A bill for an act

relating to education; modifying certain special education statutory funding provisions; amending Minnesota Statutes 2006, sections 124D.454, subdivisions 2, 3; 125A.76, subdivisions 1, 2, 4, 5, by adding a subdivision; 125A.79, subdivisions 5, 6, 8.

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

Section 1. Minnesota Statutes 2006, section 124D.454, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) ~~"Base year" means the second fiscal year preceding the fiscal year for which aid will be paid.~~

~~(b)~~ "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

~~(c) "Average daily membership" has the meaning given it in section 126C.05.~~

~~(d) "Program growth factor" means 1.00 for fiscal year 1998 and later.~~

~~(e) "Aid percentage factor" means 100 percent for fiscal year 2000 and later.~~

~~(f)~~ (b) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12. This definition is not intended to change or modify the definition of essential employee in chapter 179A.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 2. Minnesota Statutes 2006, section 124D.454, subdivision 3, is amended to read:

Subd. 3. ~~**Base revenue**~~ **Initial aid.** ~~(a)~~ The transition-disabled program ~~base revenue~~ initial aid equals the sum of the following amounts computed using ~~base~~ current year data:

(1) 68 percent of the salary of each essential licensed person or approved paraprofessional who provides direct instructional services to students employed during that fiscal year for services rendered in that district's transition program for children with a disability;

(2) 47 percent of the costs of necessary equipment for transition programs for children with a disability;

(3) 47 percent of the costs of necessary travel between instructional sites by transition program teachers of children with a disability but not including travel to and from local, regional, district, state, or national career and technical student organization meetings;

(4) 47 percent of the costs of necessary supplies for transition programs for children with a disability but not to exceed an average of $47 in any one school year for each child with a disability receiving these services;

(5) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, in place of programs provided by the district, 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the fraction of the school day the pupil receives services under the contract;

(6) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract; and

(7) for a contract approved by the commissioner with another Minnesota school district or cooperative center for vocational evaluation services for children with a disability for children that are not yet enrolled in grade 12, 52 percent of the amount of the contract.

~~(b) If requested by a school district for transition programs during the base year for less than the full school year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full year.~~

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 3. Minnesota Statutes 2006, section 125A.76, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) ~~"Base year" for fiscal year 1998 and later fiscal years means the second fiscal year preceding the fiscal year for which aid will be paid.~~

~~(b)~~ "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

~~(c)~~ (b) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing direct services to students. Essential personnel may also include special education paraprofessionals or clericals providing support to teachers and students by preparing paperwork and making arrangements related to special education compliance requirements, including parent meetings and individual education plans.

~~(d)~~ (c) "Average daily membership" has the meaning given it in section 126C.05.

~~(e)~~ (d) "Program growth factor" means 1.046 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 4. Minnesota Statutes 2006, section 125A.76, subdivision 2, is amended to read:

Subd. 2. **Special education ~~base revenue~~ initial aid.** ~~(a)~~ The special education ~~base revenue~~ initial aid equals the sum of the following amounts computed using ~~base~~ current year data:

(1) 68 percent of the salary of each essential person employed in the district's program for children with a disability during the fiscal year, whether the person is employed by one or more districts or a Minnesota correctional facility operating on a fee-for-service basis;

(2) for the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind, 68 percent of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan;

(3) for special instruction and services provided to any pupil by contracting with public, private, or voluntary agencies other than school districts, in place of special instruction and services provided by the district, 52 percent of the difference between the amount of the contract and the amount of the basic revenue, as defined in section 126C.10, subdivision 2, special education aid, and any other aid earned on behalf of the child for the fraction of the school day the pupil receives services under the contract;

(4) for special instruction and services provided to any pupil by contracting for services with public, private, or voluntary agencies other than school districts, that are

supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract for that pupil;

(5) for supplies and equipment purchased or rented for use in the instruction of children with a disability, an amount equal to 47 percent of the sum actually expended by the district, or a Minnesota correctional facility operating on a fee-for-service basis, but not to exceed an average of $47 in any one school year for each child with a disability receiving instruction;

(6) for fiscal years 1997 and later, special education base revenue shall include amounts under clauses (1) to (5) for special education summer programs provided during the base year for that fiscal year; ~~and~~

(7) ~~for fiscal years 1999 and later,~~ the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4).

The department shall establish procedures through the uniform financial accounting and reporting system to identify and track all revenues generated from third-party billings as special education revenue at the school district level; include revenue generated from third-party billings as special education revenue in the annual cross-subsidy report; and exclude third-party revenue from calculation of excess cost aid to the districts; and

(8) the district's transition-disabled program initial aid according to section 124D.454, subdivision 3.

~~(b) If requested by a school district operating a special education program during the base year for less than the full fiscal year, or a school district in which is located a Minnesota correctional facility operating on a fee-for-service basis for less than the full fiscal year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full fiscal year.~~

~~(c) Notwithstanding paragraphs (a) and (b), the portion of a school district's base revenue attributable to a Minnesota correctional facility operating on a fee-for-service basis during the facility's first year of operating on a fee-for-service basis shall be computed using current year data.~~

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 5. Minnesota Statutes 2006, section 125A.76, subdivision 4, is amended to read:

Subd. 4. **State total special education aid.** ~~The state total special education aid for fiscal year 2004 equals $530,642,000.~~ The state total special education aid ~~for fiscal year 2005~~ equals ~~$529,164,000~~ $549,222,000 for fiscal year 2008, $560,523,000 for fiscal year 2009, $562,092,000 for fiscal year 2010, and $564,001,000 for fiscal year 2011. The state total special education aid for later fiscal years equals:

(1) the state total special education aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the greater of one, or the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 6. Minnesota Statutes 2006, section 125A.76, subdivision 5, is amended to read:

Subd. 5. **School district special education aid.** ~~(a)~~ A school district's special education aid for fiscal year ~~2000~~ 2008 and later equals the state total special education aid~~, minus the amount determined under paragraphs (b) and (c),~~ times the ratio of the district's ~~adjusted~~ initial special education ~~base revenue~~ aid to the state total ~~adjusted~~ initial special education ~~base revenue~~ aid. ~~If the commissioner of education modifies its rules for special education in a manner that increases a district's special education obligations or service requirements, the commissioner shall annually increase each district's special education aid by the amount necessary to compensate for the increased service requirements. The additional aid equals the cost in the current year attributable to rule changes not reflected in the computation of special education base revenue, multiplied by the appropriate percentages from subdivision 2.~~

~~(b) Notwithstanding paragraph (a), if the special education base revenue for a district equals zero, the special education aid equals the amount computed according to subdivision 2 using current year data.~~

~~(c) Notwithstanding paragraphs (a) and (b), if the special education base revenue for a district is greater than zero, and the base year amount for the district under subdivision 2, paragraph (a), clause (7), equals zero, the special education aid equals the sum of the amount computed according to paragraph (a), plus the amount computed according to subdivision 2, paragraph (a), clause (7), using current year data.~~

~~(d) A charter school under section 124D.10 shall generate state special education aid based on current year expenditures for its first four years of operation and only in its fifth and later years shall paragraphs (a), (b), and (c) apply.~~

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 7. Minnesota Statutes 2006, section 125A.76, is amended by adding a subdivision to read:

Subd. 8. **Special education forecast maintenance of effort.** (a) If, on the basis of a forecast of general fund revenues and expenditures under section 16A.103; the state's expenditures for special education and related services for children with disabilities from nonfederal sources for a fiscal year, including special education aid under section 125A.76; special education excess cost aid under section 125A.76, subdivision 7; travel for home-based services under section 125A.75, subdivision 1; aid for students with disabilities under section 125A.75, subdivision 3; court-placed special education under section 125A.79, subdivision 4; out-of-state tuition under section 125A.79, subdivision 8; and direct expenditures by state agencies, are projected to be less than the amount required to meet federal special education maintenance of effort, the additional amount required to meet federal special education maintenance of effort is added to the state total special education aid in section 125A.76, subdivision 4.

(b) If, on the basis of a forecast of general fund revenues and expenditures under section 16A.103, expenditures in the programs in paragraph (a) are projected to be greater than previously forecast for an enacted budget, and an addition to state total special education aid has been made under paragraph (a), the state total special education aid must be reduced by the lesser of the amount of the expenditure increase or the amount previously added to state total special education aid in section 125A.76, subdivision 4.

(c) For the purpose of this section, "previously forecast for an enacted budget" means the allocation of funding for these programs in the most recent forecast of general fund revenues and expenditures or the act appropriating money for these programs, whichever occurred most recently. It does not include planning estimates for a future biennium.

EFFECTIVE DATE. This section is effective for fiscal year 2010.

Sec. 8. Minnesota Statutes 2006, section 125A.79, subdivision 5, is amended to read:

Subd. 5. **Initial excess cost aid.** For fiscal years ~~2002~~ 2008 and later, a district's initial excess cost aid equals the ~~greatest~~ greater of:

(1) 75 percent of the difference between (i) the district's unreimbursed special education cost for the preceding fiscal year and (ii) 4.36 percent of the district's general revenue for the preceding fiscal year; or

(2) ~~70 percent of the difference between (i) the increase in the district's unreimbursed special education cost between the base year as defined in section 125A.76, subdivision 1, and the current year and (ii) 1.6 percent of the district's general revenue; or~~

~~(3)~~ zero.

EFFECTIVE DATE. This section is effective for fiscal year 2008.

Sec. 9. Minnesota Statutes 2006, section 125A.79, subdivision 6, is amended to read:

Subd. 6. **State total special education excess cost aid.** The state total special education excess cost aid ~~for fiscal year 2005~~ equals ~~$91,811,000~~ $107,435,000 for fiscal year 2008, $109,753,000 for fiscal year 2009, $109,996,000 for fiscal year 2010, and $110,333,000 for fiscal year 2011. ~~The state total special education excess cost aid equals $103,600,000 for fiscal year 2006 and $104,700,000 for fiscal year 2007.~~ The state total special education excess cost aid for ~~fiscal year 2008 and~~ later fiscal years equals:

(1) the state total special education excess cost aid for the preceding fiscal year; times

(2) the program growth factor; times

(3) the greater of one, or the ratio of the state total average daily membership for the current fiscal year to the state total average daily membership for the preceding fiscal year.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.

Sec. 10. Minnesota Statutes 2006, section 125A.79, subdivision 8, is amended to read:

Subd. 8. **Out-of-state tuition.** For children who are residents of the state, receive services under section 125A.76, subdivisions 1 and 2, and are placed in a care and treatment facility by court action in a state that does not have a reciprocity agreement with the commissioner under section 125A.155, the resident school district shall submit the balance of the tuition bills, minus the ~~amount of the basic revenue, as defined by section 126C.10, subdivision 2, of the district for the child and~~ general education revenue, excluding basic skills revenue and alternative teacher compensation revenue, and referendum equalization aid attributable to the pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit minus the special education ~~aid, and any other aid earned on behalf of the child~~ contracted services initial aid attributable to the pupil.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2008.