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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 361

02/04/2013 Authored by Slocum and Bly
The bill was read for the first time and referred to the Committee on Education Policy
03/20/2013 Adoption of Report: Pass and re-referred to the Committee on Education Finance

1.1 A bill for an act
1.2 relating to education; providing education in care and treatment settings;
1.3 appropriating money; amending Minnesota Statutes 2012, sections 124D.68,
1.4 subdivision 2; 125A.11, subdivision 2; 125A.20; 125A.51; 125A.515,
1.5 subdivision 1; 125A.75, subdivision 3; 126C.05, subdivision 1; 245.4871,
1.6 subdivision 10; proposing coding for new law as Minnesota Statutes, chapter
1.7 125E; repealing Minnesota Statutes 2012, sections 125A.11; 125A.15; 125A.515,
1.8 subdivisions 3, 3a, 4, 5, 6, 7, 8, 9, 10; 125A.52.

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

1.10 Section 1. Minnesota Statutes 2012, section 124D.68, subdivision 2, is amended to read:

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

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

1.16 (2) is behind in satisfactorily completing coursework or obtaining credits for
1.17 graduation;

1.18 (3) is pregnant or is a parent;

1.19 (4) has been assessed as chemically dependent;

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

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

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

1.24 (8) has experienced mental health problems;

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

2.1 (10) speaks English as a second language or is an English learner; ~~or~~
 2.2 (11) has withdrawn from school or has been chronically truant; ~~or~~
 2.3 (12) has been admitted to a care and treatment program; or
 2.4 (13) is being treated in a hospital in the seven-county metropolitan area for cancer or
 2.5 other life threatening illness or is the sibling of an eligible pupil who is being currently
 2.6 treated, and resides with the pupil's family at least 60 miles beyond the outside boundary
 2.7 of the seven-county metropolitan area.

2.8 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

2.9 Sec. 2. Minnesota Statutes 2012, section 125A.11, subdivision 2, is amended to read:

2.10 Subd. 2. **Nonresident transportation.** When a district provides instruction and
 2.11 services in a mental health day treatment program outside the resident district ~~of residence~~,
 2.12 the resident district ~~of residence~~ is responsible for providing transportation. When a
 2.13 district provides instruction and services requiring board and lodging or placement
 2.14 in a residential program outside the resident district ~~of residence~~, the ~~nonresident~~
 2.15 providing district in which the child is placed is responsible for providing transportation.
 2.16 Transportation costs shall be paid by the district responsible for providing transportation
 2.17 and the state shall pay transportation aid to that district.

2.18 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

2.19 Sec. 3. Minnesota Statutes 2012, section 125A.20, is amended to read:

2.20 **125A.20 TRANSPORTATION AID AGREEMENTS.**

2.21 Notwithstanding the provisions of sections 125A.11, 125A.14, and 125A.15, when a
 2.22 child receives special instruction and services in a mental health day treatment program
 2.23 outside the resident district, the resident district and the ~~nonresident~~ providing district
 2.24 ~~where the child is placed~~ may enter into an agreement ~~providing~~ for the ~~nonresident~~
 2.25 providing district to pay the cost of any particular transportation categories specified in
 2.26 section 123B.92, subdivision 1, and claim transportation aid for those categories. In this
 2.27 case, the ~~nonresident~~ providing district may not obtain any payment from the resident
 2.28 district for the categories covered by the agreement.

2.29 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

3.1 Sec. 4. Minnesota Statutes 2012, section 125A.51, is amended to read:

3.2 **125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES;**
3.3 **EDUCATION AND TRANSPORTATION.**

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

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

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

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

3.24 (d) ~~When a pupil without a disability is temporarily placed for care and treatment~~
3.25 ~~in a day program and the pupil continues to live within the district of residence during~~
3.26 ~~the care and treatment, the district of residence must provide instruction and necessary~~
3.27 ~~transportation to and from the care and treatment program for the pupil. The resident~~
3.28 ~~district may establish reasonable restrictions on transportation, except if a Minnesota court~~
3.29 ~~or agency orders the child placed at a day care and treatment program and the resident~~
3.30 ~~district receives a copy of the order, then the resident district must provide transportation~~
3.31 ~~to and from the program unless the court or agency orders otherwise. Transportation shall~~
3.32 ~~only be provided by the resident district during regular operating hours of the resident~~
3.33 ~~district. The resident district may provide the instruction at a school within the district of~~
3.34 ~~residence, at the pupil's residence, or in the case of a placement outside of the resident~~
3.35 ~~district, in the district in which the day treatment program is located by paying tuition to~~

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

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

4.9 ~~(f) Notwithstanding paragraph (e),~~ If the pupil is homeless and placed in a public or
 4.10 private homeless shelter, then the district that enrolls the pupil under section ~~127A.47,~~
 4.11 120A.20, subdivision 2, shall provide the transportation, unless the district that enrolls
 4.12 the pupil and the district in which the pupil is temporarily placed agree that the district
 4.13 in which the pupil is temporarily placed shall provide transportation. When a pupil
 4.14 without a disability is temporarily placed in a residential program outside the district of
 4.15 residence, the administrator of the court placing the pupil must send timely written notice
 4.16 of the placement to the district of residence. The district of placement may contract with
 4.17 a residential facility to provide instruction by teachers licensed by the state Board of
 4.18 Teaching. For purposes of this section, the state correctional facilities operated on a
 4.19 fee-for-service basis are considered to be residential programs for care and treatment.

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

4.27 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

4.28 Sec. 5. Minnesota Statutes 2012, section 125A.515, subdivision 1, is amended to read:

4.29 Subdivision 1. **Approval of education programs.** The commissioner, at the
 4.30 request of state agency staff or a program provider, shall approve or disapprove on-site
 4.31 education programs for placement of children and youth in residential facilities including
 4.32 in residential programs such as detention centers, before being secure programs, and
 4.33 residential treatment programs that provide integrated education and treatment activities
 4.34 throughout the day, are licensed by the Department of Human Services or the Department
 4.35 of Corrections. ~~Education programs in these facilities shall, and~~ conform to state and

5.1 federal education laws including the Individuals with Disabilities Education Act (IDEA).
 5.2 This section applies only to placements in facilities licensed by the Department of Human
 5.3 Services or the Department of Corrections. For purposes of this section, "on-site education
 5.4 program" means the educational services provided directly on the grounds of the care and
 5.5 treatment facility to children and youth placed for care and treatment.

5.6 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

5.7 Sec. 6. Minnesota Statutes 2012, section 125A.75, subdivision 3, is amended to read:

5.8 Subd. 3. **Full state payment.** The state must pay each district the actual cost
 5.9 incurred in providing instruction and services for a child whose district of residence has
 5.10 been determined by section 125A.17 or ~~125A.51~~ 120A.20, subdivision 2, paragraph (b),
 5.11 and who is temporarily placed in a state institution, a licensed residential facility, or foster
 5.12 facility for care and treatment. The regular education program at the facility must be an
 5.13 approved program according to section 125A.515.

5.14 Upon following the procedure specified by the commissioner, the district may bill
 5.15 the state the actual cost incurred in providing the services including transportation costs
 5.16 and a proportionate amount of capital expenditures and debt service, minus the amount of
 5.17 the basic revenue, as defined in section 126C.10, subdivision 2, of the district for the child
 5.18 and the special education aid, transportation aid, and any other aid earned on behalf of the
 5.19 child. The limit in subdivision 2 applies to aid paid pursuant to this subdivision.

5.20 To the extent possible, the commissioner shall obtain reimbursement from another
 5.21 state for the cost of serving any child whose parent or guardian resides in that state. The
 5.22 commissioner may contract with the appropriate authorities of other states to effect
 5.23 reimbursement. All money received from other states must be paid to the state treasury
 5.24 and placed in the general fund.

5.25 Sec. 7. **[125E.01] CHILDREN IN CARE AND TREATMENT.**

5.26 Sections 125E.01 to 125E.08 may be cited as the "Education in Care and Treatment
 5.27 Settings Act."

5.28 Sec. 8. **[125E.02] DEFINITIONS.**

5.29 (a) For purposes of this section and sections 125E.03 to 125E.08, the terms defined
 5.30 in this section have the meanings given them.

5.31 (b) "Care and treatment program" means a mental health day treatment program or a
 5.32 residential program under paragraph (d), (f), (g), (h), (j), (k), (l), or (m) that a child attends
 5.33 for a short term of up to 30 days or a long term of more than 30 days.

6.1 (c) "Chemical dependency treatment services" means therapeutic and treatment
 6.2 services provided to alter a child's pattern of harmful chemical use.

6.3 (d) "Correctional program services" means any program or activity using
 6.4 treatment services, consequences, and discipline to control or modify a child's behavior.
 6.5 Correctional program services are available to children from the ages of ten through 20
 6.6 years, and to children placed by a court, court services department, parole authority, or
 6.7 other correctional agency having dispositional power over children who are charged and
 6.8 convicted or adjudicated guilty or delinquent.

6.9 (e) "Flexible school calendar" means an education program aligned with a care and
 6.10 treatment setting schedule that is available throughout a 12-month period and consistent
 6.11 with section 125E.05.

6.12 (f) "Mental health day treatment program" means a structured care and treatment
 6.13 program provided to a child under section 245.4871, subdivision 10, or 256B.0943.

6.14 (g) "Mental health treatment services" means therapeutic services and activities
 6.15 provided to a child with an emotional or severe emotional disturbance to care for and treat
 6.16 the child's mental illness.

6.17 (h) "Partial hospitalization" or "partial hospitalization program" means a time-limited,
 6.18 structured program of psychotherapy and other therapeutic services defined in rule.

6.19 (i) "Providing district" means the school district or charter school in which a child's
 6.20 care and treatment program is located.

6.21 (j) "Residential program" means a 24-hour-a-day program that provides care,
 6.22 supervision, meals, lodging, rehabilitation, training, education, habilitation, or treatment
 6.23 to a child outside the child's home as defined in Minnesota Rules, chapter 2960.

6.24 (k) "Secure detention facility" means a physically restrictive facility, including but
 6.25 not limited to a jail, hospital, state institution, residential treatment center, or detention
 6.26 home used for the temporary care of a child pending court action.

6.27 (l) "Shelter" means a licensed facility providing temporary safe placement for a
 6.28 child who cannot stay at home.

6.29 (m) "Subacute psychiatric care for persons under 21 years of age" means short-term
 6.30 psychiatric services available to a child under section 256B.0625, subdivision 45.

6.31 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

6.32 Sec. 9. **[125E.03] EDUCATING CHILDREN IN CARE AND TREATMENT**
 6.33 **PROGRAMS.**

7.1 Subdivision 1. **Education services required.** (a) Education services are available to
7.2 a child in a care and treatment program. The providing district is responsible for the child's
7.3 education services, including the services in the child's individualized education program.

7.4 (b) A providing district must make education services available to a child within three
7.5 days after the child enters a care and treatment program. The district may use the first four
7.6 days of the child's placement in the program to assess the child's education and safety needs.

7.7 (c) A district must provide regular education services to a child who does not receive
7.8 special education services.

7.9 (d) When a district provides an education program in a care and treatment program,
7.10 the school board of the district may enter into an agreement with the care and treatment
7.11 program to provide education services or sign a memorandum of understanding with
7.12 the facility's program director indicating that facility staff are qualified to provide
7.13 the education program within the therapeutic environment. The memorandum of
7.14 understanding may be used to:

7.15 (1) recruit, train, and supervise education program staff;

7.16 (2) contract with an intermediate district, alternative school, or other entity approved
7.17 by the commissioner to provide education services; or

7.18 (3) provide the education services.

7.19 Subd. 2. **Commissioner approval.** Consistent with section 125A.515, subdivision
7.20 1, the commissioner, at the request of state agency staff or a program provider, must
7.21 approve or disapprove the education portion of a residential program in a facility licensed
7.22 by the Department of Human Services or the Department of Corrections that provides
7.23 integrated education and treatment activities throughout the day and conforms with state
7.24 and federal education laws.

7.25 Subd. 3. **Notice to resident district.** The district providing education services to a
7.26 child placed in a care and treatment program must notify the child's resident district of the
7.27 child's placement in the program within three days of the placement.

7.28 Subd. 4. **Coordinating a child's transition to another district.** When a district
7.29 providing a care and treatment program discharges a child and the child enrolls in another
7.30 district, the providing district must coordinate the discharge with the enrolling district.

7.31 Subd. 5. **Educating children in care and treatment programs.** (a) When a child is
7.32 placed in a care and treatment program with an on-site education program, the providing
7.33 district must contact the resident district within one day after receiving notice of the
7.34 child's placement to determine whether the child is identified as having a disability and,
7.35 if the child is a child with a disability, request at least the child's transcript and the most
7.36 recent individualized education program and evaluation report. The resident district must

8.1 transmit a facsimile copy of the transcript and the program and report to the providing
8.2 district within two days after receiving the request.

8.3 (b) For a child with an individualized education program placed under this section,
8.4 the providing district must conduct an individualized education program meeting to reach
8.5 an agreement about continuing or modifying the child's special education services, based
8.6 on the child's individualized education program goals and objectives, and to determine if
8.7 an additional evaluation is necessary. The person or agency placing the child, the resident
8.8 district, appropriate teachers and related services staff in the providing district, appropriate
8.9 staff from the residential facility, the child's parent or legal guardian, and, when
8.10 appropriate, the child, must participate in the individualized education program meeting.

8.11 (c) For a child who has not been identified as a child with a disability, the providing
8.12 district must screen the child's educational and behavioral needs as soon as practicable,
8.13 which includes reviewing the child's education records.

8.14 Subd. 6. **Placement, services, and due process.** (a) A providing district must
8.15 educate a child in a regular education setting to the extent appropriate. The child's parent
8.16 or legal guardian and the treatment and education staff jointly must determine the amount
8.17 of and site for the child's integrated services. Where applicable, the individualized
8.18 education program team in the providing district must make the educational placement
8.19 decisions, including providing education services to the child in the least restrictive
8.20 environment. The providing district and the care and treatment program staff shall develop
8.21 emergency discipline and behavior management procedures consistent with applicable
8.22 state and federal law.

8.23 (b) A providing district must ensure that a child placed in a care and treatment
8.24 program receives:

8.25 (1) necessary and appropriate education services, regardless of whether the child is
8.26 performing at grade level, as indicated by the child's individualized education program
8.27 or education records; and

8.28 (2) instruction during the school day equal in time to the instructional day in the
8.29 providing district unless, in consultation with treatment providers, the district determines
8.30 that the child's unique needs, as documented in the child's individualized education
8.31 program or education records, requires altering the structure or length of the instructional
8.32 day, which in no case may be less than one-half the amount of instructional time in a
8.33 school day in the providing district.

8.34 Subd. 7. **Exit report summarizing educational progress.** A providing district
8.35 must prepare an exit report for a child placed in a care and treatment program for 31
8.36 or more school days that summarizes the child's regular education, special education,

9.1 evaluation, educational progress, and service information. The district must transmit the
 9.2 exit report to the resident district, the next providing district if it is another district, the
 9.3 child's parent or legal guardian, and appropriate social service agencies. For children
 9.4 with disabilities, the report must include the child's individualized education program.
 9.5 For education programs operated by the Department of Corrections, the Department
 9.6 of Corrections is the providing district. For children remanded to the commissioner of
 9.7 corrections, the Department of Corrections is the providing and resident district.

9.8 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

9.9 **Sec. 10. [125E.04] PLACEMENT IN A CARE AND TREATMENT PROGRAM.**

9.10 School districts, courts, human services agencies, parents, licensed mental health
 9.11 professionals, or medical practitioners may place a child in a care and treatment program
 9.12 based on the child's individual needs, the type of care and treatment program, and the
 9.13 ability of the program to immediately serve the child. A district not paying for a child's
 9.14 care and treatment program may recommend a particular program but cannot require
 9.15 the child to attend that program.

9.16 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

9.17 **Sec. 11. [125E.05] FLEXIBLE SCHOOL CALENDAR.**

9.18 A child in a care and treatment program is eligible for an education program under
 9.19 a flexible school calendar. The providing district and the care and treatment program
 9.20 provider must collaborate in establishing the flexible school calendar, which must be
 9.21 available throughout a 12-month period and at least equal the amount of instructional time
 9.22 available to students in the providing district, subject to section 125E.03, subdivision 6,
 9.23 paragraph (b), clause (2).

9.24 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

9.25 **Sec. 12. [125E.06] EDUCATION SERVICES FUND.**

9.26 **Subdivision 1. Care and treatment education fund.** A care and treatment
 9.27 education fund is established to pay the costs of educating children placed in care and
 9.28 treatment programs for 31 or more school days. The department shall use a formula based
 9.29 on actual education costs to reimburse a providing district. A district providing education
 9.30 at a care and treatment program site shall not receive general education aid or special
 9.31 education aid. A district providing education at a site other than the care and treatment
 9.32 program site shall receive general education aid and special education aid. The resident

10.1 district is responsible for the costs of educating children placed in a care and treatment
 10.2 program for up to 30 days. This fund does not affect the requirement to educate a child in
 10.3 the least restrictive environment.

10.4 Subd. 2. **Billing system.** The commissioner, in cooperation with the commissioners
 10.5 of human services and corrections, and with input from appropriate billing system users,
 10.6 shall develop and implement a uniform billing system applicable to school districts and
 10.7 other entities, including private providers, who provide education services for children
 10.8 placed in a care and treatment setting. The uniform billing system must:

10.9 (1) allow service providers to bill districts using minimum district administration;

10.10 (2) allow districts to readily bill the state for regular and special education services
 10.11 provided under law;

10.12 (3) provide flexibility for mental health day treatment and other services provided to
 10.13 children placed in care and treatment programs;

10.14 (4) allow the commissioner to track service type, cost, and quality provided to
 10.15 children placed in a care and treatment program;

10.16 (5) conform with existing special education and proposed regular education billing
 10.17 procedures;

10.18 (6) provide a uniform per diem reporting standard; and

10.19 (7) determine allowable expenses and maximum reimbursement rates for state
 10.20 reimbursement of services provided in a care and treatment setting.

10.21 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

10.22 Sec. 13. **[125E.07] HOMELESS SHELTERS.**

10.23 A district enrolling a homeless child under section 125A.51 who is in a public or
 10.24 private homeless shelter shall provide transportation for that child, unless the enrolling
 10.25 district and the providing district in which the pupil is temporarily placed agree that the
 10.26 providing district shall provide transportation.

10.27 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

10.28 Sec. 14. **[125E.08] CARE AND TREATMENT; SPECIAL TRANSPORTATION**
 10.29 **AID.**

10.30 Subdivision 1. **Special transportation state aid.** A school district or charter school
 10.31 required to provide transportation services to a child in a care and treatment program is
 10.32 eligible for state aid equal to the actual amounts the district or charter school incurs for:

10.33 (1) contract transportation services provided to children in care and treatment settings;

- 11.1 (2) transportation services it provides;
 11.2 (3) round-trip reimbursement for parents or guardians who provide transportation
 11.3 for their children, where "round-trip reimbursement" means the rate per mile established
 11.4 by the commissioner for parents' or guardians' trips between the child's residence and the
 11.5 treatment facility;
 11.6 (4) transporting up to three children to a facility outside district boundaries;
 11.7 (5) transporting children receiving an education under a flexible school calendar;
 11.8 (6) care and treatment program costs for transportation;
 11.9 (7) transition from a residential facility to a regular education program, including
 11.10 transporting children in transition back to their resident district; and
 11.11 (8) prorated program costs.

11.12 Subd. 2. **Nonresident transportation.** Responsibility for providing resident students
 11.13 with transportation to a mental health day treatment program or a residential treatment
 11.14 program outside the district shall be as provided in section 125A.11, subdivision 2.

11.15 Subd. 3. **Transportation aid agreements.** Agreements for a providing district to
 11.16 pay transportation costs for an eligible student in a mental health day treatment program
 11.17 outside a resident district are governed by section 125A.20.

11.18 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

11.19 Sec. 15. Minnesota Statutes 2012, section 126C.05, subdivision 1, is amended to read:

11.20 Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the
 11.21 age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c),
 11.22 in average daily membership enrolled in the district of residence, in another district under
 11.23 sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school under
 11.24 section 124D.10; or for whom the resident district pays tuition under section 123A.18,
 11.25 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04,
 11.26 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this
 11.27 subdivision.

11.28 (a) A prekindergarten pupil with a disability who is enrolled in a program approved
 11.29 by the commissioner and has an individualized education program is counted as the ratio
 11.30 of the number of hours of assessment and education service to 825 times 1.25 with a
 11.31 minimum average daily membership of 0.28, but not more than 1.25 pupil units.

11.32 (b) A prekindergarten pupil who is assessed but determined not to be disabled is
 11.33 counted as the ratio of the number of hours of assessment service to 825 times 1.25.

11.34 (c) A kindergarten pupil with a disability who is enrolled in a program approved
 11.35 by the commissioner is counted as the ratio of the number of hours of assessment and

12.1 education services required in the fiscal year by the pupil's individualized education
12.2 program to 875, but not more than one.

12.3 (d) A kindergarten pupil who is not included in paragraph (c) is counted as .612
12.4 pupil units.

12.5 (e) A pupil who is in any of grades 1 to 3 is counted as 1.115 pupil units for fiscal
12.6 year 2000 and thereafter.

12.7 (f) A pupil who is any of grades 4 to 6 is counted as 1.06 pupil units for fiscal
12.8 year 1995 and thereafter.

12.9 (g) A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.

12.10 (h) A pupil who is in the postsecondary enrollment options program is counted
12.11 as 1.3 pupil units.

12.12 (i) A pupil in a mental health day treatment program or a residential treatment
12.13 facility under sections 125E.01 to 125E.08 is eligible for up to 300 additional hours of
12.14 service and is counted by the providing district, in addition to the amounts calculated in
12.15 paragraphs (a) to (h), as 1.3 pupil units times the lesser of one or the number of hours
12.16 served in a mental health day treatment program divided by 300.

12.17 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

12.18 Sec. 16. Minnesota Statutes 2012, section 245.4871, subdivision 10, is amended to read:

12.19 Subd. 10. **Mental health day treatment services program.** "~~Day treatment,~~" "~~day~~
12.20 ~~treatment services,~~" or "~~day treatment program~~" "Mental health day treatment program"
12.21 means a structured program of treatment and care provided to a child in:

12.22 (1) an outpatient hospital accredited by the Joint Commission on Accreditation of
12.23 Health Organizations and licensed under sections 144.50 to 144.55;

12.24 (2) a community mental health center under section 245.62;

12.25 (3) an entity ~~that is~~ under contract with the county board to operate a program that
12.26 meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts
12.27 9505.0170 to 9505.0475; or

12.28 (4) an entity ~~that operates~~ operating a program that meets the requirements of section
12.29 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, ~~that is~~
12.30 under contract with an entity that is under contract with a county board.

12.31 A mental health day treatment program consists of group psychotherapy and other
12.32 intensive therapeutic services ~~that are~~ provided for a minimum two-hour time block by
12.33 a multidisciplinary staff under the clinical supervision of a mental health professional.

12.34 Mental health day treatment programs may include education and consultation provided
12.35 to families and other individuals as an extension of the treatment process. The services

13.1 are aimed at stabilizing the child's mental health status, and developing and improving
13.2 the child's daily independent living and socialization skills. Mental health day treatment
13.3 services programs are distinguished from day care by their structured therapeutic program
13.4 of psychotherapy services. Day treatment Services provided in a mental health day
13.5 treatment program are not a part of inpatient hospital or residential treatment services.

13.6 A service provided in a mental health day treatment service program must be
13.7 available to a child for up to 15 hours a week throughout the year under a flexible school
13.8 calendar and must be coordinated ~~with,~~ or integrated with, or part of an education program
13.9 offered by the child's school.

13.10 **EFFECTIVE DATE.** This section is effective for fiscal year 2014 and later.

13.11 Sec. 17. **APPROPRIATIONS.**

13.12 \$..... is appropriated in fiscal year 2014 and \$..... is appropriated in fiscal year
13.13 2015 from the general fund to the commissioner of education for the purpose of the
13.14 education fund under Minnesota Statutes, section 125E.06, and special transportation state
13.15 aid under Minnesota Statutes, section 125E.08.

13.16 Sec. 18. **REVISOR'S INSTRUCTION.**

13.17 The revisor of statutes shall make any cross-reference changes needed to reflect
13.18 the changes to law contained in this act.

13.19 Sec. 19. **REPEALER.**

13.20 Minnesota Statutes 2012, sections 125A.11; 125A.15; 125A.515, subdivisions 3, 3a,
13.21 4, 5, 6, 7, 8, 9, and 10; and 125A.52, are repealed.

13.22 **EFFECTIVE DATE.** This section is effective July 1, 2013.

125A.11 SPECIAL INSTRUCTIONS FOR NONRESIDENT CHILDREN.

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

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

(c) Notwithstanding paragraphs (a) and (b) and section 127A.47, subdivision 7, paragraphs (d) and (e), a charter school where more than 30 percent of enrolled students receive special education and related services, a site approved under section 125A.515, an intermediate district, a special education cooperative, or a school district that served as the applicant agency for a group of school districts for federal special education aids for fiscal year 2006 may apply to the

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commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving pupils with a disability. The application must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under this paragraph must be included in the tuition billings or aid adjustments under paragraph (a) or (b), or section 127A.47, subdivision 7, paragraph (d) or (e), as applicable.

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

Subd. 2. **Nonresident transportation.** When a district provides instruction and services in a day program outside the district of residence, the district of residence is responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the district of residence, the nonresident district in which the child is placed is responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state shall pay transportation aid to that district.

Subd. 3. **Agreement between districts to provide special instruction and services.** For the purposes of this section, any school district may enter into an agreement, upon mutually agreed-upon terms and conditions, to provide special instruction and services for children with a disability. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts. Each participating unit must reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid.

125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

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

(a) The district of residence of a child shall be the district in which the child's parent resides, if living, or the child's guardian. If there is a dispute between school districts regarding residency, the district of residence is the district designated by the commissioner.

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

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

(d) When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program, as outlined in section 125A.11, except as provided in paragraph (e). However, the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than providing for the child's special educational needs must not become the responsibility of either the district providing

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the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

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

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

125A.515 PLACEMENT OF STUDENTS; APPROVAL OF EDUCATION PROGRAM.

Subd. 3. **Responsibilities for providing education.** (a) The district in which the residential facility is located must provide education services, including special education if eligible, to all students placed in a facility.

(b) For education programs operated by the Department of Corrections, the providing district shall be the Department of Corrections. For students remanded to the commissioner of corrections, the providing and resident district shall be the Department of Corrections.

Subd. 3a. **Students without a disability from other states.** A school district is not required to provide education services under this section to a student who:

- (1) is not a resident of Minnesota;
- (2) does not have an individualized education program; and
- (3) does not have a tuition arrangement or agreement to pay the cost of education from the placing authority.

Subd. 4. **Education services required.** (a) Education services must be provided to a student beginning within three business days after the student enters the care and treatment facility. The first four days of the student's placement may be used to screen the student for educational and safety issues.

(b) If the student does not meet the eligibility criteria for special education, regular education services must be provided to that student.

Subd. 5. **Education programs for students placed in residential facilities.** (a) When a student is placed in a facility approved under this section that has an on-site education program, the providing district, upon notice from the care and treatment facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education program (IEP) and evaluation report, and to determine if the student has been identified as a student with a disability. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

(b) If a student placed under this section has been identified as having a disability and has an individualized education program in the resident district:

(1) the providing agency must conduct an individualized education program meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education program goals and objectives and to determine if additional evaluations are necessary; and

(2) at least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education program meeting:

- (i) the person or agency placing the student;
- (ii) the resident district;
- (iii) the appropriate teachers and related services staff from the providing district;
- (iv) appropriate staff from the residential facility;
- (v) the parents or legal guardians of the student; and
- (vi) when appropriate, the student.

(c) For a student who has not been identified as a student with a disability, a screening must be conducted by the providing districts as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

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Subd. 6. **Exit report summarizing educational progress.** If a student has been placed in a facility under this section for 15 or more business days, the providing district must prepare an exit report summarizing the regular education, special education, evaluation, educational progress, and service information and must send the report to the resident district and the next providing district if different, the parent or legal guardian, and any appropriate social service agency. For students with disabilities, this report must include the student's IEP.

Subd. 7. **Minimum educational services required.** When a student is placed in a facility approved under this section, at a minimum, the providing district is responsible for:

(1) the education necessary, including summer school services, for a student who is not performing at grade level as indicated in the education record or IEP; and

(2) a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or education record in consultation with treatment providers, requires an alteration in the length of the school day.

Subd. 8. **Placement, services, and due process.** When a student's treatment and educational needs allow, education shall be provided in a regular educational setting. The determination of the amount and site of integrated services must be a joint decision between the student's parents or legal guardians and the treatment and education staff. When applicable, educational placement decisions must be made by the IEP team of the providing district. Educational services shall be provided in conformance with the least restrictive environment principle of the Individuals with Disabilities Education Act. The providing district and care and treatment facility shall cooperatively develop discipline and behavior management procedures to be used in emergency situations that comply with the Minnesota Pupil Fair Dismissal Act and other relevant state and federal laws and regulations.

Subd. 9. **Reimbursement for education services.** (a) Education services provided to students who have been placed under this section are reimbursable in accordance with special education and general education statutes.

(b) Indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable with special education categorical aids.

(c) Regular education, including screening, provided to students with or without disabilities is not reimbursable with special education categorical aids.

Subd. 10. **Students unable to attend school but not covered under this section.** Students who are absent from, or predicted to be absent from, school for 15 consecutive or intermittent days, and placed at home or in facilities not licensed by the Departments of Corrections or Human Services are entitled to regular and special education services consistent with this section or Minnesota Rules, part 3525.2325. These students include students with and without disabilities who are home due to accident or illness, in a hospital or other medical facility, or in a day treatment center.

125A.52 RESIDENTIAL TREATMENT FACILITIES; DEPARTMENTS OF HUMAN SERVICES AND CORRECTIONS EDUCATION SCREENING.

Subdivision 1. **Educational screening.** Secure and nonsecure residential treatment facilities licensed by the Department of Human Services or the Department of Corrections must screen each juvenile who is held in a facility for at least 72 hours, excluding weekends or holidays, using an educational screening tool identified by the department, unless the facility determines that the juvenile has a current individualized education program and obtains a copy of it.

Subd. 2. **Rulemaking.** The commissioner may, in consultation with the commissioners of corrections and human services, make or amend rules relating to education programs in residential treatment facilities, if necessary, to implement this section.