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State of Minnesota

HOUSE OF REPRESENTATIVES

SEVENTH SPECIAL SESSION

H. F. No. 33

12/14/2020 Authored by Kresha
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 and operate a safe
1.3 learning plan for the 2020-2021 school year; establishing a parent-based distance
1.4 learning program for the 2020-2021 school year; modifying the school calendar
1.5 for the 2020-2021 school year; prohibiting the Minnesota State High School League
1.6 from limiting tournaments or activities after canceling or limiting a tournament or
1.7 season; extending school district fund transfer flexibility; defining distance learning;
1.8 requiring a report; amending Minnesota Statutes 2020, sections 126C.05,
1.9 subdivision 1; 128C.05, by adding subdivisions; Laws 2020, chapter 116, article
1.10 3, section 8; proposing coding for new law in Minnesota Statutes, chapter 120A.

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

1.12 Section 1. [120A.412] SAFE LEARNING PLAN; DISTANCE INSTRUCTION;
1.13 SCHOOL BOARD AUTHORITY.

1.14 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.15 the meanings given them.

1.16 (b) "Distance instruction" means remote teaching where students have daily interactions
1.17 with their licensed teacher or teachers and are provided appropriate education materials.
1.18 Daily interaction with teachers includes access to teachers online and by telephone during
1.19 normal school hours and on normal school days. Distance instruction includes instruction
1.20 online as determined by the school board and may reflect the model developed by the
1.21 commissioner of education for the 2019-2020 school year.

1.22 (c) "Hybrid instruction" means a manner of instruction that includes both on-site
1.23 instruction as well as distance instruction. A school board may determine the hours of, and
1.24 schedule for, the on-site instruction component of a hybrid instruction model.

2.1 (d) "On-site instruction" means instruction delivered at a school facility or another
 2.2 physical facility located off of school property selected by the school board including a
 2.3 community center, library, or other space suitable for on-site instruction. To the extent
 2.4 practicable, on-site instruction must comply with all COVID-19 prevention guidelines issued
 2.5 by the Department of Health. If a school chooses to offer on-site instruction, a parent may
 2.6 choose to keep their child at home and have their child participate in distance instruction
 2.7 or the parent may provide instruction under section 9.

2.8 (e) "Safe learning plan" means a written instructional plan adopted by the school board
 2.9 to provide distance instruction, on-site instruction, or hybrid instruction consistent with
 2.10 emergency executive orders of the governor and guidance issued by the commissioners of
 2.11 education and health.

2.12 Subd. 2. **Safe learning plan.** (a) A school board must consider the elements of the
 2.13 Department of Health's Safe Learning Plan when establishing its safe learning plan.

2.14 (b) A school board may amend its safe learning plan and change its model of instruction
 2.15 throughout the 2020-2021 school year.

2.16 Subd. 3. **Student safety.** At any time during the school year, a student's family may
 2.17 choose to have the student participate in distance instruction for the remainder of the school
 2.18 semester. Each school district and charter school must offer a distance instruction model
 2.19 that meets the educational needs of all students of families who choose not to receive on-site
 2.20 or hybrid instruction.

2.21 Subd. 4. **Individualized education program.** Regardless of whether a school district
 2.22 or charter school is using distance instruction, on-site instruction, or hybrid instruction, a
 2.23 school district or charter school must consult with a student's parent before proposing any
 2.24 changes to the student's individualized education program.

2.25 Subd. 5. **Staff safety.** A school district or charter school must accommodate and modify
 2.26 the work environment to the extent practicable of any school employee whose health is at
 2.27 higher risk, or whose family's health may be at higher risk, from potential exposure to
 2.28 COVID-19. In consultation with the Departments of Education and Health, the school board
 2.29 may establish categories of employees and employees' families who may be at higher risk
 2.30 from potential exposure to COVID-19.

2.31 Subd. 6. **Minnesota Comprehensive Assessments.** Notwithstanding any law to the
 2.32 contrary, the Department of Education must develop a plan to administer the Minnesota
 2.33 Comprehensive Assessments under section 120B.30 to students during the spring of 2021

3.1 regardless of whether students are participating in distance instruction, on-site instruction,
 3.2 or hybrid instruction.

3.3 Subd. 7. **Online instruction.** (a) Notwithstanding section 124D.095 or any other law to
 3.4 the contrary, a school district or charter school may use any online learning platform for
 3.5 the 2020-2021 school year.

3.6 (b) Notwithstanding any law to the contrary, a school district or charter school may
 3.7 contract with a faculty member of an eligible institution, as defined in section 124D.09,
 3.8 subdivision 3, to provide distance instruction to students in grades 9 to 12. Faculty providing
 3.9 instruction under this paragraph must have at least one year of experience teaching an online
 3.10 course.

3.11 Subd. 8. **Reporting.** (a) A school district or charter school must post its safe learning
 3.12 plan to its website. The safe learning plan website must include a method for students, their
 3.13 families, and school employees to comment on the school's safe learning plan. A school
 3.14 district or charter school must report its safe learning plan and any amendments to that plan
 3.15 to the commissioner of education in the form and manner specified by the commissioner.

3.16 (b) The Department of Education must require each school district and charter school
 3.17 to report each student's hours of instruction in a manner that shows the hours of instruction
 3.18 through distance instruction, on-site instruction, and hybrid instruction.

3.19 Subd. 9. **Department of Education assistance.** Upon request of the school board, the
 3.20 Department of Education, in consultation with the Department of Health, must provide
 3.21 assistance to schools to implement their safe learning plans. The assistance may include
 3.22 recommendations to strengthen services to students disproportionately affected by distance
 3.23 instruction.

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

3.25 Sec. 2. Minnesota Statutes 2020, section 126C.05, subdivision 1, is amended to read:

3.26 Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the age
 3.27 of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), in
 3.28 average daily membership enrolled in the district of residence, in another district under
 3.29 sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school under
 3.30 chapter 124E; or for whom the resident district pays tuition under section 123A.18, 123A.22,
 3.31 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03
 3.32 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision. For the
 3.33 2020-2021 school year only, average daily membership and pupil units computed under

4.1 this section include any student participating in on-site instruction, hybrid instruction,
4.2 distance instruction, and a distance learning parent-based program under section 9.

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

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

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

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

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

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

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

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

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

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

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

4.30 (3) has one or more of the risk factors specified by the eligibility requirements for a
4.31 school readiness plus program,

5.1 is counted as the ratio of the number of hours of instruction to 850 times 1.0, but not more
 5.2 than 0.6 pupil units. A pupil qualifying under this paragraph must be counted in the same
 5.3 manner as a voluntary prekindergarten student for all general education and other school
 5.4 funding formulas.

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

5.6 Sec. 3. Minnesota Statutes 2020, section 128C.05, is amended by adding a subdivision to
 5.7 read:

5.8 Subd. 4. **Canceled tournament.** If the league cancels or postpones a championship high
 5.9 school tournament activity, the league must not prohibit or limit tournament activities or
 5.10 competitions organized by schools, coaches, or parents in coordination with state or nationally
 5.11 recognized athletic organizations.

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

5.13 Sec. 4. Minnesota Statutes 2020, section 128C.05, is amended by adding a subdivision to
 5.14 read:

5.15 Subd. 5. **Canceled or shortened season.** If the league cancels or reduces the length of
 5.16 a regular athletic season, the league may not prohibit or limit students from participating in
 5.17 a competition or athletic activity coordinated or hosted by a state or nationally recognized
 5.18 athletic organization.

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

5.20 Sec. 5. Laws 2020, chapter 116, article 3, section 8, is amended to read:

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

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

5.28 Subd. 1a. **Redirected revenue uses.** Notwithstanding any law to the contrary, for fiscal
 5.29 year 2021 only, a school district may redirect any reserved or restricted revenue to another
 5.30 use upon adoption of a written resolution of the school board. This authority applies to any

6.1 funds not already assigned to or encumbered by staff salary and benefits, or otherwise
 6.2 encumbered by federal law.

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

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

6.13 (b) A school board that redirects reserved or restricted revenue or uses revenue for a
 6.14 different purpose than the specific purposes listed in statute for that revenue must adopt a
 6.15 written resolution outlining the purpose for, and specifying the amount of, funds that are
 6.16 redirected.

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

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

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

6.27 Sec. 6. **FOUR-DAY SCHOOL WEEKS ALLOWED; FLEXIBLE LEARNING YEAR**
 6.28 **AUTHORIZED.**

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

6.32 (b) A school board may amend its school calendar for the 2020-2021 school year at any
 6.33 time.

7.1 (c) For the 2020-2021 school year only, a school district may, by board action and
 7.2 without approval of the commissioner of education, implement a flexible learning year
 7.3 program consistent with Minnesota Statutes, sections 124D.12 to 124D.127.

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

7.5 **Sec. 7. SHORT-CALL SUBSTITUTE TEACHER.**

7.6 (a) A school district may employ a person who meets the professional requirements of
 7.7 Minnesota Statutes, section 122A.181, subdivision 2, as a short-call substitute teacher,
 7.8 notwithstanding any licensing requirements in Minnesota Statutes, chapter 122A. Each
 7.9 assignment to replace a teacher of record must last no longer than 15 consecutive school
 7.10 days.

7.11 (b) A district must report to the Professional Educator Licensing and Standards Board
 7.12 all persons it employs under this section in the form and manner determined by the board
 7.13 and affirm that each person meets the professional requirements for a short-call substitute
 7.14 teacher.

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

7.16 **Sec. 8. USES OF LONG-TERM FACILITIES MAINTENANCE REVENUE.**

7.17 Notwithstanding Minnesota Statutes, section 123B.595, subdivisions 10 and 11, a school
 7.18 board may use any of its long-term facilities maintenance revenue to purchase or lease
 7.19 equipment and technology necessary to enhance distance instruction for its students and
 7.20 staff.

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

7.22 **Sec. 9. PARENT-BASED DISTANCE LEARNING PROGRAM.**

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

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

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

7.29 Subd. 4. **Parent responsibility.** (a) A parent who wishes to provide parent-based distance
 7.30 learning must provide the student's school with written notice of the parent's intent to do

8.1 so. The parent's notice must include the parent's agreement to provide the educational
8.2 services required under Minnesota Statutes, section 120A.22.

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

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

8.11 (b) A school district or charter school that enrolls a student under paragraph (a) must
8.12 provide the eligible student with a computer, textbooks, individualized instructional materials,
8.13 standardized tests, software, and education technology in the same manner as for other
8.14 students attending the school. If the student's family does not have access to adequate Internet
8.15 service, the school must provide Internet service for the student. If the school provides
8.16 access to noninteractive coursework online, the school must make this coursework available
8.17 to the student.

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

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

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

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

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

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

9.2 Sec. 10. **PUBLIC HEALTH E-LEARNING DAYS.**

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

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

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

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

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

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