

## 2020 Minnesota Session Laws of Interest for Nonpublic School Leaders, Parents, and Students

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This will be updated as changes occur, including new interpretations and links for further information. **This update includes:**

- Governor's [Executive Order 20-82](#) (July 30, 2020), **requiring school districts and charter schools** to provide a safe and effective learning environment during the 2020-21 school year. The governor's order **encourages "tribal and nonpublic schools** to fulfill the spirit and directives of this Executive Order" (p. 3). Also, see this "guidance for public schools" link: [Minnesota's Safe Learning Plan for the 2020-21 School Year](#).
- Governor's [Executive Order 20-81](#) (July 22, 2020), requiring **face coverings** to be worn in indoor businesses and indoor public settings as well as outdoors under certain circumstances. **Includes nonpublic school buildings**—see summary of the order as it relates to nonpublic and public schools along with related information links [below](#),
- [Laws passed in Minnesota's First Special Session in June](#), and
- The [new interim rule issued by the U.S. Department of Education](#) on July 1, 2020, regarding equitable services for nonpublic schools under federal CARES Act programs,
- Other minor, updated language.

**A personal note:** I spent about 30 years attending innumerable legislative hearings, preparing legislation, and summarizing new state laws for nonpublic and public school leaders. In retirement, I am now comfortably watching this from afar, including hearings conducted through video conferences in this past session. So, with this perspective, I humbly offer the opinion that there has seldom (if ever?) been a legislative session as unusual as this one. The COVID-19 pandemic overturned the plans of all state government leaders from both parties as well as advocates for various interests. This resulted in a limited array of new state laws, a list of major proposals not passed, and prospects for a special session.

**First, a brief reminder about recent federal action.** In many ways, recent federal funding in the CARES ACT, including the [Governor's Emergency Education Relief \(GEER\)](#) and the Elementary and Secondary School Emergency Relief Fund ([ESSER Fund](#)) will be of utmost importance for nonpublic schools at this time. For some of these federal relief aids, there are vitally important "equitable services" provisions. On July 1, 2020, the U.S. Department of Education issued an [Interim Final Rule](#) relating to Equitable Services to Students and Teachers in Non-Public Schools. The purpose is *"to clarify the requirement in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that local educational agencies (LEAs) provide equitable services to students and teachers in non- public schools under the Governor's Emergency Education Relief Fund (GEER Fund) and the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (collectively, the CARES Act programs)."* Comment Due Date: Comments must be received *"on or before July 31, 2020."*

**Tim and MISF staff** have been directly involved with policy leaders to assure that the interests of nonpublic schools, students, and staff are served through these new federal laws. Therefore, be

sure to check out the *MISF Newsletter* and other communications regarding implementation efforts.

**Now, back to new state laws and related news!** Directly below are highlights from laws passed in the:

- [“Regular Session.”](#)
- [Some of the governor’s Executive Orders](#) (which had a major impact for all schools and the state in general)
- Laws passed in Minnesota’s [“First Special Session”](#) in June 2020.

## **“Chapter” (2020 regular session law number) and description**

**116** – **Omnibus education finance measure.** A new Minnesota law with direct impact on education in general, including some provisions affecting nonpublic schools and families directly or indirectly. Provisions include those relating to school closures; calculation of school aids formulas; “forecast adjustments” made to funding for general education; education excellence; teachers; special education; facilities; nutrition; and libraries; early childhood; and community education.

**Nonpublic pupil transportation aid. Of interest for nonpublic schools,** this allows MDE to adjust Fiscal Year 2020 pupil transportation expenditures used to determine Fiscal Year 2022 aid to ensure that the full amount of aid estimated in the February 2020 forecast is equitable allocated among districts. **Note:** School districts provide transportation services for students in nonpublic schools, many through contracted busing. Districts are reimbursed for these services based on a formula related to costs.

(Article 3, section 6, subd. 4).

This adjustment to nonpublic pupil transportation aid is one of several school aid formula adjustments, some to programs that may serve nonpublic students and their families. **A few** other of the several aid adjustments enacted so that revenue will not be lost for schools because of COVID-19 closures and related changes in delivery of education services (e.g., distance learning):

- **Special education aid adjustment.** Fiscal Year 2020 expenditures for employees and contracted services that would have been eligible for state aid in the absence of school closures due to COVID-19 must be included as eligible expenditures for calculation of aid and for tuition billing, regardless of whether special education services were actually provided during the closure.

**Note regarding special education:** Minnesota state law ([125A.18](#)) requires services for **students with disabilities who are enrolled in nonpublic schools**. MDE reports that 2,164 nonpublic school students were receiving special education services in the state during 2019 (this number was accurate as of January 2020). MDE maintains several links to “special education” on its website. One link is [Special Education](#). This is a place for you to begin. The documents here may include links to other sections of our website related to special education in Minnesota. Also, see *Directory of Programs and Policies Affecting Nonpublic Schools* on MISF’s website for details.

- **School meals** (breakfasts, lunches, and school milk) aid adjustment. **Note:** Minnesota supplements federal aid for school meals. **Nutrition programs are available to nonpublic schools** granted federal tax-exempt status under Internal Revenue Service Code 501(c) (3), with funding derived from federal and state governments. For detailed information on the various federal and state nutrition programs, see MDE’s [School Nutrition Programs](#). Also, see *Directory of Programs and Policies Affecting Nonpublic Schools* on MISF’s website for details.
- **Early childhood screening** aid adjustment. MDE is to calculate the aid for Fiscal Year 2020 and Fiscal Year 2021 using the formula amounts set in statute for children screened in Fiscal Year 2019. **Note:** School districts provide developmental screening programs **for all resident families**, including those with children attending or planning to attend nonpublic schools. See MDE’s [Early Childhood Screening](#) link and the *Directory of Programs and Policies Affecting Nonpublic Schools*, which is on MISF’s website.

### Other provisions in Chapter 116

- **Guidance on spending from federal aids** (see also [recent federal action](#) above). Directs the commissioner of education to apply for the federal education stabilization funds in a manner that is consistent with the Emergency Executive Orders of the Governor so that the discretionary federal funds may be distributed across Minnesota’s schools in an equitable manner (Article 2, section 3).
- **Truancy referrals.** Unexcused absences between March 1, 2020, and the end of the 2019-2020 school year distance learning period, do not count toward truancy referrals (Article 2, section 1).
- **Probationary teachers.** Exception provided for the number of hours required for 2019-2020 school year. Must complete 120 days less the number of days cancelled due to COVID-19 (Article 2, section 2).
- **Conditional licenses, renewal fee waiver, deadlines.** Authorizes a one-year conditional Tier 3 license if applicant is unable to complete required exams. Waives renewal fees. The license renewal deadline for 2020 is extended six months. Check out the [Minnesota Professional Educator Licensing and Standards Board \(PELSB\)](#) website for information (Article 4, section 1).
- **Statewide assessments,** which are normally required for public schools but optional for nonpublic schools—refer to [Nonpublic School Participation in Minnesota Assessments](#)—are waived for 2019-2020 school year (Article 4, section 1).
- **Grants power to the commissioner of education to waive requirements** related to earning credit, class advancement, or graduation, based on a COVID-19 disruption (Article 4, section 1).

Chapter 116 was signed into law by Governor Walz on May 27, 2020.

For more details, see this [House Research Summary of Chapter 116](#).

A separate education policy bill was enacted during the first special session—see [Chapter 8, First Special Session Laws](#) below

**What did not pass in the final moments of the 2020 regular session (these proposals may be part of a special session, if one occurs).**

- The **education policy bill** ([HF 163](#)). Provisions in this final house bill included those relating to mental health training for license renewal; dyslexia screening; vaping prevention; functional behavior assessment and special education alternatives; restrictions on dismissal and expulsion actions; and amendments to early learning scholarship requirements. Regarding the latter, this measure would have delayed the implementation date that eligible programs must have 3-or 4-star ratings in the Parent Aware system to July 1, 2024, and delayed screening requirements. For more details, see this [House Research Summary of HR 163](#) (May 16, 2020).
- A “**bonding bill**.” These are normally part of laws passed in the second year of a biennium, such as this one. This may be part of a special session, if one occurs.
- A **tax bill**. Both house and senate advanced bills, but they could not agree on a final version prior to adjournment. The senate bill included a provision that would have changed the income amount to claim the **K-12 credit**. Note: see the summary of current law from the Minnesota Department of Revenue: [K-12 Education Subtraction and Credit](#).
- Proposed “Distance Learning, **Broadband Access** Grant Program.”
- An **economic relief** package.

At this time, many expect some or all of the above to be on the table in a **special session**, which could occur in mid-June to allow the governor to extend Minnesota’s peacetime emergency, if needed.

## Other laws of interest passed in the 2020 regular session

### “Chapter” (2020 regular session law) number and description

[70](#) - COVID-19 response activities, including grants for eligible providers and telemedicine coverage. Article 1 on this act transfers **\$50,000,000 into the public health response contingency account** for grants supporting COVID-19 response activities. Article 2 transfers **\$150,000,000 to a health care response fund** and appropriates money in the fund to the commissioner of health to provide grants to providers for COVID-19 responses. Article 3 requires health carriers to cover health care services provided via **telemedicine** directly to a patient at the patient’s residence. For a detailed review, see this House Research Summary of [Chapter 70](#).

[71](#) - **COVID-19 response efforts**. The act appropriates money and modifies various state programs in response to COVID-19 in Minnesota. Among many provisions in this act:

- **Peacetime emergency child care grants**. Directs the commissioner of human services to distribute funds to Child Care Aware to award emergency grants to child care programs beginning April 1, 2020. Appropriates \$29,964,000 in fiscal year 2020 to the Commissioner of Human Services for grants under this section. Authority to award these grants is terminated the day after the peacetime public health emergency ends.
- Appropriations are made to support **food shelf programs, housing support, emergency services**, as well as other purposes.

- **Higher Education Financial Aid Program Waivers.** Grants the Office of Higher Education (OHE) emergency powers to respond to COVID-19. The emergency powers permit OHE to waive statutory requirements or administrative rules governing state financial aid programs in response to a COVID-19 outbreak.

For more details, see this House Research Summary of [Chapter 71](#)

**[72](#) - COVID-19 and Workers' Compensation.** Makes a qualified first responder who contracts the infectious disease known as COVID-19 eligible for workers' compensation benefits based on the rebuttable presumption that they contracted COVID-19 from their employment activities. For a detailed review, see this House Research Summary of [Chapter 72](#)

**[74](#) – COVID-19 response efforts.** Relating to state government, the act consists of four articles. It **modifies deadlines, requirements for in-person appearances, state programs, and other statutory requirements in response to an outbreak of the infectious disease COVID-19 in Minnesota.** Also it makes human services forecast adjustments as well as technical and implementation corrections related to human services. Among the many provisions in this act:

- Appropriating funds and changing statutory deadlines and requirements in response to social distancing practices, transportation needs, and recent changes in testing and other medical services;
- Providing insurance coverage related to certain COVID 19 services;
- Granting the Commissioner of Health certain temporary emergency authority;
- Defines telemedicine coverage during the peacetime emergency;
- Extends the deadline to file a motions contesting child support cost-of-living; adjustments until June 30, 2020, due to effects of the COVID-19 pandemic; and
- Extends the deadline to file a motion to contest the COLA increase until June 30, 2020, due to the effects of the COVID-19 pandemic.

For more summary details, see [House Research summary](#).

**[81](#) – Extends until December 31, 2020, the COVID-19 Minnesota Fund.** “The Legislature established the \$200 million COVID-19 Minnesota Fund in late March (Laws of Minnesota 2020, chapter 71). The Fund serves as a source of dedicated state funding for the executive branch to protect Minnesotans from the COVID-19 outbreak and to maintain state government operations during the corresponding peacetime emergency declared by Governor Tim Walz. A Legislative COVID-19 Response Commission reviews, and can block, any proposed expenditure of \$1 million or more.” For more summary details, see this [House Research summary](#).

**[82](#) – Data Practices Omnibus Policy.** Provisions relate to public safety.

For details, see this House Research summary of [Chapter 82](#)

**[84](#) - Bans the use of** the toxic, long-lasting chemical trichloroethylene (TCE) by June 1, 2022, with narrow exemptions,. The bill also provides a process for small businesses to apply for up to one additional year and up to \$25,000 in zero-interest loans to transition away from TCE; addresses a process for identifying replacement chemicals; and requires that health benchmarks be met throughout any transition period. Signed by the governor May 16, 2020.



**86** - Policy, technical, and conforming changes to law related to **guardianships, minor trusts, common interest ownerships, and garnishment**. The act amends and updates Minnesota Guardianship Law, creating “a more person-centered approach” in statute; the Uniform Transfers to Minors Act; the Common Interest Ownership Statute in homeowner association voting procedures; and the statutory formula that determines the percentage of wages that can be garnished. Signed by the governor May 16, 2020.

**88** - Relating to health, the act includes provisions **increasing the tobacco sale age to 21 or older**. Excerpt from House Research: *“Existing state law requires a person to be age 18 or older to purchase tobacco, tobacco products, electronic delivery devices, and nicotine and lobelia delivery products. This act raises the age for persons to purchase these items to 21 or older to conform to federal law. (Under federal law, the minimum age to purchase tobacco and related products is 21.) It also modifies the penalties for selling, providing, or furnishing these items, and for purchasing or attempting to purchase these items if under age 21; requires alternative penalties to be established for certain violations; and makes other changes to the Clean Indoor Air Act and statutes governing the sale of tobacco and related products.”* For more details, see this [House Summary of Chapter 88](#). Signed by the governor May 16, 2020.

**92** - **Allows local governments to accept e-signatures and electronic submittal for certain types of documents** during the COVID-19 emergency and for 60 days thereafter or until January 6, 2021, whichever is earlier. The list of documents includes, among others, planning and zoning applications, applications for birth and death certificates, and recording a notary commission. Signed by the governor May 16, 2020.

**104** – Appropriating money from the **Legacy Fund**. This act contains fiscal year 2021 appropriations from the Outdoor Heritage Fund as well as extensions of appropriations made from the other three legacy funds (Arts and Cultural Heritage, Clean Water, and Parks and Trails). For details, see this [House Research Summary of Chapter 104](#).

**110** – **Public Safety and Correction Omnibus Policy Act**. This new law eliminates a local match requirement for **youth intervention program grants** made in 2020 before the governor’s declaration of a peacetime emergency if grant recipients suspended or severely limited programming in response to that peacetime emergency. The Office of Justice Programs must report on the number of grant recipients who either met or were unable to meet the local match requirement in 2020. For more details about other provisions, see this [House Research Summary of Chapter 110](#).

**115** – **Health Care Omnibus**.

The act is divided into five articles addressing the following areas:

- Article 1: Department of Health
- Article 2: Health Related Licensing Boards
- Article 3: Health Care
- Article 4: Advance Practice Registered Nurses

- Article 5: Controlled Substances Schedules

If interested, see this [House Research Summary of Chapter 115](#) for a detailed, 27-page summary

**116** – See [Omnibus education finance measure \(above\)](#).

For all of the state’s 2020 Session Laws, open this link: [Minnesota 2020 Session Laws \(Regular, 1<sup>st</sup> Special Session, and 2<sup>nd</sup> Special Session\)](#)

### Executive Orders Issued by Governor Walz (A Partial Listing)

Links to the numerous [Executive Orders from Governor Walz](#) to address the COVID 19 pandemic. These listed below include **only a partial listing from most recent to oldest**:

- [Executive Order 20-82](#). July 30, 2020. Directs the Commissioner of Education to **require school districts and charter schools** to provide a safe and effective learning environment for Minnesota’s students during the 2020-21 school year. The governor’s order **encourages “tribal and nonpublic schools** to fulfill the spirit and directives of this Executive Order” (p. 3). See details for this “localized, data-driven approach” that is responsive to COVID-19 cases in school communities throughout the state at this link: [Minnesota’s Safe Learning Plan for the 2020-21 School Year](#) (“guidance for Minnesota public schools”).
- [Executive Order 20-81](#). July 22, 2020. Summary from MDE: “As of July 25, 2020, **masks** are required indoors in public spaces in Minnesota. This **includes public and nonpublic school buildings**. For more information about face coverings and face shields, see [page 6 of the MDH K-12 planning guidance](#).”
- [Executive Order 20-75](#). June 12, 2020. Extending the COVID-19 Peacetime Emergency Declared in Executive Order 20-01
- [Executive Order 20-63](#). May 27, 2020. Continuing to Safely Reopen Minnesota’s Economy and Ensure Safe Non-Work Activities during the COVID-19 Peacetime Emergency
- [Executive Order 20-62](#). May 23, 2020. Amending Executive Order 20-56, allowing **Worship, Weddings, and Funerals** to Proceed as Safely as Possible during the COVID-19 Peacetime Emergency
- [Emergency Executive Order 20-57](#). May 15, 2020. Authorizes and directs Minnesota Department of Education (MDE) Commissioner Mary Cathryn Ricker to **“allow for a safe and effective summer learning environment for Minnesota’s students.”**

**Summary below from the Minnesota School Boards Association (MSBA):**

1. MDE has determined that **school districts and charter schools** may safely open their buildings for a hybrid model of in-school learning and distance learning this summer for students eligible for summer learning or extended learning year services. This “summer learning period” begins when the 2019-2020 calendar ends.
2. The Executive Order addresses summer child care and meal questions.

In coordination with Executive Order 20-57, MDE issued this guidance:

[Minnesota Summer Programming Guidance for Schools](#)  
[Prioritization of Children of Families Working in Critical Sectors — Summer Programming and Child Care](#)

These guidance documents are available on the [MDE COVID-19 Updates webpage](#),

- [Emergency Executive Order 2056](#) Safely Reopening Minnesota’s Economy and Ensuring Safe Non-Work Activities during the COVID-19 Peacetime Emergency. May 13, 2020. Summary of Governor’s May 13 order: [StarTribune Q&A](#).
- [Executive Order 20-41](#) Last Modified: April 24, 2020. Authorizing and Directing the Commissioner of Education to Extend the Distance Learning Period and Continue to Provide a Safe Learning Environment for Minnesota’s Students. Excerpts from the order: **“All Minnesota public school facilities** remain closed for typical in-school instruction but remain open to provide meals to children. Schools also provide onsite care to school-aged children of certain workers in critical sectors (“Eligible Children”) exempted under Executive Order 20-20 and Executive Order 20-33, as supplemented by 20-38... To preserve the health, safety, and lives of Minnesotans, it is necessary to **extend the Distance Learning Period for all Minnesota school districts and charter schools for the remainder of the 2019-2020 school calendar year** (“Extended Distance Learning Period”). This is an extensive order; therefore, if interested, please open the link for many more details.
- [Executive Order 20-20](#) Directing Minnesotans to **Stay at Home**. Last Modified: March 25, 2020
- [Executive Order 20-19](#) Authorizing and Directing the Commissioner of Education to Implement a **Distance Learning** Period and Continue to Provide a Safe Learning Environment for Minnesota’s Students. Last Modified: March 25, 2020
- [Executive Order 20-02](#) Authorizing and Directing the Commissioner of Education to **Temporarily Close Schools** to Plan for a Safe Educational Environment. Last Modified: March 15, 2020.
- [Executive Order 20-01](#) **Declaring a Peacetime Emergency** and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19. Last Modified: March 13, 2020.

For information from MDE addressed mainly to public schools but with guidance and resources that may be helpful for all school leaders and parents, see [COVID-19 Updates](#).

Other summaries of education-related laws passed in the 2020 regular legislative session: Minnesota Department of Education [2020 Legislative Update](#)

## 2020 First Special Session Laws

The legislature met in a special session in June to consider several items. Among the measures that passed are the following affecting education generally as well as child care:

### **“Chapter” (2020 first special session law number) and description**

**8—Pre-K-12 Education Policy**. Education policy changes include those affecting general education, education excellence, teacher licensing, health and safety, special education, and early childhood education. Selected highlights:

- Amends school district reporting requirements relating to **dyslexia** (Article 2, section 1). Effective for the 2020-2021 school year and later.



- Amends **teacher licensing requirements, adding provisions relating to mental illness.** Adds requirements for renewal of a Tier 1 and Tier 2 teacher license that they must be trained in mental illness the same as currently required of Tiers 3 and 4 teachers. (Article 2, sections 2-4) . Sections relating to renewal requirements are effective for licenses issued on or after July 1, 2021.
- Enacts the "**Vaping Awareness and Prevention Act**," requiring that “a public school must provide vaping prevention instruction at least once to students in grades 6 through 8.” Includes definitions of related terms and school instruction requirements. Also, the commissioner is to include questions regarding tobacco use and vaping in the Minnesota in the Student Survey. Effective for the 2021-2022 school year and later. (Article 3, section 1).
- Amends statutes relating to **administration of drugs or prescription medications** in schools. Includes a provision requiring school districts to adopt a procedure for the collection and transport of unclaimed or abandoned prescription drugs or medications (Article 3, sections 2-3).
- **Amends special education laws** by allowing a special education student to participate in alternative delivery of specialized instruction services under certain conditions and permitting school a district to conduct a functional behavior assessment as defined in Minnesota Rules, part 3525.0210, subpart 22, as a stand-alone evaluation without conducting a comprehensive evaluation of the student. This section applies to functional behavior assessments conducted on or after July 1, 2020. (Article 4, sections 1-2)  
**Note:** Minnesota state law ([125A.18](#)) requires services for **students with disabilities who are enrolled in nonpublic schools**. MDE reports that 2,164 nonpublic school students were receiving special education services in the state during 2019 (this number was accurate as of January 2020). MDE maintains several links to “special education” on its website. One link is [Special Education](#). This is a place for you to begin. The documents here may include links to other sections of our website related to special education in Minnesota. Also, see *Directory of Programs and Policies Affecting Nonpublic Schools* on MISF’s website for details.
- Defines various **methods a public school may use to verify a student’s age**. This aligns with federal guidance that a school district may not require a birth certificate to enroll in a public school (Article 5, section 1).
- Amends the Pupil Fair Dismissal Act (Sections [121A.40](#) to [121A.56](#), by **prohibiting public schools (districts and charter schools) from dismissing students in preschool or prekindergarten programs**. Defines “nonexclusionary discipline procedures” (Article 5, section 2).
- Adds an alternative deadline for meeting the development screening requirement for an **early learning scholarship recipient** who receives the scholarship before turning three years old (Article 5, section 3).
- Extends the deadline by which early childhood programs must have three- or four- star Parent Aware ratings to accept **early learning scholarships**. The deadline is extended from July 1, 2020, to July 1, 2024. Effective immediately (Article 5, section 4).

Signed into law by Governor Walz 6-23-2020.

**[2—Omnibus Human Services Act](#)**. Includes provisions relating to child care and foster care, child protection, maltreatment of minors, and many others. Among the provisions: students in

foster care who change schools are to be enrolled within seven days. Signed into law by Governor Walz 6-16-2020.

**9—Modifies child care assistance provider reimbursement rates.** Increases the rates paid under two child care assistance programs for low income families (Minnesota Family Investment Program child care assistance and Basic Sliding Fee child care) administered by the Minnesota Department of Human Services, bringing the state into compliance with federal laws and regulations. Signed into law by Governor Walz 6-23-2020. For a detailed summary, see this [House Research Summary of Chapter 9](#).

Bills that did **not pass** in the first special session include:

- Distance Learning Broadband Grants
- Bonding
- Police Reform\*
- Taxes

\*A public safety, policing reform bill passed the legislature in the Second Special Session—see [Chapter 1](#), 2020 Minnesota Second Special Session Law. It was approved by the governor on July 23, 2020.