

CHAPTER 124D

EDUCATION PROGRAMS

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124D.02 SCHOOL BOARD POWERS; ENROLLMENT.

Subdivision 1. **Kindergarten instruction.** The board may establish and maintain one or more kindergartens for the instruction of children and after July 1, 1974, shall provide kindergarten instruction for all eligible children, either in the district or in another district. All children to be eligible for kindergarten must be at least five years of age on September 1 of the calendar year in which the school year commences. In addition all children selected under an early admissions policy established by the school board may be admitted. Nothing in this section shall prohibit a school district from establishing Head Start, prekindergarten, or nursery school classes for children below kindergarten age. Any school board with evidence that providing kindergarten will cause an extraordinary hardship on the school district may apply to the commissioner of education for an exception.

[For text of subds 2 to 4, see M.S.2002]

History: 2003 c 130 s 12

124D.03 ENROLLMENT OPTIONS PROGRAM.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Pupil application procedures.** In order that a pupil may attend a school or program in a nonresident district, the pupil's parent or guardian must submit an application to the nonresident district. Before submitting an application, the pupil and the pupil's parent or guardian must explore with a school guidance counselor, or other appropriate staff member employed by the district the pupil is currently attending, the pupil's academic or other reason for applying to enroll in a nonresident district. The pupil's application must identify the reason for enrolling in the nonresident district. The parent or guardian of a pupil must submit an application by January 15 for initial enrollment beginning the following school year. The application must be on a form provided by the Department of Education. A particular school or program may be

requested by the parent. Once enrolled in a nonresident district, the pupil may remain enrolled and is not required to submit annual or periodic applications. To return to the resident district or to transfer to a different nonresident district, the parent or guardian of the pupil must provide notice to the resident district or apply to a different nonresident district by January 15 for enrollment beginning the following school year.

Subd. 4. Desegregation district transfers. (a) This subdivision applies to a transfer into or out of a district that has a desegregation plan approved by the commissioner of education.

(b) An application to transfer may be submitted at any time for enrollment beginning at any time.

(c) A pupil enrolled in a nonresident district under a desegregation plan approved by the commissioner of education is not required to make annual or periodic application for enrollment but may remain enrolled in the same district. A pupil may transfer to the resident district at any time.

(d) Subdivision 2 applies to a transfer into or out of a district with a desegregation plan.

[For text of subs 5 and 6, see M.S.2002]

Subd. 7. Exceptions to deadlines. Notwithstanding subdivision 3, the following pupil application procedures apply:

(a) Upon agreement of the resident and nonresident districts, a pupil may submit an application to a nonresident district after January 15 for enrollment beginning the following school year.

(b) If, as a result of entering into, modifying, or terminating an agreement between boards, a pupil is assigned after December 1 to a different school for enrollment beginning at any time, the pupil, the pupil's siblings, or any other pupil residing in the pupil's residence may submit an application to a nonresident district at any time before July 1 for enrollment beginning the following school year.

(c) A pupil who becomes a resident of a district after December 1 may submit an application to a nonresident district on January 15 or any time after that date for enrollment beginning any time before the following December 1.

(d) If the commissioner of education and the commissioner of human rights determine that the policies, procedures, or practices of a district are in violation of Title VI of the Civil Rights Act of 1964 (Public Law 88-352) or chapter 363A, any pupil in the district may submit an application to a nonresident district at any time for enrollment beginning at any time.

For exceptions under this subdivision, the applicant, the applicant's parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 3 and 5, except that the application and notice deadlines do not apply.

[For text of subs 8 to 11, see M.S.2002]

Subd. 12. Termination of enrollment. A district may terminate the enrollment of a nonresident student enrolled under this section or section 124D.08 at the end of a school year if the student meets the definition of a habitual truant under section 260C.007, subdivision 19, the student has been provided appropriate services under chapter 260A, and the student's case has been referred to juvenile court. A district may also terminate the enrollment of a nonresident student over the age of 16 enrolled under this section if the student is absent without lawful excuse for one or more periods on 15 school days and has not lawfully withdrawn from school under section 120A.22, subdivision 8.

History: 2003 c 130 s 12; 1Sp2003 c 9 art 12 s 8

124D.081 FIRST-GRADE PREPAREDNESS PROGRAM.*[For text of subds 1 to 6, see M.S.2002]*

Subd. 9. **Reserve account.** First grade preparedness revenue must be placed in a reserve account within the general fund and may only be used for first grade preparedness programs at qualifying school sites.

History: 1Sp2003 c 9 art 2 s 15

124D.09 POSTSECONDARY ENROLLMENT OPTIONS ACT.*[For text of subds 1 and 2, see M.S.2002]*

Subd. 3. **Definitions.** For purposes of this section, the following terms have the meanings given to them.

(a) "Eligible institution" means a Minnesota public postsecondary institution, a private, nonprofit two-year trade and technical school granting associate degrees, an opportunities industrialization center accredited by the North Central Association of Colleges and Schools, or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota.

(b) "Course" means a course or program.

Subd. 4. **Alternative pupil.** "Alternative pupil" means an 11th or 12th grade student not enrolled in a public school district, and includes students attending nonpublic schools and students who are home schooled. An alternative pupil is considered a pupil for purposes of this section only. An alternative pupil must register with the commissioner of education before participating in the postsecondary enrollment options program. The commissioner shall prescribe the form and manner of the registration, in consultation with the Nonpublic Education Council under section 123B.445, and may request any necessary information from the alternative pupil.

[For text of subds 5 to 8, see M.S.2002]

Subd. 9. **Enrollment priority.** A postsecondary institution shall give priority to its postsecondary students when enrolling 11th and 12th grade pupils in its courses. A postsecondary institution may provide information about its programs to a secondary school or to a pupil or parent, but it may not advertise or otherwise recruit or solicit the participation of secondary pupils to enroll in its programs on financial grounds. An institution must not enroll secondary pupils, for postsecondary enrollment options purposes, in remedial, developmental, or other courses that are not college level. Once a pupil has been enrolled in a postsecondary course under this section, the pupil shall not be displaced by another student.

Subd. 10. **Courses according to agreements.** An eligible pupil, according to subdivision 5, may enroll in a nonsectarian course taught by a secondary teacher or a postsecondary faculty member and offered at a secondary school, or another location, according to an agreement between a public school board and the governing body of an eligible public postsecondary system or an eligible private postsecondary institution, as defined in subdivision 3. All provisions of this section shall apply to a pupil, public school board, district, and the governing body of a postsecondary institution, except as otherwise provided.

[For text of subds 11 and 12, see M.S.2002]

Subd. 13. **Financial arrangements.** For a pupil enrolled in a course under this section, the department must make payments according to this subdivision for courses that were taken for secondary credit.

The department must not make payments to a school district or postsecondary institution for a course taken for postsecondary credit only. The department must not make payments to a postsecondary institution for a course from which a student officially withdraws during the first 14 days of the quarter or semester or who has been

absent from the postsecondary institution for the first 15 consecutive school days of the quarter or semester and is not receiving instruction in the home or hospital.

A postsecondary institution shall receive the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance minus \$415, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance minus \$415, multiplied by 1.3, and divided by 30.

The department must pay to each postsecondary institution 100 percent of the amount in clause (1) or (2) within 30 days of receiving initial enrollment information each quarter or semester. If changes in enrollment occur during a quarter or semester, the change shall be reported by the postsecondary institution at the time the enrollment information for the succeeding quarter or semester is submitted. At any time the department notifies a postsecondary institution that an overpayment has been made, the institution shall promptly remit the amount due.

[For text of subd 14, see M.S.2002]

Subd. 15. [Repealed, 1Sp2003 c 9 art 9 s 10]

Subd. 16. Financial arrangements for courses provided according to agreements.

(a) The agreement between a board and the governing body of a public postsecondary system or private postsecondary institution shall set forth the payment amounts and arrangements, if any, from the board to the postsecondary institution. No payments shall be made by the department according to subdivision 13 or 15. For the purpose of computing state aids for a district, a pupil enrolled according to subdivision 10 shall be counted in the average daily membership of the district as though the pupil were enrolled in a secondary course that is not offered in connection with an agreement. Nothing in this subdivision shall be construed to prohibit a public postsecondary system or private postsecondary institution from receiving additional state funding that may be available under any other law.

(b) If a course is provided under subdivision 10, offered at a secondary school, and taught by a secondary teacher, the postsecondary system or institution must not require a payment from the school board that exceeds the cost to the postsecondary institution that is directly attributable to providing that course.

Subd. 17. Alternative pupils financial arrangements. For an alternative pupil enrolled in a course or program under this section, the Department of Education shall make payments to the eligible institution according to subdivision 13. The department shall not make any payments to a school district for alternative pupils.

[For text of subds 18 and 19, see M.S.2002]

Subd. 20. Textbooks; materials. All textbooks and equipment provided to a pupil, and paid for under subdivision 13, are the property of the pupil's postsecondary institution. Each pupil is required to return all textbooks and equipment to the postsecondary institution after the course has ended.

[For text of subds 21 to 26, see M.S.2002]

History: 2003 c 130 s 12; 1Sp2003 c 9 art 1 s 12; art 2 s 16-19; art 12 s 9.

124D.095 ON-LINE LEARNING OPTION.

Subdivision 1. Citation. This section may be cited as the "On-line Learning Option Act."

Subd. 2. Definitions. For purposes of this section, the following terms have the meanings given them.

(a) "On-line learning" is an interactive course or program that delivers instruction to a student by computer; is combined with other traditional delivery methods that

include frequent student assessment and may include actual teacher contact time; and meets or exceeds state academic standards.

(b) "On-line learning provider" is a school district, an organization of two or more school districts operating under a joint powers agreement, or a charter school located in Minnesota that provides on-line learning to students.

(c) "Student" is a Minnesota resident enrolled in a school under section 120A.22, subdivision 4, in kindergarten through grade 12.

(d) "On-line learning student" is a student enrolled in an on-line learning course or program delivered by an on-line provider under paragraph (b).

(e) "Enrolling district" means the school district or charter school in which a student is enrolled under section 120A.22, subdivision 4, for purposes of compulsory attendance.

Subd. 3. Authorization; notice; limitations on enrollment. (a) A student may apply to an on-line learning provider to enroll in on-line learning. A student age 17 or younger must have the written consent of a parent or guardian to apply. No school district or charter school may prohibit a student from applying to enroll in on-line learning. An on-line learning provider that accepts a student under this section must, within ten days, notify the student and the enrolling district if the enrolling district is not the on-line learning provider. The notice must report the student's course or program and hours of instruction.

(b) An on-line learning student must notify the enrolling district at least 30 days before taking an on-line learning course or program if the enrolling district is not providing the on-line learning. An on-line learning provider must notify the commissioner that it is delivering on-line learning and report the number of on-line learning students it is accepting and the on-line learning courses and programs it is delivering.

(c) An on-line learning provider may limit enrollment if the provider's school board or board of directors adopts by resolution specific standards for accepting and rejecting students' applications.

(d) An enrolling district may reduce an on-line learning student's regular classroom instructional membership in proportion to the student's membership in on-line learning courses.

Subd. 4. On-line learning parameters. (a) An on-line learning student must receive academic credit for completing the requirements of an on-line learning course or program. Secondary credits granted to an on-line learning student must be counted toward the graduation and credit requirements of the enrolling district. The enrolling district must apply the same graduation requirements to all students, including on-line learning students, and must continue to provide nonacademic services to on-line learning students. If a student completes an on-line learning course or program that meets or exceeds a graduation standard or grade progression requirement at the enrolling district, that standard or requirement is met. The enrolling district must use the same criteria for accepting on-line learning credits or courses as it does for accepting credits or courses for transfer students under section 124D.03, subdivision 9. The enrolling district may reduce the teacher contact time of an on-line learning student in proportion to the number of on-line learning courses the student takes from an on-line learning provider that is not the enrolling district.

(b) An on-line learning student may:

(1) enroll during a single school year in a maximum of 12 semester-long courses or their equivalent delivered by an on-line learning provider or the enrolling district;

(2) complete course work at a grade level that is different from the student's current grade level; and

(3) enroll in additional courses with the on-line learning provider under a separate agreement that includes terms for payment of any tuition or course fees.

(c) A student with a disability may enroll in an on-line learning course or program if the student's IEP team determines that on-line learning is appropriate education for the student.

(d) An on-line learning student has the same access to the computer hardware and education software available in a school as all other students in the enrolling district. An on-line learning provider must assist an on-line learning student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software for on-line learning purposes.

(e) An enrolling district may offer on-line learning to its enrolled students. Such on-line learning does not generate on-line learning funds under this section. An enrolling district that offers on-line learning only to its enrolled students is not subject to the reporting requirements or review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to enrolled students receiving on-line learning from an enrolling district. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.

(f) An on-line learning provider that is not the enrolling district is subject to the reporting requirements and review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to on-line learning students. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license. Unless the commissioner grants a waiver, a teacher providing on-line learning instruction must not instruct more than 40 students in any one on-line learning course or program.

Subd. 5. Participation in extracurricular activities. An on-line learning student may participate in the extracurricular activities of the enrolling district on the same basis as other enrolled students.

Subd. 6. Information. School districts and charter schools must make available information about on-line learning to all interested people.

Subd. 7. Department of Education. (a) The department must review and certify on-line learning providers. The on-line learning courses and programs must be rigorous, aligned with state academic standards, and contribute to grade progression in a single subject. On-line learning providers must affirm to the commissioner that on-line learning courses have equivalent standards or instruction, curriculum, and assessment requirements as other courses offered to enrolled students. The on-line learning provider must also demonstrate expectations for actual teacher contact time or other student-to-teacher communication. Once an on-line learning provider is approved under this paragraph, all of its on-line learning course offerings are eligible for payment under this section unless a course is successfully challenged by an enrolling district or the department under paragraph (b).

(b) An enrolling district may challenge the validity of a course offered by an on-line learning provider. The department must review such challenges based on the certification procedures under paragraph (a). The department may initiate its own review of the validity of an on-line learning course offered by an on-line learning provider.

(c) The department may collect a fee not to exceed \$250 for certifying on-line learning providers or \$50 per course for reviewing a challenge by an enrolling district.

(d) The department must develop, publish, and maintain a list of approved on-line learning providers and on-line learning courses and programs that it has reviewed and certified.

Subd. 8. Financial arrangements. (a) For a student enrolled in an on-line learning course, the department must calculate average daily membership and make payments according to this subdivision.

(b) The initial on-line learning average daily membership equals 1/12 for each semester course or a proportionate amount for courses of different lengths. The adjusted on-line learning average daily membership equals the initial on-line learning average daily membership times .88.

(c) No on-line learning average daily membership shall be generated if: (1) the student does not complete the on-line learning course, or (2) the student is enrolled in on-line learning provided by the enrolling district and the student was enrolled in a

Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning.

(d) On-line learning average daily membership under this subdivision for a student currently enrolled in a Minnesota public school and who was enrolled in a Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause (ii), and for computing on-line learning aid according to section 126C.24.

(e) On-line learning average daily membership under this subdivision for students not included in paragraph (c) or (d) shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause (ii), and for computing payments under paragraphs (f) and (g).

(f) Subject to the limitations in this subdivision, the department must pay an on-line learning provider an amount equal to the product of the adjusted on-line learning average daily membership for students under paragraph (e) times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.

(g) The department must pay each on-line learning provider 100 percent of the amount in paragraph (f) within 45 days of receiving final enrollment and course completion information each quarter or semester.

Subd. 9. Payment priority. (a) To the extent funds are available, the commissioner must pay an on-line learning provider according to subdivision 8, in the order in which an on-line learning provider notifies the commissioner under subdivision 3, paragraph (b), that it is delivering on-line learning. The on-line learning provider must submit to the commissioner any student information necessary to process payments under this section.

(b) Before paying other on-line learning providers under paragraph (a), the commissioner must pay providers that delivered on-line learning in fiscal year 2003. (1) First, the commissioner must pay for students who were enrolled in a Minnesota on-line learning program during fiscal year 2003 and continue to be enrolled in that on-line learning program during the current fiscal year. (2) Second, the commissioner must pay for other students enrolled in that on-line learning program during the current fiscal year. A provider's qualifying number of pupils under clauses (1) and (2) shall not exceed 100 percent of the fiscal year 2003 pupils. An on-line learning provider that qualifies under this paragraph may also submit an application for funding for additional pupils under paragraph (a).

(c) Notwithstanding paragraph (a), the commissioner may establish criteria to limit the increase in the number of qualifying pupils for an on-line learning provider to enable start-up or growth of other providers.

History: *1Sp2003 c 9 art 2 s 20*

124D.096 ON-LINE LEARNING AID.

(a) The on-line learning aid for an on-line learning provider equals the product of the adjusted on-line learning average daily membership for students under section 124D.095, subdivision 8, paragraph (d), times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.

(b) Notwithstanding section 127A.45, the department must pay each on-line learning provider 77 percent of the amount in paragraph (a) within 45 days of receiving final enrollment and course completion information each quarter or semester. A final payment equal to 23 percent of the amount in paragraph (a) must be made on September 30 of the next fiscal year.

History: *1Sp2003 c 9 art 2 s 37*

124D.10 CHARTER SCHOOLS.

[For text of subs 1 and 2, see M.S.2002]

Subd. 2a. Charter School Advisory Council. (a) A Charter School Advisory Council is established under section 15.059 except that the term for each council

member shall be three years. The advisory council is composed of seven members from throughout the state who have demonstrated experience with or interest in charter schools. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to charter schools that the council deems necessary and shall:

- (1) encourage school boards to make full use of charter school opportunities;
- (2) encourage the creation of innovative schools;
- (3) provide leadership and support for charter school sponsors to increase the innovation in and the effectiveness, accountability, and fiscal soundness of charter schools;
- (4) serve an ombudsman function in facilitating the operations of new and existing charter schools;
- (5) promote timely financial management training for newly elected members of a charter school board of directors and ongoing training for other members of a charter school board of directors; and
- (6) facilitate compliance with auditing and other reporting requirements. The advisory council shall refer all its proposals to the commissioner who shall provide time for reports from the council.

(b) The Charter School Advisory Council under this subdivision expires June 30, 2007.

Subd. 3. Sponsor. (a) A school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19; charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations, registered with the attorney general's office, and reports an end-of-year fund balance of at least \$2,000,000; Minnesota private college that grants two- or four-year degrees and is registered with the Higher Education Services Office 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 may sponsor one or more charter schools.

(b) 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 sponsor one or more charter schools if the charter school has operated for at least three years under a different sponsor and if the nonprofit corporation has existed for at least 25 years.

Subd. 4. Formation of school. (a) A sponsor may authorize one or more licensed teachers under section 122A.18, subdivision 1, to operate a charter school subject to approval by the commissioner. A board must vote on charter school application for sponsorship no later than 90 days after receiving the application. After 90 days, the applicant may apply to the commissioner. If a board elects not to sponsor a charter school, the applicant may appeal the board's decision to the commissioner. The commissioner may elect to sponsor the charter school or assist the applicant in finding an eligible sponsor. 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 may create a corporation for the purpose of creating a charter school.

(b) Before the operators may form and operate a school, the sponsor must file an affidavit with the commissioner stating its intent to authorize a charter school. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school. The commissioner must approve or disapprove the sponsor's proposed authorization within 60 days of receipt of the affidavit. Failure to obtain commissioner approval precludes a sponsor from authorizing the charter school that was the subject of the affidavit.

(c) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must incorporate as a cooperative under chapter 308A or as a nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members until a timely election for members of the charter school board of directors is held according to the school's articles and bylaws. A charter school board of directors must be composed of at least five members. Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election for members of the school's board of directors. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors before the school completes its third year of operation, unless the commissioner waives the requirement for a majority of licensed teachers on the board. Board of director meetings must comply with chapter 13D.

(d) The granting or renewal of a charter by a sponsoring entity must not be conditioned upon the bargaining unit status of the employees of the school.

(e) A sponsor may authorize the operators 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 sponsor's application as approved by the commissioner only after submitting a supplemental application to the commissioner in a form and manner prescribed by the commissioner. The supplemental application must provide evidence that:

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

(2) the charter school is fiscally sound;

(3) the sponsor supports the expansion; and

(4) the building of the additional site meets all health and safety requirements to be eligible for lease aid.

(f) The commissioner annually must provide timely financial management training to newly elected members of a charter school board of directors and ongoing training to other members of a charter school board of directors. Training must address ways to:

(1) proactively assess opportunities for a charter school to maximize all available revenue sources;

(2) establish and maintain complete, auditable records for the charter school;

(3) establish proper filing techniques;

(4) document formal actions of the charter school, including meetings of the charter school board of directors;

(5) properly manage and retain charter school and student records;

(6) comply with state and federal payroll record-keeping requirements; and

(7) address other similar factors that facilitate establishing and maintaining complete records on the charter school's operations.

[For text of subds 4a to 7, see M.S.2002]

Subd. 8. State and local requirements. (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) A school sponsored by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(c) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(e) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and must comply with chapter 363A and section 121A.04.

(h) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(i) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 123B.52, subdivision 5; 471.38; 471.391; 471.392; 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13, and 15; 471.881; and 471.89. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner. The Department of Education, state auditor, or legislative auditor may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(j) A charter school is a district for the purposes of tort liability under chapter 466.

(k) A charter school must comply with sections 13.32; 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

(l) A charter school is subject to the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

[For text of subds 9 to 12, see M.S.2002]

Subd. 13. Length of school year. A charter school must provide instruction each year for at least the number of days required by section 120A.41. It may provide instruction throughout the year according to sections 124D.12 to 124D.127 or 124D.128.

[For text of subd 14, see M.S.2002]

Subd. 15. Review and comment. The department must review and comment on the evaluation, by the sponsor, of the performance of a charter school before the charter school's contract is renewed. A sponsor shall monitor and evaluate the fiscal and student performance of the school, and may for this purpose annually assess a charter school: (1) in its first, second, or third year of operation up to \$30 per student up to a maximum of \$10,000; and (2) in its fourth or a subsequent year of operation up to \$10 per student up to a maximum of \$3,500. The information for the review and comment shall be reported by the sponsor to the commissioner of education in a timely manner.

Subd. 16. Transportation. (a) By July 1 of each year, a charter school must notify the district in which the school is located and the Department of Education if it will provide transportation for pupils enrolled in the school for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A

parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Subd. 17. **Leased space.** A charter school may lease space from a board eligible to be a sponsor or other public or private nonprofit nonsectarian organization. If a charter school is unable to lease appropriate space from an eligible board or other public or private nonprofit nonsectarian organization, the school may lease space from another nonsectarian organization if the Department of Education, in consultation with the Department of Administration, approves the lease. If the school is unable to lease appropriate space from public or private nonsectarian organizations, the school may lease space from a sectarian organization if the leased space is constructed as a school facility and the Department of Education, in consultation with the Department of Administration, approves the lease.

[For text of subd 18, see M.S.2002]

Subd. 19. **Disseminate information.** The sponsor, the operators, and the Department of Education must disseminate information to the public on how to form and operate a charter school and how to utilize the offerings of a charter school. Particular groups to be targeted include low-income families and communities, and students of color.

Subd. 20. **Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave be made up to 90 days before the teacher would otherwise have to report for duty. Except as otherwise provided in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the Teachers' Retirement Association account by paying both the employer and employee contributions based upon the annual salary of the teacher for the last full pay period before the leave began. The retirement association may impose reasonable requirements to efficiently administer this subdivision.

[For text of subds 21 to 23, see M.S.2002]

Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from entering a lease of real property with a related party as defined in this subdivision, unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124D.11, subdivision 4, clause (1).

(b) For purposes of this subdivision:

(1) A "related party" is an affiliate or close relative of the other party in question, an affiliate of a close relative, or a close relative of an affiliate.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(3) "Close relative" means an individual whose relationship by blood, marriage, or adoption to another individual is no more remote than first cousin.

(4) "Person" means an individual or entity of any kind.

(5) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(c) A lease of real property to be used for a charter school, not excluded in paragraph (b), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a."

(d) If a charter school enters into as lessee a lease with a related party and the charter school subsequently closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under section 124D.11, subdivision 4, clause (1).

[For text of subds 24 and 25, see M.S.2002]

History: 2003 c 120 s 3; 2003 c 130 s 12; 1Sp2003 c 9 art 2 s 21-25; art 12 s 10,11

124D.11 REVENUE FOR A CHARTER SCHOOL.

Subdivision 1. General education revenue. (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue for each adjusted marginal cost pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, and transportation sparsity revenue, plus basic skills revenue and transition revenue as though the school were a school district.

(b) Notwithstanding paragraph (a), for charter schools in the first year of operation, general education revenue shall be computed using the number of adjusted pupil units in the current fiscal year.

Subd. 2. Transportation revenue. Transportation revenue must be paid to a charter school that provides transportation services according to section 124D.10, subdivision 16, according to this subdivision. Transportation aid shall equal transportation revenue.

In addition to the revenue under subdivision 1, a charter school providing transportation services must receive general education aid for each pupil unit equal to the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the school district in which the charter school is located.

[For text of subd 3, see M.S.2002]

Subd. 4. Building lease aid. When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purposes and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid for this purpose. The commissioner must review and either approve or deny a lease aid application using the following criteria:

(1) the reasonableness of the price based on current market values;

(2) the extent to which the lease conforms to applicable state laws and rules; and

(3) the appropriateness of the proposed lease in the context of the space needs and financial circumstances of the charter school.

A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs. The amount of building lease aid per pupil unit served for a charter school for any year shall not exceed the lesser of (a) 90 percent of the approved cost or (b) the product of the pupil units served for the current school year times the greater of the charter school's building lease aid per pupil unit served for fiscal year 2003, excluding the adjustment under Laws 2002, chapter 392, article 6, section 4, or \$1,200.

[For text of subd 5, see M.S.2002]

Subd. 6. Other aid, grants, revenue. (a) A charter school is eligible to receive other aids, grants, and revenue according to chapters 120A to 129C, as though it were a district.

(b) Notwithstanding paragraph (a), a charter school may not receive aid, a grant, or revenue if a levy is required to obtain the money, except as otherwise provided in this section.

(c) Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.

(d) A charter school may receive money from any source for capital facilities needs. In the year-end report to the commissioner of education, the charter school shall report the total amount of funds received from grants and other outside sources.

[For text of subs 7 and 8, see M.S.2002]

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 not in its first year of operation shall be of an equal amount on each of the 23 payment dates. A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall be 90 percent of the cumulative amount guaranteed.

(b) Notwithstanding paragraph (a), for a charter school ceasing operation prior to the end of a school year, 80 percent of the amount due for the school year may be paid to the school after audit of prior fiscal year and current fiscal year pupil counts.

(c) 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.

(d) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit 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 enrollment information to the department in the form and manner requested by the department.

History: 1Sp2003 c 9 art 2 s 26-29; art 5 s 5

124D.115 [Repealed, 1Sp2003 c 9 art 5 s 37]

124D.1156 [Repealed, 1Sp2003 c 9 art 5 s 37]

124D.1158 SCHOOL BREAKFAST PROGRAM.

Subdivision 1. Purpose. The purpose of the school breakfast program is to provide affordable morning nutrition to children so that they can effectively learn. Public and

nonpublic schools that participate in the federal school breakfast program may receive state breakfast aid. Schools shall encourage all children to eat a nutritious breakfast, either at home or at school, and shall work to eliminate barriers to breakfast participation at school such as inadequate facilities and transportation.

Subd. 2. Program; eligibility. Each school year, public and nonpublic schools that participate in the federal school breakfast program are eligible for the state breakfast program.

Subd. 3. Program reimbursement. Each school year, the state must reimburse each participating school 30 cents for each reduced price breakfast and 55 cents for each fully paid breakfast.

Subd. 4. No fees. A school that receives school breakfast aid under this section must make breakfast available without charge to all participating students who qualify for free or reduced price meals.

History: 1Sp2003 c 9 art 5 s 6

124D.118 SCHOOL MILK PROGRAM.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. Reimbursement. In accordance with program guidelines, the commissioner shall reimburse each participating public or nonpublic school nine cents for each half-pint of milk that is served to kindergarten students and is not part of a school lunch or breakfast reimbursed under section 124D.111 or 124D.1158.

History: 1Sp2003 c 9 art 5 s 7

124D.127 TERMINATION OF FLEXIBLE LEARNING YEAR PROGRAM.

The board of any district, with the approval of the commissioner of education, may terminate a flexible learning year program in one or more of the day or residential facilities for children with a disability within the district. This section shall not be construed to permit an exception to section 120A.22, 127A.41, subdivision 7, or 127A.43.

History: 2003 c 130 s 12

124D.13 EARLY CHILDHOOD FAMILY EDUCATION (ECFE) PROGRAMS.

[For text of subd 1, see M.S.2002]

Subd. 2. Program characteristics. Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, and for expectant parents. To the extent that funds are insufficient to provide programs for all children, early childhood family education programs should emphasize programming for a child from birth to age three and encourage parents to involve four- and five-year-old children in school readiness programs, and other public and nonpublic early learning programs. Early childhood family education programs may include the following:

- (1) programs to educate parents about the physical, mental, and emotional development of children;
- (2) programs to enhance the skills of parents in providing for their children's learning and development;
- (3) learning experiences for children and parents that promote children's development;
- (4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;
- (5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;
- (6) educational materials which may be borrowed for home use;
- (7) information on related community resources;

- (8) programs to prevent child abuse and neglect;
- (9) other programs or activities to improve the health, development, and school readiness of children; or
- (10) activities designed to maximize development during infancy.

The programs must not include activities for children that do not require substantial involvement of the children's parents. The programs must be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs must encourage parents to be aware of practices that may affect equitable development of children.

[For text of subd 3, see M.S.2002]

Subd. 4. Home visiting program. A district that levies for home visiting under section 124D.135, subdivision 6, shall use this revenue to include as part of the early childhood family education programs a parent education component that is designed to reach isolated or at-risk families.

The home visiting program must use:

- (1) an established risk assessment tool to determine the family's level of risk;
- (2) establish clear objectives and protocols for home visits;
- (3) encourage families to make a transition from home visits to site-based parenting programs;
- (4) provide program services that are community-based, accessible, and culturally relevant; and
- (5) foster collaboration among existing agencies and community-based organizations that serve young children and their families.

Home visitors should reflect the demographic composition of the community to the extent possible.

[For text of subds 5 to 7, see M.S.2002]

Subd. 8. Coordination. (a) A district must describe strategies to coordinate and maximize public and private community resources and reduce duplication of services.

(b) A district is encouraged to coordinate adult basic education programs provided to parents and early childhood family education programs provided to children to accomplish the goals of section 124D.895.

[For text of subds 9 to 12, see M.S.2002]

History: 1Sp2003 c 9 art 7 s 3-5

124D.135 EARLY CHILDHOOD FAMILY EDUCATION (ECFE) REVENUE.

Subdivision 1. Revenue. The revenue for early childhood family education programs for a school district equals \$120 for fiscal years 2003 and 2004 and \$96 for fiscal year 2005 and later, times the greater of:

- (1) 150; or
- (2) the number of people under five years of age residing in the district on October 1 of the previous school year.

[For text of subds 2 to 7, see M.S.2002]

Subd. 8. Reserve account limit. (a) Under this section, the average balance, during the most recent three-year period in a district's early childhood family education reserve account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the sum of the district's maximum early childhood family education annual revenue under subdivision 1, excluding adjustments under this subdivision, plus any fees, grants, or other revenue received by the district for early childhood family education programs for the prior year.

(b) If a district's adjusted average early childhood family education reserve over the three-year period is in excess of the limit under paragraph (a), the district's early childhood family education state aid and levy authority for the current school year must be reduced by the lesser of the current year revenue under subdivision 1 or the excess reserve amount. The aid reduction equals the product of the lesser of the excess reserve amount or the current year revenue under subdivision 1 times the ratio of the district's aid for the current year under subdivision 4 to the district's revenue for the current year under subdivision 1. The levy reduction equals the excess reserve amount minus the aid reduction. For purposes of this paragraph, if a district does not levy the entire amount permitted under subdivision 3, the revenue under subdivision 1 must be reduced in proportion to the actual amount levied.

(c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balance in a district's early childhood family education reserve account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balance in a district's early childhood family education reserve account on June 30, 2002, and June 30, 2003.

[For text of subd 9, see M.S.2002]

History: 1Sp2003 c 9 art 7 s 6,7

124D.15 SCHOOL READINESS PROGRAMS.

[For text of subs 1 to 6, see M.S.2002]

Subd. 7. **Advisory council.** Each school readiness program must have an advisory council composed of members of existing early education-related boards, parents of participating children, child care providers, culturally specific service organizations, local resource and referral agencies, local early intervention committees, and representatives of early childhood service providers. The council must advise the board in creating and administering the program and must monitor the progress of the program. The council must ensure that children at greatest risk receive appropriate services. If the board is unable to appoint to the advisory council members of existing early education-related boards, it must appoint parents of children enrolled in the program who represent the racial, cultural, and economic diversity of the district and representatives of early childhood service providers as representatives to an existing advisory council.

[For text of subs 8 to 13, see M.S.2002]

History: 1Sp2003 c 9 art 7 s 8

124D.16 SCHOOL READINESS AID.

Subdivision 1. **Program review and approval.** A school district shall biennially by May 1 submit to the commissioners of education and health the program plan required under this subdivision. As determined by the commissioners, one-half of the districts shall first submit the plan by May 1 of the 2000-2001 school year and one-half of the districts shall first submit the plan by May 1 of the 2001-2002 school year. The program plan must include:

- (1) a description of the services to be provided;
- (2) a plan to ensure children at greatest risk receive appropriate services;
- (3) a description of strategies to coordinate and maximize public and private community resources and reduce duplication of services;
- (4) comments about the district's proposed program by the advisory council required by section 124D.15, subdivision 7; and
- (5) agreements with all participating service providers.

Each commissioner may review and comment on the program, and make recommendations to the commissioner of education, within 90 days of receiving the plan.

[For text of subds 2 to 5, see M.S.2002]

Subd. 6. Reserve account limit. (a) Under this section, the average balance, during the most recent three-year period, in a district's school readiness reserve account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the district's school readiness annual revenue for the prior year, excluding adjustments under this subdivision.

(b) If a district's adjusted average school readiness reserve over the three-year period is in excess of the limit under paragraph (a), the district's current year school readiness state aid must be reduced by the lesser of the excess reserve amount or the current year aid.

(c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balance in a district's school readiness reserve account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balance in a district's school readiness reserve account on June 30, 2002, and June 30, 2003.

[For text of subd 7, see M.S.2002]

History: 1Sp2003 c 9 art 7 s 9,10

124D.17 [Repealed, 1Sp2003 c 9 art 7 s 12]

124D.19 COMMUNITY EDUCATION PROGRAMS; ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. Community education director. (a) Except as provided under paragraphs (b) and (c), each board shall employ a licensed community education director. The board shall submit the name of the person who is serving as director of community education under this section on the district's annual community education report to the commissioner.

(b) A board may apply to the Minnesota Board of School Administrators under Minnesota Rules, part 3512.3500, subpart 9, for authority to use an individual who is not licensed as a community education director.

(c) A board of a district with a total population of 2,000 or less may identify an employee who holds a valid Minnesota principal or superintendent license under Minnesota Rules, chapter 3512, to serve as director of community education. To be eligible for an exception under this paragraph, the board shall certify in writing to the commissioner that the district has not placed a licensed director of community education on unrequested leave.

[For text of subds 4 to 14, see M.S.2002]

History: 1Sp2003 c 9 art 8 s 1

124D.20 COMMUNITY EDUCATION REVENUE.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. General community education revenue. The general community education revenue for a district equals \$5.95 for fiscal year 2003 and 2004 and \$5.23 for fiscal year 2005 and later, times the greater of 1,335 or the population of the district. The population of the district is determined according to section 275.14.

[For text of subds 4 and 4a, see M.S.2002]

Subd. 5. Total community education levy. To obtain total community education revenue, a district may levy the amount raised by a maximum tax rate of .985 percent times the adjusted net tax capacity of the district. If the amount of the total community education levy would exceed the total community education revenue, the total community education levy shall be determined according to subdivision 6.

[For text of subs 6 to 10, see M.S.2002]

Subd. 11. Reserve account limit. (a) Under this section, the sum of the average balances during the most recent three-year period in a district's community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the sum of the district's maximum total community education revenue under subdivision 1, excluding adjustments under this subdivision, plus the district's additional community education levy under section 124D.21, plus any fees, grants, or other revenue received by the district for community education programs for the prior year. For purposes of this paragraph, "community education programs" means programs according to subdivisions 8, paragraph (a), and 9, and section 124D.19, subdivision 12, excluding early childhood family education programs under section 124D.13, school readiness programs under sections 124D.15 and 124D.17, and adult basic education programs under section 124D.52.

(b) If the sum of the average balances during the most recent three-year period in a district's community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for any prior reductions under this subdivision, is in excess of the limit under paragraph (a), the district's community education state aid and levy authority for the current school year must be reduced by the lesser of the current year revenue under subdivision 1 or the excess reserve amount. The aid reduction equals the product of the lesser of the excess reserve amount or the current year revenue under subdivision 1 times the ratio of the district's aid for the current year under subdivision 7 to the district's revenue for the current year under subdivision 1. The levy reduction equals the excess reserve amount minus the aid reduction. For purposes of this paragraph, if a district does not levy the entire amount permitted under subdivision 5 or 6, the revenue under subdivision 1 must be reduced in proportion to the actual amount levied.

(c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balances in a district's community education reserve account and unreserved/undesignated community service fund account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balances in a district's community education reserve account and unreserved/undesignated community service fund account on June 30, 2002, and June 30, 2003.

Subd. 12. Waiver. (a) If a district anticipates that the reserve account may exceed the 25 percent limit established under subdivision 11 because of extenuating circumstances, prior approval to exceed the limit must be obtained in writing from the commissioner.

(b) Notwithstanding paragraph (a), for fiscal year 2003, a district may submit a waiver request within 30 days of May 30, 2003.

History: 1Sp2003 c 9 art 8 s 2-5

NOTE: The amendments to subdivisions 3 and 5 by Laws 2003, First Special Session chapter 9, article 8, sections 2 and 3, are effective for revenue for fiscal year 2005. Laws 2003, First Special Session chapter 9, article 8, sections 2 and 3, the effective dates.

124D.21 [Repealed, 1Sp2003 c 9 art 8 s 8]

124D.22 SCHOOL-AGE CARE REVENUE.

[For text of subs 1 and 2, see M.S.2002]

Subd. 3. School-age care levy. To obtain school-age care revenue, a school district may levy an amount equal to the district's school-age care revenue as defined in subdivision 2 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 before the year the levy is certified by the resident pupil units in the district for the school year to which the levy is attributable, to \$2,433.

[For text of subd 4, see M.S.2002]

History: 1Sp2003 c 9 art 8 s 6

124D.221 [Repealed, 1Sp2003 c 9 art 8 s 8]

124D.23 FAMILY SERVICES AND COMMUNITY-BASED COLLABORATIVES.

Subdivision 1. Establishment. (a) In order to qualify as a family services collaborative, a minimum of one school district, one county, one public health entity, one community action agency as defined in section 119A.375, and one Head Start grantee if the community action agency is not the designated federal grantee for the Head Start program must agree in writing to provide coordinated family services and commit resources to an integrated fund. Collaboratives are expected to have broad community representation, which may include other local providers, including additional school districts, counties, and public health entities, other municipalities, public libraries, existing culturally specific community organizations, tribal entities, local health organizations, private and nonprofit service providers, child care providers, local foundations, community-based service groups, businesses, local transit authorities or other transportation providers, community action agencies under section 119A.375, senior citizen volunteer organizations, parent organizations, parents, and sectarian organizations that provide nonsectarian services.

(b) Members of the governing bodies of political subdivisions involved in the establishment of a family services collaborative shall select representatives of the nongovernmental entities listed in paragraph (a) to serve on the governing board of a collaborative. The governing body members of the political subdivisions shall select one or more representatives of the nongovernmental entities within the family service collaborative.

(c) Two or more family services collaboratives or children's mental health collaboratives may consolidate decision-making, pool resources, and collectively act on behalf of the individual collaboratives, based on a written agreement among the participating collaboratives.

[For text of subds 2 to 9, see M.S.2002]

Subd. 10. Liability insurance. The commissioner of education may designate one collaborative to act as a lead collaborative for purposes of obtaining liability coverage for participating collaboratives.

History: 2003 c 130 s 12; 1Sp2003 c 14 art 4 s 1

124D.26 IMPROVED LEARNING PROGRAM.

[For text of subd 1, see M.S.2002]

Subd. 2. Rules and rights. The commissioner of education may waive district compliance with its rules which would prevent implementation of an improved learning program. Participation in an improved learning program as a principal-teacher, counselor-teacher, or career teacher must not affect seniority in the district or rights under the applicable collective bargaining agreement.

[For text of subd 3, see M.S.2002]

History: 2003 c 130 s 12

124D.34 MINNESOTA FOUNDATION FOR STUDENT ORGANIZATIONS.

[For text of subd 1, see M.S.2002]

Subd. 2. Creation of foundation. There is created the Minnesota Foundation for Student Organizations. The purpose of the foundation is to promote vocational student organizations and applied leadership opportunities in Minnesota public and nonpublic schools through public-private partnerships. The foundation is a nonprofit organization.

The board of directors of the foundation and activities of the foundation are under the direction of the commissioner of education.

[For text of subds 3 and 4, see M.S.2002]

Subd. 5. Powers and duties. The foundation may:

(1) identify and plan common goals and priorities for the various school-to-work student organizations in Minnesota;

(2) publish brochures or booklets relating to the purposes of the foundation and collect reasonable fees for the publications;

(3) seek and receive public and private money, grants, and in-kind services and goods from nonstate sources for the purposes of the foundation, without complying with section 16A.013, subdivision 1;

(4) contract with consultants on behalf of the school-to-work student organizations;

(5) plan, implement, and expend money for awards and other forms of recognition for school-to-work student programs; and

(6) identifying an appropriate name for the foundation.

Subd. 6. Contracts. The foundation board shall review and approve each contract of the board. Each contract of the foundation board shall be subject to the same review and approval procedures as a contract of the commissioner of education.

Subd. 7. Foundation staff. The commissioner of education shall appoint the executive director of the foundation from three candidates nominated and submitted by the foundation board of directors and, as necessary, other staff who shall perform duties and have responsibilities solely related to the foundation. The employees appointed are not state employees under chapter 43A, but are covered under section 3.736. The employees may participate in the state health and state insurance plans for employees in unclassified service. The employees shall be supervised by the executive director.

The commissioner shall appoint from the Office of Lifework Development a liaison to the foundation board.

[For text of subds 8 and 9, see M.S.2002]

Subd. 10. Report. The board of directors of the foundation must submit an annual report on the progress of its activities to the commissioner of education and to the Board of Trustees of the Minnesota State Colleges and Universities. The annual report shall contain a financial report for the preceding year. The foundation shall submit a biennium report to the legislature before February 15, in the odd-numbered year.

[For text of subds 11 and 12, see M.S.2002]

History: 2003 c 112 art 2 s 50; 2003 c 130 s 12

124D.355 VOCATIONAL EDUCATION STUDENT ORGANIZATIONS.

Subdivision 1. Activities of the organization. Any student enrolled in a vocational technical education program approved by the commissioner of education or the Board of Trustees of the Minnesota State Colleges and Universities may belong to a vocational student organization that is operated as an integral part of the vocational program. The commissioner of education and the Board of Trustees of the Minnesota State Colleges and Universities may provide necessary technical assistance and leadership at the state level for administration of approved vocational student organizations and fiscal accounts, including administration of state and national conferences.

[For text of subd 2, see M.S.2002]

History: 2003 c 130 s 12

124D.385 MINNESOTA COMMISSION ON NATIONAL AND COMMUNITY SERVICE.*[For text of subd 1, see M.S.2002]*

Subd. 2. Membership. (a) The commission consists of 18 voting members. Voting members shall include the commissioner of education, a representative of the children's cabinet elected by the members of the children's cabinet, and the executive director of the Higher Education Services Office.

(b) The governor shall appoint 15 additional voting members. Eight of the voting members appointed by the governor shall include a representative of public or nonprofit organizations experienced in youth employment and training, organizations promoting adult service and volunteerism, community-based service agencies or organizations, local public or private sector labor unions, local governments, business, a national service program, and Indian tribes. The remaining seven voting members appointed by the governor shall include an individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth; a youth or young adult who is a participant in a higher education-based service-learning program; a disabled individual representing persons with disabilities; a youth who is out-of-school or disadvantaged; an educator of primary or secondary students; an educator from a higher education institution; and an individual between the ages of 16 and 25 who is a participant or supervisor in a youth service program.

(c) The governor shall appoint up to five ex officio nonvoting members from among the following agencies or organizations: the Departments of Economic Security, Natural Resources, Human Services, Health, Corrections, Agriculture, Public Safety, Finance, and Labor and Industry, the Housing Finance Agency, and Minnesota Technology, Inc. A representative of the Corporation for National and Community Service shall also serve as an ex officio nonvoting member.

(d) Voting and ex officio nonvoting members may appoint designees to act on their behalf. The number of voting members who are state employees shall not exceed 25 percent.

(e) The governor shall ensure that, to the extent possible, the membership of the commission is balanced according to geography, race, ethnicity, age, and gender. The speaker of the house and the majority leader of the senate shall each appoint two legislators to be nonvoting members of the commission.

Subd. 3. Duties. (a) The commission shall:

(1) develop, with the assistance of the governor, the commissioner of education, and affected state agencies, a comprehensive state plan to provide services under sections 124D.37 to 124D.45 and federal law;

(2) actively pursue public and private funding sources for services, including funding available under federal law;

(3) administer the youth works grant program under sections 124D.39 to 124D.44, including soliciting and approving grant applications from eligible organizations, and administering individual postservice benefits;

(4) establish an evaluation plan for programs developed and services provided under sections 124D.37 to 124D.45;

(5) report to the governor, commissioner of education, and legislature; and

(6) administer the federal AmeriCorps program.

(b) Nothing in sections 124D.37 to 124D.45 precludes an organization from independently seeking public or private funding to accomplish purposes similar to those described in paragraph (a).

*[For text of subd 4, see M.S.2002]***History:** 2003 c 130 s 12

124D.42 PROGRAM PROVISIONS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Postservice benefit.** (a) Each eligible organization must agree to provide to every participant who fulfills the terms of a contract under subdivision 2, a nontransferable postservice benefit. The benefit must be not less than \$4,725 per year of full-time service or prorated for part-time service or for partial service of at least 900 hours. Upon signing a contract under subdivision 2, each eligible organization must deposit funds to cover the full amount of postservice benefits obligated, except for national education awards that are deposited in the national service trust fund. Funds encumbered in fiscal years 1994 and 1995 for postservice benefits must be available until the participants for whom the funds were encumbered are no longer eligible to draw benefits.

(b) Nothing in this subdivision prevents a grantee organization from using funds from nonfederal or nonstate sources to increase the value of postservice benefits above the value described in paragraph (a).

(c) The state must provide an additional postservice benefit to any participant who successfully completes the program. The benefit must be a credit of five points to be added to the competitive open rating of a participant who obtains a passing grade on a civil service examination under chapter 43A. The benefit is available for five years after completing the community service.

[For text of subds 4 and 5, see M.S.2002]

Subd. 6. **Program training.** (a) The commission must, within available resources, ensure an opportunity for each participant to have three weeks of training in a residential setting. If offered, each training session must:

(1) orient each participant in the nature, philosophy, and purpose of the program;
 (2) build an ethic of community service through general community service training; and

(3) provide additional training as it determines necessary, which may include training in evaluating early literacy skills and teaching reading to preschool children through the St. Croix River Education District under Laws 2001, First Special Session chapter 6, article 2, section 70, to assist local Head Start organizations in establishing and evaluating Head Start programs for developing children's early literacy skills.

(b) Each grantee organization shall also train participants in skills relevant to the community service opportunity.

[For text of subd 7, see M.S.2002]

History: 2003 c 133 art 3 s 1; 1Sp2003 c 9 art 2 s 30

124D.452 DISTRICT REPORT; CAREER AND TECHNICAL EDUCATION.

Each district and cooperative center must report data to the Department of Education for all career and technical education programs as required by the department.

History: 1Sp2003 c 9 art 3 s 2

124D.454 ACCESS TO MINNESOTA'S TRANSITION SYSTEM FOR CHILDREN WITH A DISABILITY.

Subdivision 1. **Purpose.** The purpose of this section is to provide a method to fund career and technical education programs for children with a disability that are components of the student's transition plan. As used in this section, the term "children with a disability" shall have the meaning ascribed to it in section 125A.02.

Subd. 2. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

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

(d) "Program growth factor" means 1.00 for fiscal year 1998 and later.

(e) "Aid percentage factor" means 100 percent for fiscal year 2000 and later.

(f) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12, paragraph (c). This definition is not intended to change or modify the definition of essential employee in chapter 179A.

Subd. 3. **Base revenue.** (a) The transition-disabled program base revenue equals the sum of the following amounts computed using base year data:

(1) 68 percent of the salary of each essential licensed person or approved paraprofessional who provides direct instructional services to students employed during that fiscal year for services rendered in that district's transition program for children with a disability;

(2) 47 percent of the costs of necessary equipment for transition programs for children with a disability;

(3) 47 percent of the costs of necessary travel between instructional sites by transition program teachers of children with a disability but not including travel to and from local, regional, district, state, or national career and technical student organization meetings;

(4) 47 percent of the costs of necessary supplies for transition programs for children with a disability but not to exceed an average of \$47 in any one school year for each child with a disability receiving these services;

(5) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, in place of programs provided by the district, 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the fraction of the school day the pupil receives services under the contract;

(6) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract; and

(7) for a contract approved by the commissioner with another Minnesota school district or cooperative center for vocational evaluation services for children with a disability for children that are not yet enrolled in grade 12, 52 percent of the amount of the contract.

(b) If requested by a school district for transition programs during the base year for less than the full school year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full year.

[For text of subs 4 to 7, see M.S.2002]

Subd. 8. **Use of aid.** The aid provided under this section shall be paid only for services rendered or for the costs which are incurred according to this section for transition programs for children with a disability which are approved by the commissioner of education and operated in accordance with rules promulgated by the commissioner. These rules shall be subject to the restrictions provided in subdivision 12. The procedure for application for approval of these programs shall be as provided

in section 125A.75, subdivisions 4 and 6, and the application review process shall be conducted by the Division of Federal Programs in the department.

[For text of subd 9, see M.S.2002]

Subd. 10. Exclusion. A district shall not receive aid pursuant to section 125A.76 for salaries, supplies, travel or equipment for which the district receives aid pursuant to this section.

[For text of subd 11, see M.S.2002]

Subd. 12. Compliance with rules. Aid must be paid under this section only for services rendered or for costs incurred in career and technical education programs approved by the commissioner and operated in accordance with rules promulgated by the commissioner. This aid shall be paid only for services rendered and for costs incurred by essential, licensed personnel who meet the requirements for licensure pursuant to the rules of the Minnesota Board of Teaching. Licensed personnel means persons holding a valid career and technical license issued by the commissioner. If an average of five or fewer secondary full-time equivalent students are enrolled per teacher in an approved postsecondary program at Intermediate District No. 287, 916, or 917, licensed personnel means persons holding a valid vocational license issued by the commissioner or the Board of Trustees of the Minnesota State Colleges and Universities. Notwithstanding section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid under this section without proceeding under section 127A.42 at any time. To do so, the commissioner must determine that the program does not comply with rules of the Department of Education or that any facts concerning the program or its budget differ from the facts in the district's approved application.

History: *1Sp2003 c 9 art 3 s 3-8*

124D.505 MINNESOTA CAREER INFORMATION SYSTEM.

(a) The Department of Education, through the Minnesota career information system (MCIS), may provide career information to, including, but not limited to, school districts and other educational organizations, employment and training services, human service agencies, libraries, and families. The department shall collect fees necessary to recover all expenditures related to the operation of the Minnesota career information system.

(b) Grants and other legislative funds may be accepted and used for the improvement or operation of the Minnesota career information system. All receipts shall be deposited in a special account in the special revenue fund that shall be carried over at the end of each fiscal year. The money in the account, along with any interest earned, is appropriated to the commissioner of education for the Minnesota career information system and must be for the sole use and benefit of the system. The department shall recognize that the Minnesota career information system operates under a self-supporting directive, and accordingly, must provide sufficient administrative latitude within the confines of law to enable the system to operate effectively.

History: *2003 c 130 s 12*

124D.52 ADULT BASIC EDUCATION.

Subdivision 1. Program requirements. (a) An adult basic education program is a day or evening program offered by a district that is for people over 16 years of age who do not attend an elementary or secondary school. The program offers academic instruction necessary to earn a high school diploma or equivalency certificate.

(b) Notwithstanding any law to the contrary, a school board or the governing body of a consortium offering an adult basic education program may adopt a sliding fee schedule based on a family's income, but must waive the fee for participants who are under the age of 21 or unable to pay. The fees charged must be designed to enable

individuals of all socioeconomic levels to participate in the program. A program may charge a security deposit to assure return of materials, supplies, and equipment.

(c) Each approved adult basic education program must develop a memorandum of understanding with the local workforce development centers located in the approved program's service delivery area. The memorandum of understanding must describe how the adult basic education program and the workforce development centers will cooperate and coordinate services to provide unduplicated, efficient, and effective services to clients.

(d) Adult basic education aid must be spent for adult basic education purposes as specified in sections 124D.518 to 124D.531.

[For text of subd 2, see M.S.2002]

Subd. 3. Accounts; revenue; aid. (a) Each district, group of districts, or private nonprofit organization providing adult basic education programs must establish and maintain a reserve account within the community service fund for the receipt and disbursement of all funds related to these programs. All revenue received pursuant to this section must be utilized solely for the purposes of adult basic education programs. State aid must not equal more than 100 percent of the unreimbursed expenses of providing these programs, excluding in-kind costs.

(b) Notwithstanding section 123A.26 or any other law to the contrary, an adult basic education consortium providing an approved adult basic education program may be its own fiscal agent and is eligible to receive state-aid payments directly from the commissioner.

[For text of subds 4 to 6, see M.S.2002]

Subd. 7. Performance tracking system. (a) By July 1, 2000, each approved adult basic education program must develop and implement a performance tracking system to provide information necessary to comply with federal law and serve as one means of assessing the effectiveness of adult basic education programs. The tracking system must be designed to collect data on the following core outcomes for learners who have completed participation in the adult basic education program:

(1) demonstrated improvements in literacy skill levels in reading, writing, speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills;

(2) placement in, retention in, or completion of postsecondary education, training, unsubsidized employment, or career advancement; and

(3) receipt of a secondary school diploma or its recognized equivalent.

(b) A district, group of districts, state agency, or private nonprofit organization providing an adult basic education program may meet this requirement by developing a tracking system based on either or both of the following methodologies:

(1) conducting a reliable follow-up survey; or

(2) submitting student information, including social security numbers for data matching.

Data related to obtaining employment must be collected in the first quarter following program completion or can be collected while the student is enrolled, if known. Data related to employment retention must be collected in the third quarter following program exit. Data related to any other specified outcome may be collected at any time during a program year.

(c) When a student in a program is requested to provide the student's social security number, the student must be notified in a written form easily understandable to the student that:

(1) providing the social security number is optional and no adverse action may be taken against the student if the student chooses not to provide the social security number;

(2) the request is made under section 124D.52, subdivision 7;

(3) if the student provides the social security number, it will be used to assess the effectiveness of the program by tracking the student's subsequent career; and

(4) the social security number will be shared with the Department of Education; Minnesota State Colleges and Universities; and the Department of Economic Security in order to accomplish the purposes of this section and will not be used for any other purpose or reported to any other governmental entities.

(d) Annually a district, group of districts, state agency, or private nonprofit organization providing programs under this section must forward the tracking data collected to the Department of Education. For the purposes of longitudinal studies on the employment status of former students under this section, the Department of Education must forward the social security numbers to the Department of Economic Security to electronically match the social security numbers of former students with wage detail reports filed under section 268.044. The results of data matches must, for purposes of this section and consistent with the requirements of the United States Code, title 29, section 2871, of the Workforce Investment Act of 1998, be compiled in a longitudinal form by the Department of Economic Security and released to the Department of Education in the form of summary data that does not identify the individual students. The Department of Education may release this summary data. State funding for adult basic education programs must not be based on the number or percentage of students who decline to provide their social security numbers or on whether the program is evaluated by means of a follow-up survey instead of data matching.

History: 2003 c 130 s 12; 1Sp2003 c 9 art 9 s 1,2

124D.521 CONSORTIUM REQUIREMENTS.

(a) Each consortium, as defined under section 124D.518, subdivision 1, must meet at least twice per year to develop and amend as necessary an annual consortium agreement signed by all members and filed with the Department of Education that at a minimum includes:

- (1) a description of the members and fiscal agent of the consortium;
- (2) a description of the contributions of each member of the consortium and the process for distributing state aid among the members; and
- (3) the state adult basic education assurances from the annual adult basic education program application.

As a condition of membership in a consortium, each member must make a documented contribution toward the cost of adult basic education programming, either as a direct financial contribution, or an in-kind contribution.

(b) Each consortium's designated fiscal agent must:

- (1) collect data from consortium members;
- (2) submit required performance reports and fiscal reports to the state;
- (3) receive state adult basic education aid under section 124D.531 for adult basic education programming delivered by the consortium; and
- (4) distribute state adult basic education aid to members of the consortium according to the consortium agreement.

History: 2003 c 130 s 12

124D.531 ADULT BASIC EDUCATION AID.

Subdivision 1. **State total adult basic education aid.** (a) The state total adult basic education aid for fiscal year 2004 equals \$34,388,000. The state total adult basic education aid for fiscal year 2005 and later is \$36,509,000. Beginning in fiscal year 2002, two percent of the state total adult basic education aid must be set aside for adult basic education supplemental service grants under section 124D.522.

(b) The state total adult basic education aid, excluding basic population aid, equals the difference between the amount computed in paragraph (a), and the state total basic population aid under subdivision 2.

Subd. 2. Basic population aid. A district is eligible for basic population aid if the district has a basic service level approved by the commissioner under section 124D.52, subdivision 5, or is a member of a consortium with an approved basic service level. Basic population aid is equal to the greater of \$3,844 or \$1.73 times the population of the district. District population is determined according to section 275.14.

[For text of subd 3, see M.S.2002]

Subd. 4. Adult basic education program aid limit. (a) Notwithstanding subdivisions 2 and 3, the total adult basic education aid for a program per prior year contact hour must not exceed \$21 per prior year contact hour computed under subdivision 3, clause (2).

(b) For fiscal year 2004, the aid for a program under subdivision 3, clause (2), adjusted for changes in program membership, must not exceed the aid for that program under subdivision 3, clause (2), for fiscal year 2003 by more than the greater of eight percent or \$10,000.

(c) For fiscal year 2005, the aid for a program under subdivision 3, clause (2), adjusted for changes in program membership, must not exceed the sum of the aid for that program under subdivision 3, clause (2), and Laws 2003, First Special Session chapter 9, article 9, section 8, paragraph (a), for the preceding fiscal year by more than the greater of eight percent or \$10,000.

(d) For fiscal year 2006 and later, the aid for a program under subdivision 3, clause (2), adjusted for changes in program membership, must not exceed the aid for that program under subdivision 3, clause (2), for the first preceding fiscal year by more than the greater of eight percent or \$10,000.

(e) Adult basic education aid is payable to a program for unreimbursed costs.

[For text of subs 5 and 6, see M.S.2002]

Subd. 7. Program audits. Programs that receive aid under this section must maintain records that support the aid payments. The commissioner may audit these records upon request. The commissioner must establish procedures for conducting fiscal audits of adult basic education programs. The commissioner must establish procedures to reconcile any discrepancies between aid payments based on information reported to the commissioner and aid estimates based on a program audit.

[For text of subs 8 and 9, see M.S.2002]

History: 1Sp2003 c 9 art 9 s 3-6

124D.54 [Repealed, 1Sp2003 c 9 art 9 s 10]

124D.59 DEFINITIONS.

[For text of subd 1, see M.S.2002]

Subd. 2. Pupil of limited English proficiency. (a) "Pupil of limited English proficiency" means a pupil in kindergarten through grade 12 who meets the following requirements:

(1) the pupil, as declared by a parent or guardian first learned a language other than English, comes from a home where the language usually spoken is other than English, or usually speaks a language other than English; and

(2) the pupil is determined by developmentally appropriate measures, which might include observations, teacher judgment, parent recommendations, or developmentally appropriate assessment instruments, to lack the necessary English skills to participate fully in classes taught in English.

(b) Notwithstanding paragraph (a), a pupil in grades 4 through 12 who was enrolled in a Minnesota public school on the dates during the previous school year when a commissioner provided assessment that measures the pupil's emerging academic English was administered, shall not be counted as a pupil of limited English proficiency in calculating limited English proficiency pupil units under section 126C.05, subdivision 17, and shall not generate state limited English proficiency aid under section 124D.65, subdivision 5, unless the pupil scored below the state cutoff score on an assessment measuring emerging academic English provided by the commissioner during the previous school year.

(c) Notwithstanding paragraphs (a) and (b), a pupil in kindergarten through grade 12 shall not be counted as a pupil of limited English proficiency in calculating limited English proficiency pupil units under section 126C.05, subdivision 17, and shall not generate state limited English proficiency aid under section 124D.65, subdivision 5, if:

(1) the pupil is not enrolled during the current fiscal year in an educational program for pupils of limited English proficiency in accordance with sections 124D.58 to 124D.64; or

(2) the pupil has generated five or more years of average daily membership in Minnesota public schools since July 1, 1996.

[For text of subds 3 to 8, see M.S.2002]

History: 1Sp2003 c 9 art 1 s 13

124D.64 DISCRIMINATION PROHIBITED.

Nothing in the provisions of sections 124D.58 to 124D.63 shall be construed to violate the provisions of section 123B.30 or chapter 363A. Programs and activities pursuant to sections 124D.58 to 124D.63 shall be deemed to be positive action programs to combat discrimination.

124D.65 LIMITED ENGLISH PROFICIENCY (LEP) PROGRAMS AID.

Subd. 4. [Repealed, 1Sp2003 c 9 art 1 s 54]

Subd. 5. **School district LEP revenue.** (a) A district's limited English proficiency programs revenue equals the product of (1) \$700 in fiscal year 2004 and later times (2) the greater of 20 or the adjusted marginal cost average daily membership of eligible pupils of limited English proficiency enrolled in the district during the current fiscal year.

(b) A pupil ceases to generate state limited English proficiency aid in the school year following the school year in which the pupil attains the state cutoff score on a commissioner-provided assessment that measures the pupil's emerging academic English.

[For text of subds 6 to 11, see M.S.2002]

History: 1Sp2003 c 9 art 1 s 14

124D.68 GRADUATION INCENTIVES PROGRAM.

[For text of subds 1 to 6, see M.S.2002]

Subd. 7. **Desegregation plans.** Notwithstanding any provision to the contrary, students may not enroll in a nonresident district under this section if their enrollment in another district would result in a violation of a district's desegregation plan, as mandated and approved by the commissioner of education.

[For text of subds 8 to 10, see M.S.2002]

History: 2003 c 130 s 12

124D.75 LICENSES FOR AMERICAN INDIAN LANGUAGE AND CULTURE EDUCATION TEACHERS; EXEMPTIONS.*[For text of subds 1 to 4, see M.S.2002]*

Subd. 5. **Teacher preparation programs.** For the purpose of licensing American Indian language and culture education teachers, the board may approve programs at colleges or universities designed for their training subject to the approval of the commissioner of education.

*[For text of subds 6 to 9, see M.S.2002]***History:** 2003 c 130 s 12**124D.80 COMMITTEES ON AMERICAN INDIAN EDUCATION PROGRAMS.**

Subdivision 1. **Establishment.** The commissioner of education shall create an 18-member American Indian Education Committee. The commissioner must appoint members with the assistance of the Indian Affairs Council as provided under section 3.922, subdivision 6, and the Higher Education Services Office. Members must include representatives of tribal bodies, community groups, parents of children eligible to be served by the programs, American Indian administrators and teachers, persons experienced in the training of teachers for American Indian education programs, persons involved in programs for American Indian children in American Indian schools, and persons knowledgeable in the field of American Indian education. Members shall be appointed so as to be representative of significant segments of the population of American Indians, with membership consisting of representatives from the 11 reservations and the Minnesota Chippewa tribe, the chair of the Minnesota Indian Affairs Council, Urban Advisory Council, and five urban at-large representatives, two of which reside in the metropolitan area, one of which resides in the Duluth area, one of which resides in the Bemidji area, and one of which resides in the southern region of the state.

*[For text of subds 2 and 3, see M.S.2002]***History:** 2003 c 130 s 12**124D.81 CONTINUATION OF INDIAN EDUCATION GRANTS.**

Subdivision 1. **Grants; procedures.** Each fiscal year the commissioner of education must make grants to no fewer than six American Indian education programs. At least three programs must be in urban areas and at least three must be on or near reservations. The board of a local district, a participating school or a group of boards may develop a proposal for grants in support of American Indian education programs. Proposals may provide for contracts for the provision of program components by nonsectarian nonpublic, community, tribal, or alternative schools. The commissioner shall prescribe the form and manner of application for grants, and no grant shall be made for a proposal not complying with the requirements of sections 124D.71 to 124D.82. The commissioner must submit all proposals to the state Advisory Committee on American Indian Education Programs for its recommendations concerning approval, modification, or disapproval and the amounts of grants to approved programs.

*[For text of subds 2 to 7, see M.S.2002]***History:** 2003 c 130 s 12**124D.82 DISCRIMINATION PROHIBITED.**

Nothing in the provisions of sections 124D.71 to 124D.82 shall be construed to violate the provisions of section 123B.30 or chapter 363A. Programs and activities pursuant to sections 124D.71 to 124D.82 shall be deemed to be positive action programs to combat discrimination.

124D.83 STATE REVENUE FOR AMERICAN INDIAN TRIBAL CONTRACT OR GRANT SCHOOLS.*[For text of subds 1 and 2, see M.S.2002]*

Subd. 3. **Waiver.** Notwithstanding subdivision 1, paragraphs (b) and (c), a tribal contract or grant school:

- (1) is not subject to the Minnesota Election Law;
- (2) has no authority under this section to levy for property taxes, issue and sell bonds, or incur debt; and
- (3) may request through its managing tribal organization a recommendation of the commissioner of education, for consideration of the legislature, that a tribal contract or grant school not be subject to specified statutes related to independent school districts.

*[For text of subds 4 and 5, see M.S.2002]***History:** 2003 c 130 s 12**124D.84 INDIAN SCHOLARSHIPS.***[For text of subd 1, see M.S.2002]*

Subd. 2. [Repealed, 1Sp2003 c 9 art 2 s 56]

124D.86 INTEGRATION REVENUE.

Subdivision 1. **Use of revenue.** Integration revenue under this section must be used 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 to create or enhance learning opportunities which are designed to provide opportunities for students to have increased interracial contacts through classroom experiences, staff initiatives, and other educationally related programs.

Subd. 1a. **Budget approval process.** Each year before a district receives any revenue under subdivision 3, clause (4), (5), or (6), the district must submit to the Department of Education, for its review and approval a budget detailing the costs of the desegregation/integration plan filed under Minnesota Rules, parts 3535.0100 to 3535.0180. Notwithstanding chapter 14, the department may develop criteria for budget approval. The department shall consult with the Desegregation Advisory Board in developing these criteria. The criteria developed by the department should address, at a minimum, the following:

- (1) budget items cannot be approved unless they are part of any overall desegregation plan approved by the district for isolated sites or by the Multidistrict Collaboration Council and participation individual members;
- (2) the budget must indicate how revenue expenditures will be used specifically to support increased opportunities for interracial contact;
- (3) components of the budget to be considered by the department, including staffing, curriculum, transportation, facilities, materials, and equipment and reasonable planning costs, as determined by the department; and
- (4) if plans are proposed to enhance existing programs, the total budget being appropriated to the program must be included, indicating what part is to be funded using integration revenue and what part is to be funded using other revenues.

*[For text of subds 1b and 2, see M.S.2002]*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.

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).

Subd. 4. Integration levy. A district may levy an amount equal to 37 percent for fiscal year 2003, 23 percent for fiscal year 2004, and 30 percent for fiscal year 2005 and thereafter of the district's integration revenue as defined in subdivision 3.

Subd. 5. Integration aid. A district's integration aid equals the difference between the district's integration revenue and its integration levy.

Subd. 6. Alternative attendance programs. (a) The integration aid under subdivision 5 must be adjusted for each pupil residing in a district eligible for integration revenue under subdivision 3, clause (1), (2), or (3), and attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, and 124D.08, that is not eligible for integration revenue under subdivision 3, clause (1), (2), or (3), and has implemented a plan under Minnesota Rules, parts 3535.0100 to 3535.0180, if the enrollment of the pupil in the nonresident district contributes to desegregation or integration purposes. The adjustments must be made according to this subdivision.

(b) Aid paid to a district serving nonresidents must be increased by an amount equal to the revenue per pupil unit of the resident district under subdivision 3, clause (1), (2), or (3), minus the revenue attributable to the pupil in the nonresident district under subdivision 3, clause (4), (5), or (6), for the time the pupil is enrolled in the nonresident district.

History: 1Sp2003 c 9 art 2 s 31-35

124D.89 [Repealed, 1Sp2003 c 9 art 2 s 56].

124D.892 OFFICE OF DESEGREGATION/INTEGRATION.

Subdivision 1. Establishment. (a) An Office of Desegregation/Integration is established in the Department of Education to coordinate and support activities related to student enrollment, student and staff recruitment and retention, transportation, and interdistrict cooperation among school districts.

(b) At the request of a school district involved in cooperative desegregation/integration efforts, the office shall perform any of the following activities:

(1) assist districts with interdistrict student transfers, including student recruitment, counseling, placement, and transportation;

(2) coordinate and disseminate information about schools and programs;

(3) assist districts with new magnet schools and programs;

(4) assist districts in providing staff development and in-service training; and

(5) coordinate and administer staff exchanges.

(c) The office shall collect data on the efficacy of districts' desegregation/integration efforts and make recommendations based on the data. The office shall periodically consult with the Metropolitan Council to coordinate metropolitan school desegregation/integration efforts with the housing, social, economic, and infrastructure needs of the metropolitan area. The office shall develop a process for resolving students' disputes and grievances about student transfers under a desegregation/integration plan.

[For text of subds 2 and 3, see M.S.2002]

History: 2003 c 130 s 12

124D.93 [Repealed, 1Sp2003 c 9 art 8 s 8]

124D.94 MINNESOTA ACADEMIC EXCELLENCE FOUNDATION.

[For text of subd 1, see M.S.2002]

Subd. 2. Creation of foundation. There is created the Minnesota Academic Excellence Foundation. The purpose of the foundation shall be to promote academic excellence in Minnesota public and nonpublic schools and communities through public-private partnerships. The foundation shall be a nonprofit organization. The board of directors of the foundation and foundation activities are under the direction of the commissioner of education.

Subd. 3. Board of directors. The board of directors of the foundation shall consist of the commissioner of education and 20 members to be appointed by the governor. Of the 20 members appointed by the governor, eight shall represent a variety of education groups and 12 shall represent a variety of business groups. The members of the board of directors shall select one member to serve as chair. The commissioner of education shall serve as secretary for the board of directors and provide administrative support to the foundation. An executive committee of the foundation board composed of the board officers and chairs of board committees, may only advise and make recommendations to the foundation board.

[For text of subd 4, see M.S.2002]

Subd. 5. Powers and duties. The foundation may:

- (1) establish and collect membership fees;
- (2) publish brochures or booklets relating to the purposes of the foundation and collect reasonable fees for the publications;
- (3) receive money, grants, and in-kind goods or services from nonstate sources for the purposes of the foundation, without complying with section 16A.013, subdivision 1;
- (4) contract with consultants;
- (5) expend money for awards and other forms of recognition and appreciation; and
- (6) determine procedures and expenditures for awards and recognitions to teachers, students, donors, and other people who are not employees of the executive branch.

Subd. 6. Contracts. The foundation board shall review and approve each contract of the board. Each contract of the foundation board shall be subject to the same review and approval procedures as a contract of the Department of Education.

[For text of subds 7 and 8, see M.S.2002]

Subd. 9. Report. The board of directors of the foundation shall submit an annual report to the commissioner of education on the progress of its activities. The annual report shall contain a financial report for the preceding year, including all receipts and expenditures of the foundation.

[For text of subd 10, see M.S.2002]

History: 2003 c 112 art 2 s 50; 2003 c 130 s 12

124D.95 Subdivision 1.[Repealed, 2003 c 133 art 2 s 21]

Subd. 2. [Repealed, 2003 c 133 art 2 s 21]

Subd. 3. [Repealed, 2003 c 133 art 2 s 21]

Subd. 4. [Repealed, 2003 c 133 art 2 s 21]

Subd. 5. [Repealed, 2003 c 133 art 2 s 21]

Subd. 6. [Repealed, 2001 c 161 s 58; 2003 c 1133 art 2 s 21]

Subd. 7. [Repealed, 2003 c 133 art 2 s 21]

Subd. 8. [Repealed, 2003 c 133 art 2 s 21]

124D.96 WELFARE AND CORRECTIONAL INSTITUTIONS' POLICIES FOR EDUCATIONAL PROGRAMS.

Before July 1 of each year, each welfare and correctional institution which offers an elementary, secondary or vocational educational program shall develop a written policy for its educational program for the next school year. The institutional policy shall specify the educational goals for the institution; instructional plans for implementing these goals; estimated number and grade level of students; number of licensed educational staff; areas of licensure; student to staff ratios; number of supervisory personnel; proposed educational budget; procedures for evaluation of the program; and any other information deemed necessary by the commissioner of education for the evaluation of the educational institutions. The institutions shall submit the policy to the commissioner of education who will review the policy to determine whether the program and personnel employed in the program are adequate to meet the institution's obligation to provide instruction and services in compliance with the Department of Education rules and standards. If necessary, the commissioner shall make recommendations to the institution for changes in its educational program.

History: 2003 c 130 s 12