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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1037**

February 23, 2009

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The bill was read for the first time and referred to the Committee on K-12 Education Policy and Oversight

March 16, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to education; reducing mandates for home schools; amending Minnesota
1.3 Statutes 2008, sections 120A.22, subdivision 11; 120A.24; 120A.26, subdivisions
1.4 3, 4, 5; 121A.15, subdivision 8; 123B.42, subdivision 1; 123B.44, subdivision 1;
1.5 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 181A.05,
1.6 subdivision 1; repealing Minnesota Statutes 2008, section 120A.26, subdivisions
1.7 1, 2.

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

1.9 Section 1. Minnesota Statutes 2008, section 120A.22, subdivision 11, is amended to
1.10 read:

1.11 Subd. 11. **Assessment of performance.** (a) Each year the performance of
1.12 every child who is not enrolled in a public school must be assessed using a nationally
1.13 norm-referenced standardized achievement examination or a nationally recognized
1.14 college entrance exam. ~~The superintendent of the district in which the child receives~~
1.15 ~~instruction and the person in charge of the child's instruction must agree about the specific~~
1.16 ~~examination to be used and the administration and location of the examination.~~

1.17 ~~(b) To the extent the examination in paragraph (a) does not provide assessment in~~
1.18 ~~all of the subject areas in subdivision 9, the parent must assess the child's performance~~
1.19 ~~in the applicable subject area. This requirement applies only to a parent who provides~~
1.20 ~~instruction and does not meet the requirements of subdivision 10, clause (1), (2), or (3).~~

1.21 ~~(c) If the results of the assessments in paragraphs (a) and (b) indicate that the~~
1.22 ~~child's performance on the total battery score is at or below the 30th percentile or one~~
1.23 ~~grade level below the performance level for children of the same age, the parent must~~
1.24 ~~obtain additional evaluation of the child's abilities and performance for the purpose of~~
1.25 ~~determining whether the child has learning problems.~~

2.1 ~~(d)~~ (b) A child receiving instruction from a nonpublic school, person, or institution
 2.2 that is accredited by an accrediting agency, recognized according to section 123B.445, or
 2.3 recognized by the commissioner, is exempt from the requirements of this subdivision.

2.4 Sec. 2. Minnesota Statutes 2008, section 120A.24, is amended to read:

2.5 **120A.24 REPORTING.**

2.6 Subdivision 1. **Reports to superintendent.** The person in charge of providing
 2.7 instruction to a child must submit ~~the following information~~ to the superintendent of the
 2.8 district in which the child resides the name, birth date, and address of the child; the name
 2.9 of each instructor; and evidence of compliance with one of the requirements specified in
 2.10 section 120A.22, subdivision 10:

2.11 (1) by October 1 of ~~each the first school year, the name, birth date, and address of~~
 2.12 ~~each child receiving instruction~~ the child receives instruction after age seven;

2.13 ~~(2) the name of each instructor and evidence of compliance with one of the~~
 2.14 ~~requirements specified in section 120A.22, subdivision 10;~~

2.15 ~~(3) an annual instructional calendar; and~~

2.16 ~~(4) for each child instructed by a parent who meets only the requirement of section~~
 2.17 ~~120A.22, subdivision 10, clause (6), a quarterly report card on the achievement of the~~
 2.18 ~~child in each subject area required in section 120A.22, subdivision 9.~~

2.19 (2) within 15 days of when a parent withdraws a child from public school after
 2.20 age seven to homeschool;

2.21 (3) within 15 days of moving out of a district; and

2.22 (4) by October 1 after a new resident district is established.

2.23 Subd. 2. **Availability of documentation.** (a) The person in charge of providing
 2.24 instruction to a child must ~~make available~~ maintain documentation indicating that the
 2.25 subjects required in section 120A.22, subdivision 9, are being taught and proof that the
 2.26 tests under section 120A.22, subdivision 11, have been administered. This documentation
 2.27 must include class schedules, copies of materials used for instruction, and descriptions of
 2.28 methods used to assess student achievement.

2.29 (b) The parent of a child who enrolls full-time in public school after having been
 2.30 enrolled in a homeschool under section 120A.22, subdivision 6, must provide the enrolling
 2.31 public school or school district with the child's scores on any tests administered to the
 2.32 child under section 120A.22, subdivision 11, and other education-related documents the
 2.33 enrolling school or district requires to determine where the child is placed in school and
 2.34 what course requirements apply. This paragraph does not apply to a shared-time student
 2.35 who does not seek a public school diploma.

3.1 Subd. 3. **Exemptions.** A nonpublic school, person, or other institution that is
3.2 accredited by an accrediting agency, recognized according to section 123B.445, or
3.3 recognized by the commissioner, is exempt from the requirements in ~~subdivisions 1 and~~
3.4 subdivision 2, ~~except for the requirement in subdivision 1, clause (1).~~

3.5 Subd. 4. **Reports to the state.** A superintendent must make an annual report to the
3.6 commissioner of education by December 1 of the total number of nonpublic children
3.7 reported as residing in the district. ~~The report must include the following information:~~

3.8 ~~(1) the number of children residing in the district attending nonpublic schools or~~
3.9 ~~receiving instruction from persons or institutions other than a public school;~~

3.10 ~~(2) the number of children in clause (1) who are in compliance with section 120A.22~~
3.11 ~~and this section; and~~

3.12 ~~(3) the number of children in clause (1) who the superintendent has determined are~~
3.13 ~~not in compliance with section 120A.22 and this section.~~

3.14 Sec. 3. Minnesota Statutes 2008, section 120A.26, subdivision 3, is amended to read:

3.15 Subd. 3. **Notice to parents.** ~~The superintendent~~ county attorney in the county
3.16 in which the alleged violations have occurred must notify the person who is providing
3.17 instruction to a child and the parent, in writing, if there is probable cause to believe that a
3.18 child is alleged to be not receiving instruction in violation of compliance with sections
3.19 120A.22 and 120A.24. ~~The written~~ notification must include ~~a list of the specific alleged~~
3.20 violations and factual basis for them.

3.21 Sec. 4. Minnesota Statutes 2008, section 120A.26, subdivision 4, is amended to read:

3.22 Subd. 4. **Fact-finding and mediation.** If the specified alleged violations of the
3.23 compulsory attendance requirements are not corrected within 15 days of receipt of the
3.24 written notification, ~~the superintendent~~ alleged violations must request be submitted by the
3.25 county authority for fact-finding and mediation services from the commissioner.

3.26 Sec. 5. Minnesota Statutes 2008, section 120A.26, subdivision 5, is amended to read:

3.27 Subd. 5. **Notice to county attorney.** If the alleged violations are not corrected
3.28 through the fact-finding and mediation process under subdivision 4, ~~the superintendent~~
3.29 commissioner or the commissioner's designee must notify the county attorney of
3.30 the alleged violations that merit consideration for prosecution. ~~The superintendent~~
3.31 commissioner or the commissioner's designee must notify the person who is providing
3.32 instruction to a child and the parents, by certified mail, of the superintendent's intent to

4.1 ~~notify the county attorney of the~~ what specific alleged violations merit consideration
4.2 for prosecution.

4.3 Sec. 6. Minnesota Statutes 2008, section 121A.15, subdivision 8, is amended to read:

4.4 Subd. 8. **Report.** The administrator or other person having general control and
4.5 supervision of the elementary or secondary school shall file a report with the commissioner
4.6 on all persons enrolled in the school. The superintendent of each district shall file a report
4.7 with the commissioner for all persons within the district receiving instruction in a home
4.8 school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving
4.9 instruction in a home school shall submit the statements as required by subdivisions 1, 2,
4.10 3, and 4 to the superintendent of the district in which the person resides by October 1 of
4.11 ~~each school year~~ the first year of their homeschooling and the 7th grade year. The school
4.12 report must be prepared on forms developed jointly by the commissioner of health and the
4.13 commissioner of education and be distributed to the local districts by the commissioner
4.14 of health. The school report must state the number of persons attending the school, the
4.15 number of persons who have not been immunized according to subdivision 1 or 2, and
4.16 the number of persons who received an exemption under subdivision 3, clause (c) or (d).
4.17 The school report must be filed with the commissioner of education within 60 days of the
4.18 commencement of each new school term. Upon request, a district must be given a 60-day
4.19 extension for filing the school report. The commissioner of education shall forward the
4.20 report, or a copy thereof, to the commissioner of health who shall provide summary
4.21 reports to boards of health as defined in section 145A.02, subdivision 2. The administrator
4.22 or other person having general control and supervision of the child care facility shall file a
4.23 report with the commissioner of human services on all persons enrolled in the child care
4.24 facility. The child care facility report must be prepared on forms developed jointly by
4.25 the commissioner of health and the commissioner of human services and be distributed
4.26 to child care facilities by the commissioner of health. The child care facility report
4.27 must state the number of persons enrolled in the facility, the number of persons with no
4.28 immunizations, the number of persons who received an exemption under subdivision 3,
4.29 clause (c) or (d), and the number of persons with partial or full immunization histories.
4.30 The child care facility report must be filed with the commissioner of human services by
4.31 November 1 of each year. The commissioner of human services shall forward the report,
4.32 or a copy thereof, to the commissioner of health who shall provide summary reports to
4.33 boards of health as defined in section 145A.02, subdivision 2. The report required by this
4.34 subdivision is not required of a family child care or group family child care facility, for
4.35 prekindergarten children enrolled in any elementary or secondary school provided services

5.1 according to sections 125A.05 and 125A.06, nor for child care facilities in which at least
5.2 75 percent of children in the facility participate on a onetime only or occasional basis to a
5.3 maximum of 45 hours per child, per month.

5.4 Sec. 7. Minnesota Statutes 2008, section 123B.42, subdivision 1, is amended to read:

5.5 Subdivision 1. **Providing education materials and tests.** The commissioner of
5.6 education shall promulgate rules under the provisions of chapter 14 requiring that in
5.7 each school year, based upon formal requests by or on behalf of nonpublic school pupils
5.8 in a nonpublic school with enrollment that exceeds 15 students, the local districts or
5.9 intermediary service areas must purchase or otherwise acquire textbooks, individualized
5.10 instructional or cooperative learning materials, and standardized tests and loan or provide
5.11 them for use by children enrolled in that nonpublic school. These textbooks, individualized
5.12 instructional or cooperative learning materials, and standardized tests must be loaned or
5.13 provided free to the children for the school year for which requested. The loan or provision
5.14 of the textbooks, individualized instructional or cooperative learning materials, and
5.15 standardized tests shall be subject to rules prescribed by the commissioner of education.

5.16 Sec. 8. Minnesota Statutes 2008, section 123B.44, subdivision 1, is amended to read:

5.17 Subdivision 1. **Provided services.** The commissioner of education shall promulgate
5.18 rules under the provisions of chapter 14 requiring each district or other intermediary
5.19 service area: (a) to provide each year upon formal request by a specific date by or on
5.20 behalf of a nonpublic school pupil enrolled in a nonpublic school located in that district
5.21 or area with a total enrollment of more than 15 pupils, the same specific health services
5.22 as are provided for public school pupils by the district where the nonpublic school is
5.23 located; and (b) to provide each year upon formal request by a specific date by or on
5.24 behalf of a nonpublic school secondary pupil enrolled in a nonpublic school located in that
5.25 district or area, the same specific guidance and counseling services as are provided for
5.26 public school secondary pupils by the district where the nonpublic school is located. The
5.27 district where the nonpublic school is located must provide the necessary transportation
5.28 within the district boundaries between the nonpublic school and a public school or
5.29 neutral site for nonpublic school pupils who are provided pupil support services under
5.30 this section if the district elects to provide pupil support services at a site other than the
5.31 nonpublic school. Each request for pupil support services must set forth the guidance and
5.32 counseling or health services requested by or on behalf of all eligible nonpublic school
5.33 pupils enrolled in a given nonpublic school. No district or intermediary service area

6.1 must not expend an amount for these pupil support services which exceeds the amount
6.2 allotted to it under this section.

6.3 Sec. 9. Minnesota Statutes 2008, section 171.05, subdivision 2, is amended to read:

6.4 Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision
6.5 in subdivision 1 to the contrary, the department may issue an instruction permit to an
6.6 applicant who is 15, 16, or 17 years of age and who:

6.7 (1) has completed a course of driver education in another state, has a previously
6.8 issued valid license from another state, or is enrolled in either:

6.9 (i) a public, private, or commercial driver education program that is approved by
6.10 the commissioner of public safety and that includes classroom and behind-the-wheel
6.11 training; or

6.12 (ii) an approved behind-the-wheel driver education program when the student is
6.13 receiving full-time instruction in a home school within the meaning of sections 120A.22
6.14 and 120A.24, the student is working toward a homeschool diploma, ~~the student's status~~
6.15 ~~as a homeschool student has been certified by the superintendent of the school district in~~
6.16 ~~which the student resides, and~~ the student is taking home-classroom driver training with
6.17 classroom materials approved by the commissioner of public safety, and the student's
6.18 parent or guardian has certified the student's homeschool and home-classroom driver
6.19 training status on the form approved by the commissioner;

6.20 (2) has completed the classroom phase of instruction in the driver education program;

6.21 (3) has passed a test of the applicant's eyesight;

6.22 (4) has passed a department-administered test of the applicant's knowledge of traffic
6.23 laws;

6.24 (5) has completed the required application, which must be approved by (i) either
6.25 parent when both reside in the same household as the minor applicant or, if otherwise, then
6.26 (ii) the parent or spouse of the parent having custody or, in the event there is no court order
6.27 for custody, then (iii) the parent or spouse of the parent with whom the minor is living
6.28 or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor or,
6.29 in the event a person under the age of 18 has no living father, mother, or guardian, or is
6.30 married or otherwise legally emancipated, then (v) the applicant's adult spouse, adult close
6.31 family member, or adult employer; provided, that the approval required by this clause
6.32 contains a verification of the age of the applicant and the identity of the parent, guardian,
6.33 adult spouse, adult close family member, or adult employer; and

6.34 (6) has paid the fee required in section 171.06, subdivision 2.

7.1 (b) For the purposes of determining compliance with the certification of paragraph
7.2 (a), clause (1), item (ii), the commissioner may request verification of a student's
7.3 homeschool status from the superintendent of the school district in which the student
7.4 resides and the superintendent shall provide that verification.

7.5 (c) The instruction permit is valid for two years from the date of application and
7.6 may be renewed upon payment of a fee equal to the fee for issuance of an instruction
7.7 permit under section 171.06, subdivision 2.

7.8 Sec. 10. Minnesota Statutes 2008, section 171.17, subdivision 1, is amended to read:

7.9 Subdivision 1. **Offenses.** (a) The department shall immediately revoke the license
7.10 of a driver upon receiving a record of the driver's conviction of:

7.11 (1) manslaughter resulting from the operation of a motor vehicle or criminal
7.12 vehicular homicide or injury under section 609.21;

7.13 (2) a violation of section 169A.20 or 609.487;

7.14 (3) a felony in the commission of which a motor vehicle was used;

7.15 (4) failure to stop and disclose identity and render aid, as required under section
7.16 169.09, in the event of a motor vehicle accident, resulting in the death or personal injury
7.17 of another;

7.18 (5) perjury or the making of a false affidavit or statement to the department under
7.19 any law relating to the application, ownership, or operation of a motor vehicle, including
7.20 on the certification required under section 171.05, subdivision 2, clause (1), item (ii), to
7.21 issue an instruction permit to a homeschool student;

7.22 (6) except as this section otherwise provides, three charges of violating within a
7.23 period of 12 months any of the provisions of chapter 169 or of the rules or municipal
7.24 ordinances enacted in conformance with chapter 169, for which the accused may be
7.25 punished upon conviction by imprisonment;

7.26 (7) two or more violations, within five years, of the misdemeanor offense described
7.27 in section 169.444, subdivision 2, paragraph (a);

7.28 (8) the gross misdemeanor offense described in section 169.444, subdivision 2,
7.29 paragraph (b);

7.30 (9) an offense in another state that, if committed in this state, would be grounds for
7.31 revoking the driver's license; or

7.32 (10) a violation of an applicable speed limit by a person driving in excess of 100
7.33 miles per hour. The person's license must be revoked for six months for a violation of
7.34 this clause, or for a longer minimum period of time applicable under section 169A.53,
7.35 169A.54, or 171.174.

8.1 (b) The department shall immediately revoke the school bus endorsement of a driver
8.2 upon receiving a record of the driver's conviction of the misdemeanor offense described in
8.3 section 169.443, subdivision 7.

8.4 Sec. 11. Minnesota Statutes 2008, section 171.22, subdivision 1, is amended to read:

8.5 Subdivision 1. **Violations.** With regard to any driver's license, including a
8.6 commercial driver's license, it shall be unlawful for any person:

8.7 (1) to display, cause or permit to be displayed, or have in possession, any fictitious
8.8 or fraudulently altered driver's license or Minnesota identification card;

8.9 (2) to lend the person's driver's license or Minnesota identification card to any other
8.10 person or knowingly permit the use thereof by another;

8.11 (3) to display or represent as one's own any driver's license or Minnesota
8.12 identification card not issued to that person;

8.13 (4) to use a fictitious name or date of birth to any police officer or in any application
8.14 for a driver's license or Minnesota identification card, or to knowingly make a false
8.15 statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any
8.16 such application;

8.17 (5) to alter any driver's license or Minnesota identification card;

8.18 (6) to take any part of the driver's license examination for another or to permit
8.19 another to take the examination for that person;

8.20 (7) to make a counterfeit driver's license or Minnesota identification card;

8.21 (8) to use the name and date of birth of another person to any police officer for the
8.22 purpose of falsely identifying oneself to the police officer; ~~or~~

8.23 (9) to display as a valid driver's license any canceled, revoked, or suspended driver's
8.24 license. A person whose driving privileges have been withdrawn may display a driver's
8.25 license only for identification purposes; or

8.26 (10) to submit a false affidavit or statement to the department on the certification
8.27 required under section 171.05, subdivision 2, clause (1), item (ii), to issue an instruction
8.28 permit to a homeschool student.

8.29 Sec. 12. Minnesota Statutes 2008, section 181A.05, subdivision 1, is amended to read:

8.30 Subdivision 1. **When issued.** Any minor 14 or 15 years of age who wishes to work
8.31 on school days during school hours shall first secure an employment certificate. The
8.32 certificate shall be issued only by the school district superintendent, the superintendent's
8.33 agent, ~~or~~ some other person designated by the Board of Education, or by the person in
8.34 charge of providing instruction for students enrolled in nonpublic schools as defined in

9.1 section 120A.22, subdivision 4. The employment certificate shall be issued only for
9.2 a specific position with a designated employer and shall be issued only in the following
9.3 circumstances:

9.4 (1) if a minor is to be employed in an occupation not prohibited by rules promulgated
9.5 under section 181A.09 and as evidence thereof presents a signed statement from the
9.6 prospective employer; and

9.7 (2) if the parent or guardian of the minor consents to the employment; and

9.8 (3) if the issuing officer believes the minor is physically capable of handling the job
9.9 in question and further believes the best interests of the minor will be served by permitting
9.10 the minor to work.

9.11 Sec. 13. **REPEALER.**

9.12 Minnesota Statutes 2008, section 120A.26, subdivisions 1 and 2, are repealed.

120A.26 ENFORCEMENT AND PROSECUTION.

Subdivision 1. **On-site visits.** A superintendent or the superintendent's designee may make an annual on-site visit, at a mutually agreed upon time, to an unaccredited nonpublic school, home, or other institution where children are receiving instruction. Upon mutual agreement between the parties, the superintendent or the superintendent's designee may also visit an accredited nonpublic school, person, or other institution providing instruction. The purpose of these visits shall be limited to monitoring compliance with the requirements of section 120A.22. If the superintendent determines that there is evidence of noncompliance with the requirements of sections 120A.22 and 120A.24, the superintendent may make additional visits during the school year.

Subd. 2. **Alternative to visits.** In lieu of the visit authorized in subdivision 1, a parent who is providing instruction may present the documentation required in section 120A.24, subdivision 2, to the superintendent.