

CHAPTER 123B

SCHOOL DISTRICT POWERS AND DUTIES

123B 02	General powers of independent school districts	123B 61	Purchase of certain equipment
123B 03	Background check	123B 63	Building construction down payment program
123B 05	Contract deadline and penalty	123B 64	Historic building revenue
123B 09	Boards of independent school districts	123B 66	Repealed
123B 147	Principals	123B 67	Repealed
123B 195	Board members' right to employment	123B 68	Repealed
123B 36	Authorized fees	123B 69	Repealed
123B 42	Textbooks, individual instruction or cooperative learning material standard tests	123B 71	Review and comment for school district construction
123B 43	Use of individualized instructional materials	123B 73	Inspection of public schools
123B 44	Provision of pupil support services	123B 75	Revenue, reporting
123B 445	Nonpublic education council	123B 77	Accounting, budgeting, and reporting requirement
123B 49	Extracurricular activities, insurance	123B 83	Expenditure limitations
123B 53	Debt service equalization program	123B 86	Equal treatment
123B 54	Debt service appropriation	123B 88	Independent school districts, transportation
123B 57	Capital expenditure health and safety	123B 89	Repealed
123B 59	Alternative facilities bonding and levy program	123B 90	School bus safety training
		123B 91	School district bus safety responsibilities
		123B 92	Transportation aid entitlement

123B.02 GENERAL POWERS OF INDEPENDENT SCHOOL DISTRICTS.

[For text of subs 1 and 2, see M S 1998]

Subd 3 **Limitation on participation and financial support.** (a) A district must not be required by any type of formal or informal agreement except an agreement to provide building space according to paragraph (f), including a joint powers agreement, or membership in any cooperative unit defined in section 123A 24, subdivision 2, to participate in or provide financial support for the purposes of the agreement for a time period in excess of four fiscal years, 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. This paragraph applies only to agreements entered into between July 1, 1993, and June 30, 1999.

(b) This subdivision shall not affect the continued liability of a district for its share of bonded indebtedness or other debt incurred as a result of any agreement before July 1, 1993. The 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 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 board must 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 123A 15 to 123A 19 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 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 must 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 must be adopted within a time sufficient to allow the board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in sections 122A 40, 122A 41, and 123A 33. The governing body responsible for implementing the agreement shall notify each participating 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 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 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.

(f) A district that is a member of a cooperative unit as defined in section 123A 24, subdivision 2, may obligate itself to participate in and provide financial support for an agreement with a cooperative unit to provide school building space for a term not to exceed two years with an option on the part of the district to renew for an additional two years.

(g) Notwithstanding any limitations imposed under this subdivision, a school district may, according to section 123B 51, subdivision 4, enter into a lease of all or a portion of a schoolhouse that is not needed for school purposes, including, but not limited to, a lease with a term of more than one year.

[For text of subs 4 to 8, see M S 1998]

Subd 9 Library facilities. The board may provide library facilities as part of its school equipment according to the standards of the commissioner of children, families, and learning.

[For text of subs 10 to 20, see M S 1998]

History: 1998 c 398 art 5 s 55, 1999 c 241 art 9 s 19

123B.03 BACKGROUND CHECK.

Subdivision 1 Background check required. (a) A school hiring authority, as defined in subdivision 3, shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all individuals who are offered employment in the school, as defined in subdivision 3. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or check payable to either the bureau of criminal apprehension or the school hiring authority, at the election of the school hiring authority, in an amount equal to the actual cost to the bureau of criminal apprehension and the school district of conducting the criminal history background check. A school hiring authority electing to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the bureau of criminal apprehension directly to conduct the background check. The superintendent of the bureau of criminal apprehension shall conduct the background check by retrieving criminal history data maintained in the criminal justice information system computers. A school hiring authority, at its discretion, may elect not

to request a criminal history background check on an individual who holds an initial entrance license issued by the state board of teaching or the commissioner of children, families, and learning within the 12 months preceding an offer of employment

(b) A school hiring authority may use the results of a criminal background check conducted at the request of another school hiring authority if

(1) the results of the criminal background check are on file with the other school hiring authority or otherwise accessible,

(2) the other school hiring authority conducted a criminal background check within the previous 12 months,

(3) the individual who is the subject of the criminal background check executes a written consent form giving a school hiring authority access to the results of the check, and

(4) there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the bureau of criminal apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority elects to request a criminal history background check on the individual, the individual first must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the bureau of criminal apprehension and the school district of conducting the criminal history background check. Notwithstanding section 299C 62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(d) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the bureau of criminal apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C 62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

[For text of subs 2 and 3, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.05 CONTRACT DEADLINE AND PENALTY.

Subdivision 1 **Definitions.** The following definitions apply to this section

(1) "Public employer" means

(i) a district, and

(ii) a public employer, as defined by section 179A 03, subdivision 15, other than a district that (i) negotiates a contract under chapter 179A with teachers, and (ii) is established by, receives state money, or levies under chapters 120A to 129C, or 136D, or 268A

(2) "Teacher" means a person, other than a superintendent or assistant superintendent, principal, assistant principal, or a supervisor or confidential employee who occupies a position for which the person must be licensed by the board of teaching, commissioner of children, families, and learning, the former board of technical colleges, or the board of trustees of the Minnesota state colleges and universities

[For text of subs 2 to 5, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.09 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.

[For text of subd 1, see M S 1998]

Subd 1a **Sex offender school board ineligibility.** A sex offender who has been convicted of an offense for which registration under section 243 166 is required is ineligible to become a candidate for the office of school board member, as defined in subdivision 1. Ineligibility is determined by the registration requirements in effect at the time the offender files for office, not by the registration requirements, if any, that were in effect at the time the offender was convicted.

[For text of subds 2 to 12, see M S 1998]

History: 1999 c 101 s 1

123B.147 PRINCIPALS.

[For text of subd 1, see M S 1998]

Subd 2 **Valid principal license required.** 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 commissioner of children, families, and learning.

[For text of subd 3, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.195 BOARD MEMBERS' RIGHT TO EMPLOYMENT.

Notwithstanding section 471 88, subdivision 5, a school board member may be newly employed or may continue to be employed by a school district as an employee only if there is a reasonable expectation at the beginning of the fiscal year or at the time the contract is entered into or extended that the amount to be earned by that officer under that contract or employment relationship will not exceed \$5,000 in that fiscal year. Notwithstanding section 122A 40 or 122A 41 or other law, if the officer does not receive majority approval to be initially employed or to continue in employment at a meeting at which all board members are present, that employment is immediately terminated and that officer has no further rights to employment while serving as a school board member in the district.

History: 1999 c 241 art 6 s 3

123B.36 AUTHORIZED FEES.

Subdivision 1 **School boards may require fees.** (a) For purposes of this subdivision, "home school" means a home school as defined in sections 120A 22 and 120A 24 with five or fewer students receiving instruction.

(b) A school board is authorized to require payment of fees in the following areas:

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

(2) admission fees or charges for extra curricular activities, where attendance is optional and where the admission fees or charges a student must pay to attend or participate in an extracurricular activity is the same for all students, regardless of whether the student is enrolled in a public or a home school,

(3) a security deposit for the return of materials, supplies, or equipment,

(4) personal physical education and athletic equipment and apparel, although any pupil may personally provide it if it meets reasonable requirements and standards relating to health and safety established by the board,

(5) items of personal use or products that a student has an option to purchase such as student publications, class rings, annuals, and graduation announcements,

(6) fees specifically permitted by any other statute, including but not limited to section 171 05, subdivision 2, provided (i) driver education fees do not exceed the actual cost to the school and school district of providing driver education, and (ii) the driver education courses are open to enrollment to persons between the ages of 15 and 18 who reside or attend school in the school district,

(7) field trips considered supplementary to a district educational program,

(8) any authorized voluntary student health and accident benefit plan,

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

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

(11) transportation of pupils to and from school for which aid for fiscal year 1996 is not authorized under Minnesota Statutes 1994, section 124 223, subdivision 1, and for which levy for fiscal year 1996 is not authorized under Minnesota Statutes 1994, section 124 226, subdivision 5, if a district charging fees for transportation of pupils establishes guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay,

(12) motorcycle classroom education courses conducted outside of regular school hours, provided the charge must not exceed the actual cost of these courses to the school district,

(13) transportation to and from post-secondary institutions for pupils enrolled under the post-secondary enrollment options program under section 123B 88, subdivision 22. Fees collected for this service must be reasonable and must be used to reduce the cost of operating the route. Families who qualify for mileage reimbursement under section 124D 09, subdivision 22, may use their state mileage reimbursement to pay this fee. If no fee is charged, districts must allocate costs based on the number of pupils riding the route.

[For text of subs 2 to 6, see M S 1998]

History: 1999 c 241 art 5 s 5

123B.42 TEXTBOOKS; INDIVIDUAL INSTRUCTION OR COOPERATIVE LEARNING MATERIAL; STANDARD TESTS.

Subdivision 1 **Providing education materials and tests.** The commissioner of children, families, and learning 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 must purchase or otherwise acquire textbooks, individualized instructional or cooperative learning materials, and standardized tests and loan or provide them for use by children enrolled in that nonpublic school. These textbooks, individualized instructional or cooperative learning materials, and standardized tests must be loaned or provided free to the children for the school year for which requested. The loan or provision of the textbooks, individualized instructional or cooperative learning materials, and standardized tests shall be subject to rules prescribed by the commissioner of children, families, and learning.

[For text of subs 2 and 3, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.43 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 must not be used in religious courses, devotional exercises, religious training or any other religious activity.

(c) Textbooks and individualized instructional materials must 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 must 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 commissioner of children, families, and learning 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 123B 41, subdivision 5, 123B 42, or this section or any rules promulgated by the commissioner of children, families, and learning.

(e) Nothing contained in section 123B 41, subdivision 5, 123B 42, 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: 1998 c 398 art 5 s 55

123B.44 PROVISION OF PUPIL SUPPORT SERVICES.

Subdivision 1 **Provided services.** The commissioner of children, families, and learning shall promulgate rules under the provisions of chapter 14 requiring each 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 must 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 under this section if the district elects to provide pupil support services at a site other than the nonpublic school. Each request for pupil support services must 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 must not expend an amount for these pupil support services which exceeds the amount allotted to it under this section.

[For text of subs 2 to 6, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.445 NONPUBLIC EDUCATION COUNCIL.

(a) 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 on issues affecting nonpublic education and nonpublic schools. The council may recognize educational accrediting agencies, for the sole purpose of sections 120A 22, 120A 24, and 120A 26.

(b) A parent or guardian of a nonpublic school pupil or a nonpublic school may file a complaint about services provided under sections 123B 40 to 123B 42, and 123B 44 to 123B 48 with the nonpublic education council. The council may review the complaint and make a recommendation for resolution to the commissioner.

History: 1998 c 398 art 5 s 55

123B.49 EXTRACURRICULAR ACTIVITIES; INSURANCE.

[For text of subs 1 to 3, see M S 1998]

Subd 4 **Board control of extracurricular activities.** (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 means all direct and personal services for pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. The board shall allow all resident pupils receiving instruction in a home school as defined in section 123B 36, subdivision 1, paragraph (a), to be eligible to fully participate in extracurricular activities on the same basis as public school students

(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 must 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, the teachers or pupils in the district must not participate in such activity, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board

Subd 5 Contract for insurance. 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. The contract entered into by the board may 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 child's payment of any fees, premium or other charge shall not thereby make the district liable for any injuries incurred from such school activities

The commissioner of children, families, and learning 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

[For text of subd 6, see M S 1998]

History: 1998 c 398 art 5 s 55, 1999 c 24] art 5 s 6

123B.53 DEBT SERVICE EQUALIZATION PROGRAM.

[For text of subd 1, see M S 1998]

Subd 2 Eligibility. (a) The following portions of a district's debt service levy qualify for debt service equalization

(1) debt service for repayment of principal and interest on bonds issued before July 2, 1992,

(2) debt service for bonds refinanced after July 1, 1992, if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule, and

(3) debt service for bonds issued after July 1, 1992, for construction projects that have received a positive review and comment according to section 123B 71, if the commissioner has determined that the district has met the criteria under section 126C 69, subdivision 3, except section 126C 69, subdivision 3, paragraph (a), clause (2), and if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule

(b) The criterion described in section 126C 69, subdivision 3, paragraph (a), clause (9), does not apply to bonds authorized by elections held before July 1, 1992

(c) For the purpose of this subdivision the department shall determine the eligibility for sparsity at the location of the new facility, or the site of the new facility closest to the nearest operating school if there is more than one new facility

(d) Notwithstanding paragraphs (a) to (c), debt service for repayment of principal and interest on bonds issued after July 1, 1997, does not qualify for debt service equalization aid unless the primary purpose of the facility is to serve students in kindergarten through grade 12

[For text of subd 3, see M S 1998]

Subd 4 Debt service equalization revenue. The debt service equalization revenue of a district equals the eligible debt service revenue minus the amount raised by a levy of 12 percent times the adjusted net tax capacity of the district

Subd 5 Equalized debt service levy. To obtain debt service equalization revenue, a district must levy an amount not to exceed the district's debt service equalization revenue times the lesser of one or the ratio of

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the adjusted pupil units in the district for the school year ending in the year prior to the year the levy is certified, to

(2) \$4,000

Subd 6 Debt service equalization aid. A district's debt service equalization aid is the difference between the debt service equalization revenue and the equalized debt service levy

Subd 7 Debt service equalization aid payment schedule. Debt service equalization aid must be paid according to section 127A 45, subdivision 10

History: 1999 c 241 art 4 s 1-5

123B.54 DEBT SERVICE APPROPRIATION.

(a) \$33,165,000 in fiscal year 2000, \$32,057,000 in fiscal year 2001, and \$31,280,000 in fiscal year 2002 and each year thereafter is appropriated from the general fund to the commissioner of children, families, and learning for payment of debt service equalization aid under section 123B 53 The 2002 appropriation includes \$3,201,000 for 2001 and \$29,079,000 for 2002

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund

History: 1999 c 241 art 4 s 6

123B.57 CAPITAL EXPENDITURE; HEALTH AND SAFETY.

[For text of subds 1 to 3, see M S 1998]

Subd 4 Health and safety levy. To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the adjusted marginal cost pupil units in the district for the school year to which the levy is attributable, to \$3,956

Subd 5 [Repealed, 1999 c 241 art 4 s 29]

Subd 6 **Uses of health and safety revenue.** Health and safety revenue may be used only for approved expenditures necessary to correct fire safety hazards, life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A 01, labor and industry regulated facility and equipment hazards, and health, safety, and environmental management. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms. The revenue may not be used for a building or property or part of a building or property used for post-secondary instruction or administration or for a purpose unrelated to elementary and secondary education.

Subd 7 [Repealed, 1999 c 241 art 4 s 29]

[For text of subd 8, see M S 1998]

History: 1999 c 86 art 1 s 33, 1999 c 241 art 4 s 7

NOTE Subdivision 4 was also repealed by Laws 1999, chapter 241 article 4 section 29 paragraph (a) effective May 26 1999

123B.59 ALTERNATIVE FACILITIES BONDING AND LEVY PROGRAM.

Subdivision 1 **To qualify.** An independent or special school district qualifies to participate in the alternative facilities bonding and levy program if the district has

- (1) more than 66 students per grade,
- (2) over 1,850,000 square feet of space,
- (3) average age of building space is 15 years or older,
- (4) insufficient funds from projected health and safety revenue and capital facilities revenue to meet the requirements for deferred maintenance, to make accessibility improvements, or to make fire, safety, or health repairs, and
- (5) a ten-year facility plan approved by the commissioner according to subdivision 2

[For text of subs 2 to 6, see M S 1998]

Subd 7 [Repealed, 1999 c 241 art 4 s 29]

[For text of subd 8, see M S 1998]

History: 1999 c 241 art 4 s 8

123B.61 PURCHASE OF CERTAIN EQUIPMENT.

The board of a district may issue general obligation certificates of indebtedness or capital notes subject to the district debt limits to (a) purchase vehicles, computers, telephone systems, cable equipment, photocopy and office equipment, technological equipment for instruction, and other capital equipment having an expected useful life at least as long as the terms of the certificates or notes, (b) purchase computer hardware and software, without regard to its expected useful life, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer, and (c) prepay special assessments. The certificates or notes must be payable in not more than five years and must be issued on the terms and in the manner determined by the board, except that certificates or notes issued to prepay special assessments must be payable in not more than 20 years. The certificates or notes may be issued by resolution and without the requirement for an election. The certificates or notes are general obligation bonds for purposes of section 126C 55. A tax levy must be made for the payment of the principal and interest on the certificates or notes, in accordance with section 475 61, as in the case of bonds. The sum of the tax levies under this section and section 123B 62 for each year must not exceed the amount of the district's total operating capital revenue for the year the initial debt service levies are certified. The district's general education levy for each year must be reduced by the sum of (1) the amount of the tax levies for debt service certified for each year for payment of

the principal and interest on the certificates or notes as required by section 475 61, and (2) any excess amount in the debt redemption fund used to retire certificates or notes issued after April 1, 1997, other than amounts used to pay capitalized interest. A district using an excess amount in the debt redemption fund to retire the certificates or notes shall report the amount used for this purpose to the commissioner by July 15 of the following fiscal year. A district having an outstanding capital loan under section 126C 69 or an outstanding debt service loan under section 126C 68 must not use an excess amount in the debt redemption fund to retire the certificates or notes.

History: 1999 c 241 art 4 s 9

123B.63. BUILDING CONSTRUCTION DOWN PAYMENT PROGRAM.

Subdivision 1 [Repealed, 1999 c 241 art 4 s 29]

Subd 2 [Repealed, 1999 c 241 art 4 s 29]

[For text of subs 3 and 4, see M S 1998]

123B.64. HISTORIC BUILDING REVENUE.

[For text of subs 1 to 3, see M S 1998]

Subd 4 [Repealed, 1999 c 241 art 4 s 29]

NOTE Subdivisions 1, 2, and 3, are repealed effective for revenue for fiscal year 2001. Laws 1999, chapter 241 article 4, section 29

123B.66 [Repealed, 1999 c 241 art 4 s 29]

123B.67 [Repealed, 1999 c 241 art 4 s 29]

123B.68 [Repealed, 1999 c 241 art 4 s 29]

123B.69 [Repealed, 1999 c 241 art 4 s 29]

123B.71. REVIEW AND COMMENT FOR SCHOOL DISTRICT CONSTRUCTION.

[For text of subs 1 to 6, see M'S 1998].

Subd 7 **Rulemaking.** The commissioner of children, families, and learning may adopt rules for public school buildings.

[For text of subs 8 to 12, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.73. INSPECTION OF PUBLIC SCHOOLS.

Subdivision 1 **Inspection.** The commissioner and the state fire marshal shall develop a plan to inspect once every three years every public school facility used for educational purposes. Inspections must begin during the 1990–1991 school year. The plan must provide for continued inspection by local units of government of public school facilities that have been inspected by a local unit of government between January 1, 1987, and January 1, 1990, and may provide for inspections by local units of government in other situations. Each inspection report must be filed with the commissioner, the local school board, and the state fire marshal. Notwithstanding section 299F 011, subdivisions 5a and 5b, a variance from the code must be approved by the state fire marshal before taking effect. The commissioner may request that the state fire marshal inspect a particular school facility.

[For text of subd 2, see M S 1998]

History: 1998 c 398 art 5 s 55

123B.75. REVENUE; REPORTING.

[For text of subs 1 to 6, see M S 1998]

Subd 6a **Integration aid.** Integration aid received under section 127A 45, subdivision 12a, must be recognized in the same fiscal year as the integration levy

[For text of subs 7 to 9, see M S 1998]

History: 1999 c 241 art 2 s 8

123B.77 ACCOUNTING, BUDGETING, AND REPORTING REQUIREMENT.

[For text of subs 1 to 3, see M S 1998]

Subd 4 **Budget approval.** Prior to July 1 of each year, the board of each district must approve and adopt its revenue and expenditure budgets for the next school year. The budget document so adopted must be considered an expenditure-authorizing or appropriations document. No funds shall be expended by any board or district for any purpose in any school year prior to the adoption of the budget document which authorizes that expenditure, or prior to an amendment to the budget document by the board to authorize the expenditure. Expenditures of funds in violation of this subdivision shall be considered unlawful expenditures. Prior to the appropriation of revenue for the next school year in the initial budget, the board shall calculate the general education revenue, basic skills revenue, and referendum revenue for that year that it estimates will be generated by the pupils in attendance at each site, and shall inform each site of that estimate and report this information to the department of children, families, and learning

[For text of subs 5 and 6, see M S 1998]

History: 1999 c 241 art 9 s 20

123B.83 EXPENDITURE LIMITATIONS.

[For text of subs 1 to 3, see M S 1998]

Subd 4 **Special operating plan.** (1) If the net negative unappropriated operating fund balance as defined in section 126C 01, subdivision 11, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts, as of June 30 each year, is more than 2-1/2 percent of the year's expenditure amount, the district must, prior to January 31 of the next fiscal year, submit a special operating plan to reduce the district's deficit expenditures to the commissioner for approval. The commissioner may also require the district to provide evidence that the district meets and will continue to meet all high school graduation requirements

Notwithstanding any other law to the contrary, a district submitting a special operating plan to the commissioner under this clause which is disapproved by the commissioner must not receive any aid pursuant to chapters 120B, 122A, 123A, 123B, 124D, 125A, 126C, and 127A until a special operating plan of the district is so approved

(2) A district must receive aids pending the approval of its special operating plan under clause (1). A district which complies with its approved operating plan must receive aids as long as the district continues to comply with the approved operating plan

History: 1999 c 241 art 9 s 21

123B.86 EQUAL TREATMENT.

[For text of subs 1 to 3, see M S 1998]

Subd 4 **Rules.** The commissioner of children, families, and learning may amend rules relating to equal transportation

History: 1998 c 398 art 5 s 55

123B.88 INDEPENDENT SCHOOL DISTRICTS; TRANSPORTATION.

[For text of subs 1 to 8, see M S 1998]

Subd 9 Nonpupil transportation; insurance. Notwithstanding the provisions of section 221 021, any public school district or school bus contractor providing transportation services to a 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 123B 49, subdivision 3 or 4, 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 district. District owned buses and the operators thereof shall otherwise comply with the provisions of this section and the rules of the commissioner of children, families, and learning 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.

[For text of subs 10 and 11, see M S 1998]

Subd 12 Early childhood family education participants. Districts may provide bus transportation along regular school bus routes when space is available for participants in early childhood family education programs and school 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 123B 92.

[For text of subs 13 to 20, see M S 1998]

Subd 21 Pupil transport on staff development days. A 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 123B 92. 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 department of children, families, and learning.

[For text of subd 22, see M S 1998]

History: 1998 c 398 art 5 s 55, 1999 c 205 art 1 s 70

123B.89 [Repealed, 1999 c 241 art 1 s 69]

123B.90 SCHOOL BUS SAFETY TRAINING.

[For text of subd 1, see M S 1998]

Subd 2 Student training. (a) Each district must provide public school pupils enrolled in grades kindergarten through 10 with age-appropriate school bus safety training. The training must 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 and not a right,
- (2) district policies for student conduct and school bus safety,
- (3) appropriate conduct while on the school bus,
- (4) the danger zones surrounding a school bus,
- (5) procedures for safely boarding and leaving a school bus,
- (6) procedures for safe street or road crossing,
- (7) school bus evacuation and other emergency procedures, and

(8) appropriate training on the use of lap belts or lap and shoulder belts, if the district uses buses equipped with lap belts or lap and shoulder belts

(b) Each nonpublic school located within the district must provide all nonpublic school pupils enrolled in grades kindergarten through 10 who are transported by school bus at public expense and attend school within the district's boundaries with training as required in paragraph (a). The school district shall make a bus available for the practical training if the district transports the nonpublic students. Each nonpublic school shall provide the instruction:

(c) All students enrolled in grades kindergarten through 3 who are transported by school bus and are enrolled during the first or second week of school must demonstrate achievement of the school bus safety training competencies by the end of the third week of school. All students enrolled in grades 4 through 10 who are transported by school bus and are enrolled during the first or second week of school must demonstrate achievement of the competencies by the end of the sixth week of school. Students enrolled in grades kindergarten through 10 who enroll in a school after the second 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 four weeks of the first day of attendance. The pupil transportation safety director in each district must certify to the commissioner annually that all students transported by school bus within the district 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. The principal or other chief administrator of each nonpublic school must certify annually to the public transportation safety director of the district in which the school is located that all of the school's students transported by school bus at public expense have received training. A 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, or to a student who attends a nonpublic school that fails to provide training as required by this subdivision.

(d) A district and a nonpublic school with students transported by school bus at public expense must, to the extent possible, provide kindergarten pupils with bus safety training before the first day of school.

(e) A district and a nonpublic school with students transported by school bus at public expense must also provide student safety education for bicycling and pedestrian safety, for students enrolled in grades kindergarten through 5.

(f) A district and a nonpublic school with students transported by school bus at public expense must make reasonable accommodations for the school bus, bicycle, and pedestrian safety training of pupils known to speak English as a second language and pupils with disabilities.

Subd 3 Model training program. The commissioner 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. The model training program for students riding buses with lap belts or lap and shoulder belts must include information on the appropriate use of lap belts or lap and shoulder belts. The program must be adaptable for use by students with disabilities.

History: 1999 c 241 art 9 s 22,23

123B.91 SCHOOL DISTRICT BUS SAFETY RESPONSIBILITIES.

Subdivision 1 **Comprehensive policy.** Each district must develop and implement a comprehensive, written policy governing pupil transportation safety, including transportation of nonpublic school students, when applicable. The policy shall, at minimum, contain

- (1) provisions for appropriate student bus safety training under section 123B 90,
- (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, including the district's seat belt policy, if applicable,

(5) an intradistrict system for reporting school bus accidents or misconduct and a system for dealing with local law enforcement officials in cases of criminal conduct on a school bus,

(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 123B 89 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, qualifications to drive a type III vehicle, qualifications for a type III vehicle 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,

(14) a system for maintaining and inspecting equipment,

(15) requirements of the school district, if any, that exceed state law minimum requirements for school bus operations, and

(16) requirements for basic first aid training, which must include the Heimlich maneuver and procedures for dealing with obstructed airways, shock, bleeding, and seizures

Districts are encouraged to use the model policy developed by the Minnesota school boards association, the department of public safety, and the department of children, families, and learning, as well as 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 review its policy annually and make appropriate amendments, which must be submitted to the school bus safety advisory committee within one month of approval by the school board.

[For text of subd 2, see M S 1998]

History: 1999 c 241 art 9 s 24

123B.92 TRANSPORTATION AID ENTITLEMENT.

Subdivision 1 **Definitions.** For purposes of this section and section 125A 76, the terms defined in this subdivision have the meanings given to them

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing

(1) the sum of

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D 128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169 01, subdivision 6, clause (5), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2)

(b) "Transportation category" means a category of transportation service provided to pupils as follows

(1) Regular transportation is

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation, but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B 84 to 123B 87,

(ii) transportation of resident pupils to and from language immersion programs,

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school, and

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school

For the purposes of this paragraph, a district may designate a licensed day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility or residence is within the attendance area of the school the pupil attends

(2) Excess transportation is transportation to and from school during the regular school year for secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order

(4) "Transportation services for pupils with disabilities" is

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school,

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A 03 to 125A 24, 125A 26 to 125A 48, and 125A 65 are provided, within or outside the district where services are provided,

(iii) necessary transportation for resident pupils with disabilities required by sections 125A 12, and 125A 26 to 125A 48,

(iv) board and lodging for pupils with disabilities in a district maintaining special classes,

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A 18, and 125A 26 to 125A 48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis,

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes, and

(vii) services described in clauses (i) to (vi), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D 128

(5) "Nonpublic nonregular transportation" is

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4),

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B 44, and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B 41, subdivision 13.

Subd 2 [Repealed, 1999 c 241 art 1 s 69]

[For text of subd 3, see M S 1998]

Subd 4 [Repealed, 1999 c 241 art 1 s 69]

[For text of subd 5, see M S 1998]

Subd 6 [Repealed, 1999 c 241 art 1 s 69]

Subd 7 [Repealed, 1999 c 241 art 1 s 69]

Subd 8 [Repealed, 1999 c 241 art 1 s 69]

Subd 9 **Nonpublic pupil transportation aid.** (a) A district's nonpublic pupil transportation aid for the 1996-1997 and later school years for transportation services for nonpublic school pupils according to sections 123B 88, 123B 84 to 123B 86, and this section, equals the sum of the amounts computed in paragraphs (b) and (c). This aid does not limit the obligation to transport pupils under sections 123B 84 to 123B 87.

(b) For regular and excess transportation according to subdivision 1, paragraph (b), clauses (1) and (2), an amount equal to the product of

(1) the district's actual expenditure per pupil transported in the regular and excess transportation categories during the second preceding school year, times

(2) the number of nonpublic school pupils residing in the district who receive regular or excess transportation service or reimbursement for the current school year, times

(3) the ratio of the formula allowance pursuant to section 126C 10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C 10, subdivision 2, for the second preceding school year.

(c) For nonpublic nonregular transportation according to subdivision 1, paragraph (b), clause (5), an amount equal to the product of

(1) the district's actual expenditure for nonpublic nonregular transportation during the second preceding school year, times

(2) the ratio of the formula allowance pursuant to section 126C 10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C 10, subdivision 2, for the second preceding school year.

(d) Notwithstanding the amount of the formula allowance for fiscal years 2000, 2001, and 2002 in section 126C 10, subdivision 2, the commissioner shall use the amount of the formula allowance for the current year plus \$87 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal year 2000, and the amount of the formula allowance less \$110 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal years 2001 and 2002.

Subd 10 [Repealed, 1999 c 241 art 1 s 69]

History: 1998 c 398 art 5 s 55, 1999 c 241 art 1 s 1