

## CHAPTER 123B

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### 123B.001 APPLICATION OF LAWS 2005, CHAPTER 56, TERMINOLOGY CHANGES.

State agencies shall use the terminology changes specified in Laws 2005, chapter 56, section 1, when printed material and signage are replaced and new printed material and signage are obtained. State agencies do not have to replace existing printed material and signage to comply with Laws 2005, chapter 56, sections 1 and 2. Language changes made according to Laws 2005, chapter 56, sections 1 and 2, shall not expand or exclude eligibility to services.

**History:** 2005 c 56 s 3

### 123B.01 DEFINITIONS.

For purposes of this chapter, the words defined in section 120A.05 have the same meaning.

**History:** Ex1959 c 71 art 4 s 1; 1998 c 397 art 6 s 124; art 11 s 3

## INDEPENDENT SCHOOL DISTRICTS

### 123B.02 GENERAL POWERS OF INDEPENDENT SCHOOL DISTRICTS.

Subdivision 1. **Board authority.** The board must have the general charge of the business of the district, the school houses, and of the interests of the schools thereof. The board's authority to govern, manage, and control the district; to carry out its duties and responsibilities; and to conduct the business of the district includes implied powers in addition to any specific powers granted by the legislature.

Subd. 2. **Facilities for school-age children.** It is the duty and the function of the district to furnish school facilities to every child of school age residing in any part of the district. The board may establish and organize and alter and discontinue such grades or schools as it may deem advisable and assign to each school and grade a proper number of pupils. The board shall provide free textbooks for the pupils of the district.

Subd. 3. **Limitation on participation and financial support.** (a) A district must not be required by any type of formal or informal agreement except an agreement to provide building space according to paragraph (f), including a joint powers agreement, or membership in any cooperative unit defined in section 123A.24, subdivision 2, to participate in or provide financial support for the purposes of the agreement for a time period in excess of four fiscal years, or the time period set forth in this subdivision. Any agreement, part of an agreement, or other type of requirement to the contrary is void. This paragraph applies only to agreements entered into between July 1, 1993, and June 30, 1999.

(b) This subdivision shall not affect the continued liability of a district for its share of bonded indebtedness or other debt incurred as a result of any agreement before July 1, 1993. The district is liable only until the obligation or debt is discharged and only according to the

payment schedule in effect on July 1, 1993, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on July 1, 1993, if the annual payments of the district are not increased and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities relating to the agreement or to terminate participation in the agreement, the board must adopt a resolution and notify other parties to the agreement of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year except that for a member of an education district organized under sections 123A.15 to 123A.19 or an intermediate district organized under chapter 136D, cessation or withdrawal shall be effective June 30 of the following fiscal year. At the option of the board, cessation or withdrawal may be effective June 30 of the following fiscal year for a district participating in any type of agreement.

(d) Before issuing bonds or incurring other debt, the governing body responsible for implementing the agreement must adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating district. The resolution must be adopted within a time sufficient to allow the board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in sections 122A.40, 122A.41, and 123A.33. The governing body responsible for implementing the agreement shall notify each participating board of the contents of the resolution. Within 120 days of receiving the resolution of the governing body, the school board of the participating district shall adopt a resolution stating:

- (1) its concurrence with issuing bonds or incurring other debt;
- (2) its intention to cease participating in or providing financial support for the service or activity related to the bonds or other debt; or
- (3) its intention to terminate participation in the agreement.

A board adopting a resolution according to clause (1) is liable for its share of bonded indebtedness or other debt as proposed by the governing body implementing the agreement. A school board adopting a resolution according to clause (2) is not liable for the bonded indebtedness or other debt, as proposed by the governing body, related to the services or activities in which the district ceases participating or providing financial support. A board adopting a resolution according to clause (3) is not liable for the bonded indebtedness or other debt proposed by the governing body implementing the agreement.

(e) After July 1, 1993, a district is liable according to paragraph (d) for its share of bonded indebtedness or other debt incurred by the governing body implementing the agreement to the extent that the bonds or other debt are directly related to the services or activities in which the district participates or for which the district provides financial support. The district has continued liability only until the obligation or debt is discharged and only according to the payment schedule in effect at the time the governing body implementing the agreement provides notice to the school board, except that the payment schedule may be altered for the purpose of refunding the outstanding bonds or restructuring other debt if the annual payments of the district are not increased and if the total obligation of the district for the outstanding bonds or other debt is not increased.

(f) A district that is a member of a cooperative unit as defined in section 123A.24, subdivision 2, may obligate itself to participate in and provide financial support for an agreement with a cooperative unit to provide school building space for a term not to exceed two years with an option on the part of the district to renew for an additional two years.

(g) Notwithstanding any limitations imposed under this subdivision, a school district may, according to section 123B.51, subdivision 4, enter into a lease of all or a portion of a schoolhouse that is not needed for school purposes, including, but not limited to, a lease with a term of more than one year.

Subd. 4. **Jointly owned facilities.** Notwithstanding subdivision 3, if a school district and a city jointly own a building or site, the district and the city may enter into an agreement that extends beyond the end of the fiscal year to pay operating costs for that building or site.

Subd. 5. **Removal of unauthorized vehicles.** The board may authorize a representative to move unauthorized vehicles parked on school district property, or require the driver or other person in charge of the vehicle to move the same off school district property.

When such representative finds such a vehicle unattended upon district premises, such representative is hereby authorized to provide for the removal of such vehicle and remove the same to the nearest convenient garage or other place of safety off of district property. Such vehicle shall be moved at the expense of the owner or operator.

Subd. 5a. **Trespasses on school property.** Trespasses on school property shall be governed according to section 609.605, subdivision 4.

Subd. 6. **Bequests; donations; gifts.** The board may receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose and apply the same to the purpose designated. In that behalf, the board may act as trustee of any trust created for the benefit of the district, or for the benefit of pupils thereof, including trusts created to provide pupils of the district with advanced education after completion of high school, in the advancement of education.

Subd. 7. **Voter authorization of bonds.** The voters of a district may authorize the issuance of bonds of the district in accordance with the provisions of chapter 475.

Subd. 8. **Levy.** The board must provide by levy of tax necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the district.

Subd. 9. **Library facilities.** The board may provide library facilities as part of its school equipment according to the standards of the commissioner of education.

Subd. 10. **Summer school classes.** The board may establish and maintain summer school programs and intersession classes of flexible school year programs.

Subd. 11. **Services for Indian students.** School districts may enter into agreements with Indian tribal governments for purposes of providing educational services for students. Such agreements may allow for the use of any resources available to either party and must give students the option to enroll in the district at their election.

Subd. 12. [Renumbered 120A.22, subd 1a]

Subd. 13. **School lunches.** The board may furnish school lunches for pupils and teachers on such terms as it determines.

Subd. 14. **Employees; contracts for services.** The board may employ and discharge necessary employees and may contract for other services.

Subd. 14a. **Employee recognition.** A school board may establish and operate an employee recognition program for district employees, including teachers, and may expend funds as necessary to achieve the objectives of the program. The employee recognition program shall not include monetary awards.

Subd. 15. **Annuity contract; payroll allocation.** At the request of an employee and as part of the employee's compensation arrangement, the board may purchase an individual annuity contract for an employee for retirement or other purposes and may make payroll allocations in accordance with such arrangement for the purpose of paying the entire premium due and to become due under such contract. The allocation must be made in a manner which will qualify the annuity premiums, or a portion thereof, for the benefit afforded under section 403(b) of the current Federal Internal Revenue Code or any equivalent provision of subsequent federal income tax law. The employee shall own such contract and the employee's rights under the contract shall be nonforfeitable except for failure to pay premiums. Section 122A.40 shall not be applicable hereto and the board shall have no liability thereunder because of its purchase of any individual annuity contracts. This statute shall be applied in a nondiscriminatory manner to employees of the school district.

Subd. 16. **Medical insurance premiums for retired.** The board of any independent school district may expend funds to pay premiums on hospitalization and major medical insurance coverage for officers and employees who retire prior to age 65.

Subd. 17. **Payment of just claims.** The board must provide for the payment of all just claims against the district in cases provided by law.

Subd. 18. **Payment of claims.** When payment of a claim cannot be deferred until the next board meeting without loss to the district of a discount privilege, or when payment of a claim cannot be deferred until the next board meeting because of contract terms, purchase order terms, or a vendor's standard terms which are part of the contract, the claim may be paid prior to board approval, providing that the board:

(a) Has delegated authority to the clerk or a designated business administrator to make a payment prior to board approval and

(b) Requires that payment made prior to board approval be acted upon at the next board meeting.

Payment prior to board approval must not affect the right of the district or a taxpayer to challenge the validity of a claim.

Subd. 19. **Prosecute and defend actions.** In all proper cases, the board must prosecute and defend actions by or against the district.

Subd. 20. **Legal counsel; reimbursement.** If reimbursement is requested by a district employee, the board may, after consulting with its legal counsel, reimburse the employee for any costs and reasonable attorney fees incurred by the person to defend criminal charges brought against the person arising out of the performance of duties for the district. A board member who is a witness or an alleged victim in the case may not vote on the reimbursement. If a quorum of the board is disqualified from voting on the reimbursement, the reimbursement must be approved by a judge of the district court.

Subd. 21. **Wind energy conversion system.** The board may construct, acquire, own in whole or in part, operate, and sell and retain and spend the payment received from selling energy from a wind energy conversion system, as defined in section 216C.06, subdivision 19. The board's share of the installed capacity of the wind energy conversion systems authorized by this subdivision must not exceed 3.3 megawatts of nameplate capacity. A board owning, operating, or selling energy from a wind energy conversion system must integrate information about wind energy conversion systems in its educational programming.

Subd. 22. **Reward.** A school board, after formally adopting a policy consistent with this subdivision, may offer a reward to a person who provides accurate and reliable information leading to the conviction of a person who has committed or conspired to commit a crime against students or school employees, volunteers or board members as a result of their affiliation with the school district, or against school district property.

Subd. 23. **Credit cards.** A board may authorize the use of a credit card by any officer or employee otherwise authorized to make a purchase on behalf of the district. If a district officer or employee makes or directs a purchase by credit card that is not approved by the school board, the officer or employee is personally liable for the amount of the purchase. A purchase by credit card must otherwise comply with all statutes, rules, or district policy applicable to school district purchases.

**History:** *Ex1959 c 71 art 4 s 17,22; 1961 c 225 s 1; 1961 c 562 s 13; 1967 c 173 s 2; 1967 c 704 s 1; 1969 c 21 s 1; 1969 c 104 s 1; 1973 c 491 s 1; 1973 c 739 s 1; 1975 c 162 s 41; 1975 c 359 s 23; 1975 c 365 s 1; 1978 c 616 s 5; 1978 c 706 s 20; 1979 c 334 art 6 s 9; 1980 c 609 art 6 s 16; 1981 c 194 s 1; 1981 c 358 art 7 s 22; 1982 c 548 art 6 s 4; 1986 c 444; 1987 c 309 s 24; 1987 c 398 art 7 s 20; 1988 c 605 s 3; 1988 c 626 s 1; 1988 c 668 s 2; 1988 c 718 art 7 s 21; 1991 c 265 art 6 s 22; art 9 s 36; 1992 c 499 art 12 s 8; 1993 c 224 art 12 s 16; art 13 s 17; 1994 c 647 art 6 s 11–13; 1Sp1995 c 3 art 9 s 20; art 16 s 13; 1996 c 412 art 3 s 10; art 6 s 1; 1Sp1997 c 4 art 6 s 7; art 7 s 4; 1998 c 397 art 1 s 54; art 3 s 53; art 5 s 88–90; art 6 s 62–68,98–100,107,124; art 8 s 1,2; art*

*11 s 3; 1998 c 398 art 5 s 55; art 6 s 17; 1999 c 241 art 9 s 19; 2000 c 489 art 10 s 2,21; 2003 c 130 s 12; 1Sp2003 c 9 art 12 s 5; 2004 c 216 s 1; 1Sp2005 c 5 art 2 s 50–52*

### 123B.025 SCHOOL SPONSORSHIP AND ADVERTISING REVENUE.

**Subdivision 1. Board authority; contracts.** A school board may enter into a contract with advertisers, sponsors, or others regarding advertising and naming rights to school facilities under the general charge of the district. A contract authorized under this section must be approved by the school board. The powers granted to a school board under this section are in addition to any other authority the school district may have.

**Subd. 2. Authorized agreements.** A school district may enter into a contract to:

- (1) lease the naming rights for school facilities, including school buildings, ice arenas, and stadiums;
- (2) sell advertising on or in the facilities listed in clause (1); and
- (3) otherwise enter into an agreement with a sponsoring agent.

**Subd. 3. Revenue uses.** Revenue generated under this section must be used according to a plan specified by the school board.

**History:** *1Sp2003 c 9 art 2 s 12*

### 123B.03 BACKGROUND CHECK.

**Subdivision 1. Background check required.** (a) A school hiring authority, as defined in subdivision 3, shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all individuals who are offered employment in the school, as defined in subdivision 3. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or check payable to either the Bureau of Criminal Apprehension or the school hiring authority, at the election of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. A school hiring authority electing to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the Bureau of Criminal Apprehension directly to conduct the background check. The superintendent of the Bureau of Criminal Apprehension shall conduct the background check by retrieving criminal history data maintained in the criminal justice information system computers. A school hiring authority, at its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the State Board of Teaching or the commissioner of education within the 12 months preceding an offer of employment.

(b) A school hiring authority may use the results of a criminal background check conducted at the request of another school hiring authority if:

- (1) the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
- (2) the other school hiring authority conducted a criminal background check within the previous 12 months;
- (3) the individual who is the subject of the criminal background check executes a written consent form giving a school hiring authority access to the results of the check; and
- (4) there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment.

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority elects to request a criminal history background check on the individual, the individual first must pro-

vide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(d) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the Bureau of Criminal Apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

**Subd. 2. Conditional hiring; discharge.** A school hiring authority may hire an individual pending completion of a background check under subdivision 1 but shall notify the individual that the individual's employment may be terminated based on the result of the background check. A school hiring authority is not liable for failing to hire or for terminating an individual's employment based on the result of a background check under this section.

**Subd. 3. Definitions.** For purposes of this section:

(a) "School" means a school as defined in section 120A.22, subdivision 4, except a home school, and includes a school receiving tribal contract or grant school aid under section 124D.83; school, for the purposes of this section, also means a service cooperative, a special education cooperative, or an education district under Minnesota Statutes 1997 Supplement, section 123.35, a charter school under section 124D.10, and a joint powers district under section 471.59.

(b) "School hiring authority" means the school principal or other person having general control and supervision of the school.

**History:** 1995 c 226 art 3 s 2; 1996 c 412 art 9 s 2,3; 1997 c 99 s 1; 1998 c 397 art 6 s 124; art 11 s 3; 1998 c 398 art 5 s 55; 1Sp2001 c 6 art 2 s 18; 2003 c 130 s 12

#### 123B.04 SITE DECISION-MAKING AGREEMENT.

**Subdivision 1. Definition.** "Education site" means a separate facility. A program within a facility or within a district is an education site if the school board recognizes it as a site.

**Subd. 2. Agreement.** (a) Upon the request of 60 percent of the licensed employees of a site or a school site decision-making team, the school board shall enter into discussions to reach an agreement concerning the governance, management, or control of the school. A school site decision-making team may include the school principal, teachers in the school or their designee, other employees in the school, representatives of pupils in the school, or other members in the community. A school site decision-making team must include at least one parent of a pupil in the school. For purposes of formation of a new site, a school site decision-making team may be a team of teachers that is recognized by the board as a site. The school site decision-making team shall include the school principal or other person having general control and supervision of the school. The site decision-making team must reflect the diversity of the education site. At least one-half of the members shall be employees of the district, unless an employee is the parent of a student enrolled in the school site, in which case the employee may elect to serve as a parent member of the site team.

(b) School site decision-making agreements must delegate powers, duties, and broad management responsibilities to site teams and involve staff members, students as appropriate, and parents in decision making.

(c) An agreement shall include a statement of powers, duties, responsibilities, and authority to be delegated to and within the site.

(d) An agreement may include:

(1) an achievement contract according to subdivision 4;

(2) a mechanism to allow principals, a site leadership team, or other persons having general control and supervision of the school, to make decisions regarding how financial and personnel resources are best allocated at the site and from whom goods or services are purchased;

(3) a mechanism to implement parental involvement programs under section 124D.895 and to provide for effective parental communication and feedback on this involvement at the site level;

(4) a provision that would allow the team to determine who is hired into licensed and nonlicensed positions;

(5) a provision that would allow teachers to choose the principal or other person having general control;

(6) an amount of revenue allocated to the site under subdivision 3; and

(7) any other powers and duties determined appropriate by the board.

The school board of the district remains the legal employer under clauses (4) and (5).

(e) Any powers or duties not delegated to the school site management team in the school site management agreement shall remain with the school board.

(f) Approved agreements shall be filed with the commissioner. If a school board denies a request or the school site and school board fail to reach an agreement to enter into a school site management agreement, the school board shall provide a copy of the request and the reasons for its denial to the commissioner.

(g) A site decision-making grant program is established, consistent with this subdivision, to allow sites to implement an agreement that at least:

(1) notwithstanding subdivision 3, allocates to the site all revenue that is attributable to the students at that site;

(2) includes a provision, consistent with current law and the collective bargaining agreement in effect, that allows the site team to decide who is selected from within the district for licensed and nonlicensed positions at the site and to make staff assignments in the site; and

(3) includes a completed performance agreement under subdivision 4.

The commissioner shall establish the form and manner of the application for a grant and annually, at the end of each fiscal year, report to the house of representatives and senate committees having jurisdiction over education on the progress of the program.

**Subd. 3. Revenue and cost allocation.** Revenue for a fiscal year received or receivable by the district shall be allocated to education sites based on the agreement between the school board and the site decision-making team. Revenue shall remain allocated to each site until used by the site. The site teams and the board may enter an agreement that permits the district to provide services and retain the revenue required to pay for the services provided. The district remains responsible for legally entering into contracts and expending funds. For the purposes of this subdivision, "allocation" means that the determination of the use of the revenue shall be under the control of the site. The district may charge the accounts of each site the actual costs of goods and services from the general or capital funds attributable to the site.

**Subd. 4. Achievement contract.** A school board may enter a written education site achievement contract with each site decision-making team for the purpose of setting learning performance expectations for that site, including the goals for improvement in each area of student performance during the next year, a plan to assist the education site if their goals are not achieved, and other performance expectations and measures determined by the board and the site decision-making team.

**Subd. 5. Commissioner's role.** The commissioner of education, in consultation with appropriate educational organizations, shall:

(1) upon request, provide technical support for districts and sites with agreements under this section;



- (2) conduct and compile research on the effectiveness of site decision making; and
- (3) periodically report on and evaluate the effectiveness of site management agreements on a statewide basis.

**History:** 1987 c 398 art 7 s 22; 1991 c 265 art 7 s 9; 1993 c 224 art 7 s 7; 1Sp1997 c 4 art 5 s 11; 1998 c 397 art 6 s 124; art 11 s 3; 2000 c 489 art 6 s 6; 2003 c 130 s 12; 1Sp2005 c 5 art 2 s 53,54; 2006 c 263 art 7 s 3

### 123B.05 CONTRACT DEADLINE AND PENALTY.

Subdivision 1. **Definitions.** The following definitions apply to this section.

(1) "Public employer" means:

- (i) a district; and
- (ii) a public employer, as defined by section 179A.03, subdivision 15, other than a district that (i) negotiates a contract under chapter 179A with teachers, and (ii) is established by, receives state money, or levies under chapters 120A to 129C, or 136D, or 268A.

(2) "Teacher" means a person, other than a superintendent or assistant superintendent, principal, assistant principal, or a supervisor or confidential employee who occupies a position for which the person must be licensed by the Board of Teaching, commissioner of education, the former Board of Technical Colleges, or the Board of Trustees of the Minnesota State Colleges and Universities.

Subd. 2. **Contract deadline date; state aid penalty.** Notwithstanding any law to the contrary, a public employer and the exclusive representative of the teachers must both sign a collective bargaining agreement on or before January 15 of an even-numbered calendar year. If a collective bargaining agreement is not signed by that date, state aid paid to the public employer for that fiscal year must be reduced. However, state aid must not be reduced if:

(1) a public employer and the exclusive representative of the teachers have submitted all unresolved contract items to interest arbitration according to section 179A.16 before December 31 of an odd-numbered year and filed required final positions on all unresolved items with the commissioner of mediation services before January 15 of an even-numbered year; and

(2) the arbitration panel has issued its decision within 60 days after the date the final positions were filed.

Subd. 3. **State aid penalty exemptions.** (a) For a district that reorganizes according to section 123A.46, 123A.48, or sections 123A.35 to 123A.43 effective July 1 of an odd-numbered year, state aid must not be reduced according to this section if the board and the exclusive representative of the teachers both sign a collective bargaining agreement on or before the March 15 following the effective date of reorganization.

(b) For a district that jointly negotiates a contract before the effective date of reorganization under section 123A.46, 123A.48, or sections 123A.35 to 123A.43 that, for the first time, includes teachers in all districts to be reorganized, state aid must not be reduced according to this section if the board and the exclusive representative of the teachers sign a collective bargaining agreement on or before the March 15 following the expiration of the teacher contracts in each district involved in the joint negotiation.

(c) Only one extension of the contract deadline is available to a district under this subdivision.

Subd. 4. **Calculation of state aid reduction.** (a) The reduction must equal \$25 times the number of adjusted pupil units:

- (1) for a district, that are in the district during that fiscal year; or
- (2) for a public employer other than a district, that are in programs provided by the employer during the preceding fiscal year.

(b) The department must determine the number of full-time equivalent resident pupil units in the programs. The department must reduce general education aid; if general education aid is insufficient or not paid, the department must reduce other state aids.

Subd. 5. **State aid reductions returned to general fund.** Reductions from aid to districts and public employers other than districts must be returned to the general fund.

**History:** 1987 c 398 art 1 s 11; 1988 c 486 s 58–60; 1988 c 718 art 1 s 1–3; 1989 c 329 art 1 s 5–12; 1990 c 375 s 3; 1990 c 562 art 8 s 28; 1991 c 130 s 37; 1991 c 265 art 1 s 12–19; 1992 c 499 art 6 s 20; art 12 s 13, 14, 29; 1993 c 224 art 1 s 12–17; 1993 c 374 s 2; 1994 c 647 art 1 s 21–24; 1995 c 212 art 4 s 64; 1Sp1995 c 3 art 1 s 25–44; art 13 s 7; art 16 s 13; 1996 c 412 art 1 s 23–25; art 9 s 6; 1997 c 1 s 4; 1997 c 2 s 6; 1Sp1997 c 4 art 1 s 36–45; art 4 s 22, 23; 1998 c 397 art 7 s 145–151, 164; art 11 s 3; art 12 s 3–5; 1998 c 398 art 1 s 28–31; art 4 s 8; art 5 s 55; 1Sp1998 c 3 s 17; 2003 c 130 s 12

### 123B.06 EVALUATION OF PUPIL GROWTH AND PROGRESS; PERMANENT RECORDS.

Each school district shall provide a testing program for the purpose of measuring pupil growth and for curriculum evaluation, as well as a system for grading and making reports to parents. Each district shall develop an appropriate program of pupil progress and promotion for its elementary, middle, and secondary schools. Each district shall keep accurate and complete individual, permanent, cumulative personal records for all pupils.

**History:** 1993 c 224 art 12 s 28; 1998 c 397 art 6 s 124

### 123B.07 MISSING CHILDREN; VOLUNTARY FINGERPRINTING.

Subdivision 1. **Definition.** For purposes of this section:

(a) “child” means a person under 18 years old; and

(b) “missing child” means a child who has run away or is otherwise missing from the home or the care, custody, and control of the child’s parents, guardian, legal custodian, or other person having responsibility for the child.

Subd. 2. **Authority.** Each district may develop a fingerprinting program for pupils and children who reside in the district. The principal or chief administrative officer of a nonpublic school may develop a fingerprinting program for pupils of the school. If developed, the program must be developed in conjunction with law enforcement agencies having jurisdiction within the district or the place where the nonpublic school is located. The law enforcement agencies must cooperate fully with the district or the nonpublic school in the development of its fingerprinting program.

Subd. 3. **Limitations and procedures.** If developed, the fingerprinting program may be developed only for the purpose of assisting in the location and identification of missing children, and must be operated according to the following procedures:

(a) No child may be required to participate in the program.

(b) Before a child may participate in the program, the child’s parents, guardian, legal custodian, or other person responsible for the child must authorize the child’s participation by signing a form developed by the district or the principal or chief administrative officer of the nonpublic school.

(c) Fingerprinting of children must be done by law enforcement personnel on fingerprint cards provided to the district or nonpublic school by the commissioner of public safety or on fingerprint cards acquired elsewhere.

(d) The school must give the fingerprint card to the child’s parents, guardian, legal custodian, or other person responsible for the child. No copy of the fingerprint card may be retained by the law enforcement agency, school, or district.

(e) The child’s name, sex, hair and eye color, height, weight, and date and place of birth must be written on the fingerprint card.

Districts and nonpublic schools that develop fingerprinting programs under this section shall offer them on a periodic basis, and shall notify parents, guardians, legal custodians, and residents of the district or communities served by the school of the program and its purpose.

Notification may be made by means of memoranda, letters, newspaper articles, or other reasonable means.

Subd. 4. **Evidentiary use of fingerprints.** Fingerprints of a child obtained pursuant to this section are inadmissible as evidence against the child in any criminal or juvenile court proceeding.

Subd. 5. **Other fingerprinting programs unaffected.** This section does not apply to fingerprinting programs for children that are provided by private organizations other than nonpublic schools, or governmental entities other than districts.

**History:** 1Sp1985 c 12 art 7 s 16; 1986 c 444; 1998 c 397 art 6 s 108–110, 124

### 123B.08 FLAG SCHOOL RECORDS OF MISSING CHILDREN.

Subdivision 1. **Flag record upon certain notification.** A district must flag the record of a pupil who is currently or was previously enrolled in the district if a law enforcement agency notifies the district of the pupil's disappearance. The flag must be made so that, if a copy of or information regarding the pupil's record is requested, the district is aware that the record is that of a missing pupil.

Subd. 2. **District notification when records are requested.** When the district provides a copy of the pupil's record or other information concerning the pupil whose record is flagged, the district must notify the law enforcement agency that notified the district of the pupil's disappearance of every inquiry concerning the record. The district must also provide a copy to the law enforcement agency of a written request for information concerning the record.

Subd. 3. **Records upon school district transfer.** When a pupil transfers from one district to another, the receiving district shall attempt to obtain, within 30 days of the pupil's enrollment, the pupil's record from the district from which the pupil has transferred. If the pupil's parent, custodian, or guardian provides a copy of the pupil's record from the district from which the pupil has transferred, the receiving district must request, within 30 days of the pupil's enrollment, written verification of the pupil's record by contacting the district named on the transferring pupil's record. Information received by a district indicating that the transferring pupil is a missing child must be reported by the district to the department of public safety.

Subd. 4. **Data disclosure.** Data in this section may be disclosed according to section 13.32, subdivision 3, clause (d).

**History:** 1991 c 187 s 1; 1998 c 397 art 6 s 111–113, 124

### 123B.09 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.

Subdivision 1. **School board membership.** The care, management, and control of independent districts is vested in a board of directors, to be known as the school board. The term of office of a member shall be four years commencing on the first Monday in January and until a successor qualifies. The membership of the board shall consist of six elected directors together with such *ex officio* member as may be provided by law. The board may submit to the electors at any school election the question whether the board shall consist of seven members. If a majority of those voting on the proposition favor a seven-member board, a seventh member shall be elected at the next election of directors for a four-year term and thereafter the board shall consist of seven members.

Those districts with a seven-member board may submit to the electors at any school election at least 150 days before the next election of three members of the board the question whether the board shall consist of six members. If a majority of those voting on the proposition favor a six-member board instead of a seven-member board, two members instead of three members shall be elected at the next election of the board of directors and thereafter the board shall consist of six members.

Subd. 1a. **Sex offender school board ineligibility.** A sex offender who has been convicted of an offense for which registration under section 243.166 is required is ineligible to

become a candidate for the office of school board member, as defined in subdivision 1. Ineligibility is determined by the registration requirements in effect at the time the offender files for office, not by the registration requirements, if any, that were in effect at the time the offender was convicted.

**Subd. 2. School board member training.** A member shall receive training in school finance and management developed in consultation with the Minnesota School Boards Association and consistent with section 127A.19. The School Boards Association must make available to each newly elected school board member training in school finance and management consistent with section 127A.19 within 180 days of that member taking office. The program shall be developed in consultation with the department and appropriate representatives of higher education.

**Subd. 3. Causes for school board member vacancy.** A vacancy in any board occurs when a member (a) dies, (b) resigns, (c) ceases to be a resident of the district, or (d) is unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district.

**Subd. 4. Ill or absent member.** A vacancy caused by a member being unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district, may, after the board has by resolution declared such vacancy to exist, be filled by the board at any regular or special meeting thereof for the remainder of the unexpired term, or until such ill or absent member is again able to resume duties as a member of such board, whichever date is earliest. When the ill or absent member is able to resume duties as a member of the board, the board must by resolution so determine and declare such person to be again a member of the board, and the member appointed by the board to be no longer a member thereof.

**Subd. 5. Appointments to fill vacancies.** Any other vacancy in a board must be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held under this subdivision. All elections to fill vacancies shall be for the unexpired term. If the vacancy occurs before the first day to file affidavits of candidacy for the next school district general election and more than two years remain in the unexpired term, a special election shall be held in conjunction with the school district general election. The appointed person shall serve until the qualification of the successor elected to fill the unexpired part of the term at that special election. If the vacancy occurs on or after the first day to file affidavits of candidacy for the school district general election, or when less than two years remain in the unexpired term, there shall be no special election to fill the vacancy and the appointed person shall serve the remainder of the unexpired term and until a successor is elected and qualifies at the school district election.

**Subd. 6. Meetings.** A majority of the voting members of the board shall constitute a quorum. No contract shall be made or authorized, except at a regular meeting of the board or at a special meeting at which all members are present or of which all members have had notice. Special meetings may be called by the chair or clerk or any three members upon notice mailed to each member at least three days prior thereto.

**Subd. 7. Policy making.** The board shall make, and when deemed advisable, change or repeal rules relating to the organization and management of the board and the duties of its officers.

**Subd. 8. Duties.** The board must superintend and manage the schools of the district; adopt rules for their organization, government, and instruction; keep registers; and prescribe textbooks and courses of study. The board may enter into an agreement with a postsecondary institution for secondary or postsecondary nonsectarian courses to be taught at a secondary school, nonsectarian postsecondary institution, or another location.

**Subd. 9. Removing board members.** The board may remove, for proper cause, any member or officer of the board and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place, and object the charged mem-

ber has been duly notified, with the reasons for such proposed removal and after an opportunity to be heard in defense against the removal.

**Subd. 10. Publishing proceedings.** The board must cause its official proceedings to be published once in the official newspaper of the district. Such publication shall be made within 30 days of the meeting at which such proceedings occurred. If the board determines that publication of a summary of the proceedings would adequately inform the public of the substance of the proceedings, the board may direct that only a summary be published, conforming to the requirements of section 331A.01, subdivision 10.

**Subd. 11. Mailing summary of proceedings.** If a board of a district that has no newspaper with its known office of issue or a secondary office located within the boundaries of the district and no newspaper that is distributed to more than one-third of the residences in the district determines that mailing a summary of its proceedings would be more economical than publication of the proceedings and that it would adequately inform the public, it may mail a summary of its proceedings to each residence in the district that can be identified as a homestead from the property tax records and to each other residence in the district that the board can identify. The county must make the property tax records available to the board for this purpose. The board must keep a copy of the summary of the proceedings as part of its records. The decision of a board to mail summaries, rather than publish the proceedings under this subdivision shall be presumed valid, subject to challenge by a court action.

**Subd. 12. Board to fix compensation.** The clerk, treasurer, and superintendent of any district shall receive such compensation as may be fixed by the board. Unless otherwise provided by law, the other members of the board shall also receive such compensation as may be fixed by the board. All members of the board may receive reimbursement for transportation at the rate provided for in section 471.665.

**History:** *Ex1959 c 71 art 4 s 15; 1965 c 434 s 1; 1967 c 176 s 2; 1967 c 713 s 1; 1973 c 263 s 1,2; 1973 c 690 s 1; 1974 c 82 s 1,2; 1975 c 162 s 24; 1983 c 314 art 7 s 16,17; 1984 c 543 s 6; 1985 c 122 s 1; 1986 c 444; 1987 c 42 s 1; 1987 c 266 art 2 s 9; 1989 c 329 art 9 s 7; 1990 c 562 art 7 s 3; art 8 s 20; 1992 c 499 art 9 s 2; 1993 c 224 art 7 s 6; 1993 c 374 s 17; 1994 c 646 s 2; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 6 s 45–53,124; art 11 s 3; 1999 c 101 s 1; 2000 c 467 s 4*

### 123B.10 PUBLICATION OF FINANCIAL INFORMATION.

**Subdivision 1. Budgets.** Every board must publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner within one week of the acceptance of the final audit by the board, or November 30, whichever is earlier. The forms prescribed must be designed so that year to year comparisons of revenue, expenditures and fund balances can be made. These budgets, reports of revenue, expenditures and fund balances must be published in a qualified newspaper of general circulation in the district or on the district's official Web site. If published on the district's official Web site, the district must also publish an announcement in a qualified newspaper of general circulation in the district that includes the Internet address where the information has been posted.

**Subd. 2. Debt summary.** The board must also publish at the same time a summary of bonds outstanding, paid, and sold; a summary of orders not paid for want of funds; certificates of indebtedness for the year ending June 30; the statutory operating debt of the district as defined and certified pursuant to section 123B.81; and the balance amount of the reserved fund balance reserve account for purposes of statutory operating debt reduction established pursuant to sections 126C.40 to 126C.45, 126C.48, and 124D.22.

**Subd. 3. Budget inspection.** A statement must be included in the publication that the complete budget in detail may be inspected by any resident of the district upon request to the chief school administrator.

**Subd. 4. Cost per pupil.** The board must also publish at the same time the average cost per pupil in average daily membership educated in that district in the preceding year. This computation must be made exclusive of debt service or capital outlay costs.

**History:** 1969 c 1011 s 1–3; 1971 c 690 s 1; 1977 c 447 art 7 s 17–19; 1984 c 543 s 7; 1Sp1986 c 1 art 9 s 1; 1987 c 398 art 7 s 42; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1993 c 224 art 13 s 28; art 14 s 7; 1993 c 374 s 24; 1995 c 212 art 4 s 64; 1998 c 397 art 6 s 106,124; art 11 s 3; 2006 c 263 art 4 s 1.

### 123B.11 IMPREST CASH FUNDS.

Subdivision 1. **Imprest fund.** The board may establish one or more imprest funds for the payment in cash of any proper claim against the district which it is impractical to pay in any other manner, except that no claim for salary or personal expenses of a district officer or employee shall be paid from such funds. The board must appoint a custodian of each such fund who shall be responsible for its safekeeping and disbursement according to law. Money for the operation of such fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund must be presented to the board at the next board meeting after the disbursements have been made. The board must act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to replenish the fund. If the board fails to approve the claim in full for any sufficient reason, the custodian shall be personally responsible for the difference.

Subd. 2. **Advances.** The board may authorize an imprest fund for the purpose of advancing money to officers or employees to pay the actual and necessary expenses of such officer or employee in attending meetings outside of the district. The board must appoint a custodian of such fund who shall be responsible for its safekeeping and disbursement according to law. At the first regular meeting of the board after such meeting, the custodian shall submit an itemized claim for the actual and necessary expenses incurred and paid. The board must act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to repay the amount advanced from the fund and make final settlement with the officer or employee. As an alternative the board may authorize travel advances if control is maintained by use of a travel advance account, the balance of which is supported by names of employees to whom money has been advanced.

**History:** 1969 c 631 s 1; 1977 c 447 art 7 s 16; 1986 c 444; 1998 c 397 art 6 s 54,124

### 123B.12 INSUFFICIENT FUNDS TO PAY ORDERS.

(a) In the event that a district or a cooperative unit defined in section 123A.24, subdivision 2, has insufficient funds to pay its usual lawful current obligations, subject to section 471.69, the board may enter into agreements with banks or any person to take its orders. Any order drawn, after having been presented to the treasurer for payment and not paid for want of funds shall be endorsed by the treasurer by putting on the back thereof the words "not paid for want of funds," giving the date of endorsement and signed by the treasurer. A record of such presentment, nonpayment and endorsement shall be made by the treasurer. The treasurer shall serve a written notice upon the payee or the payee's assignee, personally, or by mail, when the treasurer is prepared to pay such orders. The notice may be directed to the payee or the payee's assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice. No order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice.

(b) A district may enter, subject to section 471.69, into a line of credit agreement with a financial institution. The amount of credit available must not exceed 95 percent of average expenditure per month of operating expenditures in the previous fiscal year. Any amount advanced must be repaid no later than 45 days after the day of advancement.

**History:** Ex1959 c 71 art 5 s 6; 1965 c 69 s 2; 1967 c 761 s 1; 1986 c 444; 1Sp1995 c 3 art 1 s 6; 1998 c 397 art 6 s 114,124; art 11 s 3

**123B.13 LAND IN SETTLEMENT OF CLAIM AGAINST SURETY.**

**Subdivision 1. Power of board to accept.** When any district now has or asserts any claim or judgment against any sureties on the bonds of any depository of its funds for the failure of any such depository to account for or pay over any such funds and the board or other governing body of the district determines that the claim or judgment, or some part thereof, is not collectible in cash, then any such board or governing body may by resolution determine to accept and receive, in complete or partial satisfaction or settlement of any such claim or judgment, lands or interest therein within this state and may acquire the same for and in the name of such district either by deed or deeds of conveyance from the owners, or as purchaser at execution sale or sales under any such judgment.

**Subd. 2. Title to be held by district.** The district must hold title to lands or interests so acquired. The district must sell each tract or portion as soon as there may be realized the fair value as determined by such board. Any such sale may be authorized by resolution of the board, and may be made for cash, or for part cash and the deferred balance secured by contract for deed or purchase money mortgage, on such terms as the board approves. Conveyances, contracts, or other instruments evidencing any sale shall be executed by the chair and the clerk of the board. Lands so acquired and held for resale shall be deemed public lands used for exclusively public purposes and as such shall be exempt from taxation.

**History:** *Ex1959 c 71 art 5 s 7; 1986 c 444; 1998 c 397 art 6 s 115, 124*

**123B.14 OFFICERS OF INDEPENDENT SCHOOL DISTRICTS.**

**Subdivision 1. Officer selection.** On the first Monday of January of each year, or as soon thereafter as practicable, the board must meet and organize by selecting a chair, clerk, and a treasurer, who shall hold their offices for one year and until their successors are selected and qualify. The persons who perform the duties of the clerk and treasurer need not be members of the board and the board by resolution may combine the duties of the offices of clerk and treasurer in a single person in the Office of Business Affairs. They may appoint a superintendent who shall be ex officio a member of the board, but not entitled to vote therein.

**Subd. 2. Chair.** The chair when present shall preside at all meetings of the board, countersign all orders upon the treasurer for claims allowed by the board, represent the district in all actions and perform all the duties usually incumbent on such officer. In case of absence, inability, or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chair, and paid by the treasurer. A statement of the orders drawn, with a copy of such orders, shall be delivered to the clerk by the treasurer, or the office of the clerk may be declared vacant by the chair and treasurer and filled by appointment.

**Subd. 3. Official depository.** The treasurer shall deposit the funds of the district in the official depository.

**Subd. 4. Treasurer reports.** The treasurer shall make all reports which may be called for by the board and perform all duties usually incumbent on such officer.

**Subd. 5. Insufficient funds.** In the event that valid orders are presented to the treasurer for payment, and there are insufficient funds on hand to pay them, the treasurer shall receive, endorse and process them in accordance with section 123B.12.

**Subd. 6. Performance bond.** When the duty devolves upon any person employed by a board to receive money and pay it over to the treasurer of the district, the district must require a bond from such person and pay all premiums therefor. The amount of each bond shall be fixed by the board and the bond approved by it. The bond must be not less than \$500 conditioned for the faithful performance of the duty and be filed with the clerk. In lieu of individual bonds, the district may prescribe and keep in effect a schedule or position insurance policy or blanket bond in such aggregate amount as the district determines, insuring the fidelity of such persons in the amount of not less than \$500 for each such person.

**Subd. 7. Clerk records.** The clerk shall keep a record of all meetings of the district and the board in books provided by the district for that purpose. The clerk shall, within three days

after an election, notify all persons elected of their election. By August 15 of each year the clerk shall file with the board a report of the revenues, expenditures and balances in each fund for the preceding fiscal year. The report together with vouchers and supporting documents shall subsequently be examined by a public accountant or the state auditor, either of whom shall be paid by the district, as provided in section 123B.77, subdivision 3. The board shall by resolution approve the report or require a further or amended report. By August 15 of each year, the clerk shall make and transmit to the commissioner certified reports, showing:

- (1) The condition and value of school property;
- (2) The revenues and expenditures in detail, and such other financial information required by law, rule, or as may be called for by the commissioner;
- (3) The length of school term and the enrollment and attendance by grades; and
- (4) Such other items of information as may be called for by the commissioner.

The clerk shall enter in the clerk's record book copies of all reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished by the clerk pro tem, and keep an itemized account of all the expenses of the district. The clerk shall furnish to the auditor of the proper county, by October 10 of each year, an attested copy of the clerk's record, showing the amount of money voted by the district or the board for school purposes; draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers and for teachers' wages and all claims, to be countersigned by the chair. Such orders must state the consideration, payee, and the fund and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose.

**History:** *Ex1959 c 71 art 4 s 16; 1969 c 9 s 27; 1971 c 144 s 1; 1973 c 492 s 7; 1974 c 37 s 1; 1975 c 162 s 25; 1975 c 432 s 16; 1978 c 706 s 13-15; 1978 c 764 s 31,32; 1979 c 334 art 6 s 8; 1981 c 175 s 1; 1983 c 314 art 7 s 18; 1986 c 444; 1987 c 398 art 8 s 8; 1990 c 562 art 8 s 21,22; 1991 c 265 art 9 s 34,35; 1993 c 224 art 9 s 22; art 12 s 15; 1Sp1995 c 3 art 9 s 19; art 16 s 13; 1998 c 397 art 6 s 55-61,124; art 11 s 3; 1998 c 398 art 6 s 16; 2000 c 254 s 9; 1Sp2003 c 9 art 2 s 13*

### 123B.143 SUPERINTENDENT.

**Subdivision 1. Contract; duties.** All districts maintaining a classified secondary school must employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent must be vested in the board in all cases. An individual employed by a board as a superintendent shall have an initial employment contract for a period of time no longer than three years from the date of employment. Any subsequent employment contract must not exceed a period of three years. A board, at its discretion, may or may not renew an employment contract. A board must not, by action or inaction, extend the duration of an existing employment contract. Beginning 365 days prior to the expiration date of an existing employment contract, a board may negotiate and enter into a subsequent employment contract to take effect upon the expiration of the existing contract. A subsequent contract must be contingent upon the employee completing the terms of an existing contract. If a contract between a board and a superintendent is terminated prior to the date specified in the contract, the board may not enter into another superintendent contract with that same individual that has a term that extends beyond the date specified in the terminated contract. A board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 122A.40, subdivision 9 or 13. A superintendent shall not rely upon an employment contract with a board to assert any other continuing contract rights in the position of superintendent under section 122A.40. Notwithstanding the provisions of sections 122A.40, subdivision 10 or 11, 123A.32, 123A.75, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on order of employment in any district. If two or more districts enter into an agreement for the purchase or sharing of the services of a superintendent, the con-



tracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on order of employment in a contracting district. The superintendent of a district shall perform the following:

- (1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;
- (2) recommend to the board employment and dismissal of teachers;
- (3) superintend school grading practices and examinations for promotions;
- (4) make reports required by the commissioner;
- (5) by January 10, submit an annual report to the commissioner in a manner prescribed by the commissioner, in consultation with school districts, identifying the expenditures that the district requires to ensure an 80 percent student passage rate on the basic standards test taken in the eighth grade, identifying the highest student passage rate the district expects it will be able to attain on the basic standards test by grade 12, the amount of expenditures that the district requires to attain the targeted student passage rate, and how much the district is cross-subsidizing programs with special education, basic skills, and general education revenue; and
- (6) perform other duties prescribed by the board.

**Subd. 2. Disclose past buyouts or contract is void.** (a) For the purposes of paragraph (b), a "buyout agreement" is any agreement under which a person employed as a superintendent left the position before the term of the contract was over and received a sum of money, something else of value, or the right to something of value for some purpose other than performing the services of a superintendent.

(b) Before a person may enter into a superintendent's contract with a board, the candidate shall disclose in writing the existence and terms of any previous buyout agreement, including amounts and the purpose for the payments, relating to a superintendent's contract with another board. A disclosure made under this paragraph is public data.

(c) The superintendent's contract of a person who fails to make a timely disclosure under paragraph (b) is void.

**History:** *Ex1959 c 71 art 4 s 16; 1969 c 9 s 27; 1971 c 144 s 1; 1973 c 492 s 7; 1974 c 37 s 1; 1975 c 162 s 25; 1975 c 432 s 16; 1978 c 706 s 13-15; 1978 c 764 s 31,32; 1979 c 334 art 6 s 8; 1981 c 175 s 1; 1983 c 314 art 7 s 18; 1986 c 444; 1987 c 398 art 8 s 8; 1990 c 562 art 8 s 21,22; 1991 c 265 art 9 s 34,35; 1993 c 224 art 9 s 22; art 12 s 15; 1Sp1995 c 3 art 9 s 19; art 16 s 13; 1998 c 397 art 6 s 55-61,124; art 11 s 3; 1998 c 398 art 6 s 16; 2000 c 489 art 6 s 8; 1Sp2001 c 6 art 1 s 5*

### 123B.147 PRINCIPALS.

**Subdivision 1. Principal may supervise school building.** Each public school building, as defined by section 120A.05, subdivisions 9, 11, and 13, in an independent district may be under the supervision of a principal who is assigned to that responsibility by the board of education in that district upon the recommendation of the superintendent of schools of that district. If pupils in kindergarten through grade 12 attend school in one building, one principal may supervise the building.

**Subd. 2. Valid principal license required.** Each principal assigned the responsibility for the supervision of a school building shall hold a valid license in the assigned position of supervision and administration as established by the rules of the commissioner of education.

**Subd. 3. Principals' duties.** The principal shall provide administrative, supervisory, and instructional leadership services, under the supervision of the superintendent of schools of the district and in accordance with the policies, rules, and regulations of the board of education, for the planning, management, operation, and evaluation of the education program of the building or buildings to which the principal is assigned.

**History:** *Ex1959 c 71 art 4 s 16; 1969 c 9 s 27; 1971 c 144 s 1; 1973 c 492 s 7; 1974 c 37 s 1; 1975 c 162 s 25; 1975 c 432 s 16; 1978 c 706 s 13-15; 1978 c 764 s*

31,32; 1979 c 334 art 6 s 8; 1981 c 175 s 1; 1983 c 314 art 7 s 18; 1986 c 444; 1987 c 398 art 8 s 8; 1990 c 562 art 8 s 21,22; 1991 c 265 art 9 s 34,35; 1993 c 224 art 9 s 22; art 12 s 15; 1Sp1995 c 3 art 9 s 19; art 16 s 13; 1998 c 397 art 6 s 55-61,124; art 11 s 3; 1998 c 398 art 5 s 55; art 6 s 16; 2003 c 130 s 12

#### **123B.15 REFUSING TO SERVE ON SCHOOL BOARD.**

Any person who accepts election or appointment to any school board and who refuses or neglects to qualify or to serve or to perform any of the duties of the office, shall be fined \$10 for each offense. The fine shall be collected in an action before a district court. It may be prosecuted in the name of the district by any school board member or eligible voter of the district.

**History:** *Ex1959 c 71 art 8 s 9; 1980 c 609 art 6 s 30; 1983 c 359 s 7; 1987 c 266 art 2 s 12; 1998 c 254 art 2 s 7; 1998 c 397 art 6 s 124*

#### **123B.16 FAILURE OF CLERK TO REPORT.**

Any clerk of a school district who fails to make any report required by law shall forfeit not less than \$5, nor more than \$50, for the use of the district.

**History:** *Ex1959 c 71 art 8 s 10; 1986 c 444; 1998 c 397 art 6 s 124*

#### **123B.17 DRAWING ILLEGAL ORDER.**

Any school district clerk who illegally draws an order upon the treasurer, any chair or other officer who attests the order, and any school district treasurer who knowingly pays the order, shall each forfeit to the district twice the amount of the order, to be collected in an action brought in the name of the district by any eligible voter of the district.

**History:** *Ex1959 c 71 art 8 s 11; 1980 c 609 art 6 s 31; 1986 c 444; 1987 c 266 art 2 s 13; 1998 c 397 art 6 s 124*

#### **123B.18 NEGLECTING TO KEEP OR DELIVER RECORDS.**

Any school district clerk who shall neglect to keep official books and records in the manner prescribed by law or shall willfully refuse to deliver such books and records to a successor in office, shall forfeit to the use of the district the sum of \$10 for each offense.

**History:** *Ex1959 c 71 art 8 s 12; 1986 c 444; 1998 c 397 art 6 s 124*

#### **123B.19 FAILURE OF AUDITOR TO REPORT.**

Any county auditor who shall fail to make to the commissioner any report of apportionment required by law shall forfeit, for the benefit of the school fund of the county, the sum of \$50.

**History:** *Ex1959 c 71 art 8 s 13; 1998 c 397 art 6 s 124*

#### **123B.195 BOARD MEMBERS' RIGHT TO EMPLOYMENT.**

Notwithstanding section 471.88, subdivision 5, a school board member may be newly employed or may continue to be employed by a school district as an employee only if there is a reasonable expectation at the beginning of the fiscal year or at the time the contract is entered into or extended that the amount to be earned by that officer under that contract or employment relationship will not exceed \$8,000 in that fiscal year. Notwithstanding section 122A.40 or 122A.41 or other law, if the officer does not receive majority approval to be initially employed or to continue in employment at a meeting at which all board members are present, that employment is immediately terminated and that officer has no further rights to employment while serving as a school board member in the district.

**History:** *1961 c 651 s 1; 1965 c 806 s 1-4; 1969 c 26 s 1; 1973 c 123 art 5 s 7; 1977 c 55 s 1-3; 1978 c 651 s 1; 1979 c 20 s 1; 1986 c 399 art 2 s 38-40; 1986 c 400 s 38-40; 1986 c 444; 1Sp1986 c 3 art 2 s 41; 1991 c 65 s 1,2; 1992 c 380 s 7; 1992 c 522 s*

42,43; 1993 c 224 art 9 s 43; 1996 c 471 art 7 s 18; 1998 c 269 s 1; 1998 c 397 art 11 s 3; 1999 c 241 art 6 s 3; 2004 c 294 art 2 s 12

### 123B.20 DEALING IN SCHOOL SUPPLIES.

Except as provided for in sections 471.87 and 471.88, no teacher in the public schools, nor any state, county, town, city, or district school officer, including any superintendent of schools, or any member of any school board, nor any person connected with the public school system in any capacity, shall be interested directly or indirectly in the sale, proceeds, or profits of any book, apparatus, or furniture used, or to be used, in any school with which the person is connected in any official capacity. Any person violating any of the provisions of this section shall forfeit not less than \$50, nor more than \$200 for each such offense. This section shall not apply to a person who may have an interest in the sale of any book of which that person is the author. Nothing in this section shall prohibit the spouse of an employee or officer covered by this section from contracting with the school district for the sale or lease of books, apparatus, furniture, or other supplies to be used in a school with which the employee or officer is connected in any official capacity, as long as the employee's or officer's position does not involve approving contracts for supplies and the school board unanimously approves the transaction.

**History:** *Ex1959 c 71 art 8 s 15; 1973 c 121 s 1; 1986 c 444; 1993 c 224 art 9 s 36; 1998 c 397 art 6 s 124*

### 123B.21 DUTY OF OFFICERS TO REPORT VIOLATIONS OF LAW.

Every officer to whom reports are required by law to be made and for the failure to make which a penalty or fine or forfeiture is provided, shall give immediate written notice of such failure to the delinquent and to the proper county attorney. Such county attorney shall thereupon institute proper proceedings to collect such penalty, fine, or forfeiture. Upon complaint of the district superintendent, or when it comes to the attorney's knowledge that any school officer has violated any provision of law for which violation a penalty, fine or forfeiture is provided, such attorney shall institute like proceedings.

**History:** *Ex1959 c 71 art 8 s 16; 1975 c 162 s 35; 1986 c 444; 1998 c 397 art 6 s 124*

### 123B.22 COMBINATION TO CONTROL PRICES.

If at any time any publisher shall enter into any understanding, agreement, or combination to control the prices or to restrict competition in the adoption or sale of school books, each and every contract made by the publisher shall thereupon become null and void at the option of the other parties thereto.

**History:** *Ex1959 c 71 art 8 s 21; 1980 c 609 art 6 s 32; 1998 c 397 art 6 s 124*

### 123B.23 LIABILITY INSURANCE; OFFICERS AND EMPLOYEES.

The governing body of any independent school district may procure insurance against liability of the district or of its officers and employees for damages resulting from wrongful acts and omissions of the district and its officers and employees, whether the acts or omissions relate to governmental or proprietary functions of the district. Insofar as this insurance relates to governmental functions of the district, the policy of insurance shall contain a provision requiring the insurance company to waive the defense of governmental immunity up to the limits of the policy unless the district consents to the assertion of that defense.

**History:** *Ex1959 c 71 art 4 s 23; 1998 c 397 art 6 s 101, 124*

### 123B.24 LEGAL ACTIONS BY DISTRICTS.

Any board may prosecute actions in the name of the district in the following cases:

- (1) On a contract made with the district, or with the board in its official capacity;

- (2) To enforce a liability, or a duty enjoined by law, in its favor or in favor of the district;
- (3) To recover a penalty or forfeiture given by law to it or to the district; or
- (4) To recover damages for an injury to the rights or property of the district.

**History:** *Ex1959 c 71 art 8 s 2; 1998 c 397 art 6 s 120,124*

### **123B.25 LEGAL ACTIONS AGAINST DISTRICTS AND TEACHERS.**

(a) An action may be brought against any district, either upon a contract made with the district or its board, in its official capacity and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such board. The action may be brought against the district even if the members of the board making the contract, or guilty of the act or omission complained of, are no longer in office.

(b) Upon written request of the teacher involved, any district, however organized, must provide legal counsel for any school teacher against whom claim is made or action is brought for recovery of damages in any tort action involving physical injury to any person or property or for wrongful death arising out of or in connection with the employment of such teacher with the district. The choice of legal counsel shall be made only after consultation with the teacher. Provision of counsel under this paragraph shall not be construed to render the district liable for its torts, except as otherwise provided by law; or for reimbursement of costs of counsel provided to the teacher pursuant to the contract obligation of another or otherwise than under this paragraph; or for payment of any judgments or any other costs or disbursements in connection with a judgment where the judgment, cost or disbursement is against the teacher and not against the school district.

(c) It is a defense to a civil action for damages against a school official, as defined in section 609.2231, subdivision 5, to prove that the force used by the official was reasonable, was in the exercise of lawful authority, and was necessary under the circumstances to restrain the pupil or to prevent bodily harm or death to another.

**History:** *Ex1959 c 71 art 8 s 3; 1965 c 165 s 1; 1975 c 162 s 41; 1990 c 555 s 7; 1994 c 647 art 9 s 12; 1998 c 397 art 6 s 121,124*

### **123B.26 JUDGMENT PAID BY TREASURER.**

Except as provided in this section, no execution shall issue upon any judgment against a district for the recovery of money. Unless the judgment is stayed by appeal, the treasurer shall pay such judgment, upon presentation of a certified copy of the judgment, if the district has sufficient money not otherwise appropriated. A treasurer who fails to pay the judgment shall be personally liable for the amount, unless the collection is stayed afterwards.

**History:** *Ex1959 c 71 art 8 s 4; 1986 c 444; 1998 c 397 art 6 s 122,124*

### **123B.27 ISSUANCE OF EXECUTION.**

If the judgment is not paid within 30 days after the time when the proceeds of such levy becomes payable by the county treasurer of the district, execution may be issued thereon, to which any property belonging to the district shall be liable.

**History:** *Ex1959 c 71 art 8 s 6; 1998 c 397 art 6 s 124*

### **123B.28 RECORDS AS EVIDENCE.**

The records of all districts and boards and all transcripts thereof, or any part thereof, certified by the clerk or other officer having custody of the records or transcripts, shall be prima facie evidence of the facts stated in the records or transcripts. All records, books, and papers of the district or board shall be subject to the inspection of any voter of the district.

**History:** *Ex1959 c 71 art 4 s 32; 1998 c 397 art 6 s 104,124*

### **123B.29 SALE AT AUCTION.**

Notwithstanding sections 123B.52, subdivision 1, 471.345 or any other law, the board of a school district or of a cooperative center for vocational education may, in lieu of advertis-

ing for bids, sell at public auction to the highest responsible bidder a building constructed or to be constructed by a secondary or postsecondary school student or class as a school assignment. A board shall publish notice of a sale at least two weeks before the sale in the official newspaper of the district, or in the case of a cooperative center, in the official newspapers of each of the member districts, and may, at its discretion, publish additional notice in the official paper or elsewhere. A building may be withdrawn from sale prior to the completion of the sale unless the auction has been announced to be without reserve. If the sale is made at public auction, a duly licensed auctioneer must be retained to conduct the sale. The auctioneer shall be paid from the proceeds of the sale or from any funds available to the board which are not otherwise restricted or encumbered.

**History:** 1979 c 110 s 1; 1998 c 397 art 6 s 105, 124; art 11 s 3

### 123B.30 IMPROPER CLASSIFICATION OF PUPILS.

No district shall classify its pupils with reference to race, color, social position, or nationality, nor separate its pupils into different schools or departments upon any of such grounds. Any district so classifying or separating any of its pupils, or denying school privileges to any of its pupils upon any such ground shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation, or exclusion shall occur or continue. The state commissioner upon notice to the offending district and upon proof of the violation of the provisions of this section, shall withhold in the semiannual apportionment the share of such district and the county auditor shall thereupon exclude such district from the apportionment for such period.

**History:** Ex1959 c 71 art 8 s 8; 1986 c 444; 1998 c 397 art 6 s 124

### 123B.31 LIMITATION OF SECTIONS.

Material contained in sections 120A.22, subdivision 1a, 120B.14, 120B.35, 121A.21, 122A.44, 122A.69, 123A.22, 123A.24, 123B.02, subdivisions 1 to 15 and 17 to 20, 123B.09, 123B.11, 123B.14, 123B.143, 123B.147, 123B.23, 123B.49, 123B.51, 123B.52, 123B.88, 124D.02, 124D.09, and 124D.51, unless expressly stated otherwise, relates only to independent school districts.

**History:** Ex1959 c 71 art 4 s 24; 1980 c 509 s 32; 1989 c 209 art 2 s 1; 1998 c 397 art 11 s 3; 2000 c 254 s 10; 2000 c 489 art 10 s 21

## PUBLIC SCHOOL FEES

### 123B.34 MINNESOTA PUBLIC SCHOOL FEE LAW, CITATION.

Sections 123B.34 to 123B.39 may be cited as the "Minnesota Public School Fee Law."

**History:** 1974 c 561 s 1; 1998 c 397 art 1 s 58; art 11 s 3

### 123B.35 GENERAL POLICY.

It is the policy of the state of Minnesota that public school education shall be free and no pupil shall be denied an education because of economic inability to furnish educational books and supplies necessary to complete educational requirements necessary for graduation. Any practice leading to suspension, coercion, exclusion, withholding of grades or diplomas, or discriminatory action based upon nonpayment of fees denies pupils their right to equal protection and entitled privileges. It is recognized that school boards do have the right to accept voluntary contributions and to make certain charges and to establish fees in areas considered extra curricular, noncurricular or supplementary to the requirements for the successful completion of a class or educational program. No public school board may require, except as authorized by sections 123B.36 and 123B.38, the payment of fees.

**History:** 1974 c 561 s 2; 1998 c 397 art 1 s 58; art 11 s 3

**123B.36 AUTHORIZED FEES.**

Subdivision 1. **School boards may require fees.** (a) For purposes of this subdivision, "home school" means a home school as defined in sections 120A.22 and 120A.24 with five or fewer students receiving instruction.

(b) A school board is authorized to require payment of fees in the following areas:

(1) in any program where the resultant product, in excess of minimum requirements and at the pupil's option, becomes the personal property of the pupil;

(2) admission fees or charges for extracurricular activities, where attendance is optional and where the admission fees or charges a student must pay to attend or participate in an extracurricular activity is the same for all students, regardless of whether the student is enrolled in a public or a home school;

(3) a security deposit for the return of materials, supplies, or equipment;

(4) personal physical education and athletic equipment and apparel, although any pupil may personally provide it if it meets reasonable requirements and standards relating to health and safety established by the board;

(5) items of personal use or products that a student has an option to purchase such as student publications, class rings, annuals, and graduation announcements;

(6) fees specifically permitted by any other statute, including but not limited to section 171.05, subdivision 2; provided (i) driver education fees do not exceed the actual cost to the school and school district of providing driver education, and (ii) the driver education courses are open to enrollment to persons between the ages of 15 and 18 who reside or attend school in the school district;

(7) field trips considered supplementary to a district educational program;

(8) any authorized voluntary student health and accident benefit plan;

(9) for the use of musical instruments owned or rented by the district, a reasonable rental fee not to exceed either the rental cost to the district or the annual depreciation plus the actual annual maintenance cost for each instrument;

(10) transportation of pupils to and from extracurricular activities conducted at locations other than school, where attendance is optional;

(11) transportation to and from school of pupils living within two miles from school and all other transportation services not required by law. If a district charges fees for transportation of pupils, it must establish guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay;

(12) motorcycle classroom education courses conducted outside of regular school hours; provided the charge must not exceed the actual cost of these courses to the school district;

(13) transportation to and from postsecondary institutions for pupils enrolled under the postsecondary enrollment options program under section 123B.88, subdivision 22. Fees collected for this service must be reasonable and must be used to reduce the cost of operating the route. Families who qualify for mileage reimbursement under section 124D.09, subdivision 22, may use their state mileage reimbursement to pay this fee. If no fee is charged, districts must allocate costs based on the number of pupils riding the route.

**Subd. 2. Boards may require students to furnish certain items.** Students may be required to furnish personal or consumable items including pencils, paper, pens, erasers and notebooks.

**Subd. 3. Boards may require students to provide for certain transportation.** Students may be required to furnish their own transportation to and from an instructional community-based employment station that is part of an approved occupational experience secondary vocational program. As an alternative, a board may require the payment of reasonable fees for transportation to and from these instructional community-based employment stations. This subdivision only applies to students who receive remuneration for their participation in these programs.

Subd. 4. **School uniforms.** Notwithstanding section 123B.37, a board may require students to furnish or purchase clothing that constitutes a school uniform if the board has adopted a uniform requirement or program for the student's school. In adopting a uniform requirement, the board shall promote student, staff, parent, and community involvement in the program and account for the financial ability of students to purchase uniforms.

Subd. 5. **School store permitted.** Sections 123B.34 to 123B.39 may not preclude the operation of a school store where pupils may purchase school supplies and materials.

Subd. 6. **Waiver of student fees based on need.** A board may waive any deposit or fee if any pupil or the pupil's parent or guardian is unable to pay it.

**History:** 1974 c 561 s 3; 1976 c 271 s 19; 1978 c 764 s 7; 1986 c 444; 1988 c 718 art 2 s 1; 1990 c 562 art 2 s 1; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1993 c 224 art 2 s 2; 1995 c 226 art 3 s 5; 1996 c 412 art 2 s 4; 1998 c 388 s 1; 1998 c 397 art 1 s 46-50,58; art 11 s 3; 1998 c 398 art 5 s 5; 1999 c 241 art 5 s 5; 1Sp2001 c 6 art 1 s 6

### 123B.37 PROHIBITED FEES.

Subdivision 1. **Boards shall not charge certain fees.** (a) A board is not authorized to charge fees in the following areas:

- (1) textbooks, workbooks, art materials, laboratory supplies, towels;
- (2) supplies necessary for participation in any instructional course except as authorized in sections 123B.36 and 123B.38;
- (3) field trips that are required as a part of a basic education program or course;
- (4) graduation caps, gowns, any specific form of dress necessary for any educational program, and diplomas;
- (5) instructional costs for necessary school personnel employed in any course or educational program required for graduation;
- (6) library books required to be utilized for any educational course or program;
- (7) admission fees, dues, or fees for any activity the pupil is required to attend;
- (8) any admission or examination cost for any required educational course or program;
- (9) locker rentals;
- (10) transportation to and from school of pupils living two miles or more from school.

(b) Notwithstanding paragraph (a), clauses (1) and (6), a board may charge fees for textbooks, workbooks, and library books, lost or destroyed by students. The board must annually notify parents or guardians and students about its policy to charge a fee under this paragraph.

Subd. 2. **Boards shall not withhold grades or diplomas for nonpayment of student fees.** No pupil's rights or privileges, including the receipt of grades or diplomas may be denied or abridged for nonpayment of fees; but this provision does not prohibit a district from maintaining any action provided by law for the collection of fees authorized by sections 123B.36 and 123B.38.

**History:** 1974 c 561 s 4; 1976 c 271 s 20; 1988 c 718 art 2 s 2; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1Sp1995 c 3 art 9 s 5; 1996 c 412 art 2 s 5; 1998 c 397 art 1 s 51,58; art 11 s 3; 1Sp2001 c 6 art 1 s 7

### 123B.38 HEARING.

Before the initiation of any fee not authorized or prohibited by sections 123B.36 and 123B.37, the local board must hold a public hearing within the district upon three weeks published notice in the district's official newspaper, or such notice as is otherwise required for a regular board meeting given three weeks before the hearing on the proposed adoption of the policy.

**History:** 1974 c 561 s 5; 1982 c 424 s 130; 1985 c 248 s 70; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1993 c 224 art 13 s 3; 1994 c 465 art 3 s 64; 1Sp1995 c 3 art 9 s 6; 1998 c 397 art 1 s 52,58; art 11 s 3

**123B.39 POSTSECONDARY INSTRUCTIONAL PROGRAMS.**

Sections 123B.34 to 123B.39 may not be construed to prohibit a board from charging reasonable fees for goods and services provided in connection with any postsecondary instructional program, including but not limited to vocational technical, veteran farmer cooperative training, and community education programs, and continuing education and evening school programs other than those conducted pursuant to section 124D.52.

**History:** 1974 c 561 s 6; 1975 c 432 s 11; 1980 c 609 art 4 s 22; 1998 c 397 art 1 s 53,58; art 11 s 3

**AID TO NONPUBLIC STUDENTS****123B.40 DECLARATION OF POLICY.**

It is the intent of the legislature to provide for distribution of educational aids such as textbooks, standardized tests and pupil support services so that every school pupil in the state will share equitably in education benefits and therefore further assure all Minnesota pupils and their parents freedom of choice in education.

**History:** 1975 c 396 s 1; 1978 c 733 s 2; 1998 c 397 art 7 s 164

**123B.41 DEFINITIONS.**

Subdivision 1. **Application.** As used in sections 123B.40 to 123B.48, the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Textbook.** "Textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school regularly attended and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term shall be limited to books, workbooks, or manuals, whether bound or in loose-leaf form, intended for use as a principal source of study material for a given class or a group of students. The term includes only such secular, neutral and nonideological textbooks as are available, used by, or of benefit to Minnesota public school pupils.

Subd. 3. **Standardized tests.** "Standardized tests" means standardized tests and scoring services which are provided by commercial publishing organizations or the state and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

Subd. 4. **Pupil support services.** "Pupil support services" means guidance and counseling services and health services.

Subd. 5. **Individualized instructional or cooperative learning materials.** "Individualized instructional or cooperative learning materials" means educational materials which:

(a) are designed primarily for individual pupil use or use by pupils in a cooperative learning group in a particular class or program in the school the pupil regularly attends;

(b) are secular, neutral, nonideological and not capable of diversion for religious use; and

(c) are available, used by, or of benefit to Minnesota public school pupils.

Subject to the requirements in clauses (a), (b), and (c), "individualized instructional or cooperative learning materials" include, but are not limited to, the following if they do not fall within the definition of "textbook" in subdivision 2: published materials; periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic works; prerecorded video programs; prerecorded tapes, cassettes and other sound recordings; manipulative materials; desk charts; games; study prints and pictures; desk maps; models; learning kits; blocks or cubes; flash cards; individualized multimedia systems; prepared instructional computer software programs; choral and band sheet music; and CD-Rom.

"Individualized instructional or cooperative learning materials" do not include instructional equipment, instructional hardware, or ordinary daily consumable classroom supplies.

Subd. 6. **Pupils.** "Pupils" means elementary and secondary pupils.



Subd. 7. **Elementary pupils.** "Elementary pupils" means pupils in grades kindergarten through 6; provided, each kindergarten pupil shall be counted as one-half pupil for all computations pursuant to sections 123B.40 to 123B.42, and 123B.44 to 123B.48.

Subd. 8. **Secondary pupils.** "Secondary pupils" means pupils in grades 7 through 12.

Subd. 9. **Nonpublic school defined.** "Nonpublic school" means any school, church or religious organization, or home school wherein a resident of Minnesota may legally fulfill the compulsory instruction requirements of section 120A.22, which is located within the state, and which meets the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352). It does not mean a public school.

Subd. 10. **Nonsectarian nonpublic school.** "Nonsectarian nonpublic school" means any nonpublic school as defined in subdivision 9, which is not church related, is not controlled by a church, and does not promote a religious belief.

Subd. 11. **Pupil; student.** "Pupil" or "student" means a child enrolled in a school and is limited to children who are residents, or children of residents, of Minnesota.

Subd. 12. **Intermediary service area.** "Intermediary service area" means a school administrative unit approved by the commissioner, other than a single school district, including but not limited to the following:

- (a) a service cooperative;
- (b) a cooperative of two or more school districts;
- (c) learning centers; or
- (d) an association of schools or school districts.

Subd. 13. **Neutral site.** "Neutral site" means a public center, a nonsectarian nonpublic school, a mobile unit located off the nonpublic school premises, or any other location off the nonpublic school premises which is neither physically nor educationally identified with the functions of the nonpublic school.

Subd. 14. **Guidance and counseling services.** "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance.

Subd. 15. **Health services.** "Health services" means physician, dental, nursing or optometric services and health supplies brought to the site by the health professional for pupil usage in the field of physical or mental health; provided the term does not include direct educational instruction, services which are required pursuant to sections 125A.03 to 125A.24, and 125A.65, and 125A.26 to 125A.48, or services which are eligible to receive special education aid pursuant to section 125A.75.

**History:** 1975 c 396 s 2; 1978 c 733 s 3-13; 1979 c 34 s 1; 1980 c 609 art 4 s 2; art 6 s 20,21; 1982 c 424 s 32; 1986 c 444; 1989 c 209 art 2 s 1; 1991 c 130 s 7; 1993 c 224 art 13 s 29; 1994 c 647 art 13 s 4; 1995 c 186 s 119; 1996 c 305 art 1 s 138; 1996 c 412 art 8 s 1-4; 1998 c 397 art 7 s 10,164; art 11 s 3

## **123B.42 TEXTBOOKS; INDIVIDUAL INSTRUCTION OR COOPERATIVE LEARNING MATERIAL; STANDARD TESTS.**

Subdivision 1. **Providing education materials and tests.** The commissioner of education shall promulgate rules under the provisions of chapter 14 requiring that in each school year, based upon formal requests by or on behalf of nonpublic school pupils in a nonpublic school, the local districts or intermediary service areas must purchase or otherwise acquire textbooks, individualized instructional or cooperative learning materials, and standardized tests and loan or provide them for use by children enrolled in that nonpublic school. These textbooks, individualized instructional or cooperative learning materials, and standardized tests must be loaned or provided free to the children for the school year for which requested. The loan or provision of the textbooks, individualized instructional or cooperative learning materials, and standardized tests shall be subject to rules prescribed by the commissioner of education.

Subd. 1a. **Curriculum; electronic components.** A school district that provides curriculum to resident students that has both physical and electronic components must make the electronic component accessible to a resident student in a home school in compliance with sections 120A.22 and 120A.24 at the request of the student or the student's parent or guardian, provided that the district does not incur more than an incidental cost as a result of providing access electronically.

Subd. 2. **Title to education materials and tests.** The title to textbooks, individualized instructional or cooperative learning materials, and standardized testing materials must remain in the servicing school district or intermediary service area, and possession or custody may be granted or charged to administrators of the nonpublic school attended by the nonpublic school pupil or pupils to whom the textbooks, individualized instructional or cooperative learning materials, or standardized tests are loaned or provided.

Subd. 3. **Cost; limitation.** (a) The cost per pupil of the textbooks, individualized instructional or cooperative learning materials, and standardized tests provided for in this section for each school year must not exceed the statewide average expenditure per pupil, adjusted pursuant to clause (b), by the Minnesota public elementary and secondary schools for textbooks, individualized instructional materials and standardized tests as computed and established by the department by February 1 of the preceding school year from the most recent public school year data then available.

(b) The cost computed in clause (a) shall be increased by an inflation adjustment equal to the percent of increase in the formula allowance, pursuant to section 126C.10, subdivision 2, from the second preceding school year to the current school year.

(c) The commissioner shall allot to the districts or intermediary service areas the total cost for each school year of providing or loaning the textbooks, individualized instructional or cooperative learning materials, and standardized tests for the pupils in each nonpublic school. The allotment shall not exceed the product of the statewide average expenditure per pupil, according to clause (a), adjusted pursuant to clause (b), multiplied by the number of nonpublic school pupils who make requests pursuant to this section and who are enrolled as of September 15 of the current school year.

**History:** 1975 c 396 s 3; 1978 c 733 s 14; 1980 c 609 art 4 s 3; 1982 c 424 s 130; 1982 c 642 s 10; 1983 c 314 art 1 s 22; art 6 s 9; 1988 c 486 s 18; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 8 s 5; 1998 c 397 art 7 s 11, 164; art 11 s 3; 1998 c 398 art 5 s 55; 1Sp2001 c 5 art 2 s 1; 1Sp2001 c 6 art 1 s 8, 55 subd 2; 2003 c 130 s 12; 1Sp2005 c 5 art 4 s 1

### 123B.43 USE OF INDIVIDUALIZED INSTRUCTIONAL MATERIALS.

(a) The commissioner shall assure that textbooks and individualized instructional materials loaned to nonpublic school pupils are secular, neutral, nonideological and that they are incapable of diversion for religious use.

(b) Textbooks and individualized instructional materials must not be used in religious courses, devotional exercises, religious training or any other religious activity.

(c) Textbooks and individualized instructional materials must be loaned only to individual pupils upon the request of a parent or guardian or the pupil on a form designated for this use by the commissioner. The request forms shall provide for verification by the parent or guardian or pupil that the requested textbooks and individualized instructional materials are for the use of the individual pupil in connection with a program of instruction in the pupil's elementary or secondary school.

(d) The servicing school district or the intermediary service area must take adequate measures to ensure an accurate and periodic inventory of all textbooks and individualized instructional materials loaned to elementary and secondary school pupils attending nonpublic schools. The commissioner of education shall promulgate rules under the provisions of chapter 14 to terminate the eligibility of any nonpublic school pupil if the commissioner determines, after notice and opportunity for hearing, that the textbooks or individualized in-

structional materials have been used in a manner contrary to the provisions of section 123B.41, subdivision 5, 123B.42, or this section or any rules promulgated by the commissioner of education.

(e) Nothing contained in section 123B.41, subdivision 5, 123B.42, or this section shall be construed to authorize the making of any payments to a nonpublic school or its faculty, staff or administrators for religious worship or instruction or for any other purpose.

**History:** 1980 c 609 art 4 s 5; 1982 c 424 s 130; 1990 c 562 art 7 s 6; 1993 c 224 art 13 s 30; 1998 c 397 art 7 s 20,164; art 11 s 3; 1998 c 398 art 5 s 55; 2003 c 130 s 12

#### 123B.44 PROVISION OF PUPIL SUPPORT SERVICES.

Subdivision 1. **Provided services.** The commissioner of education shall promulgate rules under the provisions of chapter 14 requiring each district or other intermediary service area: (a) to provide each year upon formal request by a specific date by or on behalf of a nonpublic school pupil enrolled in a nonpublic school located in that district or area, the same specific health services as are provided for public school pupils by the district where the nonpublic school is located; and (b) to provide each year upon formal request by a specific date by or on behalf of a nonpublic school secondary pupil enrolled in a nonpublic school located in that district or area, the same specific guidance and counseling services as are provided for public school secondary pupils by the district where the nonpublic school is located. The district where the nonpublic school is located must provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided pupil support services under this section if the district elects to provide pupil support services at a site other than the nonpublic school. Each request for pupil support services must set forth the guidance and counseling or health services requested by or on behalf of all eligible nonpublic school pupils enrolled in a given nonpublic school. No district or intermediary service area must not expend an amount for these pupil support services which exceeds the amount allotted to it under this section.

Subd. 2. **Location of services.** Health and guidance and counseling services may be provided to nonpublic school pupils under this section at a public school, a neutral site, the nonpublic school or any other suitable location. District or intermediary service area personnel and representatives of the nonpublic school pupils receiving pupil support services must hold an annual consultation regarding the type of services, provider of services, and the location of the provision of these services. The district board or intermediary service area governing board must make the final decision on the location of the provision of these services.

Subd. 3. **Guidance and counseling; exclusions.** Guidance and counseling services provided to nonpublic school pupils pursuant to this section shall not include the planning or selection of particular courses or classroom activities of the nonpublic school.

Subd. 4. **Health services; allotment.** Each school year the commissioner shall allot to the school districts or other intermediary service areas for the provision of health services pursuant to this section the actual cost of the services provided for the pupils in each respective nonpublic school for that school year. The allotment must not exceed the average expenditure per public school pupil for these services by those Minnesota public elementary and secondary schools which provide health services to public school pupils, multiplied by the number of pupils in that particular nonpublic school who request these health services and who are enrolled as of September 15 of the current school year.

Subd. 5. **Guidance and counseling services; allotment.** Each school year the commissioner shall allot to the school districts or intermediary service areas for the provision of guidance and counseling services pursuant to this section the actual cost of the services provided for the pupils in each respective nonpublic school for that school year. The allotment for guidance and counseling services for the secondary pupils in each nonpublic school must not exceed the average expenditure per public school secondary pupil for these services by those Minnesota public schools which provide these services to their secondary pupils, multiplied by the number of secondary pupils in that particular nonpublic school who request these services and who are enrolled as of September 15 of the current school year.

Subd. 6. **Computation of maximum allotments.** For purposes of computing maximum allotments for each school year pursuant to this section, the average public school expenditure per pupil for health services and the average public school expenditure per secondary pupil for guidance and counseling services shall be computed and established by the department by February 1 of the preceding school year from the most recent public school year data then available.

**History:** 1975 c 396 s 5; 1978 c 733 s 15; 1982 c 424 s 130; 1Sp1985 c 12 art 7 s 17; 1987 c 178 s 6; 1988 c 629 s 27; 1993 c 224 art 9 s 27; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 8 s 6,7; 1998 c 397 art 7 s 12–16,164; art 11 s 3; 1998 c 398 art 2 s 22,23; art 5 s 55; 1Sp2001 c 6 art 1 s 9; 2003 c 130 s 12

### 123B.445 NONPUBLIC EDUCATION COUNCIL.

(a) The commissioner shall appoint a 15-member Council on Nonpublic Education. The 15 members shall represent various areas of the state, represent various methods of providing nonpublic education, and shall be knowledgeable about nonpublic education. The compensation, removal of members, filling of vacancies, and terms are governed by section 15.0575. The council shall not expire. The council shall advise the commissioner on issues affecting nonpublic education and nonpublic schools. The council may recognize educational accrediting agencies, for the sole purpose of sections 120A.22, 120A.24, and 120A.26.

(b) A parent or guardian of a nonpublic school pupil or a nonpublic school may file a complaint about services provided under sections 123B.40 to 123B.42, and 123B.44 to 123B.48 with the Nonpublic Education Council. The council may review the complaint and make a recommendation for resolution to the commissioner.

**History:** 1975 c 396 s 5; 1978 c 733 s 15; 1982 c 424 s 130; 1Sp1985 c 12 art 7 s 17; 1987 c 178 s 6; 1988 c 629 s 27; 1993 c 224 art 9 s 27; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 8 s 6,7; 1998 c 397 art 7 s 12–16,164; art 11 s 3; 1998 c 398 art 2 s 22,23; art 5 s 55

### 123B.45 PAYMENTS FOR CONTRACTUAL OBLIGATIONS.

The commissioner shall make such payments to school districts or intermediary service areas pursuant to sections 123B.40 to 123B.42, and 123B.44 to 123B.48 as are needed to meet contractual obligations incurred for the provision of benefits to nonpublic school students pursuant to section 123B.42, 123B.44, or 123B.445.

**History:** 1975 c 396 s 6; 1978 c 733 s 16; 1998 c 397 art 7 s 17,164; art 11 s 3

### 123B.46 ADMINISTRATIVE COSTS.

Each year, a district or intermediary service area may claim and receive from the department an additional sum for the administration of sections 123B.42, 123B.44, and 123B.445, equal to five percent of the district's or area's allocation for that year pursuant to those sections.

**History:** 1978 c 733 s 17; 1990 c 562 art 7 s 5; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 7 s 18,164; art 11 s 3

### 123B.47 NOTICE TO DISTRICTS; PRORATION.

If the appropriation for nonpublic educational aid under sections 123B.40 to 123B.48 is not sufficient to meet the required payments in any fiscal year, the department must notify the school districts at the earliest possible date of the need to prorate the appropriation among the districts.

**History:** 1987 c 398 art 6 s 1; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 7 s 19,164; art 11 s 3

### 123B.48 LIMIT ON DISTRICT OBLIGATIONS.

If the amount appropriated for purposes of sections 123B.40 to 123B.42, and 123B.44 to 123B.48, for any year is not sufficient to make the payments required pursuant to sections

123B.40 to 123B.42, and 123B.44 to 123B.48, for that year, then no school district or intermediary service area is required to expend an amount pursuant to sections 123B.40 to 123B.42, and 123B.44 to 123B.48, for that year which exceeds the amount of the payments it receives pursuant to sections 123B.40 to 123B.42, and 123B.44 to 123B.48, for that year.

**History:** 1975 c 396 s 8; 1978 c 733 s 18; 1979 c 334 art 6 s 18; 1980 c 609 art 4 s 4; 1981 c 358 art 6 s 17; 1998 c 397 art 7 s 164; art 11 s 3

## COCURRICULAR AND EXTRACURRICULAR ACTIVITIES

### 123B.49 EXTRACURRICULAR ACTIVITIES; INSURANCE.

Subdivision 1. **Activities outside district limits.** Whenever it appears to be beneficial and for the best interest of the district and the pupils of the district to carry on any school sport activities or educational activities connected with their studies outside of the territorial limits of the district, the board may authorize such activities to be conducted under such rules and regulations as the board deems sufficient. The district may pay all necessary costs therefor including transportation from the district funds available.

Subd. 2. **Cocurricular activities authorization.** The board must take charge of and control all cocurricular school activities of the teachers and children of the public schools in that district held in the school building or school grounds or under the supervision or direction of the school board. The board must adopt rules and regulations for the conduct of cocurricular activities in which the schools of the district or any class or pupils therein may participate. All money received on account of such activities must be turned over to the district treasurer, who shall keep the same in the general fund, to be disbursed for expenses and salaries connected with the activities, or otherwise, by the board upon properly allowed itemized claims.

Teachers or pupils in the public schools of such district must not participate in cocurricular activities, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Subd. 3. **Cocurricular activities.** Cocurricular activities means school sponsored and directed activities designed to provide opportunities for pupils to participate, on an individual or group basis, in school and public events for the improvement of skills. Cocurricular activities are not offered for school credit, cannot be counted toward graduation and have one or more of the following characteristics:

(a) They are conducted at regular and uniform times during school hours, or at times established by school authorities;

(b) Although not offered for credit, they are directed or supervised by instructional staff in a learning environment similar to that found in courses offered for credit;

(c) They are partially funded by public moneys for general instructional purposes under direction and control of the board.

Subd. 4. **Board control of extracurricular activities.** (a) The board may take charge of and control all extracurricular activities of the teachers and children of the public schools in the district. Extracurricular activities means all direct and personal services for pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. The board shall allow all resident pupils receiving instruction in a home school as defined in section 123B.36, subdivision 1, paragraph (a), to be eligible to fully participate in extracurricular activities on the same basis as public school students.

(b) Extracurricular activities have all of the following characteristics:

(1) they are not offered for school credit nor required for graduation;

(2) they are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;

(3) the content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

(c) If the board does not take charge of and control extracurricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of

the use of school facilities, met by dues, admissions, or other student fund-raising events. The general fund must reflect only those salaries directly related to and readily identified with the activity and paid by public funds. Other revenues and expenditures for extra curricular activities must be recorded according to the Manual for Activity Fund Accounting. Extra-curricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.

(d) If the board takes charge of and controls extracurricular activities, any or all costs of these activities may be provided from school revenues and all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district.

(e) If the board takes charge of and controls extracurricular activities, the teachers or pupils in the district must not participate in such activity, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

**Subd. 5. Contract for insurance.** The board may enter into a contract providing for the payment of cash benefits or the rendering or payment of hospital and medical benefits, or both to school children injured while participating in activities of the school. The contract entered into by the board may make the payment of such benefits or the rendering thereof the direct and sole obligation of the association or company entering into such contract with the district.

If the board deems it advisable, it may authorize employees to collect fees from the pupils enrolled in said school who are to be or are covered by such contract, and to make payment of the premium or other charge for such contract or protection. The payment of such premium or other charge may be made from funds received from the federal government or from the state or any governmental subdivision thereof, or from funds derived by a tax levy or the issuance of bonds.

The child's payment of any fees, premium or other charge shall not thereby make the district liable for any injuries incurred from such school activities.

The commissioner of education may purchase medical insurance coverage for the benefit of students of the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind in the same manner and with the same effect as a school district board may do for its students under this subdivision.

**Subd. 6. Insurance laws.** The insurance laws of this state shall not apply to nonprofit benefit and relief associations formed by public schools or officers of public schools or the Minnesota State High School League, the privileges of which and applications for membership in which are confined to pupils of the schools, and the benefits and relief to be derived therefrom are limited to pupils injured or disabled from participation in school athletics or any supervised school activity.

**History:** *Ex1959 c 71 art 4 s 20; 1971 c 254 s 1; 1976 c 212 s 1–5; 1979 c 335 s 14; 1987 c 258 s 12; 1987 c 384 art 1 s 55; 1989 c 246 s 2; 1990 c 562 art 8 s 25; 1991 c 265 art 9 s 40; 1996 c 412 art 13 s 14,15; 1998 c 397 art 6 s 78–82,124; 1998 c 398 art 5 s 55; 1999 c 241 art 5 s 6; 2003 c 130 s 12; 1Sp2005 c 5 art 2 s 55*

## **123B.492 SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.**

Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that was used for a one-meter board high school diving program during the 2000–2001 school year may be used for supervised competitive one-meter board high school diving. Schools and school districts are strongly encouraged to use a pool for supervised competitive high school diving that meets the requirements of Minnesota Rules, part 4717.3750. A school or district using a pool for supervised competitive high school diving for either training practice or competition that does not meet the requirements of Minnesota Rules, part 4717.3750, must provide appropriate notice to parents and participants as to the type of variance from Minnesota Rules and risk it may present.

**History:** *1989 c 329 art 9 s 16; 1990 c 425 s 2; 1Sp2003 c 9 art 2 s 40; 2004 c 288 art 6 s 10; 2004 c 294 art 2 s 15; 1Sp2005 c 5 art 4 s 2*

**SPECIAL SCHOOL DISTRICTS;  
MINNEAPOLIS AND SOUTH ST. PAUL**

**123B.50 SPECIAL SCHOOL DISTRICTS, LAWS APPLICABLE.**

Special districts as now organized shall continue to operate under the special legislation and charter provisions governing them until conversion to independent districts. The provisions of law relating to independent districts shall apply to and govern each special district unless the special laws and charter provisions governing the special district provide for the matter, in which case the special laws and charter provisions relating to the special district shall apply and control. Sections 205A.01 to 205A.11 control and supersede inconsistent provisions of special laws or charters in the administration of school district elections in special districts.

**History:** *Ex1959 c 71 art 4 s 25; 1980 c 609 art 6 s 19; 1987 c 266 art 2 s 11; 1998 c 397 art 6 s 124*

**SCHOOL BUILDINGS AND OTHER FACILITIES;  
EQUIPMENT; CONSTRUCTION; LAND AND SITES**

**123B.51 SCHOOLHOUSES AND SITES; USES FOR SCHOOL AND NON-SCHOOL PURPOSES; CLOSINGS.**

Subdivision 1. **Sites.** According to section 126C.40, subdivision 1, or 465.71, when funds are available, the board may locate and acquire necessary sites of schoolhouses or enlargements, or additions to existing schoolhouse sites by lease, purchase or condemnation under the power of eminent domain; it may erect schoolhouses on the sites; it may erect or purchase garages for district-owned school buses. When property is taken by eminent domain by authority of this subdivision when needed by the district for such purposes, the fact that the property has been acquired by the owner under the power of eminent domain or is already devoted to public use, shall not prevent its acquisition by the district. The board may sell or exchange schoolhouses or sites, and execute deeds of conveyance thereof.

Subd. 2. **Use of schoolhouses.** The board may authorize the use of any schoolhouses in the district for divine worship, Sunday schools, public meetings, elections, postsecondary instruction, and other community purposes that, in its judgment, will not interfere with their use for school purposes. Before permitting any of these uses, the board may require a cash or corporate surety bond in a reasonable amount conditioned for the proper use of the schoolhouse, payment of all rent, and repair of all damage caused by the use. It may determine a reasonable charge for using the schoolhouse.

It may authorize the use of any schoolhouses or buildings owned or leased by the district for primaries, elections, registrations, and related activities if the board determines that the use will not interfere with school purposes. It may impose reasonable regulations and conditions upon the use as may seem necessary and proper.

Subd. 3. **Lease real property.** When necessary, the board may lease real property for school purposes.

Subd. 4. **Lease for nonschool purpose.** (a) The board may lease to any person, business, or organization real property that is not needed for school purposes, or part of the property that is not needed for school purposes if the board determines that leasing part of the property does not interfere with the educational programs taking place on the property. The board may charge and collect reasonable consideration for the lease and may determine the terms and conditions of the lease.

(b) In districts with outstanding bonds, the net proceeds of the lease must be first deposited in the debt retirement fund of the district in an amount sufficient to meet when due that percentage of the principal and interest payments for outstanding bonds that is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property that is leased. Any remaining net proceeds in these districts may

be deposited in either the debt redemption fund or operating capital account. All net proceeds of the lease in districts without outstanding bonds shall be deposited in the operating capital account of the district.

(c) The board may make capital improvements to the real property, not exceeding in cost the replacement value of the property, to facilitate its rental, and the lease of the improved property, or part of it, shall provide for rentals which will recover the cost of the improvements over the initial term of the lease. Notwithstanding paragraph (b), the portion of the rentals representing the cost of the improvements shall be deposited in the operating capital account of the district and the balance of the rentals shall be used as provided in paragraph (b).

**Subd. 5. Schoolhouse closing.** The board may close a schoolhouse only after a public hearing on the question of the necessity and practicability of the proposed closing. Published notice of the hearing shall be given for two weeks in the official newspaper of the district. The time and place of the meeting, the description and location of the schoolhouse, and a statement of the reasons for the closing must be specified in the notice. Parties requesting to give testimony for and against the proposal shall be heard by the board before it makes a final decision to close or not to close the schoolhouse.

**Subd. 6. Proceeds of sale or exchange.** (a) Proceeds of the sale or exchange of school buildings or real property of the district must be used as provided in this subdivision.

(b) In districts with outstanding bonds, the proceeds of the sale or exchange shall first be deposited in the debt retirement fund of the district in an amount sufficient to meet when due that percentage of the principal and interest payments for outstanding bonds which is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property which is sold.

(c) After satisfying the requirements of paragraph (b), a district with outstanding bonds may deposit proceeds of the sale or exchange in its general fund reserved for operating capital account if the amount deposited is used for the following:

(1) for expenditures for the cleanup of polychlorinated biphenyls, if the method for cleanup is approved by the department;

(2) for capital expenditures for the betterment, as defined in section 475.51, subdivision 8, of district-owned school buildings; or

(3) to replace the building or property sold.

(d) In a district with outstanding bonds, the amount of the proceeds of the sale or exchange remaining after the application of paragraphs (b) and (c), which is sufficient to meet when due that percentage of the principal and interest payments for the district's outstanding bonds which is not governed by paragraph (b), shall be deposited in the debt retirement fund.

(e) Any proceeds of the sale or exchange remaining in districts with outstanding bonds after the application of paragraphs (b), (c), and (d), and all proceeds of the sale or exchange in districts without outstanding bonds shall be deposited in the general fund reserved for operating capital account of the district.

(f) Notwithstanding paragraphs (c) and (d), a district with outstanding bonds may deposit in its general fund reserved for operating capital account and use for any lawful operating capital expenditure without the reduction of any levy limitation the same percentage of the proceeds of the sale or exchange of a building or property as the percentage of the initial cost of purchasing or constructing the building or property which was paid using revenue from the general fund reserved for operating capital account.

**Subd. 7. Use of buildings by lower grades.** (a) In addition to the protections provided in existing building and fire code rules and standards, the following alternatives apply for existing school buildings:

(1) rooms occupied by preschool, kindergarten, and first and second grade students for classrooms, latchkey, day care, early childhood family education or teen parent or similar programs may be located on any floor level below the fourth story of a school building if the building is protected throughout by a complete automatic sprinkler system and a complete



automatic fire alarm system consisting of automatic smoke detection throughout the exit system and approved smoke detection in all rooms and areas other than classrooms and offices;

(2) rooms used by preschool, kindergarten, or first grade students for classrooms, latch-key, day care, early childhood family education or teen parent or similar programs, must be located on the story of exit discharge, and rooms used by second grade students, for any purpose, must be located on the story of exit discharge or one story above unless one of the following conditions is met:

(i) a complete automatic sprinkler system is provided throughout the building, the use of the affected room or space is limited to one grade level at a time, and exiting is provided from the affected room or space which is independent from the exiting system used by older students; or

(ii) a complete approved automatic fire alarm system is installed throughout the building consisting of automatic smoke detection throughout the exit system and approved detection in all rooms and areas other than classrooms and offices, the use of the affected room or space is limited to one grade level at a time and exiting is provided from the affected room or space which is independent from the exiting system used by older students.

(b) For purposes of paragraph (a), clause (2), pupils from second grade down are considered one grade level.

(c) Accessory spaces, including gymnasiums, cafeterias, media centers, auditoriums, libraries, and band and choir rooms, which are used on an occasional basis by preschool, kindergarten, and first and second grade students are permitted to be located one level above or one level below the story of exit discharge, provided the building is protected throughout by a complete automatic sprinkler system or a complete approved corridor smoke detection system.

(d) Paragraphs (a) and (c) supersede any contrary provisions of the State Fire Code or State Building Code and rules relating to those codes must be amended by the state agencies having jurisdiction of them.

(e) Paragraphs (a) to (d) are effective for new school buildings beginning July 1, 1994.

**History:** *Ex1959 c 71 art 4 s 18; 1973 c 123 art 5 s 7; 1975 c 59 s 1; 1975 c 199 s 1; 1976 c 168 s 1; 1976 c 239 s 32; 1978 c 706 s 16; 1979 c 295 s 1; 1980 c 609 art 6 s 17,18; 1981 c 358 art 6 s 13; 1983 c 314 art 6 s 5,6; art 7 s 20; 1984 c 463 art 7 s 9,10; 1985 c 279 s 1; 1Sp1985 c 12 art 7 s 14; 1986 c 444; 1987 c 398 art 7 s 21; 1989 c 222 s 9; 1989 c 329 art 5 s 3,4; 1990 c 562 art 7 s 4; art 8 s 23; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1993 c 224 art 5 s 2; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 6 s 69-74,124; art 11 s 3; 2000 c 489 art 5 s 2; 1Sp2003 c 9 art 4 s 1,2; 2006 c 214 s 20*

## 123B.52 CONTRACTS.

**Subdivision 1. Contracts.** A contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section 471.345, subdivision 3, must not be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. This notice must state the time and place of receiving bids and contain a brief description of the subject matter.

Additional publication in the official newspaper or elsewhere may be made as the board shall deem necessary.

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract must be awarded to the lowest responsible bidder, be duly executed in writing, and be otherwise conditioned as required by law. The person to whom the contract is awarded shall give a sufficient bond to the board for its faithful performance. Notwithstanding section 574.26 or any other law to the contrary, on a contract limited to the purchase of a finished tangible product, a board may require, at its discretion, a performance bond of a contractor in the amount the board consid-

ers necessary. A record must be kept of all bids, with names of bidders and amount of bids, and with the successful bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid must be rejected unless the alteration or erasure is corrected as provided in this section. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may re-advertise. Standard requirement price contracts established for supplies or services to be purchased by the district must be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the contract may request that the other party demonstrate such increase or decrease. The term of such contracts must not exceed two years with an option on the part of the district to renew for an additional two years. Contracts for the purchase of perishable food items, except milk for school lunches and vocational training programs, in any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section 471.345, subdivision 3. All quotations obtained shall be kept on file for a period of at least one year after receipt.

Every contract made without compliance with the provisions of this section shall be void. Except in the case of the destruction of buildings or injury thereto, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids.

**Subd. 1a. Construction contracts.** A project labor agreement is a hiring agreement that establishes wages, uniform work schedules, and rules for dispute resolution to manage construction projects that generally require, among other things, payment of union dues or fees to a labor organization or membership in or affiliation with a labor organization. A school board must adopt at a public meeting a written resolution authorizing a project labor agreement to construct or repair a facility through a contract or bid. The board must publish in the official newspaper of the district notice of the meeting at least 30 days in advance.

**Subd. 2. Contract within budgeted amounts.** The board may authorize its superintendent or business manager to lease, purchase, and contract for goods and services within the budget as approved by the board. Any transaction in an amount exceeding the minimum amount for which bids are required must first be specifically authorized by the board and must fulfill all other applicable requirements in subdivision 1.

**Subd. 3. Transportation; fuel.** Notwithstanding the provisions of subdivision 1 or section 471.345, a contract for the transportation of school children, or a contract for the purchase of petroleum heating fuel or fuel for vehicles may be made by direct negotiation, by obtaining two or more written quotations for the service when possible, or upon sealed bids. At least 30 days before awarding a directly negotiated contract, the district must, by published notice, request quotations for the service to be provided. All quotations obtained must be kept on file for a period of at least one year after receipt. If a contract is made by direct negotiation, all quotations must be public information. If a contract is made upon sealed bids, the procedure for advertising and awarding bids shall conform to the provisions of subdivision 1 except as otherwise provided in this subdivision.

Notwithstanding the provisions of subdivision 1 or section 574.26, a performance bond must be required of a contractor on a contract for the transportation of school children only when deemed necessary by and at the discretion of the board. Such a performance bond must be in the amount determined by the board.

Subd. 4. **Asbestos removal and polychlorinated biphenyls cleanup.** Notwithstanding any law to the contrary, districts may, without an election, enter into contracts extending beyond the end of the fiscal year to pay the costs of removal or encapsulation of asbestos or cleanup of polychlorinated biphenyls found in school buildings or on school property.

Subd. 5. **Contracts with board members.** Members of the board are authorized to contract with, to work for, and furnish supplies to the district subject to the provisions of section 471.87.

Subd. 6. **Disposing of surplus school computers.** Notwithstanding section 471.345, governing school district contracts made upon sealed bid or otherwise complying with the requirements for competitive bidding, other provisions of this section governing school district contracts, or other law to the contrary, a school district under this subdivision may dispose of a surplus school computer and related equipment if the district disposes of the surplus property by conveying the property and title to:

- (1) another school district;
- (2) the state Department of Corrections;
- (3) the Board of Trustees of the Minnesota State Colleges and Universities; or
- (4) the family of a student residing in the district whose total family income meets the federal definition of poverty.

**History:** *Ex1959 c 71 art 4 s 18,19; Ex1967 c 1 s 6; 1969 c 107 s 1; 1973 c 123 art 5 s 7; 1974 c 521 s 13-15; 1975 c 59 s 1,2; 1975 c 199 s 1; 1976 c 168 s 1; 1976 c 239 s 32; 1976 c 271 s 39,40; 1978 c 706 s 16-18; 1978 c 764 s 33-35; 1979 c 295 s 1; 1980 c 609 art 6 s 17,18; 1981 c 358 art 6 s 13; 1982 c 548 art 4 s 8; 1983 c 314 art 2 s 1; art 6 s 5,6; art 7 s 20; 1984 c 463 art 7 s 9,10; 1985 c 279 s 1; 1Sp1985 c 12 art 7 s 14; 1986 c 444; 1987 c 258 s 6; 1987 c 398 art 7 s 21; 1989 c 222 s 9; 1989 c 246 s 2; 1989 c 329 art 5 s 3,4; 1990 c 375 s 3; 1990 c 562 art 7 s 4; art 8 s 23,24; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1993 c 224 art 5 s 2; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 13 s 13; 1998 c 397 art 6 s 69-77,124; 2000 c 489 art 5 s 3; 1Sp2003 c 9 art 4 s 3*

### 123B.53 DEBT SERVICE EQUALIZATION PROGRAM.

Subdivision 1. **Definitions.** (a) For purposes of this section, the eligible debt service revenue of a district is defined as follows:

(1) the amount needed to produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations of the district for eligible projects according to subdivision 2, including the amounts necessary for repayment of energy loans according to section 216C.37 or sections 298.292 to 298.298, debt service loans and capital loans, lease purchase payments under section 126C.40, subdivision 2, alternative facilities levies under section 123B.59, subdivision 5, minus

(2) the amount of debt service excess levy reduction for that school year calculated according to the procedure established by the commissioner.

(b) The obligations in this paragraph are excluded from eligible debt service revenue:

- (1) obligations under section 123B.61;
- (2) the part of debt service principal and interest paid from the taconite environmental protection fund or Douglas J. Johnson economic protection trust;
- (3) obligations issued under Laws 1991, chapter 265, article 5, section 18, as amended by Laws 1992, chapter 499, article 5, section 24; and
- (4) obligations under section 123B.62.

(c) For purposes of this section, if a preexisting school district reorganized under sections 123A.35 to 123A.43, 123A.46, and 123A.48 is solely responsible for retirement of the preexisting district's bonded indebtedness, capital loans or debt service loans, debt service equalization aid must be computed separately for each of the preexisting districts.

(d) For purposes of this section, the adjusted net tax capacity determined according to section 127A.48 shall be adjusted to include a portion of the tax capacity of property general-

ly exempted from ad valorem taxes under section 272.02, subdivisions 64 and 65, equal to the product of that tax capacity times the ratio of the eligible debt service revenue attributed to general obligation bonds to the total eligible debt service revenue of the district.

**Subd. 2. Eligibility.** (a) The following portions of a district's debt service levy qualify for debt service equalization:

(1) debt service for repayment of principal and interest on bonds issued before July 2, 1992;

(2) debt service for bonds refinanced after July 1, 1992, if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule; and

(3) debt service for bonds issued after July 1, 1992, for construction projects that have received a positive review and comment according to section 123B.71, if the commissioner has determined that the district has met the criteria under section 126C.69, subdivision 3, and if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule.

(b) The criterion described in section 126C.69, subdivision 3, paragraph (a), clause (9), does not apply to bonds authorized by elections held before July 1, 1992.

(c) For the purpose of this subdivision the department shall determine the eligibility for sparsity at the location of the new facility, or the site of the new facility closest to the nearest operating school if there is more than one new facility.

(d) Notwithstanding paragraphs (a) to (c), debt service for repayment of principal and interest on bonds issued after July 1, 1997, does not qualify for debt service equalization aid unless the primary purpose of the facility is to serve students in kindergarten through grade 12.

**Subd. 3. Notification.** A district eligible for debt service equalization revenue under subdivision 2 must notify the commissioner of the amount of its intended debt service revenue calculated under subdivision 1 for all bonds sold prior to the notification by July 1 of the calendar year the levy is certified.

**Subd. 4. Debt service equalization revenue.** (a) The debt service equalization revenue of a district equals the sum of the first tier debt service equalization revenue and the second tier debt service equalization revenue.

(b) The first tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue minus the amount raised by a levy of 15 percent times the adjusted net tax capacity of the district minus the second tier debt service equalization revenue of the district.

(c) The second tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue, excluding alternative facilities levies under section 123B.59, subdivision 5, minus the amount raised by a levy of 25 percent times the adjusted net tax capacity of the district.

**Subd. 5. Equalized debt service levy.** (a) The equalized debt service levy of a district equals the sum of the first tier equalized debt service levy and the second tier equalized debt service levy.

(b) A district's first tier equalized debt service levy equals the district's first tier debt service equalization revenue times the lesser of one or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the adjusted pupil units in the district for the school year ending in the year prior to the year the levy is certified; to

(2) \$3,200.

(c) A district's second tier equalized debt service levy equals the district's second tier debt service equalization revenue times the lesser of one or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the adjusted pupil units in the district for the school year ending in the year prior to the year the levy is certified; to

(2) \$8,000.

Subd. 6. **Debt service equalization aid.** (a) A district's debt service equalization aid is the sum of the district's first tier debt service equalization aid and the district's second tier debt service equalization aid.

(b) A district's first tier debt service equalization aid equals the difference between the district's first tier debt service equalization revenue and the district's first tier equalized debt service levy.

(c) A district's second tier debt service equalization aid equals the difference between the district's second tier debt service equalization revenue and the district's second tier equalized debt service levy.

Subd. 7. **Debt service equalization aid payment schedule.** Debt service equalization aid must be paid according to section 127A.45, subdivision 10.

**History:** 1991 c 265 art 5 s 8; 1992 c 499 art 5 s 14–19; 1993 c 224 art 5 s 31–34; 1994 c 647 art 5 s 14,15; 1Sp1995 c 3 art 5 s 10–12; 1996 c 412 art 5 s 7; 1Sp1997 c 4 art 4 s 20; 1998 c 397 art 7 s 123,164; art 11 s 3; 1998 c 398 art 4 s 7; 1999 c 241 art 4 s 1–5; 1Sp2001 c 5 art 2 s 2–4; 2003 c 127 art 11 s 12; 1Sp2003 c 9 art 4 s 4; 2004 c 294 art 4 s 1; 1Sp2005 c 5 art 4 s 3

### 123B.54 DEBT SERVICE APPROPRIATION.

(a) \$21,624,000 in fiscal year 2008 and \$20,403,000 in fiscal year 2009 and later are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

**History:** 1992 c 499 art 5 s 20; 1993 c 224 art 5 s 35; 1994 c 647 art 1 s 12; 1Sp1995 c 3 art 5 s 13; art 16 s 13; 1996 c 412 art 5 s 8; 1Sp1997 c 4 art 4 s 21; 1998 c 397 art 7 s 164; art 11 s 3; 1999 c 241 art 4 s 6; 2000 c 489 art 5 s 4; 2000 c 499 s 29; 1Sp2001 c 5 art 2 s 5; 1Sp2001 c 6 art 1 s 55 subd 2; art 4 s 2; 2002 c 220 art 4 s 1; 2002 c 374 art 3 s 1; 2003 c 130 s 12; 2004 c 272 art 1 s 20; 1Sp2005 c 5 art 4 s 4

### 123B.55 DEBT SERVICE LEVY.

A district may levy the amounts necessary to make payments for bonds issued and for interest on them, including the bonds and interest on them, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); and the amounts necessary for repayment of debt service loans and capital loans, minus the amount of debt service equalization revenue of the district.

**History:** 1991 c 265 art 5 s 10; 1998 c 397 art 7 s 124,164

### 123B.56 HEALTH, SAFETY, AND ENVIRONMENTAL MANAGEMENT.

"Health, safety, and environmental management" means school district activities necessary for a district's compliance with state law and rules of the Departments of Health, Labor and Industry, Public Safety, and Pollution Control Agency as well as any related federal standards. These activities include hazard assessment, required training, record keeping, and program management.

**History:** 1993 c 224 art 5 s 21; 1998 c 397 art 7 s 164

### 123B.57 CAPITAL EXPENDITURE; HEALTH AND SAFETY.

Subdivision 1. **Health and safety program.** (a) To receive health and safety revenue for any fiscal year a district must submit to the commissioner an application for aid and levy by the date determined by the commissioner. The application may be for hazardous substance removal, fire and life safety code repairs, labor and industry regulated facility and equipment violations, and health, safety, and environmental management, including indoor

air quality management. The application must include a health and safety program adopted by the school district board. The program must include the estimated cost, per building, of the program by fiscal year. Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards and the approval of the Department of Education, a school district may include its proportionate share of the costs of health and safety projects for an intermediate district in its application.

(b) Health and safety projects with an estimated cost of \$500,000 or more per site, approved after February 1, 2003, are not eligible for health and safety revenue. Health and safety projects with an estimated cost of \$500,000 or more per site, approved after February 1, 2003, that meet all other requirements for health and safety funding, are eligible for alternative facilities bonding and levy revenue according to section 123B.59. A school board shall not separate portions of a single project into components to qualify for health and safety revenue, and shall not combine unrelated projects into a single project to qualify for alternative facilities bonding and levy revenue.

**Subd. 2. Contents of program.** A district must adopt a health and safety program. The program must include plans, where applicable, for hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management.

(a) A hazardous substance plan must contain provisions for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, and cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel, oil, and special fuel, as defined in section 296A.01. If a district has already developed a plan for the removal or encapsulation of asbestos as required by the federal Asbestos Hazard Emergency Response Act of 1986, the district may use a summary of that plan, which includes a description and schedule of response actions, for purposes of this section. The plan must also contain provisions to make modifications to existing facilities and equipment necessary to limit personal exposure to hazardous substances, as regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or is determined by the commissioner to present a significant risk to district staff or student health and safety as a result of foreseeable use, handling, accidental spill, exposure, or contamination.

(b) A fire and life safety plan must contain a description of the current fire and life safety code violations, a plan for the removal or repair of the fire and life safety hazard, and a description of safety preparation and awareness procedures to be followed until the hazard is fully corrected.

(c) A facilities and equipment violation plan must contain provisions to correct health and safety hazards as provided in Department of Labor and Industry standards pursuant to section 182.655.

(d) A health, safety, and environmental management plan must contain a description of training, record keeping, hazard assessment, and program management as defined in section 123B.56.

(e) A plan to test for and mitigate radon produced hazards.

(f) A plan to monitor and improve indoor air quality.

**Subd. 3. Health and safety revenue.** A district's health and safety revenue for a fiscal year equals:

(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, excluding expenditures funded with bonds issued under section 123B.59 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section 123B.61; levies under section 123B.58, 123B.59, 123B.63, or 126C.40, subdivision 1 or 6; and other federal, state, or local revenues, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable.

**Subd. 4. Health and safety levy.** To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the adjusted marginal cost pupil units in the district for the school year to which the levy is attributable, to \$2,935.

**Subd. 5. Health and safety aid.** A district's health and safety aid is the difference between its health and safety revenue and its health and safety levy. If a district does not levy the entire amount permitted, health and safety aid must be reduced in proportion to the actual amount levied. Health and safety aid may not be reduced as a result of reducing a district's health and safety levy according to section 123B.79.

**Subd. 6. Uses of health and safety revenue.** (a) Health and safety revenue may be used only for approved expenditures necessary to correct fire and life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01. Minnesota occupational safety and health administration regulated facility and equipment hazards, indoor air quality mold abatement, upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and State Mechanical Code, Department of Health Food Code and swimming pool hazards excluding depth correction, and health, safety, and environmental management. Testing and calibration activities are permitted for existing mechanical ventilation systems at intervals no less than every five years. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education.

(b) Notwithstanding paragraph (a), health and safety revenue must not be used for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics, building and heating, ventilating and air conditioning supplies, maintenance, and cleaning activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).

**Subd. 7. Proration.** In the event that the health and safety aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

**Subd. 8. Health, safety, and environmental management cost.** (a) A district's cost for health, safety, and environmental management is limited to the lesser of:

- (1) actual cost to implement their plan; or
- (2) an amount determined by the commissioner, based on enrollment, building age, and size.

(b) The department may contract with regional service organizations, private contractors, Minnesota Safety Council, or state agencies to provide management assistance to school districts for health and safety capital projects. Management assistance is the develop-

ment of written programs for the identification, recognition and control of hazards, and prioritization and scheduling of district health and safety capital projects. The department shall not exclude private contractors from the opportunity to provide any health and safety services to school districts.

(c) Notwithstanding paragraph (b), the department may approve revenue, up to the limit defined in paragraph (a) for districts having an approved health, safety, and environmental management plan that uses district staff to accomplish coordination and provided services.

**History:** 1988 c 718 art 8 s 19; 1988 c 719 art 5 s 84; 1989 c 329 art 5 s 11–13; 1Sp1989 c 1 art 6 s 6; art 9 s 4; 1990 c 562 art 5 s 8; art 10 s 5; 1990 c 604 art 8 s 1,2; 1991 c 130 s 19,20; 1991 c 265 art 5 s 6; 1993 c 224 art 5 s 22–26; 1994 c 647 art 6 s 28; 1Sp1995 c 3 art 5 s 7; art 16 s 13; 1Sp1997 c 4 art 4 s 17,18; 1998 c 299 s 30; 1998 c 397 art 7 s 97,98,164; art 11 s 3; 1998 c 398 art 4 s 3; 1999 c 86 art 1 s 33; 1999 c 241 art 4 s 7,29; 2000 c 464 art 3 s 9; 2000 c 489 art 5 s 5,19,27; 1Sp2001 c 6 art 4 s 3–5; 1Sp2003 c 9 art 4 s 5–7; 2006 c 282 art 5 s 1

**NOTE:** The amendment to subdivision 6 by Laws 2006, chapter 282, article 5, section 1, is effective for revenue for fiscal year 2008 and later. Laws 2006, chapter 282, article 5, section 1, the effective date.

## 123B.58 DISABILITY ACCESS AND FIRE SAFETY IMPROVEMENTS TO SCHOOL BUILDINGS.

Subdivision 1. **Removal of architectural barriers.** If a board has insufficient money in its capital expenditure fund to remove architectural barriers from a building it owns in order to allow a pupil to attend a school in the pupil's attendance area or to meet the needs of an employee with a disability, a district may submit an application to the commissioner containing at least the following:

- (1) program modifications that the board considered, such as relocating classrooms, providing an accessible unisex bathroom, providing alternative library resources, or using special equipment, such as bookcarts, and the reasons the modifications were not feasible;
- (2) a description of the proposed building modifications and the cost of the modifications; and
- (3) the age and market value of the building.

Individuals developing an application for a district shall complete a workshop, developed jointly by the commissioner and the Council on Disability, about access criteria.

In consultation with the Council on Disability, the commissioner shall develop criteria to determine the cost-effectiveness of removing barriers in older buildings.

The commissioner shall approve or disapprove an application within 60 days of receiving it.

Subd. 2. **Fire safety modifications.** If a district has insufficient money in its capital expenditure fund to make modifications to a school building required by a fire inspection conducted according to section 299F.47, the district may submit an application to the commissioner containing information required by the commissioner. The commissioner shall approve or disapprove of the application according to criteria established by the commissioner. The criteria shall take into consideration the cost-effectiveness of making modifications to older buildings.

Subd. 3. **Levy authority.** The district may levy up to \$300,000 under this section, as approved by the commissioner. The approved amount may be levied over eight or fewer years.

Subd. 4. **Levy authority in combined districts.** Notwithstanding subdivision 3, a district that has combined or consolidated may levy up to 50 percent times \$300,000 times the number of former districts that operated on June 30, 1991, in the area that now makes up the combined or consolidated district. The approved amount is reduced by any amount levied under subdivision 3 in the consolidated or combined district or in the former districts that make up the consolidated or combined district. Levy authority under this subdivision expires at the same time as levy authority under subdivision 3.



**History:** 1991 c 265 art 5 s 7; 1992 c 499 art 5 s 13; 1994 c 647 art 5 s 5; 1Sp1995 c 3 art 5 s 8; art 16 s 13; 1998 c 397 art 7 s 99,100,164; art 11 s 3; 1999 c 241 art 4 s 29; 2000 c 464 art 3 s 7; 2000 c 489 art 5 s 19; 2004 c 294 art 5 s 6

### 123B.59 ALTERNATIVE FACILITIES BONDING AND LEVY PROGRAM.

Subdivision 1. **To qualify.** (a) An independent or special school district qualifies to participate in the alternative facilities bonding and levy program if the district has:

- (1) more than 66 students per grade;
  - (2) over 1,850,000 square feet of space and the average age of building space is 15 years or older or over 1,500,000 square feet and the average age of building space is 35 years or older;
  - (3) insufficient funds from projected health and safety revenue and capital facilities revenue to meet the requirements for deferred maintenance, to make accessibility improvements, or to make fire, safety, or health repairs; and
  - (4) a ten-year facility plan approved by the commissioner according to subdivision 2.
- (b) An independent or special school district not eligible to participate in the alternative facilities bonding and levy program under paragraph (a) qualifies for limited participation in the program if the district has:

- (1) one or more health and safety projects with an estimated cost of \$500,000 or more per site that would qualify for health and safety revenue except for the project size limitation in section 123B.57, subdivision 1, paragraph (b); and
- (2) insufficient funds from capital facilities revenue to fund those projects.

Subd. 2. **Facility plan.** (a) A district qualifying under subdivision 1, paragraph (a), must have a ten-year facility plan approved by the commissioner that includes an inventory of projects and costs that would be eligible for:

- (1) health and safety revenue, without restriction as to project size;
  - (2) disabled access levy; and
  - (3) deferred capital expenditures and maintenance projects necessary to prevent further erosion of facilities.
- (b) A district qualifying under subdivision 1, paragraph (b), must have a five-year plan approved by the commissioner that includes an inventory of projects and costs for health and safety projects with an estimated cost of \$500,000 or more per site that would qualify for health and safety revenue except for the project size limitation in section 123B.57, subdivision 1, paragraph (b).

(c) The school district must:

- (1) annually update the plans;
- (2) biennially submit a facility maintenance plan; and
- (3) indicate whether the district will issue bonds to finance the plan or levy for the costs.

Subd. 3. **Bond authorization.** (a) A school district may issue general obligation bonds under this section to finance facilities plans approved by its board and the commissioner. Chapter 475, except sections 475.58 and 475.59, must be complied with. The district may levy under subdivision 5 for the debt service revenue. The authority to issue bonds under this section is in addition to any bonding authority authorized by this chapter, or other law. The amount of bonding authority authorized under this section must be disregarded in calculating the bonding or net debt limits of this chapter, or any other law other than section 475.53, subdivision 4.

(b) At least 20 days before the earliest of solicitation of bids, the issuance of bonds, or the final certification of levies under subdivision 5, the district must publish notice of the intended projects, the amount of the bond issue, the total amount of district indebtedness, and the commissioner's review and comment, if applicable.

Subd. 3a. **Levy authorization.** (a) A school district may levy under this section to finance the portion of facilities plans approved by its board and the commissioner that are not financed through bond issues according to subdivision 3.

(b) At least 20 days before a final district certification of levies under subdivision 5, the district must publish notice of the intended projects, including the total estimated project cost, and the commissioner's review and comment, if applicable.

Subd. 4. **Levy prohibited for capital projects.** A district that participates in the alternative facilities bonding and levy program is not eligible to levy and cannot receive aid under sections 123B.57 and 123B.58 for any capital projects funded under this section. A district may levy and receive aid for health and safety environmental management costs and health and safety regulatory, hazard assessment, record keeping, and maintenance programs as defined in section 123A.443, subdivision 2, and approved by the commissioner.

Subd. 5. **Levy authorized.** A district may levy for costs related to an approved facility plan as follows:

(a) if the district has indicated to the commissioner that bonds will be issued, the district may levy for the principal and interest payments on outstanding bonds issued according to subdivision 3 after reduction for any alternative facilities aid receivable under subdivision 6; or

(b) if the district has indicated to the commissioner that the plan will be funded through levy, the district may levy according to the schedule approved in the plan after reduction for any alternative facilities aid receivable under subdivision 6.

Subd. 6. **Alternative facilities aid.** A district's alternative facilities aid is the amount equal to the district's annual debt service costs, provided that the amount does not exceed the amount certified to be levied for those purposes for taxes payable in 1997, or for a district that made a levy under subdivision 5, paragraph (b), the lesser of the district's annual levy amount, or one-sixth of the amount of levy that it certified for that purpose for taxes payable in 1998.

Subd. 7. **Alternative facilities appropriation.** (a) An amount not to exceed \$19,700,000 for fiscal year 2000 and \$20,000,000 for fiscal year 2001 and each year thereafter is appropriated from the general fund to the commissioner of education for payment of alternative facilities aid under subdivision 6.

(b) The appropriation in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

Subd. 8. **Separate account.** A district must establish a separate account under the uniform financial accounting and reporting standards (UFARS) for this program. If the district's levy exceeds the necessary interest and principal payments and noncapital health and safety costs, the district must reserve the revenue to replace future bonding authority, prepay bonds authorized under this program, or make payments on principal and interest.

**History:** 1993 c 224 art 5 s 3; 1996 c 412 art 5 s 1; 1997 c 231 art 1 s 1-3; 1Sp1997 c 5 s 38-41; 1998 c 389 art 2 s 1-3; 1998 c 397 art 7 s 35,164; art 11 s 3; 1999 c 241 art 4 s 8,29; 2000 c 464 art 3 s 9; 2000 c 489 art 5 s 19,27; 1Sp2001 c 6 art 4 s 6; 2003 c 130 s 12; 1Sp2003 c 9 art 4 s 8-12; 1Sp2003 c 23 s 17; 1Sp2005 c 5 art 4 s 5,6

## 123B.591 DEFERRED MAINTENANCE REVENUE.

Subdivision 1. **Eligibility.** An independent or special school district that does not qualify to participate in the alternative facilities bonding and levy under section 123B.59, subdivision 1, paragraph (a), is eligible to receive deferred maintenance revenue.

Subd. 2. **Deferred maintenance revenue.** The deferred maintenance revenue for an eligible school district equals the product of \$60 times the adjusted marginal cost pupil units for the school year times the lesser of one or the ratio of the district's average age of building space to 35 years.

Subd. 3. **Deferred maintenance levy.** To obtain deferred maintenance revenue for fiscal year 2008 and later, a district may levy an amount not more than the product of its deferred

maintenance revenue for the fiscal year times the lesser of one or the ratio of its adjusted net tax capacity per adjusted marginal cost pupil unit to \$5,900.

**Subd. 4. Deferred maintenance aid.** For fiscal year 2008 and later, a district's deferred maintenance aid equals its deferred maintenance revenue minus its deferred maintenance levy times the ratio of the actual amount levied to the permitted levy.

**Subd. 5. Reserve account.** Deferred maintenance revenue must be maintained in a reserve account within the general fund. Deferred maintenance revenue may be used only for expenditures that would be eligible for alternative facilities bonding and levy revenue under section 123B.59, subdivision 2, paragraph (a), if the district qualified for that revenue under section 123B.59, subdivision 1, paragraph (a).

**History:** *1Sp2005 c 5 art 4 s 7*

**NOTE:** This section, as added by Laws 2005, First Special Session chapter 5, article 4, section 7, is effective for revenue for fiscal year 2008. Laws 2005, First Special Session chapter 5, article 4, section 7, the effective date.

### 123B.60 BUILDING BONDS FOR CALAMITIES.

**Subdivision 1. Bonds.** When a building owned by a district is substantially damaged by an act of God or other means beyond the control of the district, the district may issue general obligation bonds without an election to provide money immediately to carry out its adopted health and safety program. Each year the district must pledge an attributable share of its health and safety revenue to the repayment of principal and interest on the bonds. The pledged revenue must be transferred to the debt redemption fund of the district. The district must submit to the department the repayment schedule for any bonds issued under this section. The district must deposit in the debt redemption fund all proceeds received for specific costs for which the bonds were issued, including but not limited to:

- (1) insurance proceeds;
- (2) restitution proceeds; and
- (3) proceeds of litigation or settlement of a lawsuit.

Before bonds are issued, the district must submit a combined application to the commissioner for health and safety revenue, according to section 123B.57, and requesting review and comment, according to section 123B.71, subdivisions 8, 9, 11, and 12. The commissioner shall complete all procedures concerning the combined application within 20 days of receiving the application. The publication provisions of section 123B.71, subdivision 12, do not apply to bonds issued under this section.

**Subd. 2. Health and safety revenue.** For any fiscal year where the total amount of health and safety revenue is limited, the commissioner must award highest priority to health and safety revenue pledged to repay building bonds issued under subdivision 1.

**History:** *1989 c 70 s 1; 1994 c 647 art 14 s 1; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 7 s 36,164; art 11 s 3*

### 123B.61 PURCHASE OF CERTAIN EQUIPMENT.

The board of a district may issue general obligation certificates of indebtedness or capital notes subject to the district debt limits to: (a) purchase vehicles, computers, telephone systems, cable equipment, photocopy and office equipment, technological equipment for instruction, and other capital equipment having an expected useful life at least as long as the terms of the certificates or notes; (b) purchase computer hardware and software, without regard to its expected useful life, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer; and (c) prepay special assessments. The certificates or notes must be payable in not more than five years and must be issued on the terms and in the manner determined by the board, except that certificates or notes issued to prepay special assessments must be payable in not more than 20 years. The certificates or notes may be issued by resolution and without the requirement for an election. The certificates or notes are general obligation bonds for pur-

poses of section 126C.55. A tax levy must be made for the payment of the principal and interest on the certificates or notes, in accordance with section 475.61, as in the case of bonds. The sum of the tax levies under this section and section 123B.62 for each year must not exceed the lesser of the amount of the district's total operating capital revenue or the sum of the district's levy in the general and community service funds excluding the adjustments under this section for the year preceding the year the initial debt service levies are certified. The district's general fund levy for each year must be reduced by the sum of (1) the amount of the tax levies for debt service certified for each year for payment of the principal and interest on the certificates or notes issued under this section as required by section 475.61, (2) the amount of the tax levies for debt service certified for each year for payment of the principal and interest on bonds issued under section 123B.62, and (3) any excess amount in the debt redemption fund used to retire bonds, certificates, or notes issued under this section or section 123B.62 after April 1, 1997, other than amounts used to pay capitalized interest. If the district's general fund levy is less than the amount of the reduction, the balance shall be deducted first from the district's community service fund levy, and next from the district's general fund or community service fund levies for the following year. A district using an excess amount in the debt redemption fund to retire the certificates or notes shall report the amount used for this purpose to the commissioner by July 15 of the following fiscal year. A district having an outstanding capital loan under section 126C.69 or an outstanding debt service loan under section 126C.68 must not use an excess amount in the debt redemption fund to retire the certificates or notes.

**History:** 1988 c 718 art 8 s 6; 1989 c 222 s 26; 1Sp1995 c 3 art 5 s 5; 1996 c 412 art 5 s 3; 1Sp1997 c 4 art 4 s 9; 1998 c 397 art 7 s 37,164; art 11 s 3; 1999 c 241 art 4 s 9; 2002 c 379 art 1 s 43

### **123B.62 BONDS FOR CERTAIN CAPITAL FACILITIES.**

(a) In addition to other bonding authority, with approval of the commissioner, a district may issue general obligation bonds for certain capital projects under this section. The bonds must be used only to make capital improvements including:

- (1) under section 126C.10, subdivision 14, total operating capital revenue uses specified in clauses (4), (6), (7), (8), (9), and (10);
- (2) the cost of energy modifications;
- (3) improving disability accessibility to school buildings; and
- (4) bringing school buildings into compliance with life and safety codes and fire codes.

(b) Before a district issues bonds under this subdivision, it must publish notice of the intended projects, the amount of the bond issue, and the total amount of district indebtedness.

(c) A bond issue tentatively authorized by the board under this subdivision becomes finally authorized unless a petition signed by more than 15 percent of the registered voters of the district is filed with the school board within 30 days of the board's adoption of a resolution stating the board's intention to issue bonds. The percentage is to be determined with reference to the number of registered voters in the district on the last day before the petition is filed with the board. The petition must call for a referendum on the question of whether to issue the bonds for the projects under this section. The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this section.

(d) The bonds must be paid off within ten years of issuance. The bonds must be issued in compliance with chapter 475, except as otherwise provided in this section. A tax levy must be made for the payment of principal and interest on the bonds in accordance with section 475.61. The sum of the tax levies under this section and section 123B.61 for each year must not exceed the limit specified in section 123B.61. The levy for each year must be reduced as provided in section 123B.61. A district using an excess amount in the debt redemption fund to retire the bonds shall report the amount used for this purpose to the commissioner by July 15 of the following fiscal year. A district having an outstanding capital loan under section 126C.69 or an outstanding debt service loan under section 126C.68 must not use an excess amount in the debt redemption fund to retire the bonds.

(e) Notwithstanding paragraph (d), bonds issued by a district within the first five years following voter approval of a combination according to section 123A.37, subdivision 2, must be paid off within 20 years of issuance. All the other provisions and limitation of paragraph (d) apply.

**History:** 1993 c 224 art 5 s 11; 1Sp1995 c 3 art 5 s 6; 1996 c 412 art 5 s 4; 1Sp1997 c 4 art 4 s 10; 1998 c 397 art 7 s 38,164; art 11 s 3; 2002 c 379 art 1 s 44; 2005 c 56 s 1

### 123B.63 CAPITAL PROJECT REFERENDUM.

**Subdivision 1. Creation of a capital project referendum account.** A district may create a capital project referendum account as a separate account in its general fund or its building construction fund. All proceeds from the capital project levy must be deposited in the capital project referendum account in its general fund. The portion of the proceeds to be used for building construction must be transferred to the capital project referendum account in its building construction fund. Interest income attributable to the capital project referendum account must be credited to the account.

**Subd. 2. Uses of the account.** Money in the capital project referendum account must be used only for the purposes specified in section 126C.10, subdivision 14, for operating capital revenue, including the costs of acquisition and betterment for a project that has been reviewed under section 123B.71 and has been approved according to subdivision 3.

**Subd. 3. Capital project levy referendum.** A district may levy the local tax rate approved by a majority of the electors voting on the question to provide funds for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date set by the board. A referendum for a project not receiving a positive review and comment by the commissioner under section 123B.71 must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

(1) separately, before an election for the issuance of obligations for the project under chapter 475; or

(2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or

(3) notwithstanding section 475.59, as a conjunctive question authorizing both the capital project levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner, state the maximum amount of the capital project levy as a percentage of net tax capacity, state the amount that will be raised by that local tax rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

“Shall the capital project levy proposed by the board of ..... School District No. .... be approved?”

If approved, the amount provided by the approved local tax rate applied to the net tax capacity for the year preceding the year the levy is certified may be certified for the number of years approved.

In the event a conjunctive question proposes to authorize both the capital project levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of the results of the referendum.

Subd. 4. **Excess levy proceeds.** Any funds remaining in the capital project referendum account that are not applied to the payment of the costs of the approved project before its final completion must be transferred to the district's debt redemption fund.

**History:** 1988 c 718 art 8 s 18; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 4; 1Sp1989 c 1 art 2 s 11; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 7 s 95,96,164; art 11 s 3; 1999 c 241 art 4 s 29; 2000 c 464 art 3 s 9; 2000 c 489 art 5 s 19,27; 1Sp2003 c 9 art 4 s 13-16; 1Sp2005 c 5 art 4 s 8

**123B.64** [Repealed, 1999 c 241 art 4 s 29]

### **123B.65 ENERGY EFFICIENCY PROJECTS.**

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Energy conservation measure" means a training program or facility alteration designed to reduce energy consumption or operating costs and includes:

- (1) insulation of the building structure and systems within the building;
- (2) storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- (3) automatic energy control systems;
- (4) heating, ventilating, or air conditioning system modifications or replacements;
- (5) replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(6) energy recovery systems;

(7) cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(8) energy conservation measures that provide long-term operating cost reductions.

(b) "Guaranteed energy savings contract" means a contract for the evaluation and recommendations of energy conservation measures, and for one or more energy conservation measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time, but not to exceed 15 years from the date of final installation, and the savings are guaranteed to the extent necessary to make payments for the systems.

(c) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation measures. A qualified provider to whom the contract is awarded shall give a sufficient bond to the school district for its faithful performance.

(d) "Commissioner" means the commissioner of commerce through the state energy office.

Subd. 2. **Energy efficiency contract.** (a) Notwithstanding any law to the contrary, a school district may enter into a guaranteed energy savings contract with a qualified provider to significantly reduce energy or operating costs.

(b) Before entering into a contract under this subdivision, the board shall comply with clauses (1) to (5).

(1) The board must seek proposals from multiple qualified providers by publishing notice of the proposed guaranteed energy savings contract in the board's official newspaper and in other publications if the board determines that additional publication is necessary to notify multiple qualified providers.

(2) The school board must select the qualified provider that best meets the needs of the board. The board must provide public notice of the meeting at which it will select the qualified provider.

(3) The contract between the board and the qualified provider must describe the methods that will be used to calculate the costs of the contract and the operational and energy savings attributable to the contract.

(4) The qualified provider shall issue a report to the board giving a description of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and giving detailed calculations of the amounts by which energy or operating costs will be reduced and the projected payback schedule in years.

(5) The board must provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.

**Subd. 3. Evaluation by commissioner.** Upon request of the board, the commissioner shall review the report required in subdivision 2 and provide an evaluation to the board on the proposed contract within 15 working days of receiving the report. In evaluating the proposed contract, the commissioner shall determine whether the detailed calculations of the costs and of the energy and operating savings are accurate and reasonable. The commissioner may request additional information about a proposed contract as the commissioner deems necessary. If the commissioner requests additional information, the commissioner shall not be required to submit an evaluation to the board within fewer than ten working days of receiving the requested information.

**Subd. 4. Review of savings under contract.** Upon request of the board, the commissioner shall conduct a review of the energy and operating cost savings realized under a guaranteed energy savings contract every three years during the period a contract is in effect. The commissioner shall compare the savings realized under the contract during the period under review with the calculations of savings included in the report required under subdivision 2 and provide an evaluation to the board concerning the performance of the system and the accuracy and reasonableness of the claimed energy and operating cost savings.

**Subd. 5. Payment of review expenses.** The commissioner may charge a district requesting services under subdivisions 3 and 4 actual costs incurred by the Department of Commerce while conducting the review, or one-half percent of the total identified project cost, whichever is less. Before conducting the review, the commissioner shall notify a district requesting review services that expenses will be charged to the district. The commissioner shall bill the district upon completion of the contract review. Money collected by the commissioner under this subdivision must be deposited in the general fund. A district may include the cost of a review by the commissioner under subdivision 3 in a contract made pursuant to this section.

**Subd. 6. Contract provisions.** Guaranteed energy savings contracts that include a written guarantee that savings will meet or exceed the cost of energy conservation measures is not subject to competitive bidding requirements. The contract is not subject to section 123B.52 or 471.345.

**Subd. 7. District action.** A district may enter into a guaranteed energy savings contract with a qualified provider if, after review of the report and the commissioner's evaluation if requested, the board finds that the amount it would spend on the energy conservation measures recommended in the report is not likely to exceed the amount to be saved in energy and operation costs over 15 years from the date of installation if the recommendations in the report were followed, and the qualified provider provides a written guarantee that the energy or operating cost savings will meet or exceed the costs of the system. The guaranteed energy savings contract may provide for payments over a period of time, not to exceed 15 years. Notwithstanding section 123B.79, a district annually may transfer from the general fund to the reserve for operating capital account an amount up to the amount saved in energy and operation costs as a result of guaranteed energy savings contracts.

**Subd. 8. Installation contracts.** A district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The contract must provide for payments of not less than 1/15 of the price to be paid within two years from the

date of the first operation, and the remaining costs to be paid monthly, not to exceed a 15-year term from the date of the first operation.

**Subd. 9. Contract continuance.** Guaranteed energy savings contracts may extend beyond the fiscal year in which they become effective. The district must include in its annual appropriations measure for each later fiscal year any amounts payable under guaranteed energy savings contracts during the year. Failure of a board to make such an appropriation does not affect the validity of the guaranteed energy savings contract or the district's obligations under the contracts.

**Subd. 10. Public information.** A guaranteed energy savings contract must provide that all work plans and other information prepared by the qualified provider in relation to the project, including a detailed description of the project, are public data after the contract is entered into. Information defined as trade secret information under section 13.37, subdivision 1, shall remain nonpublic data.

**History:** 1989 c 263 s 1; 1992 c 499 art 7 s 3; 1993 c 224 art 5 s 27–29; 1994 c 647 art 5 s 6–12; 1995 c 224 s 67; 1998 c 397 art 7 s 101–107, 164; art 11 s 3; 1998 c 398 art 1 s 23; 1Sp2001 c 4 art 6 s 19–21

**123B.66** [Repealed, 1999 c 241 art 4 s 29]

## **123B.67 SCHOOL BUILDING ACCESSIBILITY CAPITAL IMPROVEMENT GRANT ACT.**

Sections 123B.67 to 123B.69 may be cited as the “School Building Accessibility Capital Improvement Grant Act.”

**History:** 1993 c 373 s 20; 1998 c 397 art 7 s 164; art 11 s 3; 1999 c 241 art 4 s 29; 2000 c 464 art 3 s 9; 2000 c 489 art 5 s 19, 27

## **123B.68 APPROVAL; APPLICATION FORMS.**

**Subdivision 1. Approval by commissioner.** The commissioner of education may approve or disapprove applications under section 123B.69. The grant money must be used only to remove architectural barriers from a building or site.

**Subd. 2. Application forms.** The commissioner shall prepare application forms and establish application dates.

**Subd. 3. Match.** A district applying for a grant under this section must match the grant with local district funds.

**History:** 1993 c 373 s 21; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 7 s 161, 164; art 11 s 3; 1999 c 241 art 4 s 29; 2000 c 464 art 3 s 9; 2000 c 489 art 5 s 19, 27; 2003 c 130 s 12

## **123B.69 GRANT APPLICATION PROCESS.**

**Subdivision 1. Qualification.** A school district that meets the criteria required under subdivision 2 may apply for a grant in an amount up to 50 percent of the approved costs of removing architectural barriers from a building or site. A grant may not exceed \$150,000 to a recipient district in any fiscal year.

**Subd. 2. Project review.** The commissioner, in consultation with the Minnesota State Council on Disability, shall review applications for grants. A school district must apply by July 1 of each year in order to be considered for a grant.

**Subd. 3. Award of grants.** The commissioner shall examine and consider all applications for grants, and if a district is found not qualified, the commissioner shall promptly notify the district board. The commissioner shall give first priority to districts that have entered into the cooperation and combination process under sections 123A.35 to 123A.43, or that have consolidated since January 1, 1987. The commissioner shall further prioritize grants on the basis of the following: the district's tax burden, the long-term feasibility of the project, the suitability of the project, and the district's need for the project. If the total amount



of the applications exceeds the amount that is or can be made available, the commissioner shall award grants according to the commissioner's judgment and discretion and based upon a ranking of the projects according to the factors listed in this paragraph. The commissioner shall promptly certify to each district the amount, if any, of the grant awarded to it.

Subd. 4. **Matching revenue.** Upon being awarded a grant under subdivision 3, the board shall determine the need for additional revenue. If the board determines that the local match cannot be made from existing revenue, the board may levy according to section 123B.58.

Subd. 5. **Project budget.** A district that receives a grant must provide the commissioner with the project budget and any other information the commissioner requests.

**History:** 1993 c 373 s 22; 1996 c 463 s 38; 1998 c 397 art 7 s 162,164; art 11 s 3; 1999 c 241 art 4 s 29; 2000 c 464 art 3 s 9; 2000 c 489 art 5 s 19,27

### 123B.70 SCHOOL DISTRICT CONSTRUCTION.

Subdivision 1. **Commissioner approval.** In determining whether to give a school facility a positive, negative, or unfavorable review and comment, the commissioner must evaluate the proposals for facilities using the information provided under section 123B.71, subdivision 9.

Subd. 2. **Positive review and comment.** If the commissioner submits a positive review and comment for a proposal according to section 123B.71, the school board may proceed with the construction according to the requirements of applicable laws.

Subd. 3. **Negative review and comment.** (a) If the commissioner submits a negative review and comment for a proposal according to section 123B.71, the following steps must be taken:

(1) the commissioner must notify the school board of the proposed negative review and comment and schedule a public meeting within 60 days of the notification within that school district to discuss the proposed negative review and comment on the school facility; and

(2) the school board shall appoint an advisory task force of up to five members to advise the school board and the commissioner on the advantages, disadvantages, and alternatives to the proposed facility at the public meeting. One member of the advisory task force must also be a member of the county facilities group.

(b) After attending the public meeting, the commissioner shall reconsider the proposal. If the commissioner submits a negative review and comment, the school board may appeal that decision under chapter 14.

(c) A school board may not proceed with construction if the commissioner's negative review and comment is upheld or if the commissioner's negative review and comment is not appealed.

Subd. 4. **Unfavorable review and comment.** If the commissioner submits an unfavorable review and comment for a proposal under section 123B.71, the school board, by resolution of the board, must reconsider construction. If, upon reconsideration, the school board decides to proceed with construction, it may initiate proceedings for issuing bonds to finance construction under chapter 475. Unless 60 percent of the voters at the election approve of issuing the obligations, the board is not authorized to issue the obligations.

**History:** 1988 c 718 art 8 s 1; 1990 c 562 art 5 s 1; 1991 c 265 art 5 s 1; 1992 c 499 art 5 s 1; 1996 c 399 art 2 s 2; 1998 c 397 art 1 s 58; art 11 s 3; 1998 c 398 art 6 s 3; 2000 c 254 s 11

### 123B.71 REVIEW AND COMMENT FOR SCHOOL DISTRICT CONSTRUCTION.

Subdivision 1. **Consultation.** A school district shall consult with the commissioner of education before developing any plans and specifications to construct, remodel, or improve the building or site of an educational facility for which the estimated cost exceeds \$250,000.

This consultation shall occur before a referendum for bonds, solicitation for bids, or use of capital expenditure facilities revenue according to section 126C.10, subdivision 14, clause (2). The commissioner may require the district to participate in a management assistance plan before conducting a review and comment on the project.

Subd. 2. **Project.** The construction, remodeling, or improvement of a building or site of an educational facility at an estimated cost exceeding \$100,000 is a project under section 177.42, subdivision 2.

Subd. 3. [Repealed. 1Sp2001 c 6 art 4 s 28]

Subd. 4. **Plan submittal.** For a project for which consultation is required under subdivision 1, the commissioner, after the consultation required in subdivision 1, may require a school district to submit preliminary and final plans for approval. The commissioner shall approve or disapprove the plans within 90 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 16B.59 to 16B.73.

Subd. 5. **Final plans.** If a construction contract has not been awarded within two years of approval, the approval shall not be valid. After approval, final plans and the approval shall be filed with the commissioner of education. If substantial changes are made to approved plans, documents reflecting the changes shall be submitted to the commissioner for approval. Upon completing a project, the school board shall certify to the commissioner that the project was completed according to the approved plans.

Subd. 6. **Condemnation of school buildings.** The commissioner may condemn school buildings and sites determined to be unfit or unsafe for that use.

Subd. 7. **Rulemaking.** The commissioner of education may adopt rules for public school buildings.

Subd. 8. **Review and comment.** A school district, a special education cooperative, or a cooperative unit of government, as defined in section 123A.24, subdivision 2, must not initiate an installment contract for purchase or a lease agreement, hold a referendum for bonds, nor solicit bids for new construction, expansion, or remodeling of an educational facility that requires an expenditure in excess of \$500,000 per school site prior to review and comment by the commissioner. The commissioner may exempt a facility maintenance project funded with general education aid and levy, alternative facilities bonding and levy program, or health and safety revenue from this provision after reviewing a written request from a school district describing the scope of work. A school board shall not separate portions of a single project into components to avoid the requirements of this subdivision.

Subd. 9. **Information required.** A school board proposing to construct a facility described in subdivision 8 shall submit to the commissioner a proposal containing information including at least the following:

(1) the geographic area and population to be served, preschool through grade 12 student enrollments for the past five years, and student enrollment projections for the next five years;

(2) a list of existing facilities by year constructed, their uses, and an assessment of the extent to which alternate facilities are available within the school district boundaries and in adjacent school districts;

(3) a list of the specific deficiencies of the facility that demonstrate the need for a new or renovated facility to be provided, and a list of the specific benefits that the new or renovated facility will provide to the students, teachers, and community users served by the facility;

(4) the relationship of the project to any priorities established by the school district, educational cooperatives that provide support services, or other public bodies in the service area;

(5) a specification of how the project will increase community use of the facility and whether and how the project will increase collaboration with other governmental or nonprofit entities;

(6) a description of the project, including the specification of site and outdoor space acreage and square footage allocations for classrooms, laboratories, and support spaces; esti-

mated expenditures for the major portions of the project; and the dates the project will begin and be completed;

(7) a specification of the source of financing the project; the scheduled date for a bond issue or school board action; a schedule of payments, including debt service equalization aid; and the effect of a bond issue on local property taxes by the property class and valuation;

(8) an analysis of how the proposed new or remodeled facility will affect school district operational or administrative staffing costs, and how the district's operating budget will cover any increased operational or administrative staffing costs;

(9) a description of the consultation with local or state road and transportation officials on school site access and safety issues, and the ways that the project will address those issues;

(10) a description of how indoor air quality issues have been considered and a certification that the architects and engineers designing the facility will have professional liability insurance;

(11) as required under section 123B.72, for buildings coming into service after July 1, 2002, a certification that the plans and designs for the extensively renovated or new facility's heating, ventilation, and air conditioning systems will meet or exceed code standards; will provide for the monitoring of outdoor airflow and total airflow of ventilation systems; and will provide an indoor air quality filtration system that meets ASHRAE standard 52.1;

(12) a specification of any desegregation requirements that cannot be met by any other reasonable means;

(13) a specification, if applicable, of how the facility will utilize environmentally sustainable school facility design concepts; and

(14) a description of how the architects and engineers have considered the American National Standards Institute Acoustical Performance Criteria, Design Requirements and Guidelines for Schools of the maximum background noise level and reverberation times.

Subd. 10. [Repealed, 1Sp2001 c 6 art 4 s 28]

Subd. 11. **Review of proposals.** In reviewing each proposal, the commissioner shall submit to the school board, within 60 days of receiving the proposal, the review and comment about the educational and economic advisability of the project. The review and comment shall be based on information submitted with the proposal and other information the commissioner determines is necessary. If the commissioner submits a negative review and comment for a portion of a proposal, the review and comment shall clearly specify which portion of the proposal received a negative review and comment and which portion of the proposal received a positive review and comment.

Subd. 12. **Publication.** (a) At least 20 days but not more than 60 days before a referendum for bonds or solicitation of bids for a project that has received a positive or unfavorable review and comment under section 123B.70, the school board shall publish the commissioner's review and comment of that project in the legal newspaper of the district. Supplementary information shall be available to the public.

(b) The publication requirement in paragraph (a) does not apply to alternative facilities projects approved under section 123B.59. Publication for alternative facilities projects shall be as specified in section 123B.59, subdivisions 3 and 3a.

**History:** *Ex1959 c 71 art 2 s 15; 1969 c 532 s 1; 1977 c 305 s 45; 1983 c 314 art 7 s 6; 1984 c 463 art 7 s 1; 1Sp1986 c 3 art 1 s 16; 1987 c 258 s 12; 1988 c 718 art 8 s 2; 1989 c 246 s 2; 1989 c 329 art 5 s 2; 1990 c 562 art 5 s 2-4; 1991 c 265 art 5 s 2,3; 1993 c 224 art 13 s 4; 1Sp1995 c 3 art 1 s 2; art 16 s 13; 1996 c 412 art 13 s 5; 1997 c 7 art 1 s 47; 1997 c 231 art 16 s 4; 1Sp1997 c 4 art 4 s 4-7; 1998 c 397 art 4 s 51; art 11 s 3; 1998 c 398 art 4 s 1; art 5 s 55; 2000 c 489 art 5 s 6; 1Sp2001 c 6 art 4 s 7-10; 2003 c 130 s 12; 1Sp2005 c 5 art 4 s 9-11*

**123B.72 SCHOOL FACILITY COMMISSIONING.**

Subdivision 1. **Application.** This section applies to the installation or retrofitting of heating, ventilation, and air conditioning systems for which review and comment of the project under section 123B.71 has been requested after July 1, 1997.

Subd. 2. **System inspector.** For purposes of this section, system inspector means:

- (1) a Minnesota-licensed architect or engineer; or
- (2) properly qualified testing and balancing agency or individual.

Subd. 3. **Certification.** Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision 9, clause (11). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

Subd. 4. **Occupancy.** If the document submitted by the school board to the local building official or the commissioner does not demonstrate to that official's satisfaction that the heating, ventilation, and air conditioning system has been installed correctly or that the system is not operating at a level to meet design specifications, the official or commissioner may allow up to one year of occupancy while the heating, ventilation, and air conditioning system is improved to a level that is considered satisfactory by the system inspector.

**History:** *1Sp1997 c 4 art 4 s 8; 1998 c 397 art 4 s 51; art 11 s 3; 2000 c 489 art 5 s 7; 1Sp2003 c 9 art 12 s 6*

**123B.73** [Repealed, 1Sp2003 c 2 art 4 s 32]

**123B.74 EMINENT DOMAIN.**

In any municipal corporation or district in this state where the governing body or board has the right, power, and authority to purchase sites for school buildings without authorization by the voters at a regular or special meeting or election called for that purpose, such governing body or school board shall have the right, power, and authority to condemn lands under the power of eminent domain for sites and grounds for public school buildings. The governing body or board shall exercise such power and authority pursuant to the terms and provisions of chapter 117. Any such corporation or district shall have the right, upon the filing of the award of the commissioners provided for in chapter 117, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the lands so condemned without giving of any bond. In case of such entry and appropriation, such corporation or district shall be bound absolutely to pay all damages awarded, either by the commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein within the time specified in chapter 117. In case any such corporation or district shall appeal from the award of commissioners appointed pursuant to any such condemnation proceedings, such corporation or school district shall not be required to give or file any appeal bond therein.

**History:** *Ex1959 c 71 art 4 s 29; 1998 c 397 art 6 s 102,124; 2006 c 214 s 20*

**123B.744 AGRICULTURAL EDUCATION.**

In any district in which instruction in agriculture is afforded, the board is authorized and empowered to purchase or otherwise acquire by condemnation proceedings as provided for acquiring schoolhouse sites in the name and in behalf of such district, a suitable tract of land either within or outside of the limits of such district to be used for the purpose of instruction, experimentation, and demonstration in agriculture. The provisions of this section shall apply as well to districts organized under special acts as under the general laws, notwithstanding any provisions or restrictions in the laws under which the districts are organized.

**History:** *Ex1959 c 71 art 4 s 30; 1998 c 397 art 6 s 103,124*

**123B.747 NATIONAL FOREST LAND FUNDS, HANDLING AND DISPOSITION.**

A county board may place the money received by such county from the federal government for and on account of any national forest lands situated in the county into a special fund to be disbursed and paid over to any district maintaining and operating any school wholly or partly within an area constituting a part of any auxiliary or state forest. The board must adopt a resolution to take such action. The resolution must specify the terms and conditions under which the money shall be paid over and disbursed to any district.

**History:** *Ex1959 c 71 art 5 s 51; 1998 c 397 art 6 s 116,124*

**DISTRICT FINANCES****123B.749 STRUCTURALLY BALANCED SCHOOL DISTRICT BUDGETS.**

(a) Prior to approving a collective bargaining agreement that does not result from an interest arbitration decision, a school board must determine by board resolution that the proposed agreement will not cause structural imbalance in the district's budget during the period of the agreement.

(b) A school board may only determine that an agreement will not cause structural imbalance if expenditures will not exceed available funds, taking into account:

(1) current state aid formulas; and  
(2) reasonable and comprehensive projections of ongoing revenues and expenditures for the period of the agreement. It is expected that onetime revenue may not be used for ongoing expenditures. The school board must make available with the resolution a summary of the projections and calculations supporting the determination. The projections and calculations must include state aid formulas, pupil units, and employee costs, including the terms of labor agreements, including the agreement under consideration, fringe benefits, severance pay, and staff changes.

(c) In addition to the determination required in paragraph (a), the school board must project revenues, expenditures, and fund balances for one year following the period of the agreement. The projections must include the categories of information described in paragraph (b), be reasonable and comprehensive, and reference current state aid formulas.

(d) All projections and calculations required by this section must be made available to the public prior to and at the meeting where the resolution is adopted in a manner consistent with state law on public notice and access to public data.

(e) In an interest arbitration, the district must submit, and the exclusive bargaining representative may submit, proposed determinations with supporting projections and calculations consistent with paragraph (b) of the effect of the potential decision on the structural balance of the district's budget. The arbitrator must consider the potential effect of a decision on the structural balance of the district's budget for the term of the agreement. The arbitrator's decision must describe the effect of the decision on the structural balance of the district's budget in a manner consistent with paragraph (b). The arbitrator's decision must also show the effect of the decision on the school budget for one year following the term of the contract at issue. Within 30 days of receipt of the decision or when the board acts on the decision, whichever is earlier, the school board must by resolution determine the effect of the decision on the structural balance of its budget for the term of the agreement consistent with paragraph (b).

(f) A copy of the resolution with the supporting projections and calculations must be submitted to the commissioner of education with the uniform collective bargaining agreement settlement document within 30 days of adoption of the resolution. The commissioner must develop a model form for use by districts in reporting projections and calculations. The commissioner must make all resolutions, projections, and calculations available to the public.

(g) Compliance with this section by itself is not an unfair labor practice under section 179A.13, subdivision 2.

**History:** *1Sp2001 c 6 art 2 s 61; 2003 c 130 s 12*

**123B.75 REVENUE; REPORTING.**

Subdivision 1. **Scope.** District revenues must be recognized and reported on the district books of account in accordance with this section.

Subd. 2. **Applicability to period and fund.** Except as provided in this section, revenues must be recorded in a manner which clearly indicates that they are applicable to a specific accounting period and fund.

Subd. 3. **Receivable.** Receivables must be recorded in a manner which clearly reflects the amounts of money due to a particular fund from public and private sources at the date of each accounting statement.

Subd. 4. **Recognized as receivable.** All current levies of local taxes, including portions assumed by the state, shall be recognized as receivable at the beginning of the calendar year during which collection normally takes place.

Subd. 4a. **Taconite revenue.** Taconite revenue received in a calendar year by a school district under section 298.28, subdivisions 4, paragraphs (b) and (c), and 11, paragraph (d), is fully recognized in the fiscal year in which the February payment falls.

Subd. 5. **Levy recognition.** (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

(b) For fiscal year 2004 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; and

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6.

Subd. 6. **State aids or grants as revenue.** State aids or grants, that are paid as a matching of an expenditure, shall be recognized as revenues and recorded as receivables in the fiscal year during which the eligible expenditure is recognized.

Subd. 6a. **Integration aid.** Integration aid received under section 127A.45, subdivision 12a, must be recognized in the same fiscal year as the integration levy.

Subd. 6b. **General education aid.** If the amount to be recognized as revenue under subdivision 5 exceeds the May, June, and July school district tax settlement revenue received in that calendar year, the district must recognize an amount of general education aid equal to the difference between the total amount to be recognized as revenue under subdivision 5, and the May, June, and July school district tax settlement revenue received in that calendar year as revenue in the previous fiscal year.

Subd. 7. **Other revenues recognized.** Other revenues not specified in this section shall be recognized as revenue and shall be recorded in the fiscal year earned.

Subd. 8. **Deviations footnoted.** Deviations from the principles set forth in this section must be evaluated and explained in footnotes to audited financial statements.

Subd. 9. **Commissioner shall specify fiscal year.** The commissioner shall specify the fiscal year or years to which the revenue from any aid or tax levy is applicable if Minnesota Statutes do not so specify.

**History:** 1976 c 271 s 28; 1978 c 764 s 11-13; 1979 c 303 art 10 s 3; 1981 c 358 art 1 s 2; art 7 s 7; 1981 c 365 s 9; 3Sp1981 c 2 art 4 s 1,2; 1982 c 548 art 3 s 4; art 7 s 1-3; 1982 c 642 s 17; 3Sp1982 c 1 art 3 s 1; 1983 c 216 art 1 s 26; 1983 c 314 art 1 s 22; art 13 s 1; 1984 c 463 art 9 s 1,2; 1Sp1985 c 12 art 10 s 1; 1Sp1985 c 14 art 18 s

5,6; 1Sp1986 c 1 art 5 s 4; 1987 c 268 art 9 s 2,3; 1987 c 384 art 2 s 26; 1987 c 398 art 1 s 1; art 7 s 42; 1988 c 486 s 9; 1989 c 222 s 6; 1989 c 329 art 6 s 1,2; 1Sp1989 c 1 art 6 s 1,2; 1990 c 426 art 2 s 4; 1990 c 562 art 6 s 3; 1991 c 130 s 37; 1991 c 265 art 1 s 1,2; 1992 c 499 art 1 s 1,2; art 12 s 29; 1993 c 192 s 111; 1993 c 224 art 1 s 1; art 12 s 11; art 13 s 6; 1994 c 647 art 1 s 2,3; 1Sp1995 c 3 art 1 s 3,4; art 16 s 13; 1996 c 412 art 14 s 1; 1996 c 461 s 2; 1996 c 471 art 10 s 2; 1Sp1997 c 4 art 1 s 2; 1998 c 397 art 6 s 11–16,124; art 11 s 3; 1998 c 398 art 1 s 1; 1999 c 241 art 2 s 8; 2000 c 489 art 2 s 3; 1Sp2001 c 5 art 2 s 6; 1Sp2001 c 6 art 1 s 10,11; 1Sp2003 c 9 art 5 s 4; 1Sp2003 c 23 s 19; 1Sp2005 c 5 art 1 s 3; art 5 s 1; 2006 c 263 art 4 s 2

### 123B.76 EXPENDITURES; REPORTING.

Subdivision 1. **Recognition.** District expenditures must be recognized and reported on the district books of account in accordance with this section.

Fiscal year–end recognition of expenditures and the related offsetting liabilities must be recorded in each fund in accordance with the uniform financial accounting and reporting standards for Minnesota school districts. Encumbrances outstanding at the end of the fiscal year do not constitute expenditures or liabilities.

Deviations from the principles set forth in this subdivision must be evaluated and explained in footnotes to audited financial statements.

Subd. 2. **Accounting.** Expenditures for any legal purpose of the district not accounted for elsewhere must be accounted for in the general fund.

Subd. 3. **Expenditures by building.** (a) For the purposes of this section, “building” means education site as defined in section 123B.04, subdivision 1.

(b) Each district shall maintain separate accounts to identify general fund expenditures for each building. All expenditures for regular instruction, secondary vocational instruction, and school administration must be reported to the department separately for each building. All expenditures for special education instruction, instructional support services, and pupil support services provided within a specific building must be reported to the department separately for each building. Salary expenditures reported by building must reflect actual salaries for staff at the building and must not be based on districtwide averages. All other general fund expenditures may be reported by building or on a districtwide basis.

(c) The department must annually report information showing school district general fund expenditures per pupil by program category for each building and estimated school district general fund revenue generated by pupils attending each building on its Web site. For purposes of this report:

(1) expenditures not reported by building shall be allocated among buildings on a uniform per pupil basis;

(2) basic skills revenue shall be allocated according to section 126C.10, subdivision 4;

(3) secondary sparsity revenue and elementary sparsity revenue shall be allocated according to section 126C.10, subdivisions 7 and 8;

(4) alternative teacher compensation revenue shall be allocated according to section 122A.415, subdivision 1;

(5) other general education revenue shall be allocated on a uniform per pupil unit basis;

(6) first grade preparedness aid shall be allocated according to section 124D.081;

(7) state and federal special education aid and Title I aid shall be allocated in proportion to district expenditures for these programs by building; and

(8) other general fund revenues shall be allocated on a uniform per pupil basis, except that the department may allocate other revenues attributable to specific buildings directly to those buildings.

**History:** 1976 c 271 s 29; 1980 c 609 art 7 s 4; 1981 c 358 art 7 s 8,9; 1993 c 224 art 12 s 12; 1996 c 412 art 1 s 2; 1998 c 397 art 6 s 17,124; 2004 c 294 art 1 s 3; 1Sp2005 c 5 art 1 s 4; 2006 c 263 art 1 s 3

**123B.77 ACCOUNTING, BUDGETING, AND REPORTING REQUIREMENT.**

Subdivision 1. **Uniform financial accounting and reporting standards.** Each Minnesota school district must adopt the uniform financial accounting and reporting standards for Minnesota school districts provided for in guidelines adopted by the department.

Subd. 1a. **School district consolidated financial statement.** The commissioner, in consultation with the advisory committee on financial management, accounting, and reporting, shall develop and maintain a school district consolidated financial statement format that converts uniform financial accounting and reporting standards data under subdivision 1 into a more understandable format.

Subd. 2. **Audited financial statement.** Each district must submit to the commissioner by September 15 of each year unaudited financial data for the preceding fiscal year. These financial data must be submitted in the format prescribed by the commissioner.

Subd. 3. **Statement for comparison and correction.** (a) By November 30 of the calendar year of the submission of the unaudited financial data, the district must provide to the commissioner audited financial data for the preceding fiscal year. The audit must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, and the Minnesota legal compliance guide issued by the Office of the State Auditor. An audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited financial data shall be submitted to the commissioner and the state auditor by December 31. The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance and a copy of the management letter submitted to the district by the school district's auditor.

(b) By January 15 of the calendar year following the submission of the unaudited financial data, the commissioner shall convert the audited financial data required by this subdivision into the consolidated financial statement format required under subdivision 1a and publish the information on the department's Web site.

Subd. 4. **Budget approval.** Prior to July 1 of each year, the board of each district must approve and adopt its revenue and expenditure budgets for the next school year. The budget document so adopted must be considered an expenditure-authorizing or appropriations document. No funds shall be expended by any board or district for any purpose in any school year prior to the adoption of the budget document which authorizes that expenditure, or prior to an amendment to the budget document by the board to authorize the expenditure. Expenditures of funds in violation of this subdivision shall be considered unlawful expenditures. Prior to the appropriation of revenue for the next school year in the initial budget, the board shall inform the principal or other responsible administrative authority of each site of the amount of general education and referendum revenue that the Department of Education estimates will be generated by the pupils in attendance at each site. For purposes of this subdivision, a district may adjust the department's estimates for school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics not reflected in the department's calculations. A district must report to the department any adjustments it makes according to this subdivision in the department's estimates of compensatory revenue generated by the pupils in attendance at each site, and the department must use the adjusted compensatory revenue estimates in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

Subd. 5. **Joint powers agreements; service cooperatives, education districts.** All governmental units formed by joint powers agreements entered into by districts pursuant to sections 123A.22, 125A.03 to 125A.24, 125A.26 to 125A.48, 125A.65, 471.59, or any other law and all service cooperatives and education districts are subject to the provisions of this section.

Subd. 6. **Benefits.** A district providing early retirement incentive payments under section 122A.48, severance pay under section 465.72, or health insurance benefits to retired employees under section 471.61, must account for the payments according to uniform financial accounting and reporting standards.



**History:** 1976 c 271 s 30; 1977 c 447 art 7 s 7; 1980 c 609 art 7 s 5; 1982 c 548 art 4 s 5; 1983 c 314 art 7 s 7; 1984 c 463 art 7 s 3; 1989 c 329 art 6 s 3; 1990 c 562 art 8 s 6; 1993 c 224 art 12 s 13,14; art 14 s 5; 1994 c 647 art 13 s 1; 1Sp1995 c 3 art 16 s 13; 1996 c 305 art 1 s 138; 1998 c 397 art 6 s 18,124; art 11 s 3; 1998 c 398 art 1 s 2,3; 1999 c 241 art 9 s 20; 2000 c 489 art 6 s 9; 2003 c 130 s 12; 2004 c 294 art 1 s 4; 2006 c 263 art 2 s 8,9

### **123B.78 CASH FLOW; SCHOOL DISTRICT REVENUES; BORROWING FOR CURRENT OPERATING COSTS; CAPITAL EXPENDITURE DEFICITS.**

Subdivision 1. **State aids payment.** The commissioner of finance shall remit all payments of state aids to districts in conformance with the dates provided by law or, when not so provided, with a schedule of aid payments to be established by the commissioner of education in consultation with other affected state agencies.

Subd. 2. **Taxes.** The auditors or finance officers of Minnesota counties shall remit all payments of taxes to the districts in conformance with the provisions of section 276.11. Districts which have need for tax remittance advances may secure them from the counties by making formal requests in conformance with section 276.11.

Subd. 3. **Tax and aid anticipation certificates.** Minnesota school districts may issue tax and aid anticipation certificates in conformance with the provisions of sections 126C.50 to 126C.56, with the additional provision that the proceeds of such borrowing or any other method of borrowing shall be recorded as liabilities of funds for which the taxes were levied, or for which the aids are receivable. Nothing in this subdivision provides authority for borrowing against the tax levies and aids of one district fund for the purpose of increasing the available cash balance of another fund.

Subd. 4. **Borrowing for outstanding bonds.** Unless otherwise provided by law, a district must not, for the purpose of increasing the available cash balance of another fund, borrow or transfer funds from the building construction fund, debt redemption fund, trust and agency fund, or from any sinking fund for outstanding bonds issued for any purpose. However, if the contemplated use for which funds were originally placed in the building construction fund or a sinking fund is afterwards abandoned or if a balance remains after the use is accomplished, a district may devote these funds as provided in section 475.65. For the purpose of insuring fund integrity, on determining that a district is in violation of this subdivision or section 123B.75, the commissioner shall require that such district maintain separate bank accounts for building construction funds, debt redemption funds, trust and agency funds, and sinking funds for outstanding bonds. Nothing in this subdivision shall be construed to prohibit the use of common bank accounts for other funds unless prohibited by law.

Subd. 5. **Deficit for capital projects.** Upon approval by the commissioner, a district may incur a deficit in the reserve for operating capital account for a period not to exceed three years to provide money for capital projects. The commissioner shall approve a description of the project and a financial plan to recover the deficit prior to the initiation of the project.

**History:** 1976 c 271 s 31; 1983 c 314 art 6 s 2; 1986 c 444; 1987 c 384 art 2 s 1; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 1 s 3; 1998 c 397 art 6 s 19,124; art 11 s 3; 2003 c 130 s 12

### **123B.79 PERMANENT FUND TRANSFERS.**

Subdivision 1. **Limitations.** Except as provided in this subdivision, sections 123B.51, 123B.80, 475.61, and 475.65, a district may not permanently transfer money from (1) an operating fund to a nonoperating fund; (2) a nonoperating fund to another nonoperating fund; or (3) a nonoperating fund to an operating fund. Permanent transfers may be made from any fund to any other fund to correct for prior fiscal years' errors discovered after the books have been closed for that year. Permanent transfers may be made from the general fund to any other operating funds according to section 121A.19 or if the resources of the other fund are not adequate to finance approved expenditures from that other fund. Permanent transfers may also be made from the general fund to eliminate deficits in another fund when that other fund

is being discontinued. When a district discontinues operation of a district-owned bus fleet or a substantial portion of a fleet, the balance shall cancel to the district's general fund.

Subd. 2. **Technical colleges.** Money must not be transferred from the postsecondary general fund to any other operating or nonoperating fund.

Subd. 3. **TRA and FICA transfer.** (a) Notwithstanding subdivision 1, a district may transfer money from the general fund to the community service fund for the employer contributions for teacher retirement and FICA for employees who are members of a teacher retirement association and who are paid from the community service fund.

(b) A district must not transfer money under paragraph (a) for employees who are paid with money other than normal operating funds, as defined in section 354.05, subdivision 27.

Subd. 4. **Operating fund; nonoperating fund; defined.** As used in this section, "operating fund" and "nonoperating fund" have the meanings specified in the uniform financial accounting and reporting standards for Minnesota school districts. Any transfer for a period in excess of one year shall be deemed to be a permanent transfer.

Subd. 5. **Deficits; exception.** For the purposes of this section, a permanent transfer includes creating a deficit in a nonoperating fund for a period past the end of the current fiscal year which is covered by moneys in an operating fund. However, a deficit in the capital expenditure fund pursuant to section 123B.78, subdivision 5, does not constitute a permanent transfer.

Subd. 6. **Account transfer for statutory operating debt.** On June 30 of each year, a district may make a permanent transfer from the general fund account entitled "net unreserved general fund balance since statutory operating debt" to the account entitled "reserved fund balance reserve account for purposes of statutory operating debt reduction." The amount of the transfer is limited to the lesser of (a) the net unreserved general fund balance, or (b) the sum of the remaining statutory operating debt levies authorized for all future years according to section 126C.42, subdivision 1. If the net unreserved general fund balance is less than zero, the district may not make a transfer.

Subd. 7. **Account transfer for certain severance pay.** A district may maintain in a reserve for certain severance pay account not more than 50 percent of the amount necessary to meet the obligations for the portion of severance pay that constitutes compensation for accumulated sick leave to be used for payment of premiums for group insurance provided for former employees by the district. The amount necessary must be calculated according to standards established by the department.

Subd. 8. **Account transfer for reorganizing districts.** A district that has reorganized according to sections 123A.35 to 123A.43, 123A.46, or 123A.48, or has conducted a successful referendum on the question of combination under section 123A.37, subdivision 2, or consolidation under section 123A.48, subdivision 15, or has been assigned an identification number by the commissioner under section 123A.48, subdivision 16, may make permanent transfers between any of the funds in the newly created or enlarged district with the exception of the debt redemption fund, food service fund, and health and safety account of the capital expenditure fund. Fund transfers under this section may be made for up to one year prior to the effective date of combination or consolidation and during the year following the effective date of reorganization.

**History:** 1977 c 447 art 7 s 8; 1978 c 764 s 14; 1979 c 334 art 5 s 2; 1980 c 609 art 6 s 7,8; art 7 s 6; 1981 c 358 art 7 s 10; 1982 c 548 art 5 s 1; 1983 c 314 art 5 s 1; art 6 s 3; 1984 c 463 art 7 s 4; 1Sp1985 c 12 art 7 s 7; 1Sp1985 c 16 art 2 s 29; 1987 c 143 s 2; 1987 c 258 s 12; 1987 c 398 art 7 s 13,42; 1988 c 486 s 10; 1988 c 718 art 8 s 3; 1989 c 222 s 7; 1989 c 246 s 2; 1989 c 329 art 4 s 4; 1990 c 562 art 4 s 2; art 8 s 7; 1991 c 130 s 37; 1991 c 265 art 6 s 2; art 8 s 2; 1992 c 499 art 7 s 1; art 12 s 29; 1993 c 224 art 5 s 1; art 6 s 2; 1994 c 465 art 2 s 1; 1994 c 647 art 8 s 3; 1Sp1995 c 3 art 2 s 1; art 4 s 15; art 6 s 1; 1997 c 7 art 1 s 48; 1998 c 397 art 6 s 20-26,124; art 11 s 3; 2000 c 489 art 6 s 10; 1Sp2005 c 5 art 1 s 5

**123B.80 EXCEPTIONS FOR PERMANENT FUND TRANSFERS.**

Subdivision 1. **Commissioner's authorization.** The commissioner may authorize a board to transfer money from any fund or account to another fund or account according to this section.

Subd. 2. **Application.** A board requesting authority to transfer money must apply to the commissioner and provide information requested. The application must indicate the law or rule prohibiting the desired transfer. The application must be signed by the superintendent and approved by the school board.

Subd. 3. **Approval standard.** The commissioner may approve a request only when an event has occurred in a district that could not have been foreseen by the district. The event must relate directly to the fund or account involved and to the amount to be transferred.

**History:** *1Sp1985 c 12 art 7 s 8; 1987 c 143 s 1; 1993 c 224 art 13 s 7-9; 1998 c 397 art 6 s 27,28,124; 1Sp2001 c 6 art 5 s 1*

**123B.81 STATUTORY OPERATING DEBT.**

Subdivision 1. **Operating debt.** The "operating debt" of a school district means the net negative unreserved general fund balance calculated as of June 30 of each year in accordance with the uniform financial accounting and reporting standards for Minnesota school districts.

Subd. 2. **Statutory operating debt.** If the amount of the operating debt is more than 2-1/2 percent of the most recent fiscal year's expenditure amount for the funds considered under subdivision 1, the net negative undesignated fund balance is defined as "statutory operating debt" for the purposes of this section and sections 123B.83 and 126C.42, subdivision 1.

Subd. 3. **Debt verification.** The commissioner shall establish a uniform auditing or other verification procedure for districts to determine whether a statutory operating debt exists in any Minnesota school district as of June 30, 1977. This procedure must identify all inter-fund transfers made during fiscal year 1977 from a fund included in computing statutory operating debt to a fund not included in computing statutory operating debt. The standards for this uniform auditing or verification procedure must be promulgated by the state board pursuant to chapter 14. If a district applies to the commissioner for a statutory operating debt verification or if the unaudited financial statement for the school year ending June 30, 1977 reveals that a statutory operating debt might exist, the commissioner shall require a verification of the amount of the statutory operating debt which actually does exist.

Subd. 4. **Debt elimination.** If an audit or other verification procedure conducted pursuant to subdivision 3 determines that a statutory operating debt exists, a district must follow the procedures set forth in section 126C.42, subdivision 1, to eliminate this statutory operating debt.

Subd. 5. **Certification of debt.** The commissioner shall certify the amount of statutory operating debt for each district. Prior to June 30, 1979, the commissioner may, on the basis of corrected figures, adjust the total amount of statutory operating debt certified for any district.

Subd. 6. [Repealed, 1Sp2003 c 9 art 1 s 54]

Subd. 7. **Applicability.** This section and the provisions of section 126C.42, subdivision 1, are applicable only to common, independent, and special school districts and districts formed pursuant to Laws 1967, chapter 822, as amended, and Laws 1969, chapters 775 and 1060, as amended. This section and the provisions of section 126C.42, subdivision 1, do not apply to Independent School District No. 625.

Subd. 8. **Plan disclosure.** Any district eligible to receive any amounts pursuant to section 126C.42, subdivision 1, must disclose its statutory operating debt retirement plan by footnote to the audited financial statement.

**History:** *1976 c 271 s 32; 1977 c 447 art 7 s 9-12; 1980 c 609 art 7 s 7; 1982 c 424 s 130; 1986 c 444; 1987 c 398 art 7 s 42; 1991 c 130 s 37; 1992 c 499 art 12 s 29;*

*1Sp1995 c 3 art 16 s 13; 1996 c 412 art 13 s 6; 1998 c 397 art 6 s 29–35,124; art 11 s 3; 1Sp2005 c 5 art 1 s 6*

### **123B.82 REORGANIZATION OPERATING DEBT.**

The “reorganization operating debt” of a school district means the net negative unreserved fund balances in all school district funds, other than building construction, debt redemption, and trust and agency, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts as of:

(1) June 30 of the fiscal year before the first year that a district receives revenue according to section 123A.39, subdivision 3; or

(2) June 30 of the fiscal year before the effective date of reorganization according to section 123A.46 or 123A.48.

**History:** *1991 c 265 art 6 s 3; 1996 c 412 art 13 s 7; 1998 c 397 art 6 s 124; art 11 s 3; 2004 c 294 art 1 s 5; 1Sp2005 c 5 art 1 s 7*

### **123B.83 EXPENDITURE LIMITATIONS.**

Subdivision 1. [Repealed, 1Sp2005 c 5 art 1 s 55]

Subd. 2. **Net unreserved general fund balances.** A school district must limit its expenditures so that its net unreserved general fund balance does not constitute statutory operating debt as defined in section 126C.42.

Subd. 3. **Failure to limit expenditures.** If a district does not limit its expenditures in accordance with this section, the commissioner may so notify the appropriate committees of the legislature by no later than January 1 of the year following the end of that fiscal year.

Subd. 4. **Special operating plan.** (a) If the net negative unreserved general fund balance, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts, as of June 30 each year, is more than 2–1/2 percent of the year’s expenditure amount, the district must, prior to January 31 of the next fiscal year, submit a special operating plan to reduce the district’s deficit expenditures to the commissioner for approval. The commissioner may also require the district to provide evidence that the district meets and will continue to meet all high school graduation requirements.

Notwithstanding any other law to the contrary, a district submitting a special operating plan to the commissioner under this clause which is disapproved by the commissioner must not receive any aid pursuant to chapters 120B, 122A, 123A, 123B, 124D, 125A, 126C, and 127A until a special operating plan of the district is so approved.

(b) A district must receive aids pending the approval of its special operating plan under paragraph (a). A district which complies with its approved operating plan must receive aids as long as the district continues to comply with the approved operating plan.

**History:** *1976 c 271 s 33; 1977 c 447 art 7 s 13,14; 1979 c 334 art 6 s 5; 1980 c 609 art 7 s 8; 1981 c 358 art 7 s 11; 1986 c 444; 1987 c 398 art 7 s 42; 1990 c 562 art 8 s 8; 1991 c 130 s 37; 1991 c 265 art 11 s 7; 1992 c 499 art 12 s 29; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 1 s 4; 1998 c 397 art 6 s 36,124; art 11 s 3; 1999 c 241 art 9 s 21; 2000 c 489 art 6 s 11; 1Sp2005 c 5 art 1 s 8*

## **EQUAL TREATMENT IN TRANSPORTING STUDENTS**

### **123B.84 POLICY.**

In districts where the state provides aids for transportation it is in the public interest to provide equality of treatment in transporting school children of the state who are required to attend elementary and secondary schools pursuant to chapter 120A, so that the health, welfare and safety of the children, while using the public highways of the state, shall be protected.

School children attending any schools, complying with section 120A.22, are therefore entitled to the same rights and privileges relating to transportation.

**History:** *1969 c 570 s 1; 1989 c 209 art 2 s 1; 1998 c 397 art 7 s 1,164; art 11 s 3*

**123B.85 DEFINITIONS.**

Subdivision 1. **Application.** The following words and terms in sections 121A.585, 121A.59, 123B.84 to 123B.87, 123B.90, and 123B.91, shall have the following meanings ascribed to them.

Subd. 2. **District.** "District" means any school district as defined in section 120A.05.

Subd. 3. **School.** "School" means any school as defined in section 120A.22, subdivision 4.

Subd. 4. **School board.** "School board" means the governing body of any school district.

Subd. 5. **School children.** "School children" means any student or child attending or required to attend any school as provided in the Education Code, chapters 120A to 129C.

**History:** 1969 c 570 s 2; 1975 c 162 s 41; 1989 c 209 art 2 s 1; 1995 c 186 s 119; 1998 c 397 art 7 s 164; art 11 s 3; 2000 c 489 art 10 s 3

**123B.86 EQUAL TREATMENT.**

Subdivision 1. **General provisions.** A district shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by the school board because of distance or traffic condition in like manner and form as provided in sections 123B.88 and 123B.92, when applicable.

Subd. 2. **Nonpublic school students.** (a) The board of any local district must provide school bus transportation to the district boundary for school children residing in the district at least the same distance from a nonpublic school actually attended in another district as public school pupils are transported in the transporting district. Such transportation must be provided whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means.

(b) The school board of any local district may provide school bus transportation to a nonpublic school in another district for school children residing in the district and attending that school, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. If the board transports children to a nonpublic school located in another district, the nonpublic school must pay the cost of such transportation provided outside the district boundaries.

Subd. 3. **Board control.** When transportation is provided, the scheduling of routes, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the board.

Subd. 4. **Rules.** The commissioner of education may amend rules relating to equal transportation.

**History:** 1969 c 570 s 3; 1974 c 566 s 1; 1975 c 51 s 1; 1975 c 162 s 27; 1976 c 2 s 58; 1982 c 424 s 31; 1982 c 548 art 2 s 1; 1984 c 655 art 1 s 24; 1994 c 647 art 12 s 2; 1Sp1995 c 3 art 2 s 4; 1998 c 397 art 7 s 2,3,164; art 11 s 3; 1998 c 398 art 5 s 55; 2000 c 254 s 12; 2003 c 130 s 12

**123B.87 FUNDS AND AIDS.**

Subdivision 1. **State aid.** State aids made available or appropriated shall be for the equal benefit of all school children, and be disbursed in such manner as determined by the board.

Subd. 2. **Boards may expend money.** The board of any district may expend any moneys in its treasury, whether received from state or any other source for the purpose of providing equal transportation treatment of all school children attending school.

**History:** 1969 c 570 s 4; 1978 c 706 s 28; 1979 c 334 art 2 s 4; 1Sp1995 c 3 art 2 s 5; 1998 c 397 art 7 s 4, 164

## SCHOOL BUSES; STUDENT TRANSPORTATION

### 123B.88 INDEPENDENT SCHOOL DISTRICTS; TRANSPORTATION.

Subdivision 1. **Providing transportation.** The board may provide for the transportation of pupils to and from school and for any other purpose. The board may also provide for the transportation of pupils to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year, as it may deem advisable, and subject to its rules. In any district, the board must arrange for the attendance of all pupils living two miles or more from the school, except pupils whose transportation privileges have been voluntarily surrendered under subdivision 2, or whose privileges have been revoked under section 123B.91, subdivision 1, clause (6), or 123B.90, subdivision 2. The district may provide for the transportation of or the boarding and rooming of the pupils who may be more economically and conveniently provided for by that means. Arrangements for attendance may include a requirement that parents or guardians request transportation before it is provided. The board must provide transportation to and from the home of a child with a disability not yet enrolled in kindergarten when special instruction and services under sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided in a location other than in the child's home. When transportation is provided, scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children, the determination of fees, and any other matter relating thereto must be within the sole discretion, control, and management of the board. The district may provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by that means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Subd. 2. **Voluntary surrender of transportation privileges.** The parent or guardian of a student may voluntarily surrender the student's to and from school transportation privileges granted under subdivision 1.

Subd. 3. **Transportation services contracts.** The board may contract for the furnishing of authorized transportation under section 123B.52, and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.

Subd. 3a. **Pupil transportation safety committee.** (a) A school board may establish a pupil transportation safety committee. The chair of the pupil transportation safety committee is the district's school transportation safety director. The school board shall appoint the other members of the pupil transportation safety committee. Membership may include parents, school bus drivers, representatives of school bus companies, local law enforcement officials, other school district staff, and representatives from other units of local government.

(b) The duties of the pupil transportation safety committee include: (1) reviewing and recommending changes to the district's pupil transportation safety policy required under subdivision 1; and (2) developing a comprehensive plan for the safe transportation of students who face hazardous transportation conditions. The comprehensive hazardous transportation plan shall consider safety factors including the types of roads that students must cross, the speed of traffic on those roads, the age of the students, and any other factors as determined by the committee.

(c) The pupil transportation safety committee must hold at least one public meeting before adopting its comprehensive plan for transporting students who face hazardous transportation conditions.

(d) Any recommended changes to the district's pupil transportation safety policy and the comprehensive plan for hazardous transportation must be submitted to the school board.

Subd. 4. **Instruction in a nonresident district.** The board may provide for the instruction of any resident pupil in another district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in the pupil's own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged, pursuant to section 123A.488, subdivision 2, and may provide transportation; provided, that such pupil shall continue to be a pupil of the district of residence for the payment of apportionment and other state aids.

Subd. 5. **Admission of nonresident pupils.** The board may provide for the admission to the schools of the district, of nonresident pupils, and those above school age, and fix the rates of tuition for such pupils.

Subd. 6. **Nonresident pupil defined.** For the purposes of this subdivision, a "nonresident pupil" is a pupil who resides in one district, defined as the "resident district" and attends school in another district, defined as the "nonresident district."

If requested, a nonresident district shall transport a nonresident pupil within its borders and may transport a nonresident pupil within the pupil's resident district. If a nonresident district decides to transport a nonresident pupil within the pupil's resident district, the nonresident district must notify the pupil's resident district of its decision, in writing, prior to providing transportation.

Subd. 7. **Attendance in another state.** If high school pupils from a district within this state are being transported to a school in another state, the board of the district from which the pupils are being transported may provide free transportation and tuition for any or all of its elementary pupils to such school in another state and be entitled to state aid as provided by law.

Subd. 8. **Authority to rent buses.** The board may rent a bus owned by the district excluding a motor-coach bus to any person for any lawful purpose. Bus rental must not interfere with the transportation of pupils by the district. A lessee may use and operate the bus without payment of a motor vehicle tax. The lessee is liable for any claims for injuries and damages arising out of the use and operation of a bus leased from the district. Except as provided in subdivision 15, the lessee shall procure insurance at the lessee's expense protecting the board and the district against claims for injuries and damages arising out of the use and operation of the bus.

Subd. 9. **Nonpupil transportation; insurance.** Notwithstanding the provisions of section 221.021, any public school district or school bus contractor providing transportation services to a district on a regular basis in this state may operate school buses, excluding motor coach buses, for the purpose of providing transportation to nonpupils of the school district attending school events, as defined in section 123B.49, subdivision 3 or 4, provided that no carrier having a charter carrier permit has its principal office and place of business or bus garage within 12 miles of the principal office of the district. District owned buses and the operators thereof shall otherwise comply with the provisions of this section and the rules of the commissioner of public safety and shall be insured in at least the amounts stated in section 466.04, subdivision 1. In all cases the total cost of providing such services, as determined by sound accounting procedures, shall be paid by charges made against those using the buses.

Subd. 10. **Transportation of any person.** Districts may use district owned or contractor operated school buses to provide transportation along regular school bus routes on a space available basis for any person. Such use of a bus must not interfere with the transportation of pupils to and from school or other authorized transportation of pupils. In all cases, the total additional cost of providing these services, as determined by sound accounting procedures, must be paid by charges made against those using these services or some third-party payor. In no case shall the additional cost of this transportation be paid by the district.

The provisions of section 65B.47, subdivision 4, shall be applicable to any person being transported pursuant to this subdivision.

Subd. 11. **Part-time secondary students.** Districts may provide bus transportation along regular school bus routes on a space available basis for part-time students enrolled in secondary classes pursuant to section 124D.02, subdivisions 2, 3, and 4. Such use of a bus

must not interfere with the transportation of pupils to and from school or other authorized transportation of pupils. The total additional cost of providing these services, as determined by sound accounting procedures, shall be paid by charges made against those using the services or some third-party payor.

**Subd. 12. Early childhood family education participants.** Districts may provide bus transportation along regular school bus routes when space is available for participants in early childhood family education programs and school readiness programs if these services do not result in an increase in the district's expenditures for transportation. The costs allocated to these services, as determined by generally accepted accounting principles, shall be considered part of the authorized cost for regular transportation for the purposes of section 123B.92.

**Subd. 13. Area learning center pupils.** Districts may provide bus transportation along school bus routes when space is available, for pupils attending programs at an area learning center. The transportation is only permitted between schools and if it does not increase the district's expenditures for transportation. The cost of these services shall be considered part of the authorized cost for nonregular transportation for the purpose of section 123B.92.

**Subd. 14. Transportation insurance.** The board may provide for the protection of pupils transported for school purposes or activities in district owned, operated, leased, or controlled motor vehicles against injuries or damages arising out of the operation of these vehicles. The board may purchase and pay for insurance from any funds available. An insurance contract covering this risk shall contain a waiver of the defense of governmental immunity. The payment of any insurance premiums by the district does not in itself make the district liable for any injuries or damages incurred by the transportation.

**Subd. 15. Insurance; indemnity.** If a school board has obtained insurance pursuant to subdivision 14 or section 466.06, it may also obtain and pay for insurance coverage to indemnify a lessee and to protect the board and the district, in any amount not exceeding the limits of coverage provided for the insurance obtained pursuant to subdivision 14 or section 466.06 against claims for injuries and damages arising out of the use and operation of a district-owned bus while it is leased or rented to the lessee pursuant to subdivision 8. The rental charge shall include the cost of this additional insurance coverage. The procurement of this additional insurance coverage constitutes a waiver of the defense of governmental immunity to the extent of the additional coverage but has no effect on the liability of the board, the district, or its employees beyond the coverage so provided.

**Subd. 16. Payment of insurance premiums; nonliability.** The board may provide and pay the premiums for the protection for school children, instructors and automobile owners, and any other agency cooperating in providing cars for districts where driver training courses are being offered, against public liability, property damage, collision, fire and theft, arising out of the operation of any vehicle used in the courses. Nothing herein shall make the district liable for injuries resulting from the actions of such persons.

**Subd. 17. Insurance; school safety patrol.** The board may provide and pay the premiums for insurance against injuries resulting to its pupils while assigned to and acting on a school safety patrol. Such insurance may provide for the payment of either cash benefits to such injured pupil or for the payment of hospital and medical benefits to or for such injured pupil, or both. Nothing herein shall be construed to make the district liable for such injuries.

**Subd. 18. Snow removal.** The board may enter into contracts for the removal of snow from roads used for regular bus routes transporting pupils to and from school either within or outside the district.

**Subd. 19. Disabled person transport to developmental achievement center.** The board must contract with any licensed developmental achievement center attended by a resident disabled person who fulfills the eligibility requirements of section 252.23, subdivision 1, to transport the resident disabled person to the developmental achievement center in return for payment by the center of the cost of the transportation, if transportation by the board is in the best interest of the disabled person and is not unreasonably burdensome to the district and if a less expensive, reasonable, alternative means of transporting the disabled person does not



exist. If the board and the developmental achievement center are unable to agree to a contract, either the board or the center may appeal to the commissioner to resolve the conflict. All decisions of the commissioner shall be final and binding upon the board and the center.

**Subd. 20. Custodial parent transportation.** The board may provide transportation for a pupil who is a custodial parent and that pupil's child between the pupil's home and a child care provider and between the provider and the school. The board must establish criteria for transportation it provides according to this subdivision.

**Subd. 21. Pupil transport on staff development days.** A district may provide bus transportation between home and school for pupils on days devoted to parent-teacher conferences, teacher's workshops, or other staff development opportunities. If approved by the commissioner as part of a program of educational improvement, the cost of providing this transportation, as determined by generally accepted accounting principles, must be considered part of the authorized cost for regular transportation for the purposes of section 123B.92. The commissioner shall approve inclusion of these costs in the regular transportation category only if the total number of instructional hours in the school year divided by the total number of days for which transportation is provided equals or exceeds the number of instructional hours per day prescribed in the rules of the Department of Education.

**Subd. 22. Postsecondary enrollment options pupils.** Districts may provide bus transportation along school bus routes when space is available, for pupils attending programs at a postsecondary institution under the postsecondary enrollment options program. The transportation is permitted only if it does not increase the district's expenditures for transportation. Fees collected for this service under section 123B.36, subdivision 1, paragraph (13), shall be subtracted from the authorized cost for nonregular transportation for the purpose of section 123B.92.

**History:** *Ex1959 c 71 art 4 s 21 subs 1-12; 1963 c 663 s 2; 1973 c 560 s 1; 1974 c 44 s 1; 1974 c 521 s 16; 1975 c 238 s 1; 1977 c 337 s 1; 1977 c 447 art 1 s 1; 1978 c 706 s 19; 1978 c 764 s 36,37; 1981 c 194 s 2; 1981 c 234 s 1-3; 1981 c 358 art 2 s 1; 1983 c 314 art 7 s 21; 1Sp1985 c 12 art 2 s 1; 1986 c 444; 1987 c 398 art 3 s 15; 1988 c 718 art 2 s 3; 1989 c 329 art 2 s 1; 1990 c 562 art 2 s 2,3; art 6 s 16; 1991 c 130 s 37; 1991 c 265 art 3 s 38; 1992 c 499 art 2 s 1; art 12 s 29; 1993 c 13 art 1 s 26; 1993 c 224 art 2 s 3,4; 1994 c 647 art 12 s 1; 1Sp1995 c 3 art 2 s 3; art 16 s 13; 1996 c 412 art 2 s 6; 1Sp1997 c 4 art 1 s 10; 1998 c 397 art 6 s 83-97,124; art 11 s 3; 1998 c 398 art 5 s 55; art 6 s 19,20; 1999 c 205 art 1 s 70; 2000 c 254 s 13-15; 2000 c 489 art 6 s 12; 1Sp2001 c 6 art 1 s 12; 1Sp2003 c 9 art 2 s 14; art 10 s 13; 2005 c 56 s 1; 1Sp2005 c 5 art 2 s 56*

### **123B.885 DIESEL SCHOOL BUSES; OPERATION OF ENGINE; PARKING.**

**Subdivision 1. Operation of engine.** All operators of diesel school buses must minimize, to the extent practical, the idling of school bus engines and exposure of children to diesel exhaust fumes.

**Subd. 2. Parking.** On and after July 1, 2003, diesel school buses must be parked and loaded at sufficient distance from school air-intake systems to avoid diesel fumes from being drawn into the systems, unless, in the judgment of the school board, alternative locations block traffic, impair student safety, or are not cost effective.

**History:** *2002 c 364 s 2*

### **123B.89 [Repealed, 1999 c 241 art 1 s 69]**

### **123B.90 SCHOOL BUS SAFETY TRAINING.**

**Subdivision 1.** [Repealed, 1Sp2003 c 9 art 10 s 14]

**Subd. 2. Student training.** (a) Each district must provide public school pupils enrolled in kindergarten through grade 10 with age-appropriate school bus safety training, as described in this section, of the following concepts:

- (1) transportation by school bus is a privilege and not a right;

- (2) district policies for student conduct and school bus safety;
- (3) appropriate conduct while on the school bus;
- (4) the danger zones surrounding a school bus;
- (5) procedures for safely boarding and leaving a school bus;
- (6) procedures for safe street or road crossing; and
- (7) school bus evacuation.

(b) Each nonpublic school located within the district must provide all nonpublic school pupils enrolled in kindergarten through grade 10 who are transported by school bus at public expense and attend school within the district's boundaries with training as required in paragraph (a).

(c) Students enrolled in kindergarten through grade 6 who are transported by school bus and are enrolled during the first or second week of school must receive the school bus safety training competencies by the end of the third week of school. Students enrolled in grades 7 through 10 who are transported by school bus and are enrolled during the first or second week of school and have not previously received school bus safety training must receive the training or receive bus safety instructional materials by the end of the sixth week of school. Students taking driver's training instructional classes and other students in grades 9 and 10 must receive training in the laws and proper procedures when operating a motor vehicle in the vicinity of a school bus. Students enrolled in kindergarten through grade 10 who enroll in a school after the second week of school and are transported by school bus and have not received training in their previous school district shall undergo school bus safety training or receive bus safety instructional materials within four weeks of the first day of attendance. The school transportation safety director in each district must certify to the superintendent of schools annually that all students transported by school bus within the district have received the school bus safety training according to this section. The principal or other chief administrator of each nonpublic school must certify annually to the school transportation safety director of the district in which the school is located that the school's students transported by school bus at public expense have received training according to this section.

(d) A district and a nonpublic school with students transported by school bus at public expense may provide kindergarten pupils with bus safety training before the first day of school.

(e) A district and a nonpublic school with students transported by school bus at public expense may also provide student safety education for bicycling and pedestrian safety, for students enrolled in kindergarten through grade 5.

(f) A district and a nonpublic school with students transported by school bus at public expense must make reasonable accommodations for the school bus safety training of pupils known to speak English as a second language and pupils with disabilities.

(g) The district and a nonpublic school with students transported by school bus at public expense must provide students enrolled in kindergarten through grade 3 school bus safety training twice during the school year.

(h) A district and a nonpublic school with students transported by school bus at public expense must conduct a school bus evacuation drill at least once during the school year.

**Subd. 3. Model training program.** The commissioner shall develop a comprehensive model school bus safety training program for pupils who ride the bus that includes bus safety curriculum for both classroom and practical instruction and age-appropriate instructional materials.

**History:** 1994 c 647 art 12 s 4; 1Sp1995 c 3 art 2 s 6,7; art 16 s 13; 1996 c 412 art 2 s 7; 1Sp1997 c 4 art 12 s 3,4; 1998 c 397 art 7 s 6,7,164; 1999 c 241 art 9 s 22,23; 2000 c 489 art 6 s 13,14; 1Sp2003 c 9 art 1 s 6,7; 2004 c 294 art 2 s 13

**123B.91 SCHOOL DISTRICT BUS SAFETY RESPONSIBILITIES.**

Subdivision 1. **Comprehensive policy.** Each district shall develop and implement a comprehensive, written policy governing pupil transportation safety, including transportation of nonpublic school students, when applicable. The policy, at minimum, must contain:

- (1) provisions for appropriate student bus safety training under section 123B.90;
- (2) rules governing student conduct on school buses and in school bus loading and unloading areas;
- (3) a statement of parent or guardian responsibilities relating to school bus safety;
- (4) an intradistrict system for reporting school bus accidents or misconduct and a system for dealing with local law enforcement officials in cases of criminal conduct on a school bus;
- (5) a discipline policy to address violations of school bus safety rules, including procedures for revoking a student's bus riding privileges in cases of serious or repeated misconduct;
- (6) a system for integrating school bus misconduct records with other discipline records;
- (7) where applicable, provisions governing bus monitor qualifications, training, and duties;
- (8) rules governing the use and maintenance of type III vehicles, drivers of type III vehicles, qualifications to drive a type III vehicle, qualifications for a type III vehicle, and the circumstances under which a student may be transported in a type III vehicle;
- (9) operating rules and procedures;
- (10) emergency procedures;
- (11) a system for maintaining and inspecting equipment; and
- (12) any other requirements of the school district.

Subd. 1a. **Compliance by nonpublic and charter school students.** A nonpublic or charter school student transported by a public school district shall comply with student bus conduct and student bus discipline policies of the transporting public school district.

Subd. 2. **School transportation safety director.** Each board shall designate a school transportation safety director to oversee and implement pupil transportation safety policies. The director shall have day-to-day responsibility for pupil transportation safety within the district, including transportation of nonpublic school children when provided by the district.

**History:** 1994 c 647 art 12 s 14; 1Sp1995 c 3 art 2 s 8,9; art 16 s 13; 1998 c 397 art 7 s 9,164; art 11 s 3; 1998 c 398 art 6 s 21; 1999 c 241 art 9 s 24; 2000 c 489 art 6 s 15; 1Sp2003 c 9 art 1 s 8; 2006 c 263 art 2 s 10

**123B.92 TRANSPORTATION AID ENTITLEMENT.**

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

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

- (1) the sum of:
  - (i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus
  - (ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus
  - (iii) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.01, subdivision 6, clause (5), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

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

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

(1) Regular transportation is:

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

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

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

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

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

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility or residence is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

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

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

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

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

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

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

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

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

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

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

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

For purposes of computing special education base revenue under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(5) "Nonpublic nonregular transportation" is:

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

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

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

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

Subd. 2. [Repealed, 1999 c 241 art 1 s 69]

Subd. 3. **Alternative attendance programs.** A district that enrolls nonresident pupils in programs under sections 124D.03, 124D.06, 124D.08, 123A.05 to 123A.08, and 124D.68, must provide authorized transportation to the pupil within the attendance area for the school that the pupil attends at the same level of service that is provided to resident pupils within the attendance area. The resident district need not provide or pay for transportation between the pupil's residence and the district's border.

Subd. 4. [Repealed, 1999 c 241 art 1 s 69]

Subd. 5. **District reports.** (a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated as the district trans-

portation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, must be allocated among transportation categories based on cost-per-mile, cost-per-student, cost-per-hour, or cost-per-route, regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among transportation categories based on cost-per-mile, cost-per-student, cost-per-hour, or cost-per-route. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

Subd. 6. [Repealed, 1999 c 241 art 1 s 69]

Subd. 7. [Repealed, 1999 c 241 art 1 s 69]

Subd. 8. [Repealed, 1999 c 241 art 1 s 69]

Subd. 9. **Nonpublic pupil transportation aid.** (a) A district's nonpublic pupil transportation aid for the 1996–1997 and later school years for transportation services for nonpublic school pupils according to sections 123B.88, 123B.84 to 123B.86, and this section, equals the sum of the amounts computed in paragraphs (b) and (c). This aid does not limit the obligation to transport pupils under sections 123B.84 to 123B.87.

(b) For regular and excess transportation according to subdivision 1, paragraph (b), clauses (1) and (2), an amount equal to the product of:

(1) the district's actual expenditure per pupil transported in the regular and excess transportation categories during the second preceding school year; times

(2) the number of nonpublic school pupils residing in the district who receive regular or excess transportation service or reimbursement for the current school year; times

(3) the ratio of the formula allowance pursuant to section 126C.10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C.10, subdivision 2, for the second preceding school year.

(c) For nonpublic nonregular transportation according to subdivision 1, paragraph (b), clause (5), an amount equal to the product of:

(1) the district's actual expenditure for nonpublic nonregular transportation during the second preceding school year; times

(2) the ratio of the formula allowance pursuant to section 126C.10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C.10, subdivision 2, for the second preceding school year.

(d) Notwithstanding the amount of the formula allowance for fiscal year 2004 in section 126C.10, subdivision 2, the commissioner shall use the amount of the formula allowance for the current year minus \$415 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal year 2004.

Subd. 10. [Repealed, 1999 c 241 art 1 s 69]

**History:** 1979 c 334 art 2 s 8; 1980 c 609 art 2 s 2; 1981 c 356 s 167; 1981 c 358 art 2 s 3–13; 1Sp1981 c 2 s 8; 3Sp1981 c 2 art 2 s 9; 1982 c 548 art 2 s 3; 1983 c 314 art 2 s 2; 1Sp1985 c 12 art 2 s 3–10; 1Sp1986 c 1 art 9 s 7,8; 1987 c 398 art 2 s 2–7; art 7 s

42; 1988 c 486 s 35,36; 1988 c 718 art 2 s 5; art 7 s 29; 1989 c 222 s 14-25; 1989 c 329 art 2 s 3,9; 1990 c 562 art 2 s 5-7; 1991 c 130 s 37; 1991 c 199 art 2 s 10; 1991 c 265 art 2 s 6-14; art 3 s 38; 1991 c 277 s 17; 1992 c 499 art 12 s 29; 1993 c 224 art 2 s 5-9; art 7 s 10,11; 1994 c 647 art 2 s 2; art 3 s 24; art 12 s 8,9; art 13 s 7; 1Sp1995 c 3 art 2 s 11-24; art 4 s 30; art 16 s 13; 1996 c 412 art 2 s 9-12; 1Sp1997 c 4 art 1 s 19-24; 1998 c 397 art 7 s 31-34,164; art 11 s 3; 1998 c 398 art 5 s 55; art 6 s 23,24; 1999 c 241 art 1 s 1; 1Sp2001 c 5 art 2 s 7; 1Sp2001 c 6 art 1 s 55 subd 2; 1Sp2003 c 9 art 1 s 9-11; 1Sp2005 c 5 art 1 s 9,10; 2006 c 263 art 2 s 11,12

### 123B.93 ADVERTISING ON SCHOOL BUSES.

(a) The commissioner, through a competitive process, may contract with advertisers regarding advertising on school buses. At a minimum, the contract must prohibit advertising and advertising images that:

- (1) solicit the sale of, or promote the use of, alcoholic beverages and tobacco products;
- (2) are discriminatory in nature or content;
- (3) imply or declare an endorsement of the product or service by the school district;
- (4) contain obscene material;
- (5) are false, misleading, or deceptive; or
- (6) relate to an illegal activity or antisocial behavior.

(b) Advertisement must meet the following conditions:

(1) the advertising attached to the school bus does not interfere with bus identification under section 169.441; and

(2) the bus with attached advertising meets the school bus equipment standards under sections 169.4501 to 169.4504.

(c) All buses operated by school districts may be attached with advertisements under the state contract. All school district contracts shall include a provision for advertisement. Each school district shall be reimbursed by the advertiser for all costs incurred by the district and its contractors for supporting the advertising program, including, but not limited to, retrofitting buses, storing advertising, attaching advertising to the bus, and related maintenance.

(d) The commissioner shall hold harmless and indemnify each district for all liabilities arising from the advertising program. Each district must tender defense of all such claims to the commissioner within five days of receipt.

(c) All revenue from the contract shall be deposited in the general fund.

**History:** 1Sp1997 c 4 art 12 s 1; 1998 c 397 art 4 s 51; 1Sp2003 c 9 art 12 s 7

### COMMON SCHOOL DISTRICTS; PRINSBURG AND FRANCONIA

### 123B.94 COMMON SCHOOL DISTRICTS; MEETINGS, ELECTIONS.

Subdivision 1. **Annual meeting.** The annual meeting of all common districts must be held on the last Tuesday in June, at 8:00 p.m., unless a different hour has been fixed at the preceding annual meeting. The clerk shall give notice of the meeting, specifying the matters to come before such meeting. Failure of the clerk to give such notice, or to specify the business to be transacted, shall not affect the validity of any business, except the raising of money to build or purchase a school house, the authorizing of an issue of bonds, the fixing of a school house site, or the organization as an independent district. At the annual meeting in a common district five legal voters shall constitute a quorum. The chair and clerk of the board shall officiate in their respective capacities at all meetings of the electors of the district. In the event of the absence of the chair or clerk, the voters shall elect a chair or clerk pro tem. The voters shall have the power in an annual meeting to repeal and modify their proceedings. The polls at all meetings shall be open at least one hour.

Subd. 2. **Elections.** The annual meeting must have power to elect, by ballot, officers of the district. In all elections or vote by ballot, the clerk shall record the names of all voters

participating therein and the chair shall appoint two electors. The electors, with the assistance of the clerk, shall supervise the balloting and canvass the votes. If any candidates receive an equal number of votes for an office, the board shall resolve the tie by lot.

Subd. 3. **Candidates for office.** Any person desiring to be a candidate for a district office at the annual meeting of the district shall file with the clerk of the district an application to be placed on the ballot for such office. Any five voters of the district may file an application for or on behalf of any qualified voter in the district that they desire to be a candidate. Applications shall be filed not less than 12 days before the annual district meeting. The clerk of the district, in the notice of annual meeting, shall state the names of the candidates for whom applications have been filed, failure to do so shall not affect the validity of the election thereafter held. At the annual meeting of common districts, nomination of candidates for offices may be made from the floor by any qualified voter.

Subd. 4. **Ballots.** The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers placing thereon the names of the proposed candidates for such office with a blank space after such names. The ballots shall be marked as official ballots, and shall be used to the exclusion of all other ballots at such annual meeting or election in the election of officers of the district.

Subd. 5. **Election of officers.** At the first meeting of each district, the chair shall be elected to hold office until July 1 following the next annual meeting. The treasurer, until one year from such date, and the clerk until two years from such date.

Subd. 6. **Board member acceptance of office.** A board member elected at an annual meeting upon notice from the clerk, shall, on or before the first Saturday in July, file with the clerk an acceptance of the office and an official oath. Any person appointed by the board or elected at a special meeting to fill a vacancy shall file in writing an acceptance of the office and an official oath within ten days after the notice of such appointment or election by the clerk. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but such filing, if made at any time before action to fill the vacancy has been taken, shall be sufficient.

Subd. 7. **Special meeting.** Upon the filing of a petition therefor, executed by five eligible voters, as defined in Minnesota Election Law, of the common district, specifying the business to be acted upon, or upon the adoption of a proper resolution so specifying, signed by a majority of the members of the board, the clerk shall call a special meeting of the district. The clerk shall give ten days' posted notice and one week's published notice if there be a newspaper printed in the district and specify in the notice the business named in the request or resolution and the time and place of the meeting. If there is no clerk in the district or if the clerk fails for three days after receiving a request or resolution to give notice of a meeting, it may be called by like notice by five eligible voters, as defined in Minnesota Election Law, of the district. No business except that named in the notice shall be transacted at the meeting. If there are not five eligible voters, as defined in Minnesota Election Law, or if there is not a board therein, the county auditor may call a special meeting by giving notice thereof as provided in this section. The voters at a special meeting have power to repeal or modify their proceedings.

**History:** *Ex1959 c 71 art 4 s 2; 1965 c 33 s 1; 1979 c 29 s 1; 1980 c 609 art 6 s 15; 1986 c 444; 1987 c 266 art 2 s 8; 1998 c 397 art 6 s 37-41,124*

## 123B.95 BOARDS OF COMMON SCHOOL DISTRICTS.

Subdivision 1. **School board.** The care, management and control of a common district is vested in a board of three members to be known as the school board. The term of office of a member shall be three years, and until a successor qualifies. The board of each common district must consist of a chair, a treasurer, and a clerk. The board may by resolution establish a time and place for regular meeting and no notice of such meeting need be sent to any members of the board.

Subd. 2. **Finances.** The board must submit to the annual meeting an estimate of the expenses of the district for the coming year for a school term as determined by the board and for



such other specified purposes as the board may deem proper. If the annual meeting fails to vote a sufficient tax to maintain the district for such time, the board must levy such tax pursuant to and within the limitations of sections 124D.22, 126C.40 to 126C.45, and 126C.48; but no board shall expend any money or incur any liability for any purpose beyond the sum appropriated by vote of the district for such purpose, or levied by the board pursuant to this subdivision, or on hand and applicable thereto.

Subd. 3. **School visits.** The board must visit each school at least once every three months.

Subd. 4. **Official newspaper.** At its first meeting following July 1 each year, the board must designate, by resolution, as the official newspaper of the district, some legal newspaper of general circulation within the district, and contract with such newspaper for its publications. If there is more than one such newspaper, the board must enter a contract with the lowest responsible bidder at the earliest practicable date. All notices and proceedings required by law to be published by the board must be published in the official newspaper so designated. The fees for such publication must not exceed the fees for publication of legal notices as prescribed by Minnesota Statutes.

**History:** *Ex1959 c 71 art 4 s 3; 1967 c 176 s 1; 1978 c 706 s 11; 1986 c 444; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1995 c 212 art 4 s 64; 1998 c 397 art 6 s 42, 124; art 11 s 3; 2000 c 254 s 16*

### 123B.96 TREASURER.

The treasurer shall receive and be responsible for all money in the district and disburse the same on orders signed by the clerk and countersigned by the chair or other vouchers authorized by law. In the event that the chair has been continuously absent from the district for a period of 30 days or more, the treasurer may pay orders without the signature of the chair. Each order must state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued and must be so drawn that when signed by the treasurer in an appropriate place, it becomes a check on the district depository. The treasurer shall keep an account of each fund, and of all receipts and disbursements showing the sources of all receipts and the nature and purpose of disbursements. The treasurer shall deposit the funds of the district in the official depository in accordance with the provisions of law.

**History:** *Ex1959 c 71 art 4 s 4; 1965 c 69 s 1; 1973 c 492 s 7; 1986 c 444; 1998 c 397 art 6 s 43, 124*

### 123B.97 SCHOOLHOUSES AND SITES; COMMON SCHOOL DISTRICTS.

Subdivision 1. **Acquisition of sites.** When authorized by the voters at a regular meeting or at a special meeting called for that purpose, the board may acquire necessary sites for school houses, or enlargements or additions to existing school house sites, by lease, purchase, or condemnation under the power of eminent domain: lease, erect or purchase garages for district-owned school buses; and sell or exchange school houses or sites and execute deeds of conveyances thereof. It may acquire by lease, purchase, or condemnation under eminent domain suitable tracts of land either in or outside of the district for the purpose of instruction, experimentation, and demonstration in agriculture. In any city, a school site, when practicable, must contain at least one block. Outside of any city, a school site must contain at least two acres. If any school house site contains less than the required amount the board may, without a vote of the electors, acquire other land adjacent to or near such site to make, with such site, all or part of the required amount. If property is taken by eminent domain by authority of this subdivision, when needed by the district for such purpose, the fact that the property was acquired by the owner under the power of eminent domain, or is already devoted to public use, shall not prevent its acquisition by the district.

Subd. 2. **Site designation.** The annual meeting or election shall have power to designate a site for a school house and provide for building or otherwise placing a school house thereon, when proper notice has been given. A site with an existing school house or where a school

house is being built shall not be changed except by vote of three-fifths of the voters of the district voting on the question.

Subd. 3. **Teacher dwelling.** When authorized by a two-thirds majority of all the electors voting at an annual or special meeting, the board may erect, purchase, or acquire a dwelling house for the use of its teachers. The proposition shall be submitted only at a meeting or election. The notice of the meeting shall state that the proposition shall be considered or submitted.

**History:** *Ex1959 c 71 art 4 s 6; 1973 c 123 art 5 s 7; 1998 c 397 art 6 s 44,124; 2006 c 214 s 20*

#### **123B.98 LIMITATION OF SECTIONS.**

Material contained in sections 123B.94 to 123B.97 relates only to Common School Districts Numbers 323 and 815. The provisions of law relating to independent school districts shall apply to and govern these common school districts unless a particular provision of sections 123B.94 to 123B.97 provides for the matter, in which case that provision shall apply and control.

**History:** *Ex1959 c 71 art 4 s 12; 1975 c 162 s 22; 1978 c 706 s 12; 1982 c 424 s 30; 1998 c 397 art 6 s 124; art 11 s 3*