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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **965**

02/10/2021 Authored by Edelson, Bierman, Huot, Moller, Christensen and others
The bill was read for the first time and referred to the Committee on Education Policy
03/22/2021 Adoption of Report: Amended and re-referred to the Committee on Education Finance

1.1 A bill for an act
1.2 relating to education; requiring special education recovery services and support
1.3 plans for students with disabilities; providing for federal funds replacement of
1.4 appropriations; appropriating money.

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

1.6 Section 1. **SPECIAL EDUCATION RECOVERY SERVICES AND SUPPORTS.**

1.7 Subdivision 1. **Special education recovery.** The commissioner of education, school
1.8 districts, and charter schools must collaborate with families of students with disabilities as
1.9 provided in this section to address the impact of disruptions to in-person instruction on
1.10 students' access to a free appropriate public education related to the COVID-19 pandemic.

1.11 Subd. 2. **Special education services and supports.** (a) A school district or charter school
1.12 that serves one or more students with disabilities must invite the parents of a student with
1.13 a disability to a meeting of each individualized education program (IEP) team as soon as
1.14 practicable but no later than December 1, 2021, to determine whether special education
1.15 services and supports are necessary to address lack of progress on IEP goals or in the general
1.16 education curriculum or loss of learning or skills due to disruptions related to the COVID-19
1.17 pandemic. The services and supports may include but are not limited to extended school
1.18 year services, additional IEP services, compensatory services, or other appropriate services.
1.19 This meeting may occur in an annual or other regularly scheduled IEP meeting. If the IEP
1.20 team determines that the services and supports are necessary, the team shall determine what
1.21 services and supports are appropriate for the student and when and how those services
1.22 should be provided, in accordance with relevant guidance from the Minnesota Department
1.23 of Education and the United States Department of Education. The services and supports

2.1 must be included in the IEP of the student. A district or charter school must report to the
2.2 commissioner, in the form and manner determined by the commissioner, the services and
2.3 supports provided to students with disabilities under this section, including the cost of
2.4 providing the services.

2.5 (b) In determining whether a student is eligible for services and supports described in
2.6 paragraph (a), and what services and supports are appropriate for the student, the IEP team
2.7 must consider, in conjunction with any other considerations advised by guidance from the
2.8 Minnesota Department of Education or the United States Department of Education:

2.9 (1) services and supports provided to the student before the disruptions to in-person
2.10 instruction related to the COVID-19 pandemic;

2.11 (2) the ability of the student to access services and supports;

2.12 (3) the student's progress toward IEP goals, including the goals in the IEP in effect before
2.13 disruptions to in-person instruction related to the COVID-19 pandemic, and progress in the
2.14 general education curriculum;

2.15 (4) the student's regression or lost skills resulting from disruptions to instruction;

2.16 (5) other significant influences on the student's ability to participate in and benefit from
2.17 instruction related to the COVID-19 pandemic, including family loss, changed family
2.18 circumstances, other trauma, and illness; and

2.19 (6) the types of services and supports that would benefit the student and improve the
2.20 student's ability to benefit from school, including academic supports, behavioral supports,
2.21 mental health supports, related services, and other services and supports.

2.22 (c) When considering how and when the services and supports described in paragraph
2.23 (a) should be provided, the IEP team must take into account the timing and delivery method
2.24 most appropriate for the student, such as time of day, day of the week, or time of year; and
2.25 the availability of other services accessible to the student to address learning loss. The IEP
2.26 team may determine that providers in addition to school district or charter school staff are
2.27 most appropriate to provide the services and supports described in paragraph (a).

2.28 (d) A school district or charter school must make available the services and supports
2.29 included in an IEP, as described in paragraph (a), until the IEP team determines that services
2.30 and supports are no longer necessary to address lack of progress on IEP goals or in the
2.31 general education curriculum or loss of learning or skills due to disruptions related to the
2.32 COVID-19 pandemic.

3.1 Subd. 3. **Appropriations; fiscal year 2021.** \$..... in fiscal year 2021 is appropriated
3.2 from the general fund to the commissioner of education to provide school districts, charter
3.3 schools, and cooperative districts funds to be used for services and supports provided to
3.4 students with disabilities under this section and to compensate staff for performing activities
3.5 required under this section. Funds appropriated under this subdivision are available until
3.6 June 30, 2023.

3.7 Subd. 4. **Appropriations; fiscal years 2022 and 2023.** \$..... in fiscal year 2022 and
3.8 \$..... in fiscal year 2023 are appropriated from the general fund to the commissioner of
3.9 education to provide school districts, charter schools, and cooperative districts funds to be
3.10 used for services and supports provided to students with disabilities under this section and
3.11 to compensate staff for performing activities required under this section. Funds appropriated
3.12 under this subdivision are available until June 30, 2023. The base for fiscal year 2024 and
3.13 later is \$0.

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

3.15 **Sec. 2. FEDERAL FUNDS REPLACEMENT; APPROPRIATION.**

3.16 Subdivision 1. **Suspension of statutory appropriation.** The appropriation in Minnesota
3.17 Statutes, section 4.07, subdivision 3, does not apply to any federal funds for COVID-19
3.18 received by the state of Minnesota between March 1, 2021, and June 30, 2023, for which
3.19 a general fund appropriation in this act is an eligible expenditure. Federal funding for which
3.20 this section applies shall not be used for any other purpose.

3.21 Subd. 2. **Cancellation.** If the state of Minnesota receives federal funds for COVID-19
3.22 between March 1, 2021, and June 30, 2023, for which any general fund appropriation enacted
3.23 in this act is an eligible expenditure, the commissioner must cancel the general fund
3.24 appropriation in this act in an amount up to, but not greater than, the amount appropriated
3.25 in this act. The commissioner may designate a portion of an appropriation for cancellation
3.26 if the federal funds are not sufficient to replace the entire general fund appropriation.

3.27 Subd. 3. **Appropriation.** Each amount canceled under subdivision 2 is appropriated
3.28 from the federal fund for the original purposes of the general fund appropriation in this act.
3.29 Any appropriation under this subdivision is a onetime appropriation.

3.30 Subd. 4. **Expiration.** This section does not apply to federal funds after the general fund
3.31 appropriations in this act have been canceled and federal funds have been appropriated for
3.32 the same purpose.

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