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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 923

02/25/2013 Authored by Davnie, Loeffler and Mariani  
The bill was read for the first time and referred to the Committee on Education Finance

1.1 A bill for an act  
1.2 relating to education finance; phasing out the special education tuition  
1.3 reimbursement for nonresident students; amending Minnesota Statutes 2012,  
1.4 sections 125A.11, subdivision 1; 127A.47, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2012, section 125A.11, subdivision 1, is amended to read:

1.7 Subdivision 1. **Nonresident tuition rate; other costs.** ~~(a) For fiscal year 2006,~~  
1.8 ~~when a school district provides instruction and services outside the district of residence,~~  
1.9 ~~board and lodging, and any tuition to be paid, shall be paid by the district of residence.~~  
1.10 ~~The tuition rate to be charged for any child with a disability, excluding a pupil for whom~~  
1.11 ~~tuition is calculated according to section 127A.47, subdivision 7, paragraph (d), must be~~  
1.12 ~~the sum of (1) the actual cost of providing special instruction and services to the child~~  
1.13 ~~including a proportionate amount for special transportation and unreimbursed building~~  
1.14 ~~lease and debt service costs for facilities used primarily for special education, plus (2)~~  
1.15 ~~the amount of general education revenue and referendum aid attributable to the pupil,~~  
1.16 ~~minus (3) the amount of special education aid for children with a disability received~~  
1.17 ~~on behalf of that child, minus (4) if the pupil receives special instruction and services~~  
1.18 ~~outside the regular classroom for more than 60 percent of the school day, the amount of~~  
1.19 ~~general education revenue and referendum aid, excluding portions attributable to district~~  
1.20 ~~and school administration, district support services, operations and maintenance, capital~~  
1.21 ~~expenditures, and pupil transportation, attributable to that pupil for the portion of time~~  
1.22 ~~the pupil receives special instruction and services outside of the regular classroom. If~~  
1.23 ~~the boards involved do not agree upon the tuition rate, either board may apply to the~~  
1.24 ~~commissioner to fix the rate. Notwithstanding chapter 14, the commissioner must then set~~

2.1 ~~a date for a hearing or request a written statement from each board, giving each board~~  
2.2 ~~at least ten days' notice, and after the hearing or review of the written statements the~~  
2.3 ~~commissioner must make an order fixing the tuition rate, which is binding on both school~~  
2.4 ~~districts. General education revenue and referendum equalization aid attributable to a~~  
2.5 ~~pupil must be calculated using the resident district's average general education revenue~~  
2.6 ~~and referendum equalization aid per adjusted pupil unit.~~

2.7 ~~(b)~~ (a) For fiscal year ~~2007~~ 2014 and later, when a school district provides special  
2.8 instruction and services for a pupil with a disability as defined in section 125A.02 outside  
2.9 the district of residence, excluding a pupil for whom an adjustment to special education  
2.10 aid is calculated according to section 127A.47, subdivision 7, paragraph ~~(e)~~ (d), special  
2.11 education aid paid to the resident district must be reduced by an amount equal to (1)  
2.12 the actual cost of providing special instruction and services to the pupil, including a  
2.13 proportionate amount for special transportation and unreimbursed building lease and  
2.14 debt service costs for facilities used primarily for special education, plus (2) the amount  
2.15 of general education revenue and referendum equalization aid attributable to that pupil,  
2.16 calculated using the resident district's average general education revenue and referendum  
2.17 equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity  
2.18 revenue and secondary sparsity revenue, minus (3) the amount of special education aid for  
2.19 children with a disability received on behalf of that child, minus (4) if the pupil receives  
2.20 special instruction and services outside the regular classroom for more than 60 percent  
2.21 of the school day, the amount of general education revenue and referendum equalization  
2.22 aid, excluding portions attributable to district and school administration, district support  
2.23 services, operations and maintenance, capital expenditures, and pupil transportation,  
2.24 attributable to that pupil for the portion of time the pupil receives special instruction  
2.25 and services outside of the regular classroom, calculated using the resident district's  
2.26 average general education revenue and referendum equalization aid per adjusted pupil unit  
2.27 excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue  
2.28 and the serving district's basic skills revenue, elementary sparsity revenue and secondary  
2.29 sparsity revenue per adjusted pupil unit. Notwithstanding clauses (1) and (4), for pupils  
2.30 served by a cooperative unit without a fiscal agent school district, the general education  
2.31 revenue and referendum equalization aid attributable to a pupil must be calculated using  
2.32 the resident district's average general education revenue and referendum equalization aid  
2.33 excluding compensatory revenue, elementary sparsity revenue, and secondary sparsity  
2.34 revenue. Special education aid paid to the district or cooperative providing special  
2.35 instruction and services for the pupil must be increased by the amount of the reduction in  
2.36 the aid paid to the resident district. Amounts paid to cooperatives under this subdivision

3.1 and section 127A.47, subdivision 7, shall be recognized and reported as revenues and  
 3.2 expenditures on the resident school district's books of account under sections 123B.75  
 3.3 and 123B.76. If the resident district's special education aid is insufficient to make the full  
 3.4 adjustment, the remaining adjustment shall be made to other state aid due to the district.

3.5 ~~(e)~~ (b) Notwithstanding ~~paragraphs~~ paragraph (a) ~~and (b)~~ and section 127A.47,  
 3.6 subdivision 7, ~~paragraphs~~ paragraph (d) ~~and (e)~~, a charter school where more than 30  
 3.7 percent of enrolled students receive special education and related services, a site approved  
 3.8 under section 125A.515, an intermediate district, a special education cooperative, or a  
 3.9 school district that served as the applicant agency for a group of school districts for federal  
 3.10 special education aids for fiscal year 2006 may apply to the commissioner for authority to  
 3.11 charge the resident district an additional amount to recover any remaining unreimbursed  
 3.12 costs of serving pupils with a disability. The application must include a description of the  
 3.13 costs and the calculations used to determine the unreimbursed portion to be charged to the  
 3.14 resident district. Amounts approved by the commissioner under this paragraph must be  
 3.15 included in the tuition billings or aid adjustments under paragraph (a) ~~or (b)~~, or section  
 3.16 127A.47, subdivision 7, paragraph (d) ~~or (e)~~, as applicable.

3.17 ~~(d)~~ (c) For purposes of this subdivision and section 127A.47, subdivision 7,  
 3.18 ~~paragraphs~~ paragraph (d) ~~and (e)~~, "general education revenue and referendum equalization  
 3.19 aid" means the sum of the general education revenue according to section 126C.10,  
 3.20 subdivision 1, excluding alternative teacher compensation revenue, plus the referendum  
 3.21 equalization aid according to section 126C.17, subdivision 7, as adjusted according to  
 3.22 section 127A.47, subdivision 7, paragraphs (a) to (c).

3.23 **EFFECTIVE DATE.** This section is effective July 1, 2013.

3.24 Sec. 2. Minnesota Statutes 2012, section 127A.47, subdivision 7, is amended to read:

3.25 Subd. 7. **Alternative attendance programs.** The general education aid and special  
 3.26 education aid for districts must be adjusted for each pupil attending a nonresident district  
 3.27 under sections 123A.05 to 123A.08, 124D.03, 124D.08, and 124D.68. The adjustments  
 3.28 must be made according to this subdivision.

3.29 (a) General education aid paid to a resident district must be reduced by an amount  
 3.30 equal to the referendum equalization aid attributable to the pupil in the resident district.

3.31 (b) General education aid paid to a district serving a pupil in programs listed in this  
 3.32 subdivision must be increased by an amount equal to the greater of (1) the referendum  
 3.33 equalization aid attributable to the pupil in the nonresident district; or (2) the product of  
 3.34 the district's open enrollment concentration index, the maximum amount of referendum  
 3.35 revenue in the first tier, and the district's net open enrollment pupil units for that year. A

4.1 district's open enrollment concentration index equals the greater of: (i) zero, or (ii) the  
4.2 lesser of 1.0, or the difference between the district's ratio of open enrollment pupil units  
4.3 served to its resident pupil units for that year and 0.2. This clause does not apply to a  
4.4 school district where more than 50 percent of the open enrollment students are enrolled  
4.5 solely in online learning courses.

4.6 (c) If the amount of the reduction to be made from the general education aid of the  
4.7 resident district is greater than the amount of general education aid otherwise due the  
4.8 district, the excess reduction must be made from other state aids due the district.

4.9 ~~(d) For fiscal year 2006, the district of residence must pay tuition to a district or an~~  
4.10 ~~area learning center, operated according to paragraph (f), providing special instruction and~~  
4.11 ~~services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in~~  
4.12 ~~section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must~~  
4.13 ~~be equal to (1) the actual cost of providing special instruction and services to the pupil,~~  
4.14 ~~including a proportionate amount for special transportation and unreimbursed building~~  
4.15 ~~lease and debt service costs for facilities used primarily for special education, minus (2)~~  
4.16 ~~if the pupil receives special instruction and services outside the regular classroom for~~  
4.17 ~~more than 60 percent of the school day, the amount of general education revenue and~~  
4.18 ~~referendum aid attributable to that pupil for the portion of time the pupil receives special~~  
4.19 ~~instruction and services outside of the regular classroom, excluding portions attributable to~~  
4.20 ~~district and school administration, district support services, operations and maintenance,~~  
4.21 ~~capital expenditures, and pupil transportation, minus (3) special education aid attributable~~  
4.22 ~~to that pupil, that is received by the district providing special instruction and services.~~  
4.23 ~~For purposes of this paragraph, general education revenue and referendum equalization~~  
4.24 ~~aid attributable to a pupil must be calculated using the serving district's average general~~  
4.25 ~~education revenue and referendum equalization aid per adjusted pupil unit.~~

4.26 (e) ~~For fiscal year 2007 and later, special education aid paid to a resident district must~~  
4.27 ~~be reduced by an amount equal to (d) For purposes of this subdivision, the "unreimbursed~~  
4.28 ~~cost of providing special education and services" means the difference between: (1) the~~  
4.29 ~~actual cost of providing special instruction and services, including special transportation~~  
4.30 ~~and unreimbursed building lease and debt service costs for facilities used primarily for~~  
4.31 ~~special education, for a pupil with a disability, as defined in section 125A.02, or a pupil, as~~  
4.32 ~~defined in section 125A.51, who is enrolled in a program listed in this subdivision, minus (2)~~  
4.33 ~~if the pupil receives special instruction and services outside the regular classroom for more~~  
4.34 ~~than 60 percent of the school day, the amount of general education revenue and referendum~~  
4.35 ~~equalization aid attributable to that pupil for the portion of time the pupil receives special~~  
4.36 ~~instruction and services outside of the regular classroom, excluding portions attributable to~~

5.1 district and school administration, district support services, operations and maintenance,  
 5.2 capital expenditures, and pupil transportation, minus (3) special education aid attributable  
 5.3 to that pupil, that is received by the district providing special instruction and services.  
 5.4 For purposes of this paragraph, general education revenue and referendum equalization  
 5.5 aid attributable to a pupil must be calculated using the serving district's average general  
 5.6 education revenue and referendum equalization aid per adjusted pupil unit.

5.7 (e) Special education aid paid to a resident district must be reduced by the following  
 5.8 amounts:

5.9 (1) for fiscal year 2015, by an amount equal to 90 percent of the unreimbursed cost  
 5.10 of providing special education and services;

5.11 (2) for fiscal year 2016, by an amount equal to 66 percent of the unreimbursed cost  
 5.12 of providing special education and services; and

5.13 (3) for fiscal year 2017, by an amount equal to 33 percent of the unreimbursed cost  
 5.14 of providing special education and services.

5.15 For fiscal years 2018 and later, special education aid paid to a resident district is not  
 5.16 reduced except as provided in paragraph (f).

5.17 (f) Notwithstanding paragraph (e), special education aid paid to a resident district  
 5.18 must be reduced by an amount equal to 100 percent of the unreimbursed cost of special  
 5.19 education and services provided to students at an intermediate district, a cooperative, or a  
 5.20 charter school where the percentage of students eligible for special education services is at  
 5.21 least 70 percent of the charter school's total enrollment.

5.22 (g) Special education aid paid to the district or cooperative providing special  
 5.23 instruction and services for the pupil, or to the fiscal agent district for a cooperative,  
 5.24 must be increased by the amount of the reduction in the aid paid to the resident district  
 5.25 under paragraphs (e) and (f). If the resident district's special education aid is insufficient  
 5.26 to make the full adjustment, the remaining adjustment shall be made to other state aids  
 5.27 due to the district.

5.28 ~~(f)~~ (h) An area learning center operated by a service cooperative, intermediate  
 5.29 district, education district, or a joint powers cooperative may elect through the action of  
 5.30 the constituent boards to charge the resident district tuition for pupils rather than to have  
 5.31 the general education revenue paid to a fiscal agent school district. Except as provided in  
 5.32 paragraph ~~(d)~~ or (e) or (f), the district of residence must pay tuition equal to at least 90  
 5.33 percent of the district average general education revenue per pupil unit minus an amount  
 5.34 equal to the product of the formula allowance according to section 126C.10, subdivision  
 5.35 2, times .0485, calculated without compensatory revenue and transportation sparsity  
 5.36 revenue, times the number of pupil units for pupils attending the area learning center.

6.1 **EFFECTIVE DATE.** This section is effective July 1, 2013.