

MINNESOTA STATUTES 1979 SUPPLEMENT

DEFINITIONS; GENERAL PROVISIONS 120.075

(b) An environmental impact statement has been prepared, pursuant to chapter 116D concerning the construction of the pipeline and the environmental quality board has determined that the statement is adequate under that chapter.

[1979 c 194 s 11]

CHAPTER 117. EMINENT DOMAIN

Sec. 117.46	Repealed.	Sec. 117.47	Permits; licenses.
117.461	Repealed.		

117.46 [Repealed, 1979 c 145 s 2]

117.461 [Repealed, 1979 c 145 s 2]

117.47 Permits; licenses.

The commissioner of natural resources may grant permits and licenses or leases on and across lands owned by the state to any corporation or association engaged in or preparing to engage in the business of mining and beneficiating taconite as defined in section 298.23, or semi-taconite as defined in section 298.34, for the purpose of providing the corporation or association necessary easements, rights of way and surface rights over, through and across such lands for the erection and maintenance of pipe lines, pole lines, conduits, sluiceways, roads, railroads and tramways. The commissioner may grant permits and licenses or leases for flowage rights, rights to transport crude ore, concentrates or waste materials over such state owned lands, and may lease state owned lands for the depositing of stripping, lean ores, tailings, or waste products of such business. Such permits, licenses or leases, may also authorize the use of state owned lands by such corporation or association for plants and other buildings necessary to the proper carrying on of such business and may grant water rights and other rights requisite to the construction of wharves, piers, breakwaters, or similar facilities necessary to the carrying on of such business or the shipment of the products thereof. The commissioner may also license the flooding of state lands in connection with any permit or authorization for the use of public waters issued by the legislature or issued by the commissioner pursuant to law. Such permits, licenses, and leases shall be upon such conditions and for such consideration and for such period of time as the commissioner may determine. The county auditor, with the approval of the county board, is authorized to grant permits, licenses and leases for all such purposes across tax-forfeited lands not held by the state free from any trust in favor of any and all taxing districts, upon such conditions and for such consideration and for such period of time as the county board may determine. Any proceeds from the granting of such permits, licenses or leases shall be apportioned and distributed as other proceeds from the sale or rental of tax-forfeited lands.

[1979 c 145 s 1]

CHAPTER 120. DEFINITIONS; GENERAL PROVISIONS

Sec. 120.075	Attendance; previous enrollment; families.	Sec. 120.80	Early graduation.
120.17	Handicapped children.	120.81	Minnesota educational computing consortium, receipts.
120.171	Repealed.	120.83	Purchase of annuities for employees.
120.78	Fuel conservation reports.		

120.075 Attendance; previous enrollment; families.

Subdivision 1. Any pupil who, pursuant to the provisions of Minnesota Statutes 1976, Section 120.065, or Minnesota Statutes, 1977 Supplement, Section 123.39, Subdivision 5a, was enrolled on January 1, 1978, in a school district of which he was not a resident may continue in enrollment in that district.

Subd. 2. Any child who was under school age on January 1, 1978, but who otherwise would have qualified pursuant to the provisions of Minnesota Statutes 1976, Section 120.065, or Minnesota Statutes, 1977 Supplement, Section 123.39, Subdivision 5a, for enrollment in a school district of which he was not a resident may enroll in that district.

Subd. 3. Any pupil enrolled on January 1, 1978, in a non-public school, as defined in section 123.932, subdivision 3, located in a district of which he was not a resident who

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would otherwise have qualified for enrollment in that district as a resident pursuant to subdivision 1 may attend the public schools of that district as a resident.

Subd. 4. Subdivisions 1, 2 and 3 shall also apply to any brother or sister of a qualified pupil who is related to that pupil by blood, adoption or marriage and to any foster child of that pupil's parents. The enrollment of any pupil pursuant to this section shall remain subject to the provisions of Minnesota Statutes 1976, Section 120.065 and Minnesota Statutes, 1977 Supplement, Section 123.39, Subdivision 5a, as they read on January 1, 1978.

[1979 c 334 art 6 s 2]

120.17 Handicapped children.

[For text of subs 1 to 3a, see M.S.1978]

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 or proposed denial of a 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) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian; provided the refusal of a parent or guardian to provide this consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative after at least one attempt to obtain this consent through a conciliation conference held pursuant to clause (c);

(c) 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);

(d) Parents, guardians and the district shall have an opportunity to obtain an impartial 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 or proposed denial of a 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.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with his objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45 day period at the re-

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quest of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the commissioner by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

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.

(f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the commissioner within 15 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district where the child resides.

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 calendar days of the filing of the appeal. The commissioner shall issue a final decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. The commissioner shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 15. The commissioner may grant specific extensions of time beyond the 30 day period at the request of any party.

The final decision shall:

- (1) be in writing;
- (2) include findings and conclusions; and
- (3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(g) 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.

(h) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in his current educational placement and shall not be denied initial admission to school.

(i) 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.

(j) This subdivision shall expire on June 30, 1981. The department of education shall report to the education committees of the legislature on or before January 1, 1981, on the impact of the amendments made in this subdivision by Laws 1979, Chapter 334 and on the advisability of amending this subdivision to read as it reads in Minnesota Statutes 1978.

[For text of subd 3c, see M.S.1978]

Subd. 4. Special instructions for non-resident children. When a school district provides instruction and services outside the district of residence, board and lodging, and any tuition to be paid, shall be paid by the district of residence. Transportation costs shall be paid by the district providing the transportation, and the state shall reimburse the district within the limits provided by law. The tuition rate to be charged for any handicapped child shall be the actual cost of providing special instruction and services to

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the child including a proportionate amount for capital outlay and debt service but not including any amount for transportation, 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.

[For text of subds 4a to 5a, see M.S.1978]

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 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, not including transportation 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 providing the transportation and the state shall reimburse the district for such costs within the limits provided by law.

[For text of subd 7, see M.S.1978]

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 effective for the 1979-1980 school year and thereafter, the amount of tuition charged shall not exceed the sum of \$500 plus the foundation aid formula allowance of the district for that child, for an entire school year, or a prorated amount based on the portion of the school year for which the child is a resident of the district or is actually in membership in the program. For purposes of this subdivision, "foundation aid formula allowance" shall have the meaning attributed to it in section 124.32, subdivision 1a. The district of the child's residence shall pay the tuition and may claim foundation aid for the child. The district of the child's residence shall not receive aid pursuant to section

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124.32, subdivision 5, for tuition paid pursuant to this subdivision. All tuition received by the state board shall be deposited in the state treasury.

(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.

(d) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause (c) for providing appropriate educational programs to pupils attending the applicable school.

(e) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to supply staff from the Minnesota School for the Deaf and the Minnesota Braille and Sight-Saving School to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

[For text of subs 8a to 10, see M.S.1978]

[1979 c 334 art 2 s 1,2; art 3 s 2,3]

120.171 [Repealed, 1979 c 334 art 3 s 19]

120.78 Fuel conservation reports.

Subdivision 1. On or before December 31 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) a building energy report, as defined in section 116H.02, on 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. The report shall be developed by the commissioner in consultation with the director of the energy agency.

[For text of subd 2, see M.S.1978]

[Ex1979 c 2 s 36]

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 shall continue to be earned by the district.

[For text of subd 2, see M.S.1978]

[1979 c 334 art 1 s 1]

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120.81 Minnesota educational computing consortium, receipts.

[For text of subd 1, see M.S.1978]

Subd. 2. Notwithstanding the provisions of subdivision 1, the consortium is authorized to maintain a revolving fund for all receipts derived from computer services provided by the consortium. The Minnesota educational computing consortium shall charge users of consortium facilities for on-line computer time actually used. Receipts shall be deposited in the Minnesota educational computing consortium revolving fund and are appropriated to the consortium. The consortium board shall appoint an executive director who shall be its chief administrative officer. The executive director may be in the unclassified service. All other employees are in the classified service of the state.

[1979 c 335 s 11]

120.83 Purchase of annuities for employees.

Subdivision 1. At the request of an employee, the consortium board 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 his rights thereunder shall be nonforfeitable except for failure to pay premiums.

Subd. 2. All amounts so allocated shall be deposited in an annuity account, which is established in the state treasury. There is annually appropriated from the annuity account in the state treasury to the board 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 board. The moneys in the annuity account in the state treasury are not subject to the budget, allotment, and encumbrance system provided for in chapter 16, and any act amendatory thereof.

[1979 c 335 s 12]

CHAPTER 121. ADMINISTRATION AND SUPERVISION

Sec.		Sec.	
121.21	Area vocational-technical schools.	121.904	Revenue; reporting.
121.217	Vocational-technical institutes; approval of new or changed programs of instruction.	121.912	Permanent fund transfers.
121.49	Itemization of amount of aid to districts.	121.917	Expenditure limitations.
121.495	Basic skills program.	121.92	Mandatory utilization of computer systems; appeal.

121.21 Area vocational-technical schools.

[For text of subds 1 to 4a, see M.S.1978]

Subd. 6. The state board for vocational education shall promulgate, pursuant to chapter 15, such rules governing the operation and maintenance of schools so classified as will afford the people of the state an equal opportunity to acquire public vocational and technical education. Rules relating to post-secondary vocational-technical education shall not incorporate the provisions of the state plan for vocational education by reference.

The rules shall provide for, but are not limited to, the following:

- (a) The area to be served by each school, which may include one or more districts or parts thereof;
- (b) Curriculum and standards of instruction and scholarship;
- (c) Attendance requirements and Minnesota non-resident attendance;