

CHAPTER 123

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NOTE: For special laws relating to specific school districts, see Table 1, Vol. 11.

123.01 MS 1953 [Repealed, 1957 c 947 art 9 s 9]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123.015 [Repealed, 1987 art 2 s 14]

123.02-123.10 MS 1953 [Repealed, 1957 c 947 art 9 s 9]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123.11 MS 1953 [Repealed, 1957 c 947 art 9 s 9]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 8:00 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 chair and clerk of the board shall officiate in their respective capacities at all meetings of the electors of the district. In the event of the absence of the chair or clerk, the voters shall elect a chair or clerk pro tem. The voters shall have the power in an annual meeting to repeal and modify their proceedings. The polls at all meetings shall be open at least one hour.

Subd. 2. 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 chair 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 the notice of annual meeting, shall state the names of the candidates for whom applications have been filed, failure to do so shall not affect the validity of the election thereafter held. At the annual meeting of common districts, nomination of candidates for offices may be made from the floor by any qualified voter.

Subd. 4. 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 chair shall be elected to hold office until July 1 following the next annual meeting. The treasurer, until one year from such date, and the clerk until two years from such date.

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

Subd. 7. Upon the filing of a petition therefor, executed by five eligible voters, as defined in Minnesota election law, of the common district, specifying the business to be acted upon, or upon the adoption of a proper resolution so specifying, signed by a majority of the members of the board, the clerk shall 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

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request or resolution and the time and place of the meeting. If there be no clerk in the district or if the clerk fails for three days after receiving a request or resolution to give notice of a meeting, it may be called by like notice by five eligible voters, as defined in Minnesota election law, of the district. No business except that named in the notice shall be transacted at the meeting. If there are not five eligible voters, as defined in Minnesota election law, or if there is not a board therein, the county auditor may call a special meeting by giving notice thereof as provided in this section. The voters at a special meeting have power to repeal or modify their proceedings.

**History:** *Ex 1959 c 71 art 4 s 2; 1965 c 33 s 1; 1979 c 29 s 1; 1980 c 609 art 6 s 15; 1986 c 444; 1987 c 266 art 2 s 8*

**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 a successor qualifies. The board of each common district shall consist of a chair, a treasurer, and a clerk. The board may by resolution establish a time and place for regular meeting and no notice of such meeting need be sent to any members of the board.

Subd. 2. 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 sections 124.226, 124.2716, 124.91, 124.912, 124.914, 124.916, 124.918, and 136C.411; 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:** *Ex 1959 c 71 art 4 s 3; 1967 c 176 s 1; 1978 c 706 s 11; 1986 c 444; 1991 c 130 s 37; 1992 c 499 art 12 s 29*

**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 chair or other vouchers authorized by law; provided, that, in the event that the chair has been continuously absent from the district for a period of 30 days or more, the treasurer may pay orders without the signature of the chair. Each order 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. The treasurer shall keep an account of each fund, and of all receipts and disbursements showing the sources of all receipts and the nature and purpose of disbursements. The treasurer shall deposit the funds of the district in the official depository in accordance with the provisions of law.

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; 1986 c 444*

**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 123.15 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 123.15 provides for the matter, in which case that provision shall apply and control.

**History:** *Ex1959 c 71 art 4 s 12; 1975 c 162 s 22; 1978 c 706 s 12; 1982 c 424 s 30*

**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** MS 1986 [Repealed, 1987 c 266 art 2 s 14]

**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 four years and until a 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 four-year term and thereafter the board shall consist of seven members.

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

Subd. 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. 2a. **School board member training.** A member must receive training in school finance and management developed in consultation with the Minnesota school boards association and consistent with section 121.919. The school boards association shall make available to each newly elected school board member training in school finance and management consistent with section 121.919 within 180 days of that member taking office. The program shall be developed in consultation with the department of education and appropriate representatives of higher education.

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 duties as a member of such board whichever date is earliest. When such ill or absent member is again able to resume 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 to be no longer a member thereof.

Subd. 4. Any other vacancy in a board shall be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held under this subdivision. All elections to fill vacancies shall be for the unexpired term. If the vacancy occurs before the first day to file affidavits of candidacy for the next school district general election and more than two years remain in the unexpired term, a special election shall be held in conjunction with the school district general election. The appointed person shall serve until the qualification of the successor elected to fill the unexpired part of the term at that special election. If the vacancy occurs on or after the first day to file affidavits of candidacy for the school district general election, or when less than two years remain in the unexpired term, there shall be no special election to fill the vacancy and the appointed person shall serve the remainder of the unexpired term and until a successor is elected and qualifies at the school district election.

Subd. 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 chair 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 rules for their organization, government, and instruction; keep registers; and prescribe textbooks and courses of study. The board may enter into an agreement with a post-secondary institution for secondary or post-secondary nonsectarian courses to be taught at a secondary school, nonsectarian post-secondary institution, or another location.

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

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

Subd. 10. [Repealed, 1993 c 224 art 12 s 32]

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. If the board determines that publication of a summary of the proceedings would adequately inform the public of the substance of the proceedings, the board may direct that only a summary be published, conforming to the requirements of section 331A.01, subdivision 10.

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

Subd. 12. 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. [Repealed, 1993 c 224 art 12 s 32]

Subd. 15. [Repealed, 1993 c 224 art 12 s 32]

Subd. 16. [Repealed, 1993 c 224 art 12 s 32]

**History:** *Ex 1959 c 71 art 4 s 15; 1965 c 434 s 1; 1967 c 176 s 2; 1967 c 713 s 1; 1973 c 263 s 1,2; 1973 c 690 s 1; 1974 c 82 s 1,2; 1975 c 162 s 24; 1983 c 314 art 7 s 16,17; 1984 c 543 s 6; 1985 c 122 s 1; 1986 c 444; 1987 c 42 s 1; 1987 c 266 art 2 s 9; 1989 c 329 art 9 s 7; 1990 c 562 art 7 s 3; art 8 s 20; 1992 c 499 art 9 s 2; 1993 c 224 art 7 s 6; 1993 c 374 s 17; 1994 c 646 s 2*

### 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 who shall be responsible for its safekeeping and disbursement according to law. Money for the operation of such fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund 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, the custodian 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 cus-

todian of such fund who shall be responsible for its safekeeping and disbursement according to law. At the first regular meeting of the board after such meeting, the custodian shall submit an itemized claim for the actual and necessary expenses incurred and paid. The board 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; 1986 c 444

**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 chair, clerk, and a treasurer, who shall hold their offices for one year and until their successors are selected and qualify. The persons who perform the duties of the clerk and treasurer need not be members of the board and the board by resolution may combine the duties of the offices of clerk and treasurer in a single person in the office of business affairs. They may appoint a superintendent who shall be ex officio a member of the board, but not entitled to vote therein. 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 chair when present shall preside at all meetings of the board, countersign all orders upon the treasurer for claims allowed by the board, represent the district in all actions and perform all the duties usually incumbent on such officer. In case of absence, inability, or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chair, and paid by the treasurer, a statement 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 chair 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 there are insufficient funds on hand to pay them, the treasurer 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 the 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. The clerk shall, within three days after an election notify all persons elected of their election. On or before August 15 of each year the clerk shall file with the board a report of the revenues, expenditures and balances in each fund for the preceding fiscal year. The report together with vouchers



and supporting documents shall subsequently be examined by a public accountant or the state auditor, either of whom shall be paid by the 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, the clerk shall make and transmit to the commissioner certified reports, showing:

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

The clerk shall enter in the clerk's record book copies of all reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished by the clerk pro tem, and keep an itemized account of all the expenses of the district. The clerk shall furnish to the auditor of the proper county, on or before October 10 of each year, an attested copy of the clerk's record, showing the amount of money voted by the district or the board for school purposes; draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers and for teachers' wages and all claims, to be countersigned by the chair. Such orders 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. Superintendent.** All districts maintaining a classified secondary school shall employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent shall be vested in the school board in all cases. An individual employed by a school board as a superintendent shall have an initial employment contract for a period of time no longer than three years from the date of employment. Any subsequent employment contract must not exceed a period of three years. A school board, at its discretion, may or may not renew an employment contract. A school board shall not, by action or inaction, extend the duration of an existing employment contract. Beginning 365 days prior to the expiration date of an existing employment contract, a school board may negotiate and enter into a subsequent employment contract to take effect upon the expiration of the existing contract. A subsequent contract shall be contingent upon the employee completing the terms of an existing contract. If a contract between a school board and a superintendent is terminated prior to the date specified in the contract, the school board may not enter into another superintendent contract with that same individual that has a term that extends beyond the date specified in the terminated contract. A school board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 125.12, subdivision 6 or 8. A superintendent shall not rely upon an employment contract with a school board to assert any other continuing contract rights in the position of superintendent under section 125.12. Notwithstanding the provisions of sections 122.532, 122.541, 125.12, subdivision 6a or 6b, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on order of employment in any district. If two or more school districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on order of employment in a contracting district. The superintendent of a district shall perform the following:

- (1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;
- (2) recommend to the board employment and dismissal of teachers;

- (3) superintend school grading practices and examinations for promotions;
- (4) make reports required by the commissioner of education; and
- (5) perform other duties prescribed by the board.

Subd. 10. **Principals.** Each public school building, as defined by section 120.05, subdivision 2, clauses (1), (2), and (3), in an independent school district may 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. If pupils in kindergarten through grade 12 attend school in one building, one principal may supervise the building.

Each principal assigned the responsibility for the supervision of a school building shall hold a valid license in the assigned position of supervision and administration as established by the rules of the 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 the principal is assigned.

**History:** *Ex 1959 c 71 art 4 s 16; 1969 c 9 s 27; 1971 c 144 s 1; 1973 c 492 s 7; 1974 c 37 s 1; 1975 c 162 s 25; 1975 c 432 s 16; 1978 c 706 s 13-15; 1978 c 764 s 31,32; 1979 c 334 art 6 s 8; 1981 c 175 s 1; 1983 c 314 art 7 s 18; 1986 c 444; 1987 c 398 art 8 s 8; 1990 c 562 art 8 s 21,22; 1991 c 265 art 9 s 34,35; 1993 c 224 art 9 s 22; art 12 s 15*

**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. The board's authority to conduct the business of the district includes implied powers in addition to any specific powers granted by the legislature.

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 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 through the 1999-2000 school year and over 18 years of age beginning with the 2000-2001 school year who, from any cause, are unable to attend the full-time elementary or secondary schools of such district.

Subd. 8a. The board may permit a person who is over the age of 21 or who has graduated from high school to enroll as a part-time student in a class or program at a secondary school if there is space available. In determining if there is space available, full-time public school students, shared-time students, and students returning to complete a regular course of study shall be given priority over part-time students seeking enrollment pursuant to this subdivision. The following are not prerequisites for enrollment:

(a) residency in the school district;

(b) United States citizenship; or

(c) for a person over the age of 21, a high school diploma or equivalency certificate.

A person may enroll in a class or program even if that person attends evening school, an adult or continuing education, or a post-secondary educational program or institution.

Subd. 8b. Notwithstanding the provisions of sections 120.06 and 120.74, a board may charge a part-time student a reasonable fee for a class or program.

Subd. 8c. A district may not count a person enrolled pursuant to subdivision 8a as a pupil unit or a pupil in average daily membership for the purpose of receiving any state aid.

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, prekindergarten, 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. 9a. **Summer school classes.** The board may establish and maintain summer school programs and intersession classes of flexible school year programs.

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 the employee's compensation arrangement, the board may purchase an individual annuity contract for an employee for retirement or other purposes and may make payroll allocations in accordance with such arrangement for the purpose of paying the entire premium due and to become due under such contract. The allocation shall be made in a manner which will qualify the annuity premiums (or a portion thereof) for the benefit afforded under section 403(b) of the current Federal Internal Revenue Code or any equivalent provision of subsequent federal income tax law. The employee shall own such contract and the employee's rights thereunder shall be nonforfeitable except for failure to pay premiums. 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 quali-

fied 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. [Repealed, 1993 c 224 art 12 s 32; 1993 c 374 s 32]

Subd. 15. When payment of a claim cannot be deferred until the next board meeting without loss to the district of a discount privilege, or when payment of a claim cannot be deferred until the next board meeting because of contract terms, purchase order terms, or a vendor's standard terms which are part of the contract, the claim may be paid prior to board approval, providing that the board:

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

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

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

Subd. 16. [Repealed, 1988 c 626 s 3]

Subd. 17. **School health services.** (a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

(1) employ personnel, including at least one full-time equivalent licensed school nurse or continue to employ a registered nurse not yet certified as a public health nurse as defined in section 145A.02, subdivision 18, who is enrolled in a program that would lead to certification within four years of August 1, 1988;

(2) contract with a public or private health organization or another public agency for personnel during the regular school year, determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or

(3) enter into another arrangement approved by the commissioner.

Subd. 18. **Noncustodial parent access to records.** Upon request, a noncustodial parent has the right of access to, and to receive copies of, school records and information, to attend conferences, and to be informed about the child's welfare, educational progress, and status, as authorized under section 518.17, subdivision 3. The school is not required to hold a separate conference for each parent.

Subd. 19. [Repealed, 1992 c 499 art 6 s 39; art 12 s 30]

Subd. 19a. **Limitation on participation and financial support.** (a) No school district shall be required by any type of formal or informal agreement, including a joint powers agreement, or membership in any cooperative unit defined in subdivision 19b, paragraph (d), to participate in or provide financial support for the purposes of the agreement for a time period in excess of one fiscal year, or the time period set forth in this subdivision. Any agreement, part of an agreement, or other type of requirement to the contrary is void.

(b) This subdivision shall not affect the continued liability of a school district for its share of bonded indebtedness or other debt incurred as a result of any agreement before July 1, 1993. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on July 1, 1993, except that the payment schedule may be altered for the purpose of restructuring debt or refunding bonds outstanding on July 1, 1993, if the annual payments of the school district are not increased and if the total obligation of the school district for its share of outstanding bonds or other debt is not increased.

(c) To cease participating in or providing financial support for any of the services

or activities relating to the agreement or to terminate participation in the agreement, the school board shall adopt a resolution and notify other parties to the agreement of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year except that for a member of an education district organized under sections 122.91 to 122.95 or an intermediate district organized under chapter 136D, cessation or withdrawal shall be effective June 30 of the following fiscal year. At the option of the school board, cessation or withdrawal may be effective June 30 of the following fiscal year for a district participating in any type of agreement.

(d) Before issuing bonds or incurring other debt, the governing body responsible for implementing the agreement shall adopt a resolution proposing to issue bonds or incur other debt and the proposed financial effect of the bonds or other debt upon each participating district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in sections 122.895, 125.12, and 125.17. The governing body responsible for implementing the agreement shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the governing body, the school board of the participating district shall adopt a resolution stating:

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

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

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

**Subd. 19b. Withdrawing from cooperative.** If a school district withdraws from a cooperative unit defined in paragraph (d), the distribution of assets and assignment of liabilities to the withdrawing district shall be determined according to this subdivision.

(a) The withdrawing district remains responsible for its share of debt incurred by the cooperative unit according to subdivision 19a. The school district and cooperative unit may mutually agree, through a board resolution by each, to terms and conditions of the distribution of assets and the assignment of liabilities.

(b) If the cooperative unit and the school district cannot agree on the terms and conditions, the commissioner of education shall resolve the dispute by determining the district's proportionate share of assets and liabilities based on the district's enrollment, financial contribution, usage, or other factor or combination of factors determined appropriate by the commissioner. The assets shall be disbursed to the withdrawing district in a manner that minimizes financial disruption to the cooperative unit.

(c) Assets related to an insurance pool shall not be disbursed to a member district under paragraph (b).

(d) For the purposes of this section, a cooperative unit is:

- (1) an education district organized under sections 122.91 to 122.95;
- (2) a cooperative vocational center organized under section 123.351;
- (3) an intermediate district organized under chapter 136D;
- (4) an educational cooperative service unit organized under section 123.58;
- (5) a regional management information center organized under section 121.935 or as a joint powers district according to section 471.59.

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

**Subd. 21. Appeal to commissioner.** If a cooperative unit as defined in subdivision 19b, paragraph (d), denies membership in the unit to a school district, the school district may appeal to the commissioner of education. The commissioner may require the cooperative unit to grant the district membership.

**History:** *Ex1959 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; 1981 c 194 s 1; 1981 c 358 art 7 s 22; 1982 c 548 art 6 s 4; 1986 c 444; 1987 c 309 s 24; 1987 c 398 art 7 s 20; 1988 c 626 s 1; 1988 c 668 s 2; 1988 c 718 art 7 s 21; 1991 c 265 art 6 s 22; art 9 s 36; 1992 c 499 art 12 s 8; 1993 c 224 art 12 s 16; art 13 s 17; 1994 c 647 art 6 s 11-13*

### 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 school district general 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 the same manner as school district general elections. 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 enter into an agreement to establish the center for purposes described in this section.

**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 chair a written certificate of appointment from the appointing 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 chair, vice-chair, clerk and treasurer, no two of whom when possible shall be from the same school district. The chair shall preside at all meetings of the center board except in the chair's absence the vice-chair 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 authority for selection and employment of a director shall be vested in the center board. Notwithstanding the provisions of section 125.12, subdivision 6a or 6b, no individual shall have a right to employment as a director based on seniority or order of employment by the center. 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. Commissioner approval.** Prior to the commencement of the operation of any center the agreement entered into by participating districts shall be approved by the commissioner.

**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 and of the center board, 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. 8a. Dissolution.** The boards of each participating district may agree to dissolve a center effective at the end of any school year or at an earlier time as they may mutually agree. A dissolution shall be accomplished in accordance with any applicable provisions of the agreement establishing the center. Upon receipt of the dissolution resolutions from the boards of the participating districts, the center board shall file a certified copy with the county auditors of the counties affected. The dissolution shall not affect the continuing liability of the previously participating districts for bonded indebtedness incurred prior to the dissolution, or for other continuing obligations, including reemployment insurance.

**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 12 months after August 1, 1974, and filed with the commissioner 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.

**Subd. 10. Revenue.** A secondary vocational cooperative may be eligible for revenue under section 124.575.

**History:** 1974 c 252 s 1; 1977 c 447 art 5 s 1,2; 1982 c 548 art 5 s 2; 1983 c 314 art 7 s 19; 1986 c 444; 1987 c 266 art 2 s 10; 1988 c 718 art 6 s 4; 1991 c 265 art 6 s 23; 1992 c 499 art 6 s 39; 1993 c 224 art 13 s 18-20; 1994 c 488 s 8; 1994 c 647 art 6 s 14,42

**123.3511** [Repealed, 1989 c 329 art 9 s 34]



123.3512 [Repealed, 1989 c 329 art 9 s 34]

### POST-SECONDARY COURSEWORK

#### 123.3513 ADVANCED ACADEMIC CREDIT.

A school district shall grant academic credit to a pupil attending an accelerated or advanced academic course offered by a higher education institution or a nonprofit public agency other than the district, if the pupil successfully completes the course attended and passes an examination approved by the district. If no comparable course is offered by the district, the commissioner shall determine the number of credits which shall be granted to a pupil who successfully completes and passes the course. If a comparable course is offered by the district, the school board shall grant a comparable number of credits to the pupil. If there is a dispute between the district and the pupil regarding the number of credits granted for a particular course, the pupil may appeal the school board's decision to the commissioner. The commissioner's decision regarding the number of credits shall be final.

The credits granted to a pupil shall be counted toward the graduation requirements and subject area requirements of the school district. Evidence of successful completion of each class and credits granted shall be included in the pupil's secondary school record.

*History: 1984 c 463 art 7 s 8; 1993 c 224 art 13 s 21*

#### 123.3514 POST-SECONDARY ENROLLMENT OPTIONS ACT.

Subdivision 1. **Citation.** This section may be cited as the "post-secondary enrollment options act."

Subd. 2. **Purpose.** The purpose of this section is to promote rigorous academic pursuits and to provide a wider variety of options to high school pupils by encouraging and enabling secondary pupils to enroll full time or part time in nonsectarian courses or programs in eligible post-secondary institutions, as defined in subdivision 3.

Subd. 3. **Definitions.** For purposes of this section, an "eligible institution" means a Minnesota public post-secondary institution, a private, nonprofit two-year trade and technical school granting associate degrees, an opportunities industrialization center accredited by the north central association of colleges and schools, or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota. "Course" means a course or program.

Subd. 4. **Authorization; notification.** Notwithstanding any other law to the contrary, an 11th or 12th grade pupil enrolled in a public school or an American Indian-controlled tribal contract or grant school eligible for aid under section 124.86, except a foreign exchange pupil enrolled in a district under a cultural exchange program, may apply to an eligible institution, as defined in subdivision 3, to enroll in nonsectarian courses offered by that post-secondary institution. If an institution accepts a secondary pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school district, and the commissioner of education within ten days of acceptance. The notice shall indicate the course and hours of enrollment of that pupil. If the pupil enrolls in a course for post-secondary credit, the institution shall notify the pupil about payment in the customary manner used by the institution.

Subd. 4a. **Counseling.** To the extent possible, the school district shall provide counseling services to pupils and their parents or guardian before the pupils enroll in courses under this section to ensure that the pupils and their parents or guardian are fully aware of the risks and possible consequences of enrolling in post-secondary courses. The district shall provide information on the program including who may enroll, what institutions and courses are eligible for participation, the decision-making process for granting academic credits, financial arrangements for tuition, books and materials, eligibility criteria for transportation aid, available support services, the need to arrange an appropriate schedule, consequences of failing or not completing a course

in which the pupil enrolls, the effect of enrolling in this program on the pupil's ability to complete the required high school graduation requirements, and the academic and social responsibilities that must be assumed by the pupils and their parents or guardian. The person providing counseling shall encourage pupils and their parents or guardian to also use available counseling services at the post-secondary institutions before the quarter or semester of enrollment to ensure that anticipated plans are appropriate.

Prior to enrolling in a course, the pupil and the pupil's parents or guardian must sign a form that must be provided by the district and may be obtained from a post-secondary institution stating that they have received the information specified in this subdivision and that they understand the responsibilities that must be assumed in enrolling in this program. The department of education shall, upon request, provide technical assistance to a district in developing appropriate forms and counseling guidelines.

**Subd. 4b. Dissemination of information; notification of intent to enroll.** By March 1 of each year, a school district shall provide general information about the program to all pupils in grades 10 and 11. To assist the district in planning, a pupil shall inform the district by March 30 of each year of the pupil's intent to enroll in post-secondary courses during the following school year. A pupil is not bound by notifying or not notifying the district by March 30.

**Subd. 4c. Limit on participation.** A pupil who first enrolls in grade 11 may not enroll in post-secondary courses under this section for secondary credit for more than the equivalent of two academic years. A pupil who first enrolls in grade 12 may not enroll in post-secondary courses under this section for secondary credit for more than the equivalent of one academic year. If a pupil in grade 11 or 12 first enrolls in a post-secondary course for secondary credit during the school year, the time of participation shall be reduced proportionately. A pupil who has graduated from high school cannot participate in a program under this section. A pupil who has completed course requirements for graduation but who has not received a diploma may participate in the program under this section.

**Subd. 4d. Enrollment priority.** A post-secondary institution shall give priority to its post-secondary students when enrolling 11th and 12th grade pupils in courses for secondary credit. Once a pupil has been enrolled in a post-secondary course under this section, the pupil shall not be displaced by another student.

**Subd. 4e. Courses according to agreements.** An eligible pupil, according to subdivision 4, may enroll in a nonsectarian course taught by a secondary teacher or a post-secondary faculty member and offered at a secondary school, or another location, according to an agreement between a school board and the governing body of an eligible public post-secondary system or an eligible private post-secondary institution, as defined in subdivision 3. All provisions of this section shall apply to a pupil, school board, school district, and the governing body of a post-secondary institution, except as otherwise provided.

**Subd. 5. Credits.** A pupil may enroll in a course under this section for either secondary credit or post-secondary credit. At the time a pupil enrolls in a course, the pupil shall designate whether the course is for secondary or post-secondary credit. A pupil taking several courses may designate some for secondary credit and some for post-secondary credit. A pupil must not audit a course under this section.

A school district shall grant academic credit to a pupil enrolled in a course for secondary credit if the pupil successfully completes the course. Seven quarter or four semester college credits equal at least one full year of high school credit. Fewer college credits may be prorated. A school district shall also grant academic credit to a pupil enrolled in a course for post-secondary credit if secondary credit is requested by a pupil. If no comparable course is offered by the district, the district shall, as soon as possible, notify the commissioner, which shall determine the number of credits that shall be granted to a pupil who successfully completes a course. If a comparable course is offered by the district, the school board shall grant a comparable number of credits to the pupil. If there is a dispute between the district and the pupil regarding the number of credits granted for a particular course, the pupil may appeal the school board's decision to the

commissioner. The commissioner's decision regarding the number of credits shall be final.

The secondary credits granted to a pupil shall be counted toward the graduation requirements and subject area requirements of the school district. Evidence of successful completion of each course and secondary credits granted shall be included in the pupil's secondary school record. A pupil must provide the school with a copy of the pupil's grade in each course taken for secondary credit under this section. Upon the request of a pupil, the pupil's secondary school record shall also include evidence of successful completion and credits granted for a course taken for post-secondary credit. In either case, the record shall indicate that the credits were earned at a post-secondary institution.

If a pupil enrolls in a post-secondary institution after leaving secondary school, the post-secondary institution shall award post-secondary credit for any course successfully completed for secondary credit at that institution. Other post-secondary institutions may award, after a pupil leaves secondary school, post-secondary credit for any courses successfully completed under this section. An institution may not charge a pupil for the award of credit.

**Subd. 6. Financial arrangements.** For a pupil enrolled in a course under this section, the department of education shall make payments according to this subdivision for courses that were taken for secondary credit.

The department shall not make payments to a school district or post-secondary institution for a course taken for post-secondary credit only. The department shall not make payments to a post-secondary institution for a course from which a student officially withdraws during the first 14 days of the quarter or semester.

A post-secondary institution shall receive the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance, multiplied by 1.3, and divided by 30.

The department of education shall pay to each post-secondary institution 100 percent of the amount in clause (1) or (2) within 30 days of receiving initial enrollment information each quarter or semester. If changes in enrollment occur during a quarter or semester, the change shall be reported by the post-secondary institution at the time the enrollment information for the succeeding quarter or semester is submitted. At any time the department of education notifies a post-secondary institution that an overpayment has been made, the institution shall promptly remit the amount due.

**Subd. 6a. Grants and financial aid prohibited.** A pupil enrolled in a post-secondary course for secondary credit is not eligible for any state student financial aid under chapter 136A.

**Subd. 6b. Financial arrangements, pupils age 21 or over.** For a pupil enrolled in a course according to this section, the department of education shall make payments according to this subdivision for courses taken to fulfill high school graduation requirements by pupils eligible for adult high school graduation aid.

The department must not make payments to a school district or post-secondary institution for a course taken for post-secondary credit only. The department shall not make payments to a post-secondary institution for a course from which a student officially withdraws during the first 14 days of the quarter or semester.

A post-secondary institution shall receive the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance, multiplied by 1.3, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour

shall be an amount equal to 88 percent of the product of the general revenue formula allowance multiplied by 1.3, and divided by 30.

The department of education shall pay to each post-secondary institution 100 percent of the amount in clause (1) or (2) within 30 days of receiving initial enrollment information each quarter or semester. If changes in enrollment occur during a quarter or semester, the change shall be reported by the post-secondary institution at the time the enrollment information for the succeeding quarter or semester is submitted. At any time the department of education notifies a post-secondary institution that an overpayment has been made, the institution shall promptly remit the amount due.

A school district shall receive:

(1) for a pupil who is not enrolled in classes at a secondary program, 12 percent of the general education formula allowance times .65, times 1.3; or

(2) for a pupil who attends classes at a secondary program part time, the general education formula allowance times .65, times 1.3, times the ratio of the total number of hours the pupil is in membership for courses taken by the pupil for credit to 1020 hours.

**Subd. 6c. Financial arrangements for courses provided according to agreements.** (a) The agreement between a school board and the governing body of a public post-secondary system or private post-secondary institution shall set forth the payment amounts and arrangements, if any, from the school board to the post-secondary institution. No payments shall be made by the department of education according to subdivision 6 or 6b. For the purpose of computing state aids for a school district, a pupil enrolled according to subdivision 4e shall be counted in the average daily membership of the school district as though the pupil were enrolled in a secondary course that is not offered in connection with an agreement. Nothing in this subdivision shall be construed to prohibit a public post-secondary system or private post-secondary institution from receiving additional state funding that may be available under any other law.

(b) If a course is provided under subdivision 4e, offered at a secondary school, and taught by a secondary teacher, the post-secondary system or institution must not require a payment from the school board that exceeds the cost to the post-secondary institution that is directly attributable to providing that course.

**Subd. 7. Fees; textbooks; materials.** A post-secondary institution that receives reimbursement for a pupil under subdivision 6 may not charge that pupil for fees, textbooks, materials, or other necessary costs of the course or program in which the pupil is enrolled if the charge would be prohibited under section 120.74, except for equipment purchased by the pupil that becomes the property of the pupil. An institution may require the pupil to pay for fees, textbooks, and materials for a course taken for post-secondary credit.

**Subd. 7a. Textbooks; materials.** All textbooks and equipment provided to a pupil, and paid for under subdivision 6, are the property of the pupil's school district of residence. Each pupil is required to return all textbooks and equipment to the school district after the course has ended.

**Subd. 8. Transportation.** A parent or guardian of a pupil enrolled in a course for secondary credit may apply to the pupil's district of residence for reimbursement for transporting the pupil between the secondary school in which the pupil is enrolled and the post-secondary institution that the pupil attends. The commissioner shall establish guidelines for providing state aid to districts to reimburse the parent or guardian for the necessary transportation costs, which shall be based on financial need. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week. However, if the nearest post-secondary institution is more than 25 miles from the pupil's resident secondary school, the weekly reimbursement may not exceed the reimbursement rate per mile times the actual distance between the secondary school and the nearest post-secondary institution times ten. The state shall pay aid to the district according to the guidelines established under this subdivision. Chapter 14 does not apply to the guidelines.

Subd. 9. **Exception; intermediate districts.** A secondary pupil who is a resident of a member district of an intermediate district, as defined in section 136C.02, subdivision 7, may not enroll in that intermediate district's vocational program as a post-secondary pupil under this section.

Subd. 10. **Limit; state obligation.** The provisions of subdivisions 6, 7, 8, and 9 shall not apply for any post-secondary courses in which a pupil is enrolled in addition to being enrolled full time in that pupil's district or for any post-secondary course in which a pupil is enrolled for post-secondary credit. The pupil is enrolled full time if the pupil attends credit-bearing classes in the high school or high school program for all of the available hours of instruction.

Subd. 11. **Pupils 40 miles or more from an eligible institution.** A pupil who is enrolled in a secondary school that is located 40 miles or more from the nearest eligible institution may request that the resident district offer at least one accelerated or advanced academic course within the resident district in which the pupil may enroll for post-secondary credit. A pupil may enroll in a course offered under this subdivision for either secondary or post-secondary credit according to subdivision 5.

A district must offer an accelerated or advanced academic course for post-secondary credit if one or more pupils requests such a course under this subdivision. The district may decide which course to offer, how to offer the course, and whether to offer one or more courses. The district must offer at least one such course in the next academic period and must continue to offer at least one accelerated or advanced academic course for post-secondary credit in later academic periods.

Subd. 11a. **Pupils less than 40 miles from an eligible institution.** A pupil enrolled in a secondary school that is located less than 40 miles from the nearest eligible institution may enroll in a post-secondary course provided at the secondary school.

**History:** *1Sp1985 c 12 art 5 s 1; 1Sp1985 c 16 art 2 s 32; 1986 c 447 s 1-11; 1988 c 486 s 16; 1988 c 718 art 6 s 5; 1989 c 329 art 9 s 8-12; 1990 c 562 art 6 s 14,15; 1991 c 265 art 2 s 2; art 7 s 7,8; art 9 s 37-39,75; 1992 c 499 art 9 s 3-11; 1993 c 224 art 9 s 23-26; art 13 s 22,23; 1994 c 647 art 8 s 4; art 9 s 4-6*

**123.3515** [Repealed, 1988 c 718 art 7 s 65]

**123.352** [Repealed, 1993 c 224 art 12 s 32]

#### FURTHER DISTRICT POWERS

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

#### **123.36 SCHOOLHOUSES AND SITES; ACCESS FOR NONCURRICULAR PURPOSES.**

Subdivision 1. According to section 124.91, subdivision 1, or 465.71, when funds are available therefor, the board may locate and acquire necessary sites of schoolhouses or enlargements, or additions to existing schoolhouse sites by lease, purchase or condemnation under the right of eminent domain; it may erect schoolhouses thereon; it may erect or purchase garages for district-owned school buses. When property is taken by eminent domain by authority of this subdivision when needed by the 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. [Repealed, 1993 c 224 art 12 s 32]

Subd. 3. [Repealed, 1993 c 224 art 12 s 32]

Subd. 4. [Repealed, 1993 c 224 art 12 s 32]

Subd. 4a. [Repealed, 1993 c 224 art 12 s 32]

Subd. 5. The board may authorize the use of any schoolhouses in the district for divine worship, Sunday schools, public meetings, elections, post-secondary instruction,

and other community purposes that, in its judgment, will not interfere with their use for school purposes. Before permitting any of these uses, the board may require a cash or corporate surety bond in a reasonable amount conditioned for the proper use of the schoolhouse, payment of all rent, and repair of all damage occasioned by the use. It may determine a reasonable charge for using the schoolhouse.

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

Subd. 6. [Repealed, 1993 c 224 art 12 s 32]

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

Subd. 8. [Repealed, 1993 c 224 art 12 s 32]

Subd. 9. [Repealed, 1993 c 224 art 12 s 32]

Subd. 10. (a) The board may lease to any person, business, or organization a schoolhouse that is not needed for school purposes, or part of a schoolhouse that is not needed for school purposes if the board determines that leasing part of a schoolhouse does not interfere with the educational programs taking place in the rest of the building. 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 that percentage of the principal and interest payments for outstanding bonds that is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property that is leased. Any remaining net proceeds in these districts may be deposited in either the debt redemption fund or capital expenditure fund. 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, including fixtures, 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, or part of it, 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. [Repealed, 1993 c 224 art 12 s 32]

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

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

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

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

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

(3) to replace the building or property sold.

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

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

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

**Subd. 14. Asbestos removal and polychlorinated biphenyls cleanup.** Notwithstanding any law to the contrary, school districts may, without an election, enter into contracts extending beyond the end of the fiscal year to pay the costs of removal or encapsulation of asbestos or cleanup of polychlorinated biphenyls found in school buildings or on school property.

**Subd. 15. Use of buildings by lower grades.** (a) In addition to the protections provided in existing building and fire code rules and standards, the following alternatives apply for existing school buildings:

(1) rooms occupied by preschool, kindergarten, and first and second grade students for classrooms, latchkey, day care, early childhood family education or teen parent or similar programs may be located on any floor level below the fourth story of a school building if the building is protected throughout by a complete automatic sprinkler system and a complete automatic fire alarm system consisting of automatic smoke detection throughout the exit system and approved smoke detection in all rooms and areas other than classrooms and offices;

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

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

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

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

(c) Accessory spaces, including gymnasiums, cafeterias, media centers, auditoriums, libraries, and band and choir rooms, which are used on an occasional basis by preschool, kindergarten, and first and second grade students are permitted to be located

one level above or one level below the story of exit discharge, provided the building is protected throughout by a complete automatic sprinkler system or a complete approved corridor smoke detection system.

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

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

**History:** *Ex*1959 c 71 art 4 s 18; 1973 c 123 art 5 s 7; 1975 c 59 s 1; 1975 c 199 s 1; 1976 c 168 s 1; 1976 c 239 s 32; 1978 c 706 s 16; 1979 c 295 s 1; 1980 c 609 art 6 s 17,18; 1981 c 358 art 6 s 13; 1983 c 314 art 6 s 5,6; art 7 s 20; 1984 c 463 art 7 s 9,10; 1985 c 279 s 1; *1Sp*1985 c 12 art 7 s 14; 1986 c 444; 1987 c 398 art 7 s 21; 1989 c 222 s 9; 1989 c 329 art 5 s 3,4; 1990 c 562 art 7 s 4; art 8 s 23; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1993 c 224 art 5 s 2

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. Notwithstanding section 574.26 or any other law to the contrary, on a contract limited to the purchase of a finished tangible product, a school board may require, at its discretion, a performance bond of a contractor in the amount the board considers necessary. 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 contract 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



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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, or technical college president in those districts operating a technical college, 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. **Transportation; fuel.** Notwithstanding the provisions of subdivision 1 or section 471.345, a contract for the transportation of school children, or a contract for the purchase of petroleum heating fuel or fuel for vehicles may be made by direct negotiation, by obtaining two or more written quotations for the service when possible, or upon sealed bids. At least 30 days before awarding a directly negotiated contract, the 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, all quotations shall be public information. If a contract is made upon sealed bids, the procedure for advertising and awarding bids shall conform to the provisions of subdivision 1 except as otherwise provided in this subdivision.

Notwithstanding the provisions of subdivision 1 or section 574.26, a performance bond 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. [Repealed, 1982 c 548 art 6 s 32]

Subd. 4. [Repealed, 1982 c 548 art 6 s 32]

Subd. 5. [Repealed, 1982 c 548 art 6 s 32]

Subd. 6. [Repealed, 1982 c 548 art 6 s 32]

Subd. 7. [Repealed, 1982 c 548 art 6 s 32]

Subd. 8. [Repealed, 1982 c 548 art 6 s 32]

Subd. 9. [Repealed, 1982 c 548 art 6 s 32]

Subd. 10. [Repealed, 1982 c 548 art 6 s 32]

Subd. 11. [Repealed, 1982 c 548 art 6 s 32]

Subd. 12. [Repealed, 1982 c 548 art 6 s 32]

Subd. 13. [Repealed, 1982 c 548 art 6 s 32]

Subd. 14. [Repealed, 1982 c 548 art 6 s 32]

**History:** *Ex 1959 c 71 art 4 s 19; Ex 1967 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; 1982 c 548 art 4 s 8; 1983 c 314 art 2 s 1; 1987 c 258 s 6; 1989 c 246 s 2; 1990 c 375 s 3; 1990 c 562 art 8 s 24*

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

## **123.38 COCURRICULAR AND EXTRACURRICULAR ACTIVITIES; 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 cocurricular school activities of the teachers and children of the public schools in that district held in the school building or school grounds or under the supervision or direction of the school board 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 technical colleges 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 cocurricular 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. Cocurricular 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. Cocurricular activities are not offered for school credit, cannot be counted toward graduation and have one or more of the following characteristics:

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

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

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

Subd. 2b. (a) The board may take charge of and control all extracurricular activities of the teachers and children of the public schools in the district. Extracurricular activities 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.

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

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

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

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

(c) If the board does not take charge of and control extracurricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions, or other student fundraising events. The general fund or the technical colleges fund, if applicable, shall reflect only those salaries directly related to and readily identified with the activity and paid by public funds. Other revenues and expenditures for extra curricular activities must be recorded according to the "Manual of Instruction for Uniform Student Activities Accounting for Minnesota School Districts and Area Vocational-Technical Colleges." Extracurricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.

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

(e) If the board takes charge of and controls extracurricular activities, 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 Minnesota state academy for the deaf or the Minnesota state academy for the blind in the same manner and with the same effect as a school district board may do for its students under this subdivision.

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

**History:** *Ex1959 c 71 art 4 s 20; 1971 c 254 s 1; 1976 c 212 s 1-5; 1979 c 335 s 14; 1987 c 258 s 12; 1987 c 384 art 1 s 55; 1989 c 246 s 2; 1990 c 562 art 8 s 25; 1991 c 265 art 9 s 40*

**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 transportation of pupils to and from school and for any other purpose for which aid is authorized under section 124.223 or for which levies are authorized under sections 124.226, 124.2716, 124.91, 124.912, 124.914, 124.916, 124.918, and 136C.411. The board may also provide for the transportation of pupils to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year, as it may deem advisable, and subject to its rules. In any school district, the board shall arrange for the attendance of all pupils living two miles or more from the school, except pupils whose transportation privileges have been revoked under section 123.805, subdivision 1, clause (6), or 123.7991, paragraph (b), through suitable provision for transportation or through the boarding and rooming of the pupils who may be more economically and conveniently provided for by that means. The board shall provide transportation to and from the home of a child with a disability not yet enrolled in kindergarten when special instruction and services under sections 120.17 and 120.1701 are provided in a location other than in the child's home. When transportation is provided, scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control, and management of the school board. The district may provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by that means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Subd. 2. 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 the pupil's own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged, pursuant to section 124.18, subdivision 2, and may provide transportation; provided, that such pupil shall continue to be a pupil of the district of residence for the payment of apportionment and other state aids.

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

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

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

A nonresident district may transport a nonresident pupil within its borders. A nonresident district may not transport a nonresident pupil on a school district owned or contractor operated school bus within the pupil's resident district without the approval of the resident district under section 120.062.

The parent or guardian of a nonresident pupil attending a nonresident district under section 120.062 may submit a written request to the resident district asking that the resident district allow the nonresident district to provide transportation for the pupil within the pupil's resident district. The resident district must approve or disapprove the request, in writing, within 30 days. The parent or guardian may appeal the refusal of the resident district to the commissioner of education. The commissioner must act on the appeal within 30 days.

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 a bus owned by the school district excluding a motor-coach bus to any person for any lawful purpose. Bus rental shall not interfere with the transportation of pupils by the district. A lessee may use and operate the bus without payment of a motor vehicle tax. The lessee is liable for any claims for injuries and damages arising out of the use and operation of a bus leased from the district. Except as provided in subdivision 9a, the lessee shall procure insurance at the lessee's expense protecting the board and the district against claims for injuries and damages arising out of the use and operation of the bus.

Subd. 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 carrier having a charter carrier permit has its principal office and place of business or bus garage within 12 miles of the principal office of the 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. 8c. School districts may provide bus transportation along regular school bus routes on a space available basis for part-time students enrolled in secondary classes pursuant to section 123.35, subdivisions 8a, 8b and 8c, 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. The total additional cost of providing these services, as determined by sound accounting procedures, shall be paid by charges made against those using the services or some third-party payor.

Subd. 8d. School districts may provide bus transportation along regular school bus routes when space is available for participants in early childhood family education programs and learning readiness programs if these services do not result in an increase in the district's expenditures for transportation. The costs allocated to these services, as determined by generally accepted accounting principles, shall be considered part of the authorized cost for regular transportation for the purposes of section 124.225.

Subd. 8e. School districts may provide bus transportation along school bus routes established to provide nonregular transportation as defined in section 124.225, subdivision 1, paragraph (e)(2)(ii), when space is available, for pupils attending programs at an area learning center. The transportation is only permitted between schools and if it does not increase the district's expenditures for transportation. The cost of these services shall be considered part of the authorized cost for nonregular transportation for the purpose of section 124.225.

Subd. 9. The board may provide for the protection of pupils transported for school purposes or activities in district owned, operated, leased, or controlled motor vehicles against injuries or damages arising out of the operation of these vehicles. The board may purchase and pay for insurance from any funds available. An insurance contract covering this risk shall contain a waiver of the defense of governmental immunity. The payment of any insurance premiums by the district does not in itself make the district liable for any injuries or damages incurred by the transportation.

Subd. 9a. If a school board has obtained insurance pursuant to subdivision 9 or section 466.06, it may also obtain and pay for insurance coverage to indemnify a lessee and to protect the board and the district, in any amount not exceeding the limits of coverage provided for the insurance obtained pursuant to subdivision 9 or section 466.06 against claims for injuries and damages arising out of the use and operation of a district-owned bus while it is leased or rented to the lessee pursuant to subdivision 8. The rental charge shall include the cost of this additional insurance coverage. The procurement of this additional insurance coverage constitutes a waiver of the defense of governmental immunity to the extent of the additional coverage but has no effect on the liability of the board, the school district, or its employees beyond the coverage so provided.

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.

Subd. 14. The board may provide transportation for a pupil who is a custodial parent and that pupil's child between the pupil's home and a child care provider and between the provider and the school. The board shall establish criteria for transportation it provides according to this subdivision.

Subd. 15. **Pupil transport on staff development days.** A school district may provide bus transportation between home and school for pupils on days devoted to parent-teacher conferences, teacher's workshops, or other staff development opportunities. If approved by the commissioner as part of a program of educational improvement, the cost of providing this transportation, as determined by generally accepted accounting principles, must be considered part of the authorized cost for regular transportation for the purposes of section 124.225. The commissioner shall approve inclusion of these costs in the regular transportation category only if the total number of instructional hours in the school year divided by the total number of days for which transportation is provided equals or exceeds the number of instructional hours per day prescribed in the rules of the state board.

Subd. 16. **Post-secondary enrollment options pupils.** School districts may provide bus transportation along school bus routes established to provide nonregular transportation as defined in section 124.225, subdivision 1, paragraph (c), clause (2), when space is available, for pupils attending programs at a post-secondary institution under the post-secondary enrollment options program. The transportation is permitted only if it does not increase the district's expenditures for transportation. Fees collected for this service under section 120.73, subdivision 1, paragraph (m), shall be subtracted from the authorized cost for nonregular transportation for the purpose of section 124.225.

**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; 1981 c 194 s 2; 1981 c 234 s 1-3; 1981 c 358 art 2 s 1; 1983 c 314 art 7 s 21; 1Sp1985 c 12 art 2 s 1; 1986 c 444; 1987 c 398 art 3 s 15; 1988 c 718 art 2 s 3; 1989 c 329 art 2 s 1; 1990 c 562 art 2 s 2,3; art 6 s 16; 1991 c 130 s 37; 1991 c 265 art 3 s 38; 1992 c 499 art 2 s 1; art 12 s 29; 1993 c 13 art 1 s 26; 1993 c 224 art 2 s 3,4; 1994 c 647 art 12 s 1*

NOTE: School buses, rules, 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. [Repealed, 1993 c 224 art 12 s 32]

Subd. 5. [Repealed, 1981 c 358 art 7 s 31]

Subd. 6. [Repealed, 1993 c 224 art 12 s 32]

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*

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

#### **123.41 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 123.33 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; 1989 c 209 art 2 s 1*

**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. Sections 205A.01 to 205A.11 control and supersede inconsistent provisions of special laws or charters in the administration of school district elections in special districts.

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

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 established. Each unit, 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:

- (1) development regions one and two shall be combined to form a single ECSU;
- (2) development regions six east and six west shall be combined to form a single ECSU;
- (3) development regions seven east and seven west shall be combined to form a single ECSU.

(b) 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.

(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.

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 nonvoting associate memberships shall be available to nonpublic school administrative units within the ECSU. A school district may belong to one or more ECSUs. Participation in programs and services provided by the ECSU shall be discretionary. No school district shall be compelled to participate in these services under authority of this section. Nonpublic school students and personnel are encouraged to participate in programs and services to the extent allowed by law.

Subd. 4a. [Repealed, 1992 c 499 art 6 s 39]

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 provisions 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, nonvoting 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 chair, vice-chair, 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 by June 1 of each year 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 commissioner 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 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 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.

**Subd. 8. Educational programs and services.** The board of directors of each ECSU shall submit annually a plan to the public school districts and nonpublic school administrative units within the ECSU. 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. 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 database 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 nonpublic 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 nonpublic 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 nonpublic school administrative unit and shall be in the form of a service fee. Each participating district and nonpublic 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 nonpublic 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 any other liability the school district or nonpublic school administrative unit assumes under section 123.35, subdivision 19b.

(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. If the ECSU is dissolved, its property must be distributed to the member public school districts at the time of the dissolution.

(c) A school district or nonpublic 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. The withdrawal shall be effective on the June 30 following receipt by the board of directors of written notification of the withdrawal by February 1 of the same year. Notwithstanding the withdrawal, the proportionate share of any expenses already certified to the withdrawing school district or nonpublic 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 commissioner in accordance with rules adopted by the state board of education pursuant to chapter 14. The commissioner 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.

(e) The ECSU is a public corporation and agency and as such, no earnings or interests of the ECSU may inure to the benefit of an individual or private entity.

Subd. 9a. [Repealed, 1992 c 499 art 6 s 39]

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

Subd. 11. **Annual meeting.** Each ECSU shall conduct a meeting at least annually for districts that have entered into an agreement under section 471.59 and for districts cooperatively offering educational services to elementary and secondary pupils within the area served by the ECSU. The purpose of the meeting shall be to discuss issues of mutual concern and to facilitate coordination and cooperation in providing educational opportunities. The governing board formed under each cooperative agreement or each school board participating in a cooperative program, for programs having no governing board, shall designate at least one person to attend this meeting.

Subd. 12. **Services.** Educational cooperative service units may provide adminis-

trative, purchasing, and data processing services to cities, counties, towns, or other governmental units at mutually negotiated prices.

**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; 1982 c 424 s 130; 1985 c 248 s 70; 1Sp1985 c 12 art 7 s 15; 1986 c 444; 1989 c 329 art 6 s 33; art 11 s 8; 1990 c 562 art 6 s 17,18; 1991 c 265 art 6 s 24,25; 1992 c 499 art 6 s 39; art 8 s 4; 1992 c 603 s 10; 1993 c 224 art 13 s 24-27; 1994 c 647 art 6 s 15-20,42

**123.581** Subdivision 1. [Repealed, 1989 c 329 art 9 s 34]

Subd. 2. [Repealed, 1983 c 260 s 68]

Subd. 3. [Repealed, 1983 c 260 s 68]

Subd. 4. [Repealed, 1983 c 260 s 68]

Subd. 5. [Repealed, 1983 c 260 s 68]

Subd. 6. [Repealed, 1989 c 329 art 9 s 34]

Subd. 7. [Repealed, 1983 c 260 s 68]

**123.60** [Repealed, 1989 c 329 art 9 s 34]

**123.601** [Repealed, 1989 c 329 art 9 s 34]

## LAND; BUILDINGS; RECORDS

**123.61** [Repealed, 1993 c 224 art 12 s 32]

### 123.62 PLATS.

The auditor shall keep in the auditor's office books containing a correct plat and description of each district, whether wholly or partly in the auditor's 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; 1986 c 444

### 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** [Repealed, 1993 c 224 art 12 s 32]

**123.68** [Repealed, 1989 c 329 art 9 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 [Expired]**

**NOTE:** See also section 144.45.

**NOTE:** See Laws 1979, chapter 292, section 2.

**HEALTH-RELATED PROVISIONS**

**123.70 HEALTH STANDARDS; IMMUNIZATIONS; SCHOOL CHILDREN.**

Subdivision 1. Except as provided in subdivisions 3 and 4, no person over two months old may be allowed to enroll or remain enrolled in any elementary or secondary school or child care facility in this state until the person has submitted to the administrator or other person having general control and supervision of the school or child care facility, one of the following statements:

(1) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunization, consistent with medically acceptable standards and with the provisions of subdivision 10, against measles after having attained the age of 12 months, rubella, diphtheria, tetanus, pertussis, polio, mumps, and haemophilus influenza type b; or

(2) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunizations, consistent with medically acceptable standards and with the provisions of subdivision 10, against measles after having attained the age of 12 months, rubella, mumps, and haemophilus influenza type b and

that the person has commenced a schedule of immunizations for diphtheria, tetanus, pertussis, and polio and which indicates the month and year of each immunization received.

Subd. 2. No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any child care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person having general control and supervision of the school or child care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, and polio and in which the month and year of each additional immunization received is included. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, and polio.

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

(b) If a person is at least 18 years old and has not completed a series of immunizations against poliomyelitis, the person must not be required to be immunized against poliomyelitis.

(c) If a statement, signed by a physician, is submitted to the administrator or other person having general control and supervision of the school or child care facility 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 need not be required.

(d) If a notarized statement signed by the minor child's parent or guardian or by the emancipated person is submitted to the administrator or other person having general control and supervision of the school or child care facility stating that the person has not been immunized as prescribed in subdivision 1 because of the conscientiously held beliefs of the parent or guardian of the minor child or of the emancipated person, the immunizations specified in the statement shall not be required. This statement must also be forwarded to the commissioner of the department of health.

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

(f) If a person is at least five years old and has not been immunized against haemophilus influenza type b, the person is not required to be immunized against haemophilus influenza type b.

Subd. 4. A person who is enrolling or enrolled in an elementary or secondary school or child care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement shall indicate the month and year of each immunization given. In order for the statement to be acceptable for a person who is enrolling in an elementary school and who is six years of age or younger, 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 four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum, and no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four are minimum. In order for the statement to be acceptable for a person who is enrolling in an elementary or secondary school and is age seven through age 19, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus.

In order for the statement to be acceptable for a person who is enrolling in a secondary school, and who was born after 1956 and is 20 years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than one dose of vaccine for diphtheria and tetanus within the preceding ten years. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is at least 15 months old but who has not reached five years of age, it must indicate that the following were given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination; no less than one dose of vaccine for haemophilus influenza type b; no less than four doses of vaccine for diphtheria, tetanus, and pertussis; and no less than three doses of vaccine for poliomyelitis. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is five or six years of age, 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, no less than four doses of vaccine for diphtheria, tetanus, and pertussis, and no less than three doses of vaccine for poliomyelitis. In order for the statement to be acceptable for a person who is enrolling in a child care facility and who is seven years of age or older, the statement must indicate that the person has received no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination and consistent with subdivision 10, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus. The commissioner of health, on finding that any of the above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Subd. 5. If a person transfers from one elementary or secondary school to another, the person shall be allowed 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

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

Subd. 7. Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The department of health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a public or private post-secondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the post-secondary institution.

Subd. 8. The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner of education on all persons enrolled in the school, except that the superintendent of each school district shall file a report with the commissioner of education for all persons within the district receiving instruction in a home school in compliance with sections 120.101 and 120.102. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, and 4 to the superintendent of the school district in which the person resides by October 1 of each school year. The school 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 dis-

tricts by the commissioner of health and shall state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school 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 boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health and must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report shall be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to section 120.17, subdivision 2, nor for child care facilities in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month.

Subd. 9. As used in this section the following terms have the meanings given them.

(a) "Elementary or secondary school" includes any public school as defined in section 120.05, or nonpublic school, church, or religious organization, or home school in which a child is provided instruction in compliance with sections 120.101 and 120.102.

(b) "Person enrolled in any elementary or secondary school" means a person born after 1956 and enrolled in grades kindergarten through 12, and a child with a disability receiving special instruction and services as required in section 120.17, excluding a child being provided services according to section 120.17, subdivision 2, clause (c) or (g).

(c) "Child care facility" includes those child care programs subject to licensure under chapter 245A, and Minnesota Rules, chapters 9502 and 9503.

(d) "Family child care" means child care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(e) "Group family child care" means child care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1992-1993 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(b) For persons enrolled in grades 7, 8, and 12 during the 1993-1994 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(c) For persons enrolled in grades 7, 8, 9, and 12 during the 1994-1995 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.



(d) For persons enrolled in grades 7, 8, 9, 10, and 12 during the 1995-1996 school term, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

**Subd. 11. Commissioner of human services; continued responsibilities.** Nothing in this section relieves the commissioner of human services of the responsibility, under chapter 245A, to inspect and assure that statements required by this section are on file at child care programs subject to licensure.

**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; 1986 c 444; 1987 c 309 s 24; 1988 c 430 s 1-8; 1989 c 215 s 1-7; 1991 c 30 s 1-10; 1991 c 265 art 3 s 38

### **123.701 EARLY CHILDHOOD HEALTH AND DEVELOPMENT SCREENING; 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 123.7045 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; 1994 c 465 art 2 s 1

### **123.702 SCHOOL BOARD RESPONSIBILITIES.**

**Subdivision 1.** Every school board shall provide for a mandatory program of early childhood developmental screening for children once before school entrance, targeting children who are between 3-1/2 and four years old. 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 family education programs, or by other existing programs. This screening examination is a mandatory requirement for a student to continue attending kindergarten or first grade in a public school. A child need not submit to developmental screening provided by a school board if the child's health records indicate to the school board that the child has received comparable developmental screening from a public or private health care organization or individual health care provider. The school districts are encouraged to reduce the costs of pre-school developmental screening programs by utilizing volunteers in implementing the program.

**Subd. 1a.** A child must not be enrolled in kindergarten in a public school unless the parent or guardian of the child submits to the school principal or other person having general control and supervision of the school a record indicating the months and year the child received developmental screening and the results of the screening not later than 30 days after the first day of attendance. If a child is transferred from one kindergarten to another, the parent or guardian of the child must be allowed 30 days to submit the child's record, during which time the child may attend school.

**Subd. 1b. (a)** A screening program shall include at least the following components: developmental assessments, hearing and vision screening or referral, immunization review and referral, the child's height and weight, identification of risk factors that may influence learning, an interview with the parent about the child, and referral for assessment, diagnosis, and treatment when potential needs are identified. The school district and the person performing or supervising the screening shall provide a parent or guardian with clear written notice that the parent or guardian may decline to answer questions or provide information about family circumstances that might affect development and identification of risk factors that may influence learning. The notice shall clearly

state that declining to answer questions or provide information does not prevent the child from being enrolled in kindergarten or first grade if all other screening components are met. If a parent or guardian is not able to read and comprehend the written notice, the school district and the person performing or supervising the screening must convey the information in another manner. The notice shall also inform the parent or guardian that a child need not submit to the school district screening program if the child's health records indicate to the school that the child has received comparable developmental screening performed within the preceding 365 days by a public or private health care organization or individual health care provider. The notice shall be given to a parent or guardian at the time the district initially provides information to the parent or guardian about screening and shall be given again at the screening location.

(b) All screening components shall be consistent with the standards of the state commissioner of health for early developmental screening programs. No developmental screening program shall provide laboratory tests or a physical examination to any child. The school district shall request from the public or private health care organization or the individual health care provider the results of any laboratory test or physical examination within the 12 months preceding a child's scheduled screening.

(c) If a child is without health coverage, the school district shall refer the child to an appropriate health care provider.

(d) A school board may offer additional components such as nutritional, physical and dental assessments, review of family circumstances that might affect development, blood pressure, laboratory tests, and health history.

(e) If a statement signed by the child's parent or guardian is submitted to the administrator or other person having general control and supervision of the school that the child has not been screened because of conscientiously held beliefs of the parent or guardian, the screening is not required.

Subd. 2. If any child's screening indicates a condition which requires diagnosis or treatment, the child's parents shall be notified of the condition and the school board shall ensure that an appropriate follow-up and referral process is available.

Subd. 3. The school board shall inform each resident family with a child eligible to participate in the developmental screening program about the availability of the program and the state's requirement that a child receive developmental screening not later than 30 days after the first day of attending kindergarten in a public school.

Subd. 4. A school board may contract with or purchase service from an approved early developmental screening program in the area. Developmental screening must be conducted by either an individual who is licensed as, or has training that is similar to a special education teacher, school psychologist, kindergarten teacher, prekindergarten teacher, school nurse, public health nurse, registered nurse, or physician. The individual may be a volunteer.

Subd. 4a. The school district shall provide the parent or guardian of the child screened with a record indicating the month and year the child received developmental screening and the results of the screening. The district shall keep a duplicate copy of the record of each child screened.

Subd. 5. Every school board shall integrate and utilize volunteer screening programs in implementing sections 123.702 to 123.7045 wherever possible.

Subd. 6. A school board may 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.

**History:** 1977 c 305 s 45; 1977 c 437 s 2; 1979 c 334 art 6 s 12,13; 1981 c 358 art 6 s 14; 1982 c 548 art 6 s 5; 1983 c 314 art 6 s 7; 1Sp1985 c 12 art 6 s 2; 1986 c 444; 1989 c 329 art 4 s 20; 1991 c 265 art 4 s 6,32; 1992 c 499 art 4 s 1-4; 1993 c 224 art 4 s 12-17; 1993 c 374 s 12

**123.703** [Repealed, 1989 c 329 art 4 s 20]

**123.704 DATA USE.**

Data on individuals collected in screening programs established pursuant to section 123.702 is private, as defined by section 13.02, subdivision 12. 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; 1981 c 311 s 39; 1982 c 545 s 24; 1989 c 329 art 4 s 20; 1991 c 265 art 4 s 32

**123.7045 DEVELOPMENTAL SCREENING AID.**

Each school year, the state shall pay a school district \$25 for each child screened according to the requirements of section 123.702. If this amount of aid is insufficient, the district may permanently transfer from the general fund an amount that, when added to the aid, is sufficient.

**History:** 1991 c 265 art 4 s 7; 1993 c 224 art 4 s 18

**123.705** [Repealed, 1989 c 329 art 4 s 20]

**123.706** [Repealed, 1991 c 265 art 4 s 33]

**123.707** [Repealed, 1991 c 265 art 4 s 33]

**123.709** [Repealed, 1993 c 224 art 12 s 32]

**OTHER PROVISIONS****123.71 PUBLICATION OF FINANCIAL INFORMATION.**

Subdivision 1. Every school board shall, no later than October 1, publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner. 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 qualified newspaper of 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 reserved fund balance reserve account for purposes of statutory operating debt reduction established pursuant to sections 124.226, 124.2716, 124.91, 124.912, 124.914, 124.916, 124.918, and 136C.411.

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; 1984 c 543 s 7; 1Sp1986 c 1 art 9 s 1; 1987 c 398 art 7 s 42; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1993 c 224 art 13 s 28; art 14 s 7; 1993 c 374 s 24

**123.72 MEDICAL INSURANCE PREMIUMS FOR RETIRED.**

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.

**History:** 1973 c 739 s 1; 1975 c 365 s 1; 1988 c 605 s 3

- 123.73 [Repealed, 1991 c 265 art 9 s 75]  
 123.74 [Renumbered 126.65]  
 123.741 [Renumbered 126.66]  
 123.742 [Renumbered 126.67]  
 123.743 [Renumbered 126.68]  
 123.7431 [Renumbered 124.274]  
 123.744 [Repealed, 1993 c 224 art 12 s 32]

### MISSING CHILDREN

#### 123.75 MISSING CHILDREN; VOLUNTARY FINGERPRINTING.

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

- (a) "child" means a person under 18 years old; and  
 (b) "missing child" means a child who has run away or is otherwise missing from the home or the care, custody, and control of the child's parents, guardian, legal custodian, or other person having responsibility for the child.

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

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

- (a) No child may be required to participate in the program.  
 (b) Before a child may participate in the program, the child's parents, guardian, legal custodian, or other person responsible for the child must authorize the child's participation by signing a form developed by the school district or the principal or chief administrative officer of the nonpublic school.  
 (c) Fingerprinting of children must be done by law enforcement personnel on fingerprint cards provided to the school district or nonpublic school by the commissioner of public safety or on fingerprint cards acquired elsewhere.  
 (d) The school must give the fingerprint card to the child's parents, guardian, legal custodian, or other person responsible for the child. No copy of the fingerprint card may be retained by the law enforcement agency, school, or school district.  
 (e) The child's name, sex, hair and eye color, height, weight, and date and place of birth must be written on the fingerprint card.

School districts and nonpublic schools that develop fingerprinting programs under this section shall offer them on a periodic basis, and shall notify parents, guardians, legal custodians, and residents of the district or communities served by the school of the program and its purpose. Notification may be made by means of memoranda, letters, newspaper articles, or other reasonable means.

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

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

**History:** *1Sp1985 c 12 art 7 s 16; 1986 c 444*

**123.751 FLAG SCHOOL RECORDS OF MISSING CHILDREN.**

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

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

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

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

**History:** 1991 c 187 s 1

**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 120.101, are therefore entitled to the same rights and privileges relating to transportation.

**History:** 1969 c 570 s 1; 1989 c 209 art 2 s 1

**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 120.101, subdivision 4.

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; 1989 c 209 art 2 s 1

**123.78 EQUAL TREATMENT.**

Subdivision 1. **General provisions.** A district eligible to receive state aid for transportation under chapter 124 shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by the school board because of distance or traffic condition in like manner and form as provided in sections 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.

Subd. 3. **Rules.** The state board of education may amend rules relating to equal transportation.

**History:** 1969 c 570 s 3; 1974 c 566 s 1; 1975 c 51 s 1; 1975 c 162 s 27; 1976 c 2 s 58; 1982 c 424 s 31; 1982 c 548 art 2 s 1; 1984 c 655 art 1 s 24; 1994 c 647 art 12 s 2

### 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

### 123.799 STUDENT TRANSPORTATION SAFETY.

Subdivision 1. **Reserved revenue use.** A district shall use the student transportation safety reserved revenue under section 124.225, subdivision 7f, for providing student transportation safety programs to enhance student conduct and safety on the bus or when boarding and exiting the bus. A district's student transportation policy must specify the student transportation safety activities to be carried out under this section. A district's student transportation safety reserved revenue may only be used for the following purposes:

- (1) to provide paid adult bus monitors, including training and salary costs;
- (2) to provide a volunteer bus monitor program, including training costs and the cost of a program coordinator;
- (3) to purchase or lease optional external public address systems or video recording cameras for use on buses; and
- (4) other activities or equipment that have been reviewed by the state school bus safety advisory committee and approved by the commissioner of public safety.

Subd. 2. **Reporting.** Districts shall annually report expenditures from the student transportation safety reserved revenue to the commissioner of education, who shall provide the information to the school bus safety advisory committee.

**History:** 1994 c 647 art 12 s 3

**123.7991 SCHOOL BUS SAFETY TRAINING.**

Subdivision 1. **School bus safety week.** The first week of school is designated as school bus safety week.

A school board may designate one day of school bus safety week as school bus driver day.

Subd. 2. **Student training.** (a) Each school district shall provide public school pupils enrolled in grades kindergarten through 12 with school bus safety training. The training shall be results-oriented and shall consist of both classroom instruction and practical training using a school bus. Upon completing the training, a student shall be able to demonstrate knowledge and understanding of at least the following competencies and concepts:

- (1) transportation by school bus is a privilege not a right;
- (2) district policies for student conduct and school bus safety;
- (3) appropriate conduct while on the bus;
- (4) the danger zones surrounding a school bus;
- (5) procedures for safely boarding and leaving a school bus;
- (6) procedures for safe vehicle lane crossing; and
- (7) school bus evacuation and other emergency procedures.

(b) Student school bus safety training shall commence during school bus safety week. All students who are transported by school bus and are enrolled during the first week of school must demonstrate achievement of the school bus safety training competencies by the end of the third week of school. Students who enroll in a school after the first week of school and are transported by school bus shall undergo school bus safety training and demonstrate achievement of the school bus safety competencies within three weeks of the first day of attendance. The pupil transportation safety director in each district must certify to the commissioner of education annually by October 15 that all students transported by bus have satisfactorily demonstrated knowledge and understanding of the school bus safety competencies according to this section or provide an explanation for a student's failure to demonstrate the competencies. A school district may deny transportation to a student who fails to demonstrate the competencies, unless the student is unable to achieve the competencies due to a disability.

(c) A district must, to the extent possible, provide kindergarten pupils with bus safety training before the first day of school.

(d) A school district must also provide student safety education for bicycling and pedestrian safety.

Subd. 3. **Model training program.** The commissioner of education shall develop a comprehensive model school bus safety training program for pupils who ride the bus that includes bus safety curriculum for both classroom and practical instruction, methods for assessing attainment of school bus safety competencies, and age-appropriate instructional materials.

**History:** 1994 c 647 art 12 s 4

**123.7992 NOTICE OF RECORDING DEVICE.**

If a video or audio recording device is placed on a school bus, the bus also must contain a sign or signs, conspicuously placed, notifying riders that their conversations or actions may be recorded on tape.

**History:** 1994 c 647 art 12 s 5

**123.80** [Repealed, 1994 c 647 art 12 s 43]

**123.801 BUS TRANSPORTATION A PRIVILEGE NOT A RIGHT.**

Transportation by school bus is a privilege not a right for an eligible student. A student's eligibility to ride a school bus may be revoked for a violation of school bus safety

or conduct policies, or for violation of any other law governing student conduct on a school bus, pursuant to a written school district discipline policy. Revocation of a student's bus riding privilege is not an exclusion, expulsion, or suspension under the pupil fair dismissal act of 1974. Revocation procedures for a student who is an individual with a disability under the Individuals with Disabilities Education Act, United States Code, title 20, section 1400 et seq., section 504 of the Rehabilitation Act of 1973, United States Code, title 29, section 794, and the Americans with Disabilities Act, Public Law Number 101-336, are governed by these provisions.

**History:** 1994 c 647 art 12 s 6

### 123.805 SCHOOL DISTRICT BUS SAFETY RESPONSIBILITIES.

Subdivision 1. **Comprehensive policy.** Each school district shall develop and implement a comprehensive, written policy governing pupil transportation safety. The policy shall, at minimum, contain:

- (1) provisions for appropriate student bus safety training under section 123.7991;
- (2) rules governing student conduct on school buses and in school bus loading and unloading areas;
- (3) a statement of parent or guardian responsibilities relating to school bus safety;
- (4) provisions for notifying students and parents or guardians of their responsibilities and the rules;
- (5) an intradistrict system for reporting school bus accidents or misconduct, a system for dealing with local law enforcement officials in cases of criminal conduct on a school bus, and a system for reporting accidents, crimes, incidents of misconduct, and bus driver dismissals to the department of public safety under section 169.452;
- (6) a discipline policy to address violations of school bus safety rules, including procedures for revoking a student's bus riding privileges in cases of serious or repeated misconduct;
- (7) a system for integrating school bus misconduct records with other discipline records;
- (8) a statement of bus driver duties;
- (9) planned expenditures for safety activities under section 123.799 and, where applicable, provisions governing bus monitor qualifications, training, and duties;
- (10) rules governing the use and maintenance of type III vehicles, drivers of type III vehicles, and the circumstances under which a student may be transported in a type III vehicle;
- (11) operating rules and procedures;
- (12) provisions for annual bus driver in-service training and evaluation;
- (13) emergency procedures; and
- (14) a system for maintaining and inspecting equipment.

School districts are encouraged to use the current edition of the "National Standards for School Buses and Operations" published by the National Safety Council in developing safety policies. Each district shall submit a copy of its policy under this subdivision to the school bus safety advisory committee no later than August 1, 1994, and review and make appropriate amendments annually by August 1.

Subd. 2. **School transportation safety director.** Each school board shall designate a school transportation safety director to oversee and implement pupil transportation safety policies. The director shall have day-to-day responsibility for pupil transportation safety.

**History:** 1994 c 647 art 12 s 14

**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, 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 regularly attended 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 loose-leaf form, intended for use as a principal source of study material for a given class or a group of students. The term includes only such secular, neutral and nonideological textbooks as are available 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 6; 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 7 through 12.

Subd. 3. **Nonpublic school defined.** “Nonpublic school” means any school, church or religious organization, or home school wherein a resident of Minnesota may legally fulfill the compulsory instruction requirements of section 120.101, which is located within the state, and which meets the requirements of Title VI of the Civil Rights Act of 1964 (Public Law Number 88-352). It does not mean a public school.

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. [Repealed, 1991 c 130 s 38]

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 commissioner, 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 sections 120.17 and 120.1701, 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; 1982 c 424 s 32; 1986 c 444; 1989 c 209 art 2 s 1; 1991 c 130 s 7; 1993 c 224 art 13 s 29; 1994 c 647 art 13 s 4

### 123.933 TEXTBOOKS, INDIVIDUAL INSTRUCTION MATERIAL, STANDARD TESTS.

Subdivision 1. The state board of education shall promulgate rules under the provisions of chapter 14 requiring that in each school year, based upon formal requests by or on behalf of nonpublic school pupils in a nonpublic school, the local districts or intermediary service areas 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. **Cost of textbooks; limitation.** (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 formula allowance, pursuant to section 124A.22, subdivision 2, 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; 1982 c 424 s 130; 1982 c 642 s 10; 1983 c 314 art 1 s 22; art 6 s 9; 1988 c 486 s 18

**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 14 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.

Subd. 7. **Nonpublic education council.** The commissioner shall appoint a 15-member council on nonpublic education. The 15 members shall represent various areas of the state, represent various methods of providing nonpublic education, and shall be knowledgeable about nonpublic education. The compensation, removal of members, filling of vacancies, and terms are governed by section 15.0575. The council shall not expire. The council shall advise the commissioner and the state board on nonpublic school matters under this section. The council may recognize educational accrediting agencies, for the sole purpose of sections 120.101, 120.102, and 120.103. When requested by the commissioner or the state board, the council may submit its advice about other nonpublic school matters.

**History:** 1975 c 396 s 5; 1978 c 733 s 15; 1982 c 424 s 130; 1Sp1985 c 12 art 7 s 17; 1987 c 178 s 6; 1988 c 629 s 27; 1993 c 224 art 9 s 27

### 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 section 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 administration of sections 123.933 and 123.935, equal to five percent of the district's or area's allocation for that year pursuant to those sections.

**History:** 1978 c 733 s 17; 1990 c 562 art 7 s 5

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SCHOOL DISTRICTS; POWERS AND DUTIES; ECSUS 123.951

## 123.9362 NOTICE TO DISTRICTS; PRORATION.

In the event the appropriation for nonpublic educational aid under sections 123.931 to 123.947 is not sufficient to meet the required payments in any fiscal year, the department of education must notify the school districts at the earliest possible date of the need to prorate the appropriation among the districts.

**History:** 1987 c 398 art 6 s 1

## 123.937 LIMIT ON DISTRICT OBLIGATIONS.

If the amount appropriated for purposes of sections 123.931 to 123.937 for any year is not sufficient to make the payments required pursuant to sections 123.931 to 123.937 for that year, then no school district or intermediary service area is required to expend an amount pursuant to sections 123.931 to 123.937 for that year which exceeds the amount of the payments it receives pursuant to sections 123.931 to 123.937 for that year.

**History:** 1975 c 396 s 8; 1978 c 733 s 18; 1979 c 334 art 6 s 18; 1980 c 609 art 4 s 4; 1981 c 358 art 6 s 17

123.938 [Expired]

123.939 [Repealed, 1981 c 359 s 18]

## 123.947 USE OF INDIVIDUALIZED INSTRUCTIONAL MATERIALS.

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

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

(c) Textbooks and 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 commissioner. The request forms shall provide for verification by the parent or guardian or pupil that the requested textbooks and individualized instructional materials are for the use of the individual pupil in connection with a program of instruction in the pupil's elementary or secondary school.

(d) The servicing school district or the intermediary service area shall take adequate measures to ensure an accurate and periodic inventory of all textbooks and individualized instructional materials loaned to elementary and secondary school pupils attending nonpublic schools. The state board of education shall promulgate rules under the provisions of chapter 14 to terminate the eligibility of any nonpublic school pupil if the commissioner determines, after notice and opportunity for hearing, that the textbooks or individualized 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; 1982 c 424 s 130; 1990 c 562 art 7 s 6; 1993 c 224 art 13 s 30

## SCHOOL SITE MANAGEMENT

### 123.951 SCHOOL SITE DECISION-MAKING AGREEMENT.

(a) A school board may enter into an agreement with a school site decision-making team concerning the governance, management, or control of any school in the district. Upon a written request from a proposed school site decision-making team, an initial

school site decision-making team shall be appointed by the school board and may include the school principal, representatives of teachers in the school, representatives of other employees in the school, representatives of parents of pupils in the school, representatives of pupils in the school, representatives of other members in the community, or others determined appropriate by the board. The school site decision-making team shall include the school principal or other person having general control and supervision of the school.

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

(c) An agreement may include:

(1) a mechanism to implement flexible support systems for improvement in student achievement of education outcomes;

(2) a decision-making structure that allows teachers to identify instructional problems and control and apply the resources needed to solve them;

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

(4) a mechanism to implement parental involvement programs under section 126.69 and to provide for effective parental communication and feedback on this involvement at the site level;

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

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

(7) direct contact with other social service providers;

(8) in-service training for site decision-making team members for financial management of school sites; and

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

The school board of the district remains the legal employer under clauses (5) and (6).

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

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

**History:** 1987 c 398 art 7 s 22; 1991 c 265 art 7 s 9; 1993 c 224 art 7 s 7