

ARTICLE 7

SPECIAL EDUCATION

Section 1. Minnesota Statutes 2022, section 124D.19, subdivision 8, is amended to read:

Subd. 8. **Program approval.** ~~To be eligible for revenue for the program for adults with disabilities, a program and budget must receive approval from the~~ (a) Beginning July 1, 2024, and at least once every five years thereafter, a district's community education section in the department advisory council must review and approve the district's adults with disabilities program and submit a statement of assurances to the commissioner in the form and manner determined by the commissioner. Approval may be for five years. During that time, a board must report any significant changes to the department for approval. For programs offered cooperatively, the request for approval must include an agreement on the method by which local money is to be derived and distributed. A request for approval. The program must seek feedback from adults with disabilities and other community organizations providing services to adults with disabilities.

~~(b) Each school district with an adults with disabilities program must include all of at least the following information about its adults with disabilities program in its annual community education report under subdivision 14:~~

- ~~(1) a summary of the characteristics of the people to be served by the program;~~
- ~~(2) a description of the program services and activities;~~
- ~~(3) the most recent program budget and amount of aid requested;~~
- ~~(4) a summary of the participation by adults with disabilities in developing the program;~~
- ~~(5) an assessment of the needs of adults with disabilities; and~~
- ~~(6) a description of cooperative efforts with community organizations.~~

EFFECTIVE DATE. This section is effective July 1, 2024, for plans developed on or after that date.

Sec. 2. Minnesota Statutes 2023 Supplement, section 256B.0625, subdivision 26, is amended to read:

Subd. 26. **Special education services.** (a) Medical assistance covers evaluations necessary in making a determination for eligibility for individualized education program and individualized family service plan services and for medical services identified in a recipient's individualized education program and individualized family service plan and covered under the medical assistance state plan. Covered services include occupational therapy, physical therapy, speech-language therapy, clinical psychological services, nursing services, school psychological services, school social work services, personal care assistants serving as management aides, assistive technology devices, transportation services, health assessments, and other services covered under the medical assistance state plan. Mental health services

ARTICLE 6

SPECIAL EDUCATION

Sec. 5. Minnesota Statutes 2022, section 124D.19, subdivision 8, is amended to read:

Subd. 8. **Program approval.** ~~To be eligible for revenue for the program for adults with disabilities, a program and budget must receive approval from the community education section in the department. Approval may be for five years. During that time, a board must report any significant changes to the department for approval. For programs offered cooperatively, the request for approval must include an agreement on the method by which local money is to be derived and distributed. A request for approval~~ (a) Beginning July 1, 2024, and at least once every five years thereafter, a district's community education advisory council must review and approve the district's adults with disabilities program and submit a statement of assurances to the commissioner in the form and manner determined by the commissioner. The program must seek feedback from adults with disabilities and other community organizations providing services to adults with disabilities.

~~(b) Each school district with an adults with disabilities program must include all of at least the following information about its adults with disabilities program in its annual community education report under subdivision 14:~~

- ~~(1) a summary of the characteristics of the people to be served by the program;~~
- ~~(2) a description of the program services and activities;~~
- ~~(3) the most recent program budget and amount of aid requested;~~
- ~~(4) a summary of the participation by adults with disabilities in developing the program;~~
- ~~(5) an assessment of the needs of adults with disabilities; and~~
- ~~(6) a description of cooperative efforts with community organizations.~~

EFFECTIVE DATE. This section is effective July 1, 2024, for plans developed on or after that date.

Section 1. Minnesota Statutes 2023 Supplement, section 256B.0625, subdivision 26, is amended to read:

Subd. 26. **Special education services.** (a) Medical assistance covers evaluations necessary in making a determination for eligibility for individualized education program and individualized family service plan services and for medical services identified in a recipient's individualized education program and individualized family service plan and covered under the medical assistance state plan. Covered services include occupational therapy, physical therapy, speech-language therapy, clinical psychological services, nursing services, school psychological services, school social work services, personal care assistants serving as management aides, assistive technology devices, transportation services, health assessments, and other services covered under the medical assistance state plan. Mental health services

73.6 eligible for medical assistance reimbursement must be provided or coordinated through a
73.7 children's mental health collaborative where a collaborative exists if the child is included
73.8 in the collaborative operational target population. The provision or coordination of services
73.9 does not require that the individualized education program be developed by the collaborative.

73.10 The services may be provided by a Minnesota school district that is enrolled as a medical
73.11 assistance provider or its subcontractor, and only if the services meet all the requirements
73.12 otherwise applicable if the service had been provided by a provider other than a school
73.13 district, in the following areas: medical necessity; physician's, advanced practice registered
73.14 nurse's, or physician assistant's orders; documentation; personnel qualifications; and prior
73.15 authorization requirements. The nonfederal share of costs for services provided under this
73.16 subdivision is the responsibility of the local school district as provided in section 125A.74.
73.17 Services listed in a child's individualized education program are eligible for medical
73.18 assistance reimbursement only if those services meet criteria for federal financial participation
73.19 under the Medicaid program.

73.20 (b) Approval of health-related services for inclusion in the individualized education
73.21 program does not require prior authorization for purposes of reimbursement under this
73.22 chapter. The commissioner may require physician, advanced practice registered nurse, or
73.23 physician assistant review and approval of the plan not more than once annually or upon
73.24 any modification of the individualized education program that reflects a change in
73.25 health-related services.

73.26 (c) Services of a speech-language pathologist provided under this section are covered
73.27 notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

73.28 (1) holds a masters degree in speech-language pathology;
73.29 (2) is licensed by the Professional Educator Licensing and Standards Board as an
73.30 educational speech-language pathologist; and

73.31 (3) either has a certificate of clinical competence from the American Speech and Hearing
73.32 Association, has completed the equivalent educational requirements and work experience
73.33 necessary for the certificate or has completed the academic program and is acquiring
73.34 supervised work experience to qualify for the certificate.

74.1 (d) Medical assistance coverage for medically necessary services provided under other
74.2 subdivisions in this section may not be denied solely on the basis that the same or similar
74.3 services are covered under this subdivision.

74.4 (e) The commissioner shall develop and implement package rates, bundled rates, or per
74.5 diem rates for special education services under which separately covered services are grouped
74.6 together and billed as a unit in order to reduce administrative complexity.

74.7 (f) The commissioner shall develop a cost-based payment structure for payment of these
74.8 services. Only costs reported through the designated Minnesota Department of Education
74.9 data systems in distinct service categories qualify for inclusion in the cost-based payment

52.14 eligible for medical assistance reimbursement must be provided or coordinated through a
52.15 children's mental health collaborative where a collaborative exists if the child is included
52.16 in the collaborative operational target population. The provision or coordination of services
52.17 does not require that the individualized education program be developed by the collaborative.

52.18 The services may be provided by a Minnesota school district that is enrolled as a medical
52.19 assistance provider or its subcontractor, and only if the services meet all the requirements
52.20 otherwise applicable if the service had been provided by a provider other than a school
52.21 district, in the following areas: medical necessity; physician's, advanced practice registered
52.22 nurse's, or physician assistant's orders; documentation; personnel qualifications; and prior
52.23 authorization requirements. The nonfederal share of costs for services provided under this
52.24 subdivision is the responsibility of the local school district as provided in section 125A.74.
52.25 Services listed in a child's individualized education program are eligible for medical
52.26 assistance reimbursement only if those services meet criteria for federal financial participation
52.27 under the Medicaid program.

52.28 (b) Approval of health-related services for inclusion in the individualized education
52.29 program does not require prior authorization for purposes of reimbursement under this
52.30 chapter. The commissioner may require physician, advanced practice registered nurse, or
52.31 physician assistant review and approval of the plan not more than once annually or upon
52.32 any modification of the individualized education program that reflects a change in
52.33 health-related services.

53.1 (c) Services of a speech-language pathologist provided under this section are covered
53.2 notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

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53.5 educational speech-language pathologist; and

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53.7 Association, has completed the equivalent educational requirements and work experience
53.8 necessary for the certificate or has completed the academic program and is acquiring
53.9 supervised work experience to qualify for the certificate.

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53.11 subdivisions in this section may not be denied solely on the basis that the same or similar
53.12 services are covered under this subdivision.

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53.14 diem rates for special education services under which separately covered services are grouped
53.15 together and billed as a unit in order to reduce administrative complexity.

53.16 (f) The commissioner shall develop a cost-based payment structure for payment of these
53.17 services. Only costs reported through the designated Minnesota Department of Education
53.18 data systems in distinct service categories qualify for inclusion in the cost-based payment

74.10 structure. The commissioner shall reimburse claims submitted based on an interim rate, and
 74.11 shall settle at a final rate once the department has determined it. The commissioner shall
 74.12 notify the school district of the final rate. The school district has 60 days to appeal the final
 74.13 rate. To appeal the final rate, the school district shall file a written appeal request to the
 74.14 commissioner within 60 days of the date the final rate determination was mailed. The appeal
 74.15 request shall specify (1) the disputed items and (2) the name and address of the person to
 74.16 contact regarding the appeal.

74.17 (g) Effective July 1, 2000, medical assistance services provided under an individualized
 74.18 education program or an individual family service plan by local school districts shall not
 74.19 count against medical assistance authorization thresholds for that child.

74.20 (h) Nursing services as defined in section 148.171, subdivision 15, and provided as an
 74.21 individualized education program health-related service, are eligible for medical assistance
 74.22 payment if they are otherwise a covered service under the medical assistance program.
 74.23 Medical assistance covers the administration of prescription medications by a licensed nurse
 74.24 who is employed by or under contract with a school district when the administration of
 74.25 medications is identified in the child's individualized education program. The simple
 74.26 administration of medications alone is not covered under medical assistance when
 74.27 administered by a provider other than a school district or when it is not identified in the
 74.28 child's individualized education program.

74.29 (i) ~~School social work~~ Services provided by a school social worker as described in
 74.30 paragraph (l) must be provided by a mental health professional as defined in section 245I.04,
 74.31 subdivision 2; a clinical trainee as defined in section 245I.04, subdivision 6, under the
 74.32 supervision of a mental health professional; or a mental health practitioner as defined in
 74.33 section 245I.04, subdivision 4, under the supervision of a mental health professional, are
 74.34 to be eligible for medical assistance payment. A mental health practitioner performing
 75.1 school social work services under this section must provide services within the mental health
 75.2 practitioner's licensure scope of practice, if applicable, and within the mental health
 75.3 practitioner scope of practice under section 245I.04, subdivision 5 reimbursement. Services
 75.4 described in paragraph (l) must be provided within the provider's scope of practice as defined
 75.5 in section 245I.04, subdivisions 3, 5, and 7.

75.6 (j) Notwithstanding section 245I.10, subdivision 2, a special education evaluation; and
 75.7 assessment for and within an individual family service plan or individualized education
 75.8 program, or individual family service plan may be used to determine medical necessity and
 75.9 eligibility for school social work services under paragraph (i) instead of a diagnostic
 75.10 assessment for services described under paragraph (l). The special education evaluation and
 75.11 assessments for and within the individualized education program, or individual family
 75.12 service plan, that meet the requirements in section 245I.10, subdivisions 4, and 5 or 6, and
 75.13 that is completed by a licensed mental health professional or clinical trainee supervised by
 75.14 a licensed mental health professional can be used for determining medical necessity. In
 75.15 addition, for services that do not require a diagnosis using an assessment as defined in
 75.16 section 245I.10, subdivisions 4, and 5 or 6, the special education evaluation and assessments

53.19 structure. The commissioner shall reimburse claims submitted based on an interim rate, and
 53.20 shall settle at a final rate once the department has determined it. The commissioner shall
 53.21 notify the school district of the final rate. The school district has 60 days to appeal the final
 53.22 rate. To appeal the final rate, the school district shall file a written appeal request to the
 53.23 commissioner within 60 days of the date the final rate determination was mailed. The appeal
 53.24 request shall specify (1) the disputed items and (2) the name and address of the person to
 53.25 contact regarding the appeal.

53.26 (g) Effective July 1, 2000, medical assistance services provided under an individualized
 53.27 education program or an individual family service plan by local school districts shall not
 53.28 count against medical assistance authorization thresholds for that child.

53.29 (h) Nursing services as defined in section 148.171, subdivision 15, and provided as an
 53.30 individualized education program health-related service, are eligible for medical assistance
 53.31 payment if they are otherwise a covered service under the medical assistance program.
 53.32 Medical assistance covers the administration of prescription medications by a licensed nurse
 53.33 who is employed by or under contract with a school district when the administration of
 54.1 medications is identified in the child's individualized education program. The simple
 54.2 administration of medications alone is not covered under medical assistance when
 54.3 administered by a provider other than a school district or when it is not identified in the
 54.4 child's individualized education program.

54.5 (i) ~~School social work~~ Services provided by a school social worker as described in
 54.6 paragraph (l) must be provided by a mental health professional as defined in section 245I.04,
 54.7 subdivision 2; a clinical trainee as defined in section 245I.04, subdivision 6, under the
 54.8 supervision of a mental health professional; or a mental health practitioner as defined in
 54.9 section 245I.04, subdivision 4, under the supervision of a mental health professional, are
 54.10 to be eligible for medical assistance payment. A mental health practitioner performing
 54.11 school social work services under this section must provide services within the mental health
 54.12 practitioner's licensure scope of practice, if applicable, and within the mental health
 54.13 practitioner scope of practice under section 245I.04, subdivision 5 reimbursement. Services
 54.14 described in paragraph (l) must be provided within the provider's scope of practice as defined
 54.15 in section 245I.04, subdivisions 3, 5, and 7.

54.16 (j) Notwithstanding section 245I.10, subdivision 2, a special education evaluation; and
 54.17 assessment for and within an individual family service plan or individualized education
 54.18 program, or individual family service plan may be used to determine medical necessity and
 54.19 eligibility for school social work services under paragraph (i) instead of a diagnostic
 54.20 assessment for services described under paragraph (l). The special education evaluation and
 54.21 assessments for and within the individualized education program, or individual family
 54.22 service plan, that meet the requirements in section 245I.10, subdivision 4 and subdivision
 54.23 5 or 6, and that is completed by a licensed mental health professional or clinical trainee
 54.24 supervised by a licensed mental health professional can be used for determining medical
 54.25 necessity. In addition, for services that do not require a diagnosis using an assessment as
 54.26 defined in section 245I.10, subdivision 4 and subdivision 5 or 6, the special education

75.17 for and within the individualized education program, or individual family service plan, that
75.18 provide an International Classification of Diseases diagnostic code and are completed by a
75.19 licensed mental health professional or clinical trainee supervised by a licensed mental health
75.20 professional can be used for determining medical necessity.

75.21 (k) A school social worker or school providing ~~mental health~~ services under paragraph
75.22 ~~(+)~~ (l) is not required to be certified to provide children's therapeutic services and supports
75.23 under section 256B.0943.

75.24 (l) Covered ~~mental health~~ services provided by a school social worker under this
75.25 paragraph ~~(+)~~ include ~~but are not limited to:~~

75.26 ~~(1) administering and reporting standardized measures;~~

75.27 ~~(2) care coordination;~~

75.28 ~~(3) children's mental health crisis assistance, planning, and response services;~~

75.29 (1) the explanation of finding as described in section 256B.0671, subdivision 4;

75.30 (2) psychotherapy for crisis as described in section 256B.~~0625~~;

75.31 ~~(+)~~ (3) children's mental health clinical care consultation, as described in section
75.32 256B.0671, subdivision 7;

76.1 ~~(5)~~ (4) dialectical behavioral therapy for adolescents, as described in section 256B.0671,
76.2 subdivision 6;

76.3 ~~(6) direction of mental health behavioral aides;~~

76.4 ~~(7)~~ (5) family psychoeducation, as described in section 256B.0671, subdivision 5, which
76.5 includes skill development, peer group sessions, and individual sessions. Notwithstanding
76.6 section 256B.0671, subdivision 5, family psychoeducation services under this section may
76.7 be delivered by a mental health practitioner as defined under section 245I.04, subdivision
76.8 4; and

76.9 ~~(8)~~ (6) individual, family, and group psychotherapy, as described in section 256B.0671,
76.10 subdivision 5, which includes skills development, individual treatment plan and diagnostic
76.11 condition or statutorily equivalent components.

76.12 ~~(9) mental health behavioral aide services;~~

76.13 ~~(10) skills training; and~~

76.14 ~~(11) treatment plan development and review.~~

76.15 **EFFECTIVE DATE.** This section is effective July 1, 2024, or upon federal approval,
76.16 whichever is later.

54.27 evaluation and assessments for and within the individualized education program, or individual
54.28 family service plan, that provide an International Classification of Diseases diagnostic code
54.29 and are completed by a licensed mental health professional or clinical trainee supervised
54.30 by a licensed mental health professional can be used for determining medical necessity.

54.31 (k) A school social worker or school providing ~~mental health~~ services under paragraph
54.32 ~~(+)~~ (l) is not required to be certified to provide children's therapeutic services and supports
54.33 under section 256B.0943.

54.34 (l) Covered ~~mental health~~ services provided by a school social worker under this
54.35 paragraph ~~(+)~~ include ~~but are not limited to:~~

55.1 ~~(1) administering and reporting standardized measures;~~

55.2 ~~(2) care coordination;~~

55.3 ~~(3) children's mental health crisis assistance, planning, and response services;~~

55.4 (1) the explanation of findings as described in section 256B.0671, subdivision 4;

55.5 (2) psychotherapy for crisis as described in section 256B.~~0671~~, subdivision 14;

55.6 ~~(+)~~ (3) children's mental health clinical care consultation, as described in section
55.7 256B.0671, subdivision 7;

55.8 ~~(5)~~ (4) dialectical behavioral therapy for adolescents, as described in section 256B.0671,
55.9 subdivision 6;

55.10 ~~(6) direction of mental health behavioral aides;~~

55.11 ~~(7)~~ (5) family psychoeducation, as described in section 256B.0671, subdivision 5; and

55.12 ~~(8)~~ (6) individual, family, and group psychotherapy, as described in section 256B.0671,
55.13 subdivision 11.

55.14 ~~(9) mental health behavioral aide services;~~

55.15 ~~(10) skills training; and~~

55.16 ~~(11) treatment plan development and review.~~

55.17 **EFFECTIVE DATE.** This section is effective July 1, 2024, or upon federal approval,
55.18 whichever is later.

76.17 Sec. 3. Minnesota Statutes 2023 Supplement, section 256B.0671, is amended by adding
76.18 a subdivision to read:

76.19 Subd. 11a. **Psychotherapy for crisis.** (a) Medical assistance covers psychotherapy for
76.20 crisis when a recipient is in need of an immediate response due to an increase of mental
76.21 illness symptoms that put them at risk of one of the following:

76.22 (1) experiencing a life threatening mental health crisis;

76.23 (2) needing a higher level of care;

76.24 (3) worsening symptoms without mental health intervention;

76.25 (4) harm to self, others, or property damage; or

76.26 (5) significant disruption of functioning in at least one life area.

76.27 (b) "Psychotherapy for crisis" means a treatment of clients to reduce their mental health
76.28 crisis through immediate assessment and psychotherapeutic interventions. Psychotherapy
76.29 for crisis must include:

76.30 (1) emergency assessment of the crisis situation;

77.1 (2) mental status exam;

77.2 (3) psychotherapeutic interventions to reduce the crisis; and

77.3 (4) development of a post-crisis plan that addresses the recipient's coping skills and
77.4 community resources.

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

77.6 Sec. 4. Laws 2023, chapter 55, article 7, section 18, subdivision 4, as amended by Laws
77.7 2024, chapter 81, section 18, is amended to read:

77.8 Subd. 4. **Special education; regular.** (a) For special education aid under Minnesota
77.9 Statutes, section 125A.75:

77.10	\$	2,288,826,000	2024
77.11		<u>2,485,140,000</u>		
77.12	\$	<u>2,486,181,000</u>	2025

77.13 (b) The 2024 appropriation includes \$229,860,000 for 2023 and \$2,058,966,000 for
77.14 2024.

77.15 (c) The 2025 appropriation includes \$289,842,000 for 2024 and ~~\$2,195,298,000~~
77.16 \$2,196,339,000 for 2025.

55.19 Sec. 2. Minnesota Statutes 2023 Supplement, section 256B.0671, is amended by adding
55.20 a subdivision to read:

55.21 Subd. 14. **Psychotherapy for crisis.** (a) Medical assistance covers psychotherapy for
55.22 crisis when a recipient is in need of an immediate response due to an increase of mental
55.23 illness symptoms that put them at risk of one of the following:

55.24 (1) experiencing a life threatening mental health crisis;

55.25 (2) needing a higher level of care;

55.26 (3) worsening symptoms without mental health intervention;

55.27 (4) harm to self, others, or property damage; or

55.28 (5) significant disruption of functioning in at least one life area.

56.1 (b) "Psychotherapy for crisis" means a treatment of client to reduce their mental health
56.2 crisis through immediate assessment and psychotherapeutic interventions. It must include:

56.3 (1) emergency assessment of the crisis situation;

56.4 (2) mental status exam;

56.5 (3) psychotherapeutic interventions to reduce the crisis; and

56.6 (4) development of a post-crisis plan that addresses the recipient's coping skills and
56.7 community resources.

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

56.9 Sec. 3. Laws 2023, chapter 55, article 7, section 18, subdivision 4, as amended by Laws
56.10 2024, chapter 81, section 18, is amended to read:

56.11 Subd. 4. **Special education; regular.** (a) For special education aid under Minnesota
56.12 Statutes, section 125A.75:

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56.14		<u>2,485,140,000</u>		
56.15	\$	<u>2,486,181,000</u>	2025

56.16 (b) The 2024 appropriation includes \$229,860,000 for 2023 and \$2,058,966,000 for
56.17 2024.

56.18 (c) The 2025 appropriation includes \$289,842,000 for 2024 and ~~\$2,195,298,000~~
56.19 \$2,196,339,000 for 2025.

- 77.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 77.18 Sec. 5. **SPECIAL EDUCATION FUNDING RECOMMENDATIONS.**
- 77.19 (a) The commissioner of education must contract with an external consultant to:
- 77.20 (1) review special education delivery and costs in Minnesota; and
- 77.21 (2) develop recommendations to increase paperwork efficiency while reducing costs.
- 77.22 (b) In developing the recommendations, the consultant must consult with school districts,
- 77.23 charter schools, intermediate school districts, special education cooperatives, education
- 77.24 districts, and service cooperatives; special education teachers, administrators, and unlicensed
- 77.25 staff providing support to students with disabilities; families of students with disabilities;
- 77.26 advocacy organizations that provide support to students with disabilities; and other
- 77.27 stakeholders.
- 77.28 (c) The consultant must submit a report to the commissioner with the recommendations.
- 77.29 The report must:
- 78.1 (1) review how school districts, charter schools, intermediate school districts, special
- 78.2 education cooperatives, education districts, and service cooperatives deliver special education
- 78.3 services, including complying with paperwork requirements, and the costs and benefits;
- 78.4 (2) compare relevant state and federal special education laws and regulations;
- 78.5 (3) analyze trends in special education enrollment;
- 78.6 (4) identify funding disparities that decrease inclusion;
- 78.7 (5) identify strategies or programs and universal interventions that are evidence-based
- 78.8 and would be effective in reducing the need for special education services; and
- 78.9 (6) analyze funding for nonresident children in accordance with Minnesota Statutes,
- 78.10 sections 125A.11 and 127A.47.
- 78.11 (d) The commissioner must submit the consultant's report to the legislative committees
- 78.12 with jurisdiction over education policy and finance by January 5, 2025, and in accordance
- 78.13 with Minnesota Statutes, section 3.195.
- 78.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 78.15 Sec. 6. **APPROPRIATION.**
- 78.16 Subdivision 1. **Department of Education.** The sum indicated in this section is
- 78.17 appropriated from the general fund to the Department of Education in the fiscal year
- 78.18 designated.

FOR SENATE LANGUAGE IN ARTICLE 6, SECTION 4, SEE COMPARISON
TO HOUSE LANGUAGE IN ARTICLE 5, SECTION 23

78.19Subd. 2. **Special education funding report.** (a) To contract with an external consultant

78.20for a report on increasing special education paperwork efficiency while reducing costs:

78.21\$440,000.....2025

78.22(b) This is a onetime appropriation.