

sure the sum of \$10,000,000 to be invested by the state board of investment in such securities as authorized by law.

Such sums as may be needed from time to time to pay lenders for defaulted loans is appropriated from the special account to the commissioner. The sum of all outstanding family farm security loans guaranteed by the commissioner at any time shall not exceed ten times the amount of money in the special account created in this subdivision.

Subd. 2. The sum of \$800,000 from the general fund is appropriated to the commissioner to be used for payment adjustment under section 7, subdivision 2.

Subd. 3. There is appropriated from the general fund to the commissioner the sum of \$74,300 for the biennium ending June 30, 1977, for administrative expenses incurred in fulfilling the provisions of this act.

Approved April 8, 1976.

CHAPTER 211—H.F.No.1993

[Coded in Part]

An act relating to education; providing standards for the education of handicapped children; requiring a hearing and appeals process; limiting expenditures to meet federal requirements; amending Minnesota Statutes 1974, Section 120.17, Subdivisions 3 and 4, and by adding subdivisions; and Minnesota Statutes, 1975 Supplement, Section 120.17, Subdivision 1.

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

Section 1. Minnesota Statutes, 1975 Supplement, Section 120.17, Subdivision 1, is amended to read:

120.17 EDUCATION; STANDARDS FOR EDUCATION; HANDICAPPED CHILDREN. Subdivision 1. **SPECIAL INSTRUCTION FOR HANDICAPPED CHILDREN.** Every district shall provide special instruction and services, either within the district or in another district, for handicapped children of school age who are residents of the district and who are handicapped as set forth in section 120.03. ~~When the provision of instruction, training, and services may result in hardship or injury to the child, the school board may appeal the mandatory provisions of Laws 1971, Chapter 689 to the commissioner of education who shall determine what provisions shall be made by the district for the education of the child.~~ School age means the ages of four years to 21 years for children who are deaf, blind, crippled or have speech defects; and five years to 21 years for mentally retarded children; and shall not extend beyond secondary school or its equivalent. Every district may

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provide special instruction and services for handicapped children who have not attained school age. Districts with less than the minimum number of eligible handicapped children as determined by the state board shall cooperate with other districts to maintain a full sequence of programs for education, training and services for handicapped children as defined in section 120.03 ; ~~subdivisions 1 to 3. A district that decides to maintain programs for trainable handicapped children is encouraged to cooperate with other districts to maintain a full sequence of programs .~~

Sec. 2. Minnesota Statutes 1974, Section 120.17, Subdivision 3, is amended to read:

Subd. 3. **RULES OF THE STATE BOARD.** The state board shall promulgate rules relative to qualifications of essential personnel, courses of study or training, methods of instruction and training, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation and any other rules and standards it deems necessary, for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b of this section.

Sec. 3. Minnesota Statutes 1974, Section 120.17, is amended by adding a subdivision to read:

Subd. 3a. SCHOOL DISTRICT OBLIGATIONS. Every district shall insure that:

(a) All handicapped children are provided the special instruction and services which are appropriate to their needs;

(b) Handicapped children and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment and educational placement of handicapped children;

(c) To the maximum extent appropriate, handicapped children, including those in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(d) In accordance with recognized professional standards, testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory; and

(e) The rights of the child are protected when the parents or

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guardians are not known or not available, or the child is a ward of the state.

Sec. 4. Minnesota Statutes 1974, Section 120.17, is amended by adding a subdivision to read:

Subd. 3b. PROCEDURES FOR DECISIONS. Every district shall utilize at least the following procedures for decisions involving identification, assessment and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of: (1) any proposed formal educational assessment of their child; (2) a proposed placement of their child in, transfer from or to or denial of placement in a special education program; or (3) the proposed provision, addition, denial or removal of special education services for their child;

(b) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a);

(c) Parents and guardians shall have an opportunity to obtain an informal due process hearing initiated and conducted in the school district where the child resides, if after at least one conciliation conference the parent or guardian continues to object to: (1) a proposed formal educational assessment of their child; (2) the proposed placement of their child in, or transfer of their child to a special education program; (3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program; (4) the proposed provision or addition of special education services for their child; or (5) the proposed denial or removal of special education services for their child.

At the option of the school board, the hearing shall take place either before the school board; or (1) its designee, (2) a person mutually agreed to by the school board and the parent or guardian, or (3) a person appointed by the commissioner. A decision pursuant to (1), (2), or (3) shall be subject to review by the school board within ten days at its option. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(d) Within five days of a hearing or review pursuant to clause (c), the person or persons conducting the hearing or review shall issue a local decision which shall be binding on all parties unless appealed to the commissioner by the parent or guardian pursuant to clause (e).

The local decision shall:

(1) be in writing;

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(2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the commissioner of the basis and reason for the decision;

(3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;

(4) state the amount and source of any additional district expenditure necessary to implement the decision; and

(5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(e) Any local decision issued pursuant to clauses (c) and (d) may be appealed to the commissioner within 15 days of receipt of that written decision, by the parent or guardian. The school board shall be a party to any appeal.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five days of the filing of the appeal. However, for appeals of local decisions issued by school boards or their designees concerning proposals set forth in clause (c) (1), (2), and (4), no written transcript shall be made if the parent or guardian requests a chapter 15 due process hearing pursuant to this clause at the time the appeal is filed. The commissioner shall issue a final decision based on a review of the local decision and the entire record within 30 days after receipt of the local decision and the transcript. However, in appeals of local decisions issued by school boards or their designees concerning proposals set forth in clause (c) (1), (2) and (4), a parent or guardian may, at the time the appeal is filed, request a due process hearing conducted pursuant to the provisions of chapter 15. In that case the commissioner shall issue a final decision within 30 days after that hearing and the final decision shall be based on the report of the hearing examiner.

The final decision shall:

(1) be in writing;

(2) include findings and conclusions; and

(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(f) The decision of the commissioner shall be final unless appealed by the parent or guardian or school board to the district court of the county in which the school district in whole or in part is located. The scope of judicial review shall be as provided in chapter 15.

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(g) The child's school district of residence, if different from the district where the child actually resides, shall receive notice of and may be a party to any hearings or appeals pursuant to this subdivision.

Sec. 5. Minnesota Statutes 1974, Section 120.17, is amended by adding a subdivision to read:

Subd. 3c. LEGISLATIVE REPORT. On or before November 15, 1978, the commissioner shall report to the legislature on the experiences of Minnesota school districts in implementing subdivision 3b of this section. The report shall include an assessment of the impact on districts of parental requests for services pursuant to subdivision 3b, clause (c)(3) and (5), and recommendations concerning the need for legislation.

Sec. 6. Minnesota Statutes 1974, Section 120.17, Subdivision 4, is amended to read:

Subd. 4. SPECIAL INSTRUCTIONS FOR NON-RESIDENT CHILDREN. The parent or guardian of a handicapped child who resides in a district which does not provide special instruction and services within its district may make application to the commissioner for special instruction and services for his child under one of the methods provided:

If the commissioner finds that the local district is not providing such instruction and services; he shall arrange for the special instruction and services provided. If the ~~When~~ a school district provides instruction and services are provided outside the district of residence, transportation or board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any handicapped child shall be the actual cost of providing special instruction and services to the child including a proportionate amount for capital outlay and debt service minus the amount of special aid for handicapped children received on behalf of that child. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. The commissioner shall then set a date for a hearing, giving each board at least ten days' notice, and after the hearing the commissioner shall make his order fixing the tuition rate, which rate shall then be binding on both school districts.

For the purposes herein, any school district or ~~unorganized territory~~ or combinations thereof may enter into an agreement, upon such terms and conditions as may be mutually agreed upon, to provide special instruction and services for handicapped children. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts or territories, and each participating unit shall reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state ~~reimbursement~~ special

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education aid , which shall be claimed in full by the employing district.

Sec. 7. [120.171] **EXPENDITURE OF FUNDS FOR EDUCATION OF HANDICAPPED CHILDREN.** Neither the state department of education nor any school district shall expend funds from state appropriations or local tax levies for the purpose of complying with the administrative requirements of Public Law 94-142, an act of the 94th Congress of the United States cited as the "Education for All Handicapped Children Act of 1975," except for those administrative requirements which are also contained in Minnesota laws and statutes, including sections 1 to 6 of this act, or established by the rules of the state board. Only federal funds received pursuant to Public Law 94-142 may be expended to meet these federal requirements not established by Minnesota laws or statutes or the rules of the state board, and no federal funds received pursuant to Public Law 94-142 may be expended for any other purpose until these requirements have been fulfilled.

Approved April 8, 1976.

CHAPTER 212—H.F.No.1996

[Coded in Part]

An act relating to education; requiring school boards to take control of all co-curricular school activities; changing the method of accounting for co-curricular and extra curricular activities; describing co-curricular and extra curricular activities; amending Minnesota Statutes 1974, Section 123.38, Subdivisions 1, 2 and 3, and by adding subdivisions.

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

Section 1. Minnesota Statutes 1974, Section 123.38, Subdivision 1, is amended to read:

123.38 EDUCATION; CO-CURRICULAR AND EXTRA CURRICULAR ACTIVITIES OF INDEPENDENT SCHOOL DISTRICTS; INSURANCE. Subdivision 1. **ACTIVITIES MAY BE AUTHORIZED.** Whenever it shall appear to be beneficial and for the best interest of the district and the pupils of the district to carry on any school sport activities or educational activities connected with their studies outside of the territorial limits of the school district, the board may authorize such activities to be conducted under such rules and regulations as the board deems sufficient. The district may pay all necessary costs therefor including transportation from the school district funds available.

Sec. 2. Minnesota Statutes 1974, Section 123.38, Subdivision 2, is amended to read:

Subd. 2. **CONTROL OF ACTIVITIES; HANDLING OF MONEY.**

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