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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **4415**

03/11/2020 Authored by Davnie, Youakim, Olson, Winkler, Christensen and others
The bill was read for the first time and referred to the Committee on Education Policy
04/14/2020 Adoption of Report: Amended and re-referred to the Education Finance Division
Joint Rule 2.03 has been waived for any subsequent committee action on this bill

1.1 A bill for an act
1.2 relating to education; providing for compensation for school employees during
1.3 distance learning periods during the 2019-2020 school year due to COVID-19;
1.4 making exceptions for probationary teachers and truancy during the 2019-2020
1.5 school year due to COVID-19; making formula adjustments for school aid and
1.6 revenue calculations and providing for fund transfers due to COVID-19; granting
1.7 emergency powers to the commissioner of education and Professional Educator
1.8 Licensing and Standards Board due to COVID-19; requiring a report.

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

1.10 **ARTICLE 1**
1.11 **DISTANCE LEARNING DUE TO COVID-19**

1.12 Section 1. **DISTANCE LEARNING PERIOD; 2019-2020 SCHOOL YEAR.**

1.13 Subdivision 1. **Definitions.** (a) For the purposes of this act, "distance learning period"
1.14 means March 18, 2020, through May 4, 2020, or later, if extended by emergency executive
1.15 order.

1.16 (b) For the purposes of this section, a "school district" includes a cooperative unit under
1.17 Minnesota Statutes, section 123A.24, subdivision 2, that serves students on site.

1.18 Subd. 2. **Distance learning period; employees.** (a) This subdivision applies to an
1.19 employee of a school district or charter school, during the distance learning period, who:

1.20 (1) was scheduled to work during the distance learning period;

1.21 (2) did not work on a scheduled day or worked fewer than the number of scheduled
1.22 hours for the employee that day; and

1.23 (3) did not receive compensation for all scheduled hours that day.

2.1 (b) In addition to paragraph (a), this subdivision applies to any day or portion of a day
2.2 not worked, during which the employee was scheduled to work, that the employee did not
2.3 work at the recommendation or direction of a health care provider acting within the provider's
2.4 scope of practice or a Department of Health staff member due to the possibility the employee
2.5 was exposed to or infected with COVID-19.

2.6 (c) Notwithstanding any law to the contrary, for each day or portion of a day identified
2.7 in paragraph (a) or (b), a school district or charter school must compensate any school
2.8 district or charter school employee for any hours scheduled but not worked at the employee's
2.9 regular rate of pay.

2.10 (d) Notwithstanding any law to the contrary, for the purposes of this subdivision, an
2.11 employee is deemed scheduled to work if:

2.12 (1) a school district or charter school notified the employee of the schedule orally or in
2.13 writing;

2.14 (2) the employee works a fixed or periodically recurring schedule and had not notified
2.15 the school district or charter school that the employee intended to deviate from that schedule;
2.16 or

2.17 (3) if neither clause (1) nor (2) apply, the employee is deemed scheduled to work the
2.18 same number of hours and days as the most recent prior schedule for which the school
2.19 district or charter school provided notice.

2.20 (e) Subject to Department of Health guidelines, labor agreements, and school district or
2.21 charter school policies, a school district or charter school may schedule an employee to
2.22 work on tasks outside of their normal purview.

2.23 (f) Notwithstanding any law to the contrary, compensation under this subdivision must
2.24 not be deducted from accrued sick or paid leave unless the employee is unable to work due
2.25 to illness, injury, or other incapacity, including treatment for a COVID-19 infection.

2.26 (g) Notwithstanding any law to the contrary, a school district or charter school must
2.27 count any hours or days for which an employee is entitled to compensation under this
2.28 subdivision as hours or days worked for the purpose of entitlement to or accrual of any
2.29 benefits to which the employee would be otherwise entitled.

2.30 (h) A school district or charter school is encouraged to use hourly employees for
2.31 COVID-19 response related work. This may include but is not limited to appropriate work
2.32 in food distribution, cleaning and disinfecting, or distance learning.

3.1 Subd. 3. **Distance learning period; contract employer compensation for eligible**
3.2 **employees.** (a) For purposes of this subdivision, "contract employer" means an employer
3.3 who provides student-related services throughout the school year to a school district or
3.4 charter school, and "eligible employee" means a person who:

3.5 (1) has the primary task of providing services to students attending a school district or
3.6 charter school;

3.7 (2) was scheduled to work for the contract employer on any day or days of the distance
3.8 learning period;

3.9 (3) did not work on any or all of those days; and

3.10 (4) did not receive compensation for any or all of the employee's regularly scheduled
3.11 shifts or hours on those school days.

3.12 (b) A contract employer who agrees to compensate eligible employees at the regular
3.13 rate of pay for the hours of pay lost during the distance learning period must notify the
3.14 school district or charter school of the intended compensation and, once notified, the school
3.15 district or charter school must fully compensate the contract employer for the days identified.

3.16 (c) Notwithstanding paragraph (b), a school district or charter school and contract
3.17 employer may, by mutual agreement, adjust the full, regularly scheduled daily contract rate
3.18 if special circumstances within the school district or charter school warrant an adjustment.

3.19 **Sec. 2. PROBATIONARY TEACHERS.**

3.20 For the 2019-2020 school year only, for purposes of Minnesota Statutes, sections
3.21 122A.40, subdivision 5, paragraph (e), and 122A.41, subdivision 2, paragraph (d), the
3.22 minimum number of days of teacher service that a probationary teacher must complete
3.23 equals the difference between 120 days and the number of scheduled instructional days that
3.24 were canceled for COVID-19-related reasons.

3.25 **Sec. 3. TRUANCY.**

3.26 Notwithstanding Minnesota Statutes, section 260A.02, subdivision 3, a student's absence,
3.27 without valid excuse, beginning March 1, 2020, and through the end of the distance learning
3.28 period on May 4, 2020, or any extension of the distance learning period, does not bring the
3.29 student within the definition of a continuing truant.

4.1 Sec. 4. **EFFECTIVE DATE.**

4.2 Sections 1 to 3 are effective the day following final enactment and are effective
4.3 retroactively from the beginning of the 2019-2020 school year. Sections 1 to 3 expire June
4.4 30, 2020.

4.5 **ARTICLE 2**4.6 **FORMULA ADJUSTMENTS**4.7 Section 1. **SCHOOL AID FORMULAS ADJUSTED.**

4.8 Subdivision 1. **Special education.** Notwithstanding any law to the contrary, fiscal year
4.9 2020 expenditures for employees and contracted services that would have been eligible for
4.10 state special education aid under Minnesota Statutes, section 125A.76, and for special
4.11 education tuition billing under Minnesota Statutes, sections 125A.11 and 127A.47, in the
4.12 absence of school closures or learning plan modifications due to COVID-19 must be included
4.13 as eligible expenditures for the calculation of state special education aid and special education
4.14 tuition billing.

4.15 Subd. 2. **School meals.** (a) Notwithstanding any law to the contrary, for school meals
4.16 served beginning on or after March 18, 2020, the commissioner of education may adjust
4.17 the appropriations remaining under Laws 2019, First Special Session chapter 11, article 7,
4.18 section 1, subdivisions 2, 3, and 4, as specified in paragraph (b).

4.19 (b) On June 30, 2020, the commissioner must subtract the amount actually paid to
4.20 participants for the 2019-2020 school year under Laws 2019, First Special Session chapter
4.21 11, article 7, section 1, subdivisions 2, 3, and 4, through March 17, 2020, from the total
4.22 appropriations for each program. The commissioner must then allocate the remaining funds
4.23 under each appropriation to participants in the summer food service program on a per-meal
4.24 basis for meals served on or after March 18, 2020, and before July 1, 2020.

4.25 Subd. 3. **Career and technical aid.** Notwithstanding any law to the contrary, for fiscal
4.26 years 2020 and 2021, the commissioner of education may recalculate career and technical
4.27 revenue for school districts, cooperative units, and charter schools to ensure that the total
4.28 statewide career and technical revenue does not fall below the amount estimated for fiscal
4.29 years 2020 and 2021 based on the February 2020 forecast. For expenses incurred on or after
4.30 March 18, 2020, the commissioner may recalculate school district, cooperative unit, and
4.31 charter school amounts based on any other mechanism that allows for the full amount of
4.32 this appropriation to be equitably paid to school districts, cooperative units, and charter
4.33 schools. These amounts must be prorated at the end of each fiscal year if career and technical

5.1 revenue is to exceed the February 2020 forecast estimate of this revenue for these fiscal
5.2 years.

5.3 Subd. 4. **Nonpublic pupil transportation aid.** Notwithstanding any law to the contrary,
5.4 the commissioner of education may adjust the fiscal year 2020 pupil transportation
5.5 expenditures used to determine nonpublic pupil transportation aid for fiscal year 2022 based
5.6 on any mechanism that allows for the full amount of the state total fiscal year 2020
5.7 expenditure estimated in the February 2020 forecast to be equitably allocated among school
5.8 districts.

5.9 Subd. 5. **Interdistrict desegregation or integration transportation**
5.10 grants. Notwithstanding any law to the contrary, the commissioner of education may adjust
5.11 the fiscal year 2020 pupil transportation expenditures used to determine interdistrict
5.12 desegregation and integration aid for fiscal year 2021 based on any mechanism that allows
5.13 for the full amount of the state total fiscal year 2020 expenditure estimated in the February
5.14 2020 forecast to be equitably allocated among school districts.

5.15 Subd. 6. **Adult basic education aid.** Notwithstanding any law to the contrary, for the
5.16 2020-2021 school year only, the commissioner of education may recalculate adult basic
5.17 education aid to ensure that the total aid does not fall below the amount estimated for the
5.18 2020-2021 school year based on the February 2020 forecast. The commissioner may
5.19 recalculate contract hourly rates or otherwise adjust the formula based on any mechanism
5.20 that allows for the full amount of this appropriation to be equitably paid to aid recipients.
5.21 These amounts must be prorated at the end of the fiscal year if adult basic education aid
5.22 were to exceed the February 2020 forecast estimate of this aid.

5.23 Subd. 7. **School employees; ensuring state revenue.** Notwithstanding any law to the
5.24 contrary, for purposes of state aid formulas under subdivisions 1 and 3, the commissioner
5.25 of education may include in any counts and costs of essential personnel the services provided
5.26 by individuals who were essential personnel prior to March 13, 2020, for the purpose of
5.27 ensuring state aid payments to school districts, cooperative units, and charter schools are
5.28 consistent with the February 2020 forecast.

5.29 Subd. 8. **Literacy incentive aid.** (a) Notwithstanding Minnesota Statutes, section
5.30 124D.98, subdivision 2, for purposes of calculating literacy proficiency aid for fiscal years
5.31 2021, 2022, and 2023 only, tests administered during the 2019-2020 school year must be
5.32 excluded from the three-year average proficiency percentages.

5.33 (b) Notwithstanding Minnesota Statutes, section 124D.98, subdivision 3, for purposes
5.34 of calculating literacy growth aid for fiscal years 2021, 2022, and 2023 only, tests

6.1 administered during the 2019-2020 school year must be excluded from the three-year average
6.2 growth percentages.

6.3 Subd. 9. **Community education after-school enrichment revenue.** Notwithstanding
6.4 Minnesota Statutes, section 124D.19, subdivision 12, for fiscal year 2020 only, for spending
6.5 occurring on or after March 18, 2020, after-school enrichment revenue under Minnesota
6.6 Statutes, section 124D.20, subdivision 4a, continues and may be spent consistent with the
6.7 process, uses, and limitations of section 3.

6.8 Subd. 10. **School-age care revenue.** Notwithstanding Minnesota Statutes, section
6.9 124D.22, for fiscal year 2020 only, for spending on or after March 18, 2020, each district's
6.10 school-age care revenue continues at its approved amounts and program funds may be spent
6.11 consistent with the process, uses, and limitations of section 3.

6.12 Subd. 11. **Early childhood screening revenue.** Notwithstanding the per-child dollar
6.13 amounts in Minnesota Statutes, section 121A.19, at the conclusion of fiscal year 2021 only,
6.14 the commissioner must increase the per-child amount for each child screened at age three
6.15 in fiscal year 2021 by multiplying the allowance in Minnesota Statutes, section 121A.19,
6.16 clause (1), by the statewide ratio of the number of three-year-old children screened in fiscal
6.17 year 2019 to the number of three-year-old children screened in 2020.

6.18 Subd. 12. **Achievement and integration revenue.** Notwithstanding Minnesota Statutes,
6.19 section 124D.861 or 124D.862, or any other law to the contrary, for fiscal year 2020 only,
6.20 a school district or charter school that has not spent the full approved amount of its
6.21 achievement and integration revenue may carry the unspent portion of that revenue forward
6.22 into fiscal year 2021.

6.23 Subd. 13. **Report.** The commissioner of education must notify school districts and charter
6.24 schools of these formula changes as soon as practicable. The commissioner must issue a
6.25 report by January 15, 2021, to the chairs and ranking minority members of the legislative
6.26 committees having jurisdiction over kindergarten through grade 12 education describing
6.27 the formula changes and the distributional impact on school districts and charter schools.

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

6.29 Sec. 2. **FUND TRANSFERS; FISCAL YEAR 2020 ONLY.**

6.30 Subdivision 1. **Fund and account transfers allowed.** Notwithstanding Minnesota
6.31 Statutes, section 123B.80, subdivision 3, for fiscal year 2020 only, and for the purposes
6.32 listed in subdivision 3, a school district, charter school, or cooperative unit may transfer
6.33 any funds not already assigned to or encumbered by staff salary and benefits, or otherwise

7.1 encumbered by federal law, from any reserved account or operating fund to the undesignated
7.2 balance in any other operating fund.

7.3 Subd. 2. **Definitions.** For purposes of this act:

7.4 (1) "eligible on-site child" means a school-aged child of an employee providing services
7.5 in a critical sector as defined in Executive Order 20-02, 20-19, or 20-20, or any subsequent
7.6 order receiving services at a school facility;

7.7 (2) "closure period" means the time period specified by Executive Order 20-02 during
7.8 which schools were closed to students while staff engaged in planning for distance learning;
7.9 and

7.10 (3) "distance learning period" means the time period during the 2019-2020 school year
7.11 specified by Executive Order 20-19 or a future emergency executive order during which
7.12 schools are closed and the time during which distance learning plans are implemented to
7.13 provide instructional programming to all students.

7.14 Subd. 3. **Revenue uses for transferred funds.** Funds transferred under this section may
7.15 be used to:

7.16 (1) provide care to eligible on-site children during the school day;

7.17 (2) pay for additional transportation costs needed in providing distance learning
7.18 instruction and meal delivery during the closure period and the distance learning period;

7.19 (3) pay for additional costs related to technology needed to provide distance learning
7.20 instruction;

7.21 (4) pay the portion of staff salary and benefits of employees paid through the community
7.22 service fund normally funded by fees that were refunded, waived, or otherwise not paid
7.23 during the closure period and distance learning period; or

7.24 (5) pay the portion of food service fund staff salary and benefits normally funded by
7.25 meal reimbursement revenue during the closure period or distance learning period.

7.26 Subd. 4. **No aid or levy effect.** A fund or account transfer is allowed under this section
7.27 if the transfer does not increase state aid obligations to the district or school, or result in
7.28 additional property tax authority for the district. A fund or account transfer is limited to the
7.29 operating funds and accounts of a school district, charter school, or cooperative unit.

7.30 Subd. 5. **Board approval required; reporting; audit trail.** A fund or account transfer
7.31 under this section is effective June 30, 2020, and the school board must approve any fund
7.32 or account transfer before the reporting deadline for fiscal year 2020. A school district,

8.1 charter school, or cooperative unit must maintain accounting records for the purposes of
8.2 this section that are sufficient to document both the specific funds transferred and use of
8.3 those funds. The accounting records are subject to auditor review. Any execution of flexibility
8.4 must not interfere with or jeopardize funding per federal requirements. Any transfer must
8.5 not interfere with the equitable delivery of distance learning or social distancing models.

8.6 Subd. 6. **Commissioner's guidance.** The commissioner must prepare and post to the
8.7 department's website a document providing guidance on the allowable uses and fund and
8.8 account balance transfers authorized under this section.

8.9 **EFFECTIVE DATE.** This section is effective the day following final enactment and
8.10 applies retroactively from March 18, 2020.

8.11 **Sec. 3. CASH FLOW ADJUSTMENT; FISCAL YEAR 2021 ONLY.**

8.12 Notwithstanding any law to the contrary, for fiscal year 2021 only, a school district
8.13 unable to make a required payment from its debt service fund because of a delay in receipt
8.14 of its anticipated property tax proceeds may apply for modified cash flow payments under
8.15 Minnesota Statutes, section 127A.45. The school district must apply in the form and manner
8.16 specified by the commissioner of education and the commissioner must adjust the state aid
8.17 cash flow payments accordingly.

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

8.19 **Sec. 4. INSTRUCTION TO COMMISSIONER; FEDERAL EDUCATION**
8.20 **STABILIZATION FUND APPLICATION.**

8.21 In applying for education stabilization fund grants authorized under the federal
8.22 Coronavirus Aid, Relief, and Economic Security Act, the Department of Education must
8.23 prioritize distribution and expenditure of funds that enable a school to comply with Executive
8.24 Order 20-19 and any future executive order on kindergarten through grade 12 education
8.25 that relates to the infectious disease known as COVID-19, as well as the corresponding
8.26 Department of Education guidance related to the COVID-19 pandemic, including employee
8.27 compensation.

8.28 **EFFECTIVE DATE.** This section is effective the day following final enactment and
8.29 expires June 30, 2020.

ARTICLE 3

STATE AGENCY COVID-19 EMERGENCY POWERS

Section 1. COMMISSIONER OF EDUCATION AND PROFESSIONAL EDUCATOR LICENSING AND STANDARDS BOARD COVID-19 EMERGENCY POWERS.

(a) Notwithstanding Minnesota Statutes, chapters 120A and 120B, or Minnesota Rules, chapter 3501, the commissioner of education is granted authority to waive for students and schools negatively affected by a COVID-19 disruption provisions relating to the:

(1) required number of instructional days and hours;

(2) required credits and earning of credits, including credits for advancement in grade;

and

(3) state graduation requirements.

In authorizing a waiver, the commissioner must consider the quality of the continuity of education and the mastery of academic standards with provisions for students to demonstrate the potential toward grade advancement and graduation. Before authorizing a waiver under this paragraph, the commissioner must consult with representatives of school boards reflective of school districts throughout the state.

(b) Notwithstanding Minnesota Statutes, section 120B.30, for the 2019-2020 school year only, the commissioner of education is granted authority to waive the state requirements on statewide assessments, including requirements allowing students to take a college entrance exam in school on a regular school day. The commissioner must waive any state accountability and reporting requirements linked to the statewide assessments. The commissioner must distribute any savings attributable to this paragraph equitably among schools for purposes of complying with Executive Order 20-19 and the corresponding Department of Education guidance related to the COVID-19 pandemic, including employee compensation.

(c) Notwithstanding Minnesota Statutes, section 122A.183, Minnesota Rules, part 8710.0313, or any other law to the contrary, the Professional Educator Licensing and Standards Board must issue a one-year conditional Tier 3 license to an applicant that is otherwise qualified under Minnesota Statutes, section 122A.183, but was unable to complete a required licensure exam under Minnesota Statutes, section 122A.185, because of a COVID-19-related disruption. As a condition of renewing the Tier 3 license, the applicant must pass all required licensure exams under Minnesota Statutes, section 122A.185. The

10.1 term of the renewed Tier 3 license under this section must be two years. The board must
10.2 waive the licensure renewal fee.

10.3 (d) Notwithstanding any law to the contrary, the Professional Educator Licensing and
10.4 Standards Board must extend by six months any calendar year 2020 deadline for completion
10.5 of license renewal requirements for licenses under their jurisdiction.

10.6 **EFFECTIVE DATE.** Paragraphs (a) and (b) expire June 30, 2020. Paragraph (c) expires
10.7 October 31, 2020.

10.8 Sec. 2. **REPORTING; RIGHT OF ACTION.**

10.9 (a) A court must not construe anything in this article as creating a right of action for a
10.10 student, parent, teacher license applicant, or any other individual or entity to enforce any
10.11 provisions of this article.

10.12 (b) By December 15, 2020, the Professional Educator Licensing and Standards Board
10.13 must report on waivers made under section 1, paragraph (a), and all conditional licenses
10.14 issued under section 1, paragraph (c), to the chairs and ranking minority members of the
10.15 committees in the house of representatives and senate with jurisdiction over kindergarten
10.16 through grade 12 education policy and finance.