

SF3656 - 0 - Scholarship Program; Students with a Disability

Chief Author: **Zach Duckworth**
 Committee: **Education Finance And Policy**
 Date Completed: **3/11/2022 4:32:29 PM**
 Lead Agency: **Education Department**
 Other Agencies:
 Court of Appeals

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Education Department						
General Fund	-	-	4,392	34,504	49,866	
State Total						
General Fund	-	-	4,392	34,504	49,866	
Total	-	-	4,392	34,504	49,866	
Biennial Total			4,392			84,370

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Education Department					
General Fund	-	-	4	8	8
Total	-	-	4	8	8

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 3/11/2022 4:32:29 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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Biennial Total				4,392		84,370
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Education Department						
General Fund		-	-	4,392	34,504	49,866
Total		-	-	4,392	34,504	49,866
Biennial Total				4,392		84,370
2 - Revenues, Transfers In*						
Education Department						
General Fund		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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Total		-	-	4,392	34,504	49,866
Biennial Total				4,392		84,370
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

Beginning with the 2023-24 school year, this bill establishes the Scholarship Program for Students with a Disability (SPSD) Act. Eligible students must reside in Minnesota, have an individualized education plan (IEP) and have attended a public school or public charter school during the semester preceding participation in the program.

Subd.1 establishes the title for the program, Scholarship Program for Students with a Disability Act

Subd. 2 provides various definitions including eligible service providers, eligible schools and eligible students.

Subd. 3 outlines parent/guardian rights and obligations:

Sign an agreement stating s/he will place the student in a program that meets the needs of the IEP under 125A.08 and that qualified teachers will continue to provide services

It requires the previous public school to agree to the student’s placement at the eligible school

Not enroll their student in a public school or charter school;

Subd. 4 states that general education aid to the school district losing the student is equal to 50% of the statewide average general education aid per adjusted pupil unit.

Subd. 5 special education aid to the school district losing the student to equal the amount to the average cost by disability category referenced in the most recent special education statewide average report. The district must then transfer these funds to an eligible school.

Subd. 6 outlines state administrative responsibilities, including:

- MDE required to create a standard application form that is posted to the agency’s website;
- MDE required to annually notify all students who are eligible to participate of the existence of the program and ensure lower-income families are made aware of their potential eligibility;
- MDE must make eligibility determinations within 21 business days of receiving an application;

Subd.7 further identifies responsibilities of the commissioner. The commissioner must adopt rules and policies necessary to administer the program;

Subd.8 establishes that state agencies including MDE may not regulate the educational programs of a nonpublic school or an educational service provider that accepts SPSP funds. Establishes that no eligible school or service provider may be compelled to alter its creed, practices admission policies or curriculum in order to accept participating students.

Subd. 9 addresses appeals. The student's previous public school district must approve the student to participate under subdivision 3a. If the district does not approve they must provide reasonable explanation to the commissioner. The family may then appeal the decision. The commissioner's decision is final.

Subd. 10 addresses severability. If any provision(s) in the law are found to be unconstitutional or void, the remaining provisions remain valid.

Assumptions

Technical note: New guidance from the Federal Office of Special Education Programs (OSEP) from March 9, 2022, will require a change to Subd 3 (3) of the bill, indicating that a child in this program would still be entitled to equitable services under the various Code of Federal Regulations (CFR) sections, but would be excluded from additional state requirements of FAPE under 125A.03.

Florida and Georgia have scholarship programs similar to what Minnesota is proposing, limited to special education students. The average first and second year participation in Florida and Georgia was 0.09% and 0.16% respectively. Currently Georgia's participation rate is 0.29%. This is about 16 years into their program. Georgia requires students to have been reported as attending a public school the year before and been served over their statewide October and March counts.

It is assumed that 0.20 percent of Minnesota public school enrollment would participate and that participation would grow by 0.05 percent in each year thereafter. For FY2024, the first year of the program, this equates to 1,739 special education students. It is also assumed that nonpublic students temporarily enrolled in public schools for one semester for purposes of scholarship eligibility will receive a SPSP scholarship in the subsequent year. This equates to about 365 additional SPSP scholarship students for FY2024. In total, it is estimated that 2,104 SPSP scholarships will be awarded in the FY2024. (See expenditures table for further detail about these assumptions).

MDE assumes that current language under Sec 1, Subd 2 (f) means that current shared time students would not qualify as currently attending a public school or charter.

In absence of a clear definition of the time span intended for public school attendance prior to scholarship eligibility (lines 2.1 to 2.3), it is assumed that a nonpublic school student must transfer to and attend a public school for the full preceding semester or semester equivalent, e.g., 0.50 average daily membership (ADM).

MDE assumes students can only start this program at the beginning of a new school year.

MDE assumes that the nonpublic schools accepting SPSP participants are responsible to notify MDE when a student withdraws or otherwise is dropped from the rolls.

Special Education Impacts to the State:

This program would not be cost neutral for state special education funding. Just because a special education student leaves a public school doesn't mean their share of the special ed costs (and state aid generated) is automatically reduced. To illustrate, say a district with 5,000 kids has 100 SPED students leave. These SPED students are presumably served at upwards of 10 different school sites within the district. The economies of scale do not allow for the impact to be centralized because they don't know where each of the kids will come from. Special education teachers have an average of 15-20 students on their case load. Losing one student would not provide a direct line to savings as the other students on a teacher's case load would still need to be served. The only time there could be an appreciable savings to a district (and state special education aid savings) is if a student with a 1:1 paraprofessional were to leave with a scholarship. Since we do not know how many students, if any, at this high support level would leave, the scale of the savings is not quantifiable at a statewide level.

Furthermore Subd 5 states that districts/charters are to receive state special education aid equal to the most recent statewide average report. The table in the expenditures section shows the average cost by funding level for fiscal year 2021.

Subd 5 (b) goes on to state that the district will receive the funds and must transfer them to the eligible nonpublic school.

Assumptions:

- Districts where the nonpublic is located would continue to be responsible for child find, which is early childhood screening
- The district/IEP teams get to determine where IEP services are provided (whether at the nonpublic, a separate site or back at the local district)
- Not all families accept IEP services now and so this would continue if not increase for families choosing to send their student to a nonpublic SpEd school
- Districts will only have to send funds to cover a participating student's cost. They would not have to cover any shortfalls nor would have to return unused funds.
- There were 2,639 shared-time students reported in SFY 20 and for SFY 21 they reported 2,860.
- Shared-time would continue to not count towards being enrolled in a public school

In absence of information about how many students from each category would pursue a SPSD scholarship, the expenditures section assumes the statewide average special education amount for each scholarship (\$20,056 for FY2021).

MNIT @ MDE Costs

MDE will need to coordinate with MNIT on many IT needs including a new online application system, application integration with MDE data systems, which could include IDEAS, MDE-ORG, Student ID System and MARSS; and capacity to audit accounts to detect fraud and remove education service providers that are out of compliance with SPSD provisions. MNIT will need a temporary project team of 3.9 FTE for one year to carry out the programming requirements of this bill. At a blended rate of \$110 per hour, this equals \$893,000 for FY 2023, then technical support percentages of 20 percent in FY2024 (\$179,000) and 10 percent in FY2025 (\$90,000).

MDE Administration of SPSD Scholarships

1. All information and forms will be made available on the department's website. At this time, MDE has no means of annually notifying all eligible students of the program since MDE does not have student home addresses. MDE would need to work with the local school districts to provide student names for those districts to notify about eligibility.

2. MDE will require 8 additional FTEs to implement, monitor and support the SPSD program. This is based on staffing increase for other states' implementations.

§ 2 FTE Education Finance Specialist I's will be required to review, determine eligibility and approve all applications. They will also handle telephone and online questions about eligibility of both students and nonpublic schools.

§ 2 FTE Education Finance Specialist II, for data analytics, modeling and reporting and to work as an online and phone fraud investigations and to provide funding based on approved applications and information from the auditors.

§ 1 FTE Office & Administrative Specialist to provide general administrative support to the SPSD team.

§ 1 FTE Program Supervisor to oversee program SPSD administration.

§ 2 FTE Auditor Principals for sign off on nonpublic programs to verify that they are able to meet the student's needs. They would also be responsible for conducting routine checks of all accounts to prevent fraud. Additional staffing would be required as participation rates increase.

Expenditure and/or Revenue Formula

Disability	Program	Funding Level	2021 Average Cost
401	Speech/Language Impaired	1	9,839
402	Developmental Cognitive Disabilities: Mild-Moderate	4	31,814
403	Developmental Cognitive Disabilities: Severe-Profound	4	31,814
404	Physically Impaired	4	31,814
405	Deaf/Hard-of-Hearing	3	22,481
406	Visually Impaired	4	31,814
407	Specific Learning Disability	1	9,839
408	Emotional/Behavioral Disorder	3	22,481
409	Deaf-Blind	4	31,814
410	Other Health Disabilities	1	9,839
411	Autistic Spectrum Disorders	2	16,093
412	Developmentally Delayed	2	16,093
414	Traumatic Brain Injury	1	9,839
416	Severely Multiply Impaired	2	16,093

	SF3656 SPSD Participation	FY23	FY24	FY25
2	Feb 2022 Forecast Adjusted ADM Statewide	873,423	869,349	863,738
3	Participation Rates (as % of public school enrollment)		0.20%	0.25%
4	Number of SPSD Scholarships awarded (line 2*line 3)		1,739	2,159
5	New/Additional Scholarships per year			421
6				
7	Nonpublic Students Temp. enrolled to Secure SPSD Eligibility (see lines 11-23)		365	475
8				
9	Total SPSD Scholarship Participants (line 4+line 5+line 7)		2,104	3,055
10				
11	Nonpublic Students Enrolled in Public Schools for 1 Semester to Secure SPSD Eligibility			
12	Total Nonpublic Kindergarten Students	6,910	6,310	6,310
13	2% NP Kindergarten attending public school (line 12*0.02)	138	126	126
14	0.50 ADM (line 13*0.50)	69	63	63
15				

16	Total Nonpublic Grade 1-12 Students	64,785	64,968	65,164
17	0.1% firstyear, 0.05% subsequent years (line 16*0.001, line 16*0.0005)	65	32	33
18	0.50 ADM (line1 7*0.50)	32	16	16
19				
20	Shared-timed students	2,639	2,639	2,639
21	10%Share-time comeback for 1 semester first year, Increase to15% later	264	396	396
22				
23	Total Nonpublic Pupil ADM served for 1 semester (line14+line18+line21)	365	475	475
24				
25	Average State Aid Per ADM	8,997	9,251	9,477
26	Average Levy Per ADM	2,057	2,031	2,080
27	Total Pupil Driven Revenue Per ADM(line25+line26)	11,054	11,282	11,558
28				
29	Total Aid Entitlement (line23*line25)	3,287,295	4,396,044	4,069,525
30	Total Levy(line23*line26)	751,718	964,985	988,671
31	Total Aid/Levy for Temporarily Enrolled Nonpublic Students(line29+30)	\$4,039,013	\$5,361,029	\$5,058,196
32				
33	SPSD Scholarship Revenue	FY23	FY24	FY25
34	February 2022 Forecast			
35	State Average Special Education Aid Generated per SPED student		\$20,056	\$20,056
36				
37	Total SPSP Aid Entitlement (line 9*line 35)		\$42,199,639	\$61,274,770
38				
39	General Education Revenue	FY23	FY24	FY25
40	February 2022 Forecast			
41	State Average Gen Ed Revenue per ADM excluding referendum	9,541	9,642	8,789
42	Aid % of Gen Ed	0.91	0.91	0.90
43	Levy % of Gen Ed	0.09	0.09	0.10
44				
45	50% General Education Revenue per SPSP Scholarship to Districts	FY23	FY24	FY25
46	February 2022 Forecast			
47	Gen Ed Aid per ADM excluding referendum (line 41*line 42*line 9)		18,459,797	24,112,974
48				
49	Statewide Average Gen Ed Aid x 50%(line 47*.50)	-	9,229,899	12,056,487
50				
51	Special Education Impacts	FY23	FY24	FY25
52	February 2022 Forecast			
53	Special Education savings due to ADM reduction (line 9*-1000)*.28)		-\$589,145	-\$855,452
54				
55	Total Special Ed Entitlement Impacts (line37+line53)		\$41,610,494	\$60,419,319
56				

57	MNIT Programming			
58	1st-year MNIT Integration project implementation cost	893,000		
59	Ongoing MNIT operational support & maintenance cost (line58*20%,10%)		\$179,000	\$90,000
60				
61	MDE Staffing			
62	Job Classification	FY23	FY24	FY25
63	Education Finance Specialist 2 (2 FTE)	151,000	302,000	302,000
64	Education Finance Specialist 1 (2 FTE)	125,000	250,000	250,000
65	Education Program Supervisor (1 FTE)	79,000	158,000	158,000
66	Management Analyst 4 (1 FTE)	47,000	94,000	94,000
67	Auditor Principal (2 FTE)	138,000	276,000	276,000
68	TOTAL MDE Administrative Salary Cost (lines 63 thru 67)	\$540,000	\$1,080,000	\$1,080,000
69	*FY23 assume FTEs hired at mid-point of year			
70				
71	TOTAL MDE Identified Admin+MNIT(line 58+line 59+line 68)	1,433,000	1,259,000	1,170,000
72				
73				
74	Total Fiscal Note Impact:			
75				
76	General Education State Aid loss to Districts for Scholarship participants-Ent basis (includes referendum aid loss)	\$0	-\$18,404,474	-\$24,032,643
77	Appropriations Basis: 90% current	\$0	-\$16,564,026	-\$21,629,379
78	10% final	\$0	\$0	-\$1,840,447
79	Aid Reduction to Districts-Appropriations Basis	\$0	-\$16,564,026	-\$23,469,826
80				
81	50% Gen Ed Rev to Districts for lost students entitlement (line 46)	-	-9,229,899	-12,056,487
82	Appropriations Basis: 90% current	-	-8,306,909	-10,850,838
83	10% final	-	-	-922,990
84	Gen Ed @ 50% for lost SPSD students-Appropriations Basis		8,306,909	11,773,828
85				
86	TOTAL GENERAL EDUCATION FISCAL NOTE IMPACT (line 79+line 84)	\$0	-\$8,257,118	-\$11,695,998
87				
88	SPSD Entitlement Total (line 37)	\$0	\$42,199,639	\$61,274,770
89	Appropriation Basis: 90% current*.974		\$36,992,204	\$53,713,464
90	10%final			\$5,207,435
91	Appropriations Total for SPSD	\$0	\$36,992,204	\$58,920,899
92				
93	Special Education Impacts			
94	Special Education savings due to ADM reduction(line 53)	\$0	-\$589,145	-\$855,452
95	Appropriations Basis: 90% current*.974		-\$516,445	-\$749,889
96	10%final			-\$72,701

97	Total Special Education Savings-Appropriation Basis	\$0	-\$516,445	-\$822,589
98				
99	TOTAL SPECIAL ED FISCAL NOTE IMPACT: (lines 91+97)	\$0	\$36,475,759	\$58,098,310
100				
101	Other State Aid Impacts			
102	State Aid for Temporarily Enrolled NP Students (line 29)	\$3,287,295	\$4,396,044	\$4,069,525
103	Appropriations Basis: 90% current	\$2,958,565	\$3,956,440	\$3,662,573
104	10%final	\$0	\$328,729	\$439,604
105	State Aid for Temp. Enrolled NP Students-Appropriations Basis	\$2,958,565	\$4,285,169	\$4,102,177
106				
107	Other Pupil-Driven Aid Impact Entitlement (-(line 25-line41)*line 9)	\$-	\$822,761	\$(2,101,599)
108	Appropriations Basis 90% current		\$740,485	-\$1,891,439
109	10%final		\$0	\$82,276
110	Other Pupil-Driven Aid Impact: Appropriations Basis	\$-	\$740,485	-\$1,809,163
111				
112	TOTAL OTHER STATE AID IMPACT: (lines 105+110)	\$2,958,565	\$5,025,654	\$2,293,014
113				
114	TOTAL STATE AID IMPACT(lines 86+99+112)	\$2,958,565	\$33,244,295	\$48,695,325
115				
116	Levy Impacts			
117	Referendum levy impact	\$0	-\$2,117,799	-\$3,337,674
118	Other Pupil-Driven Levy Impact	\$0	-\$326,940	-\$278,236
119	Levy Impact to Temporary Enrolled Nonpublic Students (line 30)	\$751,718	\$964,985	\$988,671
120	TOTAL LEVY IMPACT (line 114thru 116)*	\$751,718	-\$1,479,754	-\$2,627,239
121				
122	Fiscal Note Identified Oversight and Admin Costs:			
123	MNIT Integration Costs (lines 58+59)	\$893,000	\$179,000	\$90,000
124	MDE Staffing Costs (line 68)	\$540,000	\$1,080,000	\$1,080,000
125	Total, Actual Fiscal Note Oversight and Admin costs	\$1,433,000	\$1,259,000	\$1,170,000
126				
127	GRAND TOTAL STATE AID FISCAL NOTE COST (line 114+line 125)	\$4,391,565	\$34,503,295	\$49,865,325
128				
129	*Levy impacts will not begin until Pay2024/Fiscal2025			

Long-Term Fiscal Considerations

The ESA program will continue to grow in the years not included in the forecast. MDE administration costs will grow as participation in the program grows.

Local Fiscal Impact

A public school that loses a couple or a few dozen special education students would most likely see minimal cost savings since they would still need to support their remaining students.

Individualized Education Program (IEP) reevaluations would still be required for special education students in the program (Minn. R 3525.2710, Subp 2). Districts would still be required to spend a proportionate amount of their federal funds on nonpublic school students (34 CFR §§300.130-300.144).

Districts will be responsible for serving as intermediary in the transfer of state SPSP funds to the nonpublic schools. This will likely result in additional costs for district staff and accounting software enhancements.

References/Sources

N/A

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Fiscal Note

2021-2022 Legislative Session

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LBO Analyst's Comment

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Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill creates a scholarship program as a learning option for students with a disability. This bill establishes the criteria for qualifications, directs the commissioner to adopt rules and policies for the administration of the program, and provides for judicial review of the commissioner’s decision to remove a student from the program.

Assumptions

Current law provides for judicial review of administrative decisions. It is assumed that the provisions of this bill will not have a measurable impact on the number of administrative appeals filed.

Expenditure and/or Revenue Formula

It is unknown if this bill will impact court filings, but any impact will be minimal.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

References/Sources

Agency Contact:

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