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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1628

02/13/2023 Authored by Jordan, Agbaje, Pérez-Vega and Clardy
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; fully funding pupil transportation services for homeless
1.3 students; modifying special education aid; appropriating money; amending
1.4 Minnesota Statutes 2022, sections 123B.92, subdivision 1; 125A.76, subdivisions
1.5 1, 2a, 2c, 2e.

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

1.7 Section 1. Minnesota Statutes 2022, section 123B.92, subdivision 1, is amended to read:

1.8 Subdivision 1. Definitions. For purposes of this section and section 125A.76, the terms
1.9 defined in this subdivision have the meanings given to them.

1.10 (a) "Actual expenditure per pupil transported in the regular and excess transportation
1.11 categories" means the quotient obtained by dividing:

1.12 (1) the sum of:

1.13 (i) all expenditures for transportation in the regular category, as defined in paragraph

1.14 (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

1.15 (ii) an amount equal to one year's depreciation on the district's school bus fleet and

1.16 mobile units computed on a straight line basis at the rate of 15 percent per year for districts

1.17 operating a program under section 124D.128 for grades 1 to 12 for all students in the district

1.18 and 12-1/2 percent per year for other districts of the cost of the fleet, plus

1.19 (iii) an amount equal to one year's depreciation on the district's type III vehicles, as

1.20 defined in section 169.011, subdivision 71, which must be used a majority of the time for

1.21 pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per

1.22 year of the cost of the type three school buses by:

2.1 (2) the number of pupils eligible for transportation in the regular category, as defined
2.2 in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause
2.3 (2).

2.4 (b) "Transportation category" means a category of transportation service provided to
2.5 pupils as follows:

2.6 (1) Regular transportation is:

2.7 (i) transportation to and from school during the regular school year for resident elementary
2.8 pupils residing one mile or more from the public or nonpublic school they attend, and
2.9 resident secondary pupils residing two miles or more from the public or nonpublic school
2.10 they attend, excluding desegregation transportation and noon kindergarten transportation;
2.11 but with respect to transportation of pupils to and from nonpublic schools, only to the extent
2.12 permitted by sections 123B.84 to 123B.87;

2.13 (ii) transportation of resident pupils to and from language immersion programs;

2.14 (iii) transportation of a pupil who is a custodial parent and that pupil's child between the
2.15 pupil's home and the child care provider and between the provider and the school, if the
2.16 home and provider are within the attendance area of the school;

2.17 (iv) transportation to and from or board and lodging in another district, of resident pupils
2.18 of a district without a secondary school;

2.19 (v) transportation to and from school during the regular school year required under
2.20 subdivision 3 for nonresident elementary pupils when the distance from the attendance area
2.21 border to the public school is one mile or more, and for nonresident secondary pupils when
2.22 the distance from the attendance area border to the public school is two miles or more,
2.23 excluding desegregation transportation and noon kindergarten transportation; and

2.24 (vi) transportation of pregnant or parenting pupils to and from a program that was
2.25 established on or before January 1, 2018, or that is in operation on or after July 1, 2021,
2.26 that provides:

2.27 (A) academic instruction;

2.28 (B) at least four hours per week of parenting instruction; and

2.29 (C) high-quality child care on site during the education day with the capacity to serve
2.30 all children of enrolled pupils.

2.31 For the purposes of this paragraph, a district may designate a licensed day care facility,
2.32 school day care facility, respite care facility, the residence of a relative, or the residence of

3.1 a person or other location chosen by the pupil's parent or guardian, or an after-school program
3.2 for children operated by a political subdivision of the state, as the home of a pupil for part
3.3 or all of the day, if requested by the pupil's parent or guardian, and if that facility, residence,
3.4 or program is within the attendance area of the school the pupil attends.

3.5 (2) Excess transportation is:

3.6 (i) transportation to and from school during the regular school year for resident secondary
3.7 pupils residing at least one mile but less than two miles from the public or nonpublic school
3.8 they attend, and transportation to and from school for resident pupils residing less than one
3.9 mile from school who are transported because of full-service school zones, extraordinary
3.10 traffic, drug, or crime hazards; and

3.11 (ii) transportation to and from school during the regular school year required under
3.12 subdivision 3 for nonresident secondary pupils when the distance from the attendance area
3.13 border to the school is at least one mile but less than two miles from the public school they
3.14 attend, and for nonresident pupils when the distance from the attendance area border to the
3.15 school is less than one mile from the school and who are transported because of full-service
3.16 school zones, extraordinary traffic, drug, or crime hazards.

3.17 (3) Desegregation transportation is transportation within and outside of the district during
3.18 the regular school year of pupils to and from schools located outside their normal attendance
3.19 areas under a plan for desegregation mandated by the commissioner or under court order.

3.20 (4) "Transportation services for pupils with disabilities" is:

3.21 (i) transportation of pupils with disabilities who cannot be transported on a regular school
3.22 bus between home or a respite care facility and school;

3.23 (ii) necessary transportation of pupils with disabilities from home or from school to
3.24 other buildings, including centers such as developmental achievement centers, hospitals,
3.25 and treatment centers where special instruction or services required by sections 125A.03 to
3.26 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district
3.27 where services are provided;

3.28 (iii) necessary transportation for resident pupils with disabilities required by sections
3.29 125A.12, and 125A.26 to 125A.48;

3.30 (iv) board and lodging for pupils with disabilities in a district maintaining special classes;

3.31 (v) transportation from one educational facility to another within the district for resident
3.32 pupils enrolled on a shared-time basis in educational programs, and necessary transportation
3.33 required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities

4.1 who are provided special instruction and services on a shared-time basis or if resident pupils
 4.2 are not transported, the costs of necessary travel between public and private schools or
 4.3 neutral instructional sites by essential personnel employed by the district's program for
 4.4 children with a disability;

4.5 (vi) transportation for resident pupils with disabilities to and from board and lodging
 4.6 facilities when the pupil is boarded and lodged for educational purposes;

4.7 (vii) transportation of pupils for a curricular field trip activity on a school bus equipped
 4.8 with a power lift when the power lift is required by a student's disability or section 504 plan;
 4.9 and

4.10 (viii) services described in clauses (i) to (vii), when provided for pupils with disabilities
 4.11 in conjunction with a summer instructional program that relates to the pupil's individualized
 4.12 education program or in conjunction with a learning year program established under section
 4.13 124D.128.

4.14 For purposes of computing special education ~~initial~~ aid under section 125A.76, the cost
 4.15 of providing transportation for children with disabilities includes (A) the additional cost of
 4.16 transporting a student in a shelter care facility as defined in section 260C.007, subdivision
 4.17 30, a homeless student in another district to the school of origin, or a formerly homeless
 4.18 student from a permanent home in another district to the school of origin but only through
 4.19 the end of the academic year; and (B) depreciation on district-owned school buses purchased
 4.20 after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated
 4.21 according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled
 4.22 transportation category must be excluded in calculating the actual expenditure per pupil
 4.23 transported in the regular and excess transportation categories according to paragraph (a).
 4.24 For purposes of subitem (A), a school district may transport a child who does not have a
 4.25 school of origin to the same school attended by that child's sibling, if the siblings are homeless
 4.26 or in a shelter care facility.

4.27 (5) "Nonpublic nonregular transportation" is:

4.28 (i) transportation from one educational facility to another within the district for resident
 4.29 pupils enrolled on a shared-time basis in educational programs, excluding transportation
 4.30 for nonpublic pupils with disabilities under clause (4);

4.31 (ii) transportation within district boundaries between a nonpublic school and a public
 4.32 school or a neutral site for nonpublic school pupils who are provided pupil support services
 4.33 pursuant to section 123B.44; and

5.1 (iii) late transportation home from school or between schools within a district for
5.2 nonpublic school pupils involved in after-school activities.

5.3 (c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational
5.4 programs and services, including diagnostic testing, guidance and counseling services, and
5.5 health services. A mobile unit located off nonpublic school premises is a neutral site as
5.6 defined in section 123B.41, subdivision 13.

5.7 Sec. 2. Minnesota Statutes 2022, section 125A.76, subdivision 1, is amended to read:

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

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

5.13 (c) "Essential personnel" means teachers, cultural liaisons, related services, and support
5.14 services staff providing services to students. Essential personnel may also include special
5.15 education paraprofessionals or clericals providing support to teachers and students by
5.16 preparing paperwork and making arrangements related to special education compliance
5.17 requirements, including parent meetings and individualized education programs. Essential
5.18 personnel does not include administrators and supervisors.

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

5.20 (e) "Program growth factor" means 1.046 for fiscal year 2017, and the product of 1.046
5.21 and the program growth factor for the previous year for fiscal year 2018 and later.

5.22 (f) "Nonfederal special education expenditure" means all direct expenditures that are
5.23 necessary and essential to meet the district's obligation to provide special instruction and
5.24 services to children with a disability according to sections 124D.454, 125A.03 to 125A.24,
5.25 125A.259 to 125A.48, and 125A.65 as submitted by the district and approved by the
5.26 department under section 125A.75, subdivision 4, excluding expenditures:

5.27 (1) reimbursed with federal funds;

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

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

5.30 (4) for facilities;

5.31 (5) for pupil transportation; and

6.1 (6) for postemployment benefits.

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

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

6.9 ~~(i) "Special education aid increase limit" means \$80 for fiscal year 2016, \$100 for fiscal~~
6.10 ~~year 2017, and, for fiscal years 2018 through 2020, the sum of the special education aid~~
6.11 ~~increase limit for the previous fiscal year and \$40.~~

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

6.16 ~~(k)~~ (j) "Initial special education cross subsidy" means the greater of zero or:

6.17 (1) the nonfederal special education expenditure under paragraph (f); ~~plus~~

6.18 ~~(2) the cost of providing transportation services for pupils with disabilities under section~~
6.19 ~~123B.92, subdivision 1, paragraph (b), clause (4); minus~~

6.20 ~~(3)~~ (2) the special education aid under subdivision 2c and sections 125A.11, subdivision
6.21 1, and 127A.47, subdivision 7; minus

6.22 ~~(4)~~ (3) the amount of general education revenue, excluding local optional revenue, plus
6.23 local optional aid and referendum equalization aid attributable to pupils receiving special
6.24 instruction and services outside the regular classroom for more than 60 percent of the school
6.25 day for the portion of time the pupils receive special instruction and services outside the
6.26 regular classroom, excluding portions attributable to district and school administration,
6.27 district support services, operations and maintenance, capital expenditures, and pupil
6.28 transportation.

6.29 ~~(l)~~ (k) The "minimum aid adjustment multiplier" for fiscal year 2020 equals 1.046. For
6.30 fiscal year 2021 and later, the minimum aid adjustment multiplier equals the greater of 1.02
6.31 or the minimum aid adjustment multiplier for the previous year minus 0.002.

7.1 ~~(m)~~ (l) The "minimum aid adjustment factor" for fiscal year 2020 equals the program
 7.2 growth factor for fiscal year 2020. For fiscal year 2021 and later, the minimum aid adjustment
 7.3 factor equals the product of the minimum aid adjustment factor for the previous fiscal year
 7.4 and the minimum aid adjustment multiplier.

7.5 Sec. 3. Minnesota Statutes 2022, section 125A.76, subdivision 2a, is amended to read:

7.6 Subd. 2a. **Special education initial aid.** ~~For fiscal year 2021 and later,~~ A district's special
 7.7 education initial aid equals the sum of:

7.8 ~~(1)~~ the least of 62 percent of the district's old formula special education expenditures
 7.9 for the prior fiscal year, excluding pupil transportation expenditures, 50 percent of the
 7.10 district's nonfederal special education expenditures for the prior year, excluding pupil
 7.11 transportation expenditures, or 56 percent of the product of the sum of the following amounts,
 7.12 computed using prior fiscal year data, and the program growth factor:

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

7.14 (A) \$460; plus

7.15 (B) \$405 times the ratio of the sum of the number of pupils enrolled on October 1 who
 7.16 are eligible to receive free lunch plus one-half of the pupils enrolled on October 1 who are
 7.17 eligible to receive reduced-price lunch to the total October 1 enrollment; plus

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

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

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

7.23 (iv) \$25,200 times the December 1 child count for the primary disability areas of
 7.24 developmentally cognitive mild-moderate, developmentally cognitive severe-profound,
 7.25 physically impaired, visually impaired, and deafblind; ~~plus.~~

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

7.28 Sec. 4. Minnesota Statutes 2022, section 125A.76, subdivision 2c, is amended to read:

7.29 Subd. 2c. **Special education aid.** (a) ~~For fiscal year 2020 and later,~~ A district's special
 7.30 education aid equals the sum of the district's special education initial aid under subdivision
 7.31 2a; the district's cost of providing transportation services for children with disabilities under

8.1 section 123B.92, subdivision 1, paragraph (b), clause (4); the district's cross subsidy reduction
8.2 aid under subdivision 2e; and the district's excess cost aid under section 125A.79, subdivision
8.3 5.

8.4 ~~(b) Notwithstanding paragraph (a), for fiscal year 2020, the special education aid for a~~
8.5 ~~school district, excluding the cross subsidy reduction aid under subdivision 2e, must not~~
8.6 ~~exceed the greater of:~~

8.7 ~~(i) the sum of 56 percent of the district's nonfederal special education expenditures plus~~
8.8 ~~100 percent of the district's cost of providing transportation services for children with~~
8.9 ~~disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4), plus the~~
8.10 ~~adjustment under sections 125A.11 and 127A.47, subdivision 7; or~~

8.11 ~~(ii) the sum of: (A) the product of the district's average daily membership served and~~
8.12 ~~the special education aid increase limit and (B) the product of the sum of the special education~~
8.13 ~~aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012,~~
8.14 ~~sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections~~
8.15 ~~125A.11 and 127A.47, subdivision 7, the ratio of the district's average daily membership~~
8.16 ~~served for the current fiscal year to the district's average daily membership served for fiscal~~
8.17 ~~year 2016, and the program growth factor.~~

8.18 ~~(e)~~ (b) Notwithstanding paragraph (a), for fiscal year 2020 and later the special education
8.19 aid, excluding the cross subsidy reduction aid under subdivision 2e, for a school district,
8.20 not including a charter school or cooperative unit as defined in section 123A.24, must not
8.21 be less than the lesser of (1) the sum of 90 percent for fiscal year 2020, 85 percent for fiscal
8.22 year 2021, 80 percent for fiscal year 2022, and 75 percent for fiscal year 2023 and later of
8.23 the district's nonfederal special education expenditures plus 100 percent of the district's cost
8.24 of providing transportation services for children with disabilities under section 123B.92,
8.25 subdivision 1, paragraph (b), clause (4), plus the adjustment under sections 125A.11 and
8.26 127A.47, subdivision 7, for that fiscal year or (2) the product of the sum of the special
8.27 education aid the district would have received for fiscal year 2016 under Minnesota Statutes
8.28 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012,
8.29 sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's adjusted daily
8.30 membership for the current fiscal year to the district's average daily membership for fiscal
8.31 year 2016, and the minimum aid adjustment factor.

8.32 (d) Notwithstanding subdivision 2a and section 125A.79, a charter school in its first
8.33 year of operation shall generate special education aid based on current year data. A newly
8.34 formed cooperative unit as defined in section 123A.24 may apply to the commissioner for

9.1 approval to generate special education aid for its first year of operation based on current
 9.2 year data, with an offsetting adjustment to the prior year data used to calculate aid for
 9.3 programs at participating school districts or previous cooperatives that were replaced by
 9.4 the new cooperative. The department shall establish procedures to adjust the prior year data
 9.5 and fiscal year 2016 old formula aid used in calculating special education aid to exclude
 9.6 costs that have been eliminated for districts where programs have closed or where a
 9.7 substantial portion of the program has been transferred to a cooperative unit.

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

9.13 Sec. 5. Minnesota Statutes 2022, section 125A.76, subdivision 2e, is amended to read:

9.14 Subd. 2e. **Cross subsidy reduction aid.** (a) A school district's annual cross subsidy
 9.15 reduction aid equals the school district's initial special education cross subsidy for the
 9.16 previous fiscal year times the cross subsidy aid factor for that fiscal year.

9.17 (b) The cross subsidy aid factor equals ~~2.6 percent for fiscal year 2020 and~~ 6.43 percent
 9.18 for fiscal year 2021 and later.

9.19 Sec. 6. **APPROPRIATION; SPECIAL EDUCATION AID.**

9.20 Subdivision 1. Department of Education. The sums indicated in this section are
 9.21 appropriated from the general fund to the Department of Education in the fiscal years
 9.22 designated.

9.23 Subd. 2. Special education aid. For special education aid under Minnesota Statutes,
 9.24 section 125A.75:

9.25 \$ 2024

9.26 \$ 2025