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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2981**

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to education finance; authorizing an intermediate school district to
1.3 borrow in anticipation of revenue payments; amending Minnesota Statutes 2006,
1.4 sections 126C.51; 126C.52, subdivision 2, by adding a subdivision; 126C.53;
1.5 126C.55.

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

1.7 Section 1. Minnesota Statutes 2006, section 126C.51, is amended to read:

1.8 **126C.51 APPLICATION OF LIMITING TAX LEGISLATION.**

1.9 Notwithstanding the provisions of section 471.69 or 471.75, or of any other
1.10 provision of law which by per capita limitation, local tax rate limitation, or otherwise,
1.11 limits the power of a district to incur any debt or to issue any warrant or order, a school
1.12 district or intermediate school district has the powers in sections 126C.50 to 126C.56
1.13 specifically conferred upon it and all powers incident and necessary to carrying out the
1.14 purposes of sections 126C.50 to 126C.56.

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

1.16 Sec. 2. Minnesota Statutes 2006, section 126C.52, subdivision 2, is amended to read:

1.17 Subd. 2. **Limitations.** The board of any school district may also borrow money
1.18 in the manner and subject to the limitations set forth in sections 126C.50 to 126C.56 in
1.19 anticipation of receipt of state aids for schools as defined in Minnesota Statutes and of
1.20 federal school aids to be distributed by or through the department. The aggregate of such
1.21 borrowings under this subdivision shall never exceed 75 percent of such aids which are
1.22 receivable by said school district in the school fiscal year (~~from July 1 to June 30~~) in which
1.23 the money is borrowed, as estimated and certified by the commissioner.

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

2.2 Sec. 3. Minnesota Statutes 2006, section 126C.52, is amended by adding a subdivision
2.3 to read:

2.4 **Subd. 3. Intermediate school districts.** (a) The board of an intermediate school
2.5 district may borrow money in the manner and subject to the limitations set forth in
2.6 sections 126C.50 to 126C.56 in anticipation of the receipt of:

2.7 (1) state aids for schools as defined in Minnesota Statutes;

2.8 (2) federal school aids to be distributed by or through the department; and

2.9 (3) membership fees and tuition payments from its member school districts.

2.10 The aggregate of such borrowings under this subdivision shall never exceed 75
2.11 percent of such aids, fees, and tuition payments which are receivable by the intermediate
2.12 school district in the fiscal year in which the money is borrowed, as estimated and certified
2.13 by the commissioner.

2.14 (b) The board of an intermediate school district may amend its bylaws upon receipt of
2.15 a written resolution by each of its member school districts to pledge the member district's
2.16 full faith and credit and unlimited taxing powers to repay the amount paid by the state
2.17 under section 126C.55, subdivision 2, plus interest, if the revenues specified in paragraph
2.18 (a) and any other revenues of the intermediate school district are insufficient to do so.

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

2.20 Sec. 4. Minnesota Statutes 2006, section 126C.53, is amended to read:

2.21 **126C.53 ENABLING RESOLUTION; FORM OF CERTIFICATES OF**
2.22 **INDEBTEDNESS.**

2.23 The board of a school district or intermediate school district may authorize and
2.24 effect such borrowing, and may issue such certificates of indebtedness upon passage of
2.25 a resolution specifying the amount and purposes for which it deems such borrowing is
2.26 necessary. The resolution must be adopted by a vote of at least two-thirds of its members.
2.27 The board must fix the amount, date, maturity, form, denomination, and other details of
2.28 the certificates of indebtedness, not inconsistent with this chapter. The board must fix the
2.29 date and place for receipt of bids for the purchase of the certificates when bids are required
2.30 and direct the clerk to give notice of the date and place for bidding.

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

3.1 Sec. 5. Minnesota Statutes 2006, section 126C.55, is amended to read:

3.2 **126C.55 STATE PAYMENT OF DEBT OBLIGATION UPON POTENTIAL**
3.3 **DEFAULT; REPAYMENT; STATE OBLIGATION NOT DEBT.**

3.4 Subdivision 1. **Definitions.** For the purposes of this section, the term "debt
3.5 obligation" means:

- 3.6 (1) a tax or aid anticipation certificate of indebtedness;
3.7 (2) a certificate of participation issued under section 126C.40, subdivision 6; or
3.8 (3) a general obligation bond.

3.9 Subd. 2. **Notifications; payment; appropriation.** (a) If a school district or
3.10 intermediate school district believes that it may be unable to make a principal or interest
3.11 payment on any outstanding debt obligation on the date that payment is due, it must
3.12 notify the commissioner as soon as possible, but not less than 15 working days before the
3.13 date that principal or interest payment is due. The notice must include the name of the
3.14 district, an identification of the debt obligation issue in question, the date the payment is
3.15 due, the amount of principal and interest due on the payment date, the amount of principal
3.16 or interest that the district will be unable to repay on that date, the paying agent for the
3.17 debt obligation, the wire transfer instructions to transfer funds to that paying agent, and an
3.18 indication as to whether a payment is being requested by the district under this section.
3.19 If a paying agent becomes aware of a potential default, it shall inform the commissioner
3.20 of that fact. After receipt of a notice which requests a payment under this section, after
3.21 consultation with the district and the paying agent, and after verification of the accuracy of
3.22 the information provided, the commissioner shall notify the commissioner of finance of
3.23 the potential default. The notice must include a final figure as to the amount due that the
3.24 district will be unable to repay on the date due.

3.25 (b) Except as provided in subdivision 9, upon receipt of this notice from the
3.26 commissioner, the commissioner of finance shall issue a warrant and authorize the
3.27 commissioner of education to pay to the paying agent for the debt obligation the specified
3.28 amount on or before the date due. The amounts needed for the purposes of this subdivision
3.29 are annually appropriated to the department from the state general fund.

3.30 (c) The Departments of Education and Finance must jointly develop detailed
3.31 procedures for school districts and intermediate school districts to notify the state that they
3.32 have obligated themselves to be bound by the provisions of this section, procedures for
3.33 districts and paying agents to notify the state of potential defaults and to request state
3.34 payment under this section, and procedures for the state to expedite payments to prevent
3.35 defaults. The procedures are not subject to chapter 14.

4.1 Subd. 3. **School district bound; interest rate on state paid amount.** If, at the
4.2 request of a school district or intermediate school district, the state has paid part or all of
4.3 the principal or interest due on a district's debt obligation on a specific date, the district is
4.4 bound by all provisions of this section and the amount paid shall bear taxable interest from
4.5 the date paid until the date of repayment at the invested cash rate as it is certified by the
4.6 commissioner of finance. Interest shall only accrue on the amounts paid and outstanding
4.7 less the reduction in aid under subdivision 4 and other payments received from the district.

4.8 Subd. 4. **Pledge of district's full faith and credit.** If, at the request of a school
4.9 district or intermediate school district, the state has paid part or all of the principal or
4.10 interest due on a district's debt obligation on a specific date, the pledge of the full faith and
4.11 credit and unlimited taxing powers of the district to repay the principal and interest due
4.12 on those debt obligations shall also, without an election or the requirement of a further
4.13 authorization, become a pledge of the full faith and credit and unlimited taxing powers of
4.14 the district to repay to the state the amount paid, with interest. Amounts paid by the state
4.15 must be repaid in the order in which the state payments were made.

4.16 Subd. 4a. **Aid reduction for repayment.** (a) Except as provided in this subdivision,
4.17 the state must reduce the state aid payable to the school district or intermediate school
4.18 district under this chapter and chapters 122A, 123A, 123B, 124D, 125A, 126C, and 273
4.19 by the amount paid by the state under this section on behalf of the district, plus the interest
4.20 due on it, and the amount reduced must revert from the appropriate account to the state
4.21 general fund. Payments from the school district endowment fund or any federal aid
4.22 payments shall not be reduced.

4.23 (b) For an intermediate school district, the state aid payable to the intermediate
4.24 school district must first be reduced, before any reduction to the state aids payable to the
4.25 member districts. If the state aid payable to the intermediate school district is not sufficient
4.26 to repay the state, state aid payable to member districts may be reduced proportionately
4.27 based on the ratio of each member district's adjusted net tax capacity to the total adjusted
4.28 net tax capacity of all member districts.

4.29 (c) If, after review of the financial situation of the school district or intermediate
4.30 school district, the commissioner advises the commissioner of finance that a total reduction
4.31 of aids would cause an undue hardship on or an undue disruption of the educational
4.32 program of the district, the commissioner, with the approval of the commissioner of
4.33 finance, may establish a different schedule for reduction of aids to repay the state. The
4.34 amount of aids to be reduced is decreased by any amounts repaid to the state by the district
4.35 from other revenue sources.

5.1 Subd. 6. **Tax levy for repayment.** (a) With the approval of the commissioner, a
5.2 district may levy in the year the state makes a payment under this section an amount up to
5.3 the amount necessary to provide funds for the repayment of the amount paid by the state
5.4 plus interest through the date of estimated repayment by the district. The proceeds of this
5.5 levy may be used only for this purpose unless they are in excess of the amount actually
5.6 due, in which case the excess shall be used to repay other state payments made under this
5.7 section or shall be deposited in the debt redemption fund of the school district. This levy
5.8 shall be an increase in the levy limits of the district for purposes of section 275.065,
5.9 subdivision 6. The amount of aids to be reduced to repay the state shall be decreased by
5.10 the amount levied. This levy by the district is not eligible for debt service equalization
5.11 under section 123B.53.

5.12 (b) If the state is not repaid in full for a payment made under this section by
5.13 November 30 of the calendar year following the year in which the state makes the
5.14 payment, the commissioner shall require the district to certify a property tax levy in an
5.15 amount up to the amount necessary to provide funds for repayment of the amount paid by
5.16 the state plus interest through the date of estimated repayment by the school district. To
5.17 prevent undue hardship, the commissioner may allow the district to certify the levy over a
5.18 five-year period. The proceeds of the levy may be used only for this purpose unless they
5.19 are in excess of the amount actually due, in which case the excess shall be used to repay
5.20 other state payments made under this section or shall be deposited in the debt redemption
5.21 fund of the district. This levy shall be an increase in the levy limits of the school district
5.22 for purposes of section 275.065, subdivision 6. If the commissioner orders the district
5.23 to levy, the amount of aids reduced to repay the state shall be decreased by the amount
5.24 levied. This levy by the district is not eligible for debt service equalization under section
5.25 123B.53 or any successor provision. A levy under this subdivision must be explained as a
5.26 specific increase at the meeting required under section 275.065, subdivision 6.

5.27 (c) For an intermediate district, a levy made by a member district under paragraph
5.28 (a) or (b) must be spread by the commissioner as a tax rate based on the total adjusted net
5.29 tax capacity of the member school districts. The proceeds of the levy must be remitted
5.30 by the member school district to the intermediate school district and must be used by
5.31 the intermediate district only to repay the state amounts owed. Any amount in excess
5.32 of the amount owed to the state must be repaid to the member school districts and the
5.33 commissioner shall adjust each member district's property tax levy in the next year.

5.34 Subd. 7. **Election as to mandatory application.** A school district or intermediate
5.35 school district may covenant and obligate itself, prior to the issuance of an issue of debt
5.36 obligations, to notify the commissioner of a potential default and to use the provisions of

6.1 this section to guarantee payment of the principal and interest on those debt obligations
6.2 when due. If the district obligates itself to be bound by this section, it must covenant in the
6.3 resolution that authorizes the issuance of the debt obligations to deposit with the paying
6.4 agent three business days prior to the date on which a payment is due an amount sufficient
6.5 to make that payment or to notify the commissioner under subdivision 1 that it will be
6.6 unable to make all or a portion of that payment. A district that has obligated itself must
6.7 include a provision in its agreement with the paying agent for that issue that requires
6.8 the paying agent to inform the commissioner if it becomes aware of a potential default
6.9 in the payment of principal or interest on that issue or if, on the day two business days
6.10 prior to the date a payment is due on that issue, there are insufficient funds to make the
6.11 payment on deposit with the paying agent. Funds invested in a refunding escrow account
6.12 established under section 475.67 that are to become available to the paying agent on a
6.13 principal or interest payment date are deemed to be on deposit with the paying agent three
6.14 business days before the payment date. If a district either covenants to be bound by this
6.15 section or accepts state payments under this section to prevent a default of a particular
6.16 issue of debt obligations, the provisions of this section shall be binding as to that issue
6.17 as long as any debt obligation of that issue remain outstanding. If the provisions of this
6.18 section are or become binding for more than one issue of debt obligations and a district is
6.19 unable to make payments on one or more of those issues, the district must continue to
6.20 make payments on the remaining issues.

6.21 Subd. 8. **Mandatory plan; technical assistance.** If the state makes payments on
6.22 behalf of a school district or intermediate school district under this section or the district
6.23 defaults in the payment of principal or interest on an outstanding debt obligation, it must
6.24 submit a plan to the commissioner for approval specifying the measures it intends to
6.25 implement to resolve the issues which led to its inability to make the payment and to
6.26 prevent further defaults. The department must provide technical assistance to the district
6.27 in preparing its plan. If the commissioner determines that a district's plan is not adequate,
6.28 the commissioner shall notify the district that the plan has been disapproved, the reasons
6.29 for the disapproval, and that the state shall not make future payments under this section for
6.30 debt obligations issued after the date specified in that notice until its plan is approved. The
6.31 commissioner may also notify the district that until its plan is approved, other aids due the
6.32 district will be withheld after a date specified in the notice.

6.33 Subd. 9. **State bond rating.** If the commissioner of finance determines that the
6.34 credit rating of the state would be adversely affected thereby, the commissioner of finance
6.35 shall not issue warrants under subdivision 2 for the payment of principal or interest on any

7.1 debt obligations for which a district did not, prior to their issuance, obligate itself to be
7.2 bound by the provisions of this section.

7.3 Subd. 10. **Continuing disclosure agreements.** The commissioner of finance
7.4 may enter into written agreements or contracts relating to the continuing disclosure of
7.5 information needed to facilitate the ability of school districts to issue debt obligations
7.6 according to federal securities laws, rules, and regulations, including securities and
7.7 exchange commission rules and regulations, section 240.15c2-12. Such agreements or
7.8 contracts may be in any form the commissioner of finance deems reasonable and in the
7.9 state's best interests.

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