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State of Minnesota

HOUSE OF REPRESENTATIVES

SECOND SPECIAL SESSION

H. F. No. 59

07/13/2020 Authored by Kresha and Erickson
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; authorizing school boards to establish a school attendance
1.3 model for the 2020-2021 school year; establishing a parent-based distance learning
1.4 program for the 2020-2021 school year; modifying the school calendar for the
1.5 2020-2021 school year; extending school district fund transfer flexibility; defining
1.6 distance learning; requiring a report; appropriating money; amending Minnesota
1.7 Statutes 2019 Supplement, section 126C.05, subdivision 1; Laws 2020, chapter
1.8 116, article 3, section 8; proposing coding for new law in Minnesota Statutes,
1.9 chapter 120A.

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

1.11 Section 1. 120A.412] DISTANCE LEARNING.

1.12 "Distance learning" means remote teaching where students have daily interactions with
1.13 their licensed teacher or teachers and are provided appropriate education materials. Daily
1.14 interaction with teachers includes access to teachers online and by telephone during normal
1.15 school hours and on normal school days.

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

1.17 Sec. 2. Minnesota Statutes 2019 Supplement, section 126C.05, subdivision 1, is amended
1.18 to read:

1.19 Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the age
1.20 of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), in
1.21 average daily membership enrolled in the district of residence, in another district under
1.22 sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school under
1.23 chapter 124E; or for whom the resident district pays tuition under section 123A.18, 123A.22,
1.24 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03

2.1 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision. For the
2.2 2020-2021 school year only, average daily membership and pupil units computed under
2.3 this section include any student participating in an on-site instruction, a hybrid model of
2.4 instruction, distance learning, and a distance learning parent-based program under section
2.5 6.

2.6 (a) A prekindergarten pupil with a disability who is enrolled in a program approved by
2.7 the commissioner and has an individualized education program is counted as the ratio of
2.8 the number of hours of assessment and education service to 825 times 1.0 with a minimum
2.9 average daily membership of 0.28, but not more than 1.0 pupil unit.

2.10 (b) A prekindergarten pupil who is assessed but determined not to be disabled is counted
2.11 as the ratio of the number of hours of assessment service to 825 times 1.0.

2.12 (c) A kindergarten pupil with a disability who is enrolled in a program approved by the
2.13 commissioner is counted as the ratio of the number of hours of assessment and education
2.14 services required in the fiscal year by the pupil's individualized education program to 875,
2.15 but not more than one.

2.16 (d) A prekindergarten pupil who is not included in paragraph (a) or (b) and is enrolled
2.17 in an approved voluntary prekindergarten program under section 124D.151 is counted as
2.18 the ratio of the number of hours of instruction to 850 times 1.0, but not more than 0.6 pupil
2.19 units.

2.20 (e) A kindergarten pupil who is not included in paragraph (c) is counted as 1.0 pupil
2.21 unit if the pupil is enrolled in a free all-day, every day kindergarten program available to
2.22 all kindergarten pupils at the pupil's school that meets the minimum hours requirement in
2.23 section 120A.41, or is counted as .55 pupil unit, if the pupil is not enrolled in a free all-day,
2.24 every day kindergarten program available to all kindergarten pupils at the pupil's school.

2.25 (f) A pupil who is in any of grades 1 to 6 is counted as 1.0 pupil unit.

2.26 (g) A pupil who is in any of grades 7 to 12 is counted as 1.2 pupil units.

2.27 (h) A pupil who is in the postsecondary enrollment options program is counted as 1.2
2.28 pupil units.

2.29 (i) For fiscal years 2018 through 2021, a prekindergarten pupil who:

2.30 (1) is not included in paragraph (a), (b), or (d);

2.31 (2) is enrolled in a school readiness plus program under Laws 2017, First Special Session
2.32 chapter 5, article 8, section 9; and

3.1 (3) has one or more of the risk factors specified by the eligibility requirements for a
 3.2 school readiness plus program,
 3.3 is counted as the ratio of the number of hours of instruction to 850 times 1.0, but not more
 3.4 than 0.6 pupil units. A pupil qualifying under this paragraph must be counted in the same
 3.5 manner as a voluntary prekindergarten student for all general education and other school
 3.6 funding formulas.

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

3.8 Sec. 3. Laws 2020, chapter 116, article 3, section 8, is amended to read:

3.9 Sec. 8. **FUND TRANSFERS; FOR FISCAL YEARS 2020 AND 2021 ONLY;**
 3.10 **REVENUE REDIRECTION FISCAL YEAR 2021 ONLY.**

3.11 Subdivision 1. **Fund and account transfers allowed.** Notwithstanding Minnesota
 3.12 Statutes, section 123B.80, subdivision 3, for fiscal years 2020 and 2021 only, a school
 3.13 district, charter school, or cooperative unit may transfer any funds not already assigned to
 3.14 or encumbered by staff salary and benefits, or otherwise encumbered by federal law, from
 3.15 any accounts or operating fund to the undesignated balance in any other operating fund.

3.16 **Subd. 1a. Redirected revenue uses.** Notwithstanding any law to the contrary, for fiscal
 3.17 year 2021 only, a school district may redirect any reserved or restricted revenue to another
 3.18 use upon adoption of a written resolution of the school board. This authority applies to any
 3.19 funds not already assigned to or encumbered by staff salary and benefits, or otherwise
 3.20 encumbered by federal law.

3.21 Subd. 2. **No aid or levy effect.** A fund ~~or~~ transfer, account transfer, or redirection of
 3.22 revenue is allowed under this section if the transfer or revenue redirection does not increase
 3.23 state aid obligations to the district or school, or result in additional property tax authority
 3.24 for the district. Redirected revenue, a fund transfer, or an account transfer is limited to the
 3.25 operating funds and accounts of a school district, charter school, or cooperative unit.

3.26 Subd. 3. **Board approval required; reporting; audit trail.** (a) A fund or account
 3.27 transfer under this section for fiscal year 2020 is effective June 30, 2020, and a fund or
 3.28 account transfer under this section for fiscal year 2021 is effective June 30, 2021. The school
 3.29 board must approve any fund or account transfer before the reporting deadline for the
 3.30 respective fiscal year.

3.31 (b) A school board that redirects reserved or restricted revenue or uses revenue for a
 3.32 different purpose than the specific purposes listed in statute for that revenue must adopt a

4.1 written resolution outlining the purpose for, and specifying the amount of, funds that are
 4.2 redirected.

4.3 (c) A school district, charter school, or cooperative unit must maintain accounting records
 4.4 for the purposes of this section that are sufficient to document both the specific funds
 4.5 transferred or redirected and use of those funds. The accounting records are subject to auditor
 4.6 review. Any execution of flexibility must not interfere with or jeopardize funding per federal
 4.7 requirements. Any transfer or redirection of funds must not interfere with the equitable
 4.8 delivery of distance learning or social distancing models.

4.9 Subd. 4. **Commissioner's guidance.** The commissioner must prepare and post to the
 4.10 department's website a document providing guidance on the process for approval of fund
 4.11 and account balance transfers authorized under this section.

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

4.13 Sec. 4. **FOUR-DAY SCHOOL WEEKS ALLOWED.**

4.14 Notwithstanding Minnesota Statutes, section 120A.41, for the 2020-2021 school year
 4.15 only, a school board's annual calendar may include fewer than 165 days of instruction and
 4.16 may be structured as a four-day week schedule.

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

4.18 Sec. 5. **LABOR DAY START FOR HIGH SCHOOL STUDENTS; DISTANCE**
 4.19 **LEARNING.**

4.20 Notwithstanding Minnesota Statutes, section 120A.40, a school district engaging in
 4.21 distance learning may begin the school year on any day before Labor Day for students in
 4.22 grades 9 through 12.

4.23 **EFFECTIVE DATE.** This section is effective the day following final enactment for
 4.24 the 2020-2021 school year only.

4.25 Sec. 6. **PARENT-BASED DISTANCE LEARNING PROGRAM.**

4.26 Subdivision 1. Purpose. The purpose of this section is to provide additional learning
 4.27 opportunities for students during distance learning periods.

4.28 Subd. 2. Applicability. This section only applies during the 2020-2021 school year.

5.1 Subd. 3. **Student eligibility.** A student who was enrolled in a Minnesota school district
5.2 or charter school on March 13, 2020, who has not already graduated from high school may
5.3 participate in a parent-based distance learning program.

5.4 Subd. 4. **Parent responsibility.** (a) A parent who wishes to provide parent-based distance
5.5 learning must provide the student's school with written notice of the parent's intent to do
5.6 so. The parent's notice must include the parent's agreement to provide the educational
5.7 services required under Minnesota Statutes, section 120A.22.

5.8 (b) A parent may terminate a parent-based distance learning program by submitting
5.9 written notice to the student's enrolling school. A parent who terminates a parent-based
5.10 distance learning program for the student may not request another parent-based distance
5.11 learning period for that student.

5.12 Subd. 5. **School responsibilities.** (a) A school district or charter school that enrolls an
5.13 eligible parent-based distance learning student may continue to count that student as an
5.14 enrolled pupil according to Minnesota Statutes, section 126C.05, subdivision 1, and any
5.15 other school funding formulas under Minnesota Statutes, chapters 124D, 125A, and 126C.

5.16 (b) A school district or charter school that enrolls a student under paragraph (a) must
5.17 provide the eligible student with a computer, textbooks, individualized instructional materials,
5.18 standardized tests, software, and education technology in the same manner as for other
5.19 students attending the school. If the student's family does not have access to adequate Internet
5.20 service, the school must provide Internet services for the student. If the school provides
5.21 access to noninteractive coursework online, the school must make this coursework available
5.22 to the student.

5.23 (c) The enrolling school is not required to provide the student access to its teachers as
5.24 a part of the parent-based distance learning program.

5.25 (d) The enrolling school is not required to provide compulsory instruction under
5.26 Minnesota Statutes, section 120A.22, for any student participating in parent-based distance
5.27 learning.

5.28 (e) Upon written request of the parent who has terminated a parent-based distance
5.29 learning program, the enrolling school must reassign a parent-based distance learning student
5.30 to the school's regular distance learning program. The school must place the student in the
5.31 same manner as it would a student transferring from another school.

6.1 Subd. 6. Grade progression and graduation. (a) The enrolling school must recognize
 6.2 the courses completed by a parent-based distance learning program student in the same
 6.3 manner as it recognizes any other student's courses who transfers into the school.

6.4 (b) A parent-based distance learning student in grade 12 during the 2020-2021 school
 6.5 year who satisfies the school's graduation requirements and successfully completes the
 6.6 parent-based distance learning program must be awarded a diploma from the school where
 6.7 the student is enrolled.

6.8 **EFFECTIVE DATE.** This section is effective for the 2020-2021 school year only.

6.9 **Sec. 7. PUBLIC HEALTH E-LEARNING DAYS.**

6.10 (a) For the purposes of this section, "public health e-learning day" means a school day
 6.11 where a school offers full access to online instruction provided by students' individual
 6.12 teachers due to a public health hazard, including the threat of an outbreak of a communicable
 6.13 or infectious disease.

6.14 (b) Notwithstanding any law to the contrary, for the 2020-2021 school year only, a school
 6.15 district or charter school may use public health e-learning days if:

6.16 (1) the governor authorizes the commissioner of education to alter school schedules,
 6.17 curtail school schedules, or order schools closed under Minnesota Statutes, section 12.21,
 6.18 due to an infectious disease outbreak; or

6.19 (2) a school district or charter school chooses to close a school due to an infectious
 6.20 disease outbreak.

6.21 (c) A public health e-learning day is counted as a day of instruction and included in the
 6.22 hours of instruction under Minnesota Statutes, section 120A.41.

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

6.24 **Sec. 8. DISTANCE LEARNING BROADBAND ACCESS GRANT PROGRAM.**

6.25 Subdivision 1. **Definition.** For the purposes of this section, "commissioner" means the
 6.26 commissioner of education.

6.27 Subd. 2. **Establishment.** A distance learning broadband access grant program is
 6.28 established in the Department of Education to provide wireless or wire-line broadband
 6.29 access for a limited duration to students currently lacking Internet access so that the students
 6.30 may participate in distance learning offered by school districts and charter schools during

7.1 the peacetime public health emergency period that relates to the infectious disease known
7.2 as COVID-19.

7.3 Subd. 3. **Eligible expenditures.** A grant awarded under this section may be used to:

7.4 (1) provide a student with the equipment necessary for the student to use a broadband
7.5 connection to access learning materials available on the Internet through a mobile wireless
7.6 or wire-line broadband connection;

7.7 (2) reimburse a school district or charter school for actual costs incurred to provide
7.8 emergency distance learning wireless or wire-line broadband access during the 2019-2020
7.9 and 2020-2021 school years; and

7.10 (3) reimburse a school district or charter school for the cost of wireless or wire-line
7.11 broadband Internet access for households with students that did not otherwise have Internet
7.12 access before March 13, 2020.

7.13 Subd. 4. **Eligible applicants.** A Minnesota school district or charter school may apply
7.14 for a grant award under this section.

7.15 Subd. 5. **Application review.** (a) An applicant for a grant under this section must file
7.16 an application with the commissioner on a form developed by the commissioner. The
7.17 commissioner may consult with the commissioner of employment and economic development
7.18 when developing the form.

7.19 (b) An application for a grant under this subdivision must describe a school district's or
7.20 charter school's approach to identify and prioritize access for students unable to access the
7.21 Internet for distance learning and may include a description of local or private matching
7.22 grants or in-kind contributions.

7.23 (c) A school district or charter school may develop its application in cooperation with
7.24 the school district's or charter school's community education department, the school district's
7.25 or charter school's adult basic education program provider, a public library, an Internet
7.26 service provider, or other community partner.

7.27 (d) The commissioner must prioritize applicants based on an evaluation of the following
7.28 factors: (1) the location of a school in or near an unserved area of the state; (2) the percent
7.29 of students that live in a household without wired or wireless broadband service; and (3)
7.30 the percent of students that were provided Internet access by the district or charter school
7.31 under subdivision 3, clause (3).

7.32 (e) The commissioner must develop administrative procedures governing the application
7.33 and grant award process.

8.1 Subd. 6. Grant amount. The commissioner must establish a minimum and maximum
8.2 per-pupil amount for grants awarded under this section based on: (1) the number of districts
8.3 and charter schools that apply for a grant; (2) the total amount of money requested in the
8.4 applications; and (3) the availability of federal money for a similar purpose.

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

8.6 Sec. 9. SCHOOL ATTENDANCE.

8.7 (a) Notwithstanding Minnesota Statutes, chapter 12, any emergency executive orders
8.8 of the governor, or guidance issued by the commissioner of education, upon adoption of a
8.9 written resolution of the school board, a school district or charter school may resume
8.10 instruction for enrolled students for the 2020-2021 school year in a manner determined by
8.11 the school board. The board may choose to provide on-site instruction, distance learning,
8.12 or a hybrid option.

8.13 (b) On-site instruction must comply with all COVID-19 prevention guidelines issued
8.14 by the Department of Health, to the extent practicable. If the school chooses to offer on-site
8.15 courses, a parent may choose to keep their child at home and provide instruction under
8.16 section 6.

8.17 (c) Distance learning includes instruction online as determined by the school board and
8.18 may reflect the model developed by the commissioner of education for the 2019-2020 school
8.19 year.

8.20 (d) Hybrid instruction includes on-site education as well as distance learning. A school
8.21 board may determine the hours of and schedule for the on-site instruction component of a
8.22 hybrid model.

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

8.24 Sec. 10. APPROPRIATION.

8.25 \$15,000,000 in fiscal year 2021 is appropriated from the coronavirus relief federal fund
8.26 to the commissioner of employment and economic development for transfer to the
8.27 commissioner of education for emergency distance learning wireless or wire-line broadband
8.28 access for student grants for school districts and charter schools under section 8. Up to five
8.29 percent of the appropriation under this section may be used to reimburse reasonable costs
8.30 incurred by the Department of Education to administer section 8. This is a onetime
8.31 appropriation. Any funds that remain unexpended on October 30, 2020, are canceled. By
8.32 November 30, 2020, the commissioner of education must report to the legislature regarding

9.1 the districts and charter schools that received grants under section 8, the per-pupil amount
9.2 for each grant, and the number of students that were provided Internet access. The report
9.3 must also identify the costs to administer the grant program and the amount canceled. Money
9.4 appropriated under this section must not be spent until the commissioner of management
9.5 and budget determines that the appropriation in this section is an eligible use of the
9.6 coronavirus relief federal fund.

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