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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2448

03/08/2016 Authored by Davnie, Mullery, Slocum, Youakim and Flanagan

The bill was read for the first time and referred to the Committee on Education Innovation Policy

1.1 A bill for an act
1.2 relating to education finance; creating a state fund to pay for unreimbursed
1.3 special education costs; eliminating tuition bill-backs to the resident school
1.4 district; increasing special education excess cost aid; appropriating money;
1.5 amending Minnesota Statutes 2015 Supplement, sections 125A.11, subdivision
1.6 1; 125A.76, subdivision 1; 125A.79, subdivision 5; 127A.47, subdivision 7;
1.7 Laws 2015, First Special Session chapter 3, article 5, section 30, subdivision 2;
1.8 proposing coding for new law in Minnesota Statutes, chapter 125A.

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

1.10 Section 1. Minnesota Statutes 2015 Supplement, section 125A.11, subdivision 1,
1.11 is amended to read:

1.12 Subdivision 1. **Nonresident tuition rate; other costs.** (a) ~~For fiscal year 2015 and~~
1.13 ~~later,~~ When a school district provides special instruction and services for a pupil with
1.14 a disability as defined in section 125A.02 outside the district of residence, excluding
1.15 a pupil for whom an adjustment to special education aid is calculated according to
1.16 section 127A.47, subdivision 7, paragraphs (b) to (d), special education aid paid to the
1.17 resident district must be reduced by an amount equal to (1) the actual cost of providing
1.18 special instruction and services to the pupil, including a proportionate amount for special
1.19 transportation and unreimbursed building lease and debt service costs for facilities used
1.20 primarily for special education, plus (2) the amount of general education revenue and
1.21 referendum equalization aid attributable to that pupil, calculated using the resident district's
1.22 average general education revenue and referendum equalization aid per adjusted pupil
1.23 unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity
1.24 revenue, minus (3) the amount of special education aid for children with a disability under
1.25 ~~section~~ sections 125A.76 and 125A.81 received on behalf of that child, minus (4) if the
1.26 pupil receives special instruction and services outside the regular classroom for more than

60 percent of the school day, the amount of general education revenue and referendum equalization aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue and the serving district's basic skills revenue, elementary sparsity revenue and secondary sparsity revenue per adjusted pupil unit. Notwithstanding clauses (1) and (4), for pupils served by a cooperative unit without a fiscal agent school district, the general education revenue and referendum equalization aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum equalization aid excluding compensatory revenue, elementary sparsity revenue, and secondary sparsity revenue. Special education aid paid to the district or cooperative providing special instruction and services for the pupil must be increased by the amount of the reduction in the aid paid to the resident district and the amount of payments received under section 125A.81. Amounts paid to cooperatives under this subdivision and section 127A.47, subdivision 7, shall be recognized and reported as revenues and expenditures on the resident school district's books of account under sections 123B.75 and 123B.76. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aid due to the district.

(b) Notwithstanding paragraph (a), when a charter school receiving special education aid under section 124E.21, subdivision 3, provides special instruction and services for a pupil with a disability as defined in section 125A.02, excluding a pupil for whom an adjustment to special education aid is calculated according to section ~~127A.46~~ 127A.47, subdivision 7, paragraphs (b) to (e), special education aid paid to the resident district must be reduced by an amount equal to that calculated under paragraph (a) as if the charter school received aid under section 124E.21, subdivision 1. Notwithstanding paragraph (a), special education aid paid to the charter school providing special instruction and services for the pupil must not be increased by the amount of the reduction in the aid paid to the resident district.

(c) Notwithstanding paragraph (a) and section 127A.47, subdivision 7, paragraphs (b) to (d), a charter school where more than 30 percent of enrolled students receive special education and related services, a site approved under section 125A.515, an intermediate district, a special education cooperative, or a school district that served as the applicant agency for a group of school districts for federal special education aids for fiscal year

2006 may apply to the commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving pupils with a disability. The application must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under this paragraph must be included in the tuition billings or aid adjustments under paragraph (a), or section 127A.47, subdivision 7, paragraphs (b) to (d), as applicable.

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

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2017 and later.

Sec. 2. Minnesota Statutes 2015 Supplement, section 125A.76, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section and section 125A.79, the definitions in this subdivision apply.

(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) "Essential personnel" means teachers, cultural liaisons, related services, and support services staff providing 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 individualized education programs. Essential personnel does not include administrators and supervisors.

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

(e) "Program growth factor" means ~~1.046 for fiscal years 2012 through 2015, 1.0 for fiscal year 2016,~~ 1.046 for fiscal year 2017, and the product of 1.046 and the program growth factor for the previous year for fiscal year 2018 and later.

(f) "Nonfederal special education expenditure" means all direct expenditures that are necessary and essential to meet the district's obligation to provide special instruction and services to children with a disability according to sections 124D.454, 125A.03 to

125A.24, 125A.259 to 125A.48, and 125A.65 as submitted by the district and approved by the department under section 125A.75, subdivision 4, excluding expenditures:

- (1) reimbursed with federal funds;
- (2) reimbursed with other state aids under this chapter;
- (3) for general education costs of serving students with a disability;
- (4) for facilities;
- (5) for pupil transportation; and
- (6) for postemployment benefits.

(g) "Old formula special education expenditures" means expenditures eligible for revenue under Minnesota Statutes 2012, section 125A.76, subdivision 2.

(h) For the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind, expenditures under paragraphs (f) and (g) are limited to the salary and fringe benefits of one-to-one instructional and behavior management aides and one-to-one licensed, certified professionals assigned to a child attending the academy, if the aides or professionals are required by the child's individualized education program.

(i) "Cross subsidy reduction aid percentage" means 1.0 percent for fiscal year 2014 and 2.27 percent for fiscal year 2015.

(j) "Cross subsidy reduction aid limit" means \$20 for fiscal year 2014 and \$48 for fiscal year 2015.

(k) "Special education aid increase limit" means ~~\$80 for fiscal year 2016, \$100~~ \$350 for fiscal year 2017; and, for fiscal year 2018 and later, the sum of the special education aid increase limit for the previous fiscal year and ~~\$40~~ \$100.

(l) "District" means a school district, a charter school, or a cooperative unit as defined in section 123A.24, subdivision 2. Notwithstanding section 123A.26, cooperative units as defined in section 123A.24, subdivision 2, are eligible to receive special education aid under this section and section 125A.79.

EFFECTIVE DATE. This section is effective for aid for fiscal year 2017 and later.

Sec. 3. Minnesota Statutes 2015 Supplement, section 125A.79, subdivision 5, is amended to read:

Subd. 5. **Excess cost aid.** ~~For fiscal year 2016 and later,~~ A district's excess cost aid equals the greater of:

(1) ~~56~~ 63 percent of the difference between (i) the district's unreimbursed nonfederal special education expenditures and (ii) ~~7.0~~ 3.0 percent of the product of the ratio of \$5,831 to the formula allowance for the prior year and the district's general revenue;

(2) ~~62~~ 70 percent of the difference between (i) the district's unreimbursed old formula special education expenditures and (ii) ~~2.5~~ 0.0 percent of the product of the ratio of \$5,831 to the formula allowance for the prior year and the district's general revenue; or (3) zero.

EFFECTIVE DATE. This section is effective for aid for fiscal year 2017 and later.

Sec. 4. **[125A.81] SPECIAL EDUCATION TUITION REIMBURSEMENT ACCOUNT.**

(a) A special education tuition reimbursement account is created in the special revenue fund.

(b) The amounts necessary to reimburse serving school districts under section 127A.47, subdivision 7, for the unreimbursed cost of providing special education and services to nonresident pupils is annually appropriated from the general fund to the special education tuition reimbursement account.

EFFECTIVE DATE. This section is effective July 1, 2016.

Sec. 5. Minnesota Statutes 2015 Supplement, section 127A.47, subdivision 7, is amended to read:

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

(b) For purposes of this subdivision, the "unreimbursed cost of providing special education and services" means the difference between: (1) the actual cost of providing special instruction and services, including special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, for a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid as defined in section 125A.11, subdivision 1, paragraph (d), attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid under section 125A.76

attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit.

(c) For fiscal year ~~2015~~ 2017 and later, special education aid paid to a resident district must be reduced by an amount equal to ~~90~~ ten percent of the unreimbursed cost of providing special education and services and an amount equal to 80 percent of the serving school district's unreimbursed cost of providing special education and services to a nonresident pupil must be assigned to the special education tuition reimbursement account under section 125A.81.

(d) Notwithstanding paragraph (c), special education aid paid to a resident district must not be reduced by any amount of the unreimbursed cost of special education and services for a student attending at an intermediate school district or cooperative, or at a charter school where the percent of students eligible for special education services is at least 70 percent of the charter school's total enrollment. An amount equal to 100 percent of the unreimbursed cost of special education and services provided to students at an intermediate district, or cooperative, or at a charter school where the percent of students eligible for special education services is at least 70 percent of the charter school's total enrollment must be assigned to the special education tuition reimbursement account under section 125A.81.

(e) Notwithstanding paragraph (c), special education aid paid to a resident district must not be reduced under paragraph (d) for students at a charter school receiving special education aid under section 124E.21, subdivision 3, calculated as if the charter school received special education aid under section 124E.21, subdivision 1. Instead, this amount must be assigned to the special education tuition reimbursement account under section 125A.81.

(f) Special education aid paid to the district or cooperative providing special instruction and services for the pupil, or to the fiscal agent district for a cooperative, must be increased by the sum of:

- (1) the amount of the reduction in the aid paid to the resident district; and
- (2) the amount assigned under paragraphs (c) and (d) to the special education tuition reimbursement account under section 125A.81.

If the resident district's special education aid is insufficient to make the full adjustment under ~~paragraphs~~ paragraph (c), ~~(d)~~, and ~~(e)~~, the remaining adjustment shall be made to other state aids due to the district.

(g) Notwithstanding paragraph (a), general education aid paid to the resident district of a nonspecial education student for whom an eligible special education charter school

receives general education aid under section 124E.20, subdivision 1, paragraph (c), must be reduced by an amount equal to the difference between the general education aid attributable to the student under section 124E.20, subdivision 1, paragraph (c), and the general education aid that the student would have generated for the charter school under section 124E.20, subdivision 1, paragraph (a). For purposes of this paragraph, "nonspecial education student" means a student who does not meet the definition of pupil with a disability as defined in section 125A.02 or the definition of a pupil in section 125A.51.

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

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2017 and later.

Sec. 6. Laws 2015, First Special Session chapter 3, article 5, section 30, subdivision 2, is amended to read:

Subd. 2. **Special education; regular.** For special education aid under Minnesota Statutes, section 125A.75:

\$ 1,170,929,000 2016

~~1,229,706,000~~

\$ 2017

The 2016 appropriation includes \$137,932,000 for 2015 and \$1,032,997,000 for 2016.

The 2017 appropriation includes \$145,355,000 for 2016 and ~~\$1,084,351,000~~ \$..... for 2017.