

DEPARTMENTS, AGENCIES

Education

CHAPTER 120

DEFINITIONS; GENERAL PROVISIONS

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120.01 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.01 CITATION, EDUCATION CODE. Chapters 120 to 129 may be cited as the education code.

[Ex1959 c 71 art 1 s 1; 1975 c 162 s 1]

120.02 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.02 DEFINITIONS. Subdivision 1. For the purposes of this chapter the words, phrases and terms defined in this section shall have the meanings respectively ascribed to them.

Subd. 2. "Commissioner" means the commissioner of education.

Subd. 3. "District" means a school district.

Subd. 4. "Board" means a school board.

Subd. 5. "County board" means a board of county commissioners.

Subd. 6. "Superintendent" means superintendent of the school district involved.

Subd. 7. [Repealed, 1975 c 162 s 42]

Subd. 8. "Department" means state department of education.

Subd. 9. "Auditor" means county auditor.

Subd. 10. [Repealed, 1975 c 162 s 42]

Subd. 11. "Commission" means state advisory commission on school reorganization.

Subd. 12. "State board" means state board of education.

Subd. 13. A common district is any school district validly created and existing as a common school district or joint common school district as of July 1, 1957, or pursuant to the terms of the education code.

Subd. 14. An independent district is any school district validly created and existing as an independent, consolidated, joint independent, county or a ten or more township district as of July 1, 1957, or pursuant to the education code.

Subd. 15. A special district is a district established by a charter granted by the legislature or by a home rule charter including any district which is designated a special independent school district by the legislature.

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Subd. 16. [Repealed, 1971 c 25 s 30]

Subd. 17. [Repealed, 1975 c 162 s 42]

Subd. 18. School district tax is the tax levied and collected to provide the amount of money voted or levied by the district or the board for school purposes.

[Ex1959 c 71 art 1 s 2]

120.021 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.023 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.03 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.03 HANDICAPPED CHILDREN, DEFINED. Subdivision 1. Every child who is deaf, hard of hearing, blind, partially seeing, crippled or who has defective speech or who is otherwise physically impaired in body or limb so that he needs special instruction and services, but who is educable, as determined by the standards of the state board is a handicapped child.

Subd. 2. Every child who is mentally retarded in such degree that he needs special instruction and services, but who is educable as determined by the standards of the state board, is a handicapped child.

Subd. 3. Every child who by reason of an emotional disturbance, or a learning disability, or a special behavior problem needs special instruction and services, but who is educable, as determined by the standards of the state board is a handicapped child.

Subd. 4. Every child who is mentally retarded in such degree that he requires special training and services and who is trainable as defined by standards of the state board is a trainable handicapped child.

[Ex1959 c 71 art 1 s 3; 1969 c 981 s 1; 1975 c 432 s 7]

120.04 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.04 MS 1967 [Repealed, 1969 c 981 s 7]

120.05 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.05 PUBLIC SCHOOLS. Subdivision 1. **Classification.** For the purpose of administration the state board shall classify all public schools under the following heads, provided the requirements in subdivision 2 are met:

- (1) Elementary,
- (2) Middle school,
- (3) Secondary,
- (4) Vocational center school,
- (5) Area vocational-technical school.

Subd. 2. **Definitions.** (1) Elementary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in grades one through six or any portion thereof and staff meeting the standards established by the state board of education.

(a) The state board of education shall not close a school or deny any state aids to a district for its elementary schools because of enrollment limitations classified in accordance with the provisions of subdivision 2, clause (1).

(2) Middle school means any school other than a secondary school giving an approved course of study in a minimum of three consecutive grades above fourth but below tenth with building, equipment, courses of study, class schedules, enrollment and staff meeting the standards established by the state board of education.

(3) Secondary school means any school with building, equipment, courses of study, class schedules, enrollment of pupils ordinarily in grades seven through twelve or any portion thereof and staff meeting the standards established by the state board of education.

(4) A vocational center school is one serving a group of secondary schools with approved areas of secondary vocational training and offering vocational secondary and adult programs necessary to meet local needs and meeting standards established by the state board of education.

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(5) An area vocational-technical school is a school organized according to section 121.21, and standards established by the state board of education.

[*Ex1959 c 71 art 1 s 5; 1961 c 562 s 7; 1971 c 25 s 31; 1971 c 118 s 1*]

120.06 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.06 ADMISSION TO PUBLIC SCHOOL. Subdivision 1. **Age limitations; pupils.** All schools supported in whole or in part by state funds are public schools. Admission to a public school is free to any person who resides within the district which operates the school, who is under 21 years of age, and who satisfies the minimum age requirements imposed by this section. Notwithstanding the provisions of any law to the contrary, the conduct of all students under 21 years of age attending a public secondary school shall be governed by a single set of reasonable rules and regulations promulgated by the local board of education. No person shall be admitted to any public school after September 1, 1971, (1) as a kindergarten student, unless he is at least five years of age on September 1 of the calendar year in which the school year for which he seeks admission commences; or (2) as a first grade student, unless he is at least six years of age on September 1 of the calendar year in which the school year for which he seeks admission commences or has completed kindergarten; except that any school board may establish a policy for admission of selected pupils at an earlier age.

Subd. 2. **Rules of state board.** The state board of education shall promulgate rules relative to the time schedule for implementation of the uniform minimum school age entrance requirements in subdivision 1.

[*Ex1959 c 71 art 1 s 6; 1967 c 173 s 1; 1974 c 529 s 1*]

120.065 FARM IN MORE THAN ONE DISTRICT, ATTENDANCE OPTION.

When a pupil resides on a farm and the land comprising the farm is included in more than one district the pupil may attend the school of either district providing that if the pupil is to attend the school in the district of which he is not a resident he must first have the approval of the commissioner. A farm for the purposes of this section encompasses all tracts of land owned or operated as one farm, including a city residence, and which includes not less than 40 acres in the district the pupil wishes to attend, providing no such tract is more than two miles distant from the tract of land on which the pupil resides. In the payment of state aid, the district in which the pupil attends shall be considered the district of his residence. Transportation may be provided by the district in which the child attends under the provisions of this section.

[*1967 c 626 s 1; 1969 c 242 s 1; 1973 c 123 art 5 s 7*]

120.07 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.07 ATTENDANCE. Subdivision 1. **Right to attend adjoining district.** The children of any person not resident within the limits of any incorporated city, and residing more than two miles by the nearest traveled road from the school house in the district where such children reside, are authorized to attend school at a school in an adjoining district nearer to such residence than the school in the district where such children reside, upon such reasonable terms as shall be fixed by the board of such adjoining district, upon application of the parents or guardian of such children. This section shall not apply where transportation is furnished by the home district.

Subd. 2. **Tuition; how determined and paid.** The board of the child's resident district shall pay tuition to the district in which the child is attending. If the boards of the districts involved do not agree upon the tuition rate for instruction of the non-resident child, either board may apply to the commissioner to fix such rate giving ten days' notice to the other board and upon the expiration of ten days after such notice, the commissioner shall make an order binding on both districts fixing such tuition rate.

[*Ex1959 c 71 art 1 s 7; 1973 c 123 art 5 s 7*]

120.08 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.08 ATTENDANCE; HIGH SCHOOL IN ADJOINING STATE. Subdivision 1. Any person under 21 years of age residing in any district not maintaining a secondary school who has successfully completed the elementary school may, with the consent of the board of such district, attend any secondary school of a district in an adjoining state willing to admit him, which secondary school is nearer to his place of residence than any duly established secondary school in Minnesota, the distances being mea-

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sured by the usual traveled routes. Any tuition charged by the district so attended shall be paid to the district attended by the district in which the person resides. This tuition shall not be more than (a) such district charges non-resident pupils of that state, (b) the average maintenance cost exclusive of transportation per pupil unit in average daily membership in the school attended, nor (c) the tuition rate provided for in section 124.18, subdivision 2.

Any pupil attending a secondary school in an adjoining state for whom tuition is paid from district funds is entitled to transportation services in accordance with Minnesota Statutes.

Subd. 2. A school board in a district maintaining a secondary school may by a majority vote provide for the instruction of any resident pupil in a school district in an adjoining state nearer to his place of residence than the school of his resident district, the distances being measured by the usual traveled routes. Any charge for tuition by the district so attended or for transportation shall be paid by the pupil's resident district provided that such pupil shall continue to be a pupil of the district of his residence for the payment of apportionment and other state aids.

[Ex1959 c 71 art 1 s 8; 1961 c 562 s 8; 1975 c 162 s 2]

120.09 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.09 MS 1967 [Repealed, 1969 c 1082 s 2]

120.095 SCHOOL CENSUS. Subdivision 1. Except as otherwise provided in this section, the school board of each district shall cause to be taken an enumeration, called the school census of all persons under 21 years of age on September 1 during the year the census is taken. The school census shall show the name and date of birth of each person required to be enumerated and the name and address of his parent, guardian, or other person having charge of such child, and such other data as the state board may require.

Subd. 2. The school census shall be taken by the clerk of the board, or by some other person appointed by the board. Such person taking such census shall certify to the board the correctness of the enumeration and the information therein contained. The board shall fix the compensation for such work. Each child shall be counted in only one district, being that in which he resides on September 1 and the enumeration period shall be from September 1 through October 1.

Subd. 3. The school census shall be taken each year during the period September 1 through October 1 and reported in summary form to the department of education before October 15 of each census year in all districts except as follows:

In districts including cities of the first class and other school districts in which the district boundaries coincide with those of federal census tracts the decennial and middecade census tabulation made by the federal bureau of the census may be substituted for the prescribed enumeration.

Subd. 4. The school board of any district, at its option, may establish a permanent and continuing census or enumeration that will keep current the data required by subdivisions 1 to 3.

Subd. 5. The school census shall include an enumeration of children requiring special education by categories as designated by the state board and as required for reports deemed necessary by the commissioner of education.

[1969 c 1082 s 1; 1971 c 84 s 1,2]

120.10 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.10 COMPULSORY ATTENDANCE. Subdivision 1. **Ages and term.** Every child between seven and 16 years of age shall attend a public school, or a private school, for a minimum term, as defined by the state board, during any school year. No child shall be required to attend a public school more than a maximum term, as defined by the state board, during any school year.

Subd. 2. **School.** A school, to satisfy the requirements of compulsory attendance, must be one in which all the common branches are taught in the English language, from textbooks written in the English language, and taught by teachers whose qualifications are essentially equivalent to the minimum standards for public school teachers of the same grades or subjects. A foreign language may be taught when such language is an elective or a prescribed subject of the curriculum, but not to exceed one hour in each day.

Subd. 3. **Legitimate exemptions.** Such child may be excused from attendance upon application of his parent, guardian, or other person having control of such child, to any member of the board, truant officer, principal, or superintendent, for the whole or any part of such period, by the board of the district in which the child resides, upon its being shown to the satisfaction of such board:

(1) That such child's bodily or mental condition is such as to prevent his attendance at school or application to study for the period required; or

(2) That such child has already completed the studies ordinarily required in the tenth grade; or

(3) That it is the wish of the parent, guardian, or other person having control of such child, that he attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction conducted and maintained by some church, or association of churches, or any Sunday school association incorporated under the laws of this state, or any auxiliary thereof, such school to be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, at public expense; provided, that a child may be absent from school on such days as the child attends upon instruction according to the ordinances of some church.

Provided that students in regular attendance at the University of Minnesota Northwest School of Agriculture at Crookston, Minnesota, and the University of Minnesota Southern School of Agriculture at Waseca, Minnesota, during the fall and winter terms may be excused from attendance between April 1 and October 1 in any year.

Subd. 4. **Issuing and reporting excuses.** The clerk or any authorized officer of the school board shall issue and keep a record of such excuses, under such rules as the board may from time to time establish. Each excuse issued shall state the reason for such excuse and a copy of each excuse issued under subdivision 3, clause (1) shall be forwarded to the commissioner of education within 30 days following issuance.

[*Ex1959 c 71 art 1 s 10 subds 2,3; 1961 c 567 s 1; 1967 c 82 s 1; 1969 c 161 s 1,2; 1974 c 326 s 1; 1975 c 162 s 3*]

120.11 MS 1957 [Repealed, *Ex1959 c 71 art 8 s 26*]

120.11 SCHOOL BOARDS AND TEACHERS, DUTIES. It shall be the duty of each board through its clerk or other authorized agent or employee, to report the names of children between six and 16 years of age, with excuses, if any, granted in such district, to the superintendent or principals thereof, within the first week of school. Subsequent excuses granted shall be forthwith reported in the same manner. The clerk or principal shall provide the teachers in the several schools under his supervision, with the necessary information for the respective grades of school, relating to the list of pupils with excuses granted. On receipt of the list of such pupils of school age and the excuses granted, the clerk or principals shall report the names of children not excused, who are not attending school, with the names and addresses of their parents, to the district superintendent within five days after receiving the report.

[*Ex1959 c 71 art 1 s 11; 1975 c 162 s 4*]

120.12 MS 1957 [Repealed, *Ex1959 c 71 art 8 s 26*]

120.12 COMPULSORY ATTENDANCE; HOW ENFORCED. Subdivision 1. **Notice to parents and county attorney.** The district superintendent shall forthwith notify the parent, guardian, or person in charge to send such child, of whose unexcused absence he has been informed, to school and upon his neglect or refusal to comply with the notification, the district superintendent shall, upon receipt of information of such non-compliance, notify the county attorney of the facts in each case. Notification by registered mail shall be considered sufficient notice.

Subd. 2. **Private schools.** It shall be the duty of the principal, teacher, or other person in charge of any private school to make reports at such times and containing such information as is herein required respecting public schools. Such report shall be made to the district superintendent in whose district such private school is located.

Subd. 3. **Criminal complaint; prosecution.** The district superintendent shall make and file a criminal complaint against persons neglecting or refusing to comply with the provisions of law relating to the sending of children to school, in any court in the county exercising criminal jurisdiction and, upon the making of such complaint, a warrant shall be issued and proceedings and trial be had as provided by law in cases

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of misdemeanor and shall be prosecuted by the county attorney of the county wherein the offense is committed.

[Ex1959 c 71 art 1 s 12; 1975 c 162 s 5]

120.13 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.13 DUTIES AND POWERS OF LABOR AND INDUSTRY DEPARTMENT.

The department of labor and industry and its assistants shall assist in the enforcement of the provisions of law relating to compulsory school attendance and have authority to examine the excuses granted thereunder, to make investigation into the causes for which excuses have been granted, and to revoke and cancel any that may be found to be granted without proper or sufficient cause.

[Ex1959 c 71 art 1 s 13; Ex1967 c 1 s 6]

120.14 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.14 TRUANT OFFICERS. The board of any district may appoint and remove at pleasure truant officers, who shall investigate all cases of truancy or non-attendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and school regulations respecting truant, incorrigible, and disorderly children and school attendance. When any truant officer learns of any case of habitual truancy or continued non-attendance of any child required to attend school he shall immediately notify the person having control of such child to forthwith send to and keep him in school. He may arrest without warrant and take to school any such child and shall act under the general supervision of the board, or, when directed by the board, under that of the district superintendent.

[Ex1959 c 71 art 1 s 14]

120.15 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.15 SCHOOLS FOR TRUANTS AND DELINQUENTS. Boards may maintain ungraded schools for the instruction of children of the following classes between seven and 16 years of age:

(1) Habitual truants;

(2) Those incorrigible, vicious, or immoral in conduct; and

(3) Those who habitually wander about the streets or other public places during school hours without lawful employment.

All such children shall be deemed delinquent and the board may compel their attendance at such truant school, or any department of the public schools, as the board may determine, and cause them to be brought before the juvenile court of the county for appropriate discipline.

[Ex1959 c 71 art 1 s 15]

120.16 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.16 INVESTIGATION AND AID TO CHILDREN. Subdivision 1. **Resolution; certification.** When a board finds, by resolution, that any child in the district is unable to attend school because his financial resources and needs require his employment elsewhere, the clerk shall certify the resolution of such fact to the county board of the county of the child's residence. Upon such certification, the county board shall, after investigation, furnish such aid as will enable the child to attend school during the entire school year.

Subd. 2. **Reports; children receiving aid.** The truant officer or other authorized officer shall notify the teacher to whom any child receiving aid under the provisions of this section may be assigned. It shall be the duty of the teacher having charge of such child to report monthly to the board the progress such child is making in his school work, and the record of attendance, together with such other information as may be deemed necessary by the teacher.

[Ex1959 c 71 art 1 s 16]

120.17 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.17 HANDICAPPED CHILDREN. Subdivision 1. **Special instruction for handicapped children of school age.** Every district shall provide special instruction and services, either within the district or in another district, for handicapped children of school age who are residents of the district and who are handicapped as set forth

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in section 120.03. School age means the ages of four years to 21 years for children who are handicapped as defined in section 120.03 and shall not extend beyond secondary school or its equivalent. Every district may provide special instruction and services for handicapped children who have not attained school age. Districts with less than the minimum number of eligible handicapped children as determined by the state board shall cooperate with other districts to maintain a full sequence of programs for education, training and services for handicapped children as defined in section 120.03.

Subd. 1a. School districts may provide special instruction and services through the school year in which the pupil reaches age 25 for trainable mentally retarded pupils as defined in section 120.03, subdivision 4, who have attended public school less than nine years prior to September, 1975.

Subd. 2. **Method of special instruction.** Special instruction or training and services for handicapped children may be provided by one or more of the following methods:

- (a) Special instruction and services in connection with attending regular elementary and secondary school classes;
- (b) The establishment of special classes;
- (c) Instruction and services at the home or bedside of the child;
- (d) Instruction and services in other districts;
- (e) Instruction and services in a state university laboratory school or a University of Minnesota laboratory school;
- (f) Instruction and services in a state residential school or a school department of a state institution approved by the commissioner; or by any other method approved by him;
- (g) Instruction and services in other states;
- (h) Contract with public, private or voluntary agencies.

The primary responsibility for the education of a handicapped child shall remain with the district of the child's residence regardless of which method of providing special instruction or training and services is used.

Subd. 3. **Rules of the state board.** The state board shall promulgate rules relative to qualifications of essential personnel, courses of study or training, methods of instruction and training, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation and any other rules and standards it deems necessary, for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b.

Subd. 3a. **School district obligations.** Every district shall insure that:

- (a) All handicapped children are provided the special instruction and services which are appropriate to their needs;
- (b) Handicapped children and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment and educational placement of handicapped children;
- (c) To the maximum extent appropriate, handicapped children, including those in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;
- (d) In accordance with recognized professional standards, testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory; and
- (e) The rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

Subd. 3b. **Procedures for decisions.** Every district shall utilize at least the following procedures for decisions involving identification, assessment and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of: (1) any proposed formal educational assessment of their child; (2) a proposed placement of their child in, transfer from or to or denial of placement in a special education program; or (3) the proposed provision, addition, denial or removal of special education services for their child;

(b) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a);

(c) Parents and guardians shall have an opportunity to obtain an informal due process hearing initiated and conducted in the school district where the child resides, if after at least one conciliation conference the parent or guardian continues to object to: (1) a proposed formal educational assessment of their child; (2) the proposed placement of their child in, or transfer of their child to a special education program; (3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program; (4) the proposed provision or addition of special education services for their child; or (5) the proposed denial or removal of special education services for their child.

At the option of the school board, the hearing shall take place either before the school board; or (1) its designee, (2) a person mutually agreed to by the school board and the parent or guardian, or (3) a person appointed by the commissioner. A decision pursuant to (1), (2), or (3) shall be subject to review by the school board within ten days at its option. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(d) Within five days of a hearing or review pursuant to clause (c), the person or persons conducting the hearing or review shall issue a local decision which shall be binding on all parties unless appealed to the commissioner by the parent or guardian pursuant to clause (e).

The local decision shall:

- (1) be in writing;
- (2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the commissioner of the basis and reason for the decision;
- (3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;
- (4) state the amount and source of any additional district expenditure necessary to implement the decision; and
- (5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(e) Any local decision issued pursuant to clauses (c) and (d) may be appealed to the commissioner within 15 days of receipt of that written decision, by the parent or guardian. The school board shall be a party to any appeal.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five days of the filing of the appeal. However, for appeals of local decisions issued by school boards or their designees concerning proposals set forth in clause (c) (1), (2), and (4), no written transcript shall be made if the parent or guardian requests a chapter 15 due process hearing pursuant to this clause at the time the appeal is filed. The commissioner shall issue a final decision based on a review of the local decision and the entire record within 30 days after receipt of the local decision and the transcript. However, in appeals of local decisions issued by school boards or their designees concerning proposals set forth in clause (c) (1), (2) and (4), a parent or guardian may, at the time the appeal is filed, request a due process hearing conducted pursuant to the provisions of chapter 15. In that case the commissioner shall issue a final decision within 30 days after that hearing and the final decision shall be based on the report of the hearing examiner.

The final decision shall:

- (1) be in writing;
- (2) include findings and conclusions; and

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(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(f) The decision of the commissioner shall be final unless appealed by the parent or guardian or school board to the district court of the county in which the school district in whole or in part is located. The scope of judicial review shall be as provided in chapter 15.

(g) The child's school district of residence, if different from the district where the child actually resides, shall receive notice of and may be a party to any hearings or appeals pursuant to this subdivision.

Subd. 3c. Legislative report. On or before November 15, 1978, the commissioner shall report to the legislature on the experiences of Minnesota school districts in implementing subdivision 3b of this section. The report shall include an assessment of the impact on districts of parental requests for services pursuant to subdivision 3b, clause (c) (3) and (5), and recommendations concerning the need for legislation.

Subd. 4. Special instructions for non-resident children. When a school district provides instruction and services outside the district of residence, transportation or board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any handicapped child shall be the actual cost of providing special instruction and services to the child including a proportionate amount for capital outlay and debt service minus the amount of special aid for handicapped children received on behalf of that child. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. The commissioner shall then set a date for a hearing, giving each board at least ten days' notice, and after the hearing the commissioner shall make his order fixing the tuition rate, which shall be binding on both school districts.

For the purposes herein, any school district may enter into an agreement, upon such terms and conditions as may be mutually agreed upon, to provide special instruction and services for handicapped children. In that event, one of the participating units may employ and contract with necessary qualified personnel to offer services in the several districts, and each participating unit shall reimburse the employing unit a proportionate amount of the actual cost of providing the special instruction and services, less the amount of state special education aid, which shall be claimed in full by the employing district.

Subd. 5. School of parents' choice. Nothing in this chapter shall be construed as preventing parents of a handicapped educable child from sending such child to a school of their choice, if they so elect, subject to admission standards and policies to be adopted pursuant to the provisions of sections 128A.01 to 128A.08, and all other provisions of chapters 120 to 129.

Subd. 5a. Every district may provide summer programs for handicapped children living within the district, including nonresident children temporarily placed in the district pursuant to subdivisions 6 or 7. Prior to March 31, the providing district shall give notice to the district of residence of any nonresident children temporarily placed in the district pursuant to subdivisions 6 or 7, of its intention to provide these programs. Notwithstanding any contrary provisions in subdivisions 6 and 7, the school district providing the special instruction and services shall apply for all state aid for the summer program, including special state aid pursuant to section 124.32, foundation aid and transportation aid. For the purposes of computing foundation aid for these programs, all pupils enrolled in these programs shall be construed to be residents of the district providing the programs. The unreimbursed actual cost of providing the program for nonresident handicapped children may be billed to the district of the child's residence and shall be paid by the resident district. This subdivision shall be effective March 1, 1976.

Subd. 6. Placement in another district; responsibility. The responsibility for special instruction and services for a handicapped child temporarily placed in another district for care and treatment shall be determined in the following manner:

(a) The school district of residence of such a child shall be the district in which his parent resides, if living, or his guardian, or the district designated by the commissioner of education if neither parent nor guardian is living within the state.

(b) The district providing the instruction shall maintain an appropriate educational program for such a child and shall bill the district of the child's residence for the actual cost of providing the program, as outlined in subdivision 4, except that the

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board, lodging, and treatment costs incurred in behalf of a handicapped child placed outside of the school district of his residence by the commissioner of public welfare or the commissioner of corrections or their agents, for reasons other than for making provision for his special educational needs shall not become the responsibility of either the district providing the instruction or the district of the child's residence.

(c) The district of residence shall pay tuition and other program costs to the district providing the instruction and the district of residence may claim foundation aid for the child as provided by law. Special transportation costs shall be paid by the district of the child's residence and the state shall reimburse for such costs within the limits set forth in section 124.32, subdivision 3.

Subd. 7. Placement in state institution; responsibility. Responsibility for special instruction and services for a handicapped child placed in a state institution on a temporary basis shall be determined in the following manner:

(a) The legal residence of such child shall be the school district in which his parent resides, if living, or his guardian;

(b) When the educational needs of such child can be met through the institutional program, the costs for such instruction shall be paid by the department to which the institution is assigned;

(c) When it is determined that such child can benefit from public school enrollment, provision for such instruction shall be made in the following manner:

(1) Determination of eligibility for special instruction and services shall be made by the commissioner of education and the commissioner of the department responsible for the institution;

(2) The school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the child's district of residence for the actual cost of providing the program;

(3) The district of the child's residence shall pay the tuition and other program costs including the unreimbursed transportation costs and may claim foundation aid for the child. Special transportation shall be provided by the district providing the education program and the state shall reimburse such district within the limits provided by law.

Subd. 7a. Attendance at school for the handicapped. Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota school for the deaf or the Minnesota braille and sight-saving school shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which his parent or guardian resides;

(b) When it is determined pursuant to section 128A.05, subdivisions 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the actual cost of providing the program; provided, however, that the amount of tuition charged shall not exceed \$2,000 for any school year. The district of the child's residence shall pay the tuition and may claim foundation aid for the child. All tuition so received shall be deposited in the state treasury, subject to the order of the state board;

(c) When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

Subd. 8. [Repealed, 1973 c 683 s 30]

Subd. 8a. Residence of child under special conditions. The legal residence of a handicapped child placed in a foster facility for care and treatment when: (1) parental rights have been terminated by court order; (2) parent or guardian is not living within the state; or (3) no other school district residence can be established, shall be the

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school district in which the child resides. The school board of the district of residence shall provide the same educational program for such child as it provides for all resident handicapped children in the district.

Subd. 9. Special instruction. After August 15, 1977, no resident of a district who is eligible for special instruction and services pursuant to this section shall be denied provision of this instruction and service on a shared time basis because of attendance at a nonpublic school defined in section 123.932, subdivision 3. Nothing in this subdivision shall be construed to prevent any school district from providing special instruction and services pursuant to section 120.17 on a shared time basis prior to August 15, 1977.

Subd. 10. Nonresident education; billing. All tuition billing for the education of nonresident children pursuant to section 120.17 shall be done on uniform forms prescribed by the commissioner. The billing shall contain an itemized statement of costs which are being charged to the district of residence. One copy of each such billing shall be filed with the commissioner.

[*Ex1959 c 71 art 1 s 17; 1961 c 559 s 2; 1961 c 690 s 1; 1965 c 241 s 1-3; 1967 c 872 s 1; 1969 c 981 s 2-5; 1971 c 689 s 1-3; 1973 c 683 s 1,2; 1975 c 162 s 41; 1975 c 321 s 2; 1975 c 432 s 8-10; 1976 c 211 s 1-6; 1976 c 271 s 13-18*]

NOTE: Subdivision 1 as amended by Laws 1976, Chapter 271, Section 13, is effective August 15, 1977. Subdivisions 5 and 7a as amended by Laws 1976, Chapter 271, Sections 14 and 16 are effective July 1, 1977.

120.171 EXPENDITURES LIMITED TO MEET FEDERAL REQUIREMENTS.

Neither the state department of education nor any school district shall expend funds from state appropriations or local tax levies for the purpose of complying with the administrative requirements of Public Law 94-142, an act of the 94th Congress of the United States cited as the "Education for All Handicapped Children Act of 1975," except for those administrative requirements which are also contained in Minnesota laws and statutes, including Laws 1976, Chapter 211, Sections 1 to 6, or established by the rules of the state board. Only federal funds received pursuant to Public Law 94-142 may be expended to meet these federal requirements not established by Minnesota laws or statutes or the rules of the state board, and no federal funds received pursuant to Public Law 94-142 may be expended for any other purpose until these requirements have been fulfilled.

[*1976 c 211 s 7*]

120.18 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.18 MS 1967 [Repealed, 1969 c 981 s 7]

120.19-120.38 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.41-120.43 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.44 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26; 1961 c 446 s 2; 1961 c 567 s 2 subd 2]

120.46 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.51-120.57 MS 1957 [Repealed, 1959 c 687 s 13; Ex1959 c 27 s 13; Ex1959 c 71 art 8 s 26]

120.58 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

120.59 FLEXIBLE SCHOOL YEAR PROGRAMS; PURPOSE. The purpose of sections 120.59 to 120.67 is to authorize school districts to evaluate, plan and employ the use of flexible school year programs. It is anticipated that the open selection of the type of flexible school year operation from a variety of alternatives will allow each district which seeks to utilize this concept to suitably fulfill the educational needs of its pupils. These alternatives shall include but not be limited to various 45-15 plans, four-quarter plans, quinmester plans, extended school year plans, flexible all-year plans, and four-day week plans.

[*1974 c 326 s 2*]

120.60 DEFINITION. "Flexible school year program" means any school district plan approved by the state board of education which utilizes school buildings and facilities during the entire year and/or which provides forms of optional scheduling of pupils and school personnel during the school year in elementary and secondary schools or residential facilities for handicapped children.

[*1974 c 326 s 3*]

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120.61 ESTABLISHMENT OF PROGRAM. The school board of any district, with the approval of the state board of education, may establish and operate a flexible school year program in one or more of the schools or residential facilities for handicapped children within the district.

[1974 c 326 s 4]

120.62 DIVISION OF CHILDREN INTO GROUPS. The school board of any district operating a flexible school year program in one or more of the schools within the district shall divide the students of each selected school into as many groups as necessary to accommodate this program. Students of the same family shall be placed in the same group unless one or more of these students is enrolled in a special education class or unless the parent or guardian of these students requests that the students be placed in different groups. No school board shall discriminate on the basis of race, color, creed, religion, marital status, status with regard to public assistance, sex, or national origin when assigning pupils to attendance groups pursuant to this section.

[1974 c 326 s 5]

120.63 HEARING. Prior to implementing a flexible school year program in any school of the district, the school board shall negotiate with the teachers, principals, assistant principals, supervisory personnel and employees of the school to the extent required by the public employment labor relations act, and shall consult with the parents of pupils who would be affected by the change, and with the community at large. These procedures shall include at least three informational meetings for which the board has given published notice to the teachers and employees and to the parents of pupils affected.

[1974 c 326 s 6]

120.64 ASSIGNMENT OF TEACHERS. Subdivision 1. In school districts where a flexible school year program is implemented in fewer than all of the schools maintained by the school district, the board of the school district shall make every reasonable effort to assign qualified teachers who prefer the regular school schedule to schools of the same level retaining the regular school schedule.

Subd. 2. A full-time classroom teacher currently employed by a school district which converts to a flexible school year program shall not, without his written consent, be required to teach under this program (1) more or less than the number of scheduled days or their equivalent the schools of the district were maintained during the year preceding implementation of the flexible school year program; (2) in a period of the calendar year substantially different from the period in which he taught during the year preceding implementation of the flexible year program.

Subd. 3. In no event shall a teacher's continuing contract rights to a position held the year preceding implementation of a flexible school year program or teaching experience earned during a probationary period the year preceding implementation be lost or impaired upon adoption of a flexible school year program. If the year of teaching preceding implementation was the end of a probationary period, the continuing contract right to a full year's contract which normally would be acquired for the next succeeding school year shall be acquired in the year of adoption of the flexible program.

Subd. 4. Any school district operating a flexible school year program shall enter into one contract governing the entire school year with each teacher employed in a flexible program. If individual teachers contract to teach less than a period of 175 days during a school year, each 175 days of employment accrued during any five year period after the adoption of a flexible year program shall be deemed consecutive and shall constitute a full year's employment for purposes of establishing and retaining continuing contract rights to a full school year position pursuant to sections 125.12, subdivisions 3 and 4, and 125.17, subdivisions 2 and 3. A teacher who has not been discharged or advised of a refusal to renew his contract by April 1 of the year in which he will complete the requisite number of days for securing a continuing contract shall have a continuing full school year contract with the district.

Subd. 5. Continuing contract rights established pursuant to this section shall not be impaired or lost by the termination of a flexible school year program.

[1974 c 326 s 7]

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120.65 ESTABLISHMENT AND APPROVAL. The state board of education shall:

- (1) Establish standards and requirements for the qualification of school districts which may operate on a flexible school year basis;
- (2) Establish standards and evaluation criteria for flexible school year programs;
- (3) Prepare and distribute all necessary forms for application by any school district for state authorization for a flexible school year program;
- (4) Review the proposed flexible school year program of any qualified school district as to conformity to standards and the evaluation of appropriateness of priorities, workability of procedure and overall value;
- (5) Approve or disapprove proposed flexible school year programs.

[1974 c 326 s 8]

120.66 POWERS AND DUTIES OF THE STATE BOARD. Subdivision 1. The state board of education shall:

- (1) Promulgate rules and regulations necessary to the operation of Laws 1974, Chapter 326;
- (2) Cooperate with and provide supervision of flexible school year programs to determine compliance with the provisions of Laws 1974, Chapter 326, the state board standards and qualifications, and the proposed program as submitted and approved;
- (3) Provide any necessary adjustments of (a) attendance and membership computations and (b) the dates and percentages of apportionment of state aids.
- (4) Consistent with the definition of "average daily membership" in section 124.17, subdivision 2, furnish the board of a district implementing a flexible school year program with a formula for computing average daily membership. This formula shall be computed so that tax levies to be made by the district, state aids to be received by the district, and any and all other formulas based upon average daily membership are not affected solely as a result of adopting this plan of instruction.

Subd. 2. Laws 1974, Chapter 326 shall not be construed to authorize the state board to require the establishment of a flexible school year program in any district in which the school board has not voted to establish, maintain, and operate such a program.

[1974 c 326 s 9]

120.67 TERMINATION OF PROGRAM. The school board of any district, with the approval of the state board of education, may terminate a flexible school year program in one or more of the schools or residential facilities for handicapped children within the district. This section shall not be construed to permit an exception to sections 120.10 or 124.19.

[1974 c 326 s 10]

120.71 MINNESOTA PUBLIC SCHOOL FEE LAW, CITATION. Sections 120.71 to 120.76 may be cited as "The Minnesota Public School Fee Law."

[1974 c 561 s 1]

120.72 GENERAL POLICY. It is the policy of the state of Minnesota that public school education shall be free and no pupil shall be denied an education because of economic inability to furnish educational books and supplies necessary to complete educational requirements necessary for graduation. Any practice leading to suspension, coercion, exclusion, withholding of grades or diplomas, or discriminatory action based upon nonpayment of fees denies pupils their right to equal protection and entitled privileges. It is recognized that school boards do have the right to accept voluntary contributions and to make certain charges and to establish fees in areas considered extra curricular, noncurricular or supplementary to the requirements for the successful completion of a class or educational program. No public school board may require, except as authorized by sections 120.73 and 120.75, the payment of fees.

[1974 c 561 s 2]

120.73 AUTHORIZED FEES. Subdivision 1. A school board is authorized to require payment of fees in the following areas:

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

(b) Admission fees or charges for extra curricular activities, where attendance is optional;

(c) A security deposit for the return of materials, supplies, or equipment;

(d) Personal physical education and athletic equipment and apparel, although any pupil may provide his own if it meets reasonable requirements and standards relating to health and safety established by the school board;

(e) Items of personal use or products which a student may purchase at his own option such as student publications, class rings, annuals, and graduation announcements;

(f) Fees specifically permitted by any other statute, including but not limited to section 171.04, clause (1);

(g) Field trips considered supplementary to a district educational program;

(h) Any authorized voluntary student health and accident benefit plan;

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

(j) Transportation of pupils to and from extra curricular activities conducted at locations other than school, where attendance is optional;

(k) Motorcycle classroom education courses conducted outside of regular school hours; provided the charge shall not exceed the actual cost of these courses to the school district.

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

Subd. 3. Sections 120.71 to 120.76 shall not preclude the operation of a school store wherein pupils may purchase school supplies and materials.

Subd. 4. A school board may waive any such deposit or fee if any pupil or his parent or guardian is unable to pay it.

[1974 c 561 s 3; 1976 c 271 s 19]

120.74 PROHIBITED FEES. Subdivision 1. A school board is not authorized to charge fees in the following areas:

(a) Textbooks, workbooks, art materials, laboratory supplies, towels;

(b) Supplies necessary for participation in any instructional course except as authorized in sections 120.73 and 120.75;

(c) Field trips which are required as a part of a basic education program or course;

(d) Graduation caps, gowns, any specific form of dress necessary for any educational program, and diplomas;

(e) Instructional costs for necessary school personnel employed in any course or educational program required for graduation;

(f) Library books required to be utilized for any educational course or program;

(g) Admission fees, dues, or fees for any activity the pupil is required to attend;

(h) Any admission or examination cost for any required educational course or program;

(i) Locker rentals;

(j) Transportation of pupils (1) to and from school as authorized pursuant to section 123.39 or (2) for which state transportation aid is authorized pursuant to section 124.223.

Subd. 2. No pupil's rights or privileges, including the receipt of grades or diplomas may be denied or abridged for nonpayment of fees; but this provision shall not prohibit a school district from maintaining any action provided by law for the collection of such fees authorized by sections 120.73 and 120.75.

[1974 c 561 s 4; 1976 c 271 s 20]

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120.75 HEARING. Subdivision 1. Prior to the initiation of any fee not authorized or prohibited by sections 120.73 and 120.74, the local school board shall hold a public hearing within the district upon three weeks published notice in the district's official newspaper. The local school board shall notify the state board of any fee it proposes to initiate under this section. If within 45 days of this notification, the state board does not disapprove the proposed fee, the local school board may initiate the proposed fee.

Subd. 2. The state board pursuant to the administrative procedures act, sections 15.04 to 15.0426, and consistent with the general policy of section 120.72 shall have the power to specify further authorized and prohibited fees and to adopt rules and regulations for the purposes of sections 120.71 to 120.76.

[1974 c 561 s 5]

120.76 POST-SECONDARY INSTRUCTIONAL PROGRAMS. Sections 120.71 to 120.76 shall not be construed to prohibit a school board from charging reasonable fees for goods and services provided in connection with any post-secondary instructional program, including but not limited to vocational-technical, veteran farmer cooperative training, and community school programs, and continuing education and evening school programs other than those conducted pursuant to section 124.26.

[1974 c 561 s 6; 1975 c 432 s 11]

120.77 FUEL CONSERVATION. The legislature finds that it is necessary to promote fuel conservation among the school districts of the state.

[1974 c 577 s 1]

120.78 FUEL CONSERVATION REPORTS. Subdivision 1. On or before August 15 of each year each school district shall submit to the commissioner of education, in such manner and upon such forms as he shall furnish, a comprehensive report of the energy consumed by the district during the previous school year ending June 30. The report shall include: (1) the amount and type of fuel consumed to heat each building and other structure maintained by the district; (2) the amount of fuel used to transport students to and from school and between schools; and (3) such other information as the commissioner may require related to the consumption of energy.

Subd. 2. Based upon the information contained in the report required by subdivision 1 the school district, shall on or before July 1, 1974, also submit to the commissioner of education a detailed plan to reduce energy consumption in the district during the school year 1974-1975. The school district shall invite citizen participation in the development of the plan prescribed herein, shall carry out its provisions, and shall do what is necessary to conserve energy.

[1974 c 577 s 2; 1975 c 91 s 1]

120.80 EARLY GRADUATION. Subdivision 1. Notwithstanding any law to the contrary, any secondary school student who has completed all required courses may, with the approval of the student, his parent or guardian, and local school officials, graduate prior to the completion of the school year. All aid which such student, had he not graduated, would have earned for the district pursuant to section 124.212, plus that portion of the amount raised by the local tax levy which results from such transitional year students plus that portion of any excess levy allowable under section 275.125, subdivision 6, shall continue to be earned by the district.

Subd. 2. The commissioner shall promulgate rules and regulations setting forth the standards for application for and approval of this early graduation procedure.

[1974 c 521 s 7; 1975 c 432 s 12]