

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

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Doepke and Myhra)

DATE	D-PG	OFFICIAL STATUS
02/20/2012	3842	Received from House
	3843	Introduction and first reading Referred to Education
02/23/2012	3908a	Comm report: To pass as amended
	3926	Second reading
02/27/2012	3968	Special Order
	3968	Third reading Passed
03/08/2012	4255	House not concur, conference committee of 5 requested House conferees Peterson, B.; Downey; Kelly; Woodward; Mariani Senate accedes, CC of 5 be appointed
	4268	Senate conferees Wolf; Daley; Kruse; Olson; Bonoff

1.1 A bill for an act
1.2 relating to education; allowing school districts to base unrequested leave of
1.3 absence and certain discharge and demotion decisions on teacher evaluation
1.4 outcomes; amending Minnesota Statutes 2010, sections 122A.40, subdivisions
1.5 10, 11; 122A.41, subdivision 14; 123A.75, subdivision 1; Minnesota Statutes
1.6 2011 Supplement, sections 122A.245, subdivision 1; 122A.41, subdivision 6.

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

1.8 Section 1. Minnesota Statutes 2011 Supplement, section 122A.245, subdivision 1,
1.9 is amended to read:

1.10 Subdivision 1. **Requirements.** (a) To improve academic excellence, improve ethnic
1.11 and cultural diversity in the classroom, and close the academic achievement gap, the
1.12 Board of Teaching must approve qualified teacher preparation programs under this section
1.13 that are a means to acquire a two-year limited-term license, which the board may renew
1.14 one time for an additional one-year term, and to prepare for acquiring a standard license.

1.15 The following entities are eligible to participate under this section:

1.16 (1) a school district or charter school that forms a partnership with a college or
1.17 university that has a board-approved alternative teacher preparation program; or

1.18 (2) a school district or charter school, after consulting with a college or university
1.19 with a board-approved teacher preparation program, forms a partnership with a nonprofit
1.20 corporation organized under chapter 317A for an education-related purpose that has a
1.21 board-approved teacher preparation program.

1.22 (b) Before participating in this program, a candidate must:

1.23 (1) have a bachelor's degree with a 3.0 or higher grade point average unless the
1.24 board waives the grade point average requirement based on board-adopted criteria;

2.1 (2) pass the reading, writing, and mathematics skills examination under section
2.2 122A.09, subdivision 4, paragraph (b); and

2.3 (3) obtain qualifying scores on applicable board-approved rigorous content area and
2.4 pedagogy examinations under section 122A.09, subdivision 4, paragraph (e).

2.5 (c) The Board of Teaching must issue a two-year limited-term license to a person
2.6 who enrolls in an alternative teacher preparation program. This limited-term license is not
2.7 a provisional license under section 122A.40 or section 122A.41.

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

2.9 Sec. 2. Minnesota Statutes 2010, section 122A.40, subdivision 10, is amended to read:

2.10 Subd. 10. **Negotiated unrequested leave of absence.** (a) The school board and
2.11 the exclusive bargaining representative of the teachers may negotiate a plan providing for
2.12 unrequested leave of absence without pay or fringe benefits for as many teachers as may
2.13 be necessary because of discontinuance of position, lack of pupils, financial limitations, or
2.14 merger of classes caused by consolidation of districts. ~~Failing to successfully negotiate~~
2.15 ~~such a plan, the provisions of subdivision 11 shall apply.~~ The negotiated plan must not
2.16 include provisions which would result in the exercise of seniority by a teacher holding a
2.17 provisional license, other than a vocational education license if required for the position,
2.18 contrary to the provisions of subdivision 11, ~~clause~~ paragraph (c), or the reinstatement of a
2.19 teacher holding a provisional license, other than a vocational education license required
2.20 for the position, contrary to the provisions of subdivision 11, ~~clause (c)~~ paragraph (f).
2.21 The provisions of section 179A.16 do not apply for the purposes of this subdivision.
2.22 Notwithstanding other law to the contrary, the school board and the exclusive bargaining
2.23 representative of the teachers may negotiate a plan to base unrequested leave of absence
2.24 decisions on teachers' subject matter licensure fields and evaluation outcomes, from the
2.25 least to most effective category under subdivision 8 and from least to greatest seniority,
2.26 including probationary teachers, within each category, which if negotiated, must be
2.27 consistent with subdivision 11, paragraph (n).

2.28 (b) Notwithstanding other law to the contrary, if a school board fails to successfully
2.29 negotiate a plan under paragraph (a), the provisions of subdivision 11 apply unless a
2.30 majority of school board members formally decides to place teachers on unrequested leave
2.31 of absence based on teachers' subject matter licensure fields and evaluation outcomes,
2.32 from the least to most effective category under subdivision 8 and from least to greatest
2.33 seniority, including probationary teachers, within each effectiveness category; the decision
2.34 must be consistent with subdivision 11, paragraph (n). In such a case the board must
2.35 develop, publish, and implement an unrequested leave of absence plan based on teachers'

3.1 subject matter licensure fields and evaluation outcomes, from the least to most effective
3.2 category under subdivision 8 and from least to greatest seniority, including probationary
3.3 teachers, within each effectiveness category, and subdivision 11, paragraphs (a) through
3.4 (m), do not apply.

3.5 (c) For purposes of placing a teacher on unrequested leave of absence or recalling a
3.6 teacher from unrequested leave of absence, nothing in this subdivision requires a school
3.7 board to reassign a teacher with more seniority to a different subject matter licensure
3.8 field or to a substantially different grade level assignment in order to accommodate the
3.9 seniority claims of a teacher who is similarly licensed and effective but with less seniority.
3.10 For purposes of this subdivision, a teacher holding a provisional license in a subject
3.11 area includes a teacher who has received a waiver or variance to teach that subject from
3.12 the Minnesota Board of Teaching. "A substantially different grade level assignment"
3.13 means an assignment between kindergarten, grades 1 through 6, junior high school, and
3.14 senior high school.

3.15 (d) Nothing in this subdivision permits a school board to use a teacher's remuneration
3.16 as the basis for making unrequested leave of absence or discharge decisions.

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment
3.18 and applies to negotiated plans agreed to after that date.

3.19 Sec. 3. Minnesota Statutes 2010, section 122A.40, subdivision 11, is amended to read:

3.20 Subd. 11. **Unrequested leave of absence.** The board may place on unrequested
3.21 leave of absence, without pay or fringe benefits, as many teachers as may be necessary
3.22 because of discontinuance of position, lack of pupils, financial limitations, or merger
3.23 of classes caused by consolidation or reorganization of districts under chapter 123A.

3.24 The unrequested leave is effective at the close of the school year. In placing teachers on
3.25 unrequested leave, the board is governed by the following provisions:

3.26 (a) The board may place probationary teachers on unrequested leave first in the
3.27 inverse order of their employment. A teacher who has acquired continuing contract rights
3.28 must not be placed on unrequested leave of absence while probationary teachers are
3.29 retained in positions for which the teacher who has acquired continuing contract rights is
3.30 licensed;

3.31 (b) Teachers who have acquired continuing contract rights shall be placed on
3.32 unrequested leave of absence in fields in which they are licensed in the inverse order
3.33 in which they were employed by the school district. In the case of equal seniority, the
3.34 order in which teachers who have acquired continuing contract rights shall be placed on
3.35 unrequested leave of absence in fields in which they are licensed is negotiable;

4.1 (c) Notwithstanding the provisions of ~~clause~~ paragraph (b), a teacher is not entitled
4.2 to exercise any seniority when that exercise results in that teacher being retained by the
4.3 district in a field for which the teacher holds only a provisional license, as defined by the
4.4 board of teaching, unless that exercise of seniority results in the placement on unrequested
4.5 leave of absence of another teacher who also holds a provisional license in the same field.
4.6 The provisions of this ~~clause~~ paragraph do not apply to vocational education licenses
4.7 required for available positions;

4.8 (d) Notwithstanding ~~clauses~~ paragraphs (a), (b) and (c), if the placing of a
4.9 probationary teacher on unrequested leave before a teacher who has acquired continuing
4.10 rights, the placing of a teacher who has acquired continuing contract rights on unrequested
4.11 leave before another teacher who has acquired continuing contract rights but who has
4.12 greater seniority, or the restriction imposed by the provisions of ~~clause~~ paragraph (c) would
4.13 place the district in violation of its affirmative action program, the district may retain the
4.14 probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

4.15 (e) For purposes of placing a teacher on unrequested leave of absence or recalling a
4.16 teacher from unrequested leave of absence, nothing in this subdivision requires a school
4.17 board to reassign a teacher with more seniority to a different subject matter licensure
4.18 field or to a substantially different grade level assignment in order to accommodate
4.19 the seniority claims of a teacher who is similarly licensed and effective but with less
4.20 seniority. "A substantially different grade level assignment" means an assignment between
4.21 kindergarten, grades 1 through 6, junior high school, and senior high school;

4.22 (f) Teachers placed on unrequested leave of absence must be reinstated to the
4.23 positions from which they have been given leaves of absence or, if not available, to other
4.24 available positions in the school district in fields in which they are licensed. Reinstatement
4.25 must be in the inverse order of placement on leave of absence. A teacher must not be
4.26 reinstated to a position in a field in which the teacher holds only a provisional license,
4.27 other than a vocational education license if required for the position, while another teacher
4.28 who holds a nonprovisional license in the same field remains on unrequested leave.
4.29 The order of reinstatement of teachers who have equal seniority and who are placed on
4.30 unrequested leave in the same school year is negotiable;

4.31 ~~(f)~~ (g) Appointment of a new teacher must not be made while there is available, on
4.32 unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the
4.33 teacher fails to advise the school board within 30 days of the date of notification that a
4.34 position is available to that teacher who may return to employment and assume the duties
4.35 of the position to which appointed on a future date determined by the board;

5.1 ~~(g)~~ (h) A teacher placed on unrequested leave of absence may engage in teaching
5.2 or any other occupation during the period of this leave;

5.3 ~~(h)~~ (i) The unrequested leave of absence must not impair the continuing contract
5.4 rights of a teacher or result in a loss of credit for previous years of service;

5.5 ~~(i)~~ (j) Consistent with paragraph (n) and subdivision 10, the unrequested leave of
5.6 absence of a teacher who is categorized as effective or better under subdivision 8, who
5.7 is placed on unrequested leave of absence, and who is not reinstated shall continue for a
5.8 period of five years, after which the right to reinstatement shall terminate terminates. The
5.9 teacher's right to reinstatement ~~shall~~ also ~~terminate~~ terminates if the teacher fails to file
5.10 with the board by April 1 of ~~any~~ each year a written statement requesting reinstatement;

5.11 (k) Consistent with paragraph (n) and subdivision 10, the unrequested leave of
5.12 absence of a teacher who is categorized as ineffective or less under subdivision 8, who
5.13 is placed on unrequested leave of absence, and who is not reinstated continues for the
5.14 following school year only, after which the teacher's right to reinstatement terminates. The
5.15 teacher's right to reinstatement also terminates if the teacher fails to file with the board by
5.16 April 1 in that following school year a written statement requesting reinstatement;

5.17 ~~(j)~~ (l) The same provisions applicable to terminations of probationary or continuing
5.18 contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of absence;

5.19 ~~(k)~~ (m) Nothing in this subdivision shall be construed to impair the rights of teachers
5.20 placed on unrequested leave of absence to receive unemployment benefits if otherwise
5.21 eligible;

5.22 (n) Beginning in the 2016-2017 school year and later, and notwithstanding any
5.23 contradictory provisions in this subdivision, a school board must place teachers on
5.24 unrequested leave of absence based on their subject matter licensure fields and most recent
5.25 evaluation outcomes, from the least to most effective category under subdivision 8 and
5.26 from least to greatest seniority, including probationary teachers, within each effectiveness
5.27 category. A school board is not required to reassign a teacher with more seniority
5.28 to a different subject matter licensure field or to a substantially different grade level
5.29 assignment in order to accommodate the seniority claims of a teacher who is similarly
5.30 licensed and effective but with less seniority. A school board may decide not to renew a
5.31 probationary teacher's contract as it sees fit. The school board must make available to the
5.32 public in a readily accessible format the unrequested leave of absence plan it develops and
5.33 implements under this paragraph.

5.34 (o) For purposes of this subdivision, a teacher who holds a provisional license in a
5.35 subject area includes a teacher who has received a waiver or variance to teach that subject
5.36 from the Minnesota Board of Teaching.

6.1 EFFECTIVE DATE. This section is effective the day following final enactment
6.2 except that paragraph (n) is effective for the 2016-2017 school year and later.

6.3 Sec. 4. Minnesota Statutes 2011 Supplement, section 122A.41, subdivision 6, is
6.4 amended to read:

6.5 Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided
6.6 in paragraph (b), causes for the discharge or demotion of a teacher either during or after
6.7 the probationary period must be:

6.8 (1) immoral character, conduct unbecoming a teacher, or insubordination;

6.9 (2) failure without justifiable cause to teach without first securing the written release
6.10 of the school board having the care, management, or control of the school in which the
6.11 teacher is employed;

6.12 (3) inefficiency in teaching or in the management of a school, consistent with
6.13 subdivision 5, paragraph (b);

6.14 (4) affliction with active tuberculosis or other communicable disease must be
6.15 considered as cause for removal or suspension while the teacher is suffering from such
6.16 disability; or

6.17 (5) discontinuance of position or lack of pupils.

6.18 Notwithstanding other law to the contrary, the school board and the exclusive
6.19 representative of the teachers may negotiate an agreement to discharge or demote
6.20 teachers under clause (5) based on their subject matter licensure fields and evaluation
6.21 outcomes, from the least to most effective category under subdivision 5 and from least to
6.22 greatest seniority, including probationary teachers, within each effectiveness category.
6.23 Alternatively, the majority of the school board members may formally decide to discharge
6.24 or demote teachers under clause (5) based on their subject matter licensure fields and
6.25 evaluation outcomes, from the least to most effective category under subdivision 5 and
6.26 from least to greatest seniority, including probationary teachers, within each effectiveness
6.27 category; in this case the board must develop and implement a discharge and demotion
6.28 plan based on teachers' subject matter licensure fields and evaluation outcomes, from the
6.29 least to most effective category and from least to greatest seniority, including probationary
6.30 teachers, within each effectiveness category. Beginning in the 2016-2017 school year and
6.31 later, and notwithstanding any contradictory provisions in this subdivision, the school
6.32 board must discharge or demote teachers under clause (5) based on their subject matter
6.33 licensure fields and most recent evaluation outcomes, from the least to most effective
6.34 category under subdivision 5 and from least to greatest seniority, including probationary
6.35 teachers, within each effectiveness category. Nothing in this subdivision permits a school

7.1 board to use a teacher's remuneration as the basis for making discharge or demotion
7.2 decisions. The school board must make available to the public in a readily accessible
7.3 format any discharge and demotion plan it develops to implement clause (5) of this
7.4 paragraph.

7.5 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
7.6 discriminatory practice described in section 363A.13.

7.7 (b) A probationary or continuing-contract teacher must be discharged immediately
7.8 upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the
7.9 teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

7.10 **EFFECTIVE DATE.** This section is effective the day following final enactment
7.11 and applies to negotiated plans agreed to after that date.

7.12 Sec. 5. Minnesota Statutes 2010, section 122A.41, subdivision 14, is amended to read:

7.13 Subd. 14. **Services terminated by discontinuance or lack of pupils; preference**
7.14 **given.** (a) To the extent consistent with paragraph (c) and subdivision 6, paragraph (a),
7.15 clause (5), a teacher whose services are terminated on account of discontinuance of
7.16 position or lack of pupils must receive first consideration for other positions in the district
7.17 for which that teacher is qualified. ~~In the event~~ If it becomes ~~is~~ necessary to discontinue
7.18 one or more positions, in making such discontinuance, teachers must be discontinued in
7.19 any department in the inverse order in which they were employed, unless a board and the
7.20 exclusive representative of teachers in the district negotiate a plan providing otherwise.

7.21 (b) Notwithstanding the provisions of ~~clause~~ paragraph (a), and to the extent
7.22 consistent with paragraph (c) and subdivision 6, paragraph (a), a teacher is not entitled
7.23 to exercise any seniority when that exercise results in that teacher being retained by the
7.24 district in a field for which the teacher holds only a provisional license, as defined by the
7.25 Board of Teaching, unless that exercise of seniority results in the termination of services,
7.26 on account of discontinuance of position or lack of pupils, of another teacher who also
7.27 holds a provisional license in the same field. The provisions of this clause do not apply
7.28 to vocational education licenses.

7.29 (c) For purposes of discharging, demoting, or recalling a teacher whose services are
7.30 terminated under this subdivision, nothing in this subdivision requires a school board to
7.31 reassign a teacher with more seniority to a different subject matter licensure field or to a
7.32 substantially different grade level assignment in order to accommodate the seniority claims
7.33 of a teacher who is similarly licensed and effective but with less seniority. "A substantially
7.34 different grade level assignment" means an assignment between kindergarten, grades 1
7.35 through 6, junior high school, and senior high school.

8.1 (d) Notwithstanding the provisions of ~~clause~~ paragraph (a), and to the extent
8.2 consistent with paragraph (c) and subdivision 6, paragraph (a), a teacher must not be
8.3 reinstated to a position in a field in which the teacher holds only a provisional license,
8.4 other than a vocational education license if required for the position, while another teacher
8.5 who holds a nonprovisional license in the same field is available for reinstatement.

8.6 (e) For purposes of this subdivision, a teacher who holds a provisional license in a
8.7 subject area includes a teacher who has received a waiver or variance to teach that subject
8.8 from the Minnesota Board of Teaching.

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

8.10 Sec. 6. Minnesota Statutes 2010, section 123A.75, subdivision 1, is amended to read:

8.11 Subdivision 1. **Teacher assignment.** (a) As of the effective date of a consolidation
8.12 in which a district is divided or the dissolution of a district and its attachment to two or
8.13 more existing districts, each teacher employed by an affected district shall be assigned to
8.14 the newly created or enlarged district on the basis of a ratio of the pupils assigned to each
8.15 district according to the new district boundaries. The district receiving the greatest number
8.16 of pupils must be assigned the teacher with the greatest seniority, and the remaining
8.17 teachers must be alternately assigned to each district until the district receiving the fewest
8.18 pupils has received its ratio of teachers who will not be retiring before the effective date of
8.19 the consolidation or dissolution.

8.20 (b) Notwithstanding paragraph (a), the board and the exclusive representative of
8.21 teachers in each district involved in the consolidation or dissolution and attachment may
8.22 negotiate a plan for assigning teachers to each newly created or enlarged district.

8.23 (c) Notwithstanding other law to the contrary, the provisions of this section apply
8.24 only to the extent they are consistent with section 122A.40, subdivisions 8, 10, and 11.

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