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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 4208

03/22/2018 Authored by Davnie, Olson, Lee and Sandstede
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; creating a state fund to pay for unreimbursed special
1.3 education costs; requiring a report; appropriating money; amending Minnesota
1.4 Statutes 2016, sections 126C.20; 127A.47, subdivision 7, by adding subdivisions;
1.5 Minnesota Statutes 2017 Supplement, section 125A.11, subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2017 Supplement, section 125A.11, subdivision 1, is
1.8 amended to read:

1.9 Subdivision 1. **Nonresident tuition rate; other costs.** (a) For fiscal year ~~2015~~ 2019 and
1.10 later, when a school district provides special instruction and services for a pupil with a
1.11 disability as defined in section 125A.02 outside the district of residence, excluding a pupil
1.12 for whom an adjustment to special education aid is calculated according to section 127A.47,
1.13 ~~subdivision~~ subdivisions 7, paragraphs (b) to (d), and 7a, special education aid paid to the
1.14 resident district must be reduced by an amount equal to (1) the actual cost of providing
1.15 special instruction and services to the pupil, including a proportionate amount for special
1.16 transportation, plus (2) the amount of general education revenue, excluding local optional
1.17 revenue, plus local optional aid and referendum equalization aid attributable to that pupil,
1.18 calculated using the resident district's average general education revenue and referendum
1.19 equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity
1.20 revenue and secondary sparsity revenue, minus (3) the amount of special education aid for
1.21 children with a disability under section 125A.76 received on behalf of that child, minus (4)
1.22 if the pupil receives special instruction and services outside the regular classroom for more
1.23 than 60 percent of the school day, the amount of general education revenue and referendum
1.24 equalization aid, excluding portions attributable to district and school administration, district

2.1 support services, operations and maintenance, capital expenditures, and pupil transportation,
 2.2 attributable to that pupil for the portion of time the pupil receives special instruction and
 2.3 services outside of the regular classroom, calculated using the resident district's average
 2.4 general education revenue and referendum equalization aid per adjusted pupil unit excluding
 2.5 basic skills revenue, elementary sparsity revenue and secondary sparsity revenue and the
 2.6 serving district's basic skills revenue, elementary sparsity revenue and secondary sparsity
 2.7 revenue per adjusted pupil unit. Notwithstanding clauses (1) and (4), for pupils served by
 2.8 a cooperative unit without a fiscal agent school district, the general education revenue and
 2.9 referendum equalization aid attributable to a pupil must be calculated using the resident
 2.10 district's average general education revenue and referendum equalization aid excluding
 2.11 compensatory revenue, elementary sparsity revenue, and secondary sparsity revenue. Special
 2.12 education aid paid to the district or cooperative providing special instruction and services
 2.13 for the pupil must be increased by the amount of the reduction in the aid paid to the resident
 2.14 district. If the resident district's special education aid is insufficient to make the full
 2.15 adjustment, the remaining adjustment shall be made to other state aid due to the district.

2.16 (b) Notwithstanding paragraph (a), when a charter school receiving special education
 2.17 aid under section 124E.21, subdivision 3, provides special instruction and services for a
 2.18 pupil with a disability as defined in section 125A.02, excluding a pupil for whom an
 2.19 adjustment to special education aid is calculated according to section 127A.47, ~~subdivision~~
 2.20 subdivisions 7, paragraphs (b) to (e), 7a, and 7b, special education aid paid to the resident
 2.21 district must be reduced by an amount equal to that calculated under paragraph (a) as if the
 2.22 charter school received aid under section 124E.21, subdivision 1. Notwithstanding paragraph
 2.23 (a), special education aid paid to the charter school providing special instruction and services
 2.24 for the pupil must not be increased by the amount of the reduction in the aid paid to the
 2.25 resident district.

2.26 (c) Notwithstanding paragraph (a) and section 127A.47, ~~subdivision~~ subdivisions 7,
 2.27 paragraphs (b) to (d), 7a, and 7b:

2.28 (1) an intermediate district or a special education cooperative may recover unreimbursed
 2.29 costs of serving pupils with a disability, including building lease, debt service, and indirect
 2.30 costs necessary for the general operation of the organization, by billing membership fees
 2.31 and nonmember access fees to the resident district;

2.32 (2) a charter school where more than 30 percent of enrolled students receive special
 2.33 education and related services, a site approved under section 125A.515, an intermediate
 2.34 district, a site constructed according to Laws 1992, chapter 558, section 7, subdivision 7,
 2.35 to meet the educational needs of court-placed adolescents, or a special education cooperative

3.1 may apply to the commissioner for authority to charge the resident district an additional
 3.2 amount to recover any remaining unreimbursed costs of serving pupils with a disability;

3.3 (3) the billing under clause (1) or application under clause (2) must include a description
 3.4 of the costs and the calculations used to determine the unreimbursed portion to be charged
 3.5 to the resident district. Amounts approved by the commissioner under clause (2) must be
 3.6 included in the aid adjustments under paragraph (a), or section 127A.47, ~~subdivision~~
 3.7 subdivisions 7, paragraphs (b) to (d), and 7a, as applicable.

3.8 (d) For purposes of this subdivision and section 127A.47, subdivision 7, paragraph (b),
 3.9 "general education revenue and referendum equalization aid" means the sum of the general
 3.10 education revenue according to section 126C.10, subdivision 1, excluding the local optional
 3.11 levy according to section 126C.10, subdivision 2e, paragraph (c), plus the referendum
 3.12 equalization aid according to section 126C.17, subdivision 7.

3.13 Sec. 2. Minnesota Statutes 2016, section 126C.20, is amended to read:

3.14 **126C.20 ANNUAL GENERAL EDUCATION AND SPECIAL EDUCATION**
 3.15 **TUITION REIMBURSEMENT AID APPROPRIATION.**

3.16 There is annually appropriated from the general fund to the department the amount
 3.17 necessary for general education aid under ~~section~~ sections 126C.13, and 127A.47, subdivision
 3.18 7b. This amount must be reduced by the amount of any money specifically appropriated
 3.19 for the same purpose in any year from any state fund.

3.20 Sec. 3. Minnesota Statutes 2016, section 127A.47, subdivision 7, is amended to read:

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

3.25 (b) For purposes of this subdivision, the "unreimbursed cost of providing special
 3.26 education and services" means the difference between: (1) the actual cost of providing
 3.27 special instruction and services, including special transportation and unreimbursed building
 3.28 lease and debt service costs for facilities used primarily for special education, for a pupil
 3.29 with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51,
 3.30 who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special
 3.31 instruction and services outside the regular classroom for more than 60 percent of the school
 3.32 day, the amount of general education revenue, excluding local optional revenue, plus local

4.1 optional aid and referendum equalization aid as defined in section 125A.11, subdivision 1,
4.2 paragraph (d), attributable to that pupil for the portion of time the pupil receives special
4.3 instruction and services outside of the regular classroom, excluding portions attributable to
4.4 district and school administration, district support services, operations and maintenance,
4.5 capital expenditures, and pupil transportation, minus (3) special education aid under section
4.6 125A.76 attributable to that pupil, that is received by the district providing special instruction
4.7 and services. For purposes of this paragraph, general education revenue and referendum
4.8 equalization aid attributable to a pupil must be calculated using the serving district's average
4.9 general education revenue and referendum equalization aid per adjusted pupil unit.

4.10 (c) For fiscal year ~~2015 and later~~ 2018, special education aid paid to a resident district
4.11 must be reduced by an amount equal to 90 percent of the unreimbursed cost of providing
4.12 special education and services. For fiscal year 2019 and later, special education aid paid to
4.13 a resident district must be reduced according to subdivision 7a.

4.14 (d) For fiscal year 2018, notwithstanding paragraph (c), special education aid paid to a
4.15 resident district must be reduced by an amount equal to 100 percent of the unreimbursed
4.16 cost of special education and services provided to students at an intermediate district,
4.17 cooperative, or charter school where the percent of students eligible for special education
4.18 services is at least 70 percent of the charter school's total enrollment.

4.19 (e) For fiscal year 2018, notwithstanding paragraph (c), special education aid paid to a
4.20 resident district must be reduced under paragraph (d) for students at a charter school receiving
4.21 special education aid under section 124E.21, subdivision 3, calculated as if the charter school
4.22 received special education aid under section 124E.21, subdivision 1.

4.23 (f) Special education aid paid to the district or cooperative providing special instruction
4.24 and services for the pupil, or to the fiscal agent district for a cooperative, must be increased
4.25 by the amount of the reduction in the aid paid to the resident district under paragraphs (c)
4.26 and (d), subdivision 7a, and by the state aid payment under subdivision 7b. If the resident
4.27 district's special education aid is insufficient to make the full adjustment under paragraphs
4.28 (c), (d), and (e), and subdivision 7a, the remaining adjustment shall be made to other state
4.29 aids due to the district.

4.30 (g) Notwithstanding paragraph (a), general education aid paid to the resident district of
4.31 a nonspecial education student for whom an eligible special education charter school receives
4.32 general education aid under section 124E.20, subdivision 1, paragraph (c), must be reduced
4.33 by an amount equal to the difference between the general education aid attributable to the
4.34 student under section 124E.20, subdivision 1, paragraph (c), and the general education aid

5.1 that the student would have generated for the charter school under section 124E.20,
 5.2 subdivision 1, paragraph (a). For purposes of this paragraph, "nonspecial education student"
 5.3 means a student who does not meet the definition of pupil with a disability as defined in
 5.4 section 125A.02 or the definition of a pupil in section 125A.51.

5.5 (h) An area learning center operated by a service cooperative, intermediate district,
 5.6 education district, or a joint powers cooperative may elect through the action of the
 5.7 constituent boards to charge the resident district tuition for pupils rather than to have the
 5.8 general education revenue paid to a fiscal agent school district. Except as provided in
 5.9 paragraph (f), the district of residence must pay tuition equal to at least 90 and no more than
 5.10 100 percent of the district average general education revenue per pupil unit minus an amount
 5.11 equal to the product of the formula allowance according to section 126C.10, subdivision 2,
 5.12 times .0466, calculated without compensatory revenue, local optional revenue, and
 5.13 transportation sparsity revenue, times the number of pupil units for pupils attending the area
 5.14 learning center.

5.15 Sec. 4. Minnesota Statutes 2016, section 127A.47, is amended by adding a subdivision to
 5.16 read:

5.17 Subd. 7a. Resident district responsibility. (a) Special education aid paid to a resident
 5.18 district must be reduced by the amounts specified in paragraph (b) for the unreimbursed
 5.19 cost of special education and services provided to students.

5.20 (b) The reduction under paragraph (a) equals 80 percent of the unreimbursed costs for
 5.21 fiscal year 2019, 70 percent of the unreimbursed costs for fiscal year 2020, 60 percent of
 5.22 the unreimbursed costs for fiscal year 2021, 50 percent of the unreimbursed costs for fiscal
 5.23 year 2022, and 40 percent of the unreimbursed costs for fiscal year 2023 and later.

5.24 Sec. 5. Minnesota Statutes 2016, section 127A.47, is amended by adding a subdivision to
 5.25 read:

5.26 Subd. 7b. State payment. (a) The state must pay an amount to the charter school, school
 5.27 district, or cooperative providing special instruction and services for the pupil, or to the
 5.28 fiscal agent district for a cooperative as specified in paragraph (b).

5.29 (b) The amount paid under paragraph (a) equals ten percent of the unreimbursed costs
 5.30 for fiscal year 2019, 20 percent of the unreimbursed costs for fiscal year 2020, 30 percent
 5.31 of the unreimbursed costs for fiscal year 2021, 40 percent of the unreimbursed costs for
 5.32 fiscal year 2022 and 50 percent of the unreimbursed costs for fiscal year 2023 and later.

6.1 (c) In addition to the amounts paid by the state under paragraph (b), the state must pay
6.2 to the serving school district, charter school, or cooperative an amount equal to ten percent
6.3 of the unreimbursed costs of special education and services provided to students at an
6.4 intermediate district, cooperative, or charter school where the percent of students eligible
6.5 for special education services is at least 70 percent of the charter school's total enrollment.

6.6 Sec. 6. Minnesota Statutes 2016, section 127A.47, is amended by adding a subdivision to
6.7 read:

6.8 Subd. 7c. **Annual Report.** By January 15 of each year, the commissioner of education
6.9 must report to the legislative committees having jurisdiction over kindergarten through
6.10 grade 12 education on the amount of unreimbursed tuition paid to serving districts during
6.11 the previous year. The annual report must also make recommendations on how to reduce
6.12 the unreimbursed special education costs.