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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3541

03/23/2016 Authored by Norton

The bill was read for the first time and referred to the Committee on Education Innovation Policy

1.1 A bill for an act  
1.2 relating to education; providing for a performance-based pay system for teachers;  
1.3 appropriating money; amending Minnesota Statutes 2014, section 126C.10, by  
1.4 adding subdivisions; Minnesota Statutes 2015 Supplement, sections 122A.40,  
1.5 subdivision 8; 122A.41, subdivision 5; 124E.12, by adding a subdivision;  
1.6 124E.20, subdivision 1; 126C.10, subdivision 1; 126C.13, subdivision 4;  
1.7 proposing coding for new law in Minnesota Statutes, chapter 136D; repealing  
1.8 Minnesota Statutes 2014, sections 122A.413, subdivision 3; 122A.414,  
1.9 subdivision 4; 122A.4144; 122A.4155; 122A.416; Minnesota Statutes 2015  
1.10 Supplement, sections 122A.413, subdivisions 1, 2; 122A.414, subdivisions 1,  
1.11 1a, 2, 2a, 2b, 3; 122A.415, subdivisions 1, 3, 4, 5, 6.

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

1.13 Section 1. Minnesota Statutes 2015 Supplement, section 122A.40, subdivision 8,  
1.14 is amended to read:

1.15 Subd. 8. **Development, evaluation, and peer coaching for continuing contract**  
1.16 **teachers, and performance-linked pay.** (a) To improve student learning and success and  
1.17 to support teachers' roles in improving students' educational achievement, a school board  
1.18 and an exclusive representative of the teachers in the district, consistent with paragraph  
1.19 (b), may develop a teacher evaluation and peer review process for probationary and  
1.20 continuing contract teachers through joint agreement and, consistent with paragraph (e),  
1.21 may develop a performance pay system. If a school board and the exclusive representative  
1.22 of the teachers do not agree to an annual teacher evaluation and peer review process, then  
1.23 the school board and the exclusive representative of the teachers must implement the state  
1.24 teacher evaluation plan under paragraph (c). The process must include having trained  
1.25 observers serve as peer coaches or having teachers participate in professional learning  
1.26 communities, consistent with paragraph (b).

2.1 (b) To develop, improve, and support qualified teachers and effective teaching  
2.2 practices and improve student learning and success, the annual evaluation process for  
2.3 teachers:

2.4 (1) must, for probationary teachers, provide for all evaluations required under  
2.5 subdivision 5;

2.6 (2) must establish a three-year professional review cycle for each teacher that  
2.7 includes an individual growth and development plan, a peer review process, and at least  
2.8 one summative evaluation performed by a qualified and trained evaluator such as a school  
2.9 administrator. For the years when a tenured teacher is not evaluated by a qualified and  
2.10 trained evaluator, the teacher must be evaluated by a peer review;

2.11 (3) must be based on professional teaching standards established in rule;

2.12 (4) must coordinate staff development activities under sections 122A.60 and  
2.13 122A.61 with this evaluation process and teachers' evaluation outcomes;

2.14 (5) may provide time during the school day and school year for peer coaching and  
2.15 teacher collaboration;

2.16 (6) may include job-embedded learning opportunities such as professional learning  
2.17 communities;

2.18 (7) may include mentoring and induction programs;

2.19 (8) must include an option for teachers to develop and present a portfolio  
2.20 demonstrating evidence of reflection and professional growth, consistent with section  
2.21 122A.18, subdivision 4, paragraph (b), and include teachers' own performance assessment  
2.22 based on student work samples and examples of teachers' work, which may include video  
2.23 among other activities for the summative evaluation;

2.24 (9) must use data from valid and reliable assessments aligned to state and local  
2.25 academic standards and must use state and local measures of student growth and literacy  
2.26 that may include value-added models or student learning goals to determine 35 percent of  
2.27 teacher evaluation results;

2.28 (10) must use longitudinal data on student engagement and connection, and other  
2.29 student outcome measures explicitly aligned with the elements of curriculum for which  
2.30 teachers are responsible, including academic literacy, oral academic language, and  
2.31 achievement of content areas of English learners;

2.32 (11) must require qualified and trained evaluators such as school administrators to  
2.33 perform summative evaluations and ensure school districts and charter schools provide for  
2.34 effective evaluator training specific to teacher development and evaluation;

3.1 (12) must give teachers not meeting professional teaching standards under clauses  
3.2 (3) through (11) support to improve through a teacher improvement process that includes  
3.3 established goals and timelines; and

3.4 (13) must discipline a teacher for not making adequate progress in the teacher  
3.5 improvement process under clause (12) that may include a last chance warning,  
3.6 termination, discharge, nonrenewal, transfer to a different position, a leave of absence, or  
3.7 other discipline a school administrator determines is appropriate.

3.8 Data on individual teachers generated under this subdivision are personnel data  
3.9 under section 13.43. The observation and interview notes of peer coaches may only be  
3.10 disclosed to other school officials with the consent of the teacher being coached.

3.11 (c) The department, in consultation with parents who may represent parent  
3.12 organizations and teacher and administrator representatives appointed by their respective  
3.13 organizations, representing the Board of Teaching, the Minnesota Association of School  
3.14 Administrators, the Minnesota School Boards Association, the Minnesota Elementary  
3.15 and Secondary Principals Associations, Education Minnesota, and representatives of  
3.16 the Minnesota Assessment Group, the Minnesota Business Partnership, the Minnesota  
3.17 Chamber of Commerce, and Minnesota postsecondary institutions with research expertise  
3.18 in teacher evaluation, must create and publish a teacher evaluation process that complies  
3.19 with the requirements in paragraph (b) and applies to all teachers under this section and  
3.20 section 122A.41 for whom no agreement exists under paragraph (a) for an annual teacher  
3.21 evaluation and peer review process. The teacher evaluation process created under this  
3.22 subdivision does not create additional due process rights for probationary teachers under  
3.23 subdivision 5.

3.24 (d) Consistent with the measures of teacher effectiveness under this subdivision:

3.25 (1) for students in kindergarten through grade 4, a school administrator must not  
3.26 place or approve the placement of a student in the classroom of a teacher who is in the  
3.27 improvement process referenced in paragraph (b), clause (12), or has not had a summative  
3.28 evaluation if, in the prior year, that student was in the classroom of a teacher who received  
3.29 discipline pursuant to paragraph (b), clause (13), unless no other teacher at the school  
3.30 teaches that grade; and

3.31 (2) for students in grades 5 through 12, a school administrator must not place  
3.32 or approve the placement of a student in the classroom of a teacher who is in the  
3.33 improvement process referenced in paragraph (b), clause (12), or has not had a summative  
3.34 evaluation if, in the prior year, that student was in the classroom of a teacher who received  
3.35 discipline pursuant to paragraph (b), clause (13), unless no other teacher at the school  
3.36 teaches that subject area and grade.

4.1 All data created and used under this paragraph retains its classification under chapter 13.

4.2 (e) To provide incentives to encourage teachers to improve their knowledge and  
 4.3 instructional skills to improve student learning and for school districts to recruit and retain  
 4.4 qualified teachers and encourage qualified teachers to undertake challenging assignments,  
 4.5 the performance pay system must, consistent with paragraph (b):

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

4.8 (2) establish performance goals and benchmarks for improvement;

4.9 (3) describe how teachers can achieve career advancement and additional  
 4.10 compensation;

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

4.14 (5) reform the "steps and lanes" salary schedule, prevent any teacher's compensation  
 4.15 paid before implementing the pay system from being reduced as a result of participating  
 4.16 in this system, and base all compensation increases while the performance pay system  
 4.17 is in place on teacher performance; and

4.18 (6) be negotiated and adopted according to the Public Employment Labor Relations  
 4.19 Act under chapter 179A, except that notwithstanding section 179A.20, subdivision 3, a  
 4.20 district may enter into a contract for a term of two or four years.

4.21 (f) Notwithstanding section 179A.20 or other law to the contrary, a school board and  
 4.22 the exclusive representative of the teachers may agree to reopen a collective bargaining  
 4.23 agreement for the purpose of entering into a performance pay system agreement under  
 4.24 paragraph (e). Negotiations for a contract reopened under this section must be limited to  
 4.25 issues related to the performance pay system.

4.26 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 4.27 and applies to the 2016-2017 school year and later.

4.28 Sec. 2. Minnesota Statutes 2015 Supplement, section 122A.41, subdivision 5, is  
 4.29 amended to read:

4.30 Subd. 5. **Development, evaluation, and peer coaching for continuing contract**  
 4.31 **teachers, and performance-linked pay.** (a) To improve student learning and success and  
 4.32 to support teachers' roles in improving students' educational achievement, a school board  
 4.33 and an exclusive representative of the teachers in the district, consistent with paragraph  
 4.34 (b), may develop an annual teacher evaluation and peer review process for probationary  
 4.35 and nonprobationary teachers through joint agreement and consistent with paragraph (e),

5.1 may develop a performance pay system. If a school board and the exclusive representative  
5.2 of the teachers in the district do not agree to an annual teacher evaluation and peer review  
5.3 process, then the school board and the exclusive representative of the teachers must  
5.4 implement the state teacher evaluation plan developed under paragraph (c). The process  
5.5 must include having trained observers serve as peer coaches or having teachers participate  
5.6 in professional learning communities, consistent with paragraph (b).

5.7 (b) To develop, improve, and support qualified teachers and effective teaching  
5.8 practices and improve student learning and success, the annual evaluation process for  
5.9 teachers:

5.10 (1) must, for probationary teachers, provide for all evaluations required under  
5.11 subdivision 2;

5.12 (2) must establish a three-year professional review cycle for each teacher that  
5.13 includes an individual growth and development plan, a peer review process, and at least  
5.14 one summative evaluation performed by a qualified and trained evaluator such as a school  
5.15 administrator;

5.16 (3) must be based on professional teaching standards established in rule;

5.17 (4) must coordinate staff development activities under sections 122A.60 and  
5.18 122A.61 with this evaluation process and teachers' evaluation outcomes;

5.19 (5) may provide time during the school day and school year for peer coaching and  
5.20 teacher collaboration;

5.21 (6) may include job-embedded learning opportunities such as professional learning  
5.22 communities;

5.23 (7) may include mentoring and induction programs;

5.24 (8) must include an option for teachers to develop and present a portfolio  
5.25 demonstrating evidence of reflection and professional growth, consistent with section  
5.26 122A.18, subdivision 4, paragraph (b), and include teachers' own performance assessment  
5.27 based on student work samples and examples of teachers' work, which may include video  
5.28 among other activities for the summative evaluation;

5.29 (9) must use data from valid and reliable assessments aligned to state and local  
5.30 academic standards and must use state and local measures of student growth and literacy  
5.31 that may include value-added models or student learning goals to determine 35 percent of  
5.32 teacher evaluation results;

5.33 (10) must use longitudinal data on student engagement and connection and other  
5.34 student outcome measures explicitly aligned with the elements of curriculum for which  
5.35 teachers are responsible, including academic literacy, oral academic language, and  
5.36 achievement of English learners;

6.1 (11) must require qualified and trained evaluators such as school administrators to  
6.2 perform summative evaluations and ensure school districts and charter schools provide for  
6.3 effective evaluator training specific to teacher development and evaluation;

6.4 (12) must give teachers not meeting professional teaching standards under clauses  
6.5 (3) through (11) support to improve through a teacher improvement process that includes  
6.6 established goals and timelines; and

6.7 (13) must discipline a teacher for not making adequate progress in the teacher  
6.8 improvement process under clause (12) that may include a last chance warning,  
6.9 termination, discharge, nonrenewal, transfer to a different position, a leave of absence, or  
6.10 other discipline a school administrator determines is appropriate.

6.11 Data on individual teachers generated under this subdivision are personnel data  
6.12 under section 13.43. The observation and interview notes of peer coaches may only be  
6.13 disclosed to other school officials with the consent of the teacher being coached.

6.14 (c) The department, in consultation with parents who may represent parent  
6.15 organizations and teacher and administrator representatives appointed by their respective  
6.16 organizations, representing the Board of Teaching, the Minnesota Association of School  
6.17 Administrators, the Minnesota School Boards Association, the Minnesota Elementary  
6.18 and Secondary Principals Associations, Education Minnesota, and representatives of  
6.19 the Minnesota Assessment Group, the Minnesota Business Partnership, the Minnesota  
6.20 Chamber of Commerce, and Minnesota postsecondary institutions with research expertise  
6.21 in teacher evaluation, must create and publish a teacher evaluation process that complies  
6.22 with the requirements in paragraph (b) and applies to all teachers under this section and  
6.23 section 122A.40 for whom no agreement exists under paragraph (a) for an annual teacher  
6.24 evaluation and peer review process. The teacher evaluation process created under this  
6.25 subdivision does not create additional due process rights for probationary teachers under  
6.26 subdivision 2.

6.27 (d) Consistent with the measures of teacher effectiveness under this subdivision:

6.28 (1) for students in kindergarten through grade 4, a school administrator must not  
6.29 place or approve the placement of a student in the classroom of a teacher who is in the  
6.30 improvement process referenced in paragraph (b), clause (12), or has not had a summative  
6.31 evaluation if, in the prior year, that student was in the classroom of a teacher who received  
6.32 discipline pursuant to paragraph (b), clause (13), unless no other teacher at the school  
6.33 teaches that grade; and

6.34 (2) for students in grades 5 through 12, a school administrator must not place  
6.35 or approve the placement of a student in the classroom of a teacher who is in the  
6.36 improvement process referenced in paragraph (b), clause (12), or has not had a summative

7.1 evaluation if, in the prior year, that student was in the classroom of a teacher who received  
 7.2 discipline pursuant to paragraph (b), clause (13), unless no other teacher at the school  
 7.3 teaches that subject area and grade.

7.4 All data created and used under this paragraph retains its classification under chapter 13.

7.5 (e) To provide incentives to encourage teachers to improve their knowledge and  
 7.6 instructional skills to improve student learning and for school districts to recruit and retain  
 7.7 qualified teachers and encourage qualified teachers to undertake challenging assignments,  
 7.8 the performance pay system must, consistent with paragraph (b):

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

7.11 (2) establish performance goals and benchmarks for improvement;

7.12 (3) describe how teachers can achieve career advancement and additional  
 7.13 compensation;

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

7.17 (5) reform the "steps and lanes" salary schedule, prevent any teacher's compensation  
 7.18 paid before implementing the pay system from being reduced as a result of participating  
 7.19 in this system, and base all compensation increases while the performance pay system  
 7.20 is in place on teacher performance; and

7.21 (6) be negotiated and adopted according to the Public Employment Labor Relations  
 7.22 Act under chapter 179A, except that notwithstanding section 179A.20, subdivision 3, a  
 7.23 district may enter into a contract for a term of two or four years.

7.24 (f) Notwithstanding section 179A.20 or other law to the contrary, a school board and  
 7.25 the exclusive representative of the teachers may agree to reopen a collective bargaining  
 7.26 agreement for the purpose of entering into a performance pay system agreement under  
 7.27 paragraph (e). Negotiations for a contract reopened under this section must be limited to  
 7.28 issues related to the performance pay system.

7.29 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 7.30 and applies to the 2016-2017 school year and later.

7.31 Sec. 3. Minnesota Statutes 2015 Supplement, section 124E.12, is amended by adding a  
 7.32 subdivision to read:

7.33 Subd. 7. **Performance pay for charter schools.** To provide incentives to  
 7.34 encourage teachers to improve their knowledge and instructional skills to improve student

8.1 learning and for charter schools to recruit and retain qualified teachers and encourage  
 8.2 qualified teachers to undertake challenging assignments, a charter school may develop a  
 8.3 performance pay system. If developed, the performance pay system must:

8.4 (1) include the elements in section 122A.40, subdivision 8, paragraph (e), clauses  
 8.5 (1) to (5);

8.6 (2) if governed by a collective bargaining agreement, comply with section 122A.40,  
 8.7 subdivision 8, paragraph (e), clause (6);

8.8 (3) be adopted by the charter school board of directors adopting the agreement; and

8.9 (4) be approved by a formal vote of the teachers employed at the charter school  
 8.10 indicating that at least 70 percent of all teachers agree to implement the performance pay  
 8.11 system unless the charter school submits a performance pay system agreement under this  
 8.12 subdivision before the first year of operation.

8.13 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 8.14 and applies to the 2016-2017 school year and later.

8.15 Sec. 4. Minnesota Statutes 2015 Supplement, section 124E.20, subdivision 1, is  
 8.16 amended to read:

8.17 Subdivision 1. **Revenue calculation.** (a) General education revenue must be paid  
 8.18 to a charter school as though it were a district. The general education revenue for each  
 8.19 adjusted pupil unit is the state average general education revenue per pupil unit, plus the  
 8.20 referendum equalization aid allowance in the pupil's district of residence, minus an amount  
 8.21 equal to the product of the formula allowance according to section 126C.10, subdivision  
 8.22 2, times .0466, calculated without declining enrollment revenue, local optional revenue,  
 8.23 basic skills revenue, extended time revenue, pension adjustment revenue, evaluation  
 8.24 and performance revenue, transition revenue, and transportation sparsity revenue, plus  
 8.25 declining enrollment revenue, basic skills revenue, pension adjustment revenue, evaluation  
 8.26 and performance aid according to section 126C.10, subdivision 39, and transition revenue  
 8.27 as though the school were a school district.

8.28 (b) For a charter school operating an extended day, extended week, or summer  
 8.29 program, the general education revenue in paragraph (a) is increased by an amount equal  
 8.30 to 25 percent of the statewide average extended time revenue per adjusted pupil unit.

8.31 (c) Notwithstanding paragraph (a), the general education revenue for an eligible  
 8.32 special education charter school as defined in section 124E.21, subdivision 2, equals the  
 8.33 sum of the amount determined under paragraph (a) and the school's unreimbursed cost as  
 8.34 defined in section 124E.21, subdivision 2, for educating students not eligible for special  
 8.35 education services.

9.1 Sec. 5. Minnesota Statutes 2015 Supplement, section 126C.10, subdivision 1, is  
 9.2 amended to read:

9.3 Subdivision 1. **General education revenue.** The general education revenue for  
 9.4 each district equals the sum of the district's basic revenue, extended time revenue, gifted  
 9.5 and talented revenue, declining enrollment revenue, local optional revenue, small schools  
 9.6 revenue, basic skills revenue, secondary sparsity revenue, elementary sparsity revenue,  
 9.7 transportation sparsity revenue, total operating capital revenue, equity revenue, pension  
 9.8 adjustment revenue, evaluation and performance revenue, and transition revenue.

9.9 Sec. 6. Minnesota Statutes 2014, section 126C.10, is amended by adding a subdivision  
 9.10 to read:

9.11 Subd. 38. **Evaluation and performance revenue.** (a) For fiscal year 2017 and later,  
 9.12 evaluation and performance revenue for a school district or charter school in which the  
 9.13 school board, intermediate school board, or charter school board of directors (1) notified  
 9.14 the commissioner by October 1 of the previous fiscal year of the district's or charter  
 9.15 school's intention to implement a performance plan under section 122A.40, subdivision 8,  
 9.16 paragraph (e); 122A.41, subdivision 5, paragraph (e); 136D.02; or 124E.12, subdivision  
 9.17 7, and (2) certifies to the commissioner by October 1 of that fiscal year that the district,  
 9.18 intermediate district, or charter school has implemented the performance plan, equals \$260  
 9.19 times the number of pupils enrolled at the district or site on October 1 of the previous  
 9.20 fiscal year. Of this amount, ... percent must be reserved for compensation increases  
 9.21 consistent with the adopted performance plan.

9.22 (b) For fiscal year 2017 and later, evaluation and performance revenue for a school  
 9.23 district or charter school not receiving revenue under paragraph (a) is equal to \$..... times  
 9.24 the number of pupils enrolled at the district or site on October 1 of the previous fiscal year.

9.25 (c) Evaluation and performance revenue for an intermediate school district equals  
 9.26 the basic evaluation and performance aid for an intermediate school district calculated  
 9.27 under subdivision 39.

9.28 (d) Notwithstanding paragraphs (a), (b), and (c), the evaluation and performance  
 9.29 revenue for a school district, intermediate school district, or charter school receiving  
 9.30 revenue under section 122A.415 for the current school year equals \$0.

9.31 (e) For a newly combined or consolidated district, the revenue shall be computed  
 9.32 using the sum of pupils enrolled on October 1 of the previous year in the districts entering  
 9.33 into the combination or consolidation. The commissioner may adjust the revenue computed  
 9.34 for a site using prior year data to reflect changes attributable to school closings, school  
 9.35 openings, or grade level reconfigurations between the prior year and the current year.

10.1 (f) For a charter school in the first year of operation, the revenue shall be computed  
10.2 using the number of pupils enrolled on October 1 of the current year.

10.3 Sec. 7. Minnesota Statutes 2014, section 126C.10, is amended by adding a subdivision  
10.4 to read:

10.5 Subd. 39. **Basic evaluation and performance aid.** For fiscal year 2017 and  
10.6 later, the basic evaluation and performance aid equals 65 percent of the evaluation and  
10.7 performance revenue under subdivision 38. The basic evaluation and performance aid  
10.8 for an intermediate school district equals \$260 times the number of pupils enrolled in the  
10.9 school on October 1 of the previous year times the ratio of the sum of the evaluation and  
10.10 performance aid and evaluation and performance levy for all participating school districts  
10.11 to the maximum evaluation and performance revenue for those districts under subdivision  
10.12 38. The basic evaluation and performance aid for a charter school equals the evaluation  
10.13 and performance revenue under subdivision 38.

10.14 Sec. 8. Minnesota Statutes 2014, section 126C.10, is amended by adding a subdivision  
10.15 to read:

10.16 Subd. 40. **Evaluation and performance levy.** For fiscal year 2017 and later,  
10.17 the evaluation and performance levy for a school district equals the product of (1) the  
10.18 difference between the district's evaluation and performance revenue and the district's  
10.19 basic evaluation and performance aid, times (2) the lesser of one or the ratio of the  
10.20 district's adjusted net tax capacity per adjusted pupil unit to \$6,100.

10.21 Sec. 9. Minnesota Statutes 2014, section 126C.10, is amended by adding a subdivision  
10.22 to read:

10.23 Subd. 41. **Evaluation and performance equalization aid.** (a) For fiscal year 2017  
10.24 and later, a district's evaluation and performance equalization aid equals the district's  
10.25 evaluation and performance revenue minus the district's basic evaluation and performance  
10.26 aid minus the district's evaluation and performance levy. If a district does not levy the  
10.27 entire amount permitted, the evaluation and performance equalization aid must be reduced  
10.28 in proportion to the actual amount levied.

10.29 (b) A district's evaluation and performance aid equals the sum of the district's basic  
10.30 evaluation and performance aid and the district's evaluation and performance equalization  
10.31 aid.

11.1 Sec. 10. Minnesota Statutes 2015 Supplement, section 126C.13, subdivision 4, is  
 11.2 amended to read:

11.3 Subd. 4. **General education aid.** For fiscal year 2015 and later, a district's general  
 11.4 education aid equals:

11.5 (1) general education revenue, excluding operating capital revenue, equity revenue,  
 11.6 local optional revenue, evaluation and performance revenue, and transition revenue, minus  
 11.7 the student achievement levy, multiplied times the ratio of the actual amount of student  
 11.8 achievement levy levied to the permitted student achievement levy; plus

11.9 (2) operating capital aid under section 126C.10, subdivision 13b;

11.10 (3) equity aid under section 126C.10, subdivision 30; plus

11.11 (4) transition aid under section 126C.10, subdivision 33; plus

11.12 (5) shared time aid under section 126C.10, subdivision 7; plus

11.13 (6) referendum aid under section 126C.17, subdivisions 7 and 7a; plus

11.14 (7) online learning aid under section 124D.096; plus

11.15 (8) local optional aid according to section 126C.10, subdivision 2d, paragraph (d);<sub>2</sub>

11.16 plus

11.17 (9) evaluation and performance aid according to section 126C.10, subdivision 41,

11.18 paragraph (b).

11.19 Sec. 11. **[136D.02] PERFORMANCE PAY SYSTEM.**

11.20 To provide incentives to encourage teachers to improve their knowledge and  
 11.21 instructional skills to improve student learning and for intermediate school districts  
 11.22 to recruit and retain qualified teachers and encourage qualified teachers to undertake  
 11.23 challenging assignments, an intermediate school district may develop a performance pay  
 11.24 system. If developed, the performance pay system must include the elements in section  
 11.25 122A.40, subdivision 8, paragraph (e).

11.26 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 11.27 and applies to the 2016-2017 school year and later.

11.28 Sec. 12. **APPROPRIATION.**

11.29 Subdivision 1. **Department of Education.** The sums indicated in this section are  
 11.30 appropriated from the general fund to the commissioner of education for the fiscal years  
 11.31 designated.

12.1 Subd. 2. Evaluation and performance aid. For basic evaluation and performance  
 12.2 aid under Minnesota Statutes, section 126C.10, subdivision 39, and evaluation and  
 12.3 performance equalization aid under Minnesota Statutes, section 126C.10, subdivision 41:

12.4 \$ ..... 2017

12.5 \$ ..... 2018

12.6 The 2017 appropriation includes \$..... for 2017.

12.7 The 2018 appropriation includes \$..... for 2017 and \$..... for 2018.

12.8 **Sec. 13. REPEALER.**

12.9 (a) Minnesota Statutes 2014, sections 122A.413, subdivision 3; 122A.414,  
 12.10 subdivision 4; 122A.4144; 122A.4155; and 122A.416, are repealed, effective for the  
 12.11 2018-2019 school year and later.

12.12 (b) Minnesota Statutes 2015 Supplement, sections 122A.413, subdivisions 1 and 2;  
 12.13 122A.414, subdivisions 1, 1a, 2, 2a, 2b, and 3; and 122A.415, subdivisions 1, 3, 4, 5, and  
 12.14 6, are repealed, effective for the 2018-2019 school year and later.

**122A.413 EDUCATIONAL IMPROVEMENT PLAN.**

Subdivision 1. **Qualifying plan.** A district, intermediate school district, or a cooperative unit, as defined in section 123A.24, subdivision 2, may develop an educational improvement plan for the purpose of qualifying for the alternative teacher professional pay system under section 122A.414. The plan must include measures for improving school district, intermediate school district, cooperative, school site, teacher, and individual student performance.

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

- (1) assessment and evaluation tools to measure student performance and progress, including the academic literacy, oral academic language, and achievement of English learners, among other measures;
- (2) performance goals and benchmarks for improvement;
- (3) measures of student attendance and completion rates;
- (4) a rigorous research and practice-based professional development system, based on national and state standards of effective teaching practice applicable to all students including English learners with varied needs under section 124D.59, subdivisions 2 and 2a, and consistent with section 122A.60, that is aligned with educational improvement and designed to achieve ongoing and schoolwide progress and growth in teaching practice;
- (5) measures of student, family, and community involvement and satisfaction;
- (6) a data system about students and their academic progress that provides parents and the public with understandable information;
- (7) a teacher induction and mentoring program for probationary teachers that provides continuous learning and sustained teacher support; and
- (8) substantial participation by the exclusive representative of the teachers in developing the plan.

Subd. 3. **School site accountability.** A district or intermediate school district that develops a plan under subdivisions 1 and 2 must ensure that each school site develops a board-approved educational improvement plan that is aligned with the district educational improvement plan under subdivision 2 and developed with the exclusive representative of the teachers. While a site plan must be consistent with the district educational improvement plan, it may establish performance goals and benchmarks that meet or exceed those of the district.

**122A.414 ALTERNATIVE TEACHER PAY.**

Subdivision 1. **Restructured pay system.** A restructured alternative teacher professional pay system is established under subdivision 2 to provide incentives to encourage teachers to improve their knowledge and instructional skills in order to improve student learning and for school districts, intermediate school districts, cooperative units, as defined in section 123A.24, subdivision 2, and charter schools to recruit and retain highly qualified teachers, encourage highly qualified teachers to undertake challenging assignments, and support teachers' roles in improving students' educational achievement.

Subd. 1a. **Transitional planning year.** (a) To be eligible to participate in an alternative teacher professional pay system, a school district, intermediate school district, or site, at least one school year before it expects to fully implement an alternative pay system, must:

- (1) submit to the department a letter of intent executed by the school district, intermediate school district and the exclusive representative of the teachers to complete a plan preparing for full implementation, consistent with subdivision 2, that may include, among other activities, training to evaluate teacher performance, a restructured school day to develop integrated ongoing site-based professional development activities, release time to develop an alternative pay system agreement, and teacher and staff training on using multiple data sources; and
- (2) agree to use up to two percent of basic revenue for staff development purposes, consistent with sections 122A.60 and 122A.61, to develop the alternative teacher professional pay system agreement under this section.

(b) To be eligible to participate in an alternative teacher professional pay system, a charter school, at least one school year before it expects to fully implement an alternative pay system, must:

- (1) submit to the department a letter of intent executed by the charter school and the charter school board of directors;
- (2) submit the record of a formal vote by the teachers employed at the charter school indicating at least 70 percent of all teachers agree to implement the alternative pay system; and

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(3) agree to use up to two percent of basic revenue for staff development purposes, consistent with sections 122A.60 and 122A.61, to develop the alternative teacher professional pay system.

(c) To be eligible to participate in an alternative teacher professional pay system, a cooperative, excluding intermediate school districts, at least one school year before it expects to fully implement an alternative pay system, must:

(1) submit to the department a letter of intent executed by the governing board of the cooperative; and

(2) submit the record of a formal vote by the teachers employed by the cooperative indicating at least 70 percent of all teachers agree to implement the alternative pay system.

(d) The commissioner may waive the planning year if the commissioner determines, based on the criteria under subdivision 2, that the school district, intermediate school district, cooperative, site or charter school is ready to fully implement an alternative pay system.

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

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

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

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

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

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

(ii) measures of student growth and literacy that may include value-added models or student learning goals, consistent with section 122A.40, subdivision 8, paragraph (b), clause (9), or 122A.41, subdivision 5, paragraph (b), clause (9), and other measures that include the academic literacy, oral academic language, and achievement of English learners under section 122A.40, subdivision 8, paragraph (b), clause (10), or 122A.41, subdivision 5, paragraph (b), clause (10); and

(iii) an objective evaluation program under section 122A.40, subdivision 8, paragraph (b), clause (2), or 122A.41, subdivision 5, paragraph (b), clause (2);

(4) provide for participation in job-embedded learning opportunities such as professional learning communities to improve instructional skills and learning that are aligned with student needs under section 122A.413, consistent with the staff development plan under section 122A.60 and led during the school day by trained teacher leaders such as master or mentor teachers;

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

(6) encourage collaboration rather than competition among teachers.

(c) The alternative teacher professional pay system may:

(1) include a hiring bonus or other added compensation for teachers who are identified as effective or highly effective under the local teacher professional review cycle and work in a hard-to-fill position or in a hard-to-staff school such as a school with a majority of students whose families meet federal poverty guidelines, a geographically isolated school, or a school identified by the state as eligible for targeted programs or services for its students; and

(2) include incentives for teachers to obtain a master's degree or other advanced certification in their content field of licensure, pursue the training or education necessary to obtain an additional licensure in shortage areas identified by the district or charter school, or help fund a "grow your own" new teacher initiative.

Subd. 2a. **Charter school applications; cooperative applications.** (a) For charter school applications, the board of directors of a charter school that satisfies the conditions under subdivisions 2 and 2b must submit to the commissioner an application that contains:

(1) an agreement to implement an alternative teacher professional pay system under this section;

(2) a resolution by the charter school board of directors adopting the agreement; and

(3) the record of a formal vote by the teachers employed at the charter school indicating that at least 70 percent of all teachers agree to implement the alternative teacher professional

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pay system, unless the charter school submits an alternative teacher professional pay system agreement under this section before the first year of operation.

(b) For cooperative unit applications, excluding intermediate school districts, the governing board of a cooperative unit that satisfies the conditions under subdivisions 2 and 2b must submit to the commissioner an application that contains:

(1) an agreement to implement an alternative teacher professional pay system under this section;

(2) a resolution by the governing board adopting the agreement; and

(3) the record of a formal vote by the teachers employed at the cooperative unit indicating that at least 70 percent of all teachers agree to implement the alternative teacher professional pay system.

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

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

**Subd. 3. Report; continued funding.** (a) Participating districts, intermediate school districts, cooperatives, school sites, and charter schools must report on the implementation and effectiveness of the alternative teacher professional pay system, particularly addressing each requirement under subdivision 2 and make annual recommendations by June 15 to their school boards. The school board, board of directors, or governing board shall transmit a copy of the report with a summary of the findings and recommendations of the district, intermediate school district, cooperative, school site, or charter school to the commissioner in the form and manner determined by the commissioner.

(b) If the commissioner determines that a school district, intermediate school district, cooperative, school site, or charter school that receives alternative teacher compensation revenue is not complying with the requirements of this section, the commissioner may withhold funding from that participant. Before making the determination, the commissioner must notify the participant of any deficiencies and provide the participant an opportunity to comply.

**Subd. 4. Planning and staff development.** A school district that qualifies to participate in the alternative teacher professional pay system transitional planning year under subdivision 1a may use up to two percent of basic revenue that would otherwise be reserved under section 122A.61 for complying with the planning and staff development activities under this section.

**122A.4144 SUPPLEMENTAL AGREEMENTS; ALTERNATIVE TEACHER PAY.**

Notwithstanding section 179A.20 or other law to the contrary, a school board and the exclusive representative of the teachers may agree to reopen a collective bargaining agreement for the purpose of entering into an alternative teacher professional pay system agreement under

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sections 122A.413, 122A.414, and 122A.415. Negotiations for a contract reopened under this section must be limited to issues related to the alternative teacher professional pay system.

**122A.415 ALTERNATIVE COMPENSATION REVENUE.**

Subdivision 1. **Revenue amount.** (a) A school district, intermediate school district, cooperative unit as defined in section 123A.24, subdivision 2, school site, or charter school that meets the conditions of section 122A.414 and submits an application approved by the commissioner is eligible for alternative teacher compensation revenue.

(b) For school district and intermediate school district applications, the commissioner must consider only those applications to participate that are submitted jointly by a district and the exclusive representative of the teachers. The application must contain an alternative teacher professional pay system agreement that:

(1) implements an alternative teacher professional pay system consistent with section 122A.414; and

(2) is negotiated and adopted according to the Public Employment Labor Relations Act under chapter 179A, except that notwithstanding section 179A.20, subdivision 3, a district may enter into a contract for a term of two or four years.

Alternative teacher compensation revenue for a qualifying school district or site in which the school board and the exclusive representative of the teachers agree to place teachers in the district or at the site on the alternative teacher professional pay system equals \$260 times the number of pupils enrolled at the district or site on October 1 of the previous fiscal year. Alternative teacher compensation revenue for a qualifying intermediate school district or cooperative must be calculated under subdivision 4, paragraph (b).

(c) For a newly combined or consolidated district, the revenue shall be computed using the sum of pupils enrolled on October 1 of the previous year in the districts entering into the combination or consolidation. The commissioner may adjust the revenue computed for a site using prior year data to reflect changes attributable to school closings, school openings, or grade level reconfigurations between the prior year and the current year.

(d) The revenue is available only to school districts, intermediate school districts, cooperatives, school sites, and charter schools that fully implement an alternative teacher professional pay system by October 1 of the current school year.

Subd. 3. **Revenue timing.** (a) Districts, intermediate school districts, cooperatives, school sites, or charter schools with approved applications must receive alternative compensation revenue for each school year that the district, intermediate school district, cooperative, school site, or charter school implements an alternative teacher professional pay system under this subdivision and section 122A.414. A qualifying district, intermediate school district, cooperative, school site, or charter school that received alternative teacher compensation aid for the previous fiscal year must receive at least an amount of alternative teacher compensation revenue equal to the lesser of the amount it received for the previous fiscal year or the amount it qualifies for under subdivision 1 for the current fiscal year if the district, intermediate school district, cooperative, school site, or charter school submits a timely application and the commissioner determines that the district, intermediate school district, cooperative, school site, or charter school continues to implement an alternative teacher professional pay system, consistent with its application under this section.

(b) The commissioner shall approve applications that comply with subdivision 1, and section 122A.414, subdivisions 2, paragraph (b), and 2a, if the applicant is a charter school or cooperative, in the order in which they are received, select applicants that qualify for this program, notify school districts, intermediate school districts, cooperatives, school sites, and charter schools about the program, develop and disseminate application materials, and carry out other activities needed to implement this section.

Subd. 4. **Basic alternative teacher compensation aid.** (a) The basic alternative teacher compensation aid for a school with a plan approved under section 122A.414, subdivision 2b, equals 65 percent of the alternative teacher compensation revenue under subdivision 1. The basic alternative teacher compensation aid for a charter school with a plan approved under section 122A.414, subdivisions 2a and 2b, equals \$260 times the number of pupils enrolled in the school on October 1 of the previous year, or on October 1 of the current year for a charter school in the first year of operation, times the ratio of the sum of the alternative teacher compensation aid and alternative teacher compensation levy for all participating school districts to the maximum alternative teacher compensation revenue for those districts under subdivision 1.

(b) Notwithstanding paragraph (a) and subdivision 1, the state total basic alternative teacher compensation aid entitlement must not exceed \$88,118,000 for fiscal year 2017 and later. The commissioner must limit the amount of alternative teacher compensation aid approved under

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this section so as not to exceed these limits. Basic alternative teacher compensation aid for an intermediate district or other cooperative unit equals \$3,000 times the number of licensed teachers employed by the intermediate district or cooperative unit on October 1 of the previous school year.

Subd. 5. **Alternative teacher compensation levy.** The alternative teacher compensation levy for a district receiving basic alternative teacher compensation aid equals the product of (1) the difference between the district's alternative teacher compensation revenue and the district's basic alternative teacher compensation aid, times (2) the lesser of one or the ratio of the district's adjusted net tax capacity per adjusted pupil unit to \$6,100.

Subd. 6. **Alternative teacher compensation equalization aid.** (a) A district's alternative teacher compensation equalization aid equals the district's alternative teacher compensation revenue minus the district's basic alternative teacher compensation aid minus the district's alternative teacher compensation levy. If a district does not levy the entire amount permitted, the alternative teacher compensation equalization aid must be reduced in proportion to the actual amount levied.

(b) A district's alternative teacher compensation aid equals the sum of the district's basic alternative teacher compensation aid and the district's alternative teacher compensation equalization aid.

### **122A.4155 ALTERNATIVE COMPENSATION RURAL DISTRICT APPLICATION ASSISTANCE.**

Subdivision 1. **Eligibility.** School districts located in greater Minnesota that submit a letter of intent and begin the transitional planning year, under section 122A.414, subdivision 1a, are eligible for alternative compensation application assistance. For the purposes of this section, an eligible school district is any school district located in the rural equity region under section 126C.10, subdivision 28.

Subd. 2. **Multidistrict technical assistance.** The department shall provide technical assistance in the form of, but not limited to, networking, training, and professional development to a rural district or groups of rural districts in developing applications for the alternative compensation program.

Subd. 3. **Model plans.** The department shall develop and disseminate alternative compensation model plans based on the unique needs and characteristics of rural districts.

Subd. 4. **Multidistrict consortia.** The department may promote the development of multidistrict consortia to optimize opportunities for rural districts to participate in and implement alternative compensation programs. A multidistrict consortium shall develop and implement a collaborative alternative compensation plan that includes the program components outlined in section 122A.414, subdivision 2. A multidistrict consortium shall provide opportunities to share best practices, professional development training and expertise, training of teacher observers, or the purchase of programmatic resources.

### **122A.416 ALTERNATIVE TEACHER COMPENSATION REVENUE FOR PERPICH CENTER FOR ARTS EDUCATION AND MULTIDISTRICT INTEGRATION COLLABORATIVES.**

Notwithstanding sections 122A.413, 122A.414, 122A.415, and 126C.10, multidistrict integration collaboratives and the Perpich Center for Arts Education are eligible to receive alternative teacher compensation revenue as if they were intermediate school districts. To qualify for alternative teacher compensation revenue, a multidistrict integration collaborative or the Perpich Center for Arts Education must meet all of the requirements of sections 122A.413, 122A.414, and 122A.415 that apply to intermediate school districts, must report its enrollment as of October 1 of each year to the department, and must annually report its expenditures for the alternative teacher professional pay system consistent with the uniform financial accounting and reporting standards to the department by November 30 of each year.