

## CHAPTER 123

### SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

## DEFINITIONS AND GENERAL PROVISIONS

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NOTE: For special laws relating to specific school districts, see Table 1, Vol. 4.

#### DEFINITIONS AND GENERAL PROVISIONS

**123.01 MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]**

#### **123.01 DEFINITIONS.**

For purposes of this chapter, the words defined in section 120.02 have the same meaning.

**History:** *Ex1959 c 71 art 4 s 1*

#### **123.015 ELECTIONS; CORRUPT PRACTICES.**

The provisions of sections 210A.03 and 210A.05, subdivision 1 and all acts amendatory thereof shall apply to any elections of a school district, however organized.

**History:** *1965 c 44 s 1; 1974 c 406 s 14; 1975 c 162 s 21,41; 1975 c 284 s 46*

**123.02-123.10 MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]**

## COMMON SCHOOL DISTRICTS

123.11 MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

## 123.11 COMMON SCHOOL DISTRICTS; MEETINGS, ELECTIONS.

Subdivision 1. The annual meeting of all common districts shall be held on the last Tuesday in June, at eight o'clock p.m., unless a different hour has been fixed at the preceding annual meeting, upon ten days' posted notice given by the clerk, and specifying the matters to come before such meeting; but failure of the clerk to give such notice, or to specify the business to be transacted thereat, shall not affect the validity of any business, except the raising of money to build or purchase a school house, the authorizing of an issue of bonds, the fixing of a school house site, or the organization as an independent district. At the annual meeting in a common district five legal voters shall constitute a quorum. The chairman and clerk of the board shall officiate in their respective capacities at all meetings of the electors of the district. In the event of the absence of the chairman or clerk, the voters shall elect a chairman or clerk pro tem. The voters shall have the power in an annual meeting to repeal and modify their proceedings. The polls at all meetings shall be open at least one hour.

Subd. 2. The annual meeting shall have power to elect by ballot officers of the district. In all elections or vote by ballot, the clerk shall record the names of all voters participating therein and the chairman shall appoint two electors who with the assistance of the clerk shall supervise the balloting and canvass the votes. If any candidates receive an equal number of votes for an office, the board shall resolve the tie by lot.

Subd. 3. Any person desiring to be a candidate for a district office at the annual meeting of the district shall file with the clerk of the district an application to be placed on the ballot for such office, or any five voters of the district may file such application for or on behalf of any qualified voter in the district that they desire shall be such candidate. The application shall be filed not less than 12 days before the annual school district meeting. The clerk of the district, in his notice of annual meeting, shall state the names of the candidates for whom applications have been filed, failure to do so shall not affect the validity of the election thereafter held. At the annual meeting of common districts, nomination of candidates for offices may be made from the floor by any qualified voter.

Subd. 4. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers placing thereon the names of the proposed candidates for such office with a blank space after such names, such ballots shall be marked as official ballots, and the ballots so prepared by the clerk of the district shall be used to the exclusion of all other ballots at such annual meeting or election in the election of officers of the district.

Subd. 5. At the first meeting of each district, the chairman shall be elected to hold office until July 1 following the next annual meeting. The treasurer, until one year from such date, and the clerk until two years from such date.

Subd. 6. A board member elected at an annual meeting upon notice from the clerk, shall, on or before the first Saturday in July, file with the clerk his acceptance of the office and his official oath. Any person appointed by the board or elected at a special meeting to fill a vacancy shall file in writing his acceptance of the office and his official oath within ten days after the notice of such appointment or election by the clerk. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but such filing, if made at any time before action to fill the vacancy has been taken, shall be sufficient.

Subd. 7. Upon the filing of a petition therefor, executed by five eligible voters, as defined in section 123.32, subdivision 1a, of the common district,

specifying the business to be acted upon, or upon the adoption of a proper resolution so specifying, signed by a majority of the members of the board, the clerk shall forthwith call a special meeting of the district upon ten days' posted notice and one week's published notice if there be a newspaper printed in the district and specify in the notice the business named in the request or resolution and the time and place of the meeting. If there be no clerk in the district or if he fails for three days after receiving a request or resolution to give notice of a meeting, it may be called by like notice by five eligible voters, as defined in section 123.32, subdivision 1a, of the district. No business except that named in the notice shall be transacted at the meeting. If there are not five eligible voters, as defined in section 123.32, subdivision 1a, or if there is not a board therein, the county auditor may call a special meeting by giving notice thereof as provided in this section. The voters at a special meeting have power to repeal or modify their proceedings.

**History:** *Ex1959 c 71 art 4 s 2; 1965 c 33 s 1; 1979 c 29 s 1; 1980 c 609 art 6 s 15*

**123.12 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.12 BOARDS OF COMMON SCHOOL DISTRICTS.**

Subdivision 1. The care, management and control of a common district is vested in a board of three members to be known as the school board. The term of office of a member shall be three years, and until his successor qualifies. The board of each common district shall consist of a chairman, a treasurer, and a clerk. The board may by resolution establish a time and place for regular meeting and no notice of such meeting need be sent to any members of the board.

Subd. 2. The board shall submit to the annual meeting an estimate of the expenses of the district for the coming year for a school term as determined by the board and for such other specified purposes as the board may deem proper. If such meeting shall fail to vote a sufficient tax to maintain the district for such time, the board shall levy such tax pursuant to and within the limitations of section 275.125; but no board shall expend any money or incur any liability for any purpose beyond the sum appropriated by vote of the district for such purpose, or levied by the board pursuant to this subdivision, or on hand and applicable thereto.

Subd. 3. [ Repealed, 1978 c 706 s 69 ]

Subd. 4. [ Repealed, 1978 c 706 s 69 ]

Subd. 5. [ Repealed, 1978 c 706 s 69 ]

Subd. 6. [ Repealed, 1978 c 706 s 69 ]

Subd. 7. [ Repealed, 1978 c 706 s 69 ]

Subd. 8. [ Repealed, 1978 c 706 s 69 ]

Subd. 9. The board shall visit each school at least once every three months.

Subd. 10. [ Repealed, 1978 c 706 s 69 ]

Subd. 11. [ Repealed, 1978 c 706 s 69 ]

Subd. 12. [ Repealed, 1978 c 706 s 69 ]

Subd. 13. [ Repealed, 1978 c 706 s 69 ]

Subd. 14. At its first meeting following July 1 each year, the board shall designate, by resolution, as the official newspaper of the district, some legal newspaper of general circulation within the district, and contract with such newspaper for its publications. If there is more than one such newspaper, the board shall let such contract to the lowest responsible bidder at the earliest practicable date. All notices and proceedings required by law to be published by the board shall be published in the official newspaper so designated. The fees for such

publication shall not exceed the fees for publication of legal notices as prescribed by Minnesota Statutes.

Subd. 15. [ Repealed, 1978 c 706 s 69 ]

**History:** *Ex1959 c 71 art 4 s 3; 1967 c 176 s 1; 1978 c 706 s 11*

**123.13 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.13 OFFICERS OF COMMON SCHOOL DISTRICTS.**

Subdivision 1. [ Repealed, 1978 c 706 s 69 ]

Subd. 2. The treasurer shall receive and be responsible for all money in the district and disburse the same on orders signed by the clerk and countersigned by the chairman or other vouchers authorized by law; provided, that, in the event that the chairman has been continuously absent from the district for a period of 30 days or more, the treasurer may pay orders without the signature of the chairman. Each order shall state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued and shall be so drawn that when signed by the treasurer in an appropriate place, it becomes a check on the school district depository. He shall keep an account of each fund, and of all receipts and disbursements showing the sources of all receipts and the nature and purpose of disbursements. He shall deposit the funds of the district in the official depository in accordance with the provisions of law.

Subd. 3. [ Repealed, 1978 c 706 s 69 ]

Subd. 4. [ Repealed, 1978 c 706 s 69 ]

Subd. 5. [ Repealed, 1978 c 706 s 69 ]

Subd. 6. [ Repealed, 1978 c 706 s 69 ]

Subd. 7. [ Repealed, 1978 c 706 s 69 ]

**History:** *Ex1959 c 71 art 4 s 4; 1965 c 69 s 1; 1973 c 492 s 7*

**123.14 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.14 MS 1976** [ Repealed, 1978 c 706 s 69 ]

**123.15 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.15 SCHOOLHOUSES AND SITES, COMMON SCHOOL DISTRICTS.**

Subdivision 1. When authorized by the voters at a regular meeting or at a special meeting called for that purpose, the board may acquire necessary sites for school houses, or enlargements or additions to existing school house sites, by lease, purchase, or condemnation under the right of eminent domain; lease, erect or purchase garages for district-owned school buses; and sell or exchange school houses or sites and execute deeds of conveyances thereof. It may acquire by lease, purchase, or condemnation under eminent domain suitable tracts of land either within or without the district for the purpose of instruction, experimentation, and demonstration in agriculture. In any city, a school site when practicable shall contain at least one block, and, if outside of any city, two acres; and when any school house site shall contain less than such amount the board may, without a vote of the electors, acquire other land adjacent to or near such site to make, with such site, all or part of such amount. When property is taken by eminent domain by authority of this subdivision, when needed by the district for such purpose, the fact that the property so needed has been acquired by the owner under the power of eminent domain, or is already devoted to public use, shall not prevent its acquisition by the district.

Subd. 2. The annual meeting or election shall have power to designate a site for a school house and provide for building or otherwise placing a school house thereon, when proper notice has been given; but a site on which a school

house stands or is begun shall not be changed except by vote therefor, of three-fifths of the voters of the district voting on the question.

Subd. 3. When authorized by a two-thirds majority of all the electors voting at an annual or special meeting, the board may erect, purchase, or acquire a dwelling house for the use of its teachers; provided that the proposition shall be submitted only at a meeting or election, the notice of which stated that such proposition would be considered or submitted thereat.

Subd. 4. [ Repealed, 1978 c 706 s 69 ]

Subd. 5. [ Repealed, 1978 c 706 s 69 ]

Subd. 6. [ Repealed, 1978 c 706 s 69 ]

Subd. 7. [ Repealed, 1978 c 706 s 69 ]

Subd. 8. [ Repealed, 1978 c 706 s 69 ]

Subd. 9. [ Repealed, 1978 c 706 s 69 ]

Subd. 10. [ Repealed, 1978 c 706 s 69 ]

**History:** *Ex1959 c 71 art 4 s 6; 1973 c 123 art 5 s 7*

**123.16** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.16** MS 1976 [ Repealed, 1978 c 706 s 69 ]

**123.17** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.17** MS 1976 [ Repealed, 1978 c 706 s 69 ]

**123.18** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.18** MS 1976 [ Repealed, 1978 c 706 s 69 ]

**123.19** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.19** MS 1976 [ Repealed, 1978 c 706 s 69 ]

**123.20** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.20** MS 1976 [ Repealed, 1978 c 706 s 69 ]

**123.21** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

### **123.21 LIMITATION OF SECTIONS.**

Material contained in sections 123.11 to 123.20 relates only to common school districts numbers 323 and 815. The provisions of law relating to independent school districts shall apply to and govern these common school districts unless a particular provision of sections 123.11 to 123.20 provides for the matter, in which case that provision shall apply and control.

**History:** *Ex1959 c 71 art 4 s 12; 1975 c 162 s 22; 1978 c 706 s 12*

**123.22** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.23** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.24** MS 1957 [ Renumbered 128.01 ]

**123.25** MS 1957 [ Renumbered 128.02 ]

**123.26** MS 1957 [ Renumbered 128.03 ]

**123.27** MS 1957 [ Renumbered 128.04 ]

**123.28** MS 1957 [ Renumbered 128.05 ]

**123.29** MS 1957 [ Renumbered 128.06 ]

**123.30** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

### **INDEPENDENT SCHOOL DISTRICTS**

**123.31** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.31** MS 1974 [ Repealed, 1976 c 239 s 30 ]

123.32 MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.32 INDEPENDENT SCHOOL DISTRICTS, ELECTIONS.**

Subdivision 1. Unless a different date is permitted under the provisions of subdivision 22, the annual election in independent districts shall be held on the third Tuesday in May.

Subd. 1a. (a) An eligible voter for a school district election shall be a person who at the time of the election:

- (1) Is 18 or more years of age;
- (2) Is a citizen of the United States;
- (3) Is a resident of the school district; and
- (4) Has resided in Minnesota for 20 days.

(b) The following persons are not eligible voters:

- (1) Any person who has been convicted of treason or any felony, who has not had his civil rights restored;
- (2) Any person who is under guardianship over his person;
- (3) Any person who is adjudicated to be non compos mentis or insane; and
- (4) Any person who is not properly registered, if a voter registration system has been adopted for such school district.

Subd. 2. At least 15 days before the election, the board shall, by resolution, determine precinct boundaries, if more than one is desired, and establish polling places for each precinct and appoint three or more election judges for each polling place and determine the hours the polls shall be open. The board may provide by resolution, for additional judges to count the votes after the polls close, the new judges to replace the previously acting judges. If no action is taken by the board, the precinct boundaries and polling places shall be the same as those of the preceding election in the district.

Subd. 3. The clerk of the district shall give ten days' posted notice of the election and also if there be a newspaper published in the district, one week's published notice shall be given. The notice shall specify the time, place and purpose of the election, and shall contain information concerning the precincts, polling places and hours the polls shall be open.

Subd. 4. At the annual election board members shall be elected to fill vacancies on the board caused by expiration of term on July 1 next following the election. Any person desiring to be a candidate for a district office at the election shall file with the clerk of the district a written application to be placed on the ballot for such office, or any five voters of the district may file such written application for or on behalf of any qualified voter in the district that they desire shall be such candidate. The application shall be filed not more than 45 nor less than 21 days before the election.

Subd. 5. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers, placing thereon the names of the proposed candidates with the same number of blank spaces for the insertion of names of other candidates as there are members to be elected. The name of each candidate for office shall be rotated with the names of the other candidates for the same office so that the name of each candidate appears substantially an equal number of times at the top, at the bottom, and at each intermediate place in the group of candidates for that office. The ballots shall be marked and initialed by at least two judges as official ballots and shall be used exclusively at the election. Any proposition to be voted upon shall be stated on a separate ballot. Voting shall be by secret ballot.

Subd. 6. Election judges may be paid by the district at a rate determined by the board. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

Subd. 7. The board of any independent school district, at any regular meeting, or special meeting called for that purpose, may provide for the use of voting machines at all elections to be held therein. Said board and any municipal corporation, owning or using voting machines, may enter into an agreement for the rental and use of said voting machines by said district for school elections in said district. The provisions of sections 204A.17, subdivision 4 and 206.02 to 206.23, shall apply to the use of voting machines in school elections insofar as applicable.

Subd. 8. After canvassing the election, the board shall issue a certificate of election to the candidate for each office who received the largest number of votes cast for the office. If any candidates receive an equal number of votes for an office, the board shall resolve the tie by lot. The clerk shall deliver such certificate to the person entitled thereto by certified mail, and each person so certified shall file an acceptance and oath of office in writing with the school district clerk within 30 days of the date of mailing of the certificate. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but such filing may be made at any time before action to fill the vacancy has been taken.

Subd. 8a. A losing candidate for any school district office may request a recount of the votes cast for that office if the difference between the vote cast for that candidate and for a winning candidate for that office is:

(a) Five votes or less when the total vote cast for that office is 100 votes or less;

(b) Ten votes or less when the total vote cast for that office is more than 100 but not more than 500 votes;

(c) Twenty votes or less when the total vote cast for that office is more than 500 but not more than 2,000 votes;

(d) One percent of the votes or less when the total vote cast for that office is more than 2,000 but less than 10,000 votes; or

(e) 100 votes or less when the total vote cast for that office is 10,000 votes or more.

The request shall be made in writing to the school board during the time for notice of contest of the election for which the recount is sought. Upon receipt of a request made pursuant to this section the school board shall recount the votes for that office at the expense of the school district.

A losing candidate for nomination or election to a school district may request a recount in the manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by clauses (a) to (e). The votes shall be recounted as provided in this section if the requesting candidate files with the school board a bond, cash or surety in an amount set by the board for the payment of the recount expenses.

Time for notice of contest of an election which is recounted pursuant to this subdivision shall begin to run upon certification of the results of the recount by the school board.

Subd. 9. Any independent district may for the purpose of the election of board members alter its organization into separate election districts by the following procedure.

Subd. 10. Except in an independent school district located wholly or partly within a city of the first class upon resolution of the board which resolution may be made on its own motion or shall be made upon presentation of a petition therefor signed by at least the greater of 50 electors of the district or ten percent of the number of votes cast in the most recent regular school board election, the board shall divide the district into as many separate election districts as there are

members of the board, which proposal shall be submitted to an election as hereinafter provided. Only one election within any two year period may be held pursuant to this subdivision.

Subd. 11. The election district lines drawn in cities shall follow the lines of streets or highways, and in areas outside of cities the lines drawn shall follow the lines of sections or quarter sections or highways.

Subd. 12. No one election district shall contain more than 20 percent of the total population of the district according to the most recent federal decennial census; or the district may conduct a special census for the purpose.

Subd. 13. The board shall designate each election district by number and by a metes and bounds description sufficient and adequate to permit identification of the geographical limits of the area.

Subd. 14. The board shall make its determination by a resolution within six months after the resolution of the board authorizing the establishment of election districts.

Subd. 15. Boundaries of separate election districts once established under provisions of this section or boundaries of election districts in independent districts which have converted from special districts may be changed or altered by the electorate of a district voting upon a question presented in the manner required by this section for initial establishment of such separate election districts, except that the initiating petition for change of boundaries must be signed by at least the greater of 250 voters of the school district or ten percent of the number of votes cast in the most recent regular school board election. Within any two year period only one election may be held pursuant to this subdivision, and no election may be held within two years of an election held pursuant to subdivision 10.

Subd. 16. Upon adoption of such division of the district by resolution the board shall cause its decision to be voted upon by the electorate at a special election called for the purpose.

Subd. 17. Such election shall be held on the notice and in the manner provided by law for the conduct of special elections.

Subd. 18. The question presented at the special election shall be: "Shall the school district be reorganized into election districts with boundaries as established in Resolution No. .... of the school board, dated .....?"

Yes .....

No ....."

Subd. 19. If the resolution is approved by a majority of those voting at the election the board shall forthwith meet, and by resolution establish a separate polling place for each election district. Polling places for two or more election districts may be located in the same building. Adequate precautions for proper division of the vote among election districts shall be taken by the board.

Subd. 20. Any qualified voter may file with the clerk of the district an application to be placed on the ballot in his particular election district as a candidate for office as a member of the school board from such district.

Subd. 21. At the next election of board members, and at each election thereafter held to elect members of the board, one and only one member of the board shall be elected from each election district established under the provisions of this section.

The board shall specify the election districts from which vacancies shall be filled as they occur until such time as the representation specified in this section is attained.

Subd. 22. The board of an independent district may and upon petition of 50 or more voters of the district or five percent of the number of votes cast at



the preceding regular election, which ever is the greater, shall by resolution call a special election to vote on any matter requiring approval of the voters of the district. The clerk of the district shall give ten days' posted notice and one week's published notice of election, if there be a newspaper published in such district. The notice shall specify the time and place of election, and the questions to be submitted to the voters at the election. The procedure for a special election shall be the same as for a regular election.

Subd. 23. (1) Unless action is taken by the board under subparagraphs (2) and (3) of this subdivision, in a district which is reclassified to an independent district from a county district or a common district containing ten or more townships, by provisions of this code, the board of such district shall continue to govern the district until July 1 following the next annual election as provided for independent districts, at which election six members shall be elected at large from the district, two members for a one-year term from July 1 next following the election, two members for a two-year term from said July 1, and two members for a three-year term from said July 1, to serve until a successor is elected and qualifies; if such district is reclassified to an independent district from a common district of ten or more townships containing less than ten schools, the board of such district shall continue to govern the district, and the members presently serving shall continue to the end of their term. At the next annual election of school board members following July 1 following the adoption of the code, two members shall be elected for a three-year term and one member for a two-year term each commencing on July 1 next following the election. Thereafter, members shall be elected as in independent districts.

(2) In any district which is reclassified from a common district of ten or more townships to an independent district by the provisions of this code, the election of the board members may be held biennially concurrently with the general elections in the areas by resolution of the board made within 90 days of the adoption of this code. Board members presently serving shall continue in office until the expiration of the term to which they were elected. At the next general election following the adoption of the code, board members shall be elected to fill all vacancies then occurring and any vacancies caused by reclassification to an independent district. Provided that three board members shall be elected for a term of four years each and any necessary additional board members shall be elected for a term of two years each, to serve until a successor is elected and qualifies. The term of members shall commence on the first Monday in January following the general election. Thereafter, three members shall be elected at each general election for a term of four years from the first Monday in January following the general election.

(3) If a reclassified district was a county district and if the board of such district determines, by resolution, to retain its organization providing for area representation and a five man board, a resolution affecting such organization may be adopted by the board at any time before 30 days before the next election following the effective date of this code. The resolution, if adopted, shall divide the district into five election districts coterminous with the county commissioner districts, and shall specify the terms to which members from each election district shall be elected so as to provide for a continuation of the present organizational structure of the board. In a district which is reclassified to an independent school district from a county district by provisions of this code, the election of board members may be held biennially from county commissioner districts as now established concurrently with the general elections in the areas upon resolution of the board adopted at least 30 days before the election next following the effective date of this code. If such a resolution is adopted, board members presently serving shall continue in office until the expiration of the term to which they were elected to serve until a successor is elected and quali-

fied. Thereafter, vacancies caused by expiration of term shall be filled at each general election for a term of four years from the first Monday in January following the general election. Districts reclassified as independent districts that were county districts shall also have the powers and duties contained in sections 128.03 to 128.06 in addition to their status as an independent district.

Subd. 24. (a) Any person entitled to vote in an election in an independent district who will be absent from the district at the time the election is held, or who by reason of physical disability or religious discipline will be unable to appear at the polling place at the time the election is held, may vote by mail or hand deliver an absentee ballot envelope in accordance with this subdivision.

(b) Not more than 45 nor less than one day before the election a voter desiring an absentee ballot shall make a request in writing for an absentee ballot to the clerk of the district. The request shall be made in person or by mail and shall state substantially the following: a) the permanent address of the applicant; b) the reason the applicant cannot vote in person; c) that the applicant wishes a ballot for (date election to be held); and d) that the applicant will be qualified to vote at the election. The application shall be signed and sworn before an officer authorized to administer oaths. The temporary mailing address, if any, of the applicant shall be included in the request.

(c) As soon as the ballots are printed, the clerk shall, by certified mail or in person, deliver a ballot to each applicant. The clerk also shall furnish a "ballot envelope" and a return envelope, both envelopes addressed to the clerk of the district.

(d) Together with the ballot and envelopes the clerk shall furnish an instruction sheet to each applicant. The sheet shall read: "Absentee Voting ..... School District No. .... Instructions

1. Mark your ballot in the usual manner making certain that no one observes how you vote.

2. Enclose ballot in 'ballot envelope' and seal. Do not make any marks on ballot envelope.

3. Place sealed 'ballot envelope' in regular mailing envelope furnished to you.

4. Execute certificate on bottom of this sheet and enclose with 'ballot envelope' in regular envelope and mail not later than one day before the election. If your ballot is received by the clerk after the close of the polls, it will not be counted.

#### CERTIFICATE

I, ....., hereby certify that I am a legal resident of ..... School District Number .....; that I am ..... years of age and reside at .....; that I am under no legal disability to vote; that I am entitled to vote at this election in the district, and I will not vote in any manner other than by the ballot contained in the enclosed 'ballot envelope.'

....."

(e) Before any ballots are counted, the clerk shall deliver unopened all regular mailing envelopes which have come into his possession and all ballots delivered to him by the officers or employees of the United States post office department and all other ballot envelopes delivered to him in person prior to the opening of the ballot boxes by the judges together with all applications for absentee ballots to the judges of election at the proper polling places. The clerk shall sign his name over the seals of the regular mailing envelopes to insure against tampering and deliver the same to the judges after the polls have opened and before they close.

(f) Before opening the ballot boxes, the judges shall inspect the regular envelopes to ascertain that they were properly mailed and then open the regular envelopes and compare the signature on the certificate contained in the envelope with the signature as it appears on the application for absentee ballot. Having satisfied themselves that the vote should be allowed, one of the judges shall write the word "received" and his own initials on the "ballot envelope" and deposit the unopened "ballot envelope" in a separate absentees ballot box.

(g) After the polls have closed and before the regular ballot boxes are opened, the judges shall open the absentees ballot box, remove the ballot from each "ballot envelope", initial it and deposit it in the regular ballot box.

(h) Ballots received by the clerk after the count has been begun by the judges are void.

(i) The board is authorized to provide necessary funds to the clerk for the execution of this chapter.

(j) In any district where permanent registration of voters is required no ballot may be accepted from any voter who is not validly registered.

(k) Any person who shall wilfully make or sign any false certificates specified herein; any person who shall wilfully make any false or untrue statement in any application for an absentee ballot; any person who shall wilfully exhibit to any other person any ballot marked by him; any person who shall in any way wilfully do any act contrary to the terms and provisions of this chapter with intent to cast an illegal vote in any district or to aid another in so doing shall be guilty of a felony.

Subd. 25. (a) Any voter may contest the election of any person for or against whom he had the right to vote, who is declared elected to a school district office, or other questions submitted to public vote, by proceeding as follows:

He shall file with the clerk of the district court of the county in which the administrative office of the school district is located, within ten days after the canvass is completed, a written notice of contest specifying the points upon which the contest will be made, and cause a copy thereof to be served within said period as follows:

(1) If the contest be upon the election of any person, then upon the person whose election he is contesting and the official authorized to issue the certificate of election;

(2) If the contest be upon the question of consolidation or reorganization, then upon the county auditor authorized by law to issue the order;

(3) If the contest be upon any other question, by serving a copy upon the clerk of the district.

When the contestee desires to offer testimony on points not specified in contestant's notice, he shall file and serve on the contestant notice thereof specifying such additional points. Such notices shall be treated as the pleadings in the case and may be amended in the discretion of the court in such manner and within such times as the court may by order direct. Thereafter the matter shall be tried and determined by the court at a time set by the court within 30 days after such canvass. So far as consistent with this section, the Rules of Civil Procedure shall apply.

(b) When an appeal is taken to the supreme court from the determination of the district court in any contest instituted under this code, the party appealing shall file in the district court a bond in such sum, not less than \$500, and with such sureties, as shall be approved by the judge, conditioned for the payment of all costs incurred by the respondent in case appellant fails on his appeal. The notice of appeal shall be served and filed no later than ten days after the entry

of the determination of the district court in the contest. The return of such appeal shall be made, certified, and filed in the supreme court within 15 days after service of notice of appeal. The appeal may be brought on for hearing in the court at any time when it is in session, upon ten days' notice from either party, which may be served during term time or in vacation; and it may be heard and determined summarily by the court.

Subd. 26. Each candidate may appoint by written certificate, and the judges shall permit, one person at a time to act as challenger of voters for each candidate for each precinct and shall be allowed to be in the polling place while the election is being held and to remain with the election judges until the votes are counted and shall be permitted to be in attendance when the school board canvasses the votes and declares the results.

Subd. 27. (a) It shall be unlawful for any person within 100 feet of the building in which any polling place is situated on the day of election to ask, solicit, or in any manner try to induce or persuade any voter on such election day to vote for or refrain from voting for any candidate or measure submitted to the people.

(b) No person shall buy, sell, give, or provide any political badges, buttons, or other insignia to be worn at or about the polls on the day of election and no such political badge, button, or other insignia shall be worn at or about the polls on election day.

(c) No political signs or advertising designed to influence a voter on a question or candidate shall be displayed within 100 feet of the building in which the polling place is located on the day of election. -

**History:** *Ex1959 c 71 art 4 s 14; 1961 c 562 s 12; 1965 c 33 s 2; 1965 c 503 s 1; 1967 c 852 s 1-4; 1969 c 9 s 26; 1973 c 123 art 5 s 7; 1973 c 477 s 1-3; 1975 c 72 s 1; 1975 c 162 s 23; 1976 c 239 s 31; 1978 c 581 s 1,2; 1978 c 674 s 60; 1979 c 29 s 2; 1979 c 90 s 4-5; 1980 c 487 s 2*

**123.33 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

### **123.33 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.**

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

Subd. 2. A vacancy in any board occurs when a member (a) dies, or (b) resigns, or (c) ceases to be a resident of the district, or (d) is unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district.

Subd. 3. A vacancy caused by a member being unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district, may, after the board has by resolution declared such vacancy to exist, be filled by the board at any regular or special meeting thereof for the remainder of the unexpired term, or until such ill or absent member is again able to resume his duties as a member of such board whichever date is earliest. When such ill or absent member is again able to resume his duties as a member of the board, the board shall by resolution so determine and declare such person to be again a member of the board, and the member appointed by the board in his place to be no longer a member thereof.

Subd. 4. Any other vacancy in a board shall be filled by the board at any regular or special meeting thereof. Such appointment shall be evidenced by a resolution entered in the minutes and shall continue until July 1 next following such appointment. All elections to fill vacancies shall be for the unexpired term.

Subd. 5. A majority of the voting members of the board shall constitute a quorum. No contract shall be made or authorized, except at a regular meeting of the board or at a special meeting at which all members are present or of which all members have had notice. Special meetings may be called by the chairman or clerk or any three members upon notice mailed to each member at least three days prior thereto.

Subd. 6. The board shall make and when deemed advisable change or repeal rules relating to the organization and management of the board and the duties of its officers.

Subd. 7. The board shall superintend and manage the schools of the district; adopt, modify, or repeal rules for their organization, government, and instruction and for the keeping of registers; and prescribe textbooks and courses of study.

Subd. 8. The board may remove, for proper cause, any member or officer of the board and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place, and object he has been duly notified, with the reasons for such proposed removal and after an opportunity to be heard in his own defense.

Subd. 9. [ Repealed, 1975 c 162 s 42 ]

Subd. 10. The school board of any school district of this state by a two-thirds vote may become a member of the Minnesota school boards association or the Minnesota association of public schools, or the metropolitan area school board association, and appoint one or more of its members to attend its annual meeting. The amount of annual membership dues in the association and actual and necessary expense incurred in attending such meeting shall be paid as other expenses of the district are paid. The school board of any school district of this state may maintain such membership and pay membership dues only in the event the associations file annual financial statements showing detailed expenditures and receipts with the commissioner of education no later than October 1 of each year. The statements to the commissioner shall be made on forms prescribed by him no later than July 15 of each year.

Subd. 11. The board shall cause its official proceedings to be published once in the official newspaper of the district. Such publication shall be made within 30 days of the meeting at which such proceedings occurred.

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

Subd. 13. [ Repealed, 1975 c 162 s 42 ]

Subd. 14. The school board of any school district of this state by a two-thirds vote may become a member of an association of vocational schools and may appoint one or more of its members to attend the annual meeting of such association. The amount of annual membership dues in the association and actual and necessary expenses incurred in attending such meeting shall be paid as other expenses of the district are paid. The school board of any school district of this state may maintain such membership and pay membership dues only in the event the association files annual financial statements showing detailed expenditures and receipts with the commissioner of education no later than October 1 of each year. The statements to the commissioner shall be made on forms prescribed by him no later than July 15 of each year.

Subd. 15. Any school district, or group of school districts, may become a member of, and pay dues to, any nonprofit corporation organized prior to the passage of Laws 1973, Chapter 263 under and pursuant to the provisions of the Minnesota nonprofit corporation act, whose purposes are to promote the improvement of teacher education through student teaching, internships, and research.

Subd. 16. Any action undertaken or moneys expended by a school district, group of school districts, or nonprofit corporation for the purposes and under the authority of subdivision 15, but prior to its enactment, is hereby ratified and confirmed.

**History:** *Ex1959 c 71 art 4 s 15; 1965 c 434 s 1; 1967 c 176 s 2; 1967 c 713 s 1; 1973 c 263 s 1,2; 1973 c 690 s 1; 1974 c 82 s 1,2; 1975 c 162 s 24*

### 123.335 IMPREST CASH FUNDS.

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

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

**History:** *1969 c 631 s 1; 1977 c 447 art 7 s 16*

**123.34 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

### 123.34 OFFICERS OF INDEPENDENT SCHOOL DISTRICTS.

Subdivision 1. Within ten days after the election of the first board in independent districts and annually thereafter on July 1, or as soon thereafter as practicable, the board shall meet and organize by selecting a chairman, clerk, and a treasurer, who shall hold their offices for one year and until their successors are selected and qualify. The persons who perform the duties of the clerk and treasurer need not be members of the board and the board by resolution may combine the duties of the offices of clerk and treasurer in a single person in the office of business affairs. They may appoint a superintendent who shall be ex

officio a member of the board, but not entitled to vote therein. In districts in which board members are elected at the general election in November, the annual meeting of the board shall be held on the first Monday of January or as soon thereafter as practicable.

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

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

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

Subd. 5. In the event that valid orders are presented to the treasurer for payment, and he has insufficient funds on hand to pay them, he shall receive, endorse and process them in accordance with section 124.06.

Subd. 6. [ Repealed, 1980 c 609 art 6 s 48 ]

Subd. 7. When the duty devolves upon any person employed by a board to receive money and pay it over to the treasurer of the district, the district shall require a bond from such person and pay all premiums therefor. The amount of each bond shall be fixed by the board and the bond approved by it. The bond shall be not less than \$500 conditioned for the faithful performance of his duty and shall be filed with the clerk. In lieu of individual bonds, the district may prescribe and keep in effect a schedule or position insurance policy or blanket bond in such aggregate amount as the district determines, insuring the fidelity of such persons in the amount of not less than \$500 for each such person.

Subd. 8. The clerk shall keep a record of all meetings of the district and the board in books provided by the district for that purpose. He shall, within three days after an election notify all persons elected of their election. On or before August 15 of each year he shall file with the board a report of the revenues, expenditures and balances in each fund for the preceding fiscal year. The report together with vouchers and supporting documents shall subsequently be examined by a public accountant or the state auditor, either of whom shall be paid by the school district, as provided in section 121.908, subdivision 3. The board shall by resolution approve the report or require a further or amended report. On or before August 15 of each year, he shall make and transmit to the commissioner certified reports, showing:

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

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by the clerk pro tem, and keep an itemized account of all the expenses of the district. He shall furnish to the auditor of the proper county, on or before October 10 of each year, an attested copy of his record,

showing the amount of money voted by the district or the board for school purposes; draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers and for teachers' wages and all claims, to be countersigned by the chairman. Such orders shall state the consideration, payee, and the fund and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose.

Subd. 9. All districts maintaining a classified secondary school shall employ a superintendent who shall be ex officio a member of the school board but not entitled to vote therein. The superintendent in such districts shall visit the schools of the district, and exercise a general supervision over them, and report their condition to the board, with proper recommendations, when he deems it advisable, or when requested by the board. He shall make recommendations to the board concerning the employment and dismissal of teachers. He shall superintend the grading of the schools and examinations for promotions and perform such other duties as the board shall prescribe. He shall make directly to the commissioner such reports as shall be required.

Subd. 10. Each school building or unit of classification as designated by section 120.05, subdivision 1, clauses (1), (2) and (3), in an independent school district shall be under the supervision of a principal who is assigned to that responsibility by the board of education in that school district upon the recommendation of the superintendent of schools of that school district.

Each principal assigned the responsibility for the supervision of a school building or units of classification shall hold valid certification in the assigned position of supervision and administration as established by the rules of the state board of education.

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

**History:** *Ex1959 c 71 art 4 s 16; 1969 c 9 s 27; 1971 c 144 s 1; 1973 c 492 s 7; 1974 c 37 s 1; 1975 c 162 s 25; 1975 c 432 s 16; 1978 c 706 s 13-15; 1978 c 764 s 31,32; 1979 c 334 art 6 s 8*

**123.35** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.35 GENERAL POWERS OF INDEPENDENT SCHOOL DISTRICTS.**

Subdivision 1. The board shall have the general charge of the business of the district, the school houses, and of the interests of the schools thereof.

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

Subd. 3. The voters of a district may authorize the issuance of bonds of the district in accordance with the provisions of chapter 475.

Subd. 4. The board shall provide by levy of tax necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the district.



Subd. 5. The board shall employ and contract with necessary qualified teachers and discharge the same for cause. The board shall not hire a substitute teacher except:

(a) For a duration of time of less than one school year to replace a regular teacher who is absent; or

(b) For a duration of time equal to or greater than one school year to replace a regular teacher on a leave of absence.

If a substitute teacher is hired pursuant to clause (b), each full school year during which the teacher is employed by a district pursuant to that clause shall be deemed one year of the teacher's probationary period of employment pursuant to either section 125.12, subdivision 3, or section 125.17, subdivision 2. The teacher shall be eligible for continuing contract status pursuant to section 125.12, subdivision 4, or tenure status pursuant to section 125.17, subdivision 3, after completion of the applicable probationary period.

Subd. 6. The board may employ and discharge necessary employees and may contract for other services.

Subd. 7. The board may provide library facilities as part of its school equipment according to the standards of the state board of education.

Subd. 8. The board may establish and maintain public evening schools and adult and continuing education programs and such evening schools and adult and continuing education programs when so maintained shall be available to all persons over 16 years of age who, from any cause, are unable to attend the full-time elementary or secondary schools of such district.

Subd. 9. The board may establish and maintain one or more kindergartens for the instruction of children and after July 1, 1974, shall provide kindergarten instruction for all eligible children, either in the district or in another district. All children to be eligible for kindergarten must be at least five years of age on September 1 of the calendar year in which the school year commences. In addition all children selected under an early admissions policy established by the school board may be admitted. Nothing in this section shall prohibit a school district from establishing head start, pre-kindergarten, or nursery school classes for children below kindergarten age. Any school board with evidence that providing kindergarten will cause an extraordinary hardship on the school district may apply to the commissioner of education for an exception.

Subd. 10. The board shall furnish free textbooks to all pupils.

Subd. 11. The board may furnish school lunches for pupils and teachers on such terms as it determines.

Subd. 12. At the request of an employee and as part of his compensation arrangement, the board may purchase an individual annuity contract for an employee for retirement or other purposes and may make payroll allocations in accordance with such arrangement for the purpose of paying the entire premium due and to become due under such contract. The allocation 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. Section 125.12 shall not be applicable hereto and the board shall have no liability thereunder because of its purchase of any individual annuity contracts. This statute shall be applied in a nondiscriminatory manner to employees of the school district.

Subd. 13. The board may by agreements with teacher preparing institutions arrange for classroom experience in the district for practice or student teachers who have completed not less than two years of an approved teacher education

program. Such practice teachers shall be provided with appropriate supervision by a fully qualified teacher under rules promulgated by the board and shall be deemed employees of the school district in which they are rendering services for purposes of workers' compensation; liability insurance, if provided for other district employees in accordance with section 123.41; and legal counsel in accordance with the provisions of section 127.03.

Subd. 14. School districts shall not compete with one another for the enrollment of students.

Subd. 15. When payment of a claim cannot be deferred until the next board meeting without loss to the district of a discount privilege, the claim may be paid prior to board approval, providing that the board:

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

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

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

**History:** *Ex 1959 c 71 art 4 s 17; 1961 c 225 s 1; 1967 c 173 s 2; 1969 c 21 s 1; 1969 c 104 s 1; 1973 c 491 s 1; 1975 c 359 s 23; 1978 c 616 s 5; 1979 c 334 art 6 s 9; 1980 c 609 art 6 s 16*

### 123.351 COOPERATIVE CENTERS FOR VOCATIONAL EDUCATION.

Subdivision 1. **Establishment.** Two or more independent school districts may enter into an agreement to establish a cooperative center to provide for vocational education and other educational services upon the vote of a majority of the full membership of each of the boards of the districts entering into the agreement. When a resolution approving this action has been adopted by the board of a district, the resolution shall be published once in a newspaper of general circulation in the district. If a petition for referendum on the question of the district entering into the agreement, containing signatures of qualified voters of the district equal to five percent of the number of voters at the last annual school election, is filed with the clerk of the board within 60 days after publication of the resolution, the board shall not enter into the agreement until the question has been submitted to the voters of the district at a special election. This election shall be conducted and canvassed in accordance with section 123.32. If a majority of the total number of votes cast on the question within the district is in favor of the proposition, the board may thereupon enter into an agreement to establish the center for purposes herein described.

Subd. 2. **Name.** A public corporation so created shall be known as ....(insert name).... cooperative center no. .... and shall have an identification number assigned pursuant to section 122.03.

Subd. 3. **Governing board.** (a) The center shall be operated by a center board of not less than five members which shall consist of members from school boards of each of the participating school districts within the center, appointed by their respective school boards. Each participating school district shall have at least one member on the board. The board shall choose an administrative officer to administer board policy and directives who shall serve as an ex officio member of the board but shall not have a vote.

(b) The terms of office of the first members of the board shall be determined by lot as follows: one-third of the members for one year, one-third for two years, and the remainder for three years, all terms to expire on June 30 of the appropriate year; provided that if the number of members is not evenly divisible by three, the membership will be as evenly distributed as possible among one, two and three year terms with the remaining members serving the

three year term. Thereafter the terms shall be for three years commencing on July 1 of each year. If a vacancy occurs on the center board, it shall be filled by the appropriate school board within 90 days. A person appointed to the center board shall qualify as a board member by filing with the chairman a written certificate of appointment from his school board.

(c) The first meeting of a center board shall be at a time mutually agreed upon by board members. At this meeting, the center board shall choose its officers and conduct any other necessary organizational business. Thereafter the center board shall meet on the first of July of each year or as soon thereafter as practicable pursuant to notice sent to all center board members by the chief executive officer of the center.

(d) The officers of the center board shall be a chairman, vice chairman, clerk and treasurer, no two of whom when possible shall be from the same school district. The chairman shall preside at all meetings of the center board except in his absence the vice chairman shall preside. The clerk shall keep a complete record of the minutes of each meeting and the treasurer shall be the custodian of the funds of the center. Insofar as applicable, sections 123.33 and 123.34, shall apply to the board and officers of the center.

(e) Each participating school district shall have equal voting power with at least one vote. A majority of the center board shall be a quorum. Any motion other than adjournment shall pass only upon receiving a majority of the votes of the entire center board.

**Subd. 4. Powers and duties.** (a) The center board shall have the general charge of the business of the center and the ownership of facilities. Where applicable, section 123.36, shall apply. The center board may not issue bonds in its behalf. Each participating district may issue its bonds for the purpose of acquisition and betterment of center facilities in the amount certified by the center board to such participating district in accordance with chapter 475.

(b) The center board (1) may furnish vocational offerings to any eligible person residing in any participating district; (2) may provide special education for the handicapped and disadvantaged; and (3) may provide any other educational programs or services agreed upon by the participating districts. Academic offerings shall be provided only under the direction of properly licensed academic supervisory personnel.

(c) In accordance with subdivision 5, clause (b), the center board shall certify to each participating district the amount of funds assessed to the district as its proportionate share required for the conduct of the educational programs, payment of indebtedness, and all other proper expenses of the center.

(d) The center board shall employ and contract with necessary qualified teachers and administrators and may discharge the same for cause pursuant to section 125.12. The board may employ and discharge other necessary employees and may contract for other services deemed necessary.

(e) The center board may provide an educational program for secondary and adult vocational phases of instruction. The high school phase of its educational program shall be offered as a component of the comprehensive curriculum offered by each of the participating school districts. Graduation shall be from the student's resident high school district. Insofar as applicable, sections 123.35 to 123.40, shall apply.

(f) The center board may prescribe rates of tuition for attendance in its programs by adults and nonmember district secondary students.

**Subd. 5. Financing.** (a) Any center board established pursuant to this section is a public corporation and agency and may receive and disburse federal, state, and local funds made available to it. No participating school district shall have any additional individual liability for the debts or obligations of the center

except that assessment which has been certified as its proportionate share in accordance with subdivision 5, clause (b) and subdivision 4, clauses (a) and (c). A member of the center board shall have such liability as is applicable to a member of an independent school district board. Any property, real or personal, acquired or owned by the center board for its purposes shall be exempt from taxation by the state or any of its political subdivisions.

(b) The center board may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district its proportionate share of any and all expenses. This share shall be based upon an equitable distribution formula agreed upon by the participating districts. Each participating district shall remit its assessment to the center board within 30 days after receipt. The assessments shall be paid within the maximum levy limitations of each participating district.

Subd. 6. **State board approval.** Prior to the commencement of the operation of any center the agreement entered into by participating districts shall be approved by the state board of education.

Subd. 7. **Laws governing independent school districts applicable.** As of the effective date of the creation of any center as contained in the agreement establishing the center, the organization, operation, maintenance, and conduct of the affairs of the center shall be governed by the general laws relating to independent school districts of the state unless provided otherwise herein or by statute passed hereafter.

Subd. 8. **Addition and withdrawal of districts.** Upon approval by majority vote of a school board, of the center board, and of the state board of education, an adjoining school district may become a member in the center and be governed by the provisions of this section and the agreement in effect.

Any participating district may withdraw from the center and from the agreement in effect by a majority vote of the full board membership of the participating school district desiring withdrawal and upon compliance with provisions in the agreement establishing the center. Upon receipt of the withdrawal resolution reciting the necessary facts, the center board shall file a certified copy with the county auditors of the counties affected. The withdrawal shall become effective at the end of the next following school year but the withdrawal shall not affect the continued liability of the withdrawing district for bonded indebtedness it incurred prior to the effective withdrawal date.

Subd. 9. **Existing centers.** Centers operating pursuant to section 471.59 which have been approved by the state board of education prior to August 1, 1974 shall be subject to its provisions except subdivision 1. Any changes in center agreements necessary to comply with this section shall be completed within twelve months after August 1, 1974 and filed with the state board by the administrator of each center. Centers operating pursuant to Laws 1967, Chapter 822, as amended, Laws 1969, Chapter 775, as amended, and Laws 1969, Chapter 1060, as amended shall not be subject to the provisions of this section.

**History:** 1974 c 252 s 1; 1977 c 447 art 5 s 1,2

### 123.352 TRAFFIC AND PARKING REGULATION.

Subdivision 1. **Board power.** A school board may make, adopt and enforce rules for the regulation of traffic and parking on property owned, leased, occupied or operated by the board. Notwithstanding the provisions of section 169.71, subdivision 1, a board may require that an identification sticker not more than two inches square be placed in the lower right corner of the windshield of any vehicle parking on such property.

Subd. 2. **Hearing on rules, adoption.** Before the adoption of any rule authorized by subdivision 1, the board shall hold a public hearing. Notice of the hearing shall be published at least once in a legal newspaper in a county in which the school district is located. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.

After a public hearing, a majority of the members of the board must approve the rule for it to take effect. The rule shall have an effective date. A copy of the rule shall be signed by the clerk of the school district and filed in the official minute book of the district and a copy shall be mailed to the chief police officer of each municipality, county or town where the school district property is located.

Subd. 3. **Enforcement.** Every sheriff, constable, police officer, peace officer, or designated employee of the board shall have authority to enforce rules adopted pursuant to this section after the posting of signs substantially in conformity with the standards and specifications of the manual of the commissioner adopted pursuant to section 169.06.

Subd. 4. **Notice.** Judicial notice shall be given rules adopted pursuant to this section.

Subd. 5. **Penalty.** Any person violating rules adopted pursuant to this section shall be guilty of a petty misdemeanor. Any violation of this section shall be deemed a violation of chapter 169 for the purposes of sections 169.891 and 169.90, subdivision 1.

**History:** 1976 c 278 s 1

**123.36** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.36 SCHOOLHOUSES AND SITES, ACCESS BY PERSONS FOR NON-CURRICULAR PURPOSES, INDEPENDENT SCHOOL DISTRICTS.**

Subdivision 1. When funds are available therefor, the board may locate and acquire necessary sites of school houses or enlargements, or additions to existing schoolhouse sites by lease, purchase or condemnation under the right of eminent domain; it may erect schoolhouses thereon; it may erect or purchase garages for district owned school buses. In any city, the school sites, when practicable, shall contain at least one block and if outside of any city, two acres; and when any schoolhouse sites shall contain less than such amount, the board may acquire other land adjacent to or near such site to make, with such site, all or part of such amount. When property is taken by eminent domain by authority of this subdivision when needed by the school district for such purposes, the fact that the property so needed has been acquired by the owner under the power of eminent domain or is already devoted to public use, shall not prevent its acquisition by the school district. The board may sell or exchange schoolhouses or sites, and execute deeds of conveyance thereof.

Subd. 2. The board shall purchase, sell, and exchange school apparatus, furniture, stoves, buses, and other equipment as may be deemed necessary by the board for school purposes.

Subd. 3. The board may make rules and regulations respecting the protection of the property of the district.

Subd. 4. The board shall provide proper sanitary facilities for the schools, plant shade trees and shrubbery and otherwise improve school sites, procure insurance on school property, and make proper ordinary repairs thereon.

Subd. 5. The board may authorize the use of any schoolhouses in the district for divine worship, Sunday schools, public meetings, elections, and such other community purposes as, in its judgment, will not interfere with their use for school purposes; but before permitting such use, the board may require a

cash or corporate surety bond in a reasonable amount conditioned for the proper use of such schoolhouse, the payment of all rent and the repair of all damage occasioned by such use, and it may charge and collect for the use of the district from the persons using such schoolhouse such reasonable compensation as it may fix.

It may authorize the use of any schoolhouses or buildings in and of the district for the holding of primaries, elections, registrations, and all action in connection therewith in such manner as in its judgment, will not interfere with their use for school purposes. It may impose such reasonable regulations and conditions upon such use as may seem necessary and proper.

Subd. 6. The board may build or assist in building sidewalks for the use of pupils and the general public connecting with sidewalks in municipalities and leading to the schoolhouse. The governing body of any municipality may likewise appropriate money for the same purpose or to assist the district.

Subd. 7. When necessary, the board may lease rooms or buildings for school purposes.

Subd. 8. The board shall provide for the heating and care of schoolhouses and rooms and may provide for the heating and care of garages which house school buses.

Subd. 9. The board may contract for the furnishing of heat for its building for such terms as it may deem for the best interest of the district, not exceeding ten years. Where it is necessary to lay mains or pipes to connect these buildings with a heating system, the district is authorized to advance all, or any part of the cost thereof upon such terms and conditions as shall be agreed upon.

Subd. 10. (a) The board may lease a schoolhouse which is not needed for school purposes to any person or organization. The board may charge and collect reasonable consideration for the lease and may determine the terms and conditions of the lease.

(b) In districts with outstanding bonds, the net proceeds of the lease shall be first deposited in the debt retirement fund of the district in an amount sufficient to meet when due the principal and interest payments for all outstanding bonds. Any remaining net proceeds in these districts and all net proceeds of the lease in districts without outstanding bonds shall be deposited in the capital expenditure fund of the district.

(c) The board may make capital improvements to a schoolhouse or a portion thereof, not exceeding in cost the replacement value of the schoolhouse, to facilitate its rental, and the lease of an improved schoolhouse shall provide for rentals which will recover the cost of the improvements over the initial term of the lease. Notwithstanding clause (b), the portion of the rentals representing the cost of the improvements shall be deposited in the capital expenditure fund of the district and the balance of the rentals shall be used as provided in clause (b).

Subd. 11. The board may close a schoolhouse only after a public hearing on the question of the necessity and practicability of the proposed closing. Published notice of the hearing shall be given for two weeks in the official newspaper of the district. The time and place of the meeting, the description and location of the schoolhouse, and a statement of the reasons for the closing shall be specified in the notice. Parties requesting to give testimony for and against the proposal shall be heard by the board before it makes a final decision to close or not to close the schoolhouse.

Subd. 12. If the board provides access to persons or groups which make pupils aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state or the United States for the purpose of informing students on educational and career opportunities available in the military.

Subd. 13. Proceeds of the sale or exchange of school buildings or real property of the school district shall be used as provided in this subdivision.

(1) In districts with outstanding bonds the proceeds of the sale or exchange shall first be deposited in the debt retirement fund of the district in an amount sufficient to meet when due the principal and interest payments for all outstanding bonds. Any remaining proceeds in these districts of the sale or exchange and all proceeds in districts without outstanding bonds shall be deposited in the capital expenditure fund of the district.

(2) Notwithstanding clause (1), a district with outstanding bonds which sells a building or property in order to purchase a replacement, may apply to the commissioner to place proceeds of the sale in its capital expenditure fund in an amount necessary to purchase the replacement; provided the district places an amount in its debt retirement fund sufficient to meet when due the principal and interest payments for all outstanding bonds on the particular building or property which is sold.

**History:** *Ex1959 c 71 art 4 s 18; 1973 c 123 art 5 s 7; 1975 c 59 s 1; 1975 c 199 s 1; 1976 c 168 s 1; 1976 c 239 s 32; 1978 c 706 s 16; 1979 c 295 s 1; 1980 c 609 art 6 s 17,18*

**123.37 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.37 INDEPENDENT SCHOOL DISTRICTS, CONTRACTS.**

Subdivision 1. No contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section 471.345, subdivision 3, shall be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. This notice shall state the time and place of receiving bids and contain a brief description of the subject matter.

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

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract shall be awarded to the lowest responsible bidder, be duly executed in writing, and be otherwise conditioned as required by law. The person to whom the contract is awarded shall give a sufficient bond to the board for its faithful performance. A record shall be kept of all bids, with names of bidders and amount of bids, and with the successful bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid shall be rejected unless the alteration or erasure is corrected as herein provided. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may readvertise. Standard requirement price contracts established for supplies or services to be purchased by the district shall be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the con-

tract may request that the other party demonstrate such increase or decrease. The term of such contracts shall not exceed two years with an option on the part of the district to renew for an additional two years. Provided that in the case of purchase of perishable food items except milk for school lunches and vocational training programs a contract of any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section 471.345, subdivision 3. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

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

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

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

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

Subd. 2. Members of the board are authorized to contract with, to work for, and furnish supplies to the district subject to the provisions of section 471.87.

Subd. 3. Any contract made by the board for the rental of rooms or buildings for school purposes or for the rental of any facility or facilities owned or operated by or under the direction of any private organization, shall be effective until disapproved by the commissioner, and all such contracts shall be submitted to him for approval immediately after being signed by the parties.

Subd. 4. The commissioner shall approve each such contract unless it appears from the information available to him that:

(a) The amount to be paid by the district concerned for the rooms or facilities rented under such contract substantially exceeds the reasonable value thereof; or

(b) The rooms or facilities to be furnished are not reasonably required for or suitable to the operation of the schools of the district or the contract does not provide adequately against any encroachment on or interference with the conduct of a public school; or

(c) The contract does not conform to law or a duly promulgated regulation of general application of the state board of education.



Subd. 5. If the commissioner determines that one or more of such circumstances (a), (b), and (c) exists, he shall notify the district board, giving it a reasonable stated time in which to meet the objections specified in the notice. If the contract is not so changed within that time, it shall be disapproved by the commissioner. If the contract is approved the commissioner shall so notify the district board. The commissioner's action together with a statement as to whether or not a petition to review such action has been filed as hereinafter provided, shall appear in the proceedings of the next meeting of the district board, held after receipt of notice from the commissioner, and the proceedings shall briefly identify the contract approved or disapproved.

Subd. 6. The determination of the commissioner disapproving a contract shall be subject to the review of the state board of education, on the petition of the district board, made pursuant to its resolution.

Subd. 7. The determination of the commissioner approving a contract shall be subject to the review of the state board of education, on the petition of voters of such school district equal in number of five percent of those who voted at the last annual election or annual meeting of the district, except that there shall be at least five petitioners and that no more than 25 petitioners shall be required. Such petition must be filed in duplicate with the commissioner on or before the tenth day after the publication of the proceedings of the meeting of the district board which show the determination of the commissioner, the review of which is asked, or the thirtieth day after such determination, whichever date is earlier.

Subd. 8. Such petition shall:

(a) Identify the determination of the commissioner sought to be reviewed and the contract in question by the names of the parties to it, and

(b) Allege the grounds upon which the determination of the commissioner is claimed to have been erroneous, but such allegation may be on information and belief of the petitioners, and

(c) State the names, post office addresses, and voting residences of the petitioners, and

(d) State the person or persons, not more than three, and their respective post office addresses, who are authorized to receive for all of the petitioners any notices with respect to the review or any subsequent proceeding. A person, not a resident of the district, may be so named.

Subd. 9. Upon the filing of a proper petition, the commissioner shall set a time and place for hearing thereof, which shall not be less than ten nor more than 30 days after such filing. He shall cause notice of such hearing to be given by mail to the parties to the contract affected and to the person or persons named in the petition as authorized to receive notice, and in addition shall cause a notice thereof to be published in a newspaper qualified to publish proceedings of the district board concerned.

Subd. 10. The state board shall adopt rules governing the proceedings for review not inconsistent with the requirements hereof. Such rules shall be designed to give a full and fair hearing and to permit interested parties an opportunity to produce evidence relating to the issues involved. Such rules may provide that any question of fact to be determined upon such review may be referred to one or more members of the board or to an employee of the state board of education acting as a referee to hear evidence and report to the state board the testimony taken.

Subd. 11. The state board, or the parties to the proceedings, or any person designated to receive evidence upon a review shall have the same right to issue and procure subpoenas and administer oaths as are granted in proceedings before the department of labor and industry. There shall be a stenographic

record made of all testimony given and other proceedings during such hearing, and as far as practicable, rules governing reception of evidence in courts shall obtain.

Subd. 12. The decision of the state board shall be in writing and the controlling facts found upon which the decision is made shall be stated in sufficient detail to appraise the parties and the reviewing court of the basis and reason of the decision. If it is the decision of the state board that none of the grounds of disapproval specified herein exist, the contract in question shall be approved; if it is the decision of the state board that one or more of those grounds exist, the contract shall be disapproved.

Subd. 13. The decision of the state board may be reviewed on certiorari by the district court of the county in which the school district or any part thereof is located, and the reasonableness of the state board's decision under all the circumstances of the case shown by the record will be a judicial question of fact.

Subd. 14. The fact of approval or disapproval of a contract shall not be evidence in any civil or criminal proceeding growing out of the making or performance of the contract or related to the official conduct of the members of the district board. Proceedings or failure to proceed shall not preclude any civil or criminal act otherwise proper. Necessary costs and disbursements, exclusive of those incurred in the administrative proceedings, on review by certiorari shall be taxed against the losing party and in the event taxed against the state shall be paid from the appropriations made to the state department of education for the payment of special state aids.

**History:** *Ex1959 c 71 art 4 s 19; Ex1967 c 1 s 6; 1969 c 107 s 1; 1974 c 521 s 13-15; 1975 c 59 s 2; 1976 c 271 s 39,40; 1978 c 706 s 17,18; 1978 c 764 s 33-35*

**123.38 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

### **123.38 CO-CURRICULAR AND EXTRACURRICULAR ACTIVITIES OF INDEPENDENT SCHOOL DISTRICTS; INSURANCE.**

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

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

No co-curricular activity shall be participated in by the teachers or pupils in the public schools of such district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Subd. 2a. Co-curricular activities shall mean school sponsored and directed activities designed to provide opportunities for pupils to participate, on an individual or group basis, in school and public events for the improvement of skills. Co-curricular activities are not offered for school credit, cannot be counted toward graduation and have one or more of the following characteristics:

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

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

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

Subd. 2b. The board may take charge of and control all extra curricular activities of the teachers and children of the public schools in the district. Extra curricular activities shall mean all direct and personal services for public school pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. Extra curricular activities have all of the following characteristics:

(a) They are not offered for school credit nor required for graduation;

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

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

If the board does not take charge of and control extra curricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions or other student fund-raising events; moreover, the general fund or the area vocational technical institutes fund, if applicable, shall reflect only those salaries directly related to and readily identified with the activity and paid by public funds and other revenues and expenditures for extra curricular activities shall be recorded pursuant to the "Manual of Instructions for Uniform Student Activities Accounting for Minnesota School Districts". If the board takes charge of and controls extra curricular activities, any or all costs of these activities may be provided from school revenues and all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district. If the board takes charge of and controls extra curricular activities, no such activity shall be participated in by the teachers or pupils in the district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Subd. 3. The board may enter into a contract providing for the payment of cash benefits or the rendering or payment of hospital and medical benefits, or both to school children injured while participating in activities of the school, such contract to make the payment of such benefits or the rendering thereof the direct and sole obligation of the association or company entering into such contract with the district.

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

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

The state board of education may purchase medical insurance coverage for the benefit of students of the school for the deaf or the braille and sight-saving

school in the same manner and with the same effect as a school district board may do for its students under this subdivision.

Subd. 4. The insurance laws of this state shall not apply to non-profit benefit and relief associations formed by public schools or officers of public schools or the Minnesota state high school league, the privileges of which and applications for membership in which are confined to pupils of the schools, and the benefits and relief to be derived therefrom are limited to pupils injured or disabled from participation in school athletics or any supervised school activity.

**History:** *Ex1959 c 71 art 4 s 20; 1971 c 254 s 1; 1976 c 212 s 1-5; 1979 c 335 s 14*

**123.39 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.39 INDEPENDENT SCHOOL DISTRICTS, TRANSPORTATION.**

Subdivision 1. The board may provide for the free transportation of pupils to and from school, and to schools, in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year as it may deem advisable, and subject to its rules. Every driver shall possess all the qualifications required by the rules of the state board of education. In any special or independent district, the board shall arrange for the attendance of all pupils living two miles or more from the school, through suitable provision for transportation or for the boarding and rooming of such pupils as may be more economically and conveniently provided for by such means. The district is authorized to provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by such means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Subd. 2. The board may contract for the furnishing of authorized transportation under rules established by the commissioner of education, and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.

Subd. 3. [ Repealed, 1980 c 609 art 2 s 7 ]

Subd. 4. The board may provide for the instruction of any resident pupil in another district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in his own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged, and may provide transportation; 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.

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

Subd. 5a. [ Repealed, 1978 c 764 s 143 ]

Subd. 6. The board may transport pupils residing outside of the district but attending school therein if these pupils present themselves within the district on one of the regular routes traveled in the transportation of the pupils of the district.

Subd. 7. If high school pupils from a district within this state are being transported to a school in another state, the board of the district from which the pupils are being transported may provide free transportation and tuition for any

or all of its elementary pupils to such school in another state and be entitled to state aid as provided by law.

Subd. 8. The board may rent to any person, for any lawful purpose, any bus owned by the school district. The use and operation of such bus by such person shall not interfere with the use and operation of such bus by the district for the transportation of children to and from school. Any such lessee so leasing or renting buses may use and operate the same as provided in this section without the payment of a motor vehicle tax thereon as provided by law. Any such lessee shall be liable for any and all claims for injuries and damages arising out of the use and operation of any bus so leased or rented; and the leasing or renting of any such bus shall be conditioned upon said lessee or renter procuring, at his own expense, insurance protecting said board and said district against any and all claims for injuries and damages arising out of the use and operation of said bus.

Subd. 8a. Notwithstanding the provisions of section 221.021, any public school district or school bus contractor providing transportation services to a school district on a regular basis in this state may operate school buses, excluding motor coach buses, for the purpose of providing transportation to nonpupils of the school district attending school events, as defined in section 123.38, subdivision 2a or 2b, provided that no person having a charter carrier permit has his principal office and place of business or bus garage within 12 miles of the principal office of the school district. School district owned buses and the operators thereof shall otherwise comply with the provisions of this section and the rules of the state board of education and shall be insured in at least the amounts stated in section 466.04, subdivision 1. In all cases the total cost of providing such services, as determined by sound accounting procedures, shall be paid by charges made against those using the buses.

Subd. 8b. School districts may use school district owned or contractor operated school buses to provide transportation along regular school bus routes on a space available basis for senior citizens who are 62 years of age or older, provided that this use of a bus does not interfere with the transportation of pupils to and from school or other authorized transportation of pupils. In all cases, the total additional cost of providing these services, as determined by sound accounting procedures, shall be paid by charges made against those using these services or some third party payor. In no case shall the additional cost of this transportation be paid by the school district.

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

Subd. 9. The board may provide for the protection of school children in the district being transported for all school purposes or activities in district owned, operated, leased, or controlled motor vehicles against injuries or damages arising out of the operation thereof. If the board deems it advisable, insurance may be procured and paid for from any funds available. Any insurance contract covering such risk shall contain as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the district is engaged in a governmental function. The payment of any insurance premiums by such district shall not hereby make the district liable for any injuries or damages incurred by such transportation.

Subd. 10. The board may provide and pay the premiums for the protection for school children, instructors and automobile owners, and any other agency cooperating in providing cars for districts where driver training courses are being offered, against public liability, property damage, collision, fire and theft, arising out of the operation of any vehicle used in the courses. Nothing herein shall make the district liable for injuries resulting from the actions of such persons.

Subd. 11. The board may provide and pay the premiums for insurance against injuries resulting to its pupils while assigned to and acting on a school safety patrol, which insurance may provide for the payment of either cash benefits to such injured pupil or for the payment of hospital and medical benefits to or for such injured pupil, or both. Nothing herein shall be construed to in any way make the district liable for such injuries.

Subd. 12. The board may enter into contracts for the removal of snow from roads used for regular bus routes transporting pupils to and from school either within or without the district.

Subd. 13. The board shall contract with any licensed developmental achievement center attended by a resident handicapped person who fulfills the eligibility requirements of section 252.23, subdivision 1, to transport the resident handicapped person to the developmental achievement center in return for payment by the center of the cost of the transportation, if transportation by the board is in the best interest of the handicapped person and is not unreasonably burdensome to the district and if a less expensive, reasonable, alternative means of transporting the handicapped person does not exist. If the board and the developmental achievement center are unable to agree to a contract, either the board or the center may appeal to the commissioner of education to resolve the conflict. All decisions of the commissioner shall be final and binding upon the board and the center.

**History:** *Ex1959 c 71 art 4 s 21 subds 1-12; 1963 c 663 s 2; 1973 c 560 s 1; 1974 c 44 s 1; 1974 c 521 s 16; 1975 c 238 s 1; 1977 c 337 s 1; 1977 c 447 art 1 s 1; 1978 c 706 s 19; 1978 c 764 s 36,37*

NOTE: School buses, regulations, see section 169.45.

**123.40 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.40 INDEPENDENT SCHOOL DISTRICTS, SPECIFIC POWERS AND DUTIES.**

Subdivision 1. The board shall provide for the payment of all just claims against the district in cases provided by law.

Subd. 2. In all proper cases, the board shall prosecute and defend actions by or against the district.

Subd. 3. The board may receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose and apply the same to the purpose designated. In that behalf, the board may act as trustee of any trust created for the benefit of the district, or for the benefit of pupils thereof, including trusts created to provide pupils of the district with advanced education after completion of high school, in the advancement of education.

Subd. 4. The board may employ qualified accountants for the purpose of auditing, examining and reporting upon the books and records of the district.

Subd. 5. The district may destroy the following records:

(1) Claims and vouchers paid by the district more than ten years prior to such destruction;

(2) Receipts, miscellaneous papers, and correspondence bearing dates more than ten years prior to destruction;

(3) Order and checks paid more than ten years prior to destruction.

The officer having custody of said records shall obtain written approval of the governing body of the district. The approval shall be in the form of a resolution listing the classes of records authorized to be destroyed and the range of dates in each class. A copy of the resolution consenting to the destruction of such records shall be sent to the records disposition panel established pursuant to section 138.17. If no petition or application requesting the records from the

records disposition panel is received by said school district within 30 days after mailing of the resolution, the records shall be destroyed by the officer having custody.

This subdivision is supplementary to other statutory or charter authority to destroy obsolete district records and does not prevent destruction of such records at an earlier time or the destruction of other records when authorized by other statutory or charter provision.

Subd. 6. The board of any district which prior to the adoption of this code was classified as a ten or more township district, a county district, or a consolidated district, or any district which possessed the powers of a consolidated district or any district which contains at least 18 sections of land may acquire by lease, purchase or condemnation a site and erect thereon necessary and suitable buildings or rent existing buildings as and for dwellings for its teachers and employees. The board in such district may sell, lease or otherwise dispose of any property so acquired.

Subd. 7. [ Repealed, 1977 c 447 art 6 s 13 ]

Subd. 8. The board may authorize a representative to move unauthorized vehicles parked on school district property, or require the driver or other person in charge of the vehicle to move the same off school district property.

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

**History:** *Ex1959 c 71 art 4 s 22; 1961 c 562 s 13; 1967 c 704 s 1; 1975 c 162 s 41; 1978 c 706 s 20*

NOTE: Subdivision 7 is repealed effective December 31, 1979, pursuant to Laws 1977, Chapter 447, Article 6, Section 13.

**123.41 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.41 INDEPENDENT SCHOOL DISTRICT, LIABILITY INSURANCE, OFFICERS AND EMPLOYEES.**

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

**History:** *Ex1959 c 71 art 4 s 23*

**123.42 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.42 LIMITATION OF SECTIONS.**

Material contained in sections 123.32 to 123.41, unless expressly stated otherwise, relates only to independent school districts.

**History:** *Ex1959 c 71 art 4 s 24; 1980 c 509 s 32*

**123.43-123.50 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**SPECIAL SCHOOL DISTRICTS**

**123.51 MS 1953** [ Repealed, 1957 c 947 art 9 s 9 ]

**123.51 SPECIAL SCHOOL DISTRICTS, LAWS APPLICABLE.**

Special districts as now organized shall continue to operate under the special legislation and charter provisions governing them until conversion to independent districts. The provisions of law relating to independent districts shall apply to and govern each special district unless the special laws and charter provisions governing the special district provide for the matter, in which case the special laws and charter provisions relating to the special district shall apply and control.

**History:** *Ex1959 c 71 art 4 s 25; 1980 c 609 art 6 s 19*

**123.52-123.55** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.56** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**123.56** MS 1974 [ Repealed, 1975 c 162 s 42 ]

**123.57** MS 1953 [ Repealed, 1957 c 947 art 9 s 9 ]

**EDUCATIONAL COOPERATIVE  
SERVICE UNITS**

**123.58 EDUCATIONAL COOPERATIVE SERVICE UNITS.**

Subdivision 1. **Declaration of policy.** It is declared to be a policy of the state to make general and uniform educational opportunities available to all school children in the state. In striving toward this equalizing of educational opportunity, the policy of the state shall be to encourage cooperation in making available to all students those educational programs and services which may most efficiently and economically be provided by a consortium effort of several school districts.

Subd. 2. **Establishment of educational cooperative service units.** (a) In furtherance of this policy, ten educational cooperative service units are designated. Each unit, should it become operational, shall be termed an educational cooperative service unit, hereafter designated as an ECSU. Geographical boundaries for each ECSU shall coincide with those identified in governor's executive orders 8, dated September 1, 1971, and 59, dated May 29, 1973, issued pursuant to the regional development act of 1969, Minnesota Statutes, Sections 462.381 to 462.397, with the following exceptions:

(i) Development regions one and two shall be combined to form a single ECSU;

(ii) Development regions six east and six west shall be combined to form a single ECSU;

(iii) Development regions seven east and seven west shall be combined to form a single ECSU.

The ECSU shall cooperate with the regional development commission for the region with which its boundaries coincide but shall not be responsible to nor governed by that regional development commission.

(b) The geographic location of the central administrative office of a school district shall determine the membership of the total school district in a particular ECSU. Existing school district boundaries shall not be altered as a result of this section.

(c) Two or more identified ECSU units may, upon approval by a majority of school boards of participating school districts in each affected ECSU, be combined and administered as a single ECSU unit but state assistance shall be allocated on the basis of two or more ECSU units.

(d) The initial organization of each ECSU may occur only upon petition to the state board of education by a majority of all school districts in an ECSU. The state board of education shall, upon receipt of this petition, invite represen-



tation from all public school districts and shall encourage the participation of nonpublic school administrative units to the extent allowed by law in an ECSU at a regional meeting. The state board of education shall then assist in the necessary organizational activities for establishment of an ECSU pursuant to the requirements of this section.

Subd. 3. **Purpose of ECSU.** The primary purposes of designation as an ECSU shall be to perform educational planning on a regional basis and to assist in meeting specific educational needs of children in participating school districts which could be better provided by an ECSU than by the districts themselves. The ECSU shall provide those educational programs and services which are determined, pursuant to subdivision 8, to be priority needs of the particular region and shall assist in meeting special needs which arise from fundamental constraints upon individual school districts.

Subd. 4. **Membership and participation.** Full membership in an ECSU shall be limited to public school districts of the state but non-voting associate memberships shall be available to non-public school administrative units within the ECSU. Participation in programs and services provided by the ECSU shall be discretionary and no school district shall be compelled to participate in these services under authority of this section, except that all school districts whose central administrative offices are within that ECSU whose boundaries coincide with those of development region 11 shall participate in the planning and planning research functions of that ECSU. No planning or planning research decision of that ECSU shall be binding on these region 11 districts. Non-public school students and personnel are encouraged to participate in programs and services to the extent allowed by law.

Subd. 5. **Governing board.** (a) The care, management, and control of an ECSU shall be vested in a board of directors composed of not less than six nor more than 15 members. Members of the ECSU board of directors shall be current members of school boards of participating public school districts. Election to the ECSU board of directors shall be by vote of all current school board members of participating public school districts with each school board member having one vote.

(b) At the initial election, not less than six nor more than 15 members shall be elected at large from the ECSU, one-third of the members for a one year term from July 1 next following the election, one-third of the members for a two year term, and one-third of the members for a three year term, to serve until a successor is elected and qualifies; provided that if the number of members is not evenly divisible by three, the membership will be as evenly distributed as possible among one, two, and three year terms with the remaining members serving the three year term. Elections shall occur after the third Tuesday in May but not later than June 15, or within 90 days following the filing of the initial petition with the state board of education. Thereafter, members shall be elected to serve a term of three years beginning on July 1 next following the election.

(c) Notwithstanding any contrary provisions in (a) and (b), the school boards of districts within that ECSU whose boundaries coincide with those of development region 11 may form a representative assembly composed of one current school board member from each district. The care, management, and control of that ECSU shall be vested in the representative assembly if one is formed. The representative assembly shall elect an executive committee of not less than six nor more than 15 members to terms as provided in clause (b) to have those powers and to carry out those duties delegated to it by the representative assembly. In the election of its executive committee, the representative assembly shall establish such electoral districts as necessary to ensure proportional representation based on school enrollments within the ECSU. The provi-

sions of clauses (d), (e), (f) and (g) of this subdivision shall apply to the executive committee of this ECSU.

(d) A vacancy on the board which results in an unexpired term shall be filled by appointment by the board of directors until such vacancy can be filled at the next annual election.

(e) The first meeting of the ECSU board shall be at a time mutually agreed upon by board members. At this meeting, the ECSU board shall choose its officers and conduct any other necessary organizational business. The ECSU board may, in its discretion, appoint up to three superintendents of school districts within the ECSU as ex officio, non-voting members of the board and shall encourage the advisory participation of administrators of nonpublic school administrative units within the ECSU to the extent allowed by law.

(f) The officers of the ECSU board shall be a chairman, vice chairman, clerk and treasurer, no two of whom when possible shall be from the same school district.

(g) A member of the ECSU board shall have the same liability applicable to a member of an independent school board.

**Subd. 6. Duties and powers of ECSU board of directors.** The board of directors shall have authority to maintain and operate an ECSU. Subject to the availability of necessary resources, the powers and duties of this board shall include the following:

(a) The board of directors shall submit within 90 days after the filing of the initial petition with the state board of education and by June 1 of each year thereafter to the state board of education and to each participating school district an annual plan which describes the objectives and procedures to be implemented in assisting in resolution of the educational needs of the ECSU. In formulating the plan the board is encouraged to consider: (1) the number of dropouts of school age in the ECSU area and the reasons for the dropouts; (2) existing programs within participating districts for dropouts and potential dropouts; (3) existing programs of the ECSU for dropouts and potential dropouts and (4) program needs of dropouts and potential dropouts in the area served by the ECSU.

(b) The ECSU board of directors may provide adequate office, service center, and administrative facilities by lease, purchase, gift, or otherwise, subject to the review of the state board of education as to the adequacy of the facilities proposed.

(c) The ECSU board of directors may employ a central administrative staff and other personnel as necessary to provide and support the agreed upon programs and services. The board may discharge staff and personnel pursuant to provisions of law applicable to independent school districts. ECSU staff and personnel may participate in retirement programs and any other programs available to public school staff and personnel.

(d) The ECSU board of directors may appoint special advisory committees composed of superintendents, central office personnel, building principals, teachers, parents and lay persons.

(e) The ECSU board of directors may employ service area personnel pursuant to licensure standards developed by the state board of education and the board of teaching.

(f) The ECSU board of directors may enter into contracts with school boards of local districts including school districts outside the ECSU area.

(g) The ECSU board of directors may enter into contracts with other public and private agencies and institutions which may include, but are not limited to, contracts with Minnesota institutions of higher education to provide

administrative staff and other personnel as necessary to furnish and support the agreed upon programs and services.

(h) The ECSU board of directors shall exercise all powers and carry out all duties delegated to it by participating local school districts under provisions of the ECSU bylaws. The ECSU board of directors shall be governed, when not otherwise provided, by the provisions of law applicable to independent school districts of the state.

(i) The ECSU board of directors shall submit an annual evaluation report of the effectiveness of programs and services to the school districts and nonpublic school administrative units within the ECSU and the state board of education by September 1 of each year following the school year in which the program and services were provided.

(j) The ECSU board is encouraged to establish cooperative, working relationships with post-secondary educational institutions in the state.

**Subd. 7. Appointment of an advisory council.** There shall be an advisory council selected to give advice and counsel to the ECSU board of directors. This council shall be composed of superintendents, central office personnel, principals, teachers, parents, and lay persons. Nonpublic school administrative units are encouraged to participate on the council to the extent allowed by law. A plan detailing procedures for selection of membership in this council shall be submitted by the ECSU board of directors to the state board of education.

**Subd. 8. Educational programs and services.** Pursuant to subdivision 6, and rules and regulations of the state board of education, the board of directors of each operational ECSU shall submit annually a plan to the public school districts within the ECSU, the nonpublic school administrative units, and the state board of education. The plan shall identify the programs and services which are suggested for implementation by the ECSU during the following school year and shall contain components of long range planning determined by the ECSU in cooperation with the state board of education and other appropriate agencies. The state board of education may review and recommend modification of the proposed plan and conduct ongoing program reviews. These programs and services may include, but are not limited to, the following areas:

- (a) Administrative services and purchasing
- (b) Curriculum development
- (c) Data processing
- (d) Educational television
- (e) Evaluation and research
- (f) In-service training
- (g) Media centers
- (h) Publication and dissemination of materials
- (i) Pupil personnel services
- (j) Regional planning, joint use of facilities, and flexible and year-round school scheduling
- (k) Secondary, post-secondary, community, adult, and adult vocational education
- (l) Individualized instruction and services, including services for students with special talents and special needs
- (m) Teacher personnel services
- (n) Vocational rehabilitation
- (o) Health, diagnostic, and child development services and centers

- (p) Leadership or direction in early childhood and family education
- (q) Community services
- (r) Shared time programs.

Subd. 8a. **Technical assistance.** Insofar as possible, educational cooperative service units shall make technical assistance for long-range planning available to school districts upon request and shall establish a common data base for local and regional decision making.

Subd. 9. **Financial support for the educational cooperative service units.** (a) Financial support for ECSU programs and services shall be provided by participating local school districts and non-public school administrative units with private, state and federal financial support supplementing as available. The ECSU board of directors may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district and non-public school administrative unit its proportionate share of any and all expenses. This share shall be based upon the extent of participation by each district or non-public school administrative unit and shall be in the form of a service fee. Each participating district and non-public school administrative unit shall remit its assessment to the ECSU board as provided in the ECSU bylaws. The assessments shall be paid within the maximum levy limitations of each participating district. No participating school district or non-public school administrative unit shall have any additional liability for the debts or obligations of the ECSU except that assessment which has been certified as its proportionate share or any other liability the school district or non-public school administrative unit agrees to assume.

(b) Any property acquired by the ECSU board is public property to be used for essential public and governmental purposes which shall be exempt from all taxes and special assessments levied by a city, county, state or political subdivision thereof.

(c) A school district or non-public school administrative unit may elect to withdraw from participation in the ECSU by a majority vote of its full board membership and upon compliance with the applicable withdrawal provisions of the ECSU organizational agreement. Upon receipt of the withdrawal resolution reciting the necessary facts, the ECSU board shall file a certified copy with the state board of education. The withdrawal shall be effective on the June 30 following receipt by the board of directors of written notification of the withdrawal at least six months prior to June 30. Notwithstanding the withdrawal, the proportionate share of any expenses already certified to the withdrawing school district or non-public school administrative unit for the ECSU shall be paid to the ECSU board.

(d) The ECSU is a public corporation and agency and its board of directors may make application for, accept and expend private, state and federal funds that are available for programs of educational benefit approved by the state board of education in accordance with regulations adopted by the state board of education pursuant to chapter 15. The state board of education shall not distribute special state aid or federal aid directly to an ECSU in lieu of distribution to a school district within the ECSU which would otherwise qualify for and be entitled to this aid without the consent of the school board of that district.

Subd. 10. **Joint powers act.** Nothing in this section shall restrict the authority granted to school district boards of education by section 471.59.

**History:** 1975 c 271 s 6; 1976 c 8 s 1; 1976 c 222 s 27; 1978 c 706 s 21-24; 1979 c 195 s 1-6; 1979 c 334 art 6 s 10,11

**123.581 IN-SERVICE TRAINING PROGRAMS.**

Subdivision 1. **Establishment.** Programs for in-service training for regular classroom teachers, assistant principals and principals in techniques of education of handicapped pupils shall be established in school districts designated by the state board of education. Funds for these programs shall be granted by the state board upon the recommendation of the advisory council for in-service training in techniques of education of handicapped pupils. Handicapped pupils for the purposes of this section, are those defined in section 120.03.

Subd. 2. **Advisory council.** There is hereby established the advisory council for in-service training in techniques of education of handicapped pupils, which shall be responsible for recommending grants for and assisting the districts in developing the programs of in-service teacher training.

Subd. 3. **Membership.** The advisory council shall consist of 12 members who shall be appointed by the commissioner of education. Nine members shall be professionally qualified in the fields of special or general education, and three shall be public members. The public members shall be representative of associations and organizations concerned with the problems of handicapped pupils.

Subd. 4. **Duties.** The advisory council shall be charged with the following duties:

(1) To make recommendations to the state board of education as to priority in the use of funds available for the in-service training programs for classroom teachers;

(2) To formulate and recommend policies as to the awarding of grants by the state board;

(3) To propose minimum standards to be met by the district in order to receive program approval;

(4) To review proposals of programs submitted by the district and make recommendations as to acceptability; and

(5) Evaluate and make periodic reports on the programs funded under this section to the state board of education, the board of teaching and the council on quality education.

Subd. 5. **Terms, removal, compensation.** The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 6. **Requirements for programs.** A grant received by the district shall be used solely for costs incurred in the in-service training of the teachers and shall not be used for any other general education or special education functions. Applications for grants may be considered from districts initiating an in-service training program or continuing an existing program. A single district may initiate or continue a program or may join with another district or other districts. A district may cooperate with other districts in a special educational regional council, educational service area, or educational cooperative service unit wherever such arrangement is available. Distribution of funds between or among the programs shall depend upon the needs of the district, its population, and the number of teachers to be trained in the program. There is no requirement that funds be equally distributed.

Subd. 7. The state board of education shall provide such personnel and resources as needed in order to carry out the duties assigned to the advisory council in this section.

**History:** 1975 c 271 s 6; 1976 c 8 s 3; 1976 c 222 s 27; 1977 c 447 art 3 s 5-8; 1978 c 706 s 25,26

## MISCELLANEOUS PROVISIONS

**123.61 LIMITATIONS.**

Every district which for one year shall have exercised the powers and franchises of a district shall be deemed legally organized.

**History:** *Ex1959 c 71 art 4 s 27*

**123.62 PLATS.**

The auditor shall keep in his office books containing a correct plat and description of each district, whether wholly or partly in his county. The auditor shall submit to the state department a description and the revised plats showing changes made in district boundaries within 60 days of such changes.

**History:** *Ex1959 c 71 art 4 s 28; 1975 c 162 s 41; 1978 c 616 s 6*

**123.63 EMINENT DOMAIN.**

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

**History:** *Ex1959 c 71 art 4 s 29*

**123.64 AGRICULTURAL EDUCATION.**

The board of any district in which instruction in agriculture is afforded is authorized and empowered to purchase or otherwise acquire by condemnation proceedings as provided for acquiring schoolhouse sites in the name and in behalf of such district, a suitable tract of land either within or without the limits of such district to be used for the purpose of instruction, experimentation, and demonstration in agriculture. The provisions of this section shall apply as well to districts organized under special acts as under the general laws, notwithstanding any provisions or restrictions in the laws under which the same are organized.

**History:** *Ex1959 c 71 art 4 s 30*

**123.65 [ Repealed, 1980 c 609 art 6 s 48 ]****123.66 RECORDS AS EVIDENCE.**

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

**History:** *Ex1959 c 71 art 4 s 32*

### **123.67 COUNTY ATTORNEY, DUTIES.**

When the boundaries of any district are coterminous with the boundaries of a county unless the board retains separate counsel, the county attorney may serve as attorney for the board without additional compensation from the district, but the board of county commissioners of such county may allow such additional compensation for legal services rendered to the board as the board of county commissioners deem proper.

**History:** *Ex1959 c 71 art 4 s 33*

### **123.68 COUNTY SCHOOL DISTRICTS, CONTINUANCE, LAWS APPLICABLE.**

Any school district classified as a county school district July 1, 1957, shall continue to operate under the laws now governing it. The provisions of Laws 1957, Chapter 947 relating to independent school districts shall apply to and govern each county school district unless the particular laws governing the county school district provide for the matter, in which case the provisions relating to the county school district shall apply and control.

**History:** *Ex1959 c 71 art 4 s 34*

### **123.681 SALE AT AUCTION.**

Notwithstanding sections 123.37, subdivision 1, 471.345 or any other law, the board of a school district or of a cooperative center for vocational education may, in lieu of advertising for bids, sell at public auction to the highest responsible bidder a building constructed or to be constructed by a secondary or post-secondary school student or class as a school assignment. A board shall publish notice of a sale at least two weeks before the sale in the official newspaper of the district, or in the case of a cooperative center, in the official newspapers of each of the member districts, and may, at its discretion, publish additional notice in the official paper or elsewhere. A building may be withdrawn from sale prior to the completion of the sale unless the auction has been announced to be without reserve. If the sale is made at public auction, a duly licensed auctioneer shall be retained to conduct the sale. The auctioneer shall be paid from the proceeds of the sale or from any funds available to the board which are not otherwise restricted or encumbered.

**History:** *1979 c 110 s 1*

### **123.69 SCHOOL EMPLOYEES, TUBERCULOSIS.**

Subdivision 1. **Tests prior to employment.** The employees of all school districts, as defined in section 120.02, and the employees of all private or parochial schools, day care centers and nursery schools shall, prior to employment and periodically thereafter as prescribed by the commissioner of health by rule, show freedom from tuberculosis in accordance with rules promulgated by the commissioner of health. The school district, private or parochial school, day care center or nursery school shall assume the payment of the cost of the services necessary for the diagnosis and report but the obligation shall be limited to the actual examination and diagnosis and shall not include travel or incidental expenses. The physical examinations, chest x-rays or tuberculin tests shall not be required of any employee who files with the school board or with the person or persons legally responsible for the private or parochial school, day care center or nursery school an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing, that he is to the best of his knowledge and belief in good health, and that he claims exemption from health examination on those grounds. An employee who is in compliance with the requirements of this section for a

school district, private or parochial school, day care center or nursery school in this state shall be deemed to be in compliance with this section for any other school district, private or parochial school, day care center or nursery school.

Subd. 2. **Employees showing tuberculosis.** If the examination prescribed by rule of the state commissioner of health shows evidence of active tuberculosis and the employee is certified by the employee's physician to be infectious and to be a danger to the public health, it shall be the duty of the school board or the person or persons legally responsible for the private or parochial school, day care center or nursery school immediately to exclude the person from his employment during the period of infectiousness; provided, however, that an exclusion from employment shall not restrict the rights acquired by teachers pursuant to sections 125.12 and 125.17.

**History:** 1961 c 214 s 1; 1974 c 526 s 1; 1977 c 305 s 45; 1978 c 706 s 27; 1979 c 292 s 1

NOTE: See also section 144.45.

NOTE: Laws 1979, Chapter 292, Section 2 reads as follows:

"Sec. 2. **Effective date.** Minnesota Statutes 1978, Section 123.69, expires July 1, 1983."

### 123.70 HEALTH STANDARDS; SCHOOL CHILDREN.

Subdivision 1. Except as provided in subdivisions 3 and 4, no child shall be allowed to enroll or remain enrolled in any school in this state until the child has submitted to the principal or other person having general control and supervision of the school, one of the following statements:

(1) A statement from a physician or a public clinic which provides immunizations stating that the child has received immunization against red measles after having attained the age of 11 months, 15 days, German measles or rubella, diphtheria, tetanus, pertussis, polio and mumps; or,

(2) A statement from a physician or a public clinic which provides immunizations stating that the child has received immunizations against red measles after having attained the age of 11 months, 15 days, German measles or rubella, mumps and that the child has commenced a schedule of immunizations for diphtheria, tetanus, pertussis and polio.

Subd. 2. No child who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any school in this state after 18 months of enrollment unless there is submitted to the principal, or other person having general control and supervision of the school, a statement from a physician or a public clinic which provides immunizations that the child has completed the schedule of immunizations for diphtheria, tetanus, pertussis, and polio or has commenced a schedule of the immunizations, in which case the dates of the immunizations shall be stated.

Subd. 3. (a) If a child is at least seven years old and has not been immunized against pertussis or mumps, the child shall not be required to be immunized against pertussis or mumps.

(b) If a child is female and is at least 12 years old and has not been immunized against rubella, the child shall not be required to be immunized against rubella.

(c) If a statement, signed by a physician, is submitted to the principal or other person having general control and supervision of the school stating that an immunization is contraindicated for medical reasons or that laboratory confirmation of the presence of adequate immunity exists, the immunization specified in the statement shall not be required.

(d) If a notarized statement signed by the child's parent or guardian is submitted to the principal or other person having general control and supervision of the school stating that the child has not been immunized as prescribed in subdivi-



vision 1 because of the conscientiously held beliefs of the parent or guardian, the immunizations specified in the statement shall not be required. This statement shall also be forwarded to the commissioner of the department of health.

(e) If the child is under 15 months, the child is not required to be immunized against red measles, German measles, rubella or mumps.

Subd. 4. A child who is enrolling or enrolled in a public, private or parochial school may substitute a statement from a parent or guardian in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian, the statement shall indicate the month and year of each immunization given. In order for the statement to be acceptable it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than three doses of vaccine for poliomyelitis, and no less than four doses of vaccine for diphtheria, tetanus, and pertussis. If the commissioner of health finds that any of the above requirements are not necessary to protect the public's health, he may suspend for one year that requirement.

Subd. 5. If a child transfers from one school to another, the child shall be allowed 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the child may enroll in and attend the school.

Subd. 6. If the commissioner of health finds that an immunization required pursuant to this section is not necessary to protect the public's health, he may suspend for one year the requirement that children receive that immunization.

Subd. 7. Each school shall maintain on file immunization records for all children in attendance which contains the information required by subdivisions 1, 2 and 3. The department of health and the local board of health in whose jurisdiction the district is located shall have access to the files maintained pursuant to this subdivision. When a child transfers to another school, the school official shall assist the child's parent or guardian in the transfer of the immunization file to the child's new school within 30 days of the transfer.

Subd. 8. The principal or other person having general control and supervision of a school shall file a report with the commissioner of education on all children enrolled in kindergarten through 12th grade. The report shall be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local school districts by the commissioner of health and shall state the number of children attending the school, the number of children who have not been immunized according to subdivision 1 or 2, and the number of children who received an exemption under subdivision 3, clause (c) or (d). The report shall be filed with the commissioner of education within 60 days of the commencement of each new school term. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to local boards of health. The report required by this subdivision shall not be required of any day care facility.

Subd. 9. As used in this section "any school" means any public, private, or parochial elementary or secondary school or day care facility.

**History:** 1967 c 858 s 1,2; 1973 c 137 s 1-3; 1977 c 305 s 45; 1978 c 758 s 1; 1980 c 504 s 1

### **123.701 PURPOSE.**

The legislature finds that early detection of children's health and developmental problems can reduce their later need for costly care, minimize their physical and educational handicaps, and aid in their rehabilitation. The purpose of sections 123.701 to 123.705 is to assist parents and communities in improving the health of Minnesota children and in planning educational and health programs.

**History:** 1977 c 437 s 1

### 123.702 SCHOOL BOARD RESPONSIBILITIES.

Subdivision 1. Every school board shall provide for a voluntary health and developmental screening program for children once before entering kindergarten. This screening program shall be established either by one board, by two or more boards acting in cooperation, by educational cooperative service units, by early childhood and family education programs, or by other existing programs. No school board may make this screening examination a mandatory prerequisite to enroll a student. The screening programs shall include at least the following components to the extent the school board determines they are financially feasible: developmental assessments, hearing and vision screening, dental assessments, the review of health history and immunization status, laboratory tests and nutritional and physical assessments. All screening components shall be consistent with the standards of the state commissioner of health for early and periodic screening programs. No child shall be required to submit to any component of this screening program to be eligible for any other component. No screening program shall provide laboratory tests, a health history or a physical examination to any child who has been provided with those laboratory tests or a health history or physical examination within the previous 12 months. The school district shall request the results of any laboratory test, health history or physical examination within the 12 months preceding a scheduled screening clinic.

Subd. 2. If any child's screening indicates a condition which requires diagnosis or treatment, his parents shall be notified of the condition and the school board shall ensure that an appropriate follow-up and referral process is available, in accordance with procedures established pursuant to section 123.703, subdivision 1.

Subd. 3. The school board shall actively encourage participation in the screening program.

Subd. 4. Every school board shall contract with or purchase service from an approved early and periodic screening program in the area wherever possible.

Subd. 5. Every school board shall integrate and utilize volunteer screening programs in implementing sections 123.702 to 123.704.

Subd. 6. A school board may contract with health care providers to operate the screening programs and shall consult with local societies of health care providers.

Subd. 7. In selecting personnel to implement the screening program, the school district shall give priority first to qualified volunteers and second to other persons possessing the minimum qualifications required by the rules adopted by the state board of education and the commissioner of health.

**History:** 1977 c 305 s 45; 1977 c 437 s 2; 1979 c 334 art 6 s 12,13

### 123.703 STATE BOARD OF EDUCATION AND STATE COMMISSIONER OF HEALTH; RESPONSIBILITIES.

Subdivision 1. School boards shall administer the screening programs pursuant to rules adopted by the state board of education. Prior to the adoption of the rules, the state board shall solicit information or opinions pursuant to section 15.0412, subdivision 6. Copies of the proposed rules shall be sent to the state commissioner of health and each school board in the state on or before the date of publication. The state board of education shall consider the standards employed by the state commissioner of health for early and periodic screening programs in drafting the proposed rules. The rules adopted by the state board of education and the commissioner of health to govern the screening program shall unconditionally permit registered nurses to perform those components of the screening program that can be performed by a nurse.

Subd. 2. The state board of education, in cooperation with the state commissioner of health and health service providers, shall provide technical assistance, including training, and general information and consultation services to school boards.

Subd. 3. The state board of education, in cooperation with the state commissioner of health, shall report to the legislature by February 1, 1980, on the results of the screening programs in accomplishing the purposes specified in section 123.701. The report shall include information on the rates of children's participation in screening programs, on districts' costs for implementing the various components of the screening program, and on any exemptions granted from screening requirements because of financial infeasibility.

**History:** 1977 c 305 s 45; 1977 c 437 s 3; 1979 c 334 art 6 s 14,15

#### **123.704 DATA USE.**

Data on individuals collected in screening programs established pursuant to section 123.702 is private, as defined by section 15.162, subdivision 5a. Individual and summary data shall be reported to the school district by the health provider who performs the screening services, for the purposes of developing appropriate educational programs to meet the individual needs of children and designing appropriate health education programs for the district; provided, no data on an individual shall be disclosed to the district without the consent of that individual's parent or guardian.

**History:** 1977 c 437 s 4

#### **123.705 STATE AID.**

The department of education shall pay each school district for the cost of screening services provided pursuant to sections 123.701 to 123.705. The payment shall not exceed \$25 per child screened in fiscal year 1980 and \$27 per child screened in fiscal year 1981. Any district may request and receive an advance payment equal to 50 percent of its estimated payment for screening eligible children.

**History:** 1977 c 437 s 5; 1979 c 334 art 6 s 16

#### **123.71 PUBLICATION OF SCHOOL DISTRICT FINANCIAL INFORMATION.**

Subdivision 1. Every school board shall, no later than September 1 publish the revenue and expenditure budgets submitted to the commissioner of education in accordance with section 121.908, subdivision 4, for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the state board of education after consultation with the advisory council on uniform financial accounting and reporting standards. The forms prescribed shall be designed so that year to year comparisons of revenue, expenditures and fund balances can be made. These budgets, reports of revenue, expenditures and fund balances shall be published in a newspaper of general circulation and holding a U. S. Post Office Department second class mailing permit or a legal newspaper located in the district, or if there be no such newspaper within the district then in the legal newspaper outside the district which has a general circulation in the district.

Subd. 2. It shall also publish at the same time a summary of bonds outstanding, paid, and sold; a summary of orders not paid for want of funds; certificates of indebtedness for the year ending June 30; the statutory operating debt of the district as defined and certified pursuant to section 121.914; and the balance amount of the appropriated fund balance reserve account for purposes of reducing statutory operating debt established pursuant to section 275.125.

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

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

**History:** 1969 c 1011 s 1-3; 1971 c 690 s 1; 1977 c 447 art 7 s 17-19

### **123.72 MEDICAL INSURANCE PREMIUMS FOR RETIRED PERSONNEL.**

The school board of any independent school district may expend funds to pay premiums on hospitalization and major medical insurance coverage for officers and employees who retire prior to age 65 and who are between the ages of 55 and 65. Such premiums shall only be paid until such retired officers and employees reach age 65.

**History:** 1973 c 739 s 1; 1975 c 365 s 1

### **123.73 DATA PROCESSING BY JOINT BOARD, ACQUISITION OF PROPERTY.**

Any joint board formed pursuant to section 471.59 by two or more school districts, however organized, for the purpose in whole or in part of establishing or providing data processing services may acquire, transfer and hold title to real and personal property to the extent and in the manner as is authorized by law for independent school districts. The joint board may acquire by lease-purchase or installment purchase or in any manner approved pursuant to section 16.93 or other state law any necessary computer hardware or software. For purposes of acquiring, transferring and holding title to real and personal property, such joint board shall be considered a separate governmental entity, and the obligations incurred in acquiring any such property shall not be included in the net debt of any school district.

**History:** 1975 c 154 s 1; 1977 c 30 s 1

### **123.74 POLICY.**

The legislature finds that a process for curriculum evaluation and planning is needed for continued improvement of the educational program for all public school children in the state, and to allow for better evaluation of educational programs by local communities. The legislature further finds that such a process is needed to facilitate decisions by school boards and communities as to which services can best be provided by the public schools and which services can or should be provided by other institutions such as the family, the private sector or other public agencies.

**History:** 1976 c 271 s 1

### **123.741 EDUCATIONAL POLICY; CURRICULUM ADVISORY COMMITTEES.**

Subdivision 1. The school board of each school district in the state shall develop and adopt a written educational policy which establishes educational goals for the district, a process for achieving these goals, and procedures for evaluating and reporting progress toward the goals. The school board shall review this policy each year and adopt revisions which it deems desirable. School boards are encouraged to develop this school district policy and any revisions after consultation with the staff of each school building. In formulating the policy, the school board of a district is encouraged to consider: (a) the number of dropouts of school age in the district and the reasons for the dropouts; (b) existing programs within the district for dropouts and potential dropouts and (c) program needs of dropouts and potential dropouts.

Subd. 2. The school board shall instruct the administrative and professional staff of the district to develop an instructional plan for the purpose of implementing the goals established in the district educational policy within resources available to the district. Insofar as possible the instructional plan shall include measurable instructional objectives to assist in directing and measuring progress toward the goals established in the district educational policy. For goals toward which progress is not easily measurable, the instructional plan shall include other appropriate means to direct and evaluate progress.

Subd. 3. Each school board is encouraged to appoint a curriculum advisory committee to provide for active community participation in the process of developing and revising the district educational policy, developing the instructional plan, evaluating progress and reporting to the public.

Subd. 4. Each year a final evaluation of progress shall be conducted, including both professional and consumer evaluations. The professional staff evaluation shall utilize test results and other performance data along with faculty interpretations and judgments. Consumer evaluation shall include the opinions of students, parents and other residents of the community served by the school. Upon receipt of the evaluation reports, each school board shall review the results and develop appropriate school improvement plans to improve areas where goals of the district educational policy have not been met.

Subd. 5. The district educational policy, the reports of the annual evaluation including summary test results, and the plans for school improvement shall be made available to the citizens of the school district through media releases and other means of communicating with the public. These documents shall also be on file and available for inspection by the public. Information copies of the reports shall be sent to the state board of education. All activities and reports pursuant to this section shall comply with sections 15.162 to 15.167, and any other law governing data on individuals in school districts.

**History:** 1976 c 271 s 2; 1979 c 334 art 6 s 17

### **123.742 ASSISTANCE TO LOCAL SCHOOL DISTRICTS.**

Subdivision 1. Insofar as possible, the state board of education and educational cooperative service units shall make technical assistance for planning and evaluation available to school districts upon request. The department shall collect the annual evaluation reports from local districts as provided in section 123.741, subdivision 5, and shall make this data available upon request to any district seeking to use it for purposes of comparisons of student performance.

Subd. 2. The department upon written agreement with local school districts may perform testing and evaluation of students. The department may collect a reasonable fee not to exceed the actual cost of services.

**History:** 1976 c 271 s 3; 1977 c 447 art 6 s 1

### **123.743 APPROPRIATION.**

There is annually appropriated from the general fund to the department of education any and all amounts received by the department pursuant to section 123.742, subdivision 2.

**History:** 1976 c 271 s 7

### **123.744 SCHOOL BOARDS; STUDENT MEMBERS.**

The board of directors of any school district may appoint a student to serve as an advisory member to the school board. The student shall serve as an advisory member to the board only as long as he attends school in the district, and shall not receive any compensation or be reimbursed for any expenses incurred while serving in this capacity.

A student advisory member may be permitted to attend school board meetings, to be furnished with agenda materials, to introduce items for inclusion in the agenda, and to participate in discussion but shall not be entitled to vote.

**History:** 1977 c 106 s 1

### TRANSPORTATION OF SCHOOL CHILDREN

#### 123.76 POLICY.

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

School children attending any schools, complying with section 120.10, subdivision 2, are therefore entitled to the same rights and privileges relating to transportation.

**History:** 1969 c 570 s 1

#### 123.77 DEFINITIONS.

Subdivision 1. The following words and terms in sections 123.76 to 123.79 shall have the following meanings ascribed to them.

Subd. 2. "District" means any school district as defined in section 120.02.

Subd. 3. "School" means any school as defined in section 120.10, subdivision 2.

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

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

**History:** 1969 c 570 s 2; 1975 c 162 s 41

#### 123.78 EQUAL TREATMENT.

Subdivision 1. The school board of any district which is now or hereafter eligible to receive state aid for transportation under chapters 123 and 124, shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by any board by reason of distance or traffic condition in like manner and form as provided in sections 123.16, subdivisions 3 and 4; 123.18; 123.37, subdivisions 3 and 4; 123.39; and 124.223, when applicable.

Subd. 1a. (a) The school board of any local district shall provide school bus transportation to the district boundary for school children residing in the district at least the same distance from a nonpublic school actually attended in another district as public school pupils are transported in the transporting district, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. (b) The school board of any local district may provide school bus transportation to a nonpublic school in another district for school children residing in the district and attending that school, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. If the board transports children to a nonpublic school located in another district, the nonpublic school shall pay the cost of such transportation provided outside the district boundaries.

Subd. 2. When transportation is provided, the scheduling of routes, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the school board.

**History:** 1969 c 570 s 3; 1974 c 566 s 1; 1975 c 51 s 1; 1975 c 162 s 27; 1976 c 2 s 58

### 123.79 FUNDS AND AIDS.

Subdivision 1. Such state aids as may become available or appropriated shall be governed by section 124.225, be paid to the school district entitled thereto for the equal benefit of all school children, and be disbursed in such manner as determined by the board.

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

**History:** 1969 c 570 s 4; 1978 c 706 s 28; 1979 c 334 art 2 s 4

### 123.80 SAFETY EDUCATION FOR TRANSPORTED STUDENTS.

Subdivision 1. The state board of education shall provide by rule or regulation a program of safety education for students who are transported to school. Each district receiving aid under the provisions of section 124.225 shall implement the program. In drafting said regulations, the board shall give particular attention to procedures for loading, unloading, vehicle lane crossing and emergency evacuation procedures as they affect school buses.

Subd. 2. Not later than January 1, 1976, the state board of education shall promulgate rules which will assure the safe and efficient transportation of handicapped pupils who because of their special handicapping conditions require special transportation arrangements. In drafting these rules, the board shall give particular attention to standards for vehicles used in transporting handicapped pupils, equipment to assure the safety of these pupils, and the qualifications of the drivers and aides providing transportation services.

Subd. 3. Upon adoption of rules by the commissioner of public safety pursuant to section 299A.18, the state board of education shall amend its rules relating to the transportation of handicapped students to ensure that the amended rules carry out the intent of Laws 1978, Chapter 752.

**History:** 1974 c 332 s 1; 1975 c 432 s 17; 1978 c 752 s 9; 1979 c 334 art 2 s

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123.81 [ Repealed, 1969 c 9 s 96 ]

123.82 [ Repealed, 1969 c 9 s 96 ]

123.83 [ Repealed, 1969 c 9 s 96 ]

123.84 [ Repealed, 1969 c 9 s 96 ]

123.85 [ Repealed, 1969 c 9 s 96 ]

123.86 [ Repealed, 1969 c 9 s 96 ]

123.87 [ Repealed, 1969 c 9 s 96 ]

123.88 [ Repealed, 1969 c 9 s 96 ]

123.89 [ Repealed, 1969 c 9 s 96 ]

123.90 [ Repealed, 1969 c 9 s 96 ]

123.91 [ Repealed, 1969 c 9 s 96 ]

123.92 [ Repealed, 1969 c 9 s 96 ]

123.93 [ Repealed, 1969 c 9 s 96 ]

**EDUCATIONAL AIDS FOR NONPUBLIC  
SCHOOL CHILDREN**

**123.931 DECLARATION OF POLICY.**

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

**History:** 1975 c 396 s 1; 1978 c 733 s 2

**123.932 DEFINITIONS.**

Subdivision 1. [ Repealed, 1978 c 733 s 26 ]

Subd. 1a. As used in sections 123.931 to 123.937 and section 123.938, the terms defined in this section shall have the meanings ascribed to them.

Subd. 1b. "Textbook" means any book or book substitute which a pupil uses as a text or text substitute in a particular class or program in the school he regularly attends and a copy of which is expected to be available for the individual use of each pupil in this class or program, which book or book substitute or text or text substitute shall be limited to books, workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or a group of students. The term includes only such secular, neutral and nonideological textbooks as are available and are of benefit to Minnesota public school pupils.

Subd. 1c. "Standardized tests" means standardized tests and scoring services which are provided by commercial publishing organizations and which are in use in the public schools of Minnesota to measure the progress of pupils in secular subjects.

Subd. 1d. "Pupil support services" means guidance and counseling services and health services.

Subd. 1e. "Individualized instructional materials" means educational materials which:

(a) Are designed primarily for individual pupil use in a particular class or program in the school the pupil regularly attends;

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

(c) Are available and are of benefit to Minnesota public school pupils.

Subject to the requirements in clauses (a), (b) and (c), "individualized instructional materials" include the following if they do not fall within the definition of "textbook" in subdivision 1b: published materials; periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic works; film strips; prepared slides; prerecorded video programs; prerecorded tapes, cassettes and other sound recordings; manipulative materials; desk charts; games; study prints and pictures; desk maps; models; learning kits; blocks or cubes; flash cards; individualized multimedia systems; prepared instructional computer software programs; and prerecorded film cartridges.

"Individualized instructional materials" do not include the following: chemicals; wall maps; wall charts; pencils, pens or crayons; notebooks; blackboards; chalk and erasers; duplicating fluids; paper; 16 mm films; unexposed films; blank tapes, cassettes or videotape; and instructional equipment.

Subd. 2. [ Repealed, 1978 c 733 s 26 ]

Subd. 2a. "Pupils" means elementary and secondary pupils.



Subd. 2b. "Elementary pupils" means pupils in grades kindergarten through six; provided, each kindergarten pupil shall be counted as one-half pupil for all computations pursuant to sections 123.931 to 123.937.

Subd. 2c. "Secondary pupils" means pupils in grades seven through twelve.

Subd. 3. "Nonpublic school" means any school within the state other than a public school, wherein a resident of Minnesota may legally fulfill the compulsory school attendance requirements of section 120.10, and which meets the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352).

Subd. 3a. "Nonsectarian nonpublic school" means any nonpublic school as defined in subdivision 3, which is not church related, is not controlled by a church, and does not promote a religious belief.

Subd. 4. "School" means any public or nonpublic school within the state wherein children receive educational services and materials provided for or recognized by the state, limited to kindergarten through grade 12.

Subd. 5. "Pupil" or "student" means a child enrolled in a school and is limited to children who are residents, or children of residents, of Minnesota.

Subd. 6. [ Repealed, 1978 c 733 s 26 ]

Subd. 7. "Intermediary service area" means a school administrative unit approved by the state board of education, other than a single school district, including but not limited to the following: (a) an educational cooperative service unit; (b) a cooperative of two or more school districts; (c) learning centers; or (d) an association of schools or school districts.

Subd. 8. [ Repealed, 1978 c 733 s 26 ]

Subd. 9. "Neutral site" means a public center, a nonsectarian nonpublic school, a mobile unit located off the nonpublic school premises, or any other location off the nonpublic school premises which is neither physically nor educationally identified with the functions of the nonpublic school.

Subd. 10. "Guidance and counseling services" means all activities of a licensed counselor in counseling pupils and parents, providing counseling on learning problems, evaluating the abilities of pupils, assisting pupils in personal and social development and providing referral assistance.

Subd. 11. "Health services" means physician, dental, nursing or optometric services provided to pupils in the field of physical or mental health; provided the term does not include direct educational instruction, services which are required pursuant to section 120.17, or services which are eligible to receive special education aid pursuant to section 124.32.

**History:** 1975 c 396 s 2; 1978 c 733 s 3-13; 1979 c 34 s 1; 1980 c 609 art 4 s 2; art 6 s 20,21

### **123.933 PURCHASE OR LOAN OF TEXTBOOKS, INDIVIDUALIZED INSTRUCTIONAL MATERIALS, STANDARDIZED TESTS.**

Subdivision 1. The state board of education shall promulgate rules under the provisions of chapter 15 requiring that in each school year, based upon formal requests by or on behalf of nonpublic school pupils in a nonpublic school, the local districts or intermediary service areas shall purchase or otherwise acquire textbooks, individualized instructional materials and standardized tests and loan or provide them for use by children enrolled in that nonpublic school. These textbooks, individualized instructional materials and standardized tests shall be loaned or provided free to the children for the school year for which requested. The loan or provision of the textbooks, individualized instructional materials and standardized tests shall be subject to rules prescribed by the state board of education.

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

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

(b) The cost computed in clause (a) shall be increased by an inflation adjustment equal to the percent of increase in the foundation aid formula allowance, pursuant to section 124.212, from the second preceding school year to the current school year.

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

**History:** 1975 c 396 s 3; 1978 c 733 s 14; 1980 c 609 art 4 s 3

**123.934** [ Repealed, 1978 c 733 s 26 ]

### **123.935 PROVISION OF PUPIL SUPPORT SERVICES.**

Subdivision 1. The state board of education shall promulgate rules under the provisions of chapter 15 requiring each school district or other intermediary service area: (a) to provide each year upon formal request by a specific date by or on behalf of a nonpublic school pupil enrolled in a nonpublic school located in that district or area, the same specific health services as are provided for public school pupils by the district where the nonpublic school is located; and (b) to provide each year upon formal request by a specific date by or on behalf of a nonpublic school secondary pupil enrolled in a nonpublic school located in that district or area, the same specific guidance and counseling services as are provided for public school secondary pupils by the district where the nonpublic school is located. The district where the nonpublic school is located shall provide the necessary transportation within the district boundaries between the nonpublic school and a public school or neutral site for nonpublic school pupils who are provided pupil support services pursuant to this section. Each request for pupil support services shall set forth the guidance and counseling or health services requested by or on behalf of all eligible nonpublic school pupils enrolled in a given nonpublic school. No district or intermediary service area shall expend an amount for these pupil support services which exceeds the amount allotted to it under this section.

Subd. 2. Health services may be provided to nonpublic school pupils pursuant to this section at a public school, a neutral site, the nonpublic school or any other suitable location. Guidance and counseling services may be provided to nonpublic school pupils pursuant to this section only at a public school or a neutral site. District or intermediary service area personnel and representatives of the nonpublic school pupils receiving pupil support services shall hold an annual

consultation regarding the location of the provision of these services. The district board or intermediary service area governing board shall make the final decision on the location of the provision of these services.

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

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

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

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

**History:** 1975 c 396 s 5; 1978 c 733 s 15

### **123.936 PAYMENTS FOR CONTRACTUAL OBLIGATIONS.**

In every event the commissioner shall make such payments to school districts or intermediary service areas pursuant to sections 123.931 to 123.937 as are needed to meet contractual obligations incurred for the provision of benefits to nonpublic school students pursuant to sections 123.933 or 123.935.

**History:** 1975 c 396 s 6; 1978 c 733 s 16

### **123.9361 ADMINISTRATIVE COSTS.**

Each year, a school district or intermediary service area may claim and receive from the department of education an additional sum for the actual cost of administration of sections 123.933 and 123.935, which shall not exceed an amount equal to five percent of the district's or area's allocation for that year pursuant to those sections.

**History:** 1978 c 733 s 17

### **123.937 APPROPRIATION.**

There is appropriated annually to the department of education from the general fund of the state treasury the sum of \$3,250,000 for the purposes of sections 123.931 to 123.937. If this amount is not sufficient to make the payments required pursuant to sections 123.931 to 123.937, the amount necessary to make these payments is appropriated from the general fund to the department of edu-

cation. The amounts appropriated pursuant to this section for the year ending June 30, 1980 shall not cancel but shall be available for the second year of the biennium.

**History:** 1975 c 396 s 8; 1978 c 733 s 18; 1979 c 334 art 6 s 18; 1980 c 609 art 4 s 4

### 123.938 [ Expired ]

### 123.939 COMMITTEE ON NONPUBLIC SCHOOLS.

Subdivision 1. The governor shall appoint a five member committee on nonpublic schools within 30 days of April 14, 1976. The five members shall be representative of the various areas of the state and shall be knowledgeable about nonpublic schools. The compensation, removal of members, filling of vacancies and expiration date shall be as provided in section 15.059.

Subd. 2. The task force study shall include, but not be limited to the following areas:

- (a) nonpublic school enrollments and enrollment trends;
- (b) special education needs of students enrolled in nonpublic schools;
- (c) special education facilities available to students enrolled in nonpublic schools;
- (d) nonpublic school curriculum needs;
- (e) nonpublic school staffing, staffing ratios, and teacher certification;
- (f) the use of shared time by nonpublic school students;
- (g) the sharing of facilities by nonpublic and public schools;
- (h) the use of the educational cooperative service units by nonpublic schools;
- (i) transportation problems faced by nonpublic schools;
- (j) the services provided the nonpublic schools by the department of education or any other educational agency; and
- (k) any other problems of nonpublic schools which affect their abilities to provide sound educational programs for children.

Subd. 3. The task force shall report the results of its study and any recommendations it may have developed to the appropriate education committees of the legislature prior to January 15, 1977, and shall be available for consultation during the 1977 legislative session.

Subd. 4. As used in this section, "nonpublic school" means a school as defined in section 123.932, subdivision 3.

**History:** 1976 c 271 s 8; 1977 c 447 art 7 s 31; 1979 c 195 s 7

### 123.947 RESTRICTIONS TO PREVENT IMPROPER USE OF INDIVIDUALIZED INSTRUCTIONAL MATERIALS.

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

(b) Individualized instructional materials shall not be used in religious courses, devotional exercises, religious training or any other religious activity.

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

(d) The department of education or the servicing school district or the intermediary service area shall take adequate measures to ensure an accurate and periodic inventory of all individualized instructional materials loaned to elementary and secondary school pupils attending nonpublic schools. The state board of education shall promulgate rules under the provisions of chapter 15 to terminate the eligibility of any nonpublic school pupil if the department or the servicing school district or intermediary service area determines, after notice and opportunity for hearing, that the individualized instructional materials have been used in a manner contrary to the provisions of section 123.932, subdivision 1e, 123.933 or this section or any rules promulgated by the state board of education.

(e) Nothing contained in section 123.932, subdivision 1e, 123.933 or this section shall be construed to authorize the making of any payments to a nonpublic school or its faculty, staff or administrators for religious worship or instruction or for any other purpose.

**History:** 1980 c 609 art 4 s 5