner as a project-based program by May 30 of the preceding fiscal year~~ apply and receive approval from the commissioner as a project-based program at least 90 days prior to starting the program;

(2) provide a minimum teacher contact of no less than one hour per week per project-based credit for each pupil;

(3) ensure that the program will not increase the total average daily membership generated by the student and that there will be the expectation that the students will be making typical progression towards high school graduation;

~~(3)~~ (4) maintain a record system that shows when each credit or portion thereof was reported for membership for each pupil; and

~~(4)~~ (5) report pupil membership consistent with paragraph (b).

(b) The commissioner must develop a formula for reporting pupil membership to compute average daily membership for each ~~registered~~ approved project-based ~~school~~ program. Average daily membership for a pupil in ~~a registered~~ an approved project-based program is the lesser of:

(1) 1.0; or

(2) the ratio of (i) the number of membership hours generated by project-based credits completed during the school year plus membership hours generated by credits completed in a seat-based setting to (ii) the annual required instructional hours at that grade level. Membership hours for a partially completed project-based credit must be prorated. General education revenue for a pupil in a project-based program must be prorated for a pupil participating for less than a full year, or its equivalent.

(c) For a program that has not been approved by the commissioner for project-based learning but an auditor or other site visit deems that any portion or credits awarded by the school are project-based, student membership must be computed according to paragraph (b).

Sec. 41. **[127A.70] MINNESOTA P-20 EDUCATION PARTNERSHIP.**

Subdivision 1. **Establishment; membership.** A P-20 education partnership is established to create a seamless system of education that maximizes achievements of all students, from early childhood through elementary, secondary, and postsecondary education, while promoting the efficient use of financial and human resources. The partnership shall consist of major statewide educational groups or constituencies or noneducational statewide organizations with a stated interest in P-20 education. The initial membership of the partnership includes the members serving on the Minnesota P-16 Education Partnership and four legislators appointed as follows:

(1) one senator from the majority party and one senator from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(2) one member of the house of representatives appointed by the speaker of the house and one member appointed by the minority leader of the house of representatives.

The chair of the P-16 education partnership must convene the first meeting of the P-20 partnership. Prospective members may be nominated by any partnership member and new members will be added with the approval of a two-thirds majority of the partnership. The partnership will also seek input from nonmember organizations whose expertise can help inform the partnership's work.

Partnership members shall be represented by the chief executives, presidents, or other formally designated leaders of their respective organizations, or their designees. The partnership shall meet at least three times during each calendar year.

Subd. 2. **Powers and duties; report.** The partnership shall develop recommendations to the governor and the legislature designed to maximize the achievement of all P-20 students while promoting the efficient use of state resources, thereby helping the state realize the maximum value for its investment. These recommendations may include, but are not limited to, strategies, policies, or other actions focused on:

(1) improving the quality of and access to education at all points from preschool through graduate education;

(2) improving preparation for, and transitions to, postsecondary education and work; and

(3) ensuring educator quality by creating rigorous standards for teacher recruitment, teacher preparation, induction and mentoring of beginning teachers, and continuous professional development for career teachers.

By January 15 of each year, the partnership shall submit a report to the governor and to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over P-20 education policy and finance that summarizes the partnership's progress in meeting its goals and identifies the need for any draft legislation when necessary to further the goals of the partnership to maximize student achievement while promoting efficient use of resources.

Subd. 3. **Expiration.** Notwithstanding section 15.059, subdivision 5, the partnership is permanent and does not expire.

Sec. 42. Minnesota Statutes 2008, section 171.05, subdivision 2, is amended to read:

Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who:

(1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either:

(i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or

(ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a homeschool diploma, ~~the student's status as a homeschool student has been certified by the superintendent of the school district in which the student resides, and~~ the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety, and the student's parent or guardian has certified the student's homeschool and home-classroom driver training status on the form approved by the commissioner;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (v) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(6) has paid the fee required in section 171.06, subdivision 2.

(b) <u>For the purposes of determining compliance with the certification of paragraph (a), clause (1), item (ii), the commissioner may request verification of a student's homeschool status from the superintendent of the school district in which the student resides and the superintendent shall provide that verification.</u>

<u>(c)</u> The instruction permit is valid for two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2.

Sec. 43. Minnesota Statutes 2008, section 171.17, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The department shall immediately revoke the license of a driver upon receiving a record of the driver's conviction of:

(1) manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21;

(2) a violation of section 169A.20 or 609.487;

(3) a felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under section 169.09, in the event of a motor vehicle accident, resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the <u>application,</u> ownership or operation of a motor vehicle<u>, including</u>

on the certification required under section 171.05, subdivision 2, clause (1), item (ii), to issue an instruction permit to a homeschool student;

(6) except as this section otherwise provides, three charges of violating within a period of 12 months any of the provisions of chapter 169 or of the rules or municipal ordinances enacted in conformance with chapter 169, for which the accused may be punished upon conviction by imprisonment;

(7) two or more violations, within five years, of the misdemeanor offense described in section 169.444, subdivision 2, paragraph (a);

(8) the gross misdemeanor offense described in section 169.444, subdivision 2, paragraph (b);

(9) an offense in another state that, if committed in this state, would be grounds for revoking the driver's license; or

(10) a violation of an applicable speed limit by a person driving in excess of 100 miles per hour. The person's license must be revoked for six months for a violation of this clause, or for a longer minimum period of time applicable under section 169A.53, 169A.54, or 171.174.

(b) The department shall immediately revoke the school bus endorsement of a driver upon receiving a record of the driver's conviction of the misdemeanor offense described in section 169.443, subdivision 7.

Sec. 44. Minnesota Statutes 2008, section 171.22, subdivision 1, is amended to read:

Subdivision 1. **Violations.** With regard to any driver's license, including a commercial driver's license, it shall be unlawful for any person:

(1) to display, cause or permit to be displayed, or have in possession, any fictitious or fraudulently altered driver's license or Minnesota identification card;

(2) to lend the person's driver's license or Minnesota identification card to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license or Minnesota identification card not issued to that person;

(4) to use a fictitious name or date of birth to any police officer or in any application for a driver's license or Minnesota identification card, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

(5) to alter any driver's license or Minnesota identification card;

(6) to take any part of the driver's license examination for another or to permit another to take the examination for that person;

(7) to make a counterfeit driver's license or Minnesota identification card;

(8) to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer; ~~or~~

(9) to display as a valid driver's license any canceled, revoked, or suspended driver's license. A person whose driving privileges have been withdrawn may display a driver's license only for identification purposes; or

(10) to submit a false affidavit or statement to the department on the certification required under section 171.05, subdivision 2, clause (1), item (ii), to issue an instruction permit to a homeschool student.

Sec. 45. Minnesota Statutes 2008, section 181A.05, subdivision 1, is amended to read:

Subdivision 1. **When issued.** Any minor 14 or 15 years of age who wishes to work on school days during school hours shall first secure an employment certificate. The certificate shall be issued only by the school district superintendent, the superintendent's agent, ~~or~~ some other person designated by the Board of Education, or by the person in charge of providing instruction for students enrolled in nonpublic schools as defined in section 120A.22, subdivision 4. The employment certificate shall be issued only for a specific position with a designated employer and shall be issued only in the following circumstances:

(1) if a minor is to be employed in an occupation not prohibited by rules promulgated under section 181A.09 and as evidence thereof presents a signed statement from the prospective employer; and

(2) if the parent or guardian of the minor consents to the employment; and

(3) if the issuing officer believes the minor is physically capable of handling the job in question and further believes the best interests of the minor will be served by permitting the minor to work.

Sec. 46. **IMPLEMENTING RIGOROUS COURSEWORK MEASURES RELATED TO STUDENT PERFORMANCE.**

To implement the requirements of Minnesota Statutes, section 120B.35, subdivision 3, paragraph (c), clauses (1) and (2), and to help parents and members of the public better understand the reported data, the commissioner of education must convene a group of recognized and qualified experts and interested stakeholders, including parents and teachers among other stakeholders, to develop a model projecting anticipated performance of each high school on preparation and rigorous coursework measures that compares the school with similar schools. The model must use information about entering high school students based on particular background characteristics that are predictive of differing rates of college readiness. These characteristics include grade 8 achievement levels, high school student mobility, high school student attendance, and the size of each entering ninth grade class. The group of experts and stakeholders may examine other characteristics not part of the prediction model including the nine student categories identified under the federal 2001 No Child Left Behind Act, and two student gender categories of male and female, respectively. The commissioner annually must use the predicted level of entering students' performance to provide a context for interpreting graduating students' actual performance. The group convened under this section expires June 30, 2011.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to school report cards beginning July 1, 2011.

Sec. 47. **IMPLEMENTING MEASURES FOR ASSESSING SCHOOL SAFETY AND STUDENTS' ENGAGEMENT AND CONNECTION AT SCHOOL .**

(a) To implement the requirements of Minnesota Statutes, section 120B.35, subdivision 3, paragraph (d), the commissioner of education, in consultation with interested stakeholders, including parents and teachers among other stakeholders, must convene a group of recognized and qualified experts on student engagement and connection and classroom teachers currently teaching in Minnesota schools to:

(1) identify highly reliable variables of student engagement and connection that may include student attendance, home support for learning, and student participation in out-of-school activities, among other variables; and

(2) determine how to report "safety" in order to comply with federal law.

(b) The commissioner must submit a written report and all the group's working papers to the education committees of the house of representatives and senate by February 15, 2010, presenting the group's responses to paragraph (a), clauses (1) and (2). The commissioner must submit a second, related report to the education committees of the legislature by February 15, 2013, indicating the content and analysis of and the format for reporting the data collected in the 2010-2011 and 2011-2012 school years under Minnesota Statutes, section 120B.35, subdivision 3, paragraph (d). The group convened under this section expires December 31, 2013.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to school report cards beginning July 1, 2013.

Sec. 48. **EXAMINING THE CHARACTERISTICS AND IMPACT OF HIGH STAKES MATH AND SCIENCE TESTS IN THE CONTEXT OF AWARDING HIGH SCHOOL DIPLOMAS.**

(a) To carefully and responsibly determine the state policy of administering high stakes math and science tests in the context of awarding high school diplomas, the Independent Office of Educational Accountability under Minnesota Statutes, section 120B.31, subdivision 3, must convene and facilitate an advisory group that includes measurement experts selected by the State Council on Measurement in Education, three regionally diverse school district research and evaluation directors selected by the Minnesota Assessment Group, one school superintendent selected by the Minnesota Association of School Administrators, one high school principal selected by the Minnesota Board of School Administrators, one University of Minnesota faculty member selected by the dean of the College of Education and Human Development, one licensed math teacher and one licensed science teacher selected by Education Minnesota, the director of evaluation and testing at the Minnesota Department of Education, two parents of currently enrolled high school students selected by the Minnesota Parent Teacher Association, one representative of the business community selected by the Minnesota Chamber of Commerce, one representative of the business community selected by the Minnesota Business Partnership, one representative of Minnesota's two-year postsecondary institutions selected by Minnesota State Colleges and Universities, one representative of Minnesota's four-year postsecondary institutions selected by the University of Minnesota, an interested member of the public, and mathematicians, scientists, and workforce development experts that the Office of Educational Accountability selects to consider and recommend how best to motivate students and improve students' academic achievement in the context of high stakes math and science exams required for high school graduation. The advisory group at least must evaluate and make recommendations on:

(1) particular kinds of math and science exams that Minnesota might use as high stakes exams to award or deny students a high school diploma;

(2) appropriate levels of high school math and science proficiency and the educational support to help students achieve those proficiency levels;

(3) the relationship between math and science proficiency levels and state definitions of college and career readiness;

(4) the interrelationship between requiring students to demonstrate math and science proficiency and college or career readiness, and awarding or denying students a high school diploma;

(5) the interrelationship between high stakes testing and other coursework and credits required for graduation or college and career readiness; and

(6) appropriate accommodations for students with individualized education plans and students with limited English proficiency in some circumstances.

(b) The advisory group under paragraph (a) is not subject to Minnesota Statutes, section 15.059. The Office of Educational Accountability must present the advisory group's evaluation and recommendations under paragraph (a) to the education policy and finance committees of the legislature by February 15, 2010. The advisory group expires on June 1, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 49. **ADVISORY TASK FORCE.**

(a) An advisory task force on improving teacher quality and identifying institutional structures and strategies for effectively integrating secondary and postsecondary academic and career education is established to consider and recommend to the education policy and finance committees of the legislature proposals on how to:

(1) foster classroom teachers' interest and ability to acquire a master's degree in the teachers' substantive fields of licensure; and

(2) meet all elementary and secondary students' needs for adequate education planning and preparation and improve all students' ability to acquire the knowledge and skills needed for postsecondary academic and career education.

(b) The commissioner of education, or the commissioner's designee, shall appoint an advisory task force that is composed of a representative from each of the following entities: Education Minnesota, the University of Minnesota, the Minnesota Department of Education, the Minnesota Board of Teaching, the Minnesota Private College Council, the Minnesota Office of Higher Education, the Minnesota Career College Association, the Minnesota Parent Teacher Association, the Minnesota Chamber of Commerce, the Minnesota Business Partnership, the Minnesota Department of Employment and Economic Development, the Minnesota Association of Career and Technical Administrators, the Minnesota Association of Career and Technical Educators, the Minnesota State Colleges and Universities, and other representatives of other entities recommended by task force members. Task force members' terms and other task force matters are subject to Minnesota Statutes, section 15.059. The commissioner of education may reimburse task force members from the Department of Education's current operating budget but may not compensate task force members for task force activities. By February 15, 2010, the task force must submit written recommendations to the education policy and finance committees of the legislature on improving teacher quality and identifying the institutional structures and strategies for effectively integrating secondary and postsecondary academic and career education, consistent with this section.

(c) Upon request, the commissioner of education must provide the task force with technical, fiscal, and other support services.

(d) The advisory task force expires February 16, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 50. **APPROPRIATION; OFFICE OF EDUCATIONAL ACCOUNTABILITY.**

$....... in fiscal year 2010 and $....... in fiscal year 2011 is appropriated from the general fund to the Board of Regents of the University of Minnesota for the Office of Educational Accountability under Minnesota Statutes, section 120B.31, subdivision 3.

Any balance in the first year does not cancel but is available in the second year. The base appropriation for the Office of Educational Accountability in fiscal years 2010 and 2011 is $....... each year.

Sec. 51. **REPEALER.**

Minnesota Statutes 2008, section 120B.362, is repealed the day following final enactment.

ARTICLE 3
SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2008, section 121A.41, subdivision 7, is amended to read:

Subd. 7. **Pupil.** "Pupil" means any student:

(1) without a disability under 21 years ~~of age~~ old; or

(2) with a disability ~~until September 1 after the child with a disability becomes 22 years of age~~ under 21 years old who has not received a regular high school diploma or for a child with a disability who becomes 21 years old during the school year but has not received a regular high school diploma, until the end of that school year;

(3) and who remains eligible to attend a public elementary or secondary school.

Sec. 2. Minnesota Statutes 2008, section 125A.02, is amended to read:

125A.02 CHILD WITH A DISABILITY DEFINED.

Subdivision 1. **Child with a disability.** ~~Every child who has~~ "Child with a disability" means a child identified under federal and state special education law as having a hearing impairment, blindness, visual disability, speech or language impairment, physical disability, other health impairment, mental disability, emotional/behavioral disorder, specific learning disability, autism, traumatic brain injury, multiple disabilities, or deaf/blind disability ~~and~~ who needs special ~~instruction and~~ education and related services, as determined by the ~~standards~~ rules of the commissioner, is a child with a disability. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

Subd. 1a. **Children ages three through seven experiencing developmental delays.** In addition, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the ~~standards~~ rules of the commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

Subd. 2. **Not a child with a disability.** A child with a short-term or temporary physical or emotional illness or disability, as determined by the ~~standards~~ rules of the commissioner, is not a child with a disability.

Sec. 3. **[125A.031] GENERAL SCHOOL DISTRICT OBLIGATIONS TO CHILDREN WITH DISABILITIES.**

(a) Except as specifically provided in other law, the following requirements governing school district obligations to children with disabilities apply.

(b) A resident school district must identify, locate, and evaluate every child with a disability who is in need of special education and related services, including a child from birth to age 3.

(c) A resident school district must make available a free appropriate public education to:

(1) a child with a disability under 21 years old who has not received a regular high school diploma; and

(2) for the duration of the school year, a child with a disability who becomes 21 years old during that school year but has not received a regular high school diploma.

(d) The resident school district must ensure that a child with a disability who is enrolled in a nonpublic school or facility receives special education and related services, consistent with the child's individualized education program, at no cost to the child's parent if the district places the child in the nonpublic school or facility to meet the requirements of this section or applicable federal law.

(e) Consistent with the number of children with disabilities who are enrolled by their parents in a nonpublic school or facility located within a district, the district in which the nonpublic school or facility is located must ensure that those children have an opportunity to participate in special education and related services and that the amount the district spends to provide such services must be at least equal to the proportionate amount of federal funds made available under this chapter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2008, section 125A.07, is amended to read:

125A.07 ~~RULES OF COMMISSIONER~~ RULEMAKING.

(a) ~~As defined in~~ Consistent with this ~~paragraph~~ section, the commissioner ~~must~~ shall adopt new rules and amend existing rules ~~relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and other necessary rules for instruction of children with a disability. These rules must provide standards and procedures appropriate for the implementation of and within the limitations of sections 125A.08 and 125A.091. These rules must also provide standards for the discipline, control, management, and protection of children with a disability. The commissioner must not adopt rules for pupils served primarily in the regular classroom establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The commissioner, in consultation with the Departments of Health and Human Services, must adopt permanent rules for instruction and services for children under age five and their families. These rules are binding on state and local education, health, and human services agencies. The commissioner must adopt rules to determine eligibility for special education services. The rules must include procedures and standards by which to grant variances for experimental eligibility criteria. The commissioner must, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the commissioner must specify the program standards used to evaluate the request and the reasons for denying the request~~ related to children with disabilities only under specific authority and consistent with the requirements of chapter 14 and paragraph (c).

(b) As provided in this paragraph, the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the commissioner result in one or more of the following outcomes:

(1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction;

(2) consistent and uniform access to effective education programs for students with disabilities throughout the state;

(3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced court actions related to the delivery of special education instruction and services for students with disabilities;

(4) clear expectations for service providers and for students with disabilities;

(5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;

(6) greater focus for the state and local resources dedicated to educating students with disabilities; and

(7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.

<u>(c) Subject to chapter 14, the commissioner may adopt, amend, or rescind a rule related to children with disabilities if such action is specifically required by federal law.</u>

Sec. 5. Minnesota Statutes 2008, section 125A.08, is amended to read:

125A.08 ~~SCHOOL DISTRICT OBLIGATIONS~~ <u>INDIVIDUALIZED EDUCATION PROGRAMS</u>.

(a) <u>At the beginning of each school year, each school district shall have in effect, for each child with a disability, an individualized education program.</u>

<u>(b)</u> As defined in this section, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and Where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The individual education plan team shall consider and may authorize services covered by medical assistance according to section 256B.0625, subdivision 26. The student's

needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education plan. The plan must address the student's need to develop skills to live and work as independently as possible within the community. The individual education plan team must consider positive behavioral interventions, strategies, and supports that address behavior for children with attention deficit disorder or attention deficit hyperactivity disorder. ~~By~~ During grade 9 ~~or age 14~~, the plan must address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;

(2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial assessment or reassessment, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used for the purposes of classification and placement of children with a disability are selected and administered so as not to be racially or culturally discriminatory; and

(7) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

~~(b)~~ (c) For paraprofessionals employed to work in programs for students with disabilities, the school board in each district shall ensure that:

(1) before or immediately upon employment, each paraprofessional develops sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs of the students with whom the paraprofessional works;

(2) annual training opportunities are available to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with whom the paraprofessional works, including understanding disabilities, following lesson plans, and implementing follow-up instructional procedures and activities; and

(3) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

Sec. 6. Minnesota Statutes 2008, section 125A.091, is amended to read:

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.

~~Subdivision 1.~~ ~~**District obligation.**~~ ~~A school district must use the procedures in federal law and state law and rule to reach decisions about the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability.~~

~~Subd. 2.~~ ~~**Prior written notice.**~~ ~~A parent must receive prior written notice a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education to a child with a disability.~~

~~Subd. 3.~~ ~~**Content of notice.**~~ ~~The notice under subdivision 2 must:~~

~~(1) describe the action the district proposes or refuses;~~

~~(2) explain why the district proposes or refuses to take the action;~~

~~(3) describe any other option the district considered and the reason why it rejected the option;~~

~~(4) describe each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;~~

~~(5) describe any other factor affecting the proposal or refusal of the district to take the action;~~

~~(6) state that the parent of a child with a disability is protected by procedural safeguards and, if this notice is not an initial referral for evaluation, how a parent can get a description of the procedural safeguards; and~~

~~(7) identify where a parent can get help in understanding this law.~~

Subd. 3a. **Additional requirements for prior written notice.** In addition to federal law requirements, a prior written notice shall:

(1) inform the parent that except for the initial placement of a child in special education, the school district will proceed with its proposal for the child's placement or for providing special education services unless the child's parent notifies the district of an objection within 14 days of when the district sends the prior written notice to the parent; and

(2) state that a parent who objects to a proposal or refusal in the prior written notice may request a conciliation conference under subdivision 7 or another alternative dispute resolution procedure under subdivision 8 or 9.

~~Subd. 4.~~ ~~**Understandable notice.**~~ ~~(a) The written notice under subdivision 2 must be understandable to the general public and available in the parent's native language or by another communication form, unless it is clearly not feasible to do so.~~

~~(b) If the parent's native language or other communication form is not written, the district must take steps to ensure that:~~

~~(1) the notice is translated orally or by other means to the parent in the parent's native language or other communication form;~~

~~(2) the parent understands the notice; and~~

~~(3) written evidence indicates the requirements in subdivision 2 are met.~~

Subd. 5. **Initial action; parent consent.** (a) The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

(b) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless section 144.344 applies.

Subd. 6. **Dispute resolution processes; generally.** Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes under this section are provided at no cost to the parent.

Subd. 7. **Conciliation conference.** A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision ~~2~~ 3a. ~~If the parent refuses district efforts to conciliate the dispute, the conciliation requirement is satisfied. Following a conciliation conference~~ A district must hold a conciliation conference within ten calendar days from the date the district receives a parent's objection to a proposal or refusal in the prior written notice. Except as provided in this section, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.

Subd. 8. **Voluntary dispute resolution options.** In addition to offering at least one conciliation conference, a district must inform a parent of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under federal special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.

Subd. 9. **Mediation.** Mediation is a dispute resolution process that involves a neutral party provided by the state to assist a parent and a district in resolving disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. A mediation process is available as an informal alternative to a due process hearing but must not be used to deny or postpone the opportunity of a parent or district to obtain a due process hearing. Mediation is voluntary for all parties. All mediation discussions are confidential and inadmissible in evidence in any subsequent proceeding, unless the:

(1) parties expressly agree otherwise;

(2) evidence is otherwise available; or

(3) evidence is offered to prove bias or prejudice of a witness.

Subd. 10. **Mediated agreements.** ~~Mediated agreements are not admissible unless the parties agree otherwise or a party to the agreement believes the agreement is not being implemented, in which case the aggrieved party may enter the agreement into evidence at a due process hearing. The parties may request another mediation to resolve a dispute over~~

~~implementing the mediated agreement. After a due process hearing is requested, a party may request mediation and the commissioner must provide a mediator who conducts a mediation session no later than the third business day after the mediation request is made to the commissioner.~~ If the parties resolve all or a portion of the dispute, or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing and signed by the parties and each party is given a copy of the document. The written resolution or agreement shall state that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding. The resolution or agreement is legally binding upon the parties and is enforceable in the state or federal district court. A party may request another mediation to resolve a dispute over implementing the mediated agreement.

Subd. 11. **Facilitated team meeting.** A facilitated team meeting is an IEP, IFSP, or IIIP team meeting led by an impartial state-provided facilitator to promote effective communication and assist a team in developing an individualized education plan.

Subd. 12. **Impartial due process hearing.** ~~(a)~~ A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. The hearing must be held in the district responsible for ensuring that a free appropriate public education is provided according to state and federal law. The proceedings must be recorded and preserved, at state expense, pending ultimate disposition of the action. The parent and the district shall receive, at state expense, a copy of the hearing transcript or recording and the hearing officer's findings of fact, conclusion of law, and decisions.

~~(b) The due process hearing must be conducted according to the rules of the commissioner and federal law.~~

Subd. 13. **Hearing officer qualifications.** ~~The commissioner must appoint an individual who is qualified under this subdivision to serve as a hearing officer.~~ The commissioner shall maintain a list of qualified hearing officers who are not employees of or otherwise under contract with the department or the school district except when under contract with the department as a hearing officer, and who do not have a personal or professional interest that conflicts with their objectivity when serving as hearing officers in hearings under this section. The list shall include a statement of the qualifications of each person listed. A hearing officer must know and understand state and federal special education laws, rules, and regulations, and legal interpretations by federal and state courts. A hearing officer also must have the knowledge and ability to conduct hearings and render and write decisions according to appropriate, standard legal practice. Upon receipt of a written request for a hearing, the commissioner shall appoint a hearing officer from the list. The hearing officer must:

(1) be knowledgeable and impartial;

(2) have no personal interest in or specific involvement with the student who is a party to the hearing;

(3) not have been employed as an administrator by the district that is a party to the hearing;

(4) not have been involved in selecting the district administrator who is a party to the hearing;

(5) have no personal, economic, or professional interest in the outcome of the hearing other than properly administering federal and state laws, rules, and policies;

(6) have no substantial involvement in developing state or local policies or procedures challenged in the hearing;

(7) not be a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, or the department if the department is the service provider; and

(8) not be a current employee or board member of a disability advocacy organization or group.

Subd. 14. **Request for hearing.** ~~A request for a due process hearing must:~~

~~(1) be in writing;~~

~~(2) describe the nature of the dispute about providing special education services to the student including facts relating to the dispute; and~~

~~(3) state, to the extent known, the relief sought.~~

~~Any school district administrator receiving a request for a due process hearing must immediately forward the request to the commissioner. Within two business days of receiving a request for a due process hearing, the commissioner must appoint a hearing officer. The commissioner must not deny a request for hearing because the request is incomplete. A party may disqualify a hearing officer only by affirmatively showing prejudice or bias to the commissioner or to the chief administrative law judge if the hearing officer is an administrative law judge. If a party affirmatively shows prejudice against a hearing officer, the commissioner must assign another hearing officer to hear the matter.~~ (a) A parent or a school district may file a written request for a due process hearing regarding a proposal or refusal to initiate or change that child's evaluation, individualized education program, or educational placement, or to provide a free appropriate public education.

(b) The parent shall include in the hearing request the name of the child, the address of the child's residence, the name of the school the child attends, a description of the child's problem relating to the proposed or refused initiation or change, including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the parents at the time.

(c) A parent or a school district may file a written request for a hearing under United States Code, title 20, section 1415, paragraph (k).

(d) A parent or school district filing a request for a hearing under this subdivision must provide the request to the other party and a copy of the request to the department. Upon receiving a request for a hearing, the department shall give to the child's parent a copy of the procedural safeguards notice available to a parent under federal regulations.

(e)(1) If the parent of a child with a disability files a written request for a hearing, and the school district has not previously sent a written notice to the parent under subdivision 3a, regarding the subject matter of the hearing request, the school district shall, within ten days of receiving the hearing request, send to the child's parent a written explanation of why the school district proposed or refused to take the action raised in the hearing request, a description of other options that the individualized education program team considered and the reason why those options were rejected, a description of each evaluation procedure, assessment, record, or report that the school district used as the basis for the proposed or refused action, and a description of the factors that are relevant to the school district's proposal or refusal. A response by a school district under this subdivision does not preclude the school district from asserting that the parent's request for a hearing is insufficient under clause (2).

(2) A hearing may not occur until the party requesting the hearing files a request that meets the requirements of paragraph (b). The request under paragraph (b) is considered sufficient unless the party receiving the request notifies the hearing officer and the other party in writing within 15 days of receiving the request that the receiving party believes the request does not meet the requirements of paragraph (b). Within five days of receiving a notice under this subdivision, the hearing officer shall determine whether the request meets the requirements under paragraph (b) and notify the parties.

(f) Except as provided in paragraph (e), clause (1), the party receiving a request for a hearing shall send to the party requesting the hearing a written response that addresses the issues raised in the hearing request within ten days of receiving the request.

Subd. 15. **Prehearing conference.** A prehearing conference must be held within five business days of the date the commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by telephone. The hearing officer must create a written verbatim record of the prehearing conference which is available to either party upon request. At the prehearing conference, the hearing officer must:

(1) identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;

(2) set a scheduling order for the hearing and additional prehearing activities;

(3) determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and

(4) establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

Subd. 16. **Burden of proof.** The burden of proof at a due process hearing is on the ~~district to demonstrate, by a preponderance of the evidence, that it is complying with the law and offered or provided a free appropriate public education to the child in the least restrictive environment. If the district has not offered or provided a free appropriate public education in the least restrictive environment and the parent wants the district to pay for a private placement, the burden of proof is on the parent to demonstrate, by a preponderance of the evidence, that the private placement is appropriate~~ party seeking relief.

Subd. 17. **Admissible evidence.** The hearing officer may admit all evidence that possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in conducting their serious affairs. The hearing officer must give effect to the rules of privilege recognized by law and exclude evidence that is incompetent, irrelevant, immaterial, or unduly repetitious.

Subd. 18. **Hearing officer authority.** (a) A hearing officer must limit an impartial due process hearing to the time sufficient for each party to present its case.

(b) A hearing officer must establish and maintain control and manage the hearing. This authority includes, but is not limited to:

(1) requiring attorneys representing parties at the hearing, after notice and an opportunity to be heard, to pay court reporting and hearing officer costs, or fines payable to the state, for failing to: (i) obey scheduling or prehearing orders, (ii) appear, (iii) be prepared, or (iv) participate in the hearing process in good faith;

(2) administering oaths and affirmations;

(3) issuing subpoenas;

(4) determining the responsible and providing districts and joining those districts, if not already notified, in the proceedings;

(5) making decisions involving identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability; ~~and~~

(6) ordering an independent educational evaluation of a child at district expense; and

(7) extending the hearing decision timeline for good cause shown.

(c) Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

Subd. 19. **Expedited due process hearings.** Consistent with federal law, a parent ~~has the right to~~ or a school district may file a written request for an expedited due process hearing ~~when there is a dispute over a manifestation determination or a proposed or actual placement in an interim alternative educational setting. A district has the right to an expedited due process hearing when proposing or seeking to maintain placement in an interim alternative educational setting~~. A hearing officer must hold an expedited due process hearing within 20 school days of the date the expedited due process request is filed and must issue a decision within ten ~~calendar~~ school days ~~of~~ after the ~~request for a~~ hearing. ~~A hearing officer may extend by up to five additional calendar days the time for issuing a decision in an expedited due process hearing. All policies in this section apply to expedited due process hearings to the extent they do not conflict with federal law.~~ A resolution meeting must occur within seven days of receiving the request for an expedited due process hearing unless the parent and the school district agree in writing either to waive the resolution meeting or use the mediation process. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the expedited due process hearing request.

Subd. 20. **Hearing officer's decision; time period.** (a) The hearing officer must ~~issue a decision within 45 calendar days of the date on which the commissioner receives the request for a due process hearing~~ ensure that not later than 45 days after the 30-day period or the adjusted time periods under federal regulations expire, the hearing officer reaches a final decision in the due process hearing and transmits a copy of the decision to each party. A hearing officer, at the request of either party, may grant specific extensions of time beyond the 45-day period under subdivision 18. The hearing officer must conduct the oral arguments in a hearing at a time and place that is reasonably convenient to the parents and child involved. A hearing officer is encouraged to accelerate the time line to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute. ~~A hearing officer may not extend the time beyond the 45-day period unless requested by either party for good cause shown on the record. Extensions~~

~~of time must not exceed a total of 30 calendar days unless both parties and the hearing officer agree or time is needed to complete an independent educational evaluation. Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.~~

~~(b) The hearing officer's decision must:~~

~~(1) be in writing;~~

~~(2) state the controlling and material facts upon which the decision is made in order to apprise the reader of the basis and reason for the decision; and~~

~~(3) be based on local standards, state statute, the rules of the commissioner, and federal law.~~

(b) Once the hearing officer has issued a final decision, the hearing officer lacks authority to amend the decision except for clerical or mathematical errors.

(c) Nothing in this subdivision precludes a hearing officer from ordering a school district to comply with federal procedural safeguards under the federal Individuals with Disabilities Education Act.

Subd. 21. **Compensatory educational services.** The hearing officer may require the resident or responsible district to provide compensatory educational services to the child if the hearing officer finds that the district has not offered or made available to the child a free appropriate public education in the least restrictive environment and the child suffered a loss of educational benefit. Such services take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding must be based on a present determination of whether the child has suffered a loss of educational benefit.

~~Subd. 22.~~ ~~**Child's educational placement during due process hearing.**~~ ~~(a) Until a due process hearing under this section is completed or the district and the parent agree otherwise, the child must remain in the child's current educational placement and must not be denied initial admission to school.~~

~~(b) Until an expedited due process hearing challenging an interim alternative educational placement is completed, the child must remain in the interim alternative educational setting until the decision of the hearing officer or the expiration of the 45 days permitted for an interim alternative educational setting, whichever occurs first, unless the parent and district agree otherwise.~~

~~Subd. 23.~~ ~~**Implementation of hearing officer order.**~~ ~~(a) That portion of a hearing officer's decision granting relief requested by the parent must be implemented upon issuance.~~

~~(b) Except as provided under paragraph (a) or the district and parent agree otherwise, following a hearing officer's decision granting relief requested by the district, the child must remain in the current educational placement until the time to request judicial review under subdivision 24 expires or, if judicial review is requested, at the time the Minnesota Court of Appeals or the federal district court issues its decision, whichever is later.~~

Subd. 24. **Review of hearing officer decisions.** The parent or district may seek review of the hearing officer's decision in the Minnesota Court of Appeals or in the federal district court~~, consistent with federal law~~. A party must appeal to the Minnesota Court of Appeals within 60 days of receiving the hearing officer's decision and must appeal to federal district court within 90 days of receiving the hearing officer's decision.

Subd. 25. **Enforcement of orders.** The commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer ~~orders~~ decisions.

Subd. 26. **Hearing officer and person conducting alternative dispute resolution are state employees.** A hearing officer or person conducting alternative dispute resolution under this section is an employee of the state under section 3.732 for purposes of section 3.736 only.

Subd. 27. **Hearing officer training.** A hearing officer must participate in training ~~and follow procedures established~~ offered by the commissioner.

Subd. 28. **District liability.** A district is not liable for harmless technical violations of ~~this section or rules implementing this section~~ federal or state laws, rules, or regulations governing special education if the school district can demonstrate ~~on a case-by-case basis~~ that the violations did not harm a student's educational progress or the parent's right to notice, participation, or due process. This subdivision is applicable to due process hearings and special education complaints filed with the department.

Sec. 7. **[125A.094] RESTRICTIVE PROCEDURES FOR CHILDREN WITH DISABILITIES.**

The use of restrictive procedures for children with disabilities is governed by sections 125A.0941 and 125A.0942, and must be consistent with this chapter.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 8. **[125A.0941] DEFINITIONS.**

(a) The following terms have the meanings given them.

(b) "Emergency" means a situation where immediate intervention is needed to protect a child or other individual from physical injury or to prevent serious property damage.

(c) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately.

(d) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement and where body contact is the only source of physical restraint. The term "physical holding" does not mean physical contact that:

(1) helps a child respond or complete a task;

(2) comforts or assists a child without restricting the child's movement;

(3) is needed to administer an authorized health-related service or procedure; or

(4) is needed to physically escort a child.

(e) "Restrictive procedures" means the use of physical holding or seclusion in an emergency that is involuntary or unintended by the child, deprives the child of mobility, or is adverse to that child.

(f) "Seclusion" means confining a child alone in a locked room from which the child can not exit but may be quickly removed if a fire or other disaster occurs. Time-out is not seclusion.

(g) "Time-out" means removing a child from an activity to a location where the child cannot participate or observe the activity and may include moving or ordering a child to an unlocked room.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 9. **[125A.0942] STANDARDS FOR RESTRICTIVE PROCEDURES.**

Subdivision 1. **Restrictive procedures plan.** (a) Schools shall maintain and make publicly accessible an allowable restrictive procedures plan for children that includes at least the following:

(1) the list of restrictive procedures the school intends to use;

(2) how the school will monitor the use of restrictive procedures, including conducting post-use debriefings and convening an oversight committee;

(3) a written description and verification of the training staff completed under subdivision 5; and

(4) how the school will periodically review the use of restrictive procedures on a child and systemwide basis within a school or district.

(b) In reviewing the use of restrictive procedures, the school or district must consider:

(1) any pattern or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, individuals involved, or other factors related to using restrictive procedures consistent with subdivision 2;

(2) any injuries resulting from the use of restrictive procedures;

(3) actions needed to correct deficiencies in how the school implements restrictive procedures;

(4) an assessment of when restrictive procedures could be avoided; and

(5) proposed actions to limit use of physical holding or seclusion.

Subd. 2. **Restrictive procedures.** (a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, other licensed education professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5.

(b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child or as indicated by the child's parent under paragraph (e).

(c) When restrictive procedures are used twice in 30 days or when a pattern emerges and restrictive procedures are not included in a child's individualized education plan, the district must hold a meeting of the individualized education plan team, conduct or review a functional behavioral analysis, review data, develop additional or revised positive behavioral interventions and support, propose actions to reduce the use of restrictive procedures, and modify the individualized education plan or behavior intervention plan as appropriate. At the meeting, the team must review and include in the child's individualized education plan any known medical or psychological limitations that contraindicate the use of a restrictive procedure, and prohibit that restrictive procedure.

(d) An individualized education plan team may plan for using restrictive procedures and may include these procedures in a child's individualized education plan.

(e) Restrictive procedures may be included in the child's individualized education plan but are not considered part of the pupil's behavior intervention plan and can only be used in an emergency, consistent with this section. The individualized education plan shall indicate how the parent wants to be notified when a restrictive procedure is used.

Subd. 3. **Physical holding or seclusion.** Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

(1) the physical holding or seclusion must be the least intrusive intervention that effectively responds to the emergency;

(2) physical holding or seclusion must end when the threat of harm ends and the staff determines that the child can safely return to the classroom or activity;

(3) staff must constantly and directly observe the child while physical holding or seclusion is being used;

(4) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion shall document, as soon as possible after the incident concludes, the following information:

(i) a detailed description of the incident that led to the physical holding or seclusion;

(ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;

(iii) the time the physical holding or seclusion began and the time the child was released; and

(iv) a brief record of the child's behavioral and physical status;

(5) the room used for seclusion must:

(i) be at least six feet by five feet;

(ii) be well lit, well ventilated, and clean;

(iii) have a window that allows staff to directly observe a child in seclusion;

(iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;

(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and

(vi) not contain objects that a child may use to injure the child or others; and

(6) before using a room for seclusion, a school must:

(i) receive written notice from local authorities regarding its compliance with applicable building, fire, and safety codes; and

(ii) register the room with the commissioner, who may view that room.

Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

(1) engaging in conduct prohibited under section 121A.58;

(2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;

(3) totally or partially restricting a child's senses, except at a level of intrusiveness that does not exceed:

(i) placing a hand in front of a child's eyes as a visual screen; or

(ii) playing music through earphones worn by the child at a sound level that causes discomfort;

(4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray;

(5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

(6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556;

(7) withholding regularly scheduled meals or water;

(8) denying access to bathroom facilities; and

(9) physical holding that restricts a child's ability to breathe.

Subd. 5. **Training for staff.** (a) To meet the requirements of subdivision 1, paragraph (a), clause (4), staff who use restrictive procedures shall successfully complete training in the following skills and knowledge areas before using restrictive procedures with a child:

(1) positive behavioral interventions;

(2) communicative intent of behaviors;

(3) relationship building;

(4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;

(5) de-escalation methods;

(6) avoiding power struggles;

(7) standards for using restrictive procedures;

(8) obtaining emergency medical assistance;

(9) time limits for restrictive procedures;

(10) obtaining approval for using restrictive procedures;

(11) appropriate use of approved restrictive procedures including simulated experiences involving physical restraint;

(12) thresholds for using and stopping restrictive procedures;

(13) the physiological and psychological impact of physical holding and seclusion;

(14) monitoring and responding to a child's physical signs of distress when physical holding is being used; and

(15) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used.

(b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings.

(c) Training under this subdivision must be updated at least every two school years.

Subd. 6. **Records.** For purposes of monitoring and review, a school using restrictive procedures shall make data available upon request on the number and types of restrictive procedures used, consistent with applicable law. Schools annually shall submit to the commissioner aggregate data on the use of restrictive procedures. The commissioner shall issue an annual report by December 31 of each year on the use of restrictive procedures in Minnesota and post the report on the department's Web site.

Subd. 7. **Behavior supports.** School districts must establish effective schoolwide systems of positive behavior supports and may use restrictive procedures only in emergencies. Nothing in this section precludes the use of reasonable force under sections 121A.582 and 609.379.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 10. Minnesota Statutes 2008, section 125A.15, is amended to read:

125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

The responsibility for special instruction and services for a child with a disability temporarily placed in another district for care and treatment shall be determined in the following manner:

(a) The district of residence of a child shall be the district in which the child's parent resides, if living, or the child's guardian, or the district designated by the commissioner if neither parent nor guardian is living within the state.

(b) If a district other than the resident district places a pupil for care and treatment, the district placing the pupil must notify and give the resident district an opportunity to participate in the placement decision. When an immediate emergency placement of a pupil is necessary and time constraints foreclose a resident district from participating in the emergency placement decision, the district in which the pupil is temporarily placed must notify the resident district of the emergency placement within 15 days. The resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(c) When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation to and from the care and treatment ~~facility~~ program and an appropriate educational program for the child. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district.

~~(c)~~ (d) When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program, as outlined in section 125A.11, except as provided in paragraph ~~(d)~~ (e). However, the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than providing for the child's special educational needs must not become the responsibility of either the district providing the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

~~(d)~~ (e) A privately owned and operated residential facility may enter into a contract to obtain appropriate educational programs for special education children and services with a joint powers entity. The entity with which the private facility contracts for special education services shall be the district responsible for providing students placed in that facility an appropriate educational program in place of the district in which the facility is located. If a privately owned and operated residential facility does not enter into a contract under this paragraph, then paragraph ~~(c)~~ (d) applies.

~~(e)~~ (f) The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education aid for the child as provided by law. Transportation costs must be paid by the district responsible for providing the transportation and the state must pay transportation aid to that district.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2008, section 125A.28, is amended to read:

125A.28 STATE INTERAGENCY COORDINATING COUNCIL.

An Interagency Coordinating Council of at least 17, but not more than 25 members is established, in compliance with Public Law 108-446, section 641. The members must be appointed by the governor. Council members must elect the council chair. The representative of the commissioner may not serve as the chair. The council must be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, five representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, local Head Start director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, education, health, human services, a representative from the state agency responsible for child care, foster care, mental health, homeless coordinator of education of homeless children and youth, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council must meet at least quarterly.

The council must address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with disabilities and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

On the date that Minnesota Part C Annual Performance Report is submitted to the federal Office of Special Education, the council must recommend to the governor and the commissioners of education, health, human services, commerce, and employment and economic development policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the State Interagency Coordinating Council expires on June 30, ~~2009~~ 2014.

Sec. 12. Minnesota Statutes 2008, section 125A.51, is amended to read:

125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION AND TRANSPORTATION.

The responsibility for providing instruction and transportation for a pupil without a disability who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the commissioner, and who is temporarily placed for care and treatment for that illness or disability, must be determined as provided in this section.

(a) The school district of residence of the pupil is the district in which the pupil's parent or guardian resides.

(b) When parental rights have been terminated by court order, the legal residence of a child placed in a residential or foster facility for care and treatment is the district in which the child resides.

(c) Before the placement of a pupil for care and treatment, the district of residence must be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, must notify the district of residence of the emergency placement within 15 days of the placement. When a nonresident district makes an emergency placement without first consulting with the resident district, the resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(d) When a pupil without a disability is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence must provide instruction and necessary transportation to and from the care and treatment ~~facility~~ program for the pupil. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district. The district of placement may contract with a facility to provide instruction by teachers licensed by the state Board of Teaching.

(e) When a pupil without a disability is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed must provide instruction for the pupil and necessary transportation while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district must bill the district of residence for the actual cost of providing the instruction for the regular school year and for summer school, excluding transportation costs.

(f) Notwithstanding paragraph (e), if the pupil is homeless and placed in a public or private homeless shelter, then the district that enrolls the pupil under section 127A.47, subdivision 2, shall provide the transportation, unless the district that enrolls the pupil and the district in which the pupil is temporarily placed agree that the district in which the pupil is temporarily placed shall provide transportation. When a pupil without a disability is temporarily placed in a residential program outside the district of residence, the administrator of the court placing the pupil must send timely written notice of the placement to the district of residence. The district of placement may contract with a residential facility to provide instruction by teachers licensed by the state Board of Teaching. For purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

(g) The district of residence must include the pupil in its residence count of pupil units and pay tuition as provided in section 123A.488 to the district providing the instruction. Transportation costs must be paid by the district providing the transportation and the state must pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision must be included in the disabled transportation category if the pupils cannot be transported on a regular school bus route without special accommodations.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 13. Minnesota Statutes 2008, section 125A.57, subdivision 2, is amended to read:

Subd. 2. **Assistive technology device.** "Assistive technology device" means any item, piece of equipment, software, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of ~~children with disabilities~~ a child with a disability. The term does not include a surgically implanted medical device or a replacement of that device.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 14. Minnesota Statutes 2008, section 125A.63, subdivision 2, is amended to read:

Subd. 2. **Programs.** The resource centers must offer summer institutes ~~and like programs~~ or other training programs throughout the state for deaf or hard of hearing, blind or visually impaired, and multiply disabled pupils. The resource centers must also offer workshops for teachers, and leadership development for teachers.

A program offered through the resource centers must promote and develop education programs offered by school districts or other organizations. The program must assist school districts or other organizations to develop innovative programs.

Sec. 15. Minnesota Statutes 2008, section 125A.63, subdivision 4, is amended to read:

Subd. 4. **Advisory committees.** The commissioner shall establish an advisory committee for each resource center. The advisory committees shall develop recommendations regarding the resource centers and submit an annual report to the commissioner on the form and in the manner prescribed by the commissioner. The advisory committee for the Resource Center for the Deaf and Hard of Hearing shall meet at least four times a year and submit an annual report to the commissioner, the legislature, and the Commission of Deaf, DeafBlind and Hard of Hearing Minnesotans.

The recommendations must include:

(1) aggregate data-based education outcomes over time for deaf and hard-of-hearing children, consistent with state academic standards and assessments under chapter 120B; and

(2) a data-based plan that includes evidence-based best practices known to improve the educational outcomes of deaf and hard-of-hearing children.

Sec. 16. Minnesota Statutes 2008, section 125A.744, subdivision 3, is amended to read:

Subd. 3. **Implementation.** Consistent with section 256B.0625, subdivision 26, school districts may enroll as medical assistance providers or subcontractors and bill the Department of Human Services under the medical assistance fee for service claims processing system for special education services which are covered services under chapter 256B, which are provided in the school setting for a medical assistance recipient, and for whom the district has secured informed consent consistent with section 13.05, subdivision 4, paragraph (d), and section 256B.77, subdivision 2, paragraph (p), to bill for each type of covered service. School districts shall be reimbursed by the commissioner of human services for the federal share of individual education plan health-related services that qualify for reimbursement by medical assistance, minus up to five percent retained by the commissioner of human services for administrative costs~~, not to exceed $350,000 per fiscal year~~. The commissioner may withhold up to five percent of each payment to a school district. Following the end of each fiscal year, the commissioner shall settle up with each school district in order to ensure that collections from each district for departmental administrative costs are made on a pro rata basis according to federal earnings for these services in each district. A school district is not eligible to enroll as a home care provider or a personal care provider organization for purposes of billing home care services under sections 256B.0651 and 256B.0653 to 256B.0656 until the commissioner of human services issues a bulletin instructing county public health nurses on how to assess for the needs of eligible recipients during school hours. To use private duty nursing services or personal care services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school.

Sec. 17. **REPEALER.**

(a) Minnesota Statutes 2008, sections 121A.43; 125A.03; 125A.05; and 125A.18, are repealed.

(b) Minnesota Statutes 2008, sections 121A.66; and 121A.67, subdivision 1, are repealed effective July 1, 2010.

(c) Minnesota Rules, parts 3525.0210, subparts 5, 6, 9, 13, 17, 29, 30, 34, 43, 46, and 47; 3525.0400; 3525.1100, subpart 2, item F; 3525.2445; 3525.2900, subpart 5; and 3525.4220, are repealed effective July 1, 2010.

ARTICLE 4
LIBRARIES

Section 1. Minnesota Statutes 2008, section 134.31, subdivision 4a, is amended to read:

Subd. 4a. **Services to ~~the blind and physically handicapped~~ people with visual and physical disabilities.** The Minnesota Department of Education shall provide specialized services to ~~the blind and physically handicapped~~ people with visual and physical disabilities through the Minnesota Braille and Talking Book Library ~~for the Blind and Physically Handicapped~~ under a cooperative plan with the National Library Services for the Blind and Physically Handicapped of the Library of Congress.

Sec. 2. Minnesota Statutes 2008, section 134.31, is amended by adding a subdivision to read:

Subd. 7. **Telephone or electronic meetings.** (a) Notwithstanding section 13D.01, the Advisory Committee for the Minnesota Braille and Talking Book Library may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the committee participating in the meeting, wherever their physical locations, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the committee can hear all discussion, testimony, and votes of the members of the committee;

(3) at least one member of the committee is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the committee participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, to the extent practical, the committee shall allow a person to monitor the meeting electronically from a remote location. The committee may require the person making the connection to pay for the documented additional costs that the committee incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the committee shall provide notice of the regular meeting location, the fact that some members may participate by telephone or other electronic means, and the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

ARTICLE 5
SELF-SUFFICIENCY AND LIFELONG LEARNING

Section 1. Minnesota Statutes 2008, section 299A.297, is amended to read:

299A.297 OTHER DUTIES.

The commissioner of public safety, in consultation with the Chemical Abuse and Violence Prevention Council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 121A.26 ~~and school and community advisory teams established under section 121A.27~~;

(2) provide information and assistance upon request to the State Board of Pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the Alcohol and Other Drug Abuse Section in the Department of Human Services;

(4) coordinate the policy of the office with that of the Narcotic Enforcement Unit in the Bureau of Criminal Apprehension; and

(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 2. **REPEALER.**

Minnesota Statutes 2008, section 121A.27, is repealed.

ARTICLE 6
STATE AGENCIES

Section 1. Minnesota Statutes 2008, section 127A.08, is amended by adding a subdivision to read:

Subd. 5. **Grants and gifts.** The commissioner may apply for and receive grants and gifts administered by agencies of the state and other government or nongovernment sources. Any money received is hereby appropriated and dedicated for the purpose for which it is granted. The commissioner annually by February 1 must report to the education policy and finance committees of the legislature the amount of money it received under this subdivision and the purpose for which it was granted.

ARTICLE 7
TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 2008, section 120B.021, subdivision 1, is amended to read:

Subdivision 1. **Required academic standards.** The following subject areas are required for statewide accountability:

(1) language arts;

(2) mathematics;

(3) science;

(4) social studies, including history, geography, economics, and government and citizenship;

(5) health and physical education, for which locally developed academic standards apply; and

(6) the arts, for which statewide or locally developed academic standards apply, as determined by the school district. Public elementary and middle schools must offer at least three and require at least two of the following four arts areas: dance; music; theater; and visual arts. Public high schools must offer at least three and require at least one of the following five arts areas: media arts; dance; music; theater; and visual arts.

The commissioner must submit proposed standards in science and social studies to the legislature by February 1, 2004.

For purposes of applicable federal law, the academic standards for language arts, mathematics, and science apply to all public school students~~, except the very few students with extreme cognitive or physical impairments for whom an individualized education plan team has determined that the required academic standards are inappropriate. An individualized education plan team that makes this determination must establish alternative standards~~ with appropriate alternate achievement standards based on these academic standards for students with individualized education plans described under federal law.

A school district, no later than the 2007-2008 school year, must adopt graduation requirements that meet or exceed state graduation requirements established in law or rule. A school district that incorporates these state graduation requirements before the 2007-2008 school year must provide students who enter the 9th grade in or before the 2003-2004 school year the opportunity to earn a diploma based on existing locally established graduation requirements in effect when the students entered the 9th grade. District efforts to develop, implement, or improve instruction or curriculum as a result of the provisions of this section must be consistent with sections 120B.10, 120B.11, and 120B.20.

The commissioner must include the contributions of Minnesota American Indian tribes and communities as they relate to the academic standards during the review and revision of the required academic standards.

Sec. 2. Minnesota Statutes 2008, section 122A.31, subdivision 4, is amended to read:

Subd. 4. **Reimbursement.** (a) For purposes of revenue under section ~~125A.78~~ 125A.76, the Department of Education must only reimburse school districts for the services of those interpreters/transliterators who satisfy the standards of competency under this section.

(b) Notwithstanding paragraph (a), a district shall be reimbursed for the services of interpreters with a nonrenewable provisional certificate, interpreters/transliterators employed to mentor the provisional certified interpreters, and persons for whom a time-limited extension has been granted under subdivision 1, paragraph (d), or subdivision 2, paragraph (c).

Sec. 3. Minnesota Statutes 2008, section 123B.14, subdivision 7, is amended to read:

Subd. 7. **Clerk records.** The clerk shall keep a record of all meetings of the district and the board in books provided by the district for that purpose. The clerk shall, within three days after an election, notify all persons elected of their election. By ~~August~~ September 15 of each year the clerk shall file with the board a report of the revenues, expenditures and balances in each fund for the preceding fiscal year. The report together with vouchers and supporting documents shall subsequently be examined by a public accountant or the state auditor, either of whom shall be paid by the district, as provided in section 123B.77, subdivision 3. The board shall by resolution approve the report or require a further or amended report. By ~~August~~ September 15 of each year, the clerk shall make and transmit to the commissioner certified reports, showing:

(1) ~~The condition and value of school property;~~

~~(2)~~ the revenues and expenditures in detail, and such other financial information required by law, rule, or as may be called for by the commissioner;

~~(3)~~ (2) the length of school term and the enrollment and attendance by grades; and

~~(4)~~ (3) such other items of information as may be called for by the commissioner.

The clerk shall enter in the clerk's record book copies of all reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished by the clerk pro tem, and keep an itemized account of all the expenses of the district. The clerk shall furnish to the auditor of the proper county, by ~~October 10~~ September 30 of each year, an attested copy of the clerk's record, showing the amount of ~~money~~ proposed property tax voted by the district or the board for school purposes; draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers and for teachers' wages and all claims, to be countersigned by the chair. Such orders must state the consideration, payee, and the fund and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose.

Sec. 4. Minnesota Statutes 2008, section 123B.81, subdivision 3, is amended to read:

Subd. 3. **Debt verification.** The commissioner shall establish a uniform auditing or other verification procedure for districts to determine whether a statutory operating debt exists in any Minnesota school district ~~as of June 30, 1977. This procedure must identify all interfund transfers made during fiscal year 1977 from a fund included in computing statutory operating debt to a fund not included in computing statutory operating debt~~. The standards for this uniform auditing or verification procedure must be promulgated by the ~~state board pursuant to chapter 14~~ commissioner. If a district applies to the commissioner for a statutory operating debt verification ~~or if the unaudited financial statement for the school year ending June 30, 1977 reveals that a statutory operating debt might exist~~, the commissioner shall require a verification of the amount of the statutory operating debt which actually does exist.

Sec. 5. Minnesota Statutes 2008, section 123B.81, subdivision 4, is amended to read:

Subd. 4. **Debt elimination.** If an audit or other verification procedure conducted pursuant to subdivision 3 determines that a statutory operating debt exists, a district must follow the procedures ~~set forth~~ in ~~this~~ section 123B.83 to eliminate this statutory operating debt.

Sec. 6. Minnesota Statutes 2008, section 123B.81, subdivision 5, is amended to read:

Subd. 5. **Certification of debt.** The commissioner shall certify the amount of statutory operating debt for each district. ~~Prior to June 30, 1979, the commissioner may, on the basis of corrected figures, adjust the total amount of statutory operating debt certified for any district.~~

Sec. 7. Minnesota Statutes 2008, section 125A.62, subdivision 8, is amended to read:

Subd. 8. **Grants and gifts.** The board, through the chief administrators of the academies, may apply for all competitive grants administered by agencies of the state and other government or nongovernment sources. Application may not be made for grants over which the board has discretion. Any funds received under this subdivision is appropriated and dedicated for the purpose for which it is granted.

Sec. 8. Minnesota Statutes 2008, section 125A.76, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(b) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing ~~direct~~ services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individual education plans. <u>Essential personnel does not include administrators and supervisors.</u>

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.046 for fiscal year 2012 and later.

Sec. 9. Minnesota Statutes 2008, section 126C.10, subdivision 34, is amended to read:

Subd. 34. **Basic alternative teacher compensation aid.** (a) For fiscal years 2007 ~~and later~~<u> 2008, and 2009</u>, the basic alternative teacher compensation aid for a school district with a plan approved under section 122A.414, subdivision 2b, equals ~~65~~ <u>73.1 </u>percent of the alternative teacher compensation revenue under section 122A.415, subdivision 1. The basic alternative teacher compensation aid for an intermediate school district or charter school with a plan approved under section 122A.414, subdivisions 2a and 2b, if the recipient is a charter school, equals $260 times the number of pupils enrolled in the school on October 1 of the previous fiscal year, or on October 1 of the current fiscal year for a charter school in the first year of operation, times the ratio of the sum of the alternative teacher compensation aid and alternative teacher compensation levy for all participating school districts to the maximum alternative teacher compensation revenue for those districts under section 122A.415, subdivision 1.

<u>(b) For fiscal years 2010 and later, the basic alternative teacher compensation aid for a school with a plan approved under section 122A.414, subdivision 2b, equals 65 percent of the alternative teacher compensation revenue under section 122A.415, subdivision 1. The basic alternative teacher compensation aid for an intermediate school district or charter school with a plan approved under section 122A.414, subdivisions 2a and 2b, if the recipient is a charter school, equals $260 times the number of pupils enrolled in the school on October 1 of the previous year, or on October 1 of the current year for a charter school in the first year of operation, times the ratio of the sum of the alternative teacher compensation aid and alternative teacher compensation levy for all participating school districts to the maximum alternative teacher compensation revenue for those districts under section 122A.415, subdivision 1.</u>

~~(b)~~ (c) Notwithstanding paragraphs (a) and (b) and section 122A.415, subdivision 1, the state total basic alternative teacher compensation aid entitlement must not exceed $75,636,000 for fiscal year 2007 and later. The commissioner must limit the amount of alternative teacher compensation aid approved under section 122A.415 so as not to exceed these limits.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2008, section 127A.47, subdivision 5, is amended to read:

Subd. 5. **Notification of resident district.** A district educating a pupil who is a resident of another district must notify the district of residence within 60 days of the date the pupil is determined by the district to be a nonresident, but not later than August 1 following the end of the school year in which the pupil is educated. ~~If the district of residence does not receive a notification from the providing district pursuant to this subdivision, it is not liable to that district for any tuition billing received after August 1 of the next school year.~~

APPENDIX
Article locations in H1179-1

120B.362 VALUE-ADDED ASSESSMENT PROGRAM.

(a) The commissioner of education must implement a value-added assessment program to assist school districts, public schools, and charter schools in assessing and reporting individual students' growth in academic achievement under section 120B.30, subdivision 1a. The program must use assessments of individual students' academic achievement to make longitudinal comparisons of each student's academic growth over time. School districts, public schools, and charter schools may apply to the commissioner to participate in the initial trial program using a form and in the manner the commissioner prescribes. The commissioner must select program participants from urban, suburban, and rural areas throughout the state.

(b) The commissioner may issue a request for proposals to contract with an organization that provides a value-added assessment model that reliably estimates school and school district effects on students' academic achievement over time. The model the commissioner selects must accommodate diverse data and must use each student's test data across grades. Data on individual teachers generated under the model are personnel data under section 13.43.

(c) The contract under paragraph (b) must be consistent with the definition of "best value" under section 16C.02, subdivision 4.

121A.27 SCHOOL AND COMMUNITY ADVISORY TEAM.

The superintendent, with the advice of the school board, shall establish a school and community advisory team to address chemical abuse problems in the district. The school and community advisory team must be composed of representatives from the school preassessment team established in section 121A.26, to the extent possible, law enforcement agencies, county attorney's office, social service agencies, chemical abuse treatment programs, parents, and the business community. The community advisory team shall:

(1) build awareness of the problem within the community, identify available treatment and counseling programs for students and develop good working relationships and enhance communication between the schools and other community agencies; and

(2) develop a written procedure clarifying the notification process to be used by the chemical abuse preassessment team established under section 121A.26 when a student is believed to be in possession of or under the influence of alcohol or a controlled substance. The procedure must include contact with the student, and the student's parents or guardian in the case of a minor student.

121A.43 EXCLUSION AND EXPULSION OF PUPILS WITH A DISABILITY.

When a pupil who has an individual education plan is excluded or expelled under sections 121A.40 to 121A.56 for misbehavior that is not a manifestation of the pupil's disability, the district shall continue to provide special education and related services after a period of suspension, if suspension is imposed. The district shall initiate a review of the pupil's individual education plan and conduct a review of the relationship between the pupil's disability and the behavior subject to disciplinary action and determine the appropriateness of the pupil's education plan before commencing an expulsion or exclusion.

121A.66 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of providing instruction to children with a disability under sections 125A.03 to 125A.24, 125A.26 to 125A.48, 125A.65, this section, and section 121A.67, the following terms have the meanings given them.

Subd. 2. **Aversive procedure.** "Aversive procedure" means the planned application of an aversive stimulus.

Subd. 3. **Aversive stimulus.** "Aversive stimulus" means an object that is used, or an event or situation that occurs immediately after a specified behavior in order to suppress that behavior.

Subd. 4. **Deprivation procedure.** "Deprivation procedure" means the planned delay or withdrawal of goods, services, or activities that the person would otherwise receive.

Subd. 5. **Emergency.** "Emergency" means a situation in which immediate intervention is necessary to protect a pupil or other individual from physical injury or to prevent serious property damage.

Subd. 6. **Positive behavioral interventions and supports.** "Positive behavioral interventions and supports" means those strategies used to improve the school environment and teach pupils skills likely to increase pupil ability to exhibit appropriate behaviors.

Subd. 7. **Time-out.** "Time-out" means:

(1) a contingent observation, which is not a regulated intervention, and involves instructing the pupil to leave the school activity during the school day and not participate for a period of time, but to observe the activity and listen to the discussion from a time-out area within the same setting;

(2) an exclusionary time-out, which is not a regulated intervention, and involves instructing the pupil to leave the school activity during the school day and not participate in or observe the classroom activity, but to go to another area from which the pupil may leave; or

(3) a locked time-out, which is a regulated intervention, and involves involuntarily removing the pupil from the school activity during the school day and placing the pupil in a specially designed and continuously supervised isolation room that the pupil is prevented from leaving.

121A.67 AVERSIVE AND DEPRIVATION PROCEDURES.

Subdivision 1. **Rules.** The commissioner, after consultation with interested parent organizations and advocacy groups, the Minnesota Administrators for Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, a representative of a bargaining unit that represents paraprofessionals, the Elementary School Principals Association, and the Secondary School Principals Association, must amend rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

(1) promote the use of positive behavioral interventions and supports and must not encourage or require the use of aversive or deprivation procedures;

(2) require that planned application of aversive and deprivation procedures only be instituted after completing a functional behavior assessment and developing a behavior intervention plan that is included in or maintained with the individual education plan;

(3) require educational personnel to notify a parent or guardian of a pupil with an individual education plan on the same day aversive or deprivation procedures are used in an emergency or in writing within two school days if district personnel are unable to provide same-day notice;

(4) establish health and safety standards for the use of locked time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, adequate space, a locking mechanism that disengages automatically when not continuously engaged by school personnel, and full compliance with state and local fire and building codes, including state rules on time-out rooms;

(5) contain a list of prohibited procedures;

(6) consolidate and clarify provisions related to behavior intervention plans;

(7) require school districts to register with the commissioner any room used for locked time-out, which the commissioner must monitor by making announced and unannounced on-site visits;

(8) place a student in locked time-out only if the intervention is:

(i) part of the comprehensive behavior intervention plan that is included in or maintained with the student's individual education plan, and the plan uses positive behavioral interventions and supports, and data support its continued use; or

(ii) used in an emergency for the duration of the emergency only; and

(9) require a providing school district or cooperative to establish an oversight committee composed of at least one member with training in behavioral analysis and other appropriate education personnel to annually review aggregate data regarding the use of aversive and deprivation procedures.

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability, including providing required services under Code of Federal Regulations, title 34, section 300.121, paragraph (d), to those children suspended or expelled from school for more than ten school days in that school year, who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state Education Code means a free and appropriate public education provided to an eligible child with disabilities and includes special education and related services defined in the Individuals with Disabilities Education Act, subpart A, section 300.24.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until July 1 after the child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

125A.05 METHOD OF SPECIAL INSTRUCTION.

(a) As defined in this section, to the extent required by federal law as of July 1, 1999, special instruction and services for children with a disability must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:

(1) in connection with attending regular elementary and secondary school classes;

(2) establishment of special classes;

(3) at the home or bedside of the child;

(4) in other districts;

(5) instruction and services by special education cooperative centers established under this section, or in another member district of the cooperative center to which the resident district of the child with a disability belongs;

(6) in a state residential school or a school department of a state institution approved by the commissioner;

(7) in other states;

(8) by contracting with public, private or voluntary agencies;

(9) for children under age five and their families, programs and services established through collaborative efforts with other agencies;

(10) for children under age five and their families, programs in which children with a disability are served with children without a disability; and

(11) any other method approved by the commissioner.

(b) Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

(c) The primary responsibility for the education of a child with a disability must remain with the district of the child's residence regardless of which method of providing special instruction and services is used. If a district other than a child's district of residence provides special instruction and services to the child, then the district providing the special instruction and services must notify the child's district of residence before the child's individual education plan is developed and must provide the district of residence an opportunity to participate in the plan's development. The district of residence must inform the parents of the child about the methods of instruction that are available.

125A.18 SPECIAL INSTRUCTION; NONPUBLIC SCHOOLS.

No resident of a district who is eligible for special instruction and services under this section may be denied instruction and service on a shared time basis consistent with section 126C.19, subdivision 4, because of attending a nonpublic school defined in section 123B.41, subdivision 9. If a resident pupil with a disability attends a nonpublic school located within the district of residence, the district must provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident pupil with a disability attends a nonpublic school located in another district and if no agreement exists under section 126C.19, subdivision 1 or 2, for providing special instruction and services on a shared time basis to that pupil by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence must provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the district boundary.

Parties serving students on a shared time basis have access to the due process hearing system described under United States Code, title 20, and the complaint system under Code of Federal Regulations, title 34, section 300.660-662. In the event it is determined under these systems that the nonpublic school or staff impeded the public school district's provision of a free appropriate education, the commissioner may withhold public funds available to the nonpublic school proportionally applicable to that student under section 123B.42.