

(SENATE AUTHORS: OLSON)

DATE	D-PG	OFFICIAL STATUS
04/14/2011	1338	Introduction and first reading Referred to Education
04/28/2011	1438a	Comm report: To pass as amended
	1448	Second reading
05/11/2011	1974	HF substituted on General Orders HF1381

A bill for an act

relating to education; providing for policy for prekindergarten through grade 12 education, including general education, education excellence, special programs, facilities and technology, early childhood education, and student transportation; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 119A.50, subdivision 3; 120B.15; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 122A.16, as amended; 122A.60, subdivision 4; 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.92, subdivision 5; 124D.091, subdivision 2; 124D.10, subdivisions 3, 4, 6, 6a, 23; 124D.11, subdivision 9; 124D.86, subdivisions 1, 3; 124D.871; 125A.02, subdivision 1; 125A.51; 125A.79, subdivision 1; 126C.10, subdivision 8a; 126C.15, subdivision 2; 126C.41, subdivision 2; 126C.44; 127A.42, subdivision 2; 127A.43; 127A.45, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2010, sections 125A.54; 126C.457.

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

ARTICLE 1

GENERAL EDUCATION

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

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

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in

those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

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

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

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

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

Subd. 5. **Individualized instructional or cooperative learning materials.** "Individualized instructional or cooperative learning materials" means educational materials which:

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

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

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

Subject to the requirements in clauses (a), (b), and (c), "individualized instructional or cooperative learning materials" include, but are not limited to, the following if they do not fall within the definition of "textbook" in subdivision 2: published materials; periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic works; prerecorded video programs; prerecorded tapes, cassettes and other sound recordings; manipulative materials; desk charts; games; study prints and pictures; desk maps; models; learning kits; blocks or cubes; flash cards; individualized multimedia

systems; prepared instructional computer software programs; choral and band sheet music; electronic books and other printed materials delivered electronically; and CD-Rom.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the sum of:

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

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

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

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

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

(2) the sum of:

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

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.4531, 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, paragraph (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; ~~126C.457~~; and 126C.48, subdivision 6; plus

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Minnesota Statutes 2010, section 126C.15, subdivision 2, is amended to read:

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

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

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

(d) Notwithstanding section 123A.26, subdivision 1, compensatory revenue generated by students served at a cooperative unit shall be paid to the cooperative unit.

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

Sec. 9. Minnesota Statutes 2010, section 126C.41, subdivision 2, is amended to read:

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

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

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

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

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

If the total levy authority requested under this paragraph exceeds the amount established in paragraph (c), the commissioner must proportionately reduce each district's maximum levy authority under this subdivision. The commissioner may subsequently adjust each

district's levy authority under this subdivision so long as the total levy authority does not exceed the maximum levy authority for that year.

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

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

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

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

Sec. 10. Minnesota Statutes 2010, section 126C.44, is amended to read:

**126C.44 SAFE SCHOOLS LEVY.**

(a) Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to \$30 multiplied by the district's adjusted marginal cost pupil units for the school year. The proceeds of the levy must be reserved and used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes: (1) to pay the costs incurred for the salaries, benefits, and transportation costs of peace officers and sheriffs for liaison in services in the district's schools; (2) to pay the costs for a drug abuse prevention program as defined in section 609.101, subdivision 3, paragraph (e), in the elementary schools; (3) to pay the costs for a gang resistance education training curriculum in the district's schools; (4) to pay the costs for security in the district's schools and on school property; (5) to pay the costs for other crime prevention, drug abuse, student and staff safety, voluntary opt-in suicide prevention tools, and violence prevention measures taken by the school district; or (6) to pay costs for licensed school counselors, licensed school nurses, licensed school social workers, licensed school psychologists, and licensed alcohol and chemical dependency counselors to help provide early responses to problems. For expenditures under clause (1), the district must initially attempt to contract for services to be provided by peace officers or sheriffs with the police department of each city or the sheriff's department of the county within the district containing the school receiving the services. If a local police department or a county sheriff's department does not wish to provide the necessary services, the district may contract for these services with any other police or sheriff's department located entirely or partially within the school district's boundaries.

(b) A school district that is a member of an intermediate school district may include in its authority under this section the costs associated with safe schools activities authorized under paragraph (a) for intermediate school district programs. This authority



must not exceed \$10 times the adjusted marginal cost pupil units of the member districts. This authority is in addition to any other authority authorized under this section. Revenue raised under this paragraph must be transferred to the intermediate school district.

(c) A school district must set aside at least \$3 per adjusted marginal cost pupil unit of the safe schools levy proceeds for the purposes authorized under paragraph (a), clause (6). The district must annually certify either that: (1) its total spending, excluding federal funds, on services provided by the employees listed in paragraph (a), clause (6), is not less than the sum of its expenditures for these purposes, ~~excluding amounts spent under this section~~ excluding federal funds, in the previous year ~~plus the amount spent under this section~~; or (2) that the district's full-time equivalent number of employees listed in paragraph (a), clause (6), excluding federally funded employees is not less than the number for the previous year. The district may calculate its maintenance of effort using total expenditures, expenditures per adjusted pupil unit, total employees, or employees per adjusted pupil unit. A district may include in the calculations its proportionate share of expenditures or full-time equivalents of cooperative units or other districts from which it purchases services. A district, including a district serving as the fiscal host for a cooperative, may exclude from the calculations expenditures of full-time equivalents for employees contracted out to other districts or cooperative members. A district with a decline in a nonfederal grant may exclude from the calculations expenditures or full-time equivalents funded with the grant.

**EFFECTIVE DATE.** This section is effective for certification of data for the 2012 fiscal year and later.

Sec. 11. **REPEALER.**

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

**ARTICLE 2**

**EDUCATION EXCELLENCE**

Section 1. Minnesota Statutes 2010, section 120B.15, is amended to read:

**120B.15 GIFTED AND TALENTED STUDENTS PROGRAMS.**

(a) School districts and charter schools may identify students, locally develop programs addressing instructional and affective needs, provide staff development, and evaluate programs to provide gifted and talented students with challenging and appropriate educational programs.

(b) School districts and charter schools may adopt guidelines for assessing and identifying students for participation in gifted and talented programs. The guidelines should include the use of:

- (1) multiple and objective criteria; and
- (2) assessments and procedures that are valid and reliable, fair, and based on current theory and research addressing the use of tools and methods that are sensitive to underrepresented groups, including, but not limited to, students who are low income, minority, gifted and learning disabled, and English language learners.

(c) School districts and charter schools must adopt procedures for the academic acceleration of gifted and talented students. These procedures must include how the district will:

- (1) assess a student's readiness and motivation for acceleration; and
- (2) match the level, complexity, and pace of the curriculum to a student to achieve the best type of academic acceleration for that student.

Sec. 2. Minnesota Statutes 2010, section 120B.30, subdivision 1, is amended to read:

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

11.1 a Minnesota basic skills test by the end of the 2011-2012 school year must pass the  
11.2 graduation-required assessments for diploma under paragraph (c).

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

11.5 (1) mathematics;

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

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

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

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

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

11.14 (1) for reading and mathematics:

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

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

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

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

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

11.35 (2) for writing:

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

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

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

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

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

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

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

12.17 (3) fully participate in at least two retests of the mathematics GRAD test or until  
12.18 they pass the mathematics GRAD test, whichever comes first. A school, district, or  
12.19 charter school must place on the high school transcript a student's highest current pass  
12.20 status for each subject that has a required graduation ~~assessment score for each of the~~  
12.21 ~~following assessments on the student's high school transcript: the mathematics Minnesota~~  
12.22 ~~Comprehensive Assessment, reading Minnesota Comprehensive Assessment, and writing~~  
12.23 ~~Graduation-Required Assessment for Diploma, and when applicable, the mathematics~~  
12.24 ~~Graduation-Required Assessment for Diploma and reading Graduation-Required~~  
12.25 ~~Assessment for Diploma.~~

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

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

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

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

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

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

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

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

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

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

Subd. 3. **Reporting.** The commissioner shall report test ~~data~~ results publicly and to stakeholders, including the performance achievement levels developed from students' unweighted test scores in each tested subject and a listing of demographic factors that strongly correlate with student performance. The test results must not include personally identifiable information as defined in Code of Federal Regulations, title 34, section 99.3. The commissioner shall also report data that compares performance results among school sites, school districts, Minnesota and other states, and Minnesota and other nations. The commissioner shall disseminate to schools and school districts a more comprehensive report containing testing information that meets local needs for evaluating instruction and curriculum.

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

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

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

14.3 Sec. 5. Minnesota Statutes 2010, section 120B.31, subdivision 4, is amended to read:

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

14.16 Sec. 6. Minnesota Statutes 2010, section 120B.36, subdivision 1, is amended to read:

14.17 Subdivision 1. **School performance report cards.** (a) The commissioner  
14.18 shall report student academic performance under section 120B.35, subdivision 2; the  
14.19 percentages of students showing low, medium, and high growth under section 120B.35,  
14.20 subdivision 3, paragraph (b); school safety and student engagement and connection  
14.21 under section 120B.35, subdivision 3, paragraph (d); rigorous coursework under section  
14.22 120B.35, subdivision 3, paragraph (c); two separate student-to-teacher ratios that clearly  
14.23 indicate the definition of teacher consistent with sections 122A.06 and 122A.15 for  
14.24 purposes of determining these ratios; staff characteristics excluding salaries; student  
14.25 enrollment demographics; district mobility; and extracurricular activities. The report also  
14.26 must indicate a school's adequate yearly progress status, and must not set any designations  
14.27 applicable to high- and low-performing schools due solely to adequate yearly progress  
14.28 status.

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

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

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

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

Sec. 7. Minnesota Statutes 2010, section 120B.36, subdivision 2, is amended to read:

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

Sec. 8. Minnesota Statutes 2010, section 122A.16, as amended by Laws 2011, chapter 5, section 2, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 9. Minnesota Statutes 2010, section 122A.60, subdivision 4, is amended to read:

Subd. 4. **Staff development report.** (a) By October 15 of each year, the district and site staff development committees shall write and submit a report of staff development activities and expenditures for the previous year, in the form and manner determined by



the commissioner. The report, signed by the district superintendent and staff development chair, must include assessment and evaluation data indicating progress toward district and site staff development goals based on teaching and learning outcomes, including the percentage of teachers and other staff involved in instruction who participate in effective staff development activities under subdivision 3.

(b) The report must break down expenditures for:

(1) curriculum development and curriculum training programs; and

(2) staff development training models, workshops, and conferences, and the cost of releasing teachers or providing substitute teachers for staff development purposes.

The report also must indicate whether the expenditures were incurred at the district level or the school site level, and whether the school site expenditures were made possible by grants to school sites that demonstrate exemplary use of allocated staff development revenue. These expenditures must be reported using the uniform financial and accounting and reporting standards.

(c) The commissioner shall report the staff development progress and expenditure data to the house of representatives and senate committees having jurisdiction over education by February 15 each odd-numbered year.

Sec. 10. Minnesota Statutes 2010, section 124D.091, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** A district that offers a concurrent enrollment course according to an agreement under section 124D.09, subdivision 10, is eligible to receive aid for the costs of providing postsecondary courses at the high school. Beginning in fiscal year 2011, districts only are eligible for aid if the college or university concurrent enrollment courses offered by the district are accredited by the National Alliance of Concurrent Enrollment Partnership, in the process of being accredited, or are shown by clear evidence to be of comparable standard to accredited courses, or are technical courses within a recognized career and technical education program of study approved by the commissioner of education and the chancellor of the Minnesota State Colleges and Universities.

Sec. 11. Minnesota Statutes 2010, section 124D.10, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(iv) is incorporated in the state of Minnesota;

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

(4) a nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may authorize one or more charter schools if the charter school has operated

for at least three years under a different authorizer and if the nonprofit corporation has existed for at least 25 years.

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

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

- (1) capacity and infrastructure;
- (2) application criteria and process;
- (3) contracting process;
- (4) ongoing oversight and evaluation processes; and
- (5) renewal criteria and processes.

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

- (1) how chartering schools is a way for the organization to carry out its mission;
- (2) a description of the capacity of the organization to serve as an authorizer, including the personnel who will perform the authorizing duties, their qualifications, the amount of time they will be assigned to this responsibility, and the financial resources allocated by the organization to this responsibility;
- (3) a description of the application and review process the authorizer will use to make decisions regarding the granting of charters, which will include at least the following:
  - (i) how the statutory purposes defined in subdivision 1 are addressed;

- 20.1 (ii) the mission, goals, program model, and student performance expectations;  
20.2 (iii) an evaluation plan for the school that includes criteria for evaluating educational,  
20.3 organizational, and fiscal plans;  
20.4 (iv) the school's governance plan;  
20.5 (v) the financial management plan; and  
20.6 (vi) the administration and operations plan;  
20.7 (4) a description of the type of contract it will arrange with the schools it charters  
20.8 that meets the provisions of subdivision 6 and defines the rights and responsibilities of the  
20.9 charter school for governing its educational program, controlling its funds, and making  
20.10 school management decisions;  
20.11 (5) the process to be used for providing ongoing oversight of the school consistent  
20.12 with the contract expectations specified in clause (4) that assures that the schools chartered  
20.13 are complying with both the provisions of applicable law and rules, and with the contract;  
20.14 (6) the process for making decisions regarding the renewal or termination of  
20.15 the school's charter based on evidence that demonstrates the academic, organizational,  
20.16 and financial competency of the school, including its success in increasing student  
20.17 achievement and meeting the goals of the charter school agreement; and  
20.18 (7) an assurance specifying that the organization is committed to serving as an  
20.19 authorizer for the full five-year term.

20.20 A disapproved applicant under this paragraph may resubmit an application during a  
20.21 future application period.

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

20.23 (f) An authorizer that chartered a school before August 1, 2009, must apply by ~~June~~  
20.24 ~~30~~ August 3, 2011, to the commissioner for approval, under paragraph (c), to continue as  
20.25 an authorizer under this section. For purposes of this paragraph, an authorizer that fails to  
20.26 submit a timely application for commissioner approval is ineligible to ~~charter~~ authorize  
20.27 a school. An authorizer ineligible to authorize a charter school under this paragraph or  
20.28 paragraph (c) may continue to authorize a charter school until June 30, 2012. On July  
20.29 1, 2011, a charter school operating under a contract with an ineligible authorizer that  
20.30 expires after June 30, 2012, commits a major violation under this section. A charter  
20.31 school operating under a contract with an ineligible authorizer that expires after June 30,  
20.32 2012, may renegotiate the contract with that authorizer.

20.33 (g) The commissioner shall review an authorizer's performance every five years in  
20.34 a manner and form determined by the commissioner and may review an authorizer's  
20.35 performance more frequently at the commissioner's own initiative or at the request of a  
20.36 charter school operator, charter school board member, or other interested party. The

commissioner, after completing the review, shall transmit a report with findings to the authorizer. If, consistent with this section, the commissioner finds that an authorizer has not fulfilled the requirements of this section, the commissioner may subject the authorizer to corrective action, which may include terminating the contract with the charter school board of directors of a school it chartered. The commissioner must notify the authorizer in writing of any findings that may subject the authorizer to corrective action and the authorizer then has 15 business days to request an informal hearing before the commissioner takes corrective action.

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

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

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

(3) unsatisfactory performance as an approved authorizer; or

(4) any good cause shown.

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

Sec. 12. Minnesota Statutes 2010, section 124D.10, subdivision 4, is amended to read:

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

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

(b) Before the operators may establish and operate a school, the authorizer must file an affidavit with the commissioner stating its intent to charter a school. An authorizer must file a separate affidavit for each school it intends to charter. The affidavit must state the terms and conditions under which the authorizer would charter a school and how the authorizer intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the authorizer

22.1 and the charter school board of directors under subdivision 6. The commissioner must  
22.2 approve or disapprove the authorizer's affidavit within 60 business days of receipt of the  
22.3 affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify  
22.4 the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business  
22.5 days to address the deficiencies. If the authorizer does not address deficiencies to the  
22.6 commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain  
22.7 commissioner approval precludes an authorizer from chartering the school that is the  
22.8 subject of this affidavit.

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

22.13 (d) The operators authorized to organize and operate a school, before entering into a  
22.14 contract or other agreement for professional or other services, goods, or facilities, must  
22.15 incorporate as a cooperative under chapter 308A or as a nonprofit corporation under  
22.16 chapter 317A and must establish a board of directors composed of at least five members  
22.17 who are not related parties until a timely election for members of the ongoing charter  
22.18 school board of directors is held according to the school's articles and bylaws under  
22.19 paragraph (f). A charter school board of directors must be composed of at least five  
22.20 members who are not related parties. Staff members employed at the school, including  
22.21 teachers providing instruction under a contract with a cooperative, and all parents or legal  
22.22 guardians of children enrolled in the school are the voters eligible to elect the members  
22.23 of the school's board of directors. A charter school must notify eligible voters of the  
22.24 school board election dates at least 30 days before the election. Board of director meetings  
22.25 must comply with chapter 13D.

22.26 (e) Upon the request of an individual, the charter school must make available in  
22.27 a timely fashion the minutes of meetings of the board of directors, and of members  
22.28 and committees having any board-delegated authority; financial statements showing all  
22.29 operations and transactions affecting income, surplus, and deficit during the school's last  
22.30 annual accounting period; and a balance sheet summarizing assets and liabilities on the  
22.31 closing date of the accounting period. A charter school also must post on its official Web  
22.32 site information identifying its authorizer and indicate how to contact that authorizer and  
22.33 include that same information about its authorizer in other school materials that it makes  
22.34 available to the public.

22.35 (f) Every charter school board member shall attend department-approved training  
22.36 on board governance, the board's role and responsibilities, employment policies and

practices, and financial management. A board member who does not begin the required training within six months of being seated and complete the required training within 12 months of being seated on the board is ineligible to continue to serve as a board member.

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

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

(2) with the authorizer's approval.

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

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

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

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

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

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

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

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

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

Sec. 13. Minnesota Statutes 2010, section 124D.10, subdivision 6, is amended to read:

Subd. 6. **Charter contract.** The authorization for a charter school must be in the form of a written contract signed by the authorizer and the board of directors of the charter school. The contract must be completed within 45 business days of the commissioner's approval of the authorizer's affidavit. The authorizer shall submit to the commissioner a copy of the signed charter contract within ten business days of its execution. The contract for a charter school must be in writing and contain at least the following:

(1) a declaration of the purposes in subdivision 1 that the school intends to carry out and how the school will report its implementation of those purposes;

(2) a description of the school program and the specific academic and nonacademic outcomes that pupils must achieve;

(3) a statement of admission policies and procedures;

(4) a governance, management, and administration plan for the school;



(5) signed agreements from charter school board members to comply with all federal and state laws governing organizational, programmatic, and financial requirements applicable to charter schools;

(6) the criteria, processes, and procedures that the authorizer will use for ongoing oversight of operational, financial, and academic performance;

(7) the performance evaluation that is a prerequisite for reviewing a charter contract under subdivision 15;

(8) types and amounts of insurance liability coverage to be obtained by the charter school;

(9) the term of the contract, which may be up to three years for an initial contract plus an additional preoperational planning year, and up to five years for a renewed contract if warranted by the school's academic, financial, and operational performance;

(10) how the board of directors or the operators of the charter school will provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, a description of the financial parameters within which the charter school will operate to provide the special instruction and services to children with a disability;

(11) the process and criteria the authorizer intends to use to monitor and evaluate the fiscal and student performance of the charter school, consistent with subdivision 15; ~~and~~

(12) the plan for an orderly closing of the school under chapter 308A or 317A, if the closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract, and that includes establishing the responsibilities of the school board of directors and the authorizer and notifying the commissioner, authorizer, school district in which the charter school is located, and parents of enrolled students about the closure, the transfer of student records to students' resident districts, and procedures for closing financial operations; and

(13) provisions indemnifying and holding the commissioner and the authorizer, its officers, and their agents and employees harmless from any suit, claims, or liability arising under the contract or arising from the operation of the charter school.

Sec. 14. Minnesota Statutes 2010, section 124D.10, subdivision 6a, is amended to read:

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

(b) The charter school, with the assistance of the auditor conducting the audit, must include with the report a copy of all charter school agreements for corporate management services. If the entity that provides the professional services to the charter school is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity

must file with the commissioner by February 15 a copy of the annual return required under section 6033 of the Internal Revenue Code of 1986.

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

Sec. 15. Minnesota Statutes 2010, section 124D.10, subdivision 23, is amended to read:

Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a) The duration of the contract with an authorizer must be for the term contained in the contract according to subdivision 6. The authorizer may or may not renew a contract at the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the authorizer shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the authorizer within 15 business days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 15-business-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the authorizer shall give ten business days' notice to the charter school's board of directors of the hearing date. The authorizer shall conduct an informal hearing before taking final action. The authorizer shall take final action to renew or not renew a contract no later than 20 business days before the proposed date for terminating the contract or the end date of the contract.

(b) A contract may be terminated or not renewed upon any of the following grounds:

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;
- (3) violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed under this paragraph, the school must be dissolved according to the applicable provisions of chapter 308A or 317A.

(c) If the authorizer and the charter school board of directors mutually agree to terminate or not renew the contract, a change in authorizers is allowed if the commissioner

approves the transfer to a different eligible authorizer to authorize the charter school. Both parties must jointly submit their intent in writing to the commissioner to mutually terminate the contract. The authorizer that is a party to the existing contract at least must inform the approved different eligible authorizer about the fiscal and operational status and student performance of the school. Before the commissioner determines whether to approve a transfer of authorizer, the commissioner first must determine whether the charter school and prospective new authorizer can identify and effectively resolve those circumstances causing the previous authorizer and the charter school to mutually agree to terminate the contract. If no transfer of authorizer is approved, the school must be dissolved according to applicable law and the terms of the contract.

(d) The commissioner, after providing reasonable notice to the board of directors of a charter school and the existing authorizer, and after providing an opportunity for a public hearing, may terminate the existing contract between the authorizer and the charter school board if the charter school has ~~a history of~~:

(1) ~~failure failed~~ to meet pupil performance requirements ~~contained in the contract~~ consistent with state law;

(2) issued diplomas to students who have not satisfied graduation requirements under sections 120B.024 and 120B.30;

(3) displayed financial mismanagement or failure to meet generally accepted standards of fiscal management; ~~or~~

~~(3) repeated or major~~ (4) committed multiple violations of the law; or

(5) committed a major violation of the law, including a violation of the Minnesota or federal constitution.

(e) The decision of the commissioner under this section is final.

(f) If the commissioner terminates a charter school contract under subdivision 3, paragraph (g), the commissioner shall provide the charter school with information about other eligible authorizers.

Sec. 16. Minnesota Statutes 2010, section 124D.11, subdivision 9, is amended to read:

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

(b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing operation on or prior to June 30 of a school year, for the payment periods occurring after the school ceases serving students, the commissioner shall withhold the estimated state aid owed the school. The charter school board of directors and authorizer must submit to the

commissioner a closure plan under chapter 308A or 317A, and financial information about the school's liabilities and assets. After receiving the closure plan, financial information, an audit of pupil counts, documentation of lease expenditures, and monitoring of special education expenditures, the commissioner may release cash withheld and may continue regular payments up to the current year payment percentages if further amounts are owed. If, based on audits and monitoring, the school received state aid in excess of the amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid overpayment. For a charter school ceasing operations prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may be made after receiving the closure plan, audit of pupil counts, monitoring of special education expenditures, documentation of lease expenditures, and school submission of Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the final year of operation. Final payment may be made upon receipt of audited financial statements under section 123B.77, subdivision 3.

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

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

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

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

when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit a school calendar and enrollment information to the department in the form and manner requested by the department.

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

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

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

Sec. 17. Minnesota Statutes 2010, section 124D.86, subdivision 1, is amended to read:

Subdivision 1. **Use of revenue.** Districts must use integration revenue under this section for programs established under a desegregation plan filed with the Department of Education according to Minnesota Rules, parts 3535.0100 to 3535.0180, or under court order. The revenue must be used for students enrolled in public schools or preschool children age three or four to have increased and sustained interracial contacts and improved educational opportunities and outcomes designed to close the academic achievement gap between white students and protected students as defined in Minnesota Rules, part 3535.0110, subpart 4, through classroom experiences, staff initiatives, and other educationally related programs, consistent with subdivision 1b.

Sec. 18. Minnesota Statutes 2010, section 124D.86, subdivision 3, is amended to read:

Subd. 3. **Integration revenue.** Integration revenue equals the following amounts:

(1) for Independent School District No. 709, Duluth, \$206 times the adjusted pupil units for the school year;

(2) for Independent School District No. 625, St. Paul, \$445 times the adjusted pupil units for the school year;

(3) for Special School District No. 1, Minneapolis, the sum of \$445 times the adjusted pupil units for the school year and an additional \$35 times the adjusted pupil units for the school year that is provided entirely through a local levy;

(4) for a district not listed in clause (1), (2), or (3), that must implement a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, where the district's enrollment of protected students, as defined under Minnesota Rules, part 3535.0110, exceeds 15 percent,

the lesser of (i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or (ii) \$129 times the adjusted pupil units for the school year;

(5) for a district not listed in clause (1), (2), (3), or (4), that is required to implement a plan according to the requirements of Minnesota Rules, parts 3535.0100 to 3535.0180, the lesser of

(i) the actual cost of implementing the plan during the fiscal year minus the aid received under subdivision 6, or

(ii) \$92 times the adjusted pupil units for the school year; and

~~Any money received by districts in clauses (1) to (3) which exceeds the amount received in fiscal year 2000 shall be subject to the budget requirements in subdivision 1a, and~~

(6) for a member district of a multidistrict integration collaborative that files a plan with the commissioner, but is not contiguous to a racially isolated district, integration revenue equals the amount defined in clause (5).

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to revenue for the 2011-2012 school year and later.

Sec. 19. Minnesota Statutes 2010, section 124D.871, is amended to read:

**124D.871 MAGNET SCHOOL AND PROGRAM GRANTS.**

(a) The commissioner of education, in consultation with the desegregation/integration office under section 124D.892, shall award grants to school districts and chartered public schools for planning and developing magnet schools and magnet programs.

(b) Grant recipients must use the grant money under paragraph (a) to establish or operate a magnet school or a magnet program and provide all students with equal educational opportunities. Grant recipients may expend grant money on:

(1) teachers who provide instruction or services to students in a magnet school or magnet program;

(2) educational paraprofessionals who assist teachers in providing instruction or services to students in a magnet school or magnet program;

(3) clerical support needed to operate a magnet school or magnet program;

(4) equipment, equipment maintenance contracts, materials, supplies, and other property needed to operate a magnet school or magnet program;

(5) minor remodeling needed to operate a magnet school or magnet program;

(6) transportation for field trips that are part of a magnet school or magnet program curriculum;

(7) program planning and staff and curriculum development for a magnet school or magnet program; and

(8) disseminating information on magnet schools and magnet programs; and

~~(9) indirect costs calculated according to the state's statutory formula governing indirect costs.~~

Sec. 20. **ENGLISH LANGUAGE PROFICIENCY STANDARDS.**

Subdivision 1. **Standards.** The Department of Education shall adopt, as statewide standards, English language proficiency standards for instruction of students identified as limited English proficient under Minnesota Statutes, sections 124D.58 to 124D.64.

Subd. 2. **Adoption.** Notwithstanding Minnesota Statutes, chapter 14, and sections 14.386, 120B.02, 120B.021, and 120B.023, the commissioner of education shall adopt the most recent English language proficiency standards for English learners developed by World-Class Instructional Design and Assessment in kindergarten through grade 12. These standards shall be adopted as permanent rules when:

(1) the revisor of statutes approves the form of the rule by certificate;

(2) the commissioner signs an order adopting the rule; and

(3) a copy of the rule is published by the department in the State Register.

Sec. 21. **CHANGE FROM INELIGIBLE AUTHORIZER.**

Notwithstanding any law to the contrary, a charter school authorized by an authorizer that has been determined ineligible under Minnesota Statutes, section 124D.10, subdivision 3, paragraph (c) or (f), during the 2011-2012 school year shall be closed at the end of that school year if, by February 1, 2012, no eligible authorizer has submitted to the commissioner of education a request to become the school's authorizer under Minnesota Statutes, section 124D.10, subdivision 23.

**ARTICLE 3**

**SPECIAL PROGRAMS**

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

Subdivision 1. **Child with a disability.** "Child with a disability" means a child identified under federal and state special education law as ~~having a hearing impairment, blindness, visual disability,~~ deaf or hard-of-hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical disability impairment, other health impairment disability, mental developmental cognitive disability, emotional/behavioral an

emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple disabilities impairments, or deafblind disability and who needs special education and related services, as determined by the rules of the commissioner, ~~is a child with a disability~~. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

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

Sec. 2. Minnesota Statutes 2010, section 125A.51, is amended to read:

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

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

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

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

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

(d) When a pupil without a disability is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence must provide instruction and necessary



transportation to and from the care and treatment program for the pupil. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district. The district of placement may contract with a facility to provide instruction by teachers licensed by the state Board of Teaching.

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

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

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

Sec. 3. **REPEALER.**

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

**ARTICLE 4**

**FACILITIES AND TECHNOLOGY**

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

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

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

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

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

Subd. 2. ~~Contents of program~~ **Health and safety policy.** To qualify for health and safety revenue, a district school board must adopt a health and safety ~~program~~ policy.

The program policy must include plans, where applicable, for hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, and provisions for implementing a health and safety program that complies with health, safety, and environmental management, regulations and best practices including indoor air quality management.

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

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

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

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

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

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

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

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

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable.

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

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

Subd. 6. **Uses of health and safety revenue.** ~~(a) Health and safety revenue may be used only for approved expenditures necessary to correct fire and life safety hazards; or for the; design, purchase, installation, maintenance, and inspection of fire protection and alarm equipment; purchase or construction of appropriate facilities for the storage of combustible and flammable materials; inventories and facility modifications not related to a remodeling project to comply with lab safety requirements under section 121A.31; inspection, testing, repair, removal or encapsulation, and disposal of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, asbestos-containing building materials; cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the; cleanup and disposal of hazardous and infectious wastes; cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01, Minnesota; correction of occupational safety and health administration regulated facility and equipment hazards; indoor air~~

quality inspections, investigations, and testing; mold abatement; upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and State Mechanical Code; design, materials, and installation of local exhaust ventilation systems, including required make-up air for controlling regulated hazardous substances; correction of Department of Health Food Code and violations; correction of swimming pool hazards excluding depth correction; playground safety inspections and the installation of impact surfacing materials; bleacher repair or rebuilding to comply with the order of a building code inspector under section 326B.112; testing and mitigation of elevated radon hazards; lead testing; copper in water testing; cleanup after major weather-related disasters or flooding; reduction of excessive organic and inorganic levels in wells and capping of abandoned wells; installation and testing of boiler backflow valves to prevent contamination of potable water; vaccinations, titers, and preventative supplies for bloodborne pathogen compliance; costs to comply with the Janet B. Johnson Parents' Right to Know Act; automatic external defibrillators and other emergency plan equipment and supplies specific to the district's emergency action plan; and health, safety, and environmental management costs associated with implementing the district's health and safety program including costs to establish and operate safety committees, in school buildings or property owned or being acquired by the district. Testing and calibration activities are permitted for existing mechanical ventilation systems at intervals no less than every five years. ~~Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education.~~

Subd. 6a. **Restrictions on health and safety revenue.** ~~(b)~~ Notwithstanding ~~paragraph (a)~~ subdivision 6, health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement, for the construction of new facilities, remodeling of existing facilities, or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65, for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education, for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and

safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics, public announcement systems and emergency communication devices, or for building and heating, ventilating and air conditioning supplies, maintenance, and cleaning activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).

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

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

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

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

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

**Subd. 6c. Appeals process.** In the event a district is denied funding approval for a project the district believes complies with subdivisions 6 and 8, and is not otherwise excluded, a district may appeal the decision. All such requests must be in writing. The commissioner shall respond in writing. A written request must contain the following: project number; description and amount; reason for denial; unresolved questions for

consideration; reasons for reconsideration; and a specific statement of what action the district is requesting.

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

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

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

(1) actual cost to implement their plan; or

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

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

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

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

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

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

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

Subd. 3. **Certification.** Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision 9, clause ~~(11)~~ (12). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

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

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

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

**ARTICLE 5**

**ACCOUNTING**

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

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

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

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

(3) the district's continued performance of a contract made for the rental of rooms or buildings for school purposes or for the rental of any facility owned or operated by or under the direction of any private organization, if the contract has been disapproved, the



41.1 time for review of the determination of disapproval has expired, and no proceeding for  
41.2 review is pending;

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

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

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

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

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

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

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

41.17 **127A.43 DISTRICT EMPLOYMENT OF UNLICENSED TEACHERS; AID**  
41.18 **REDUCTION.**

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

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

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

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

ARTICLE 6

EARLY CHILDHOOD EDUCATION

Section 1. Minnesota Statutes 2010, section 119A.50, subdivision 3, is amended to read:

Subd. 3. **Early childhood literacy programs.** (a) A research-based early childhood literacy program premised on actively involved parents, ongoing professional staff development, and high quality early literacy program standards is established to increase the literacy skills of children participating in Head Start to prepare them to be successful readers and to increase families' participation in providing early literacy experiences to their children. Program providers must:

- (1) work to prepare children to be successful learners;
- (2) work to close the achievement gap for at-risk children;
- (3) use an integrated approach to early literacy that daily offers a literacy-rich classroom learning environment composed of books, writing materials, writing centers, labels, rhyming, and other related literacy materials and opportunities;
- (4) support children's home language while helping the children master English and use multiple literacy strategies to provide a cultural bridge between home and school;
- (5) use literacy mentors, ongoing literacy groups, and other teachers and staff to provide appropriate, extensive professional development opportunities in early literacy and classroom strategies for preschool teachers and other preschool staff;
- (6) use ongoing data-based assessments that enable preschool teachers to understand, plan, and implement literacy strategies, activities, and curriculum that meet children's literacy needs and continuously improve children's literacy; and
- (7) foster participation by parents, community stakeholders, literacy advisors, and evaluation specialists.

Program providers are encouraged to collaborate with qualified, community-based early childhood providers in implementing this program and to seek nonstate funds to supplement the program.

(b) Program providers under paragraph (a) interested in extending literacy programs to children in kindergarten through grade 3 may elect to form a partnership with an eligible organization under section 124D.38, subdivision 2, or 124D.42, subdivision 6, clause (3), schools enrolling children in kindergarten through grade 3, and other interested and qualified community-based entities to provide ongoing literacy programs that offer seamless literacy instruction focused on closing the literacy achievement gap. To close the literacy achievement gap by the end of third grade, partnership members must agree to use best efforts and practices and to work collaboratively to implement a seamless literacy

model from age three to grade 3, consistent with paragraph (a). Literacy programs under this paragraph must collect and use literacy data to:

- (1) evaluate children's literacy skills; and
- (2) formulate specific intervention strategies to provide reading instruction to children premised on the outcomes of formative and summative assessments and research-based indicators of literacy development.

The literacy programs under this paragraph also must train teachers and other providers working with children to use the assessment outcomes under clause (2) to develop and use effective, long-term literacy coaching models that are specific to the program providers.

~~(c) The commissioner must collect and evaluate literacy data on children from age three to grade 3 who participate in literacy programs under this section to determine the efficacy of early literacy programs on children's success in developing the literacy skills that they need for long-term academic success and the programs' success in closing the literacy achievement gap. Annually by February 1, the commissioner must report to the education policy and finance committees of the legislature on the ongoing impact of these programs.~~

**Sec. 2. [124D.145] SCHOOL READINESS DEFINITION.**

"School readiness" means the skills, knowledge, behaviors, and accomplishments that children should know and should be able to do as they enter kindergarten in the following areas of child development: personal and social development; approaches to learning, language development, creativity, and the arts; cognitive development; and physical development.

**ARTICLE 7**

**STUDENT TRANSPORTATION**

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

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

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated as the district transportation director, (2) an employee providing direct support to the

transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

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

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

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