

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1167**

(SENATE AUTHORS: OLSON)

DATE	D-PG	OFFICIAL STATUS
04/14/2011	1338	Introduction and first reading Referred to Education
04/28/2011	1438a 1448	Comm report: To pass as amended Second reading
05/11/2011	1974	HF substituted on General Orders HF1381 See HF934, Art. 1, Sec. 1; Art. 3, Sec. 9; Art. 4, Sec. 2, 7 (vetoed) See HF1381 (vetoed) See HF26 (First Special Session)

A bill for an act

1.1 relating to education; providing for policy for prekindergarten through grade 12
1.2 education, including general education, education excellence, special programs,
1.3 facilities and technology, and student transportation; amending Minnesota
1.4 Statutes 2010, sections 11A.16, subdivision 5; 120B.30, subdivisions 1, 3, 4;
1.5 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 122A.16, as amended;
1.6 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71,
1.7 subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.92,
1.8 subdivision 5; 124D.091, subdivision 2; 124D.10, subdivisions 3, 4, 6a; 124D.11,
1.9 subdivision 9; 125A.02, subdivision 1; 125A.15; 125A.51; 125A.79, subdivision
1.10 1; 126C.10, subdivision 8a; 126C.41, subdivision 2; 127A.42, subdivision 2;
1.11 127A.43; 127A.45, by adding a subdivision; repealing Minnesota Statutes 2010,
1.12 sections 125A.54; 126C.457.
1.13

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

ARTICLE 1

GENERAL EDUCATION

1.17 Section 1. Minnesota Statutes 2010, section 11A.16, subdivision 5, is amended to read:

1.18 Subd. 5. **Calculation of income.** As of the end of each fiscal year, the state
1.19 board shall calculate the investment income earned by the permanent school fund. The
1.20 investment income earned by the fund shall equal the amount of interest on debt securities
1.21 ~~and~~, dividends on equity securities, and interest earned on certified monthly earnings prior
1.22 to the transfer to the Department of Education. Gains and losses arising from the sale of
1.23 securities shall be apportioned as follows:

1.24 (a) If the sale of securities results in a net gain during a fiscal year, the gain shall
1.25 be apportioned in equal installments over the next ten fiscal years to offset net losses in
1.26 those years. If any portion of an installment is not needed to recover subsequent losses
1.27 identified in paragraph (b) it shall be added to the principal of the fund.

2.1 (b) If the sale of securities results in a net loss during a fiscal year, the net loss shall
2.2 be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these
2.3 gains are insufficient, any remaining net loss shall be recovered from interest and dividend
2.4 income in equal installments over the following ten fiscal years.

2.5 Sec. 2. Minnesota Statutes 2010, section 123B.41, subdivision 2, is amended to read:

2.6 Subd. 2. **Textbook.** "Textbook" means any book or book substitute, including
2.7 electronic books as well as other printed materials delivered electronically, which a
2.8 pupil uses as a text or text substitute in a particular class or program in the school
2.9 regularly attended and a copy of which is expected to be available for the individual use
2.10 of each pupil in this class or program. The term shall be limited to books, workbooks,
2.11 or manuals, whether bound or in loose-leaf form, as well as electronic books and other
2.12 printed materials delivered electronically, intended for use as a principal source of study
2.13 material for a given class or a group of students. The term includes only such secular,
2.14 neutral and nonideological textbooks as are available, used by, or of benefit to Minnesota
2.15 public school pupils.

2.16 Sec. 3. Minnesota Statutes 2010, section 123B.41, subdivision 5, is amended to read:

2.17 Subd. 5. **Individualized instructional or cooperative learning materials.**

2.18 "Individualized instructional or cooperative learning materials" means educational
2.19 materials which:

2.20 (a) are designed primarily for individual pupil use or use by pupils in a cooperative
2.21 learning group in a particular class or program in the school the pupil regularly attends;

2.22 (b) are secular, neutral, nonideological and not capable of diversion for religious
2.23 use; and

2.24 (c) are available, used by, or of benefit to Minnesota public school pupils.

2.25 Subject to the requirements in clauses (a), (b), and (c), "individualized instructional
2.26 or cooperative learning materials" include, but are not limited to, the following if they
2.27 do not fall within the definition of "textbook" in subdivision 2: published materials;
2.28 periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic
2.29 works; prerecorded video programs; prerecorded tapes, cassettes and other sound
2.30 recordings; manipulative materials; desk charts; games; study prints and pictures; desk
2.31 maps; models; learning kits; blocks or cubes; flash cards; individualized multimedia
2.32 systems; prepared instructional computer software programs; choral and band sheet music;
2.33 electronic books and other printed materials delivered electronically; and CD-Rom.

3.1 "Individualized instructional or cooperative learning materials" do not include
3.2 instructional equipment, instructional hardware, or ordinary daily consumable classroom
3.3 supplies.

3.4 Sec. 4. Minnesota Statutes 2010, section 123B.63, subdivision 3, is amended to read:

3.5 Subd. 3. **Capital project levy referendum.** A district may levy the local tax
3.6 rate approved by a majority of the electors voting on the question to provide funds for
3.7 an approved project. The election must take place no more than five years before the
3.8 estimated date of commencement of the project. The referendum must be held on a date
3.9 set by the board. A district must meet the requirements of section 123B.71 for projects
3.10 funded under this section. If a review and comment is required under section 123B.71,
3.11 subdivision 8, a referendum for a project not receiving a positive review and comment by
3.12 the commissioner ~~under section 123B.71~~ must be approved by at least 60 percent of the
3.13 voters at the election. The referendum may be called by the school board and may be held:

3.14 (1) separately, before an election for the issuance of obligations for the project
3.15 under chapter 475; or

3.16 (2) in conjunction with an election for the issuance of obligations for the project
3.17 under chapter 475; or

3.18 (3) notwithstanding section 475.59, as a conjunctive question authorizing both the
3.19 capital project levy and the issuance of obligations for the project under chapter 475. Any
3.20 obligations authorized for a project may be issued within five years of the date of the
3.21 election.

3.22 The ballot must provide a general description of the proposed project, state the
3.23 estimated total cost of the project, state whether the project has received a positive or
3.24 negative review and comment from the commissioner, state the maximum amount of the
3.25 capital project levy as a percentage of net tax capacity, state the amount that will be raised
3.26 by that local tax rate in the first year it is to be levied, and state the maximum number of
3.27 years that the levy authorization will apply.

3.28 The ballot must contain a textual portion with the information required in this
3.29 section and a question stating substantially the following:

3.30 "Shall the capital project levy proposed by the board of School District
3.31 No. be approved?"

3.32 If approved, the amount provided by the approved local tax rate applied to the net
3.33 tax capacity for the year preceding the year the levy is certified may be certified for the
3.34 number of years, not to exceed ten, approved.

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4.1 In the event a conjunctive question proposes to authorize both the capital project
4.2 levy and the issuance of obligations for the project, appropriate language authorizing the
4.3 issuance of obligations must also be included in the question.

4.4 The district must notify the commissioner of the results of the referendum.

4.5 Sec. 5. Minnesota Statutes 2010, section 123B.75, subdivision 5, is amended to read:

4.6 Subd. 5. **Levy recognition.** (a) For fiscal years 2009 and 2010, in June of each
4.7 year, the school district must recognize as revenue, in the fund for which the levy was
4.8 made, the lesser of:

4.9 (1) the sum of May, June, and July school district tax settlement revenue received in
4.10 that calendar year, plus general education aid according to section 126C.13, subdivision
4.11 4, received in July and August of that calendar year; or

4.12 (2) the sum of:

4.13 (i) 31 percent of the referendum levy certified according to section 126C.17, in
4.14 calendar year 2000; and

4.15 (ii) the entire amount of the levy certified in the prior calendar year according to
4.16 section 124D.86, subdivision 4, for school districts receiving revenue under sections
4.17 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, paragraph
4.18 (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48,
4.19 subdivision 6; plus

4.20 (iii) zero percent of the amount of the levy certified in the prior calendar year for the
4.21 school district's general and community service funds, plus or minus auditor's adjustments,
4.22 not including the levy portions that are assumed by the state, that remains after subtracting
4.23 the referendum levy certified according to section 126C.17 and the amount recognized
4.24 according to item (ii).

4.25 (b) For fiscal year 2011 and later years, in June of each year, the school district must
4.26 recognize as revenue, in the fund for which the levy was made, the lesser of:

4.27 (1) the sum of May, June, and July school district tax settlement revenue received in
4.28 that calendar year, plus general education aid according to section 126C.13, subdivision
4.29 4, received in July and August of that calendar year; or

4.30 (2) the sum of:

4.31 (i) the greater of 48.6 percent of the referendum levy certified according to section
4.32 126C.17 in the prior calendar year, or 31 percent of the referendum levy certified
4.33 according to section 126C.17 in calendar year 2000; plus

4.34 (ii) the entire amount of the levy certified in the prior calendar year according to
4.35 section 124D.4531, 124D.86, subdivision 4, for school districts receiving revenue under

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5.1 sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2,
5.2 paragraph (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; ~~126C.457;~~
5.3 and 126C.48, subdivision 6; plus

5.4 (iii) 48.6 percent of the amount of the levy certified in the prior calendar year for the
5.5 school district's general and community service funds, plus or minus auditor's adjustments,
5.6 not including the levy portions that are assumed by the state, that remains after subtracting
5.7 the referendum levy certified according to section 126C.17 and the amount recognized
5.8 according to item (ii).

5.9 Sec. 6. Minnesota Statutes 2010, section 125A.79, subdivision 1, is amended to read:

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

5.12 (a) "Unreimbursed special education cost" means the sum of the following:

5.13 (1) expenditures for teachers' salaries, contracted services, supplies, equipment, and
5.14 transportation services eligible for revenue under section 125A.76; plus

5.15 (2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and
5.16 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

5.17 (3) revenue for teachers' salaries, contracted services, supplies, equipment, and
5.18 transportation services under section 125A.76; minus

5.19 (4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services
5.20 eligible for revenue under section 125A.76, subdivision 2.

5.21 (b) "General revenue" for a school district means the sum of the general education
5.22 revenue according to section 126C.10, subdivision 1, excluding alternative teacher
5.23 compensation revenue, ~~plus the total qualifying referendum revenue specified in paragraph~~

5.24 ~~(c)~~ minus transportation sparsity revenue minus total operating capital revenue. "General
5.25 revenue" for a charter school means the sum of the general education revenue according to
5.26 section 124D.11, subdivision 1, and transportation revenue according to section 124D.11,
5.27 subdivision 2, excluding alternative teacher compensation revenue, minus referendum
5.28 equalization aid minus transportation sparsity revenue minus operating capital revenue.

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

5.30 (d) "Program growth factor" means 1.02 for fiscal year 2012 and later.

5.31 ~~(e) "Total qualifying referendum revenue" means two-thirds of the district's total~~
5.32 ~~referendum revenue as adjusted according to section 127A.47, subdivision 7, paragraphs~~
5.33 ~~(a) to (c), for fiscal year 2006, one-third of the district's total referendum revenue for fiscal~~
5.34 ~~year 2007, and none of the district's total referendum revenue for fiscal year 2008 and later.~~

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

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6.1 Sec. 7. Minnesota Statutes 2010, section 126C.10, subdivision 8a, is amended to read:

6.2 Subd. 8a. **Sparsity revenue for school districts that close facilities.** A school
6.3 district that closes a school facility is eligible for elementary and secondary sparsity
6.4 revenue equal to the greater of the amounts calculated under subdivisions 6, 7, and 8 or
6.5 the total amount of sparsity revenue for the previous fiscal year if the school board of the
6.6 district has adopted a written resolution stating that the district intends to close the school
6.7 facility, but cannot proceed with the closure without the adjustment to sparsity revenue
6.8 authorized by this subdivision. The written resolution must be approved by the school
6.9 board and filed with the commissioner of education at least 60 days prior to the start of the
6.10 fiscal year for which aid under this subdivision is first requested.

6.11 **EFFECTIVE DATE.** This section is effective for board resolutions approved by
6.12 the school board in fiscal year 2011 and later for sparsity revenue calculations in fiscal
6.13 year 2012 and later.

6.14 Sec. 8. Minnesota Statutes 2010, section 126C.41, subdivision 2, is amended to read:

6.15 Subd. 2. **Retired employee health benefits.** (a) A district may levy an amount up
6.16 to the amount the district is required by the collective bargaining agreement in effect
6.17 on March 30, 1992, to pay for health insurance or unreimbursed medical expenses for
6.18 licensed and nonlicensed employees who have terminated services in the employing
6.19 district and withdrawn from active teaching service or other active service, as applicable,
6.20 before July 1, 1992, and to pay for health insurance or unreimbursed medical expenses
6.21 for licensed and nonlicensed employees who have terminated services in the employing
6.22 district and withdrawn from active teaching service or other active service, as applicable
6.23 before July 1, 1998, only if a sunset clause is in effect for the current collective bargaining
6.24 agreement. The total amount of the levy each year may not exceed \$600,000.

6.25 (b) In addition to the levy authority granted under paragraph (a), a school district
6.26 may levy for other postemployment benefits expenses actually paid during the previous
6.27 fiscal year. For purposes of this subdivision, "postemployment benefits" means benefits
6.28 giving rise to a liability under Statement No. 45 of the Government Accounting Standards
6.29 Board. A district seeking levy authority under this subdivision must:

6.30 (1) create or have created an actuarial liability to pay postemployment benefits to
6.31 employees or officers after their termination of service;

6.32 (2) have a sunset clause in effect for the current collective bargaining agreement as
6.33 required by paragraph (a); and

6.34 (3) apply for the authority in the form and manner required by the commissioner
6.35 of education.

7.1 If the total levy authority requested under this paragraph exceeds the amount established
7.2 in paragraph (c), the commissioner must proportionately reduce each district's maximum
7.3 levy authority under this subdivision. The commissioner may subsequently adjust each
7.4 district's levy authority under this subdivision so long as the total levy authority does not
7.5 exceed the maximum levy authority for that year.

7.6 (c) The maximum levy authority under paragraph (b) must not exceed the following
7.7 amounts:

7.8 (1) \$9,242,000 for taxes payable in 2010;

7.9 (2) \$29,863,000 for taxes payable in 2011; and

7.10 (3) for taxes payable in 2012 and later, the maximum levy authority must not exceed
7.11 the sum of the previous year's authority and \$14,000,000.

7.12 Sec. 9. **REPEALER.**

7.13 Minnesota Statutes 2010, section 126C.457, is repealed.

7.14 **ARTICLE 2**

7.15 **EDUCATION EXCELLENCE**

7.16 Section 1. Minnesota Statutes 2010, section 120B.30, subdivision 1, is amended to read:

7.17 Subdivision 1. **Statewide testing.** (a) The commissioner, with advice from experts
7.18 with appropriate technical qualifications and experience and stakeholders, consistent with
7.19 subdivision 1a, shall include in the comprehensive assessment system, for each grade
7.20 level to be tested, state-constructed tests developed from and aligned with the state's
7.21 required academic standards under section 120B.021, include multiple choice questions,
7.22 and be administered annually to all students in grades 3 through 8. State-developed high
7.23 school tests aligned with the state's required academic standards under section 120B.021
7.24 and administered to all high school students in a subject other than writing must include
7.25 multiple choice questions. The commissioner shall establish one or more months during
7.26 which schools shall administer the tests to students each school year. For students enrolled
7.27 in grade 8 before the 2005-2006 school year, Minnesota basic skills tests in reading,
7.28 mathematics, and writing shall fulfill students' basic skills testing requirements for a
7.29 passing state notation. The passing scores of basic skills tests in reading and mathematics
7.30 are the equivalent of 75 percent correct for students entering grade 9 based on the first
7.31 uniform test administered in February 1998. Students who have not successfully passed
7.32 a Minnesota basic skills test by the end of the 2011-2012 school year must pass the
7.33 graduation-required assessments for diploma under paragraph (c).

8.1 (b) The state assessment system must be aligned to the most recent revision of
8.2 academic standards as described in section 120B.023 in the following manner:

8.3 (1) mathematics;

8.4 (i) grades 3 through 8 beginning in the 2010-2011 school year; and

8.5 (ii) high school level beginning in the 2013-2014 school year;

8.6 (2) science; grades 5 and 8 and at the high school level beginning in the 2011-2012
8.7 school year; and

8.8 (3) language arts and reading; grades 3 through 8 and high school level beginning in
8.9 the 2012-2013 school year.

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

8.12 (1) for reading and mathematics:

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

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

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

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

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

8.33 (2) for writing:

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

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

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

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

9.10 (d) Students enrolled in grade 8 in any school year from the 2005-2006 school
9.11 year to the 2009-2010 school year who do not pass the mathematics graduation-required
9.12 assessment for diploma under paragraph (c) are eligible to receive a high school diploma
9.13 if they:

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

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

9.17 (3) fully participate in at least two retests of the mathematics GRAD test or until
9.18 they pass the mathematics GRAD test, whichever comes first. A school, district, or
9.19 charter school must place on the high school transcript a student's highest current pass
9.20 status for each subject that has a required graduation assessment score for each of the
9.21 following assessments on the student's high school transcript: the mathematics Minnesota
9.22 Comprehensive Assessment, reading Minnesota Comprehensive Assessment, and writing
9.23 Graduation-Required Assessment for Diploma, and when applicable, the mathematics
9.24 Graduation-Required Assessment for Diploma and reading Graduation-Required
9.25 Assessment for Diploma.

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

9.30 (e) The 3rd through 8th grade and high school test results shall be available to
9.31 districts for diagnostic purposes affecting student learning and district instruction and
9.32 curriculum, and for establishing educational accountability. The commissioner must
9.33 disseminate to the public the high school test results upon receiving those results.

9.34 (f) The 3rd through 8th grade and high school tests must be aligned with state
9.35 academic standards. The commissioner shall determine the testing process and the order

10.1 of administration. The statewide results shall be aggregated at the site and district level,
10.2 consistent with subdivision 1a.

10.3 (g) In addition to the testing and reporting requirements under this section, the
10.4 commissioner shall include the following components in the statewide public reporting
10.5 system:

10.6 (1) uniform statewide testing of all students in grades 3 through 8 and at the high
10.7 school level that provides appropriate, technically sound accommodations or alternate
10.8 assessments;

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

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

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

10.17 Sec. 2. Minnesota Statutes 2010, section 120B.30, subdivision 3, is amended to read:

10.18 Subd. 3. **Reporting.** The commissioner shall report test ~~data~~ results publicly and
10.19 to stakeholders, including the performance achievement levels developed from students'
10.20 unweighted test scores in each tested subject and a listing of demographic factors that
10.21 strongly correlate with student performance. The test results must not include personally
10.22 identifiable information as defined in Code of Federal Regulations, title 34, section 99.3.

10.23 The commissioner shall also report data that compares performance results among school
10.24 sites, school districts, Minnesota and other states, and Minnesota and other nations. The
10.25 commissioner shall disseminate to schools and school districts a more comprehensive
10.26 report containing testing information that meets local needs for evaluating instruction
10.27 and curriculum.

10.28 Sec. 3. Minnesota Statutes 2010, section 120B.30, subdivision 4, is amended to read:

10.29 Subd. 4. **Access to tests.** Consistent with section 13.34, the commissioner must
10.30 adopt and publish a policy to provide public and parental access for review of basic skills
10.31 tests, Minnesota Comprehensive Assessments, or any other such statewide test and
10.32 assessment which would not compromise the objectivity or fairness of the testing or
10.33 examination process. Upon receiving a written request, the commissioner must make

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11.1 available to parents or guardians a copy of their student's actual responses to the test
11.2 questions for their review.

11.3 Sec. 4. Minnesota Statutes 2010, section 120B.31, subdivision 4, is amended to read:

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

11.16 Sec. 5. Minnesota Statutes 2010, section 120B.36, subdivision 1, is amended to read:

11.17 Subdivision 1. **School performance report cards.** (a) The commissioner
11.18 shall report student academic performance under section 120B.35, subdivision 2; the
11.19 percentages of students showing low, medium, and high growth under section 120B.35,
11.20 subdivision 3, paragraph (b); school safety and student engagement and connection
11.21 under section 120B.35, subdivision 3, paragraph (d); rigorous coursework under section
11.22 120B.35, subdivision 3, paragraph (c); two separate student-to-teacher ratios that clearly
11.23 indicate the definition of teacher consistent with sections 122A.06 and 122A.15 for
11.24 purposes of determining these ratios; staff characteristics excluding salaries; student
11.25 enrollment demographics; district mobility; and extracurricular activities. The report also
11.26 must indicate a school's adequate yearly progress status, and must not set any designations
11.27 applicable to high- and low-performing schools due solely to adequate yearly progress
11.28 status.

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

11.31 (c) The commissioner must make available performance report cards by the
11.32 beginning of each school year.

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

12.4 (e) School performance report card data are nonpublic data under section 13.02,
12.5 subdivision 9, until ~~not later than ten days after the appeal procedure described in~~
12.6 ~~paragraph (d) concludes~~ the commissioner publicly releases the data. The ~~department~~
12.7 commissioner shall annually post school performance report cards to ~~its~~ the department's
12.8 public web site no later than September 1, except that in years when the report card
12.9 reflects new performance standards, the commissioner shall post the school performance
12.10 report cards no later than October 1.

12.11 Sec. 6. Minnesota Statutes 2010, section 120B.36, subdivision 2, is amended to read:

12.12 Subd. 2. **Adequate yearly progress and other data.** All data the department
12.13 receives, collects, or creates to determine adequate yearly progress status under Public
12.14 Law 107-110, section 1116, set state growth targets, and determine student growth are
12.15 nonpublic data under section 13.02, subdivision 9, until ~~not later than ten days after the~~
12.16 ~~appeal procedure described in subdivision 1, paragraph (d), concludes~~ the commissioner
12.17 publicly releases the data. Districts must provide parents sufficiently detailed summary
12.18 data to permit parents to appeal under Public Law 107-110, section 1116(b)(2). The
12.19 ~~department~~ commissioner shall annually post federal adequate yearly progress data and
12.20 state student growth data to ~~its~~ the department's public Web site no later than September
12.21 1, except that in years when adequate yearly progress reflects new performance standards,
12.22 the commissioner shall post federal adequate yearly progress data and state student growth
12.23 data no later than October 1.

12.24 Sec. 7. Minnesota Statutes 2010, section 122A.16, as amended by Laws 2011, chapter
12.25 5, section 2, is amended to read:

12.26 **122A.16 HIGHLY QUALIFIED TEACHER DEFINED.**

12.27 (a) A qualified teacher is one holding a valid license, under this chapter, to perform
12.28 the particular service for which the teacher is employed in a public school.

12.29 (b) For the purposes of the federal No Child Left Behind Act, a highly qualified
12.30 teacher is one who holds a valid license under this chapter, including under section
12.31 122A.245, among other sections, ~~to perform the particular service for which the teacher is~~
12.32 ~~employed in a public school or who meets the requirements of a highly objective uniform~~
12.33 ~~state standard of evaluation (HOUSSE) and is determined by local administrators as~~
12.34 having highly qualified status in accordance with the approved Minnesota highly qualified

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13.1 plan. Teachers delivering core content instruction must be deemed highly qualified at the
13.2 local level and reported to the state via the staff automated reporting system.

13.3 ~~All Minnesota teachers teaching in a core academic subject area, as defined by the~~
13.4 ~~federal No Child Left Behind Act, in which they are not fully licensed may complete the~~
13.5 ~~following HOUSSE process in the core subject area for which the teacher is requesting~~
13.6 ~~highly qualified status by completing an application, in the form and manner described by~~
13.7 ~~the commissioner, that includes:~~

13.8 ~~(1) documentation of student achievement as evidenced by norm-referenced test~~
13.9 ~~results that are objective and psychometrically valid and reliable;~~

13.10 ~~(2) evidence of local, state, or national activities, recognition, or awards for~~
13.11 ~~professional contribution to achievement;~~

13.12 ~~(3) description of teaching experience in the teachers' core subject area in a public~~
13.13 ~~school under a waiver, variance, limited license or other exception; nonpublic school; and~~
13.14 ~~postsecondary institution;~~

13.15 ~~(4) test results from the Praxis II content test;~~

13.16 ~~(5) evidence of advanced certification from the National Board for Professional~~
13.17 ~~Teaching Standards;~~

13.18 ~~(6) evidence of the successful completion of course work or pedagogy courses; and~~

13.19 ~~(7) evidence of the successful completion of high quality professional development~~
13.20 ~~activities.~~

13.21 ~~Districts must assign a school administrator to serve as a HOUSSE reviewer to~~
13.22 ~~meet with teachers under this paragraph and, where appropriate, certify the teachers'~~
13.23 ~~applications. Teachers satisfy the definition of highly qualified when the teachers receive~~
13.24 ~~at least 100 of the total number of points used to measure the teachers' content expertise~~
13.25 ~~under clauses (1) to (7). Teachers may acquire up to 50 points only in any one clause (1)~~
13.26 ~~to (7). Teachers may use the HOUSSE process to satisfy the definition of highly qualified~~
13.27 ~~for more than one subject area.~~

13.28 ~~(c) Achievement of the HOUSSE criteria is not equivalent to a license. A teacher~~
13.29 ~~must obtain permission from the Board of Teaching in order to teach in a public school.~~

13.30 **EFFECTIVE DATE.** This section is effective for the 2011-2012 school year and
13.31 later.

13.32 Sec. 8. Minnesota Statutes 2010, section 124D.091, subdivision 2, is amended to read:

13.33 Subd. 2. **Eligibility.** A district that offers a concurrent enrollment course according
13.34 to an agreement under section 124D.09, subdivision 10, is eligible to receive aid for the
13.35 costs of providing postsecondary courses at the high school. Beginning in fiscal year 2011,

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14.1 districts only are eligible for aid if the college or university concurrent enrollment courses
14.2 offered by the district are accredited by the National Alliance of Concurrent Enrollment
14.3 Partnership, in the process of being accredited, or are shown by clear evidence to be of
14.4 comparable standard to accredited courses, or are technical courses within a recognized
14.5 career and technical education program of study approved by the commissioner of
14.6 education and the chancellor of the Minnesota State Colleges and Universities.

14.7 Sec. 9. Minnesota Statutes 2010, section 124D.10, subdivision 3, is amended to read:

14.8 Subd. 3. **Authorizer.** (a) For purposes of this section, the terms defined in this
14.9 subdivision have the meanings given them.

14.10 "Application" to receive approval as an authorizer means the proposal an eligible
14.11 authorizer submits to the commissioner under paragraph (c) before that authorizer is able
14.12 to submit any affidavit to charter to a school.

14.13 "Application" under subdivision 4 means the charter school business plan a
14.14 school developer submits to an authorizer for approval to establish a charter school that
14.15 documents the school developer's mission statement, school purposes, program design,
14.16 financial plan, governance and management structure, and background and experience,
14.17 plus any other information the authorizer requests. The application also shall include a
14.18 "statement of assurances" of legal compliance prescribed by the commissioner.

14.19 "Affidavit" means a written statement the authorizer submits to the commissioner
14.20 for approval to establish a charter school under subdivision 4 attesting to its review and
14.21 approval process before chartering a school.

14.22 "Affidavit" means the form an authorizer submits to the commissioner that is a
14.23 precondition to a charter school organizing an affiliated nonprofit building corporation
14.24 under subdivision 17a.

14.25 (b) The following organizations may authorize one or more charter schools:

14.26 (1) a school board; intermediate school district school board; education district
14.27 organized under sections 123A.15 to 123A.19;

14.28 (2) a charitable organization under section 501(c)(3) of the Internal Revenue Code of
14.29 1986, excluding a nonpublic sectarian or religious institution without an approved affidavit
14.30 by the commissioner prior to July 1, 2009, and any person other than a natural person that
14.31 directly or indirectly, through one or more intermediaries, controls, is controlled by, or
14.32 is under common control with the nonpublic sectarian or religious institution, and any
14.33 other charitable organization under this clause that in the federal IRS Form 1023, Part
14.34 IV, describes activities indicating a religious purpose, that:

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15.1 (i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on
15.2 Foundations;

15.3 (ii) is registered with the attorney general's office; and

15.4 (iii) ~~reports an end-of-year fund balance of at least \$2,000,000; and~~

15.5 ~~(iv)~~ is incorporated in the state of Minnesota and has been operating continuously
15.6 for at least five years but does not operate a charter school;

15.7 (3) a Minnesota private college, notwithstanding clause (2), that grants two- or
15.8 four-year degrees and is registered with the Minnesota Office of Higher Education under
15.9 chapter 136A; community college, state university, or technical college governed by the
15.10 Board of Trustees of the Minnesota State Colleges and Universities; or the University of
15.11 Minnesota; or

15.12 (4) a nonprofit corporation subject to chapter 317A, described in section 317A.905,
15.13 and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code
15.14 of 1986, may authorize one or more charter schools if the charter school has operated
15.15 for at least three years under a different authorizer and if the nonprofit corporation has
15.16 existed for at least 25 years.

15.17 (5) ~~no more than three~~ single-purpose authorizers that are charitable, nonsectarian
15.18 organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 and
15.19 incorporated in the state of Minnesota whose sole purpose is to charter schools. Eligible
15.20 organizations interested in being approved as an authorizer under this paragraph must
15.21 submit a proposal to the commissioner that includes the provisions of paragraph (c) and
15.22 a five-year financial plan. Such authorizers shall consider and approve applications
15.23 using the criteria provided in subdivision 4 and shall not limit the applications it solicits,
15.24 considers, or approves to any single curriculum, learning program, or method.

15.25 (c) An eligible authorizer under this subdivision must apply to the commissioner for
15.26 approval as an authorizer before submitting any affidavit to the commissioner to charter
15.27 a school. The application for approval as a charter school authorizer must demonstrate
15.28 the applicant's ability to implement the procedures and satisfy the criteria for chartering a
15.29 school under this section. The commissioner must approve or disapprove an application
15.30 within 60 business days of the application deadline. If the commissioner disapproves
15.31 the application, the commissioner must notify the applicant of the deficiencies and the
15.32 applicant then has 20 business days to address the deficiencies to the commissioner's
15.33 satisfaction. Failing to address the deficiencies to the commissioner's satisfaction makes
15.34 an applicant ineligible to be an authorizer. The commissioner, in establishing criteria for
15.35 approval, must consider the applicant's:

15.36 (1) capacity and infrastructure;

16.1 (2) application criteria and process;

16.2 (3) contracting process;

16.3 (4) ongoing oversight and evaluation processes; and

16.4 (5) renewal criteria and processes.

16.5 (d) The ~~affidavit~~ application for approval to be submitted to and evaluated by the
16.6 commissioner must include at least the following:

16.7 (1) how chartering schools is a way for the organization to carry out its mission;

16.8 (2) a description of the capacity of the organization to serve as an authorizer,
16.9 including the personnel who will perform the authorizing duties, their qualifications, the
16.10 amount of time they will be assigned to this responsibility, and the financial resources
16.11 allocated by the organization to this responsibility;

16.12 (3) a description of the application and review process the authorizer will use to make
16.13 decisions regarding the granting of charters, which will include at least the following:

16.14 (i) how the statutory purposes defined in subdivision 1 are addressed;

16.15 (ii) the mission, goals, program model, and student performance expectations;

16.16 (iii) an evaluation plan for the school that includes criteria for evaluating educational,
16.17 organizational, and fiscal plans;

16.18 (iv) the school's governance plan;

16.19 (v) the financial management plan; and

16.20 (vi) the administration and operations plan;

16.21 (4) a description of the type of contract it will arrange with the schools it charters
16.22 that meets the provisions of subdivision 6 and defines the rights and responsibilities of the
16.23 charter school for governing its educational program, controlling its funds, and making
16.24 school management decisions;

16.25 (5) the process to be used for providing ongoing oversight of the school consistent
16.26 with the contract expectations specified in clause (4) that assures that the schools chartered
16.27 are complying with both the provisions of applicable law and rules, and with the contract;

16.28 (6) the process for making decisions regarding the renewal or termination of
16.29 the school's charter based on evidence that demonstrates the academic, organizational,
16.30 and financial competency of the school, including its success in increasing student
16.31 achievement and meeting the goals of the charter school agreement; and

16.32 (7) an assurance specifying that the organization is committed to serving as an
16.33 authorizer for the full five-year term.

16.34 A disapproved applicant under this paragraph may resubmit an application during a
16.35 future application period.

16.36 (e) The authorizer must participate in department-approved training.

17.1 (f) An authorizer that chartered a school before August 1, 2009, must apply by June
17.2 30, ~~2011~~ 2012, to the commissioner for approval, under paragraph (c), to continue as an
17.3 authorizer under this section. For purposes of this paragraph, an authorizer that fails to
17.4 submit a timely application is ineligible to charter a school.

17.5 (g) The commissioner shall review an authorizer's performance every five years in
17.6 a manner and form determined by the commissioner and may review an authorizer's
17.7 performance more frequently at the commissioner's own initiative or at the request of a
17.8 charter school operator, charter school board member, or other interested party. The
17.9 commissioner, after completing the review, shall transmit a report with findings to the
17.10 authorizer. If, consistent with this section, the commissioner finds that an authorizer
17.11 has not fulfilled the requirements of this section, the commissioner may subject the
17.12 authorizer to corrective action, which may include terminating the contract with the
17.13 charter school board of directors of a school it chartered. The commissioner must notify
17.14 the authorizer in writing of any findings that may subject the authorizer to corrective
17.15 action and the authorizer then has 15 business days to request an informal hearing before
17.16 the commissioner takes corrective action.

17.17 (h) The commissioner may at any time take corrective action against an authorizer,
17.18 including terminating an authorizer's ability to charter a school for:

17.19 (1) failing to demonstrate the criteria under paragraph (c) under which the
17.20 commissioner approved the authorizer;

17.21 (2) violating a term of the chartering contract between the authorizer and the charter
17.22 school board of directors; or

17.23 (3) unsatisfactory performance as an approved authorizer.

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

17.25 Sec. 10. Minnesota Statutes 2010, section 124D.10, subdivision 4, is amended to read:

17.26 Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from
17.27 a school developer, may charter a licensed teacher under section 122A.18, subdivision
17.28 1, or a group of individuals that includes one or more licensed teachers under section
17.29 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the
17.30 authorizer's affidavit under paragraph (b). The school must be organized and operated
17.31 as a cooperative under chapter 308A or nonprofit corporation under chapter 317A and
17.32 the provisions under the applicable chapter shall apply to the school except as provided
17.33 in this section.

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18.1 Notwithstanding sections 465.717 and 465.719, a school district, subject to this
18.2 section and section 124D.11, may create a corporation for the purpose of establishing a
18.3 charter school.

18.4 (b) Before the operators may establish and operate a school, the authorizer must file
18.5 an affidavit with the commissioner stating its intent to charter a school. An authorizer
18.6 must file a separate affidavit for each school it intends to charter. The affidavit must
18.7 state the terms and conditions under which the authorizer would charter a school and
18.8 how the authorizer intends to oversee the fiscal and student performance of the charter
18.9 school and to comply with the terms of the written contract between the authorizer
18.10 and the charter school board of directors under subdivision 6. The commissioner must
18.11 approve or disapprove the authorizer's affidavit within 60 business days of receipt of the
18.12 affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify
18.13 the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business
18.14 days to address the deficiencies. If the authorizer does not address deficiencies to the
18.15 commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain
18.16 commissioner approval precludes an authorizer from chartering the school that is the
18.17 subject of this affidavit.

18.18 (c) The authorizer may prevent an approved charter school from opening for
18.19 operation if, among other grounds, the charter school violates this section or does not meet
18.20 the ready-to-open standards that are part of the authorizer's oversight and evaluation
18.21 process or are stipulated in the charter school contract.

18.22 (d) The operators authorized to organize and operate a school, before entering into a
18.23 contract or other agreement for professional or other services, goods, or facilities, must
18.24 incorporate as a cooperative under chapter 308A or as a nonprofit corporation under
18.25 chapter 317A and must establish a board of directors composed of at least five members
18.26 who are not related parties until a timely election for members of the ongoing charter
18.27 school board of directors is held according to the school's articles and bylaws under
18.28 paragraph (f). A charter school board of directors must be composed of at least five
18.29 members who are not related parties. Staff members employed at the school, including
18.30 teachers providing instruction under a contract with a cooperative, and all parents or legal
18.31 guardians of children enrolled in the school are the voters eligible to elect the members
18.32 of the school's board of directors. A charter school must notify eligible voters of the
18.33 school board election dates at least 30 days before the election. Board of director meetings
18.34 must comply with chapter 13D.

18.35 (e) Upon the request of an individual, the charter school must make available in
18.36 a timely fashion the minutes of meetings of the board of directors, and of members

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19.1 and committees having any board-delegated authority; financial statements showing all
19.2 operations and transactions affecting income, surplus, and deficit during the school's last
19.3 annual accounting period; and a balance sheet summarizing assets and liabilities on the
19.4 closing date of the accounting period. A charter school also must post on its official Web
19.5 site information identifying its authorizer and indicate how to contact that authorizer and
19.6 include that same information about its authorizer in other school materials that it makes
19.7 available to the public.

19.8 (f) Every charter school board member shall attend department-approved training
19.9 on board governance, the board's role and responsibilities, employment policies and
19.10 practices, and financial management. A board member who does not begin the required
19.11 training within six months of being seated and complete the required training within 12
19.12 months of being seated on the board is ineligible to continue to serve as a board member.

19.13 (g) The ongoing board must be elected before the school completes its third year
19.14 of operation. Board elections must be held during a time when school is in session. The
19.15 charter school board of directors shall be composed of at least five nonrelated members
19.16 and include: (i) at least one licensed teacher employed and serving as a teacher at the
19.17 school or a licensed teacher providing instruction under a ~~contract~~ contract between the
19.18 charter school and a cooperative; (ii) the parent or legal guardian of a student enrolled
19.19 in the charter school who is not employed by the charter school; and (iii) an interested
19.20 community member who is not employed by the charter school and does not have a child
19.21 enrolled in the school. The board may be a teacher majority board composed of teachers
19.22 described in this paragraph. The chief financial officer and the chief administrator ~~are~~ may
19.23 only serve as ex-officio nonvoting board members and shall not serve as a voting member
19.24 of the board. Charter school employees shall not serve on the board unless item (i) applies.
19.25 Contractors providing facilities, goods, or services to a charter school shall not serve on
19.26 the board of directors of the charter school. Board bylaws shall outline the process and
19.27 procedures for changing the board's governance model, consistent with chapter 317A. A
19.28 board may change its governance model only:

19.29 (1) by a majority vote of the board of directors and the licensed teachers employed
19.30 by the school, including licensed teachers providing instruction under a contract between
19.31 the school and a cooperative; and

19.32 (2) with the authorizer's approval.

19.33 Any change in board governance must conform with the board structure established
19.34 under this paragraph.

19.35 (h) The granting or renewal of a charter by an authorizer must not be conditioned
19.36 upon the bargaining unit status of the employees of the school.

20.1 (i) The granting or renewal of a charter school by an authorizer must not be
20.2 contingent on the charter school being required to contract, lease, or purchase services
20.3 from the authorizer. Any potential contract, lease, or purchase of service from an
20.4 authorizer must be disclosed to the commissioner, accepted through an open bidding
20.5 process, and be a separate contract from the charter contract. The school must document
20.6 the open bidding process. An authorizer must not enter into a contract to provide
20.7 management and financial services for a school that it authorizes, unless the school
20.8 documents that it received at least two competitive bids.

20.9 (j) An authorizer may permit the board of directors of a charter school to expand
20.10 the operation of the charter school to additional sites or to add additional grades at the
20.11 school beyond those described in the authorizer's original affidavit as approved by
20.12 the commissioner only after submitting a supplemental affidavit for approval to the
20.13 commissioner in a form and manner prescribed by the commissioner. The supplemental
20.14 affidavit must show that:

20.15 (1) the expansion proposed by the charter school is supported by need and projected
20.16 enrollment;

20.17 (2) the charter school expansion is warranted, at a minimum, by longitudinal data
20.18 demonstrating students' improved academic performance and growth on statewide
20.19 assessments under chapter 120B;

20.20 (3) the charter school is fiscally sound and has the financial capacity to implement
20.21 the proposed expansion; and

20.22 (4) the authorizer finds that the charter school has the management capacity to
20.23 carry out its expansion.

20.24 (k) The commissioner shall have 30 business days to review and comment on the
20.25 supplemental affidavit. The commissioner shall notify the authorizer of any deficiencies in
20.26 the supplemental affidavit and the authorizer then has 30 business days to address, to the
20.27 commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school
20.28 may not expand grades or add sites until the commissioner has approved the supplemental
20.29 affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

20.30 Sec. 11. Minnesota Statutes 2010, section 124D.10, subdivision 6a, is amended to read:

20.31 Subd. 6a. **Audit report.** (a) The charter school must submit an audit report to the
20.32 commissioner and its authorizer by December 31 each year.

20.33 (b) The charter school, with the assistance of the auditor conducting the audit, must
20.34 include with the report a copy of all charter school agreements for corporate management
20.35 services. If the entity that provides the professional services to the charter school is

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21.1 exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity
21.2 must file with the commissioner by February 15 a copy of the annual return required under
21.3 section 6033 of the Internal Revenue Code of 1986.

21.4 (c) If the commissioner receives an audit report indicating that a material weakness
21.5 exists in the financial reporting systems of a charter school, the charter school must
21.6 submit a written report to the commissioner explaining how the material weakness will
21.7 be resolved. An entity, as a condition of providing financial services to a charter school,
21.8 must agree to make available information about a charter school's financial audit to the
21.9 commissioner upon request.

21.10 Sec. 12. Minnesota Statutes 2010, section 124D.11, subdivision 9, is amended to read:

21.11 Subd. 9. **Payment of aids to charter schools.** (a) Notwithstanding section 127A.45,
21.12 subdivision 3, aid payments for the current fiscal year to a charter school shall be of an
21.13 equal amount on each of the 24 payment dates.

21.14 (b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing
21.15 operation on or prior to June 30 of a school year, for the payment periods occurring after
21.16 the school ceases serving students, the commissioner shall withhold the estimated state aid
21.17 owed the school. The charter school board of directors and authorizer must submit to the
21.18 commissioner a closure plan under chapter 308A or 317A, and financial information about
21.19 the school's liabilities and assets. After receiving the closure plan, financial information,
21.20 an audit of pupil counts, documentation of lease expenditures, and monitoring of special
21.21 education expenditures, the commissioner may release cash withheld and may continue
21.22 regular payments up to the current year payment percentages if further amounts are
21.23 owed. If, based on audits and monitoring, the school received state aid in excess of the
21.24 amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid
21.25 overpayment. For a charter school ceasing operations prior to, or at the end of, a school
21.26 year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may
21.27 be made after receiving the closure plan, audit of pupil counts, monitoring of special
21.28 education expenditures, documentation of lease expenditures, and school submission of
21.29 Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the
21.30 final year of operation. Final payment may be made upon receipt of audited financial
21.31 statements under section 123B.77, subdivision 3.

21.32 (c) If a charter school fails to comply with the commissioner's directive to return,
21.33 for cause, federal or state funds administered by the department, the commissioner may
21.34 withhold an amount of state aid sufficient to satisfy the directive.

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22.1 (d) If, within the timeline under section 471.425, a charter school fails to pay the state
22.2 of Minnesota, a school district, intermediate school district, or service cooperative after
22.3 receiving an undisputed invoice for goods and services, the commissioner may withhold
22.4 an amount of state aid sufficient to satisfy the claim and shall distribute the withheld
22.5 aid to the interested state agency, school district, intermediate school district, or service
22.6 cooperative. An interested state agency, school district, intermediate school district, or
22.7 education cooperative shall notify the commissioner when a charter school fails to pay an
22.8 undisputed invoice within 75 business days of when it received the original invoice.

22.9 (e) Notwithstanding section 127A.45, subdivision 3, and paragraph (a), 80 percent
22.10 of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day
22.11 of student attendance for that school year.

22.12 (f) In order to receive state aid payments under this subdivision, a charter school in
22.13 its first three years of operation must submit a school calendar in the form and manner
22.14 requested by the department and a quarterly report to the Department of Education. The
22.15 report must list each student by grade, show the student's start and end dates, if any,
22.16 with the charter school, and for any student participating in a learning year program,
22.17 the report must list the hours and times of learning year activities. The report must be
22.18 submitted not more than two weeks after the end of the calendar quarter to the department.
22.19 The department must develop a Web-based reporting form for charter schools to use
22.20 when submitting enrollment reports. A charter school in its fourth and subsequent year of
22.21 operation must submit a school calendar and enrollment information to the department in
22.22 the form and manner requested by the department.

22.23 (g) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter
22.24 school and satisfaction of creditors, cash and investment balances remaining shall be
22.25 returned to the state.

22.26 (h) A charter school must have a valid, signed contract under section 124D.10,
22.27 subdivision 6, on file at the Department of Education at least 15 days prior to the date of
22.28 first payment of state aid for the fiscal year.

22.29 (i) State aid entitlements shall be computed for a charter school only for the
22.30 portion of a school year for which it has a valid, signed contract under section 124D.10,
22.31 subdivision 6.

22.32 **ARTICLE 3**

22.33 **SPECIAL PROGRAMS**

22.34 Section 1. Minnesota Statutes 2010, section 125A.02, subdivision 1, is amended to
22.35 read:

23.1 Subdivision 1. **Child with a disability.** "Child with a disability" means a child
23.2 identified under federal and state special education law as ~~having a hearing impairment,~~
23.3 ~~blindness, visual disability,~~ deaf or hard-of-hearing, blind or visually impaired, deafblind,
23.4 or having a speech or language impairment, a physical disability impairment, other health
23.5 impairment disability, mental developmental cognitive disability, emotional/behavioral an
23.6 emotional or behavioral disorder, specific learning disability, autism spectrum disorder,
23.7 traumatic brain injury, or severe multiple disabilities impairments, or deafblind disability
23.8 and who needs special education and related services, as determined by the rules of the
23.9 commissioner, ~~is a child with a disability.~~ A licensed physician, an advanced practice
23.10 nurse, or a licensed psychologist is qualified to make a diagnosis and determination
23.11 of attention deficit disorder or attention deficit hyperactivity disorder for purposes of
23.12 identifying a child with a disability.

23.13 **EFFECTIVE DATE.** This section is effective July 1, 2011.

23.14 Sec. 2. Minnesota Statutes 2010, section 125A.15, is amended to read:

23.15 **125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.**

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

23.19 (a) The district of residence of a child shall be the district in which the child's parent
23.20 resides, if living, or the child's guardian, ~~or the district designated by the commissioner~~
23.21 ~~if neither parent nor guardian is living within the state.~~ If there is a dispute between
23.22 school districts regarding residency, the district of residence is the district designated by
23.23 the commissioner.

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

23.33 (c) When a child is temporarily placed for care and treatment in a day program
23.34 located in another district and the child continues to live within the district of residence

24.1 during the care and treatment, the district of residence is responsible for providing
24.2 transportation to and from the care and treatment program and an appropriate educational
24.3 program for the child. The resident district may establish reasonable restrictions on
24.4 transportation, except if a Minnesota court or agency orders the child placed at a day care
24.5 and treatment program and the resident district receives a copy of the order, then the
24.6 resident district must provide transportation to and from the program unless the court or
24.7 agency orders otherwise. Transportation shall only be provided by the resident district
24.8 during regular operating hours of the resident district. The resident district may provide the
24.9 educational program at a school within the district of residence, at the child's residence, or
24.10 in the district in which the day treatment center is located by paying tuition to that district.

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

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

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

25.1 Sec. 3. Minnesota Statutes 2010, section 125A.51, is amended to read:

25.2 **125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES;**
25.3 **EDUCATION AND TRANSPORTATION.**

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

25.8 (a) The school district of residence of the pupil is the district in which the pupil's
25.9 parent or guardian resides. If there is a dispute between school districts regarding
25.10 residency, the district of residence is the district designated by the commissioner.

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

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

25.24 (d) When a pupil without a disability is temporarily placed for care and treatment
25.25 in a day program and the pupil continues to live within the district of residence during
25.26 the care and treatment, the district of residence must provide instruction and necessary
25.27 transportation to and from the care and treatment program for the pupil. The resident
25.28 district may establish reasonable restrictions on transportation, except if a Minnesota court
25.29 or agency orders the child placed at a day care and treatment program and the resident
25.30 district receives a copy of the order, then the resident district must provide transportation
25.31 to and from the program unless the court or agency orders otherwise. Transportation shall
25.32 only be provided by the resident district during regular operating hours of the resident
25.33 district. The resident district may provide the instruction at a school within the district of
25.34 residence, at the pupil's residence, or in the case of a placement outside of the resident
25.35 district, in the district in which the day treatment program is located by paying tuition to

26.1 that district. The district of placement may contract with a facility to provide instruction
26.2 by teachers licensed by the state Board of Teaching.

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

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

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

26.27 **Sec. 4. REPEALER.**

26.28 Minnesota Statutes 2010, section 125A.54, is repealed.

26.29 **ARTICLE 4**

26.30 **FACILITIES AND TECHNOLOGY**

26.31 Section 1. Minnesota Statutes 2010, section 123B.57, is amended to read:

26.32 **123B.57 CAPITAL EXPENDITURE; HEALTH AND SAFETY.**

27.1 Subdivision 1. **Health and safety program revenue application.** (a) To receive
27.2 health and safety revenue for any fiscal year a district must submit to the commissioner
27.3 ~~an a capital expenditure health and safety revenue application for aid and levy~~ by the
27.4 date determined by the commissioner. ~~The application may be for hazardous substance~~
27.5 ~~removal, fire and life safety code repairs, labor and industry regulated facility and~~
27.6 ~~equipment violations, and health, safety, and environmental management, including~~
27.7 ~~indoor air quality management.~~ The application must include a health and safety program
27.8 budget adopted and confirmed by the school district board as being consistent with the
27.9 district's health and safety policy under subdivision 2. The ~~program~~ budget must include
27.10 the estimated cost, ~~per building,~~ of the program per Uniform Financial Accounting and
27.11 Reporting Standards (UFARS) finance code, by fiscal year. Upon approval through the
27.12 adoption of a resolution by each of an intermediate district's member school district
27.13 boards and the approval of the Department of Education, a school district may include
27.14 its proportionate share of the costs of health and safety projects for an intermediate
27.15 district in its application.

27.16 (b) Health and safety projects with an estimated cost of \$500,000 or more per
27.17 site are not eligible for health and safety revenue. Health and safety projects with an
27.18 estimated cost of \$500,000 or more per site that meet all other requirements for health and
27.19 safety funding, are eligible for alternative facilities bonding and levy revenue according
27.20 to section 123B.59. A school board shall not separate portions of a single project into
27.21 components to qualify for health and safety revenue, and shall not combine unrelated
27.22 projects into a single project to qualify for alternative facilities bonding and levy revenue.

27.23 (c) The commissioner of education shall not make eligibility for health and safety
27.24 revenue contingent on a district's compliance status, level of program development, or
27.25 training. The commissioner shall not mandate additional performance criteria such as
27.26 training, certifications, or compliance evaluations as a prerequisite for levy approval.

27.27 Subd. 2. ~~Contents of program~~ **Health and safety policy.** To qualify for health
27.28 and safety revenue, a district school board must adopt a health and safety program policy.
27.29 The program policy must include plans, where applicable, for hazardous substance
27.30 removal, fire and life safety code repairs, regulated facility and equipment violations,
27.31 and provisions for implementing a health and safety program that complies with health,
27.32 safety, and environmental management, regulations and best practices including indoor
27.33 air quality management.

27.34 (a) ~~A hazardous substance plan must contain provisions for the removal or~~
27.35 ~~encapsulation of asbestos from school buildings or property, asbestos-related repairs,~~
27.36 ~~cleanup and disposal of polychlorinated biphenyls found in school buildings or property,~~

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28.1 ~~and cleanup, removal, disposal, and repairs related to storing heating fuel or transportation~~
28.2 ~~fuels such as alcohol, gasoline, fuel, oil, and special fuel, as defined in section 296A.01.~~
28.3 ~~If a district has already developed a plan for the removal or encapsulation of asbestos as~~
28.4 ~~required by the federal Asbestos Hazard Emergency Response Act of 1986, the district~~
28.5 ~~may use a summary of that plan, which includes a description and schedule of response~~
28.6 ~~actions, for purposes of this section. The plan must also contain provisions to make~~
28.7 ~~modifications to existing facilities and equipment necessary to limit personal exposure~~
28.8 ~~to hazardous substances, as regulated by the federal Occupational Safety and Health~~
28.9 ~~Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or is~~
28.10 ~~determined by the commissioner to present a significant risk to district staff or student~~
28.11 ~~health and safety as a result of foreseeable use, handling, accidental spill, exposure, or~~
28.12 ~~contamination.~~

28.13 ~~(b) A fire and life safety plan must contain a description of the current fire and life~~
28.14 ~~safety code violations, a plan for the removal or repair of the fire and life safety hazard,~~
28.15 ~~and a description of safety preparation and awareness procedures to be followed until the~~
28.16 ~~hazard is fully corrected.~~

28.17 ~~(c) A facilities and equipment violation plan must contain provisions to correct~~
28.18 ~~health and safety hazards as provided in Department of Labor and Industry standards~~
28.19 ~~pursuant to section 182.655.~~

28.20 ~~(d) A health, safety, and environmental management plan must contain a description~~
28.21 ~~of training, record keeping, hazard assessment, and program management as defined~~
28.22 ~~in section 123B.56.~~

28.23 ~~(e) A plan to test for and mitigate radon produced hazards.~~

28.24 ~~(f) A plan to monitor and improve indoor air quality.~~

28.25 **Subd. 3. Health and safety revenue.** A district's health and safety revenue
28.26 for a fiscal year equals the district's alternative facilities levy under section 123B.59,
28.27 subdivision 5, paragraph (b), plus the greater of zero or:

28.28 (1) the sum of (a) the total approved cost of the district's hazardous substance
28.29 plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's
28.30 health and safety program for fiscal year 1990 through the fiscal year to which the levy
28.31 is attributable, excluding expenditures funded with bonds issued under section 123B.59
28.32 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section
28.33 123B.61; levies under section 123B.58, 123B.59, 123B.63, or 126C.40, subdivision 1 or
28.34 6; and other federal, state, or local revenues, minus

28.35 (2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years
28.36 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the

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29.1 district's health and safety revenue under this subdivision, for years before the fiscal year
29.2 to which the levy is attributable.

29.3 Subd. 4. **Health and safety levy.** To receive health and safety revenue, a district
29.4 may levy an amount equal to the district's health and safety revenue as defined in
29.5 subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by
29.6 dividing the adjusted net tax capacity of the district for the year preceding the year the
29.7 levy is certified by the adjusted marginal cost pupil units in the district for the school year
29.8 to which the levy is attributable, to \$2,935.

29.9 Subd. 5. **Health and safety aid.** A district's health and safety aid is the difference
29.10 between its health and safety revenue and its health and safety levy. If a district does not
29.11 levy the entire amount permitted, health and safety aid must be reduced in proportion to
29.12 the actual amount levied. Health and safety aid may not be reduced as a result of reducing
29.13 a district's health and safety levy according to section 123B.79.

29.14 Subd. 6. **Uses of health and safety revenue.** ~~(a)~~ Health and safety revenue may be
29.15 used only for approved expenditures necessary ~~to correct~~ for the correction of fire and life
29.16 safety hazards; or for the; design, purchase, installation, maintenance, and inspection of
29.17 fire protection and alarm equipment; purchase or construction of appropriate facilities for
29.18 the storage of combustible and flammable materials; inventories and facility modifications
29.19 not related to a remodeling project to comply with lab safety requirements under section
29.20 121A.31; inspection, testing, repair, removal or encapsulation, and disposal of asbestos
29.21 from school buildings or property owned or being acquired by the district, asbestos-related
29.22 repairs, asbestos-containing building materials; cleanup and disposal of polychlorinated
29.23 biphenyls found in school buildings or property owned or being acquired by the district,
29.24 or the; cleanup and disposal of hazardous and infectious wastes; cleanup, removal,
29.25 disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol,
29.26 gasoline, fuel oil, and special fuel, as defined in section 296A.01, Minnesota; correction of
29.27 occupational safety and health administration regulated facility and equipment hazards;;
29.28 indoor air quality inspections, investigations, and testing; mold abatement; upgrades or
29.29 replacement of mechanical ventilation systems to meet American Society of Heating,
29.30 Refrigerating and Air Conditioning Engineers standards and State Mechanical Code;;
29.31 design, materials, and installation of local exhaust ventilation systems, including required
29.32 make-up air for controlling regulated hazardous substances; correction of Department
29.33 of Health Food Code and violations; correction of swimming pool hazards excluding
29.34 depth correction; playground safety inspections, the repair of unsafe outdoor playground
29.35 equipment, and the installation of impact surfacing materials; bleacher repair or rebuilding
29.36 to comply with the order of a building code inspector under section 326B.112; testing and

30.1 mitigation of elevated radon hazards; lead testing; copper in water testing; cleanup after
30.2 major weather-related disasters or flooding; reduction of excessive organic and inorganic
30.3 levels in wells and capping of abandoned wells; installation and testing of boiler backflow
30.4 valves to prevent contamination of potable water; vaccinations, titers, and preventative
30.5 supplies for bloodborne pathogen compliance; costs to comply with the Janet B. Johnson
30.6 Parents' Right to Know Act; automated external defibrillators and other emergency plan
30.7 equipment and supplies specific to the district's emergency action plan; and health, safety,
30.8 and environmental management costs associated with implementing the district's health
30.9 and safety program including costs to establish and operate safety committees, in school
30.10 buildings or property owned or being acquired by the district. Testing and calibration
30.11 activities are permitted for existing mechanical ventilation systems at intervals no less than
30.12 every five years. Health and safety revenue must not be used to finance a lease purchase
30.13 agreement, installment purchase agreement, or other deferred payments agreement. Health
30.14 and safety revenue must not be used for the construction of new facilities or the purchase
30.15 of portable classrooms, for interest or other financing expenses, or for energy efficiency
30.16 projects under section 123B.65. The revenue may not be used for a building or property or
30.17 part of a building or property used for postsecondary instruction or administration or for a
30.18 purpose unrelated to elementary and secondary education.

30.19 Subd. 6a. **Restrictions on health and safety revenue.** (b) Notwithstanding
30.20 paragraph (a) subdivision 6, health and safety revenue must not be used:

30.21 (1) to finance a lease purchase agreement, installment purchase agreement, or other
30.22 deferred payments agreement;

30.23 (2) for the construction of new facilities, remodeling of existing facilities, or the
30.24 purchase of portable classrooms;

30.25 (3) for interest or other financing expenses;

30.26 (4) for energy efficiency projects under section 123B.65, for a building or property
30.27 or part of a building or property used for postsecondary instruction or administration or for
30.28 a purpose unrelated to elementary and secondary education;

30.29 (5) for replacement of building materials or facilities including roof, walls, windows,
30.30 internal fixtures and flooring, nonhealth and safety costs associated with demolition of
30.31 facilities, structural repair or replacement of facilities due to unsafe conditions, violence
30.32 prevention and facility security, ergonomics; or

30.33 (6) public announcement systems and emergency communication devices, or for
30.34 building and heating, ventilating and air conditioning supplies, maintenance, and cleaning
30.35 activities. All assessments, investigations, inventories, and support equipment not leading

31.1 to the engineering or construction of a project shall be included in the health, safety, and
31.2 environmental management costs in subdivision 8, paragraph (a).

31.3 Subd. 6b. **Health and safety projects.** (a) Health and safety revenue applications
31.4 defined in subdivision 1 must be accompanied by a description of each project for which
31.5 funding is being requested. Project descriptions must provide enough detail for an auditor
31.6 to determine if the work qualifies for revenue. For projects other than fire and life
31.7 safety projects, playground projects, and health, safety, and environmental management
31.8 activities, a project description does not need to include itemized details such as material
31.9 types, room locations, square feet, names, or license numbers. The commissioner
31.10 may request supporting information and shall approve only projects that comply with
31.11 subdivisions 6 and 8, as defined by the Department of Education.

31.12 (b) Districts may request funding for allowable projects based on self-assessments,
31.13 safety committee recommendations, insurance inspections, management assistance
31.14 reports, fire marshal orders, or other mandates. Notwithstanding subdivision 1, paragraph
31.15 (b), and subdivision 8, paragraph (b), for projects under \$500,000, individual project
31.16 size for projects authorized by this subdivision is not limited and may include related
31.17 work in multiple facilities. Health and safety management costs from subdivision 8 may
31.18 be reported as a single project.

31.19 (c) All costs directly related to a project shall be reported in the appropriate Uniform
31.20 Financial Accounting and Reporting Standards (UFARS) finance code.

31.21 (d) For fire and life safety egress and all other projects exceeding \$20,000, cited
31.22 under Minnesota Fire Code, a fire marshal plan review is required.

31.23 (e) Districts shall update project estimates with actual expenditures for each
31.24 fiscal year. If a project's final cost is significantly higher than originally approved, the
31.25 commissioner may request additional supporting information.

31.26 Subd. 6c. **Appeals process.** In the event a district is denied funding approval for
31.27 a project the district believes complies with subdivisions 6 and 8, and is not otherwise
31.28 excluded, a district may appeal the decision. All such requests must be in writing. The
31.29 commissioner shall respond in writing. A written request must contain the following:
31.30 project number; description and amount; reason for denial; unresolved questions for
31.31 consideration; reasons for reconsideration; and a specific statement of what action the
31.32 district is requesting.

31.33 **Subd. 7. Proration.** In the event that the health and safety aid available for any year
31.34 is prorated, a district having its aid prorated may levy an additional amount equal to the
31.35 amount not paid by the state due to proration.

32.1 Subd. 8. **Health, safety, and environmental management cost.** (a) "Health, safety,
32.2 and environmental management" is defined in section 123B.56.

32.3 (b) A district's cost for health, safety, and environmental management is limited to
32.4 the lesser of:

32.5 (1) actual cost to implement their plan; or

32.6 (2) an amount determined by the commissioner, based on enrollment, building
32.7 age, and size.

32.8 ~~(b)~~ (c) The department may contract with regional service organizations, private
32.9 contractors, Minnesota Safety Council, or state agencies to provide management
32.10 assistance to school districts for health and safety capital projects. Management assistance
32.11 is the development of written programs for the identification, recognition and control of
32.12 hazards, and prioritization and scheduling of district health and safety capital projects.
32.13 The ~~department~~ commissioner shall not mandate management assistance or exclude
32.14 private contractors from the opportunity to provide any health and safety services to
32.15 school districts.

32.16 ~~(c)~~ Notwithstanding paragraph (b), the department may approve revenue, up to
32.17 the limit defined in paragraph (a) for districts having an approved health, safety, and
32.18 environmental management plan that uses district staff to accomplish coordination and
32.19 provided services.

32.20 **EFFECTIVE DATE.** This section is effective July 1, 2011.

32.21 Sec. 2. Minnesota Statutes 2010, section 123B.71, subdivision 5, is amended to read:

32.22 Subd. 5. **Final plans.** If a construction contract has not been awarded within two
32.23 years of approval, the approval shall not be valid. After approval, final plans and the
32.24 approval shall be ~~filed with~~ made available, if requested, to the commissioner of education.
32.25 If substantial changes are made to the initial approved plans, documents reflecting
32.26 the changes shall be submitted to the commissioner for approval. Upon completing a
32.27 project, the school board shall certify to the commissioner that the project was completed
32.28 according to the approved plans.

32.29 Sec. 3. Minnesota Statutes 2010, section 123B.72, subdivision 3, is amended to read:

32.30 Subd. 3. **Certification.** Prior to occupying or reoccupying a school facility affected
32.31 by this section, a school board or its designee shall submit a document prepared by a
32.32 system inspector to the building official or to the commissioner, verifying that the facility's
32.33 heating, ventilation, and air conditioning system has been installed and operates according
32.34 to design specifications and code, according to section 123B.71, subdivision 9, clause

33.1 ~~(11)~~ (12). A systems inspector shall also verify that the facility's design will provide
33.2 the ability for monitoring of outdoor airflow and total airflow of ventilation systems in
33.3 new school facilities and that any heating, ventilation, or air conditioning system that is
33.4 installed or modified for a project subject to this section must provide a filtration system
33.5 with a current ASHRAE standard.

33.6 Sec. 4. **HEALTH AND SAFETY POLICY.**

33.7 Notwithstanding Minnesota Statutes, section 123B.57, subdivision 2, a school board
33.8 that has not yet adopted a health and safety policy by September 30, 2011, may submit an
33.9 application for health and safety revenue for taxes payable in 2012 in the form and manner
33.10 specified by the commissioner of education.

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

33.12 **ARTICLE 5**

33.13 **ACCOUNTING**

33.14 Section 1. Minnesota Statutes 2010, section 127A.42, subdivision 2, is amended to
33.15 read:

33.16 Subd. 2. **Violations of law.** The commissioner may reduce or withhold the district's
33.17 state aid for any school year whenever the board of the district authorizes or permits
33.18 violations of law within the district by:

33.19 (1) employing a teacher who does not hold a valid teaching license or permit in a
33.20 public school;

33.21 (2) noncompliance with a mandatory rule of general application promulgated by the
33.22 commissioner in accordance with statute, unless special circumstances make enforcement
33.23 inequitable, impose an extraordinary hardship on the district, or the rule is contrary to
33.24 the district's best interests;

33.25 (3) the district's continued performance of a contract made for the rental of rooms
33.26 or buildings for school purposes or for the rental of any facility owned or operated by or
33.27 under the direction of any private organization, if the contract has been disapproved, the
33.28 time for review of the determination of disapproval has expired, and no proceeding for
33.29 review is pending;

33.30 (4) any practice which is a violation of sections 1 and 2 of article 13 of the
33.31 Constitution of the state of Minnesota;

33.32 (5) failure to reasonably provide for a resident pupil's school attendance under
33.33 Minnesota Statutes;

34.1 (6) noncompliance with state laws prohibiting discrimination because of race,
34.2 color, creed, religion, national origin, sex, age, marital status, status with regard to
34.3 public assistance or disability, as defined in sections 363A.08 to 363A.19 and 363A.28,
34.4 subdivision 10; or

34.5 (7) using funds contrary to the statutory purpose of the funds.

34.6 The reduction or withholding must be made in the amount and upon the procedure
34.7 provided in this section, or, in the case of the violation stated in clause (1), upon the
34.8 procedure provided in section 127A.43.

34.9 **EFFECTIVE DATE.** This section is effective July 1, 2011.

34.10 Sec. 2. Minnesota Statutes 2010, section 127A.43, is amended to read:

34.11 **127A.43 DISTRICT EMPLOYMENT OF UNLICENSED TEACHERS; AID**
34.12 **REDUCTION.**

34.13 When a district employs one or more teachers who do not hold a valid teaching
34.14 license, state aid shall be ~~withheld~~ reduced in the proportion that the number of such
34.15 teachers is to the total number of teachers employed by the district, multiplied by 60
34.16 percent of the basic revenue, as defined in section 126C.10, subdivision 2, of the district
34.17 for the year in which the employment occurred.

34.18 **EFFECTIVE DATE.** This section is effective July 1, 2011.

34.19 Sec. 3. Minnesota Statutes 2010, section 127A.45, is amended by adding a subdivision
34.20 to read:

34.21 Subd. 17. **Payment to creditors.** Except where otherwise specifically authorized,
34.22 state education aid payments shall be made only to the school district, charter school, or
34.23 other education organization earning state aid revenues as a result of providing education
34.24 services.

34.25 **ARTICLE 6**

34.26 **STUDENT TRANSPORTATION**

34.27 Section 1. Minnesota Statutes 2010, section 123B.92, subdivision 5, is amended to read:

34.28 Subd. 5. **District reports.** (a) Each district must report data to the department as
34.29 required by the department to account for transportation expenditures.

34.30 (b) Salaries and fringe benefits of district employees whose primary duties are
34.31 other than transportation, including central office administrators and staff, building

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35.1 administrators and staff, teachers, social workers, school nurses, and instructional aides,
35.2 must not be included in a district's transportation expenditures, except that a district may
35.3 include salaries and benefits according to paragraph (c) for (1) an employee designated
35.4 as the district transportation director, (2) an employee providing direct support to the
35.5 transportation director, or (3) an employee providing direct transportation services such as
35.6 a bus driver or bus aide.

35.7 (c) Salaries and fringe benefits of the district employees listed in paragraph (b),
35.8 clauses (1), (2), and (3), who work part time in transportation and part time in other areas
35.9 must not be included in a district's transportation expenditures unless the district maintains
35.10 documentation of the employee's time spent on pupil transportation matters in the form
35.11 and manner prescribed by the department.

35.12 (d) Pupil transportation expenditures, excluding expenditures for capital outlay,
35.13 leased buses, student board and lodging, crossing guards, and aides on buses, must be
35.14 allocated among transportation categories based on ~~cost-per-mile, or cost-per-student,~~
35.15 ~~cost-per-hour, or cost-per-route,~~ regardless of whether the transportation services are
35.16 provided on district-owned or contractor-owned school buses. Expenditures for school
35.17 bus driver salaries and fringe benefits may either be directly charged to the appropriate
35.18 transportation category or may be allocated among transportation categories based
35.19 on ~~cost-per-mile, or cost-per-student, cost-per-hour, or cost-per-route.~~ Expenditures
35.20 by private contractors or individuals who provide transportation exclusively in one
35.21 transportation category must be charged directly to the appropriate transportation category.
35.22 Transportation services provided by contractor-owned school bus companies incorporated
35.23 under different names but owned by the same individual or group of individuals must be
35.24 treated as the same company for cost allocation purposes.

35.25 (e) Notwithstanding paragraph (d), districts contracting for transportation services
35.26 are exempt from the standard cost allocation method for authorized and nonauthorized
35.27 transportation categories if the district: (1) bids its contracts separately for authorized
35.28 and nonauthorized transportation categories and for special transportation separate from
35.29 regular and excess transportation; (2) receives bids or quotes from more than one vendor
35.30 for these transportation categories; and (3) the district's cost-per-mile does not vary
35.31 more than ten percent among categories, excluding salaries and fringe benefits of bus
35.32 aides. If the costs reported by the district for contractor-owned operations vary by more
35.33 than ten percent among categories, the department shall require the district to reallocate
35.34 its transportation costs, excluding salaries and fringe benefits of bus aides, among all
35.35 categories.

APPENDIX
Article locations in S1167-1

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