

A bill for an act

relating to education; offering licensed kindergarten through grade 12 teachers a multiyear employment contract and performance-based compensation as an alternative to continuing employment; amending Minnesota Statutes 2008, sections 122A.40, subdivision 7, by adding a subdivision; 122A.41, subdivision 4, by adding a subdivision.

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

Section 1. Minnesota Statutes 2008, section 122A.40, subdivision 7, is amended to read:

Subd. 7. **Termination of contract after probationary period.** (a) A teacher who has completed a probationary period in any district, and who has not been discharged or advised of a refusal to renew the teacher's contract under subdivision 5, shall elect to have a continuing contract with such district where contract terms and conditions, including salary and salary increases, are established based either on the length of the school calendar or an extended school calendar under section 120A.415 or, with the agreement of the school board, a five-year term contract under subdivision 7b. Thereafter, if the teacher elects to have a five-year term contract and receive performance-based compensation, and the school board agrees to the teacher's election, the teacher's contract is subject to the provisions of subdivision 7b. If the teacher elects to have a continuing contract under this subdivision, the teacher's contract must remain in full force and effect, except as modified by mutual consent of the board and the teacher, until terminated by a majority roll call vote of the full membership of the board prior to April 1 upon one of the grounds specified in subdivision 9 or July 1 upon one of the grounds specified in subdivision 10 or 11, or until the teacher is discharged pursuant to subdivision 13, or by the written resignation of the teacher submitted prior to April 1. If an agreement as to the

terms and conditions of employment for the succeeding school year has not been adopted pursuant to the provisions of sections 179A.01 to 179A.25 prior to March 1, the teacher's right of resignation is extended to the 30th calendar day following the adoption of said contract in compliance with section 179A.20, subdivision 5. Such written resignation by the teacher is effective as of June 30 if submitted prior to that date and the teachers' right of resignation for the school year then beginning shall cease on July 15. Before a teacher's contract is terminated by the board, the board must notify the teacher in writing and state its ground for the proposed termination in reasonable detail together with a statement that the teacher may make a written request for a hearing before the board within 14 days after receipt of such notification. If the grounds are those specified in subdivision 9 or 13, the notice must also state a teacher may request arbitration under subdivision 15. Within 14 days after receipt of this notification the teacher may make a written request for a hearing before the board or an arbitrator and it shall be granted upon reasonable notice to the teacher of the date set for hearing, before final action is taken. If no hearing is requested within such period, it shall be deemed acquiescence by the teacher to the board's action. Such termination shall take effect at the close of the school year in which the contract is terminated in the manner aforesaid. Such contract may be terminated at any time by mutual consent of the board and the teacher and this section does not affect the powers of a board to suspend, discharge, or demote a teacher under and pursuant to other provisions of law.

(b) A teacher electing to have a continuing contract based on the extended school calendar under section 120A.415 must participate in staff development training under subdivision 7a and shall receive an increased base salary.

(c) Notwithstanding other law to the contrary, a teacher who elects to have a continuing contract under this subdivision may subsequently make a onetime permanent election, with the agreement of the employing school board, to have a term contract and receive performance-based compensation under subdivision 7b. The teacher's election is irrevocable and continues during the entire time the teacher is employed in a Minnesota school district. A teacher electing a term contract and performance-based compensation remains eligible for all compensation-related benefits the teacher has earned up to the time of this election. As a precondition of having a contract under subdivision 7b, the teacher must successfully serve a one-year probationary period that the local tenure review panel evaluates according to the panel's written performance criteria that the teacher receives before the one-year probationary period begins. The panel's determination is final and binding on the teacher. If the panel determines that the teacher failed to meet one or more of the panel's written performance criteria during the one-year probationary period, the teacher has neither a continuing contract under this subdivision nor a five-year contract

and performance-based compensation under subdivision 7b. A teacher may appeal a panel's determination to the commissioner of mediation services within 15 days of receiving notice of the determination only if the teacher believes the determination was:

(1) procured by fraud, corruption, or other undue means;

(2) made by an evidently partial or corrupt panel or the panel's misconduct prejudiced the teacher's rights; or

(3) made after the panel refused to postpone hearing the matter after the teacher showed sufficient cause for postponement, the panel refused to hear evidence material to the matter, or the panel's conduct when hearing the matter substantially prejudiced the teacher's rights.

The commissioner of mediation services must make a decision within 30 days of receiving the teacher's appeal. The teacher may not appeal the commissioner's decision. During this one-year probationary period, a school board may terminate or discharge the teacher only for a statutorily specified cause.

Sec. 2. Minnesota Statutes 2008, section 122A.40, is amended by adding a subdivision to read:

Subd. 7b. Option of term contract plus performance-based compensation. (a)
Notwithstanding other law to the contrary, a teacher who completes a probationary period in any school district, and who is not discharged or advised of a refusal to renew the teacher's contract under subdivision 5, may permanently elect, as an alternative to having a continuing contract under subdivision 7, to have a five-year term contract and receive performance-based compensation described in this subdivision. The employment terms for a teacher who makes this election are governed by the provisions of this subdivision. The teacher's election is irrevocable and continues during the entire time the teacher is employed in a Minnesota school district.

(b) A school board agreeing to employ a teacher under this subdivision must establish a tenure review panel that, at a minimum, is composed of school board members, a high school student enrolled in the district, district residents, and school administrators that the school board appoints. At a minimum, at least one-quarter of the tenure review panel members must be teachers employed by the district and selected by the teachers' exclusive bargaining representative. Panel meetings in which members discuss personnel matters are closed meetings and are not subject to section 471.705. The panel must make public any final decision affecting personnel at a reasonable time and place and in a reasonable manner. Data the panel uses to make a final decision are private data on individuals. Panel members serve staggered four-year terms. The school board may

reimburse panel members for reasonable expenses members incur relating to their duties.
Panel members are not liable for determining that a teacher failed to meet one or more of
the panel's written performance criteria during the one-year probationary period or for an
annual performance evaluation or subsequent recommendation to the school board that
the board not renew the teacher's contract.

(c) Before a school board agrees to employ a teacher under this subdivision, the
tenure review panel shall adopt a plan for an annual written evaluation of the teacher's
performance that states the performance criteria by which the panel will evaluate the
teacher. The panel must give the teacher timely notice of the criteria. School-site
administrators shall review each performance evaluation to determine whether the teacher
has met the panel's performance criteria and, if the teacher has not met one or more
performance criteria, convey that fact to the panel. During the term of the teacher's
five-year contract, the school board may terminate or discharge the teacher only for a
statutorily specified cause. Unrequested leaves of absence are governed by subdivision 11
during the contract term. At the end of a teacher's five-year term contract, the panel shall
make a final and binding recommendation to the school board whether or not to reemploy
the teacher for a subsequent five-year term contract. A teacher may appeal the panel's
recommendation only if the teacher believes the panel's recommendation was:

(1) procured by fraud, corruption, or other undue means;

(2) made by an evidently partial or corrupt panel or the panel's misconduct
prejudiced the teacher's rights; or

(3) made after the panel refused to postpone hearing the matter after the teacher
showed sufficient cause for postponement, the panel refused to hear evidence material
to the matter, or the panel's conduct when hearing the matter substantially prejudiced
the teacher's rights.

The school board shall renew the teacher's contract as the panel's recommendation
indicates.

(d) A school district governing board must adopt a performance-based compensation
system at a public hearing to provide teachers with performance-based compensation.

(e) A school board shall formally adopt a performance-based compensation system
that includes the following elements:

(1) school district performance and school performance;

(2) state measures of academic progress toward the academic standards;

(3) other measures of student academic progress;

(4) student dropout or graduation rates;

(5) student attendance rates;

- 5.1 (6) ratings of school quality by parents;
5.2 (7) ratings of school quality by students;
5.3 (8) the input of teachers and administrators;
5.4 (9) approval of the performance-based compensation system based on an affirmative
5.5 vote of at least 70 percent of the teachers eligible to participate in the performance-based
5.6 compensation system;
5.7 (10) an appeals process for teachers who have been denied performance-based
5.8 compensation; and
5.9 (11) regular evaluation for effectiveness.
5.10 A performance-based compensation system shall include teacher professional
5.11 development programs that are aligned with the elements for the performance-based
5.12 compensation system.
5.13 (f) A school district governing board may modify the elements contained in
5.14 this subdivision and consider additional elements when adopting a performance-based
5.15 compensation system. A board shall formally adopt any modifications or additional
5.16 elements and specify the performance criteria it uses.
5.17 (g) Each school board shall develop an assessment plan for its performance-based
5.18 compensation system and submit a copy of the plan and the performance-based
5.19 compensation system to the department by December 31.
5.20 (h) A teacher under this subdivision remains a public employee under section
5.21 179A.03, subdivision 14, and a teacher under section 179A.03, subdivision 18, for
5.22 purposes of chapter 179A only to the extent that these provisions are consistent with
5.23 this section.

5.24 Sec. 3. Minnesota Statutes 2008, section 122A.41, subdivision 4, is amended to read:

- 5.25 Subd. 4. **Period of service after probationary period; discharge or demotion.** (a)
5.26 After the completion of such probationary period, without discharge, such teachers as are
5.27 thereupon reemployed shall continue in service and hold their respective position during
5.28 good behavior and efficient and competent service and must not be discharged or demoted
5.29 except for cause after a hearing. The terms and conditions of a teacher's employment
5.30 contract, including salary and salary increases, must be based either on the length of the
5.31 school year or an extended school calendar under section 120A.415.
5.32 (b) A probationary teacher is deemed to have been reemployed for the ensuing
5.33 school year, unless the school board in charge of such school gave such teacher notice in
5.34 writing before July 1 of the termination of such employment.

(c) A teacher electing to have an employment contract based on the extended school calendar under section 120A.415 must participate in staff development training under subdivision 4a and shall receive an increased base salary.

(d) Notwithstanding other law to the contrary, as an alternative to paragraphs (a), (b), and (c), a teacher who has completed a probationary period under subdivision 2, without discharge, may elect to have, with the agreement of the school board, a five-year term contract and receive performance-based compensation under subdivision 4b. Thereafter, if the teacher makes this election, the teacher's contract is exclusively subject to the provisions of subdivision 4b.

(e) A teacher who is reemployed and continues in service under this subdivision may subsequently make a onetime permanent election, with the agreement of the employing school board, to have a term contract and receive performance-based compensation under subdivision 4b. The teacher's election is irrevocable and continues during the entire time the teacher is employed in a Minnesota school district. A teacher making this election remains eligible for all compensation-related benefits the teacher has earned up to the time of this election. As a precondition of having a contract under subdivision 4b, the teacher must serve a one-year probationary period that the local tenure review panel evaluates according to the panel's written performance criteria that the teacher receives before the one-year probationary period begins. The panel's determination is final and binding on the teacher. If the panel determines that the teacher failed to meet one or more of the panel's written performance criteria during the one-year probationary period, the teacher has neither a continuing contract under this subdivision nor a five-year contract and performance-based compensation under subdivision 4b. A teacher may appeal a panel's determination to the commissioner of mediation services within 15 days of receiving notice of the determination only if the teacher believes the determination was:

(1) procured by fraud, corruption, or other undue means;

(2) made by an evidently partial panel or the panel's misconduct prejudiced the teacher's rights; or

(3) made after the panel refused to postpone hearing the matter after the teacher showed sufficient cause for postponement, the panel refused to hear evidence material to the matter, or the panel's conduct when hearing the matter substantially prejudiced the teacher's rights.

The commissioner of mediation services must decide the appeal within 30 days of receiving the appeal. The teacher may not appeal the commissioner's decision. During this one-year probationary period, a school board may terminate or discharge the teacher only for a statutorily specified cause.

Sec. 4. Minnesota Statutes 2008, section 122A.41, is amended by adding a subdivision to read:

Subd. 4b. Option of term contract plus performance-based compensation.

(a) Notwithstanding other law to the contrary, a teacher who completes a probationary period under subdivision 2, and who is not advised of the school board's refusal to renew the teacher's contract, may permanently elect, as an alternative to being reemployed and continuing in service under subdivision 4, to have a five-year term contract and receive performance-based compensation described in this subdivision. The employment terms for a teacher who makes this election are governed by the provisions of this subdivision. The teacher's election is irrevocable and continues during the entire time the teacher is employed in a Minnesota school district.

(b) A school board agreeing to employ teachers under this subdivision must establish a tenure review panel that, at a minimum, is composed of school board members, a high school student enrolled in the district, district residents, and school administrators that the school board appoints. At a minimum, at least one-fourth of the tenure review panel members must be teachers employed by the district and selected by the teachers' exclusive bargaining representative. Panel meetings in which members discuss personnel matters are closed and are not subject to section 471.705. The panel must make public any final decision affecting personnel at a reasonable time and place and in a reasonable manner. Data the panel uses to make a final decision are private data on individuals. Panel members serve staggered four-year terms. The school board may reimburse panel members for reasonable expenses members incur relating to their duties. Panel members are not liable for determining that a teacher failed to meet one or more of the panel's written performance criteria during the one-year probationary period or for an annual performance evaluation or subsequent recommendation to the school board that the board not renew the teacher's contract.

(c) Before a school board agrees to employ a teacher under this subdivision, the tenure review panel shall adopt a plan for an annual written evaluation of the teacher's performance that states the performance criteria by which the panel will evaluate each teacher. The panel must give the teacher timely notice of the criteria. School-site administrators shall review each performance evaluation to determine whether the teacher has met the panel's performance criteria and, if the teacher has not met one or more performance criteria, convey that fact to the panel. During the term of the teacher's five-year contract, the school board may terminate or discharge the teacher only for a statutorily specified cause. Unrequested leaves of absence are governed by subdivision 14, during the contract term. At the end of a teacher's five-year term contract, the panel shall

make a final and binding recommendation to the school board whether or not to reemploy the teacher for a subsequent five-year term contract. A teacher may appeal the panel's recommendation only if the teacher believes the panel's recommendation was:

(1) procured by fraud, corruption, or other undue means;

(2) made by an evidently partial or corrupt panel or the panel's misconduct prejudiced the teacher's rights; or

(3) made after the panel refused to postpone hearing the matter after the teacher showed sufficient cause for postponement, the panel refused to hear evidence material to the matter, or the panel's conduct when hearing the matter substantially prejudiced the teacher's rights.

The school board shall renew the teacher's contract, as the panel's recommendation indicates.

(d) A school district governing board must adopt a performance-based compensation system at a public hearing to provide teachers with performance-based compensation.

(e) A school board shall formally adopt a performance-based compensation system that includes the following elements:

(1) school district performance and school performance;

(2) state measures of academic progress toward the academic standards;

(3) other measures of student academic progress;

(4) student dropout or graduation rates;

(5) student attendance rates;

(6) ratings of school quality by parents;

(7) ratings of school quality by students;

(8) the input of teachers and administrators;

(9) approval of the performance-based compensation system based on an affirmative vote of at least 70 percent of the teachers eligible to participate in the performance-based compensation system;

(10) an appeals process for teachers who have been denied performance-based compensation; and

(11) regular evaluation for effectiveness.

A performance-based compensation system shall include teacher professional development programs that are aligned with the elements for the performance-based compensation system.

(f) A school district governing board may modify the elements contained in this subdivision and consider additional elements when adopting a performance-based

9.1 compensation system. A board shall formally adopt any modifications or additional
9.2 elements and specify the performance criteria it uses.

9.3 (g) Each school board shall develop an assessment plan for its performance-based
9.4 compensation system and annually submit a copy of the plan and the performance-based
9.5 compensation system to the department by December 31.

9.6 (h) A teacher under this subdivision remains a public employee under section
9.7 179A.03, subdivision 14, and a teacher under section 179A.03, subdivision 18, for
9.8 purposes of chapter 179A only to the extent that these provisions are consistent with
9.9 this section.

9.10 Sec. 5. **EFFECTIVE DATE.**

9.11 Sections 1 to 4 are effective for the 2009-2010 school year and thereafter.