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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3664

March 15, 2010

Authored by Brown

The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to education finance; replacing Minnesota's K-12 funding system with a
1.3 foundation aid program; amending Minnesota Statutes 2008, sections 126C.05,
1.4 subdivisions 1, 3, 5, 17, by adding subdivisions; 126C.17, subdivisions 1, 2;
1.5 126C.20; proposing coding for new law in Minnesota Statutes, chapter 126C;
1.6 repealing Minnesota Statutes 2008, sections 125A.76, subdivisions 2, 4, 4a, 5, 7,
1.7 8; 125A.78; 125A.79, subdivisions 1, 4, 5, 6, 7, 8; 126C.12, subdivisions 1, 2,
1.8 3, 4, 5, 6; 126C.13, subdivisions 4, 5; 126C.15, subdivisions 1, 3, 5; 126C.16,
1.9 subdivisions 1, 3; 126C.17, subdivision 3; Minnesota Statutes 2009 Supplement,
1.10 sections 125A.76, subdivision 1; 126C.15, subdivisions 2, 4.

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

1.12 Section 1. Minnesota Statutes 2008, section 126C.05, subdivision 1, is amended to read:

1.13 Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the
1.14 age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c),
1.15 in average daily membership enrolled in the district of residence, in another district under
1.16 sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school under
1.17 section 124D.10; or for whom the resident district pays tuition under section 123A.18,
1.18 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04,
1.19 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this
1.20 subdivision.

1.21 (a) A prekindergarten pupil with a disability who is enrolled in a program approved
1.22 by the commissioner and has an individual education plan is counted as the ratio of the
1.23 number of hours of assessment and education service to 825 times 1.25 with a minimum
1.24 average daily membership of 0.28, but not more than 1.25 pupil units.

1.25 (b) A prekindergarten pupil who is assessed but determined not to be disabled is
1.26 counted as the ratio of the number of hours of assessment service to 825 times 1.25.

2.1 (c) A kindergarten pupil with a disability who is enrolled in a program approved
 2.2 by the commissioner is counted as the ratio of the number of hours of assessment and
 2.3 education services required in the fiscal year by the pupil's individual education program
 2.4 plan to 875, but not more than one.

2.5 (d) A kindergarten pupil who is not included in paragraph (c) is counted as ~~1.12~~ 1.0
 2.6 pupil units plus the amounts in paragraphs (f) to (h).

2.7 (e) A pupil who is in any of grades 1 to ~~3~~ 12 is counted as ~~1.15~~ 1.0 pupil units ~~for~~
 2.8 ~~fiscal year 2000 and thereafter~~ plus the additional weighting in paragraph (h).

2.9 (f) ~~A pupil who is any of grades 4 to 6 is counted as 1.06 pupil units for fiscal year~~
 2.10 ~~1995 and thereafter~~ pupil's weight under this subdivision is increased by the amounts for
 2.11 that pupil calculated under subdivisions 3, 17, and 21.

2.12 (g) ~~A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.~~

2.13 ~~(h)~~ A pupil who is in the postsecondary enrollment options program is counted as
 2.14 ~~1.3~~ 1.0 pupil units.

2.15 (h) A pupil's weight is increased by the pupil's special education service weighting
 2.16 and its supplemental service weighting.

2.17 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 2.18 and later.

2.19 Sec. 2. Minnesota Statutes 2008, section 126C.05, subdivision 3, is amended to read:

2.20 Subd. 3. **Compensation revenue pupil units.** ~~Compensation revenue pupil units~~
 2.21 ~~for fiscal year 1998 and thereafter must be computed according to this subdivision.~~

2.22 (a) ~~The compensation revenue concentration percentage for each building in a~~
 2.23 ~~district equals the product of 100 times the ratio of:~~

2.24 ~~(1) the sum of the number of pupils enrolled in the building~~ A pupil eligible
 2.25 ~~to receive free lunch plus one-half of the pupils eligible to receive reduced priced or~~
 2.26 ~~reduced-price lunch on October 1 of the previous fiscal year;~~ to

2.27 ~~(2) the number of pupils enrolled in the building on October 1 of the previous fiscal~~
 2.28 ~~year~~ has a compensation revenue pupil weighting of

2.29 (b) ~~The compensation revenue pupil weighting factor for a building equals the~~
 2.30 ~~lesser of one or the quotient obtained by dividing the building's compensation revenue~~
 2.31 ~~concentration percentage by 80.0.~~

2.32 (c) ~~The compensation revenue pupil units for a building equals the product of:~~

2.33 ~~(1) the sum of the number of pupils enrolled in the building eligible to receive free~~
 2.34 ~~lunch and one-half of the pupils eligible to receive reduced priced lunch on October 1~~
 2.35 ~~of the previous fiscal year; times~~

3.1 ~~(2) the compensation revenue pupil weighting factor for the building, times~~
 3.2 ~~(3) .60.~~

3.3 ~~(d)~~ (b) Notwithstanding ~~paragraphs~~ paragraph (a) to (c), for charter schools and
 3.4 contracted alternative programs in the first year of operation, compensation revenue pupil
 3.5 units shall be computed using data for the current fiscal year. If the charter school or
 3.6 contracted alternative program begins operation after October 1, compensatory revenue
 3.7 pupil units shall be computed based on pupils enrolled on an alternate date determined by
 3.8 the commissioner, and the compensation revenue pupil units shall be prorated based on
 3.9 the ratio of the number of days of student instruction to 170 days.

3.10 ~~(e) The percentages in this subdivision must be based on the count of individual~~
 3.11 ~~pupils and not on a building average or minimum.~~

3.12 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 3.13 and later.

3.14 Sec. 3. Minnesota Statutes 2008, section 126C.05, subdivision 5, is amended to read:

3.15 Subd. 5. **Adjusted pupil units.** ~~(a)~~ Adjusted pupil units for a district or charter
 3.16 school means the sum of:

3.17 (1) the number of pupil units served, according to subdivision 7, plus

3.18 (2) pupil units according to subdivision 1 for whom the district or charter school
 3.19 pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488,
 3.20 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65,
 3.21 minus

3.22 (3) pupil units according to subdivision 1 for whom the district or charter school
 3.23 receives tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488,
 3.24 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65.

3.25 ~~(b) Adjusted marginal cost pupil units means the greater of:~~

3.26 ~~(1) the sum of .77 times the pupil units defined in paragraph (a) for the current school~~
 3.27 ~~year and .23 times the pupil units defined in paragraph (a) for the previous school year; or~~

3.28 ~~(2) the number of adjusted pupil units defined in paragraph (a) for the current school~~
 3.29 ~~year.~~

3.30 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 3.31 and later.

3.32 Sec. 4. Minnesota Statutes 2008, section 126C.05, subdivision 17, is amended to read:

4.1 Subd. 17. **LEP pupil units.** ~~(a) Limited English proficiency pupil units for fiscal~~
 4.2 ~~year 2004 and thereafter shall be determined according to this subdivision.~~

4.3 ~~(b) The limited English proficiency concentration percentage for a district equals the~~
 4.4 ~~product of 100 times the ratio of:~~

4.5 ~~(1) the number of eligible pupils of limited English proficiency in average daily~~
 4.6 ~~membership enrolled in the district during the current fiscal year; to~~

4.7 ~~(2) the number of pupils in average daily membership enrolled in the district.~~

4.8 ~~(c) The limited English proficiency pupil units for each eligible pupil of limited~~
 4.9 ~~English proficiency in average daily membership equals the lesser of one or the quotient~~
 4.10 ~~obtained by dividing the limited English proficiency concentration percentage for the~~
 4.11 ~~pupil's district of enrollment by 11.5:~~

4.12 ~~(d) Limited English proficiency pupil units shall be counted by the district of~~
 4.13 ~~enrollment.~~

4.14 ~~(e) Notwithstanding paragraph (d), for the purposes of this subdivision, pupils~~
 4.15 ~~enrolled in a cooperative or intermediate school district shall be counted by the district of~~
 4.16 ~~residence.~~

4.17 ~~(f) For the purposes of this subdivision, the terms defined in section 124D.59 have~~
 4.18 ~~the same meaning. A limited English proficiency pupil has a pupil weighting of~~

4.19 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 4.20 and later.

4.21 Sec. 5. Minnesota Statutes 2008, section 126C.05, is amended by adding a subdivision
 4.22 to read:

4.23 **Subd. 21. Special education pupil weights.** (a) A pupil who qualifies for special
 4.24 education services under chapter 125A generates additional pupil weights as follows:

4.25 (1) for pupils in the lowest category of service ...;

4.26 (2) for pupils in the middle category of service ...; and

4.27 (3) for pupils in the highest category of service

4.28 (b) The commissioner must review the special education service categories and by
 4.29 February 1 of each odd-numbered year recommend any changes in the categories or
 4.30 weights to the education committees of the legislature.

4.31 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 4.32 and later.

5.1 Sec. 6. Minnesota Statutes 2008, section 126C.05, is amended by adding a subdivision
5.2 to read:

5.3 Subd. 22. **Supplemental services weight.** A district's supplemental services weight
5.4 equals the sum of its compensatory pupil weight and its limited English proficiency
5.5 pupil weight.

5.6 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
5.7 and later.

5.8 Sec. 7. **[126C.105] FOUNDATION AID PROGRAM DEFINITIONS.**

5.9 Subdivision 1. **State total cost per pupil.** The statewide district cost per pupil
5.10 equals the total general fund expenditures of all districts in the previous school year
5.11 divided by the adjusted pupil units for that year.

5.12 Subd. 2. **District total cost per pupil.** Each district's total cost per pupil equals
5.13 the district's total general fund expenditures for the previous year divided by the adjusted
5.14 pupil units for that year.

5.15 Subd. 3. **Maximum district cost per pupil.** A district's maximum district cost per
5.16 pupil equals 105 percent of its total cost per pupil.

5.17 Subd. 4. **Foundation level percent.** The foundation level percentage equals

5.18 Subd. 5. **Allowable growth.** Allowable growth means ... percent per year for
5.19 fiscal years 2015 and later.

5.20 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
5.21 and later.

5.22 Sec. 8. **[126C.106] FOUNDATION AID PROGRAM.**

5.23 Subdivision 1. **Uniform levy.** Each school district's uniform levy equals the
5.24 amount raised by a levy of ... percent times the net tax capacity of the district for the
5.25 year preceding the year the levy is certified.

5.26 Subd. 2. **Foundation aid.** The foundation aid for a district equals the greater of:
5.27 (1) zero; or (2) the difference between (i) the product of the foundation level percentage
5.28 and statewide the state cost per pupil, and (ii) the amount raised by the uniform levy
5.29 in that district.

5.30 Subd. 3. **Additional revenue.** A school district may make an equalized levy for
5.31 the difference between the sum of its uniform levy and foundation aid and its maximum
5.32 district cost per pupil.

6.1 Subd. 4. **Instructional support program revenue.** Upon annual adoption of a
 6.2 written resolution by the school board, a district may make a levy not to exceed ten percent
 6.3 of the district's total cost per pupil for instructional support programs.

6.4 Subd. 5. **Instructional support program levy.** A school district's instructional
 6.5 support program levy equals the district's approved instructional support revenue times the
 6.6 lesser of one, or the ratio of the quotient derived by dividing the district's net tax capacity
 6.7 for the year preceding the year the levy is certified by the district's adjusted pupil units for
 6.8 the school year to which the levy is attributable to \$10,000.

6.9 Subd. 6. **Instructional support program aid.** A district's instructional support
 6.10 program aid is equal to the difference between its instructional support revenue and its
 6.11 instructional support levy.

6.12 Subd. 7. **Special education weights.** The commissioner of education must meet
 6.13 with school district special education officials, advocates for special education services,
 6.14 and parents of disabled students to categorize the special instructional services and
 6.15 determine the student weights for each category. The commissioner must report the initial
 6.16 categories and student weights to the education committees of the legislature by February
 6.17 1, 2012. The categories and pupil weights become effective unless the legislature acts to
 6.18 enact different weights or categories within 60 days of the commissioner's report.

6.19 Subd. 8. **Supplemental services weights.** The commissioner of education, after
 6.20 consultation with school officials and other interested parties, must establish the pupil
 6.21 weights for compensatory services, limited English proficiency services, and other
 6.22 services as determined by the commissioner.

6.23 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 6.24 and later.

6.25 Sec. 9. Minnesota Statutes 2008, section 126C.17, subdivision 1, is amended to read:

6.26 Subdivision 1. **Referendum allowance.** (a) A district that does not have
 6.27 instructional support levy approved by its board of directors under section 126C.106
 6.28 may request revenue under this section. For fiscal year ~~2003~~ 2014 and later, a district's
 6.29 initial referendum revenue allowance equals the ~~sum of the allowance under section~~
 6.30 ~~126C.16, subdivision 2, plus any additional allowance per resident marginal cost pupil~~
 6.31 ~~unit authorized under subdivision 9 before May 1, 2001, for fiscal year 2002 and later,~~
 6.32 ~~plus the referendum conversion allowance approved under subdivision 13, minus \$415.~~
 6.33 ~~For districts with more than one referendum authority, the reduction must be computed~~
 6.34 ~~separately for each authority allowance for the preceding year. The reduction must be~~
 6.35 ~~applied first to the referendum conversion allowance and next to the authority with the~~

7.1 ~~earliest expiration date. A district's initial referendum revenue allowance may not be~~
 7.2 ~~less than zero.~~

7.3 ~~(b) For fiscal year 2003, a district's referendum revenue allowance equals the initial~~
 7.4 ~~referendum allowance plus any additional allowance per resident marginal cost pupil unit~~
 7.5 ~~authorized under subdivision 9 between April 30, 2001, and December 30, 2001, for~~
 7.6 ~~fiscal year 2003 and later. A district's referendum allowance is reduced by the amounts of~~
 7.7 ~~any expiring referenda authority.~~

7.8 ~~(c) For fiscal year 2004 and later, a district's referendum revenue allowance equals~~
 7.9 ~~the sum of:~~

7.10 ~~(1) the product of (i) the ratio of the resident marginal cost pupil units the district~~
 7.11 ~~would have counted for fiscal year 2004 under Minnesota Statutes 2002, section 126C.05,~~
 7.12 ~~to the district's resident marginal cost pupil units for fiscal year 2004, times (ii) the initial~~
 7.13 ~~referendum allowance plus any additional allowance per resident marginal cost pupil unit~~
 7.14 ~~authorized under subdivision 9 between April 30, 2001, and May 30, 2003, for fiscal~~
 7.15 ~~year 2003 and later, plus~~

7.16 ~~(2) any additional allowance per resident marginal cost pupil unit authorized under~~
 7.17 ~~subdivision 9 after May 30, 2003, for fiscal year 2005 and later.~~

7.18 ~~EFFECTIVE DATE. This section is effective for revenue for fiscal year 2014~~
 7.19 ~~and later.~~

7.20 Sec. 10. Minnesota Statutes 2008, section 126C.17, subdivision 2, is amended to read:

7.21 Subd. 2. **Referendum allowance limit.** (a) Notwithstanding subdivision 1, for fiscal
 7.22 year ~~2007~~ 2014 and later, a district's referendum allowance must not exceed the greater of:

7.23 ~~(1) the sum of: (i) a district's referendum allowance for fiscal year 1994 times~~
 7.24 ~~1.177 times the annual inflationary increase as calculated under paragraph (b) plus (ii)~~
 7.25 ~~its referendum conversion allowance for fiscal year 2003, minus (iii) \$215 the district's~~
 7.26 ~~unexpired authority under subdivision 1; or~~

7.27 ~~(2) the greater of (i) 26 percent of the formula allowance or (ii) \$1,294 times the~~
 7.28 ~~annual inflationary increase as calculated under paragraph (b); or~~

7.29 ~~(3) for a newly reorganized district created after July 1, 2006, the referendum~~
 7.30 ~~revenue authority for each reorganizing district in the year preceding reorganization~~
 7.31 ~~divided by its resident marginal cost pupil units for the year preceding reorganization ten~~
 7.32 ~~percent of the district's total cost per pupil for instructional programs.~~

7.33 ~~(b) For purposes of this subdivision, for fiscal year 2005 and later, "inflationary~~
 7.34 ~~increase" means one plus the percentage change in the Consumer Price Index for urban~~
 7.35 ~~consumers, as prepared by the United States Bureau of Labor Standards, for the current~~

8.1 ~~fiscal year to fiscal year 2004. For fiscal years 2009 and later, for purposes of paragraph~~
 8.2 ~~(a), clause (1), the inflationary increase equals the inflationary increase for fiscal year~~
 8.3 ~~2008 plus one-fourth of the percentage increase in the formula allowance for that year~~
 8.4 ~~compared with the formula allowance for fiscal year 2008.~~

8.5 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 8.6 and later.

8.7 Sec. 11. Minnesota Statutes 2008, section 126C.20, is amended to read:

8.8 **126C.20 ANNUAL ~~GENERAL EDUCATION~~ FOUNDATION AID**
 8.9 **APPROPRIATION.**

8.10 There is annually appropriated from the general fund to the department the amount
 8.11 necessary for ~~general education~~ the aid required under this chapter for the foundation
 8.12 aid program. This amount must be reduced by the amount of any money specifically
 8.13 appropriated for the same purpose in any year from any state fund.

8.14 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 8.15 and later.

8.16 Sec. 12. **SPECIAL EDUCATION MAINTENANCE OF EFFORT.**

8.17 Notwithstanding any law to the contrary, a school district or charter school's special
 8.18 education maintenance of effort requirements are not affected by the change from a cost
 8.19 reimbursement funding system to a pupil weighting system of funding special education
 8.20 services.

8.21 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 8.22 and later.

8.23 Sec. 13. **REVISOR'S INSTRUCTION.**

8.24 The revisor of statutes shall change all references from the general education revenue
 8.25 program to the foundation aid program.

8.26 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
 8.27 and later.

8.28 Sec. 14. **REPEALER.**

8.29 (a) Minnesota Statutes 2008, sections 125A.76, subdivisions 2, 4, 4a, 5, 7, and 8;
 8.30 125A.78; 125A.79, subdivisions 1, 4, 5, 6, 7, and 8; 126C.12, subdivisions 1, 2, 3, 4,

9.1 5, and 6; 126C.13, subdivisions 4 and 5; 126C.15, subdivisions 1, 3, and 5; 126C.16,
9.2 subdivisions 1 and 3; and 126C.17, subdivision 3, are repealed.

9.3 (b) Minnesota Statutes 2009 Supplement, sections 125A.76, subdivision 1; and
9.4 126C.15, subdivisions 2 and 4, are repealed.

9.5 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2014
9.6 and later.

125A.76 SPECIAL EDUCATION REVENUE.

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

(a) "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.

(b) "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 individual education plans. Essential personnel does not include administrators and supervisors.

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

(d) "Program growth factor" means 1.046 for fiscal year 2012 and later.

Subd. 2. **Special education initial aid.** The special education initial aid equals the sum of the following amounts computed using 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 one to one instructional and behavior management aide assigned to a child attending the academy, if the aides are 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 general education revenue, excluding basic skills revenue and alternative teacher compensation revenue, and referendum equalization aid attributable to a pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit for the fraction of the school day the pupil receives services under the contract. This includes children who are residents of the state, receive services under this subdivision and subdivision 1, 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 as provided for in section 125A.79, subdivision 8;

(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;

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

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

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.

Subd. 4. **State total special education aid.** The state total special education aid equals \$529,247,000 for fiscal year 2007, \$694,063,000 for fiscal year 2008, \$719,470,000 for fiscal year 2009, \$735,693,000 for fiscal year 2010, and \$786,586,000 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

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(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.

Subd. 4a. **Adjustments for tuition reciprocity with adjoining states.** (a) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires a special education tuition payment from the state of Minnesota to the adjoining state, the tuition payment shall be made from the special education aid appropriation for that year, and the state total special education aid under subdivision 4 shall be reduced by the amount of the payment.

(b) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires a special education tuition payment from an adjoining state to the state of Minnesota, the special education aid appropriation for that year and the state total special education aid under subdivision 4 shall be increased by the amount of the payment.

(c) If an agreement is reached between the state of Minnesota and an adjoining state pursuant to section 124D.041 that requires special education tuition payments to be made between the two states and not between districts in the two states, the special education aid for a Minnesota school district serving a student with a disability from the adjoining state shall be calculated according to section 127A.47, subdivision 7, except that no reduction shall be made in the special education aid paid to the resident district.

Subd. 5. **School district special education aid.** A school district's special education aid for fiscal year 2008 and later equals the state total special education aid times the ratio of the district's initial special education aid to the state total initial special education aid.

Subd. 7. **Revenue allocation from cooperative centers and intermediates.** For the purposes of this section, a special education cooperative, a service cooperative, an education district, or an intermediate district must allocate its approved expenditures for special education programs among participating school districts.

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.

(d) If the amount of special education aid is adjusted in accordance with this subdivision, the commissioner of education shall notify the chairs of the legislative committees having jurisdiction over kindergarten through grade 12 education regarding the amount of the adjustment and provide an explanation of the federal maintenance of effort requirements.

125A.78 ALTERNATIVE DELIVERY INITIAL AID ADJUSTMENT.

Subdivision 1. **Eligibility.** A district is eligible for an alternative delivery initial aid adjustment if the commissioner has approved the application of the district according to section 125A.50.

Subd. 2. **Initial aid adjustment.** For the fiscal year after approval of a district's application, and thereafter, the special education initial aid under section 125A.76, subdivision 1, must be computed based on activities defined as reimbursable under Department of Education rules for special education and nonspecial education students, and additional activities as detailed and approved by the commissioner.

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Subd. 3. **Use of revenue.** Revenue under section 125A.76 shall be used to implement the approved program.

125A.79 SPECIAL EDUCATION EXCESS COST AID.

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

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, equipment, and transportation services under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, plus the total qualifying referendum revenue specified in paragraph (e) minus transportation sparsity revenue minus total operating capital revenue.

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

(d) "Program growth factor" means 1.02 for fiscal year 2012 and later.

(e) "Total qualifying referendum revenue" means two-thirds of the district's total referendum revenue as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c), for fiscal year 2006, one-third of the district's total referendum revenue for fiscal year 2007, and none of the district's total referendum revenue for fiscal year 2008 and later.

Subd. 4. **Tuition.** Notwithstanding sections 125A.03 to 125A.24 and 125A.65, for children who are nonresidents of Minnesota, receive services under section 125A.76, subdivisions 1 and 2, and are placed in the serving school district by court action, the serving school district shall submit unreimbursed tuition bills for eligible services to the Department of Education instead of the resident school district. To be eligible for reimbursement, the serving school district, as part of its child intake procedures, must demonstrate good faith effort to obtain from the placing agency a financial commitment to pay tuition costs.

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

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

(2) zero.

Subd. 6. **State total special education excess cost aid.** The state total special education excess cost aid equals \$104,700,000 for fiscal year 2007, \$110,641,000 for fiscal year 2008, \$110,918,000 for fiscal year 2009, \$110,847,000 for fiscal year 2010, and \$110,892,000 for fiscal year 2011. The state total special education excess cost aid for 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.

Subd. 7. **District special education excess cost aid.** A district's special education excess cost aid for fiscal year 2002 and later equals the state total special education excess cost aid times the ratio of the district's initial excess cost aid to the state total initial excess cost aid.

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 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 contracted services initial revenue attributable to the pupil.

126C.12 LEARNING AND DEVELOPMENT REVENUE AMOUNT AND USE.

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Subdivision 1. **Revenue.** Of a district's general education revenue for fiscal year 2000 and thereafter each school district shall reserve an amount equal to the formula allowance multiplied by the following calculation:

(1) the sum of adjusted marginal cost pupils in average daily membership, according to section 126C.05, subdivision 5, in kindergarten times .057; plus

(2) the sum of adjusted marginal cost pupils in average daily membership, according to section 126C.05, subdivision 5, in grades 1 to 3 times .115; plus

(3) the sum of adjusted marginal cost pupils in average daily membership, according to section 126C.05, subdivision 5, in grades 4 to 6 times .06.

Subd. 2. **Definitions.** (a) "Classroom teacher" means a public employee licensed by the board of teaching who is authorized to teach all subjects to children in any grade in kindergarten through grade 6 and whose duties are full-time regular classroom instruction, excluding a teacher for whom federal aids are received or for whom categorical aids are received under section 125A.76 or who is an itinerant teacher or provides instruction outside of the regular classroom. Except as provided in section 122A.68, subdivision 6, classroom teacher does not include supervisory and support personnel defined in section 122A.15. A classroom teacher whose duties are less than full-time instruction must be included as an equivalent only for the number of hours of instruction in kindergarten through grade 3.

(b) "Class size" means the districtwide ratio at each grade level of the number of full-time students in kindergarten through grade 3 served at least 40 percent of the time in regular classrooms to the number of full-time classroom teachers in kindergarten through grade 3, determined as of October 1 of each school year.

Subd. 3. **Instruction contact time.** Instruction may be provided by a classroom teacher or by a team of classroom teachers, or by a teacher resident supervised by a classroom teacher. The district must maximize classroom teacher to learner average instructional contact time in the core subjects of reading and mathematics.

Subd. 4. **Revenue use.** (a) Revenue must be used to reduce and maintain the district's average class size in kindergarten through grade 3 to a level of 17 to 1 on average in each of the respective grades.

(b) A district must not increase the districtwide class sizes in other grades as a result of reducing class sizes in kindergarten through grade 3. Revenue may not be used to provide instructor preparation. A district may use a portion of the revenue reserved under this section to employ up to the same number of full-time equivalent education assistants or aides as the district employed during the 1992-1993 school year under Minnesota Statutes 1992, section 124.331, subdivision 2, through fiscal year 2002. Beginning in fiscal year 2003, class size reduction revenue may only be reserved to employ classroom teachers contributing to lower class sizes in kindergarten through grade 3.

Subd. 5. **Additional revenue use.** If the board of a district determines that the district has achieved and is maintaining the class sizes specified in subdivision 4, the board may use the revenue to reduce class size in grades 4, 5, and 6, provide all-day, everyday kindergarten, prepare and use individualized learning plans, improve program offerings, purchase instructional material, services, or technology, or provide staff development needed for reduced class sizes.

Subd. 6. **Annual report.** By December 1 of each year, districts receiving revenue under subdivision 1 shall make available to the public a report on the amount of revenue the district has received and the use of the revenue. This report shall be in the form and manner determined by the commissioner and shall include the district average class sizes in kindergarten through grade 6 as of October 1 of the current school year and the class sizes for each site serving kindergarten through grade 6 students in the district. A copy of the report shall be filed with the commissioner by December 15.

126C.13 GENERAL EDUCATION LEVY AND AID.

Subd. 4. **General education aid.** For fiscal years 2007 and later, a district's general education aid is the sum of the following amounts:

(1) general education revenue, excluding equity revenue, total operating capital revenue, alternative teacher compensation revenue, and transition revenue;

(2) operating capital aid under section 126C.10, subdivision 13b;

(3) equity aid under section 126C.10, subdivision 30;

(4) alternative teacher compensation aid under section 126C.10, subdivision 36;

(5) transition aid under section 126C.10, subdivision 33;

(6) shared time aid under section 126C.01, subdivision 7;

(7) referendum aid under section 126C.17, subdivisions 7 and 7a; and

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(8) online learning aid according to section 124D.096.

Subd. 5. **Uses of revenue.** Except as provided in sections 126C.10, subdivision 14; 126C.12; and 126C.15, general education revenue may be used during the regular school year and the summer for general and special school purposes.

126C.15 BASIC SKILLS REVENUE; COMPENSATORY EDUCATION REVENUE.

Subdivision 1. **Use of revenue.** The basic skills revenue under section 126C.10, subdivision 4, must be reserved and used to meet the educational needs of pupils who enroll under-prepared to learn and whose progress toward meeting state or local content or performance standards is below the level that is appropriate for learners of their age. Any of the following may be provided to meet these learners' needs:

(1) direct instructional services under the assurance of mastery program according to section 124D.66;

(2) remedial instruction in reading, language arts, mathematics, other content areas, or study skills to improve the achievement level of these learners;

(3) additional teachers and teacher aides to provide more individualized instruction to these learners through individual tutoring, lower instructor-to-learner ratios, or team teaching;

(4) a longer school day or week during the regular school year or through a summer program that may be offered directly by the site or under a performance-based contract with a community-based organization;

(5) comprehensive and ongoing staff development consistent with district and site plans according to section 122A.60, for teachers, teacher aides, principals, and other personnel to improve their ability to identify the needs of these learners and provide appropriate remediation, intervention, accommodations, or modifications;

(6) instructional materials and technology appropriate for meeting the individual needs of these learners;

(7) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, and provide counseling services, guidance services, and social work services;

(8) bilingual programs, bicultural programs, and programs for learners of limited English proficiency;

(9) all day kindergarten;

(10) extended school day and extended school year programs; and

(11) substantial parent involvement in developing and implementing remedial education or intervention plans for a learner, including learning contracts between the school, the learner, and the parent that establish achievement goals and responsibilities of the learner and the learner's parent or guardian.

Subd. 2. **Building allocation.** (a) A district must allocate its compensatory revenue to each school building in the district where the children who have generated the revenue are served unless the school district has received permission under Laws 2005, First Special Session chapter 5, article 1, section 50, to allocate compensatory revenue according to student performance measures developed by the school board.

(b) Notwithstanding paragraph (a), a district may allocate up to five percent of the amount of compensatory revenue that the district receives to school sites according to a plan adopted by the school board. The money reallocated under this paragraph must be spent for the purposes listed in subdivision 1, but may be spent on students in any grade, including students attending school readiness or other prekindergarten programs.

(c) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

(d) Notwithstanding section 123A.26, subdivision 1, compensatory revenue generated by students served at a cooperative unit shall be paid to the cooperative unit.

(e) A district with school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics between the prior year and the current year may reallocate compensatory revenue among sites to reflect these changes. A district must report to the department any adjustments it makes according to this paragraph and the department must use the adjusted compensatory revenue allocations in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

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Subd. 3. **Recommendation.** A school site decision-making team, as defined in section 123B.04, subdivision 2, paragraph (a), or the instruction and curriculum advisory committee under section 120B.11, if the school has no school site decision team, shall recommend how the compensatory education revenue will be used to carry out the purpose of this section. A school district that has received permission under Laws 2005, First Special Session chapter 5, article 1, section 50, to allocate compensatory revenue according to school performance measures shall share its plan for the distribution of compensatory revenue with the school site decision team.

Subd. 4. **Separate accounts.** Each district and cooperative unit that receives basic skills revenue shall maintain separate accounts to identify expenditures for salaries and programs related to basic skills revenue.

Subd. 5. **Annual expenditure report.** Each year a district that receives basic skills revenue must submit a report identifying the expenditures it incurred to meet the needs of eligible learners under subdivision 1. The report must conform to uniform financial and reporting standards established for this purpose. Using valid and reliable data and measurement criteria, the report also must determine whether increased expenditures raised student achievement levels.

126C.16 REFERENDUM AND DESEGREGATION REVENUE CONVERSION.

Subdivision 1. **Revenue conversion.** Except as provided under subdivision 3, the referendum authority under section 126C.17 of a district must be converted by the department according to this section.

Subd. 3. **Per pupil revenue conversion.** (a) The department must convert each district's referendum revenue authority for fiscal year 2002 and later years to an allowance per pupil unit as follows: the revenue allowance equals the amount determined by dividing the district's maximum revenue under section 126C.17, for fiscal year 2001 by the district's 2000-2001 resident marginal cost pupil units. A district's maximum revenue for all later years for which the revenue is authorized equals the revenue allowance times the district's resident marginal cost pupil units for that year.

(b) The referendum allowance reduction must be applied first to the authority with the earliest expiration date.

126C.17 REFERENDUM REVENUE.

Subd. 3. **Sparsity exception.** A district that qualifies for sparsity revenue under section 126C.10 is not subject to a referendum allowance limit.