

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 402

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DATE
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D-PG

Introduction and first reading
Referred to E-12 Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
 1.2 relating to education finance; increasing special education funding for school
 1.3 districts; reducing the tuition billbacks to resident school districts; adding local
 1.4 optional revenue and operating referendum revenue to general education revenue
 1.5 for charter schools; amending Minnesota Statutes 2018, sections 124E.20,
 1.6 subdivision 1; 124E.21, subdivision 3; 125A.76, subdivisions 1, 2a, 2c; 125A.79,
 1.7 subdivisions 1, 5; 127A.45, subdivision 13; 127A.47, subdivision 7.

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

1.9 Section 1. Minnesota Statutes 2018, section 124E.20, subdivision 1, is amended to read:

1.10 Subdivision 1. **Revenue calculation.** (a) General education revenue must be paid to a
 1.11 charter school as though it were a district. The general education revenue for each adjusted
 1.12 pupil unit is the state average general education revenue per pupil unit, plus the referendum
 1.13 ~~equalization aid allowance in the pupil's district of residence~~ revenue per pupil unit for the
 1.14 school district within which the charter school is located, minus an amount equal to the
 1.15 product of the formula allowance according to section 126C.10, subdivision 2, times .0466,
 1.16 calculated without declining enrollment revenue, ~~local optional revenue~~, basic skills revenue,
 1.17 extended time revenue, pension adjustment revenue, transition revenue, and transportation
 1.18 sparsity revenue, plus declining enrollment revenue, basic skills revenue, pension adjustment
 1.19 revenue, and transition revenue as though the school were a school district.

1.20 (b) For a charter school operating an extended day, extended week, or summer program,
 1.21 the general education revenue in paragraph (a) is increased by an amount equal to 25 percent
 1.22 of the statewide average extended time revenue per adjusted pupil unit.

1.23 (c) Notwithstanding paragraph (a), the general education revenue for an eligible special
 1.24 education charter school as defined in section 124E.21, subdivision 2, equals the sum of

2.1 the amount determined under paragraph (a) and the school's unreimbursed cost as defined
 2.2 in section 124E.21, subdivision 2, for educating students not eligible for special education
 2.3 services.

2.4 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

2.5 Sec. 2. Minnesota Statutes 2018, section 124E.21, subdivision 3, is amended to read:

2.6 Subd. 3. **Special education aid for eligible special education charter schools.** (a)
 2.7 Notwithstanding subdivision 1, the special education aid for an eligible special education
 2.8 charter school equals the sum of the school's special education aid under subdivision 1,
 2.9 paragraph (a), and the school's approved unreimbursed cost for educating students eligible
 2.10 for special education services.

2.11 (b) The commissioner must review the budget data submitted by an eligible special
 2.12 education charter school under subdivision 2 and notify the school of the approved
 2.13 unreimbursed cost to be used for current aid payments within 30 days of receiving the budget
 2.14 from the school.

2.15 ~~(e) For purposes of section 127A.45, subdivision 13, the aid under this subdivision is~~
 2.16 ~~not subject to the 97.4 percent current fiscal year special education aid entitlement provision.~~

2.17 ~~(d)~~ (c) Final aid payments must be calculated using the actual unreimbursed costs as
 2.18 determined by the department based on year-end financial and student data submitted by
 2.19 the charter school.

2.20 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

2.21 Sec. 3. Minnesota Statutes 2018, section 125A.76, subdivision 1, is amended to read:

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

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

2.27 (c) "Essential personnel" means teachers, cultural liaisons, related services, and support
 2.28 services staff providing services to students. Essential personnel may also include special
 2.29 education paraprofessionals or clericals providing support to teachers and students by
 2.30 preparing paperwork and making arrangements related to special education compliance

3.1 requirements, including parent meetings and individualized education programs. Essential
3.2 personnel does not include administrators and supervisors.

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

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

3.7 (f) "Nonfederal special education expenditure" means all direct expenditures that are
3.8 necessary and essential to meet the district's obligation to provide special instruction and
3.9 services to children with a disability according to sections 124D.454, 125A.03 to 125A.24,
3.10 125A.259 to 125A.48, and 125A.65 as submitted by the district and approved by the
3.11 department under section 125A.75, subdivision 4, excluding expenditures:

3.12 (1) reimbursed with federal funds;

3.13 (2) reimbursed with other state aids under this chapter;

3.14 (3) for general education costs of serving students with a disability;

3.15 (4) for facilities;

3.16 (5) for pupil transportation; and

3.17 (6) for postemployment benefits.

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

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

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

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

4.1 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

4.2 Sec. 4. Minnesota Statutes 2018, section 125A.76, subdivision 2a, is amended to read:

4.3 Subd. 2a. **Special education initial aid.** ~~For fiscal year 2016 and later,~~ A district's special
4.4 education initial aid equals the sum of:

4.5 (1) ~~the least of 62 percent of the district's old formula special education expenditures~~
4.6 ~~for the prior fiscal year, excluding pupil transportation expenditures, 50 percent~~ lesser of
4.7 the district's nonfederal special education expenditures for the prior year, excluding pupil
4.8 transportation expenditures, or ~~56~~ 64 percent of the product of the sum of the following
4.9 amounts, computed using prior fiscal year data, and the program growth factor:

4.10 (i) the product of the district's average daily membership served and the sum of:

4.11 (A) \$450; plus

4.12 (B) \$400 times the ratio of the sum of the number of pupils enrolled on October 1 who
4.13 are eligible to receive free lunch plus one-half of the pupils enrolled on October 1 who are
4.14 eligible to receive reduced-price lunch to the total October 1 enrollment; plus

4.15 (C) .008 times the district's average daily membership served; plus

4.16 (ii) ~~\$10,400~~ \$13,300 times the December 1 child count for the primary disability areas
4.17 of autism spectrum disorders, developmental delay, and severely multiply impaired; plus

4.18 (iii) ~~\$18,000~~ \$19,200 times the December 1 child count for the primary disability areas
4.19 of deaf and hard-of-hearing and emotional or behavioral disorders; plus

4.20 (iv) ~~\$27,000~~ \$25,200 times the December 1 child count for the primary disability areas
4.21 of developmentally cognitive mild-moderate, developmentally cognitive severe-profound,
4.22 physically impaired, visually impaired, and deafblind; plus

4.23 (2) the cost of providing transportation services for children with disabilities under
4.24 section 123B.92, subdivision 1, paragraph (b), clause (4).

4.25 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

4.26 Sec. 5. Minnesota Statutes 2018, section 125A.76, subdivision 2c, is amended to read:

4.27 Subd. 2c. **Special education aid.** (a) ~~For fiscal year 2016 and later,~~ A district's special
4.28 education aid equals the sum of the district's special education initial aid under subdivision
4.29 2a and the district's excess cost aid under section 125A.79, subdivision 5.

5.1 ~~(b) Notwithstanding paragraph (a), for fiscal year 2016, the special education aid for a~~
5.2 ~~school district must not exceed the sum of the special education aid the district would have~~
5.3 ~~received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79,~~
5.4 ~~as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision~~
5.5 ~~7, and the product of the district's average daily membership served and the special education~~
5.6 ~~aid increase limit.~~

5.7 ~~(c) Notwithstanding paragraph (a), for fiscal year 2017 and later, the special education~~
5.8 ~~aid for a school district must not exceed the sum of: (i) the product of the district's average~~
5.9 ~~daily membership served and the special education aid increase limit and (ii) the product~~
5.10 ~~of the sum of the special education aid the district would have received for fiscal year 2016~~
5.11 ~~under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to~~
5.12 ~~Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the~~
5.13 ~~district's average daily membership served for the current fiscal year to the district's average~~
5.14 ~~daily membership served for fiscal year 2016, and the program growth factor.~~

5.15 ~~(d) (b) Notwithstanding paragraph (a), for fiscal year 2016 and later the special education~~
5.16 ~~aid for a school district, not including a charter school or cooperative unit as defined in~~
5.17 ~~section 123A.24, must not be less than the lesser of (1) the district's nonfederal special~~
5.18 ~~education expenditures for that fiscal year or (2) the product of the sum of the special~~
5.19 ~~education aid the district would have received for fiscal year 2016 under Minnesota Statutes~~
5.20 ~~2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012,~~
5.21 ~~sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's adjusted daily~~
5.22 ~~membership for the current fiscal year to the district's average daily membership for fiscal~~
5.23 ~~year 2016, and the program growth factor.~~

5.24 ~~(e) (c) Notwithstanding subdivision 2a and section 125A.79, a charter school in its first~~
5.25 ~~year of operation shall generate special education aid based on current year data. A newly~~
5.26 ~~formed cooperative unit as defined in section 123A.24 may apply to the commissioner for~~
5.27 ~~approval to generate special education aid for its first year of operation based on current~~
5.28 ~~year data, with an offsetting adjustment to the prior year data used to calculate aid for~~
5.29 ~~programs at participating school districts or previous cooperatives that were replaced by~~
5.30 ~~the new cooperative. The department shall establish procedures to adjust the prior year data~~
5.31 ~~and fiscal year 2016 old formula aid used in calculating special education aid to exclude~~
5.32 ~~costs that have been eliminated for districts where programs have closed or where a~~
5.33 ~~substantial portion of the program has been transferred to a cooperative unit.~~

5.34 ~~(f) (d) The department shall establish procedures through the uniform financial accounting~~
5.35 ~~and reporting system to identify and track all revenues generated from third-party billings~~

6.1 as special education revenue at the school district level; include revenue generated from
 6.2 third-party billings as special education revenue in the annual cross-subsidy report; and
 6.3 exclude third-party revenue from calculation of excess cost aid to the districts.

6.4 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

6.5 Sec. 6. Minnesota Statutes 2018, section 125A.79, subdivision 1, is amended to read:

6.6 Subdivision 1. **Definitions.** (a) For the purposes of this section, the definitions in this
 6.7 subdivision apply.

6.8 ~~(a) "Unreimbursed old formula special education expenditures" means:~~

6.9 ~~(1) old formula special education expenditures for the prior fiscal year; minus~~

6.10 ~~(2) for fiscal year 2016 and later, the special education initial aid under section 125A.76,~~
 6.11 ~~subdivision 2a; minus~~

6.12 ~~(3) for fiscal year 2016 and later, the amount of general education revenue, excluding~~
 6.13 ~~local optional revenue, plus local optional aid and referendum equalization aid for the prior~~
 6.14 ~~fiscal year attributable to pupils receiving special instruction and services outside the regular~~
 6.15 ~~classroom for more than 60 percent of the school day for the portion of time the pupils~~
 6.16 ~~receive special instruction and services outside the regular classroom, excluding portions~~
 6.17 ~~attributable to district and school administration, district support services, operations and~~
 6.18 ~~maintenance, capital expenditures, and pupil transportation.~~

6.19 (b) "Unreimbursed nonfederal special education expenditures" means:

6.20 (1) nonfederal special education expenditures for the prior fiscal year; minus

6.21 (2) special education initial aid under section 125A.76, subdivision 2a; minus

6.22 (3) the amount of general education revenue, excluding local optional revenue, plus
 6.23 local optional aid, and referendum equalization aid for the prior fiscal year attributable to
 6.24 pupils receiving special instruction and services outside the regular classroom for more than
 6.25 ~~60~~ 62 percent of the school day for the portion of time the pupils receive special instruction
 6.26 and services outside of the regular classroom, excluding portions attributable to district and
 6.27 school administration, district support services, operations and maintenance, capital
 6.28 expenditures, and pupil transportation.

6.29 (c) "General revenue" for a school district means the sum of the general education
 6.30 revenue according to section 126C.10, subdivision 1, excluding transportation sparsity
 6.31 revenue, local optional revenue, and total operating capital revenue. "General revenue" for
 6.32 a charter school means the sum of the general education revenue according to section

7.1 124E.20, subdivision 1, and transportation revenue according to section 124E.23, excluding
7.2 referendum equalization aid, transportation sparsity revenue, and operating capital revenue.

7.3 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

7.4 Sec. 7. Minnesota Statutes 2018, section 125A.79, subdivision 5, is amended to read:

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

7.7 ~~(1) 56 percent of the difference between (i) (1) the district's unreimbursed~~
7.8 ~~nonfederal special education expenditures and (ii) 7.0 (2) 2.5 percent of the product of the~~
7.9 ~~ratio of \$5,831 to the formula allowance for the prior year and the district's general revenue;~~

7.10 ~~(2) 62 percent of the difference between (i) the district's unreimbursed old formula special~~
7.11 ~~education expenditures and (ii) 2.5 percent of the product of the ratio of \$5,831 to the formula~~
7.12 ~~allowance for the prior year and the district's general revenue; or~~

7.13 ~~(3) zero.~~

7.14 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

7.15 Sec. 8. Minnesota Statutes 2018, section 127A.45, subdivision 13, is amended to read:

7.16 Subd. 13. **Aid payment percentage.** Except as provided in subdivisions 11, 12, 12a,
7.17 and 14, each fiscal year, all education aids and credits in this chapter and chapters 120A,
7.18 120B, 121A, 122A, 123A, 123B, 124D, 124E, 125A, 125B, 126C, 134, and section 273.1392,
7.19 shall be paid at the current year aid payment percentage of the estimated entitlement during
7.20 the fiscal year of the entitlement. ~~For the purposes of this subdivision, a district's estimated~~
7.21 ~~entitlement for special education aid under section 125A.76 for fiscal year 2014 and later~~
7.22 ~~equals 97.4 percent of the district's entitlement for the current fiscal year.~~ The final adjustment
7.23 payment, according to subdivision 9, must be the amount of the actual entitlement, after
7.24 adjustment for actual data, minus the payments made during the fiscal year of the entitlement.

7.25 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.

7.26 Sec. 9. Minnesota Statutes 2018, section 127A.47, subdivision 7, is amended to read:

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

8.1 (b) For purposes of this subdivision, the "unreimbursed cost of providing special
8.2 education and services" means the difference between: (1) the actual cost of providing
8.3 special instruction and services, including special transportation and unreimbursed building
8.4 lease and debt service costs for facilities used primarily for special education, for a pupil
8.5 with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51,
8.6 who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special
8.7 instruction and services outside the regular classroom for more than 60 percent of the school
8.8 day, the amount of general education revenue, excluding local optional revenue, plus local
8.9 optional aid and referendum equalization aid as defined in section 125A.11, subdivision 1,
8.10 paragraph (d), attributable to that pupil for the portion of time the pupil receives special
8.11 instruction and services outside of the regular classroom, excluding portions attributable to
8.12 district and school administration, district support services, operations and maintenance,
8.13 capital expenditures, and pupil transportation, minus (3) special education aid under section
8.14 125A.76 attributable to that pupil, that is received by the district providing special instruction
8.15 and services. For purposes of this paragraph, general education revenue and referendum
8.16 equalization aid attributable to a pupil must be calculated using the serving district's average
8.17 general education revenue and referendum equalization aid per adjusted pupil unit.

8.18 (c) ~~For fiscal year 2015 and later,~~ Special education aid paid to a resident district must
8.19 be reduced by an amount equal to ~~90~~ 50 percent of the unreimbursed cost of providing
8.20 special education and services.

8.21 (d) Notwithstanding paragraph (c), special education aid paid to a resident district must
8.22 be reduced by an amount equal to 100 percent of the unreimbursed cost of special education
8.23 and services provided to students at an intermediate district, cooperative, or charter school
8.24 where the percent of students eligible for special education services is at least 70 percent
8.25 of the charter school's total enrollment.

8.26 (e) Notwithstanding paragraph (c), special education aid paid to a resident district must
8.27 be reduced under paragraph (d) for students at a charter school receiving special education
8.28 aid under section 124E.21, subdivision 3, calculated as if the charter school received special
8.29 education aid under section 124E.21, subdivision 1.

8.30 (f) Special education aid paid to the district or cooperative providing special instruction
8.31 and services for the pupil, or to the fiscal agent district for a cooperative, must be increased
8.32 by the amount of the reduction in the aid paid to the resident district under paragraphs (c)
8.33 and (d). If the resident district's special education aid is insufficient to make the full
8.34 adjustment under paragraphs (c), (d), and (e), the remaining adjustment shall be made to
8.35 other state aids due to the district.

9.1 (g) Notwithstanding paragraph (a), general education aid paid to the resident district of
9.2 a nonspecial education student for whom an eligible special education charter school receives
9.3 general education aid under section 124E.20, subdivision 1, paragraph (c), must be reduced
9.4 by an amount equal to the difference between the general education aid attributable to the
9.5 student under section 124E.20, subdivision 1, paragraph (c), and the general education aid
9.6 that the student would have generated for the charter school under section 124E.20,
9.7 subdivision 1, paragraph (a). For purposes of this paragraph, "nonspecial education student"
9.8 means a student who does not meet the definition of pupil with a disability as defined in
9.9 section 125A.02 or the definition of a pupil in section 125A.51.

9.10 (h) An area learning center operated by a service cooperative, intermediate district,
9.11 education district, or a joint powers cooperative may elect through the action of the
9.12 constituent boards to charge the resident district tuition for pupils rather than to have the
9.13 general education revenue paid to a fiscal agent school district. Except as provided in
9.14 paragraph (f), the district of residence must pay tuition equal to at least 90 and no more than
9.15 100 percent of the district average general education revenue per pupil unit minus an amount
9.16 equal to the product of the formula allowance according to section 126C.10, subdivision 2,
9.17 times .0466, calculated without compensatory revenue, local optional revenue, and
9.18 transportation sparsity revenue, times the number of pupil units for pupils attending the area
9.19 learning center.

9.20 **EFFECTIVE DATE.** This section is effective for fiscal year 2021 and later.