

**CHAPTER 127A**  
**STATE ADMINISTRATION OF EDUCATION**

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**127A.01 DEFINITIONS.**

For the purpose of this chapter, the terms defined in section 120A.05 have the same meanings.

**History:** *Ex1959 c 71 art 2 s 1; 1998 c 397 art 4 s 51; art 11 s 3*

## COMMISSIONER DUTIES

### 127A.05 COMMISSIONER OF EDUCATION.

Subdivision 1. **Appointment and duties.** The department shall be under the administrative control of the commissioner of education which office is established. The governor shall appoint the commissioner under the provisions of section 15.06.

The commissioner shall be a person who possesses educational attainment and breadth of experience in the administration of public education and of the finances pertaining thereto commensurate with the spirit and intent of this code. Notwithstanding any other law to the contrary, the commissioner may appoint two deputy commissioners who shall serve in the unclassified service. The commissioner shall also appoint other employees as may be necessary for the organization of the department. The commissioner shall perform such duties as the law and rules may provide and be held responsible for the efficient administration and discipline of the department. The commissioner is charged with the execution of powers and duties to promote public education in the state and to safeguard the finances pertaining thereto.

Subd. 2. **Review of state laws and rules.** The commissioner shall review all education-related mandates in state law or rule once every four years to determine which mandates fail to adequately promote public education in the state. The commissioner shall report the findings of the review to the education committees of the legislature by February 1 in the year following the completion of the review.

Subd. 3. **General supervision over public schools and educational agencies.** The commissioner of education shall adopt goals for and exercise general supervision over public schools and public educational agencies in the state, classify and standardize public elementary and secondary schools, and prepare for them outlines and suggested courses of study. The commissioner shall develop a plan to attain the adopted goals. The commissioner may recognize educational accrediting agencies for the sole purposes of sections 120A.22, 120A.24, and 120A.26.

Subd. 4. **Administrative rules.** The commissioner may adopt new rules or amend any existing rules only under specific authority and consistent with the requirements of chapter 14. The commissioner may repeal any existing rules adopted by the commissioner. The commissioner may grant a variance to rules adopted by the commissioner upon application by a school district for purposes of implementing experimental programs in learning or school management. This subdivision shall not prohibit the commissioner from making technical changes or corrections to rules adopted by the commissioner.

Subd. 5. **Evening schools.** The commissioner shall exercise general supervision over the public evening schools, adult education programs, and summer programs.

Subd. 6. **Survey of districts.** The commissioner of education shall survey the state's school districts and teacher preparation programs and report to the education committees of the legislature by January 15 of each odd-numbered year on the status of teacher early retirement patterns, the teacher shortage, and the substitute teacher shortage, including patterns and shortages in subject areas and regions of the state. The report must also include how districts are making progress in hiring teachers and substitutes in the areas of shortage and a five-year projection

of teacher demand for each district.

**History:** *Ex1959 c 71 art 2 s 16; 1969 c 1129 art 8 s 16; 1977 c 305 s 41; 1978 c 764 s 8; 1983 c 150 s 1; 1992 c 499 art 8 s 1; 1993 c 224 art 9 s 16,17; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 51; art 11 s 3; 1998 c 398 art 6 s 4-12; 1999 c 241 art 9 s 30,31; 2000 c 489 art 6 s 26; art 10 s 15; 2003 c 130 s 10-12; 1Sp2003 c 9 art 12 s 15*

#### **127A.06 RECOMMENDATIONS; BUDGET.**

The commissioner of education shall recommend to the governor and legislature such modification and unification of laws relating to the state system of education as shall make those laws more readily understood and more effective in execution. The commissioner of education shall prepare a biennial education budget which shall be submitted to the governor and legislature, such budget to contain a complete statement of finances pertaining to the maintenance of the state department and to the distribution of state aid.

**History:** *Ex1959 c 71 art 2 s 14; 1991 c 265 art 11 s 2; 1993 c 224 art 12 s 7; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 51; 1998 c 398 art 6 s 2; 2003 c 130 s 12*

#### **127A.065 CROSS-SUBSIDY REPORT.**

By January 10, the commissioner of education shall submit an annual report to the legislative committees having jurisdiction over kindergarten through grade 12 education on the amount each district is cross-subsidizing special education costs with general education revenue.

**History:** *2007 c 146 art 7 s 1*

#### **127A.07 SHARED SERVICE AGREEMENTS.**

The commissioner may make a shared service agreement with another public agency. The agreement must be of mutual benefit to the state, the department, and the other agency. The term of the agreement must not be more than three years. The commissioner and the other agency need not consult the Legislative Advisory Commission before making the agreement.

Charges by the department and the other agency must be on an actual cost basis, and the receipts are dedicated to the operation of the department or agency receiving them and are appropriated for that purpose.

**History:** *1Sp1985 c 12 art 7 s 6; 1998 c 397 art 4 s 51*

#### **127A.08 CONFERENCE AND WORKSHOP FEE RECEIPTS; RECEIPTS AND PAYMENTS FROM PUBLIC AND NONPROFIT PRIVATE AGENCIES.**

Subdivision 1. **Conference and workshop fees.** The commissioner may establish procedures to set and collect fees to defray costs of conferences and workshops conducted by the department. The commissioner may keep accounts as necessary within the state's accounting system for the deposit of the conference and workshop fee receipts.

Subd. 2. **Appropriation.** The receipts collected under subdivision 1 are appropriated for payment of expenses relating to the workshops and conferences.

Subd. 3. **Carry-over authority.** Unobligated balances under subdivision 1 may be carried over as follows:

(1) when expenditures for which the receipts have been designated occur in the following fiscal year; or

(2) to allow retention of minor balances in accounts for conferences that are scheduled annually.

Subd. 4. **Receipts and reimbursements.** The commissioner may accept receipts and payments from public and nonprofit private agencies for related costs for partnership or cooperative endeavors involving education activities that are for the mutual benefit of the state, the department, and the other agency. The commissioner may keep accounts as necessary within the state's accounting system. The receipts must be deposited in the special revenue fund.

Subd. 5. **Grants and gifts.** The commissioner may apply for and receive grants and gifts administered by agencies of the state and other government or nongovernment sources. Any money received is hereby appropriated and dedicated for the purpose for which it is granted.

The commissioner must annually report to the education policy and finance committees of the legislature by February 15 a list of all grants and gifts received and applied for under this subdivision.

**History:** 1991 c 265 art 9 s 14; 1998 c 397 art 4 s 51; 2009 c 96 art 7 s 2

#### **127A.09 FEDERAL AID FOR EDUCATION.**

Subdivision 1. **Acceptance.** The commissioner may accept and administer federal funds when such funds become available that further public education and are consistent with state policy and the mission of the department. Acceptance of the money is subject to Department of Management and Budget policy and procedure regarding federal funds.

Subd. 2. **State plans.** If the granting federal agency requires a state plan addressing policy for expenditure, the commissioner shall adopt a state plan in conformity with state and federal regulations and guidelines prior to commissioner acceptance.

Subd. 3. **Depository.** The commissioner of management and budget is the custodian of all money received from the United States on account of the acceptance and shall disburse the money on requisitioning of the commissioner through the state payment system for purposes consistent with the respective acts of Congress and federal grant.

**History:** 1993 c 224 art 11 s 1; 1998 c 397 art 4 s 51; 1998 c 398 art 5 s 55; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109

#### **127A.095 IMPLEMENTATION OF NO CHILD LEFT BEHIND ACT.**

Subdivision 1. **Continued implementation.** The Department of Education shall continue to implement the federal No Child Left Behind Act, Public Law 107-110, without interruption.

Subd. 2. **No Child Left Behind review.** (a) The legislature intends to require the Department of Education to conduct a comprehensive review of the consolidated state plan the state submitted to the federal Department of Education to implement the No Child Left Behind Act. The Minnesota Department of Education shall seek waivers under paragraph (b). If the Department of Education is unable to obtain waivers under paragraph (b), it should recommend in its report under paragraph (b) whether the state should opt out of the No Child Left Behind Act.

(b) The commissioner, by January 15, 2008, shall report to the house of representatives and senate committees having jurisdiction over kindergarten through grade 12 education policy and finance whether the department has received approval from the federal Department of Education to:

- (1) participate in the growth model pilot program;
- (2) exclude from sanctions schools that have not made adequate yearly progress due solely to a subgroup of students with disabilities not testing at a proficient level;
- (3) identify a school as not making adequate yearly progress only after the school has missed the adequate yearly progress targets in the same subgroup for two consecutive years;
- (4) determine when to hold schools accountable for including a student with limited English proficiency in adequate yearly progress calculations;
- (5) allow a district not making adequate yearly progress to offer supplemental educational services as an option before offering school choice;
- (6) allow a district not making adequate yearly progress to also be the supplemental educational services provider;
- (7) allow the state to maintain a subgroup size to 40 for the purposes of calculating adequate yearly progress for subgroups of students with limited English proficiency and subgroups of students with disabilities; and
- (8) create flexibility to enable the state to define and identify highly qualified teachers.

Subd. 3. **Department of Management and Budget certification.** If the federal Department of Education does not transmit to the commissioner of education its approval of the conditions in subdivision 2, paragraph (b), the commissioner of management and budget shall certify and report to the legislature annually beginning January 1, 2008, the amount of federal revenue, if any, that the federal government may withhold as a result of a potential state decision to discontinue implementation of the No Child Left Behind Act. The report shall also specify the intended purpose of the federal revenue and the amount of revenue that the federal government may withhold from the state, each school district, and each charter school in each fiscal year.

**History:** *1Sp2005 c 5 art 2 s 72; 2007 c 146 art 2 s 32; 2009 c 101 art 2 s 109*

#### **127A.10 STATE OFFICIALS AND SCHOOL BOARD MEMBERS TO BE DISINTERESTED; PENALTY.**

If the commissioner of education, an assistant or any employee connected with the commissioner's office, or any member of any school board shall accept or receive any money, gift or any property, or favor from any person, firm, or corporation offering for sale any textbooks, or any agent thereof, or from any person in any way interested in the sale of textbooks, the person accepting or receiving it is guilty of a gross misdemeanor.

**History:** *Ex1959 c 71 art 8 s 23; 1984 c 628 art 3 s 11; 1986 c 444; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 51; 2003 c 130 s 12; 2004 c 228 art 1 s 72; 2005 c 10 art 3 s 6*

#### **127A.11 MONITOR MEDICAL ASSISTANCE SERVICES FOR DISABLED STUDENTS.**

The commissioner of education, in cooperation with the commissioner of human services, shall monitor the costs of health-related, special education services provided by public schools.

**History:** *1999 c 245 art 4 s 6; 2003 c 130 s 12*

#### **127A.12 COMMISSIONER MEMBERSHIP IN CERTAIN ORGANIZATIONS.**

The commissioner may become a member of the Council of Chief State School Officers, an association of state departments of education, and pay membership dues and contribute to the

association for services rendered to the state department on the basis of actual and necessary expenses incurred by the council in preparing these services.

**History:** *Ex1959 c 71 art 2 s 4; 1961 c 556 s 1; 1971 c 679 s 1; 1998 c 397 art 4 s 51; 1998 c 398 art 5 s 55*

### **127A.13 CONTRACTS WITH FEDERAL GOVERNMENT.**

Subdivision 1. **Rules governing.** The commissioner shall prescribe rules under which contracts, agreements, or arrangements may be made with agencies of the federal government for funds, services, commodities, or equipment to be made available to the public tax-supported schools, school systems and educational institutions under the supervision or control of the commissioner.

Subd. 2. **Rules prescribed by commissioner.** All contracts, agreements or arrangements made by public tax-supported schools, school systems or educational institutions under the supervision or control of the commissioner involving funds, services, commodities, or equipment which may be provided by agencies of the federal government shall be entered into in accordance with rules prescribed by the commissioner and in no other manner.

**History:** *Ex1959 c 71 art 2 s 5; 1985 c 248 s 70; 1998 c 397 art 4 s 51; 1998 c 398 art 5 s 55*

### **127A.14 COMMISSIONER PURCHASE OF ANNUITY FOR EMPLOYEES.**

Subdivision 1. **Purchase of annuity contract; allocation of portion of employee compensation.** At the request of an employee, the commissioner of education may negotiate and purchase an individual annuity contract from a company licensed to do business in the state of Minnesota for an employee for retirement or other purposes and may allocate a portion of the compensation otherwise payable to the employee as salary for the purpose of paying the entire premium due or to become due under such contract. The allocation shall 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 thereunder shall be nonforfeitable except for failure to pay premiums.

Subd. 2. **Annuity account; appropriation.** All amounts so allocated shall be deposited in an annuity account which is hereby established in the state treasury. There is annually appropriated from the annuity account in the state treasury to the commissioner of education all moneys deposited therein for the payment of annuity premiums when due or for other application in accordance with the salary agreement entered into between the employee and the commissioner of education. The moneys in the annuity account in the state treasury are not subject to the budget, allotment, and incumbrance system provided for in chapter 16A and any act amendatory thereof.

**History:** *1969 c 751 s 1; 1977 c 410 s 12; 1986 c 444; 1998 c 397 art 4 s 51; 1998 c 398 art 5 s 55; 2003 c 130 s 12*

## **DEPARTMENT DUTIES; ASSISTING DISTRICTS**

### **127A.15 LIBRARY INFORMATION SERVICES.**

Subdivision 1. **Providing library information.** The department may provide library information services it considers appropriate and necessary to any state agency, governmental unit, nonprofit organization, or private entity. The department may collect reasonable fees not to

exceed its actual costs for providing the information services. The department may also accept money from any public or private source to defray the cost of providing the information services.

Subd. 2. **Appropriation.** The fees charged and money accepted by the department under subdivision 1 shall be deposited in the state treasury and credited to a special account. Money in the account is appropriated to the department to defray the costs of providing the information services.

**History:** (3018) 1921 c 397 s 4; 1983 c 314 art 11 s 22; 1986 c 471 s 1; 1998 c 397 art 4 s 51

**127A.16** [Repealed, 1998 c 398 art 6 s 38]

### **127A.17 UNIFORM SYSTEMS OF RECORDS AND OF ACCOUNTING; COMMISSIONER.**

The commissioner of education shall prepare a uniform system of records for public schools and require reports from superintendents and principals of schools, teachers, school officers, and the chief officers of public and other educational institutions to give such facts as it may deem of public value. All reports required of school districts by the commissioner shall be in conformance with the uniform financial accounting and reporting system. With the cooperation of the state auditor, the commissioner shall establish and carry into effect a uniform system of accounting by public school officers and shall have authority to supervise and examine the accounts and other records of all public schools.

**History:** Ex1959 c 71 art 2 s 16; 1969 c 1129 art 8 s 16; 1977 c 305 s 41; 1978 c 764 s 8; 1983 c 150 s 1; 1992 c 499 art 8 s 1; 1993 c 224 art 9 s 16,17; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 51; 1998 c 398 art 6 s 4-12; 2003 c 130 s 12

### **127A.18 MANAGEMENT ASSISTANCE TO SCHOOL DISTRICTS.**

The department shall provide management assistance if requested by a district. The assistance may include:

- (1) developing data and assumptions for the district to use in setting priorities and goals and in considering management and organizational alternatives; and
- (2) analyzing and assessing alternative methods of organization and management, including opportunities for coordination and cooperation with other districts, and assessing the relative costs and benefits of the alternatives.

**History:** 1Sp1985 c 12 art 8 s 4; 1998 c 397 art 4 s 51

### **127A.19 FINANCIAL MANAGEMENT ASSISTANCE AND TRAINING TO SCHOOL DISTRICTS AND SCHOOL SITES.**

The Department of Education shall make available to school districts and individual school sites assistance and training in financial management. The assistance and training shall be in at least the following areas:

- (1) provision of an updated uniform financial and reporting system manual in both hard copy and computerized form which will be applicable to both the school district and to a school site under site-based management;
- (2) regularly scheduled training and assistance in accounting and financial operations, and special assistance as requested;
- (3) long-term financial planning, including that involved with district reorganization;

(4) district and school level expenditure and revenue budgeting and other fiscal and organizational requirements, including that under site-based management;

(5) assistance with school, district, and regional capital budget planning; and

(6) the development of a model reporting system for school sites for resource use and outcome achievement. The model shall include characteristics about the student population, staffing levels, and achievement results attributable to the instructional and organizational structure of the school site.

**History:** 1993 c 224 art 7 s 5; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 51; 2003 c 130 s 12

## PERMANENT SCHOOL FUND

### 127A.30 PERMANENT SCHOOL FUND ADVISORY COMMITTEE.

Subdivision 1. **Membership.** A state Permanent School Fund Advisory Committee is established to advise the Department of Natural Resources on the management of permanent school fund land, which is held in trust for the school districts of the state. The advisory committee must consist of the following persons or their designees: the chairs of the education committees of the legislature, the chairs of the legislative committees with jurisdiction over the K-12 education budget, the chairs of the legislative committees with jurisdiction over the environment and natural resources policy and budget, the chair of the senate Committee on Finance and the chair of the house of representatives Committee on Ways and Means, the commissioner of education, one superintendent from a nonmetropolitan district, one superintendent from a metropolitan area district, one person with an expertise in forestry, one person with an expertise in minerals and mining, one person with an expertise in real estate development, one person with an expertise in renewable energy, one person with an expertise in finance and land management, and one person with an expertise in natural resource conservation. The school district superintendents shall be appointed by the commissioner of education. The committee members with areas of expertise in forestry, minerals and mining, real estate development, renewable energy, finance and land management, and natural resource conservation shall be appointed by the commissioner of natural resources. Members of the legislature shall be given the opportunity to recommend candidates for vacancies on the committee to the commissioners of education and natural resources. The advisory committee must also include a nonvoting member appointed by the commissioner of natural resources. The commissioner of natural resources shall provide administrative support to the committee. The members of the committee shall serve without compensation. The members of the Permanent School Fund Advisory Committee shall elect their chair and are bound by the provisions of sections 43A.38 and 116P.09, subdivision 6.

Subd. 2. **Duties.** The advisory committee shall review the policies of the Department of Natural Resources and current statutes on management of school trust fund lands at least annually and shall recommend necessary changes in statutes, policy, and implementation in order to ensure provident utilization of the permanent school fund lands. By January 15 of each year, the advisory committee shall submit a report to the legislature with recommendations for the management of school trust lands to secure long-term economic return for the permanent school fund, consistent with sections 92.121 and 127A.31. The committee's annual report may include recommendations to:

(1) manage the school trust lands efficiently;



(2) reduce the management expenditures of school trust lands and maximize the revenues deposited in the permanent school trust fund;

(3) manage the sale, exchange, and commercial leasing of school trust lands to maximize the revenues deposited in the permanent school trust fund and retain the value from the long-term appreciation of the school trust lands; and

(4) manage the school trust lands to maximize the long-term economic return for the permanent school trust fund while maintaining sound natural resource conservation and management principles.

Subd. 3. **Duration.** Notwithstanding section 15.059, subdivision 5, the advisory committee is permanent and does not expire.

**History:** 1982 c 548 art 4 s 2; 1986 c 444; 1993 c 4 s 16; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 5,51; art 11 s 3; 1998 c 398 art 6 s 22; 2003 c 130 s 12; 2008 c 357 s 36

### **127A.31 GOAL OF THE PERMANENT SCHOOL FUND.**

The legislature intends that it is the goal of the permanent school fund to secure the maximum long-term economic return from the school trust lands consistent with the fiduciary responsibilities imposed by the trust relationship established in the Minnesota Constitution, with sound natural resource conservation and management principles, and with other specific policy provided in state law.

**History:** 1985 c 116 s 2; 1998 c 397 art 4 s 51

### **127A.32 SCHOOL ENDOWMENT FUND; DESIGNATION.**

For the purpose of aid to public schools, a school endowment fund is established.

The school endowment fund shall consist of the income from the permanent school fund. The commissioner may accept for and on behalf of the permanent school fund a donation of cash, marketable securities, or other personal property. A noncash donation, other than a donation of marketable securities, must be disposed of for cash as soon as the commissioner can obtain fair market value for the donation. Marketable securities may be disposed of at the discretion of the State Board of Investment consistent with sections 11A.16 and 11A.24. A cash donation and the cash receipts from a donation disposed of for cash must be credited immediately to the permanent school fund. Earnings from marketable securities are earnings of the permanent school fund.

**History:** Ex1959 c 71 art 5 s 8; 1969 c 399 s 13; 1989 c 51 s 2; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 6,51

### **127A.33 SCHOOL ENDOWMENT FUND; APPORTIONMENT.**

The commissioner shall apportion the school endowment fund semiannually on the first Monday in March and September in each year, to districts whose schools have been in session at least nine months. The apportionment shall be in proportion to each district's adjusted average daily membership during the preceding year. The apportionment shall not be paid to a district for pupils for whom tuition is received by the district.

**History:** Ex1959 c 71 art 5 s 9; Ex1971 c 31 art 20 s 15; 1978 c 706 s 29; 1Sp1985 c 12 art 1 s 3; 1993 c 224 art 13 s 31; 1996 c 412 art 1 s 5; 1998 c 397 art 4 s 7,51; 1Sp2011 c 11 art 1 s 26

**NOTE:** The amendment to this section by Laws 2011, First Special Session chapter 11, article 1, section 26, is effective March 1, 2012. Laws 2011, First Special Session chapter 11, article 1, section 26, the effective date.

**127A.34 COUNTY AUDITOR AND COMMISSIONER DUTIES.****Subdivision 1. Copy to commissioner of management and budget; appropriation.**

The commissioner shall furnish a copy of the apportionment of the school endowment fund to the commissioner of management and budget, who thereupon shall draw warrants on the state treasury, payable to the several districts, for the amount due each district. There is hereby annually appropriated from the school endowment fund the amount of such apportionments.

**Subd. 2. Apportionments to districts.** The county auditor each year shall apportion to the districts within the county the amount received from power line taxes under section 273.42, liquor licenses, fines, estrays, and other sources belonging to the general fund. The apportionments must be made in proportion to each district's net tax capacity within the county in the prior year. The apportionments must be made and amounts distributed to the districts at the times provided for the settlement and distribution of real and personal property taxes under sections 276.09, 276.11, and 276.111, except that all of the power line taxes apportioned to a district from the county school fund must be included in the first half distribution of property taxes to the district. No district shall receive any part of the money received from liquor licenses unless all sums paid for such licenses in such district are apportioned to the county school fund.

**Subd. 3. Report to commissioner of education.** The county auditor, on the first Wednesday after such apportionment, shall report to the commissioner on the amount apportioned, the sources from which such money was received, and the net tax capacity of each district in the county.

**History:** *Ex1959 c 71 art 5 s 10; 1969 c 16 s 1,2; Ex1971 c 31 art 20 s 16; 1973 c 492 s 14; 1Sp1985 c 12 art 1 s 4; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 562 art 10 s 1; 1990 c 604 art 3 s 3; 1993 c 224 art 13 s 32; 1998 c 397 art 4 s 8,9,51; 2009 c 101 art 2 s 109*

**STATE AID PAYMENT AND ADJUSTMENT****127A.40 MANNER OF PAYMENT OF STATE AIDS.**

It shall be the duty of the commissioner to deliver to the commissioner of management and budget a certificate for each district entitled to receive state aid under the provisions of this chapter. Upon the receipt of such certificate, it shall be the duty of the commissioner of management and budget to draw a warrant in favor of the district for the amount shown by each certificate to be due to the district. The commissioner of management and budget shall transmit such warrants to the district together with a copy of the certificate prepared by the commissioner.

**History:** *Ex1959 c 71 art 5 s 12; 1965 c 537 s 1; 1969 c 16 s 3; 1969 c 399 s 14; 1973 c 492 s 14; 1978 c 616 s 7; 1986 c 444; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 10,51; 2003 c 112 art 2 s 20; 2009 c 101 art 2 s 109*

**127A.41 DISTRIBUTION OF SCHOOL AIDS; APPROPRIATION.**

**Subdivision 1. Commissioner duties.** The commissioner shall supervise distribution of school aids and grants in accordance with law. The commissioner may make rules consistent with law for the distribution to enable districts to perform efficiently the services required by law and further education in the state, including reasonable requirements for the reports and accounts to it as will assure accurate and lawful apportionment of aids. State and federal aids and discretionary or entitlement grants distributed by the commissioner shall not be subject to the contract approval procedures of the commissioner of administration or to chapter 16A, 16B, or 16C. The

commissioner shall adopt internal procedures for administration and monitoring of aids and grants.

Subd. 2. **Errors in distribution.** On determining that the amount of state aid distributed to a school district is in error, the commissioner is authorized to adjust the amount of aid consistent with this subdivision. On determining that the amount of aid is in excess of the school district's entitlement, the commissioner is authorized to recover the amount of the excess by any appropriate means. Notwithstanding the fiscal years designated by the appropriation, the excess may be recovered by reducing future aid payments to the district. Notwithstanding any law to the contrary, if the aid reduced is not of the same type as that overpaid, the district must adjust all necessary financial accounts to properly reflect all revenues earned in accordance with the uniform financial accounting and reporting standards pursuant to sections 123B.75 to 123B.83. Notwithstanding the fiscal years designated by the appropriation, on determining that the amount of an aid paid is less than the school district's entitlement, the commissioner is authorized to increase such aid from the current appropriation. If the aid program has been discontinued and has no appropriation, the appropriation for general education shall be used for recovery or payment of the aid decrease or increase. Any excess of aid recovery over aid payment shall be canceled to the state general fund.

Subd. 3. **Audits.** The commissioner shall establish procedures for conducting and shall conduct audits of district records and files for the purpose of verifying district pupil counts, levy limitations, and aid entitlements. The commissioner shall establish procedures for selecting and shall select districts to be audited. Disparities, if any, between pupil counts, levy limitations, or aid entitlements determined by audit of district records and files and data reported by districts in reports, claims and other documents shall be reviewed by the commissioner who shall order increases or decreases accordingly. Whenever possible, the commissioner shall audit at least 25 districts each year pursuant to this subdivision.

Subd. 4. **Less than 25 districts audited.** If the commissioner audits fewer than 25 districts in a fiscal year pursuant to subdivision 3, the commissioner shall report the reasons for the number audited to the following legislative committees: house of representatives education, house of representatives appropriations, senate education, and senate finance.

Subd. 5. **District appeal of aid reduction; inspection of district schools and accounts and records.** Public schools shall at all times be open to the inspection of the commissioner. The accounts and records of any district must be open to inspection by the state auditor, or the commissioner for the purpose of audits conducted under this section. Each district shall keep for a minimum of three years at least the following: (1) identification of the annual session days held, together with a record of the length of each session day, (2) a record of each pupil's daily attendance, with entrance and withdrawal dates, and (3) identification of the to-and-from school transportation category for each pupil as defined in section 123B.92, subdivision 1.

Subd. 6. [Repealed, 1Sp2003 c 9 art 5 s 37]

Subd. 7. **Schedule adjustments.** (a) It is the intention of the legislature to encourage efficient and effective use of staff and facilities by districts. Districts are encouraged to consider both cost and energy saving measures.

(b) Any district operating a program pursuant to sections 124D.12 to 124D.127, 124D.128, or 124D.25 to 124D.29, or operating a commissioner-designated area learning center program under section 123A.09, or that otherwise receives the approval of the commissioner to operate its instructional program to avoid an aid reduction in any year, may adjust the annual school schedule for that program throughout the calendar year.

Subd. 8. **Appropriation transfers.** (a) If a direct appropriation from the general fund to the department for any education aid or grant authorized in this chapter and chapters 122A, 123A, 123B, 124D, 125A, 126C, and 134, excluding appropriations under sections 124D.135, 124D.16, 124D.20, 124D.22, 124D.52, 124D.531, 124D.55, and 124D.56, exceeds the amount required, the commissioner may transfer the excess to any education aid or grant appropriation that is insufficient. However, section 126C.20 applies to a deficiency in the direct appropriation for general education aid. Excess appropriations must be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of management and budget shall make the necessary transfers among appropriations according to the determinations of the commissioner. If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

(b) Transfers for aids paid under section 127A.45, subdivisions 12, paragraph (a), 12a, paragraph (a), and 13, shall be made during the fiscal year after the fiscal year of the entitlement. Transfers for aids paid under section 127A.45, subdivisions 11, 12, paragraph (b), and 12a, paragraph (b), shall be made during the fiscal year of the appropriation.

Subd. 9. **Appropriation transfers for community education programs.** If a direct appropriation from the general fund to the Department of Education for an education aid or grant authorized under section 124D.135, 124D.16, 124D.20, 124D.22, 124D.52, 124D.531, 124D.55, or 124D.56 exceeds the amount required, the commissioner of education may transfer the excess to any education aid or grant appropriation that is insufficiently funded under these sections. Excess appropriations shall be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of management and budget shall make the necessary transfers among appropriations according to the determinations of the commissioner of education. If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

Subd. 10. **Health and safety aid transfer.** The commissioner, with the approval of the commissioner of management and budget, annually may transfer an amount from the appropriation for health and safety aid to the appropriation for debt service aid for the same fiscal year. The amount of the transfer equals the amount necessary to fund any shortage in the debt service aid appropriation created by a data correction that occurs between November 1 and June 30 of the preceding fiscal year.

**History:** 1961 c 562 s 14; 1969 c 399 s 15,16; 1973 c 492 s 7; 1975 c 432 s 20; 1977 c 447 art 1 s 3; art 2 s 1; 1979 c 334 art 6 s 19; 1981 c 358 art 7 s 23-26; 1982 c 548 art 7 s 4; 1983 c 314 art 7 s 22; 1Sp1985 c 12 art 7 s 18; art 10 s 2; 1986 c 444; 1987 c 384 art 2 s 1; 1987 c 398 art 7 s 24; 1988 c 486 s 20; 1991 c 130 s 8; 1991 c 265 art 11 s 8; 1993 c 224 art 13 s 33,34; art 14 s 16; 1994 c 465 art 2 s 1; 1Sp1995 c 3 art 5 s 1; art 16 s 13; 1998 c 386 art 2 s 39; 1998 c 397 art 4 s 11-17,51; art 11 s 3; 1998 c 398 art 1 s 4,5; 1999 c 241 art 9 s 32; 2000 c 254 s 47; 2000 c 489 art 10 s 16,17; 1Sp2001 c 6 art 1 s 39; art 5 s 4; art 8 s 5; 2003 c 130 s 12; 2004 c 294 art 5 s 15; 1Sp2005 c 5 art 11 s 4; 2006 c 263 art 4 s 3; 2009 c 101 art 2 s 109

## 127A.42 REDUCTION OF AID FOR VIOLATION OF LAW.

Subdivision 1. **State aids.** The amount of state aids to which a district is entitled shall be the amount computed according to statutes. The annual state aid certificate made by the commissioner

to the commissioner of management and budget shall show the amount of any reductions made.

Subd. 2. **Violations of law.** The commissioner may reduce or withhold the district's state aid for any school year whenever the board of the district authorizes or permits violations of law within the district by:

(1) employing a teacher who does not hold a valid teaching license or permit in a public school;

(2) noncompliance with a mandatory rule of general application promulgated by the commissioner in accordance with statute, unless special circumstances make enforcement inequitable, impose an extraordinary hardship on the district, or the rule is contrary to the district's best interests;

(3) the district's continued performance of a contract made for the rental of rooms or buildings for school purposes or for the rental of any facility owned or operated by or under the direction of any private organization, if the contract has been disapproved, the time for review of the determination of disapproval has expired, and no proceeding for review is pending;

(4) any practice which is a violation of sections 1 and 2 of article 13 of the Constitution of the state of Minnesota;

(5) failure to reasonably provide for a resident pupil's school attendance under Minnesota Statutes;

(6) noncompliance with state laws prohibiting discrimination because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, as defined in sections 363A.08 to 363A.19 and 363A.28, subdivision 10; or

(7) using funds contrary to the statutory purpose of the funds.

The reduction or withholding must be made in the amount and upon the procedure provided in this section, or, in the case of the violation stated in clause (1), upon the procedure provided in section 127A.43.

Subd. 3. **Assurance of compliance.** (a) After consultation with the commissioner of human rights, the commissioner of education shall adopt rules in conformance with chapter 14. The rules must direct districts to file with the commissioner of education assurances of compliance with state and federal laws prohibiting discrimination. The assurances must be provided in a form and manner prescribed by the commissioner.

(b) If it appears that one or more violations of the Minnesota Human Rights Act are occurring in a district, the commissioner of human rights shall notify the commissioner of the violations, and the commissioner of education may then proceed pursuant to subdivision 4.

Subd. 4. **Notice to board.** When it appears that a violation is occurring in a district, the commissioner shall notify the board of that district in writing. The notice must specify the violations, set a reasonable time within which the district must correct the specified violations, describe the correction required, and advise that if the correction is not made within the time allowed, special state aids to the district will be reduced or withheld. The time allowed for correction may be extended by the commissioner if there is reasonable ground therefor.

Subd. 5. **Dispute violations; hearing.** The board to which such notice is given may, by a majority vote of the whole board, decide to dispute that the specified violation exists or that the time allowed is reasonable or the correction specified is correct, or that the commissioner may reduce or withhold aids. The board must give the commissioner written notice of the

decision. If the commissioner, after further investigation as the commissioner deems necessary, adheres to the previous notice, the commissioner shall notify the school board of its decision. If the commissioner, after further investigation as the commissioner deems necessary, adheres to the previous notice, the board shall be entitled to a hearing by the commissioner under this subdivision and notwithstanding chapter 14. The commissioner must set a hearing time and place and the board of the district must be given notice by mail. The hearings must be designed to give a full and fair hearing and permit interested parties an opportunity to produce evidence relating to the issues involved. A stenographic record must be made of all testimony given and other proceedings during the hearing. If practicable, rules governing admission of evidence in courts shall apply to the hearing. The final decision of the commissioner must be in writing and the controlling facts upon which the decision is made must be stated in sufficient detail to apprise the parties and the reviewing court of the basis and reason for the decision. The decision must be confined to whether any of the specified violations existed at the date of the commissioner's first notice, whether the violations were corrected within the time permitted, whether the violations require withholding or reduction of the state aids under this section, and in what amount.

Subd. 6. **Violation; aid reduction or withholding.** The commissioner shall not reduce state aids payable to the district if the violation specified is corrected within the time permitted, or if the commissioner on being notified of the district board's decision to dispute decides the violation does not exist, or if the commissioner decides after hearing no violation specified in the commissioner's notice existed at the time of the notice, or that the violations were corrected within the time permitted. Otherwise state aids payable to the district for the year in which the violation occurred may be reduced or withheld as follows: The total amount of state aids to which the district may be entitled shall be reduced in the proportion that the period during which a specified violation continued, computed from the last day of the time permitted for correction, bears to the total number of days school is held in the district during the year in which a violation exists, multiplied by up to 60 percent of the basic revenue, as defined in section 126C.10, subdivision 2, of the district for that year.

Subd. 7. **Reduction in aids payable.** Reductions in aid under this section and sections 127A.41 and 127A.43 must be from general education aid. If there is not sufficient general education aid remaining to be paid for the school year in which the violation occurred, the reduction shall be from other aids that are payable to the district for that year. If there is not a sufficient amount of state aids remaining payable to the district for the school year in which the violation occurred to permit the full amount of reduction required, that part of the required reduction not taken from that school year's aids will be taken from the state aids payable to the district for the next school year, and the reduction will be made from the various aids payable for the next year.

Subd. 8. [Repealed, 1999 c 241 art 9 s 54]

Subd. 8a. **Appeal.** A final decision of the commissioner under this section may be appealed in accordance with section 480A.06, subdivision 3.

Subd. 9. **Notice to district.** Any notice given to the board of a district will be deemed given when a copy thereof is mailed, registered, to the superintendent of the district, if there is a superintendent, and to the clerk of the board of the district. If it is shown that neither the superintendent nor the clerk in fact received such notice in the ordinary course of mail, then the time for correction will be accordingly extended by the commissioner so that a reasonable time will be allowed from actual receipt of notice for correction. If notice is sent by the commissioner

with respect to a violation which is continued by the district in a succeeding year, no separate notice for that violation for the succeeding year will be required. Proceedings initiated by such notice shall include any continuing violation notwithstanding that a part thereof occurs in a year different from the year in which it started. The commissioner may require reasonable proof of the time that a violation ceased for the determination of the amount of aids to be reduced or withheld. Costs and disbursements of the review by the Court of Appeals, exclusive of those incurred in the administrative proceedings, may be taxed against the losing party and in the event taxed against the state must be paid from the appropriations made to the department for the payment of state aids.

**History:** *Ex1959 c 71 art 5 s 15; 1963 c 203 s 1; 1965 c 51 s 18; 1973 c 492 s 14; 1975 c 59 s 3; 1975 c 162 s 29; 1975 c 173 s 1-3; 1976 c 2 s 61,172; 1978 c 706 s 30; 1978 c 764 s 38,39; 1982 c 424 s 130; 1983 c 247 s 58; 1983 c 314 art 7 s 23; 1985 c 248 s 70; 1986 c 444; 1988 c 486 s 21,22; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 18-24,51; art 11 s 3; 1998 c 398 art 5 s 55; 1999 c 241 art 9 s 33,34; 2000 c 489 art 3 s 15; 1Sp2001 c 6 art 5 s 5; 2003 c 130 s 12; 2009 c 101 art 2 s 109; 1Sp2011 c 11 art 5 s 4*

### **127A.43 DISTRICT EMPLOYMENT OF UNLICENSED TEACHERS; AID REDUCTION.**

When a district employs one or more teachers who do not hold a valid teaching license, state aid shall be reduced in the proportion that the number of such teachers is to the total number of teachers employed by the district, multiplied by 60 percent of the basic revenue, as defined in section 126C.10, subdivision 2, of the district for the year in which the employment occurred.

**History:** *Ex1959 c 71 art 5 s 19; 1969 c 379 s 1; 1974 c 326 s 12; 1975 c 321 s 2; 1977 c 447 art 1 s 7; 1978 c 764 s 44; 1979 c 162 s 1; 1979 c 334 art 1 s 6; 1980 c 609 art 1 s 5; 1982 c 548 art 4 s 9,10; 1983 c 314 art 7 s 24; art 9 s 12; 1984 c 463 art 1 s 2; 1Sp1985 c 12 art 7 s 19; art 8 s 17; 1988 c 486 s 28-30; 1989 c 329 art 1 s 2,3; 1990 c 426 art 2 s 1; 1990 c 562 art 3 s 2; 1991 c 130 s 37; 1991 c 265 art 7 s 10-12; 1992 c 464 art 1 s 20; 1992 c 499 art 4 s 5; art 12 s 10; 1993 c 224 art 1 s 3; art 7 s 8; art 9 s 30; art 12 s 18; 1994 c 647 art 9 s 8,9; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 7 s 30,164; art 11 s 3; 1Sp2011 c 11 art 5 s 5*

**127A.44** [Repealed, 1Sp2001 c 6 art 1 s 55 subd 1]

### **127A.441 AID REDUCTION; LEVY REVENUE RECOGNITION CHANGE.**

(a) Each year, the state aids payable to any school district for that fiscal year that are recognized as revenue in the school district's general and community service funds shall be adjusted by an amount equal to (1) the amount the district recognized as revenue for the prior fiscal year pursuant to section 123B.75, subdivision 5, paragraph (a) or (b), minus (2) the amount the district recognized as revenue for the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (a) or (b). For purposes of making the aid adjustments under this section, the amount the district recognizes as revenue for either the prior fiscal year or the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (b), shall not include any amount levied pursuant 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. Payment from the permanent school fund shall not be adjusted pursuant to this section.

(b) The commissioner shall schedule the timing of the adjustments under paragraph (a) as close to the end of the fiscal year as possible.

The school district shall be notified of the amount of the adjustment made to each payment pursuant to this section.

**History:** *1Sp2003 c 9 art 5 s 11; 2007 c 146 art 1 s 15; 1Sp2010 c 1 art 3 s 5; 1Sp2011 c 11 art 5 s 6*

### **127A.45 PAYMENT OF AIDS AND CREDITS TO SCHOOL DISTRICTS.**

Subdivision 1. **Applicability.** This section applies to all aids or credits paid by the commissioner from the general fund to districts.

Subd. 2. **Definitions.** (a) "Other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) "Cumulative amount guaranteed" means the product of

(1) the cumulative disbursement percentage shown in subdivision 3; times

(2) the sum of

(i) the current year aid payment percentage of the estimated aid and credit entitlements paid according to subdivision 13; plus

(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus

(iii) the other district receipts.

(c) "Payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

(d) The current year aid payment percentage equals 73 in fiscal year 2010 and 70 in fiscal year 2011, and 60 in fiscal years 2012 and later.

Subd. 3. **Payment dates and percentages.** (a) The commissioner shall pay to a district on the dates indicated an amount computed as follows: the cumulative amount guaranteed minus the sum of (1) the district's other district receipts through the current payment, and (2) the aid and credit payments through the immediately preceding payment. For purposes of this computation, the payment dates and the cumulative disbursement percentages are as follows:

	Payment date	Percentage
Payment 1	July 15:	5.5
Payment 2	July 30:	8.0
Payment 3	August 15:	17.5
Payment 4	August 30:	20.0
Payment 5	September 15:	22.5
Payment 6	September 30:	25.0
Payment 7	October 15:	27.0



Payment 8	October 30:	30.0
Payment 9	November 15:	32.5
Payment 10	November 30:	36.5
Payment 11	December 15:	42.0
Payment 12	December 30:	45.0
Payment 13	January 15:	50.0
Payment 14	January 30:	54.0
Payment 15	February 15:	58.0
Payment 16	February 28:	63.0
Payment 17	March 15:	68.0
Payment 18	March 30:	74.0
Payment 19	April 15:	78.0
Payment 20	April 30:	85.0
Payment 21	May 15:	90.0
Payment 22	May 30:	95.0
Payment 23	June 20:	100.0

(b) In addition to the amounts paid under paragraph (a), the commissioner shall pay to a school district on the dates indicated an amount computed as follows:

Payment 3	August 15: the final adjustment for the prior fiscal year for the state paid property tax credits established in section 273.1392
Payment 4	August 30: 30 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 6	September 30: 40 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 8	October 30: 30 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits

(c) In addition to the amounts paid under paragraph (a), the commissioner shall pay to a charter school on the dates indicated an amount computed as follows:

Payment 1	July 15: 75 percent of the final adjustment for the prior fiscal year for all aid entitlements
Payment 8	October 30: 25 percent of the final adjustment for the prior fiscal year for all aid entitlements

Subd. 4. **Appeal.** (a) The commissioner, in consultation with the commissioner of management and budget, may revise the payment dates and percentages in subdivision 3 for a district if it is determined that:

- (1) there is an emergency; or

(2) there are serious cash flow problems in the district that cannot be resolved by issuing warrants or other forms of indebtedness; or

(3) the district is facing a serious cash flow problem because of an abatement that exceeds \$100 times the resident pupil units of the district.

(b) The commissioner shall establish a process and criteria for districts to appeal the payment dates and percentages established in subdivision 3.

Subd. 5. [Repealed, 1999 c 241 art 6 s 15]

Subd. 6. **Cash flow waiver.** For any district exceeding its expenditure limitations under section 123B.83, and if requested by the district, the commissioner of education, in consultation with the commissioner of management and budget, and a school district may negotiate a cash flow payment schedule under subdivision 3 corresponding to the district's cash flow needs so as to minimize the district's short-term borrowing needs.

Subd. 6a. **Cash flow adjustment.** The board of directors of any charter school serving fewer than 150 students where the percent of students eligible for special education services equals at least 90 percent of the charter school's total enrollment may request that the commissioner of education accelerate the school's cash flow under this section. The commissioner must approve a properly submitted request within 30 days of its receipt. The commissioner must accelerate the school's regular special education aid payments according to the schedule in the school's request and modify the payments to the school under subdivision 3 accordingly. A school must not receive current payments of regular special education aid exceeding 90 percent of its estimated aid entitlement for the fiscal year. The commissioner must delay the special education aid payments to all other school districts and charter schools in proportion to each district or charter school's total share of regular special education aid such that the overall aid payment savings from the aid payment shift remains unchanged for any fiscal year.

Subd. 7. **Payment limit.** Subdivision 3 does not authorize the commissioner to pay to a district's operating funds an amount of state general fund cash that exceeds the sum of:

- (a) its estimated aid and credit payments for the current year according to subdivision 13;
- (b) its actual aid payments according to subdivisions 11 and 12; and
- (c) the final adjustment payment for the prior year.

Subd. 7a. [Repealed, 2008 c 363 art 2 s 52]

Subd. 7b. **Advance final payment.** (a) Notwithstanding subdivisions 3 and 7, if the current year aid payment percentage, under subdivision 2, is less than 90, then a school district or charter school exceeding its expenditure limitations under section 123B.83 as of June 30 of the prior fiscal year may receive a portion of its final payment for the current fiscal year on June 20, if requested by the district or charter school. The amount paid under this subdivision must not exceed the lesser of:

(1) the difference between 90 percent and the current year payment percentage in subdivision 2, paragraph (d), in the current fiscal year times the sum of the district or charter school's general education aid plus the aid adjustment in section 127A.50 for the current fiscal year; or

(2) the amount by which the district's or charter school's net negative unreserved general fund balance as of June 30 of the prior fiscal year exceeds 2.5 percent of the district or charter school's expenditures for that fiscal year.

(b) The state total advance final payment under this subdivision for any year must not exceed \$7,500,000. If the amount request exceeds \$7,500,000, the advance final payment for each eligible district must be reduced proportionately.

Subd. 8. **Commissioner's assumptions.** For purposes of determining the amount of state general fund cash to be paid to districts pursuant to subdivision 3, the commissioner shall:

(1) assume that the payments to school districts by the county treasurer of revenues accruing to the fiscal year of receipt pursuant to section 276.11 are made in the following manner:

- (i) 50 percent within seven business days of each due date; and
- (ii) 100 percent within 14 business days of each due date;

(2) assume that the payments to districts by the county treasurer of revenues accruing to the fiscal year of receipt pursuant to section 276.111 are made in the following manner:

- (i) 50 percent within seven business days of the October 15 due date;
- (ii) 100 percent within 14 business days of the October 15 due date; and
- (iii) 100 percent within ten business days of the November 15 due date; and

(3) assume that the payments to school districts by county auditors pursuant to section 127A.34, subdivision 2, are made at the end of the months indicated in that subdivision.

Subd. 9. **Final adjustment payment.** (a) For all aids and credits paid according to subdivision 13, the final adjustment payment must include the amounts necessary to pay the district's full aid entitlement for the prior year based on actual data. This payment must be used to correct all estimates used for the payment schedule in subdivision 3. The payment must be made as specified in subdivision 3. In the event actual data are not available, the final adjustment payment may be computed based on estimated data. A corrected final adjustment payment must be made when actual data are available.

(b) Notwithstanding paragraph (a) and subdivision 3, for a charter school that ceases operation before the end of a school year, a final adjustment payment for aid programs funded with an open appropriation may be made after audit of the prior fiscal year and current fiscal year pupil counts.

Subd. 10. **Payments to school nonoperating funds.** Each fiscal year state general fund payments for a district nonoperating fund must be made at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. This amount shall be paid in 12 equal monthly installments. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement must be paid prior to October 31 of the following school year. The commissioner may make advance payments of debt service equalization aid and state-paid tax credits for a district's debt service fund earlier than would occur under the preceding schedule if the district submits evidence showing a serious cash flow problem in the fund. The commissioner may make earlier payments during the year and, if necessary, increase the percent of the entitlement paid to reduce the cash flow problem.

Subd. 11. **Payment percentage for reimbursement aids.** One hundred percent of the aid for the previous fiscal year must be paid in the current year for the following aids:

telecommunications/Internet access equity and according to section 125B.26, special education special pupil aid according to section 125A.75, subdivision 3, aid for litigation costs according to section 125A.75, subdivision 8, aid for court-placed special education expenses according to section 125A.79, subdivision 4, and aid for special education out-of-state tuition according to section 125A.79, subdivision 8, and shared time aid according to section 126C.01, subdivision 7.

**Subd. 12. Payment percentage for certain aids.** One hundred percent of the aid for the current fiscal year must be paid for the following aids: reimbursement for enrollment options transportation, according to sections 124D.03, subdivision 8, 124D.09, subdivision 22, and 124D.10; school lunch aid, according to section 124D.111; and hearing impaired support services aid, according to section 124D.57.

**Subd. 12a. Forward shifted aid payments.** (a) Nineteen percent of the state aid in fiscal year 1999, and 31 percent of the state aid in fiscal years 2000 and later received under section 124D.86 must be paid by the state to the recipient school district on July 15 of that year. The recipient school district must recognize this aid in the same fiscal year as the levy is recognized.

(b) One hundred percent of the state aid in fiscal years 2003 and later received under section 124D.87 must be paid by the state to the recipient school district on August 30 of that year. The recipient school district must recognize this aid in the previous fiscal year.

**Subd. 13. Aid payment percentage.** Except as provided in subdivisions 11, 12, 12a, and 14, each fiscal year, all education aids and credits in this chapter and chapters 120A, 120B, 121A, 122A, 123A, 123B, 124D, 125A, 125B, 126C, 134, and section 273.1392, shall be paid at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. For the purposes of this subdivision, a district's estimated entitlement for special education excess cost aid under section 125A.79 for fiscal year 2006 and later equals 74.0 percent of the district's entitlement for the current fiscal year. The final adjustment payment, according to subdivision 9, must be the amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement.

**Subd. 14. Nonpublic aids.** The state shall pay aid according to sections 123B.40 to 123B.48 for pupils attending nonpublic schools as follows:

(1) an advance payment by November 30 equal to the current year aid payment percentage of the estimated entitlement for the current fiscal year; and

(2) a final payment by October 31 of the following fiscal year, adjusted for actual data.

If a payment advance to meet cash flow needs is requested by a district and approved by the commissioner, the state shall pay nonpublic pupil transportation aid according to section 123B.92 by October 31.

**Subd. 14a. State nutrition programs.** Notwithstanding subdivision 3, the state shall pay 100 percent of the aid for the current year according to sections 124D.111, 124D.1158, and 124D.118 based on submitted monthly vouchers showing meals and milk served.

**Subd. 15. Education aids cash flow account.** (a) An education aids cash flow account is established in the state treasury for the purpose of ensuring the timely payment of state aids or credits to districts as provided in this section. In the event the account balance in any appropriation from the general fund to the department for education aids or credits is insufficient to make the next scheduled payment or payments, the commissioner is authorized to transfer funds from the education aids cash flow account to the accounts that are insufficient.

(b) For purposes of this subdivision, an account may have an insufficient balance only as a result of some districts being overpaid based on revised estimates for the relevant annual aid or credit entitlements. When the overpayment amounts are recovered from the pertinent districts, the commissioner shall transfer those amounts to the education aids cash flow account. The commissioner shall determine when it is not feasible to recover the overpayments in a timely manner from the district's future aid payments and notify the district of the amount that is to be refunded to the state. Districts are encouraged to make such refunds promptly. The commissioner may approve a schedule for making a refund when a district demonstrates that its cash flow is inadequate to promptly make the refund in full.

(c) There is annually appropriated from the general fund to the education aids cash flow account the additional amount necessary to ensure the timely payment of state aids or credits to districts as provided in this section. For any fiscal year, the appropriation authorized in this subdivision must not exceed an amount equal to two-tenths of one percent of the total general fund appropriations in that year for education aids and credits. At the close of each fiscal year, the amount of actual transfers plus anticipated transfers required in paragraph (b) must equal the authorized amounts transferred in paragraph (a) so that the net effect on total general fund spending for education aids and credits is zero.

**Subd. 16. Payments to third parties.** Notwithstanding subdivision 3, the current year aid payment percentage of the amounts under sections 123A.26, subdivision 3, and 124D.041, shall be paid in equal installments on August 30, December 30, and March 30, with a final adjustment payment on October 30 of the next fiscal year of the remaining amount.

**Subd. 17. Payment to creditors.** Except where otherwise specifically authorized, state education aid payments shall be made only to the school district, charter school, or other education organization earning state aid revenues as a result of providing education services.

**History:** 1983 c 342 art 7 s 3; 1984 c 463 art 9 s 4-6; 1984 c 655 art 1 s 25; 1Sp1985 c 12 art 10 s 3-7; 1Sp1986 c 1 art 4 s 8; art 5 s 6,7; art 9 s 3; 1987 c 268 art 9 s 4; 1987 c 384 art 2 s 29,30; 1987 c 398 art 6 s 2; art 7 s 25; 1988 c 486 s 31,32; 1989 c 329 art 8 s 2,3; 1990 c 562 art 1 s 2; art 3 s 13; art 6 s 20; art 8 s 26; 1990 c 604 art 3 s 4; 1991 c 130 s 10-14; 1991 c 199 art 2 s 9; 1991 c 265 art 2 s 3; art 5 s 5; 1992 c 499 art 1 s 7,8; 1993 c 224 art 6 s 8; art 7 s 9; art 8 s 1; art 14 s 9; 1994 c 465 art 2 s 12; 1994 c 647 art 1 s 7-10; 1Sp1995 c 3 art 1 s 12-14; art 16 s 13; 1996 c 412 art 1 s 9,10; 1997 c 231 art 9 s 3,4; 1Sp1997 c 4 art 1 s 15-18; art 3 s 12; 1998 c 397 art 4 s 27-37,51; art 11 s 3; 1998 c 398 art 1 s 9; 1999 c 241 art 2 s 49,50; art 6 s 10-12; 2000 c 254 s 48; 2000 c 489 art 2 s 25; 1Sp2001 c 6 art 2 s 58; art 5 s 6-8; 2002 c 374 art 1 s 2-9; 2003 c 130 s 12; 1Sp2003 c 9 art 5 s 14-21; art 12 s 16; 1Sp2003 c 18 art 5 s 2; 2004 c 228 art 3 s 2; 1Sp2005 c 5 art 1 s 40; art 3 s 13; art 5 s 5-8; art 11 s 5; 2006 c 263 art 1 s 16; art 4 s 4; 2008 c 363 art 2 s 31; 2009 c 101 art 2 s 109; 2010 c 395 s 2; 1Sp2010 c 1 art 3 s 6-9; 2011 c 76 art 1 s 19; 1Sp2011 c 11 art 1 s 27; art 5 s 7-9

**127A.46** [Repealed, 1Sp2011 c 11 art 5 s 13]

## **127A.47 PAYMENTS TO RESIDENT AND NONRESIDENT DISTRICTS.**

**Subdivision 1. Aid to serving district.** (a) Unless otherwise specifically provided by law, general education aid must be paid according to this subdivision.

(b) Except as provided in paragraph (c), general education aid must be paid to the serving district.

(c) If the resident district pays tuition for a pupil under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, general education aid, excluding basic skills revenue under section 126C.10, subdivision 4, must be paid to the resident district.

**Subd. 2. Reporting; revenue for homeless.** For all school purposes, unless otherwise specifically provided by law, a homeless pupil is a resident of the school district that enrolls the pupil.

**Subd. 3. Revenue for children of divorced or legally separated parents or parents residing separately.** (a) In those instances when the divorced or legally separated parents or parents residing separately share joint physical custody of the child and the divorced or legally separated parents or parents residing separately reside in different school districts, for all school purposes, unless otherwise specifically provided by law, the child must be considered a resident of the school district, as indicated by the child's parents.

(b) When the child of divorced or legally separated parents or parents residing separately under paragraph (a) resides with each parent on alternate weeks, the parents shall be responsible for the transportation of the child to the border of the resident school district during those weeks when the child resides in the nonresident school district.

**Subd. 4. District without schools.** Except as otherwise provided in law, any district not maintaining classified elementary or secondary schools must pay the tuition required in order to enable resident pupils to attend school in another district when necessary, and must receive general education aid on the same basis as other districts. The aid must be computed as if the pupils were enrolled in the district of residence.

**Subd. 5. Notification of resident district.** A district educating a pupil who is a resident of another district must notify the district of residence within 60 days of the date the pupil is determined by the district to be a nonresident, but not later than August 1 following the end of the school year in which the pupil is educated.

**Subd. 6. State agency and court placements.** If a state agency or a court of the state desires to place a child in a district that is not the child's district of residence or to place a pupil who is a parent under section 120A.22, subdivision 3, in a school district which is not the school district in which the pupil's biological or adoptive parent or designated guardian resides, that agency or court must, before placement, allow the district of residence an opportunity to participate in the placement decision and notify the district of residence, the district of attendance and the commissioner of the placement decision. When a state agency or court determines that an immediate emergency placement is necessary and that time does not permit district participation in the placement decision or notice to the districts and the commissioner of the placement decision before the placement, the agency or court may make the decision and placement without that participation or prior notice. The agency or court must notify the district of residence, the district of attendance and the commissioner of an emergency placement within 15 days of the placement.

**Subd. 7. Alternative attendance programs.** The general education aid and special education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the greater of (1) the referendum equalization aid attributable to the pupil in the nonresident district; or (2) the product of the district's open enrollment concentration index, the maximum amount of referendum revenue in the first tier, and the district's net open enrollment pupil units for that year. A district's open enrollment concentration index equals the greater of: (i) zero, or (ii) the lesser of 1.0, or the difference between the district's ratio of open enrollment pupil units served to its resident pupil units for that year and 0.2. This clause does not apply to a school district where more than 50 percent of the open enrollment students are enrolled solely in online learning courses.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) For fiscal year 2006, the district of residence must pay tuition to a district or an area learning center, operated according to paragraph (f), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit.

(e) For fiscal year 2007 and later, special education aid paid to a resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services, including special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, for a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum equalization aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum equalization aid per adjusted pupil unit. Special education aid paid to the district or cooperative providing special instruction and services for the pupil, or to the fiscal agent district for a cooperative, must be increased by the amount of the reduction in the aid paid to the resident

district. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aids due to the district.

(f) An area learning center operated by a service cooperative, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d) or (e), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without compensatory revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center.

Subd. 8. **Charter schools.** (a) The general education aid for districts must be adjusted for each pupil attending a charter school under section 124D.10. The adjustments must be made according to this subdivision.

(b) General education aid paid to a district in which a charter school not providing transportation according to section 124D.10, subdivision 16, is located must be increased by an amount equal to the sum of:

(1) the product of: (i) the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the district; times (ii) the adjusted marginal cost pupil units attributable to the pupil; plus

(2) the product of \$223 and the extended time marginal cost pupil units attributable to the pupil.

**History:** 1981 c 358 art 1 s 28; 1982 c 548 art 1 s 11; 1983 c 314 art 1 s 22; 1987 c 398 art 8 s 10; 1988 c 486 s 56,57; 1988 c 718 art 7 s 32,33; 1989 c 329 art 7 s 5; 1990 c 562 art 3 s 7; 1991 c 130 s 21; 1991 c 199 art 2 s 12; 1991 c 265 art 3 s 38; 1993 c 224 art 3 s 29; 1Sp1995 c 3 art 16 s 13; 1996 c 305 art 1 s 138; 1996 c 412 art 1 s 22; 1997 c 7 art 1 s 65; 1998 c 397 art 4 s 50,51; art 11 s 3; 1998 c 398 art 1 s 26,27; art 2 s 30-32; 1999 c 241 art 1 s 48-50; art 2 s 51; 1Sp2003 c 9 art 5 s 22,23; 2004 c 294 art 1 s 8; 1Sp2005 c 5 art 2 s 73; art 3 s 14; 2007 c 146 art 1 s 16,25; art 3 s 21; 2009 c 96 art 1 s 18; art 3 s 20

## 127A.48 ADJUSTMENT OF NET TAX CAPACITY.

Subdivision 1. **Computation.** The Department of Revenue must annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures in subdivisions 2 and 3. Based upon the results of this assessment/sales ratio study, the Department of Revenue must determine an aggregate equalized net tax capacity for the various classes of taxable property in each district, which tax capacity shall be designated as the adjusted net tax capacity. The adjusted net tax capacities shall be determined using the net tax capacity percentages in effect for the assessment year following the assessment year of the study. The Department of Revenue must make whatever estimates are necessary to account for changes in the classification system. The Department of Revenue may incur the expense necessary to make the determinations. The commissioner of revenue may reimburse any county or governmental official for requested services performed in ascertaining the adjusted net tax capacity. On or before March 15 annually, the Department of Revenue shall file with the chair of the Tax Committee of the house of representatives and the chair of the Committee on Taxes and Tax laws of the senate a report of adjusted net tax capacities. On or before June 15 annually, the Department of



Revenue shall file its final report on the adjusted net tax capacities established by the previous year's assessments and the current year's net tax capacity percentages with the commissioner of education and each county auditor for those districts for which the auditor has the responsibility for determination of local tax rates. A copy of the report so filed shall be mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which each district is located.

Subd. 2. **Methodology.** In making its annual assessment/sales ratio studies, the Department of Revenue must use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific procedures necessary for execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota Administrative Procedure Act. When property is sold and the purchaser changes its use in a manner that would result in a change of classification of the property, the assessment sales ratio study under this subdivision must take into account that changed classification as soon as practicable. A change in status from homestead to nonhomestead or from nonhomestead to homestead is not a change under this subdivision. For purposes of this section, sections 270.12, subdivision 2, clause (8), and 278.05, subdivision 4, the commissioner of revenue shall exclude from the assessment/sales ratio study the sale of any nonagricultural property which does not contain an improvement, if (1) the statutory basis on which the property's taxable value as most recently assessed is less than market value as defined in section 273.11, or (2) the property has undergone significant physical change or a change of use since the most recent assessment.

Subd. 3. **Agricultural lands.** For purposes of determining the adjusted net tax capacity of agricultural lands for the calculation of adjusted net tax capacities, the market value of agricultural lands must be the price for which the property would sell in an arm's-length transaction.

Subd. 4. **Forced sales.** The commissioner of revenue may include forced sales in the assessment/sales ratio studies if it is determined by the commissioner of revenue that these forced sales indicate true market value.

Subd. 5. **Stipulated values and abatements.** The estimated market value to be used in calculating sales ratios must be the value established by the assessor before any stipulations resulting from appeals by property owners and before any abatement unless the abatement was granted for the purpose of correcting mere clerical errors.

Subd. 6. **Sales of industrial property.** Separate sales ratios must be calculated for commercial property and for industrial property. These two classes shall be combined only in jurisdictions in which there is not an adequate sample of sales in each class.

Subd. 7. **Adjusted net tax capacity; growth limit.** In the calculation of adjusted net tax capacities for 1987 and each year thereafter, the commissioner of revenue shall not increase the adjusted net tax capacity of taxable property for any district over the adjusted net tax capacity established and filed with the commissioner for the immediately preceding year by more than the greater of (1) 19 percent of the certified adjusted net tax capacity established and filed with the commissioner of education for the year immediately preceding, or (2) 40 percent of the difference between the district's total adjusted net tax capacity for the current year calculated without the

application of this subdivision and the district's certified adjusted net tax capacity established and filed with the commissioner for the immediately preceding year.

Subd. 8. **Decrease in iron ore net tax capacity.** If in any year the net tax capacity of iron ore property, as defined in section 273.13, subdivision 31, in any district is less than the net tax capacity of such property in the preceding year, the commissioner of revenue shall redetermine for all purposes the adjusted net tax capacity of the preceding year taking into account only the decrease in net tax capacity of iron ore property as defined in section 273.13, subdivision 31. If subdivision 7, clause (1), is applicable to the district, the decrease in iron ore property shall be applied to the adjusted net tax capacity as limited therein. In all other respects, the provisions of clause (1) shall apply.

Subd. 9. **Captured tax capacity adjustment.** In calculating adjusted net tax capacity, the commissioner of revenue shall increase the adjusted net tax capacity of a district containing a tax increment financing district for which an election is made under section 469.1782, subdivision 1, clause (1). The amount of the increase equals the captured net tax capacity of the tax increment financing district in the year preceding the first taxes payable year in which the special law permits collection beyond that permitted by the general law duration limit that otherwise would apply. The addition applies beginning for aid and levy for the first taxes payable year in which the special law permits collection of increment beyond that permitted by the general law duration limit that otherwise would apply. The addition continues to apply for each taxes payable year the district remains in effect.

Subd. 10. **Adjusted net tax capacity; appeals.** If a district, within 30 days after receipt of a copy of a report filed with the commissioner made pursuant to subdivisions 1 to 6 or 8, is of the opinion that the commissioner of revenue has made an error in the determination of the district's market value, it may appeal from the report or portion thereof relating to the district to the commissioner of revenue for a review and determination of the matters contained in the appeal. The commissioner of revenue shall advise the district of the determination within 30 days. If the district wishes to appeal the determination of the commissioner of revenue, it must file a notice of appeal with the Tax Court, as provided in subdivisions 11 to 16 within ten days of the notice of determination from the commissioner of revenue.

Subd. 11. **Notice of appeal.** The district must file with the court administrator of the Tax Court a notice of appeal from the determination of the commissioner of revenue fixing the market value of the district, and such notice must show the basis of the alleged error. A copy of the notice of appeal must be served upon the commissioner of revenue, and proof of service must be filed with the court administrator.

Subd. 12. **Hearing.** Upon receipt of the notice of appeal the Tax Court must review the notice of appeal and determine whether it appears from the allegations and proofs therein contained that an error has been made in the determination by the commissioner of revenue of the market value of the property in the school district. If the court finds it probable that such an error has been made, it must notice the matter for hearing; otherwise, it must dismiss the appeal and notify the parties thereof. Hearings must be set and held in the same manner as other hearings of the Tax Court are set and heard, except that an appeal filed under subdivision 10 must take precedence over other appeals pending before the court. The attorney general shall represent the commissioner of revenue. The Administrative Procedure Act, sections 14.09 to 14.28, 14.38, 14.44 to 14.45, and 14.57 to 14.69, shall apply to hearings insofar as it is applicable.

Subd. 13. **Tax Court determination.** The Tax Court shall hear, consider, and determine such appeal, de novo upon the issues made by the notice of appeal, if a hearing has been granted thereon. At the conclusion of the hearing, the court must: (1) file findings of fact, or (2) refer the issues to the commissioner of revenue with instructions and recommendations for a determination and correction of the market value of the appealing district. The decision of the Tax Court, if it decides the matter de novo, shall have the same force and effect as a determination by the commissioner of revenue in the first instance under this section, and the commissioner of revenue must be notified thereof. If the matter is rereferred to the commissioner of revenue, a redetermination by the commissioner of revenue in accordance with the recommendations of the Tax Court must likewise have the same force and effect as a determination by it in the first instance under this section.

Subd. 14. **Hearing examiner.** In addition to the powers and duties of the Tax Court as prescribed by chapter 271, any hearing ordered pursuant to this section may be heard by a hearing examiner in lieu of one or more judges of the Tax Court. If a hearing is conducted by a hearing examiner, such hearing examiner shall exercise the same powers conferred by law upon one or more judges of the Tax Court. The hearing examiner shall report to the court. The court is authorized to make findings of fact based on the report of the hearing examiner in the same manner as is required by these provisions when the hearing is conducted by the court. The Tax Court may employ hearing examiners upon such terms and conditions as it shall prescribe. A hearing examiner so appointed shall be in the unclassified service of the state.

Subd. 15. **Limitation of appeals.** A decision of the Tax Court pursuant to the terms hereof shall be final and shall not be subject to review by any court, except upon certiorari to the Supreme Court.

Subd. 16. **Aids pending appeals.** During the pendency of any appeal from the commissioner of revenue evaluation, state aids to the appealing district must be paid on the basis of the evaluation subject to adjustment upon final determination of the appeal.

**History:** *Ex1971 c 31 art 20 s 3; 1973 c 582 s 3; 1973 c 683 s 5-10,27; 1974 c 521 s 22,23; 1975 c 432 s 25-33; 1976 c 134 s 78; 1976 c 239 s 35; 1976 c 271 s 44-46; 1977 c 307 s 29; 1977 c 423 art 3 s 1,2; art 4 s 1; 1977 c 447 art 1 s 8-15,17; 1978 c 706 s 32; 1978 c 733 s 20,21; 1978 c 764 s 46-51; 1978 c 767 s 1; 1979 c 334 art 1 s 7-11; art 3 s 4,5; 1980 c 429 s 1; 1980 c 443 s 1; 1980 c 509 s 33; 1980 c 607 art 4 s 1; art 7 s 8; 1980 c 609 art 1 s 7; 1981 c 358 art 1 s 18,19,48; 1982 c 424 s 130; 1984 c 502 art 11 s 1; 1Sp1985 c 14 art 3 s 1; art 4 s 18; 1986 c 444; 1Sp1986 c 1 art 4 s 9; 1Sp1986 c 3 art 1 s 82; 1987 c 268 art 6 s 3; art 7 s 3-10; 1987 c 384 art 2 s 1; 1988 c 719 art 5 s 2,84; 1989 c 329 art 13 s 1; art 13 s 20; 1Sp1989 c 1 art 2 s 11; art 9 s 1; 1992 c 511 art 2 s 5; 1992 c 556 s 1; 1993 c 224 art 1 s 4; 1994 c 416 art 1 s 4; 1995 c 233 art 2 s 56; 1995 c 264 art 5 s 1; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 4 s 39-47,51; art 11 s 3; 2003 c 130 s 12; 2008 c 154 art 2 s 2*

## 127A.49 AID ADJUSTMENTS.

Subdivision 1. **Omissions.** No adjustments to any aid payments made pursuant to this chapter or chapters 120B, 122A, 123A, 123B, 124D, 125A, and 126C resulting from omissions in district reports, except those adjustments determined by the legislative auditor, shall be made for any school year after December 30 of the next school year, unless otherwise specifically provided by law.

Subd. 2. **Abatements.** Whenever by virtue of chapter 278, sections 270C.86, 375.192, or

otherwise, the net tax capacity or referendum market value of any district for any taxable year is changed after the taxes for that year have been spread by the county auditor and the local tax rate as determined by the county auditor based upon the original net tax capacity is applied upon the changed net tax capacities, the county auditor shall, prior to February 1 of each year, certify to the commissioner of education the amount of any resulting net revenue loss that accrued to the district during the preceding year. Each year, the commissioner shall pay an abatement adjustment to the district in an amount calculated according to the provisions of this subdivision. This amount shall be deducted from the amount of the levy authorized by section 126C.46. The amount of the abatement adjustment must be the product of:

- (1) the net revenue loss as certified by the county auditor, times
- (2) the ratio of:
  - (i) the sum of the amounts of the district's certified levy in the third preceding year according to the following:
    - (A) section 123B.57, if the district received health and safety aid according to that section for the second preceding year;
    - (B) section 124D.20, if the district received aid for community education programs according to that section for the second preceding year;
    - (C) section 124D.135, subdivision 3, if the district received early childhood family education aid according to section 124D.135 for the second preceding year;
    - (D) section 126C.17, subdivision 6, if the district received referendum equalization aid according to that section for the second preceding year;
    - (E) section 126C.10, subdivision 13a, if the district received operating capital aid according to section 126C.10, subdivision 13b, in the second preceding year;
    - (F) section 126C.10, subdivision 29, if the district received equity aid according to section 126C.10, subdivision 30, in the second preceding year;
    - (G) section 126C.10, subdivision 32, if the district received transition aid according to section 126C.10, subdivision 33, in the second preceding year;
    - (H) section 123B.53, subdivision 5, if the district received debt service equalization aid according to section 123B.53, subdivision 6, in the second preceding year;
    - (I) section 124D.22, subdivision 3, if the district received school-age care aid according to section 124D.22, subdivision 4, in the second preceding year;
    - (J) section 123B.591, subdivision 3, if the district received deferred maintenance aid according to section 123B.591, subdivision 4, in the second preceding year; and
    - (K) section 126C.10, subdivision 35, if the district received alternative teacher compensation equalization aid according to section 126C.10, subdivision 36, paragraph (a), in the second preceding year; to
  - (ii) the total amount of the district's certified levy in the third preceding December, plus or minus auditor's adjustments.

**Subd. 3. Excess tax increment.** (a) If a return of excess tax increment is made to a district pursuant to sections 469.176, subdivision 2, and 469.177, subdivision 9, or upon decertification of a tax increment district, the school district's aid and levy limitations must be adjusted for the fiscal year in which the excess tax increment is paid under the provisions of this subdivision.

(b) An amount must be subtracted from the district's aid for the current fiscal year equal to the product of:

- (1) the amount of the payment of excess tax increment to the district, times
- (2) the ratio of:

(i) the sum of the amounts of the district's certified levy for the fiscal year in which the excess tax increment is paid according to the following:

(A) section 123B.57, if the district received health and safety aid according to that section for the second preceding year;

(B) section 124D.20, if the district received aid for community education programs according to that section for the second preceding year;

(C) section 124D.135, subdivision 3, if the district received early childhood family education aid according to section 124D.135 for the second preceding year;

(D) section 126C.17, subdivision 6, if the district received referendum equalization aid according to that section for the second preceding year;

(E) section 126C.10, subdivision 13a, if the district received operating capital aid according to section 126C.10, subdivision 13b, in the second preceding year;

(F) section 126C.10, subdivision 29, if the district received equity aid according to section 126C.10, subdivision 30, in the second preceding year;

(G) section 126C.10, subdivision 32, if the district received transition aid according to section 126C.10, subdivision 33, in the second preceding year;

(H) section 123B.53, subdivision 5, if the district received debt service equalization aid according to section 123B.53, subdivision 6, in the second preceding year;

(I) section 124D.22, subdivision 3, if the district received school-age care aid according to section 124D.22, subdivision 4, in the second preceding year;

(J) section 123B.591, subdivision 3, if the district received deferred maintenance aid according to section 123B.591, subdivision 4, in the second preceding year; and

(K) section 126C.10, subdivision 35, if the district received alternative teacher compensation equalization aid according to section 126C.10, subdivision 36, paragraph (a), in the second preceding year; to

(ii) the total amount of the district's certified levy for the fiscal year, plus or minus auditor's adjustments.

(c) An amount must be subtracted from the school district's levy limitation for the next levy certified equal to the difference between:

- (1) the amount of the distribution of excess increment; and
- (2) the amount subtracted from aid pursuant to clause (a).

If the aid and levy reductions required by this subdivision cannot be made to the aid for the fiscal year specified or to the levy specified, the reductions must be made from aid for subsequent fiscal years, and from subsequent levies. The school district must use the payment of excess tax increment to replace the aid and levy revenue reduced under this subdivision.

(d) This subdivision applies only to the total amount of excess increments received by a district for a calendar year that exceeds \$25,000.

**History:** 1977 c 447 art 6 s 2; 1978 c 764 s 54; 1980 c 609 art 4 s 7; 1981 c 358 art 1 s 30; 1983 c 314 art 1 s 22; art 6 s 11; 1984 c 463 art 6 s 1; art 7 s 12; 1986 c 465 art 2 s 1; 1987 c 291 s 202; 1988 c 718 art 6 s 7,8; 1988 c 719 art 5 s 84; 1989 c 222 s 12,13; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1991 c 130 s 16,17,37; 1992 c 499 art 12 s 11,12,29; 1994 c 465 art 2 s 1; 1994 c 647 art 8 s 5; 1Sp1995 c 3 art 8 s 2,3; art 16 s 13; 1998 c 397 art 4 s 48,51; art 11 s 3; 1999 c 241 art 1 s 51,52; 1Sp2003 c 9 art 5 s 24,25; 1Sp2005 c 5 art 1 s 41,42; 2007 c 146 art 1 s 17,18; 2008 c 363 art 2 s 32,33

### **127A.50 AID ADJUSTMENTS DUE TO CHANGES IN EMPLOYER RETIREMENT CONTRIBUTION RATES.**

Subdivision 1. **Aid adjustment.** Beginning in fiscal year 1998 and each year thereafter, the commissioner of education shall adjust state aid payments to school operating funds for Independent School District No. 625 and Independent School District No. 709 by the net amount of clauses (1) and (2), for Special School District No. 1 by the net amount of clauses (1), (2), and (4), and for all other districts, including charter schools, but excluding any education organizations that are prohibited from receiving direct state aids under section 123A.26 or 125A.75, subdivision 7, by the net amount of clauses (1), (2), (3), and (4):

(1) a decrease equal to each district's share of the fiscal year 1997 adjustment effected under Minnesota Statutes 1996, section 124.2139;

(2) an increase equal to one percent of the salaries paid to members of the general plan of the Public Employees Retirement Association in fiscal year 1997, multiplied by 0.35 for fiscal year 1998 and 0.70 each year thereafter;

(3) a decrease equal to 2.34 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 1997; and

(4) an increase equal to 0.5 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 2007.

Subd. 2. **Appropriation.** The amounts necessary to pay any positive net adjustments under this section to any school district are appropriated annually from the general fund to the commissioner of education.

Subd. 3. **Limits on adjustments and potential reductions.** Increases to any school districts under subdivision 1, clause (2), and decreases under subdivision 1, clauses (1) and (3), are limited to the fiscal year 1999 amounts. The commissioner of education may permanently reduce the adjustments to school districts under subdivision 1, clauses (1) and (2), in the same manner as prescribed for nonschool jurisdictions under section 273.1385, subdivision 2. The commissioner may, from time to time, require that the most recent fiscal year payroll information be certified by the executive director of the Teachers Retirement Association. For any school district where the newly certified Teachers Retirement Association payroll is significantly lower than the fiscal 1997 amount as determined by the commissioner, the commissioner shall recalculate the lower reduction under subdivision 1, clause (3), and shall permanently reduce the adjustment amount in subsequent years.

Subd. 4. **Effect of reorganizations.** The commissioner of education shall reapportion the aid adjustments to school districts under this section to account for significant changes in

boundaries or consolidations, as determined by the commissioner. If a school district is dissolved, or a school district function thereof is assumed by either the state or a nonpublic organization, adjustments for all or the appropriate fraction of the total payroll under this section must terminate.

Subd. 5. **Adjustment termination.** All adjustments under this section terminate on June 30, 2020.

**History:** 1997 c 233 art 1 s 14; 1998 c 397 art 4 s 51; art 11 s 3; 1Sp2001 c 6 art 1 s 40; 2003 c 130 s 12; 2006 c 277 art 3 s 1

### **127A.51 STATEWIDE AVERAGE REVENUE.**

By October 1 of each year the commissioner must estimate the statewide average adjusted general revenue per adjusted marginal cost pupil unit and the disparity in adjusted general revenue among pupils and districts by computing the ratio of the 95th percentile to the fifth percentile of adjusted general revenue. The commissioner must provide that information to all districts.

If the disparity in adjusted general revenue as measured by the ratio of the 95th percentile to the fifth percentile increases in any year, the commissioner shall recommend to the legislature options for change in the general education formula that will limit the disparity in adjusted general revenue to no more than the disparity for the previous school year. The commissioner must submit the recommended options to the education committees of the legislature by January 15.

For purposes of this section and section 126C.10, adjusted general revenue means:

(1) for fiscal year 2002, the sum of basic revenue under section 126C.10, subdivision 2; supplemental revenue under section 126C.10, subdivisions 9 and 12; transition revenue under section 126C.10, subdivision 20; referendum revenue under section 126C.17; and equity revenue under section 126C.10, subdivisions 24a and 24b; and

(2) for fiscal year 2003 and later, the sum of basic revenue under section 126C.10, subdivision 2; referendum revenue under section 126C.17; and equity revenue under section 126C.10, subdivisions 24a and 24b.

**History:** 1987 c 398 art 1 s 24; 1988 c 486 s 69; 1991 c 265 art 1 s 26; 1998 c 397 art 7 s 158,164; art 11 s 3; 1998 c 398 art 1 s 38; 1999 c 241 art 1 s 53; 2000 c 489 art 2 s 26; 1Sp2001 c 6 art 1 s 41

**127A.60** Subdivision 1. [Repealed, 1998 c 398 art 5 s 56]

Subd. 2. [Repealed, 1998 c 398 art 5 s 56; 1999 c 241 art 9 s 54]

Subd. 3. [Repealed, 1998 c 398 art 5 s 56; 1999 c 241 art 9 s 54]

Subd. 4. [Repealed, 1998 c 398 art 5 s 56; 1999 c 241 art 9 s 54]

**127A.61** [Repealed, 1999 c 241 art 9 s 54]

**127A.62** Subdivision 1. [Renumbered 127A.12]

Subd. 2. [Repealed, 1999 c 241 art 9 s 54]

**127A.63** [Renumbered 127A.13]

**127A.64** [Repealed, 1999 c 241 art 9 s 54]

**127A.66** Subdivision 1. [Repealed, 1998 c 398 art 6 s 38; 1999 c 241 art 9 s 54]

Subd. 2. [Repealed, 1998 c 398 art 6 s 38]

Subd. 3. [Repealed, 1998 c 398 art 6 s 38]

**127A.67** [Renumbered 127A.14]

**127A.70 MINNESOTA P-20 EDUCATION PARTNERSHIP.**

Subdivision 1. **Establishment; membership.** A P-20 education partnership is established to create a seamless system of education that maximizes achievements of all students, from early childhood through elementary, secondary, and postsecondary education, while promoting the efficient use of financial and human resources. The partnership shall consist of major statewide educational groups or constituencies or noneducational statewide organizations with a stated interest in P-20 education. The initial membership of the partnership includes the members serving on the Minnesota P-16 Education Partnership and four legislators appointed as follows:

(1) one senator from the majority party and one senator from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(2) one member of the house of representatives appointed by the speaker of the house and one member appointed by the minority leader of the house of representatives.

The chair of the P-16 education partnership must convene the first meeting of the P-20 partnership. Prospective members may be nominated by any partnership member and new members will be added with the approval of a two-thirds majority of the partnership. The partnership will also seek input from nonmember organizations whose expertise can help inform the partnership's work.

Partnership members shall be represented by the chief executives, presidents, or other formally designated leaders of their respective organizations, or their designees. The partnership shall meet at least three times during each calendar year.

Subd. 2. **Powers and duties; report.** The partnership shall develop recommendations to the governor and the legislature designed to maximize the achievement of all P-20 students while promoting the efficient use of state resources, thereby helping the state realize the maximum value for its investment. These recommendations may include, but are not limited to, strategies, policies, or other actions focused on:

(1) improving the quality of and access to education at all points from preschool through graduate education;

(2) improving preparation for, and transitions to, postsecondary education and work; and

(3) ensuring educator quality by creating rigorous standards for teacher recruitment, teacher preparation, induction and mentoring of beginning teachers, and continuous professional development for career teachers.

By January 15 of each year, the partnership shall submit a report to the governor and to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over P-20 education policy and finance that summarizes the partnership's progress in meeting its goals and identifies the need for any draft legislation when necessary to further the goals of the partnership to maximize student achievement while promoting efficient use of resources.

Subd. 3. **Expiration.** Notwithstanding section 15.059, subdivision 5, the partnership



is permanent and does not expire.

**History:** 2009 c 96 art 2 s 58

## COMPACT FOR EDUCATION

### 127A.80 COMPACT.

The Compact for Education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

#### COMPACT FOR EDUCATION

##### ARTICLE I

##### Purpose and Policy

(A) It is the purpose of this compact to:

(1) Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the state and local levels.

(2) Provide a forum for the discussion, development, crystalization and recommendation of public policy alternatives in the field of education.

(3) Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

(4) Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

(B) It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

(C) The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

##### ARTICLE II

##### State Defined

As used in this compact, "state" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

##### ARTICLE III

##### The Commission

(A) The education commission of the states, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

(B) The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to article IV and adoption of the annual report pursuant to article III (J).

(C) The commission shall have a seal.

(D) The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

(E) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

(F) The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

(G) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services,

conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(H) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(I) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(J) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

#### ARTICLE IV

##### Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

(1) Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

(2) Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

(3) Develop proposals for adequate financing of education as a whole and at each of its many levels.

(4) Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

(5) Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

(6) Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

#### ARTICLE V

##### Cooperation with Federal Government

(A) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant

to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

(B) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

## ARTICLE VI

### Committees

(A) To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for one year and 16 for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

(B) The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

(C) The commission may establish such additional committees as its bylaws may provide.

## ARTICLE VII

### Finance

(A) The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(B) The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

(C) The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article III (G) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission

makes use of funds available to it pursuant to article III (G) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(D) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

(E) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(F) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

## ARTICLE VIII

### Eligible Parties

#### Entry Into and Withdrawal

(A) This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

(B) Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

(C) Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

(D) Except for a withdrawal effect on December 31, 1967 in accordance with paragraph (C) of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

## ARTICLE IX

### Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this contract shall be held contrary to the

constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

**History:** *1967 c 394 s 1; 1998 c 397 art 4 s 51*

### **127A.81 EDUCATION COMMISSION.**

Subdivision 1. **Appointment of members.** Legislative members of the Education Commission established in section 127A.80, article III (A), are appointed as follows: One member of the house of representatives appointed by the speaker of the house for a term coinciding with the term of office of the member; one member of the senate appointed by the Committee on Committees for a two-year term. Members of the Education Commission appointed by the governor are appointed for a term which coincides with the term of the appointing governor. Members appointed from the legislature and members appointed by the governor serve until their successors are appointed and qualified.

Subd. 2. **Vacancies.** Vacancies are filled by the appointing power. If the legislature is not in session, vacancies are filled as follows: a vacancy in the office held by a house of representatives member is filled by the last speaker of the house, or if the speaker be not available, by the last chair of the house of representatives Rules Committee; a vacancy in the office held by a senate member is filled by the last senate Committee on Committees or other appointing authority designated by the senate rules in case of a senate vacancy.

Subd. 3. **Expenses.** Members of the Education Commission serve without compensation for such service but are entitled to be paid their necessary expenses in carrying out their duties.

**History:** *1967 c 394 s 2; 1983 c 305 s 18; 1986 c 444; 1998 c 397 art 4 s 51; art 11 s 3*