

# MINNESOTA STATUTES 1953 ANNOTATIONS

333

STATE AND FEDERAL SCHOOL AIDS 128.04

interest, and the board in designating a depository may accept collateral in lieu of the bond required in section 118.01. OAG Nov. 7, 1951 (140-C-7).

A school district cannot designate a savings and loan association as a depository of school funds. OAG Jan. 25, 1952 (159-A-9).

Section 127.07 relates to transportation aid payable to consolidated school districts, county boards of education for unorganized territory, county school districts, and to ten or more township school districts. Based upon the policy indicated by section 125.06, subdivision 12, and irrespective of section 128.07, the state board of education is warranted in paying to a consolidated district, to a county board of education, to a county school district, or to ten or more township districts, reimbursement for transportation of pupils resident in a district to a school in another district, at rates determined by the state board not to exceed \$40 per pupil. OAG Feb. 10, 1948. (168-E).

## 127.13 ACCEPTANCE OF PROPERTY IN SETTLEMENT OF CLAIMS

Property owned by a consolidated district and used to house the teachers and for which the teachers pay rent, is exempt from taxation. OAG Dec. 18, 1946 (414-B-4).

## 127.14 COMPENSATION

HISTORY. 1907 c 133 s 4; 1909 c 332 s 4; GS 1913 s 2766; GS 1923 s 2839; MS 1927 s 2839; 1941 c 169 art 8 s 14.

## CHAPTER 128

### STATE AND FEDERAL SCHOOL AIDS

#### 128.01 STATE AID FUNDS; SOURCES

HISTORY. 1862 c 1 s 22, 26; 1864 c 2 s 1; 1864 c 3 s 1; 1921 c 467 s 1; GS 1923 s 3022; MS 1927 s 3022; 1941 c 169 art 9 s 1; 1947 c 633 s 3.

It is the duty of the school clerk to issue orders on the treasurer for the disbursement of district funds and each order shall state the fund on which the order is drawn. Teachers' salaries have preference. Money applicable for teachers' wages from the current school fund cannot be used for any other purpose, nor can the teachers' wages be paid from any fund except that raised and apportioned for that purpose. Money raised by taxation on a levy by a school district for one purpose cannot be used for another purpose. In a common school district the voters determine the amount of the tax levy and the purpose thereof. In an independent school district, the school board determines the amount of the tax levy and levies the necessary taxes. There is no limitation on expenditures as there is on a common district. The board in an independent district may use the money in the treasury of the district received under a general tax levy and not under a levy certified for a particular purpose, for such purposes as it considers to the interest of the district. An independent district does not make up a budget or certify a budget to the county auditor. OAG Oct. 7, 1948 (159-C-6).

128.015 Repealed, 1947 c 633 s 22.

128.03 Repealed, 1947 c 633 s 22.

#### 128.04 APPORTIONMENT

HISTORY. 1873 c 1 s 86, 87; 1877 c 74 t 5 s 3-7; GS 1878 c 36 c 77-81; 1883 c 54 s 2; 1887 c 41 s 2; GS 1894 s 3761-3765; RL 1905 s 1398, 1399, 1401; GS 1913

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 128.05 STATE AND FEDERAL SCHOOL AIDS

334

s 2896, 2897, 2899; 1919 c 412 s 1, 2; MS 1927 s 2994, 2995, 2997; 1931 c 312 s 1, 2; 1941 c 169 art 9 s 4; 1947 c 633 s 5 and 6.

### 128.05 SPECIAL STATE AID FUND, DISTRIBUTION

HISTORY. 1921 c 467 s 4; MS 1927 s 3025; 1941 c 169 art 9 s 5; 1947 c 633 s 7; 1953 c 600 s 9.

### 128.06 PURPOSES OF SPECIAL STATE AID

Neither the one-mill tax nor school aids may be used to pay the bonded indebtedness of a part of a consolidated school district. OAG Dec. 14, 1953 (166-F-4).

### 128.061 SPECIAL STATE AIDS; COMPUTATION, REDUCTION

HISTORY. 1953 c 600 s 1.

### 128.062 REDUCTION IN STATE AIDS, GROUNDS

HISTORY. 1953 c 600 s 2.

### 128.063 NOTICE OF GROUNDS

HISTORY. 1953 c 600 s 3.

### 128.064 PROTEST; HEARING

HISTORY. 1953 c 600 s 4.

### 128.065 CORRECTION OF VIOLATION

HISTORY. 1953 c 600 s 5.

### 128.066 PRIMARY REDUCTION FROM STATE AID; ADDITIONAL REDUCTIONS

HISTORY. 1953 c 600 s 6.

### 128.067 CERTIORARI

HISTORY. 1953 c 600 s 7.

### 128.068 NOTICE, REQUISITES; COSTS

HISTORY. 1953 c 600 s 8.

### 128.07 TRANSPORTATION AID

HISTORY. 1915 c 238 s 2, 9; 1921 c 349 s 1; 1921 c 230; 1921 c 467 s 7; 1923 c 266 s 1; GS 1923 c 266 s 1; GS 1923 s 2755, 2762, 3028; MS 1927 s 2755, 2762, 3028; 1931 c 280 s 1; 1933 c 224; 1935 c 209; 1935 c 288 s 2; 1935 c 336; Ex1937 c 78 s 1; 1939 c 437 s 8; 1941 c 169 art 9 s 7; 1945 c 373 s 2; 1947 c 633 s 8; 1949 c 732 s 2-5; 1951 c 705 s 1; 1953 c 756 s 1-3.

If the school board in the district where the pupil resides authorizes the attendance of the pupil at a classified public area vocational-technical school or vocational classes in a secondary school in another district when the resident district does not provide such instruction, then the resident district has the obligation to provide the pupil with board and lodging or transportation between his district and the school attended. OAG Nov. 25, 1949 (166-A-4).

Under the provisions of Laws 1947, Chapter 632, Section 8, Subdivision 6, the language indicates that the legislature had in mind that the school to which the pupil was transported is one conducted by a school district and not by the state

# MINNESOTA STATUTES 1953 ANNOTATIONS

335

STATE AND FEDERAL SCHOOL AIDS 128.07

and does not include attendance at the state school of agriculture. OAG Jan. 2, 1948 (166-A-4).

A pupil residing in a district where vocational-technical school or vocational classes are maintained may not attend such school or classes in another district and be transported by his district under authority of section 128.07, subdivision 6; but if the specifications of section 125.06, subdivision 14, apply, he may be transported at district expense. OAG Feb. 13, 1948 (166-A-4).

When a school board approves the transportation of seventh or eighth grade pupils, the pupils must attend the school designated by the board if they desire to avail themselves of such transportation. OAG Oct. 21, 1953 (166-A-4).

Where a grade or high school is not maintained in the resident's district, and the school children attend school in another district, it is mandatory for the resident district to furnish transportation at its expense for the children involved. OAG Sept. 4, 1951 (166-A-8).

A valid contract between two school districts, whereby one district agrees to transport and instruct the pupils residing in the one district, if breached and if damages result gives rise to a cause of action for damages for breach of contract. OAG Aug. 11, 1952 (166-A-10).

A school district containing ten or more townships and which transports pupils to a high school in another county is entitled to reimbursement and tuition under sections 128.07 and 128.088. Information as to the amount paid by the school district for transportation during the preceding year is available to county board at its July meeting, and the record of the school district would show the amount paid and the amount of the reimbursement to which they are entitled. OAG Sept. 20, 1950 (168).

If a senior high school is not maintained by a school district containing 10 or more townships, the district is entitled to the benefits provided under section 128.07, subdivision 5. OAG Aug. 29, 1950 (168).

State aid for attendance of isolated pupils in a county school district may be given the liberal benefit provided in Laws 1953, Chapter 756, Section 2. OAG June 18, 1953 (168).

A pupil residing in a district that has no secondary school may attend in another district having a classified secondary school. The district furnishing the instruction gets special state aid. OAG Sept. 21, 1949 (168-E).

A school pupil who resides in a district that has no secondary school has the right to attend a classified secondary school in another district. Subject to stated limitations as to amount, the pupil is entitled to one of two things—he is entitled to either his board and lodging in the district where he attends the school, or to transportation from the district of his residence to the district having a classified school. The county pays one and a half times the amount which will be paid through state aid. OAG Aug. 20, 1947 (168-E).

The county is bound under this section to pay for the benefit of a pupil up to a stated amount but beyond that stated amount any further disbursement for a pupil is discretionary. OAG Aug. 27, 1947 (168-E).

The school board may determine whether it will furnish board and lodging for a student or whether it will furnish transportation. OAG Sept. 3, 1947 (168-E).

Under subdivision 5 of this section the county board will determine the amount that the county will pay and it will also determine the amount of tuition that shall be paid as certified by the county superintendent under section 128.088, subdivision 2. Its resolution providing for payment of both tuition and transportation, under subdivision 5 of this section, is not retroactive and the county is not liable for expenses incurred prior to July 1, 1947. OAG Sept. 29, 1947 (168-E).

A school board is not authorized by section 128.07 to pay for a pupil's support and lodging. OAG Oct. 2, 1947 (168-E).

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 128.08 STATE AND FEDERAL SCHOOL AIDS

336

School transportation is paid only to residents of the district. The district is not permitted to transport pupils to or from another high school area. OAG Aug. 21, 1951 (168-E).

Where pupils are sent to high school in another school district the high school should be paid county tuition, but such school would not be entitled to the usual transportation aid for transportation of such pupils to the high school, and buses of such school could not be used for purposes of such transportation. The district of the pupils residence is entitled to transportation aid. OAG Aug. 21, 1951 (168-E).

Special state aid for board and lodging of a pupil residing at a remote distance from the school cannot be paid where the child and his mother move to town and live together temporarily while the child attends school. OAG Oct. 10, 1952 (168-E).

State aid for the transportation of pupils residing in a consolidated district to another district where they attend school is paid under section 128.07, subdivision 7, which contemplates transportation within the district only. OAG Oct. 22, 1952 (168-E).

Certain bronchial asthma and pneumonia cases may be considered a disability under section 128.07 as a question of fact in which the authority may be aided by a physician's certificate. The ultimate question to be determined is whether the child in his crippled condition is unable to walk to school with the exercise of normal effort but is able to carry the regular courses of study. OAG March 18, 1949 (169-D).

The state board of education is authorized to pay aid to a school district furnishing transportation of a crippled child attending a special class for mental defectives. OAG March 10, 1950 (169-D).

A pupil residing in a district without a secondary school may attend secondary school in another district, if the district is willing to receive him. To accommodate the pupil a school must be found in a district in which the board is willing to accept the pupil. OAG Sept. 26, 1950 (170-C).

In any school district not having a secondary school resident pupils may attend a classified secondary school in another district wherein will be paid such tuition as is required. The statute does not give the pupil the right to attend a school in a district where the board is unable to receive additional students. OAG July 9, 1953 (170-C).

In a consolidation or a reorganization proceedings under Minnesota Statutes 1949, Chapter 122, the successor district receives the collected taxes levied for the benefit of the component district. OAG Oct. 3, 1950 (510-D-1).

## 128.08 TUITION

**HISTORY.** 1921 c 467 s 7; 1923 c 766 s 1; MS 1927 s 3028; 1933 c 224 s 1; 1935 c 209 s 1; 1935 c 288 s 2; Ex1937 c 78 s 1; 1941 c 169 art 9 s 8; 1941 c 328 s 1; 1947 c 633 s 22; 1949 c 732 s 12; 1951 c 705 s 2.

An independent school district which maintained adequate facilities is not authorized to pay tuition for pupils residing in the district who attend laboratory school in a state teachers college. OAG June 13, 1947 (180).

A school maintained by a religious organization is not a public school and will not be classified as a secondary school so as to affect exemption of the district from local taxation. OAG Feb. 20, 1951 (519-D-1).

## 128.081 DEFINITIONS

**HISTORY.** 1947 c 633 s 11; 1949 c 732 s 6, 7; 1951 c 705 s 3; 1953 c 756 s 4.

The Minnesota Statute is silent insofar as it gives specific power to a common school district to maintain a kindergarten, although it does grant power to an independent school district to maintain one. The statute authorizes school boards to select courses of study and when a kindergarten course is provided in a common

# MINNESOTA STATUTES 1953 ANNOTATIONS

337

## STATE AND FEDERAL SCHOOL AIDS 128.082

school district and is not prohibited by law by an analogy, it exercised its power rightfully. The power of the legislature to impose a system of public school education upon local communities is not limited to the common branches. A common school district is therefore authorized to maintain a kindergarten. This supersedes the opinion of April 9, 1941, filed 169-K. OAG Oct. 21, 1949 (169-K).

If a child from an unorganized territory in Hennepin county attends public schools in the city of Minneapolis, that city is considered the pupil's residence in the payment of state aid. OAG July 25, 1947 (180-D).

Nonresident high school pupils who qualify for tuition aid under section 132.03 will be counted for apportionment, basic and equalization aid at the same rate as all other nonresident secondary pupils are counted under section 128.081, subdivisions 3 and 6. OAG Oct. 16, 1948 (180-E).

The limitation in Laws 1951, Chapter 398, Section 1, does not apply to a tax levy for the purpose of raising money to provide \$163 per resident pupil unit. The question is whether the term "pupil unit," as applied to kindergarten pupils, is that defined by section 128.081, or as defined in Laws 1951, Chapter 705, Section 3. In other words, did the 1951 amendment enlarge the powers of the school board in the matter of the levy of taxes. The legislative history, as it appears in the Senate and House Journals, shows that both bills were pending at one time. Both branches of the legislature appeared to have been of the opinion that the law fixing standards of education of the youth should be liberalized. It appears that it was the legislative intent that a more liberal allowance should be made in computing state aid. Two children in kindergarten should count as one resident pupil unit, whereas therefore four constituted a single unit. It seems absurd to say that the legislature intended that in Duluth there should be a different rule for computation of resident pupil units than in other parts of the state. Accordingly, the conclusion is reached that in the application of Laws 1951, Chapter 398, Section 1, the school board may consider that each kindergarten pupil attending half-day sessions throughout the school year constitutes one-half pupil unit. OAG April 25, 1952 (519-M).

### 128.082 EQUALIZATION AID SCHEDULE

HISTORY. 1947 c 633 s 12; 1949 c 732 s 8; 1951 c 540 s 1; 1951 c 705 s 4; 1953 c 756 s 5.

A pupil residing in a district that has no secondary school may attend in another district having a classified secondary school. The district furnishing the instruction gets special state aid. OAG Sept. 21, 1949 (168-E).

Where there is a contract by a district for instructions of pupils in another district, the payment to be made at the rate of \$135 per pupil unit, the district furnishing the instruction cannot charge at a greater rate even though the state aid per pupil unit exceeds \$135. OAG Sept. 27, 1950 (168-E).

Equalization aid review committee is authorized to accept the present assessment for the purpose of equalization aids until the committee has changed the assessed valuations. OAG Aug. 15, 1951 (168-F).

In relation to the tuition charge for a nonresident pupil under section 128.082, subdivision 6, if the actual cost of instruction chargeable to maintenance is \$210 or less and more than \$170, the provision in question authorizes a charge of \$170 plus one-half of the difference between \$170 and such cost. If such cost is more than \$210, the subdivision authorizes an additional charge of one-half of the difference between \$170 and \$210, or \$170 plus one-half of \$40, which would equal \$190. OAG Aug. 21, 1953 (180-D).

Tuition paid by the school district of the residence of the pupil to the district where instruction is furnished is based upon the number of pupils in average daily attendance instructed and does not include children who attend parochial schools since they are not in average daily attendance at the public school. OAG June 29, 1951 (180-F).

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 128.084 STATE AND FEDERAL SCHOOL AIDS

338

Pupils in school districts may attend laboratory schools in a teachers college under a contract entered into between the teachers college board and the school board of the district where the pupil resides. OAG June 26, 1953 (316).

Where the district does not provide for instruction of its pupils in other districts but a pupil resident therein attends vocational classes in area vocational technical school outside the district, the district is liable for the student's board and lodging or transportation but is not liable for tuition. OAG June 14, 1948 (166-B).

To share in the distribution of state aid, school must provide a minimum of 36 weeks instruction per school year. OAG Jan. 12, 1948 (168-C).

Section 128.082, subdivision 4, provides the floor but not a ceiling for education in other districts and notwithstanding the \$110 per pupil unit specified in section 128.082, such amount is the minimum required by law and no maximum is specified, and the contract by which district No. 137 agreed to pay district No. 153 at the rate of \$160 per pupil per school year is valid. OAG Oct. 22, 1947 (168-E).

The furnishment of free textbooks as a condition of receiving special state aid does not prohibit the collection of a deposit fee from each pupil when books are issued. OAG June 11, 1947 (179-A).

The charge per pupil, under section 128.082, subdivision 4, is the actual cost of instruction chargeable to maintenance. The \$110 referred to is not a standard charge but is the maximum that may be charged. OAG Feb. 18, 1948 (180-F).

In enacting section 128.082, subdivision 6, the legislature intended to establish the maximum amount that would be paid by one school district to another school district which furnished instruction to the nonresident pupils, and without legislative authority a district does not have the right to pay additional amounts. OAG Nov. 30, 1953 (180-D).

### 128.084 AID APPORTIONMENT

HISTORY. 1947 c 633 s 14; 1951 c 705 s 5.

### 128.085 DATES OF AID PAYMENT

HISTORY. 1947 c 633 s 15; 1953 c 756 s 6.

The statutory provisions for payment of state aid in October is directory and not mandatory. If the money is available in August, it may then be paid. OAG July 29, 1949 (168).

### 128.086 CERTAIN LAWS NOT AFFECTED

HISTORY. 1947 c 633 s 19.

When money is paid to a school district as special state aid in error such sum should be deducted from the sum to be paid in the future to the same district as special state aid. OAG Nov. 28, 1949 (168-C).

### 128.087 SECONDARY SCHOOL TUITION

HISTORY. 1947 c 633 s 20; 1949 c 732 s 10.

A pupil residing in a district where there is no secondary school is entitled to attend in a district where there is such a school. OAG Sept. 3, 1947 (168-C).

A pupil residing in a district that has no secondary school may attend in another district having a classified secondary school. The district furnishing the instruction gets special state aid. OAG Sept. 21, 1949 (168-E).

If there is any inconsistency between section 125.08, subdivision 4, sections 128.087 and 128.088, the later enactment controls. OAG Sept. 28, 1950 (168-E).

# MINNESOTA STATUTES 1953 ANNOTATIONS

339

STATE AND FEDERAL SCHOOL AIDS 128.088

Where a contract is made between the unorganized territory and the city of Minneapolis, the territory must carry out the contract, but if there is no contract, the tuition is payable by Hennepin county. OAG Aug. 27, 1947 (180-D).

A person of school age residing in a school district in which no classified secondary school is maintained, may attend a classified secondary school outside the district where he resides subject to the standards provided by the state board of education. OAG Aug. 6, 1947 (180-F).

The authority of a county board to levy taxes under section 128.087, subdivisions 4 and 5, is for the benefit only of the education of persons described in section 128.087. OAG Aug. 21, 1947 (519-D-1).

## 128.088 ALLOCATION OF AID

**HISTORY.** 1947 c 633 s 21; 1949 c 732 s 11; 1951 c 705 s 6; 1953 c 32 s 1, 2; 1953 c 131 s 1; 1953 c 684 s 1; 1953 c 756 s 7.

Where the general revenue fund cannot provide payment by the county of tuition and transportation costs, the county board by unanimous vote may transfer surplus in other funds to the county funds to supply the deficiency. OAG July 11, 1947 (107-A-1).

The county school tax fund, created by section 128.088, subdivision 4, is a county fund in which no school district has a property interest until distribution thereof. OAG May 5, 1953 (166-C-10).

A school district containing ten or more townships and which transports pupils to a high school in another county is entitled to reimbursement and tuition under sections 128.07 and 128.088. Information as to the amount paid by the school district for transportation during the preceding year is available to the county board at its July meeting, and the record of the school district would show the amount paid and the amount of the reimbursement to which they are entitled. OAG Sept. 20, 1950 (168).

If, under subdivision 5, the home district makes no provision for transportation, the state aid to the county is \$40 and the county pays up to \$60 per pupil. OAG Sept. 3, 1947 (168-E).

Under subdivision 5 of this section the county board will determine the amount that the county will pay and it will also determine the amount of tuition that shall be paid as certified by the county superintendent under section 128.088, subdivision 2. Its resolution providing for payment of both tuition and transportation, under subdivision 5 of this section, is not retroactive and the county is not liable for expenses incurred prior to July 1, 1947. OAG Sept. 29, 1947 (168-E).

Section 128.088, subdivisions 1 and 2 require the county to pay the school district the sum charged by the school district for tuition furnished. If no charge is made by the district there is nothing to pay. OAG Oct. 17, 1947 (168-E).

School transportation is paid only to residents of the districts. The district is not permitted to transport pupils to or from another high school area. OAG Aug. 21, 1951 (168-E).

State apportionment and special state aid on account of a secondary school or area vocational-technical school instruction shall be paid to the county which pays the high school tuition. OAG Nov. 15, 1951 (168-E).

The outstanding thought embodied in Laws 1947, Chapter 633 was that all persons of school age residing in Minnesota should have equality of opportunity in education; and as the legislature did not repeal section 132.08 it intended that pupils residing in Minnesota who attend a high school in a neighboring state should receive the same treatment as is accorded students attending high school in an adjoining district in Minnesota. OAG Jan. 6, 1948 (180-E).

If there is no contract between districts covering tuition in secondary schools, the county pays tuition at rate established by the district furnishing instruction. OAG Aug. 6, 1947 (180-F).

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 128.09-128.11 STATE AND FEDERAL SCHOOL AIDS

340

Agreements made by voters in school districts concerning subjects upon which a school board is empowered to act are not binding upon the school board. OAG Aug. 31, 1951 (180-F).

As amended by Laws 1947, Chapter 633, Section 21, the law is new. It creates two new county funds: the county school tax fund and the county school transportation fund. The county board levies a tax under subdivisions 4 and 5 for a sum sufficient to pay tuition and transportation respectively; 100 percent of such fund should be sufficient. OAG Aug. 4, 1947 (519-D-1).

In consolidation proceedings or reorganization proceedings the successor district receives collected taxes levied for the benefit of the component districts. OAG Oct. 3, 1950 (519-D-1).

A school maintained by a religious organization is not a public school and will not be classified as a secondary school with the effect of exemption of the district where allocated under section 128.088. OAG Feb. 20, 1951 (519-D-1).

The average rate of taxation on agricultural lands for school maintenance in the common school districts of the counties having 20 or more such districts must be ascertained on the basis of the rates of such lands, fixed pursuant to levies in and by the common school districts and not by adding thereto the rate fixed by the county for tuition and transportation. OAG Dec. 15, 1947 (519-M).

**128.09-128.11** Repealed, 1947 c 633 s 22.

## **128.111 AID RECEIVED FROM FEDERAL GOVERNMENT NOT CHARGEABLE AGAINST SUPPLEMENTAL AID**

**HISTORY.** 1943 c 306 s 1; 1945 c 268 s 1.

**128.12** Repealed, 1947 c 633 s 22.

## **128.13 STATE AID, SPECIAL CLASSES FOR HANDICAPPED CHILDREN**

**HISTORY.** 1915 c 194 s 1; 1919 c 218 s 1; 1921 c 467 s 10; 1923 c 228 s 1; 1923 c 331 s 1; 1923 c 382 s 1; MS 1927 s 2894, 3031; 1935 c 288 s 5; 1941 c 169 art 9 s 13; 1943 c 498 s 1; 1949 c 442 s 1; 1951 c 17 s 1; 1951 c 705 s 7; 1953 c 756 s 8.

The state board of education is authorized to pay aid to a school district furnishing transportation of a crippled child attending a special class for mental defectives. OAG March 10, 1950 (169-D).

There is no statutory authority permitting the county to expend funds to place a spastic child in an out-of-state school. OAG Nov. 15, 1951 (169-D).

The state board of education may pay aid to a district furnishing transportation to a crippled child who attends a special class for mental defectives. OAG March 10, 1950 (169-G).

The state board of education has general supervision over public schools. It has the right to establish rules relating to examinations, reports, acceptance of schools, courses of study, and other proceedings in connection with elementary and secondary schools applying for state aid. Under the provisions of section 128.13, as amended by Laws 1949, Chapter 442, certain rules were promulgated. A rule relating to the manner of conducting special classes and the supervision thereof is now in effect and binding until it is repealed or amended by the state board in accordance with the requirements of section 15.042. OAG Jan. 24, 1950, (397).

**128.16, 128.17** Repealed, 1947 c 633 s 22.

**128.19, 128.20** Repealed, 1947 c 633 s 22.



# MINNESOTA STATUTES 1953 ANNOTATIONS

341

STATE AND FEDERAL SCHOOL AIDS 128.27

## 128.22 GROSS EARNINGS AID

HISTORY. 1921 c 271 s 1-3; 1927 c 338 s 1; MS 1927 s 3036-1, 3036-2, 3036-3; 1941 c 169 art 9 s 22; 1945 c 267 s 1; 1949 c 684 s 1; 1949 c 712 s 1, 2, 4; 1953 c 474 s 1.

In determining the debt limit under section 475.51, subdivision 5, as amended by Laws 1951, Chapter 422, there cannot be included 25 percent of full and true value of property exempt from local taxation as referred to in section 128.22. OAG July 24, 1951 (159-A-5).

Appropriation language is not necessary to validate the provisions of Laws 1949, Chapter 712, Section 2, because this is not an appropriation bill but state aid paid from the proceeds of moneys otherwise provided. OAG June 27, 1949 (168).

128.23 Repealed, 1949 c 712 s 4.

## 128.234 AID IN LIEU OF TAXES; NON-TAXABLE LAND

HISTORY. 1949 c 648 s 1; 1951 c 586 s 1; 1953 c 245 s 1.

The term "real estate taxes" means any tax assessed and levied against any real property within the school district. This is the annual tax levy. Government, state, municipal holdings, educational, charitable, and religious holdings are not taxed. OAG June 23, 1949 (168).

The legislature does not intend a result that is impossible of execution. In Laws 1949, Chapter 648, Section 1, Subdivision 4, the words "state auditor" and "county auditor" should be transposed and the subdivision should read: "Each county auditor shall supply to the state auditor plats with checkings thereon indicating the location and description of such lands situated within the school districts of the county." OAG Nov. 14, 1951 (168).

Method of allocation of payments when an appropriation for aid to schools in lieu of taxes of non-taxable land is insufficient to pay the amounts otherwise payable, is controlled by section 128.235. OAG Jan. 23, 1952 (168).

## 128.235 APPROPRIATIONS, DISTRIBUTION

HISTORY. 1949 c 648, s 2; 1951 c 586 s 2.

## 128.26 ACCEPTANCE OF FEDERAL PROVISIONS RELATING TO VOCATIONAL EDUCATION

The governor is authorized under section 128.36 to accept the provisions of the act of Congress upon the recommendation of the state board of education at any time when the legislature is not in session. By section 128.26 the legislature has accepted the provisions of the act of Congress of Feb. 23, 1917. Section 128.27 requires cooperation of the state board for vocational education with the federal agency. This implies application of benefits under section 128.27, regulations and agreements with the federal government are authorized under section 120.023. Under section 120.06 the commissioner of education is the executive officer of the state board and under section 128.29 the state treasurer is custodian of all funds. OAG Feb. 23, 1951 (170-H).

## 128.27 STATE BOARD OF EDUCATION TO ADMINISTER VOCATIONAL EDUCATION

A sovereign state cannot be sued by individuals in its own courts or any court without its consent. Unless duly authorized by law, the attorney general may not waive the immunity of the state from suit and thus cannot bind the state by appearing in an action. The vocational education work carried on by the director of vocational education for the state department of education in his official capacity is but a phase of the department's governmental functions within the rule that state agencies vested with performance of governmental functions are immune from suit. *Dunn v Schmid*, ..... M ....., 60 NW(2d) 14.

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 128.28 STATE AND FEDERAL SCHOOL AIDS

342

### 128.28 APPOINTMENT OF OFFICIALS AND ASSISTANTS

Where the legislature appropriated money for vocational training of disabled persons even though the federal funds would not match the state funds, the division of vocational rehabilitation may expend the state funds for rehabilitation over and above the amount necessary to match federal funds. OAG Nov. 16, 1951 (9-A-13).

### 128.29 STATE TREASURER, CUSTODIAN OF FEDERAL FUNDS

HISTORY. 1917 c 491 s 3; GS 1923 s 3043; MS 1927 s 3043; 1939 c 145 s 7; 1941 c 169 art 9 s 29.

### 128.31 VOCATIONAL AID; RULES GOVERNING DISBURSEMENT

HISTORY. 1919 c 414 s 2; 1921 c 467 s 20; MS 1927 s 3038; 1939 c 145 s 2; 1941 c 169 art 9 s 31; 1943 c 572 s 1; 1945 c 374 s 1; 1949 c 713 s 1.

Where money is borrowed from the state by a school district on a bond issue, the money must be used for the specific purpose authorized by the people and no other. OAG Sept. 15, 1953 (159-A-5).

A vocational school may be maintained by a district under authority of section 125.01 and 125.06, subdivision 1. But to receive state aid, it must conform to the provisions of section 128.31. OAG Feb. 20, 1951 (170-C).

Only upon request of the school district or districts may the state board for vocational education employ itinerant vocational teachers to perform the service specified in section 128.31. The employment by the state board for vocational education of itinerant vocational teachers is under such rules as the board may adopt and until and unless the board adopts rules on the subject it may not employ such teachers. OAG Oct. 20, 1949 (172).

### 128.36 ACCEPTANCE OF FEDERAL AID

HISTORY. 1939 c 206 s 1-3; 1941 c 169 art 9 s 36.

Where the legislature appropriated an amount for vocational training of disabled persons, even though federal funds would not match the state funds, the division of vocational rehabilitation has the right to spend state funds for rehabilitation over and above the amount necessary to match the federal fund. OAG Nov. 16, 1951 (9-A-13).

The state board of education is the sole agency to make application for funds under Title I, Public Law 815, of the 81st Congress. OAG July 20, 1951 (170-H).

## CHAPTER 130

### TEACHERS

#### 130.01 GENERAL CONTROL OF SCHOOLS

The destruction of a schoolhouse by fire does not terminate the teacher's contract and her salary continues. OAG Dec. 19, 1950 (172-C-1).

#### 130.03 QUALIFIED TEACHER DEFINED

The action of a board of education of the city of St. Louis in removing women teachers solely because of their marriage is unreasonable and arbitrary. State ex rel v Board, 206 SW(2d) 566.