

## CHAPTER 123B

## SCHOOL DISTRICT POWERS AND DUTIES

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**123B.02 GENERAL POWERS OF INDEPENDENT SCHOOL DISTRICTS.**

Subdivision 1. **Board authority.** The board must 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 govern, manage, and control the district; to carry out its duties and responsibilities; and to conduct the business of the district includes implied powers in addition to any specific powers granted by the legislature.

*[For text of subs 2 to 8, see M.S.2002]*

Subd. 9. **Library facilities.** The board may provide library facilities as part of its school equipment according to the standards of the commissioner of education.

*[For text of subs 10 to 20, see M.S.2002]*

**History:** 2003 c 130 s 12; 1Sp2003 c 9 art 12 s 5

**123B.025 SCHOOL SPONSORSHIP AND ADVERTISING REVENUE.**

Subdivision 1. **Board authority; contracts.** A school board may enter into a contract with advertisers, sponsors, or others regarding advertising and naming rights to school facilities under the general charge of the district. A contract authorized under this section must be approved by the school board. The powers granted to a school board under this section are in addition to any other authority the school district may have.

Subd. 2. **Authorized agreements.** A school district may enter into a contract to:

(1) lease the naming rights for school facilities, including school buildings, ice arenas, and stadiums;

(2) sell advertising on or in the facilities listed in clause (1); and

(3) otherwise enter into an agreement with a sponsoring agent.

Subd. 3. **Revenue uses.** Revenue generated under this section must be used according to a plan specified by the school board.

**History:** 1Sp2003 c 9 art 2 s 12

**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 education 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.2002]*

**History:** 2003 c 130 s 12

#### 123B.04 SITE DECISION-MAKING AGREEMENT.

*[For text of subs 1 to 4, see M.S.2002]*

Subd. 5. **Commissioner's role.** The commissioner of education, in consultation with appropriate educational organizations, shall:

(1) upon request, provide technical support for districts and sites with agreements under this section;

(2) conduct and compile research on the effectiveness of site decision making; and

(3) periodically report on and evaluate the effectiveness of site management agreements on a statewide basis.

**History:** 2003 c 130 s 12

### 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 education, 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.2002]*

**History:** 2003 c 130 s 12

### 123B.14 OFFICERS OF INDEPENDENT SCHOOL DISTRICTS.

Subdivision 1. **Officer selection.** On the first Monday of January of each year, or as soon thereafter as practicable, the board must 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.

*[For text of subs 2 to 7, see M.S.2002]*

**History:** 1Sp2003 c 9 art 2 s 13

### 123B.147 PRINCIPALS.

*[For text of subd 1, see M.S.2002]*

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 education.

*[For text of subd 3, see M.S.2002]*

**History:** 2003 c 130 s 12

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

Subdivision 1. **Providing education materials and tests.** The commissioner 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 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 education.

*[For text of subs 2 and 3, see M.S.2002]*

**History:** 2003 c 130 s 12

### **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 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 123B.41, subdivision 5, 123B.42, or this section or any rules promulgated by the commissioner of education.

(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:** 2003 c 130 s 12

### **123B.44 PROVISION OF PUPIL SUPPORT SERVICES.**

Subdivision 1. **Provided services.** The commissioner of education 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.2002]*

**History:** 2003 c 130 s 12

### **123B.49 EXTRACURRICULAR ACTIVITIES; INSURANCE.**

*[For text of subs 1 to 4, see M.S.2002]*

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 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.

*[For text of subd 6, see M.S.2002]*

**History:** 2003 c 130 s 12

### **123B.51 SCHOOLHOUSES AND SITES; USES FOR SCHOOL AND NONSCHOOL PURPOSES; CLOSINGS.**

*[For text of subs 1 and 2, see M.S.2002]*

**Subd. 3. Lease real property.** When necessary, the board may lease real property for school purposes.

**Subd. 4. Lease for nonschool purpose.** (a) The board may lease to any person, business, or organization real property that is not needed for school purposes, or part of the property that is not needed for school purposes if the board determines that leasing part of the property does not interfere with the educational programs taking place on the property. 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 must 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 operating capital account. All net proceeds of the lease in districts without outstanding bonds shall be deposited in the operating capital account of the district.

(c) The board may make capital improvements to the real property, not exceeding in cost the replacement value of the property, to facilitate its rental, and the lease of the improved property, or part of it, shall provide for rentals which will recover the cost of the improvements over the initial term of the lease. Notwithstanding paragraph (b), the portion of the rentals representing the cost of the improvements shall be deposited in the operating capital account of the district and the balance of the rentals shall be used as provided in paragraph (b).

*[For text of subs 5 to 7, see M.S.2002]*

**History:** 1Sp2003 c 9 art 4 s 1,2

### **123B.52 CONTRACTS.**

*[For text of subd 1, see M.S.2002]*

**Subd. 1a. Construction contracts:** A project labor agreement is a hiring agreement that establishes wages, uniform work schedules, and rules for dispute resolution to manage construction projects that generally require, among other things, payment of union dues or fees to a labor organization or membership in or affiliation with a labor organization. A school board must adopt at a public meeting a written resolution authorizing a project labor

agreement to construct or repair a facility through a contract or bid. The board must publish in the official newspaper of the district notice of the meeting at least 30 days in advance.

*[For text of subs 2 to 6, see M.S.2002]*

**History:** *1Sp2003 c 9 art 4 s 3*

### 123B.53 DEBT SERVICE EQUALIZATION PROGRAM.

*[For text of subs 1 to 3, see M.S.2002]*

Subd. 4. **Debt service equalization revenue.** (a) The debt service equalization revenue of a district equals the sum of the first tier debt service equalization revenue and the second tier debt service equalization revenue.

(b) The first tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue minus the amount raised by a levy of 15 percent times the adjusted net tax capacity of the district minus the second tier debt service equalization revenue of the district.

(c) The second tier debt service equalization revenue of a district equals the greater of zero or the eligible debt service revenue, excluding alternative facilities levies under section 123B.59, subdivision 5, minus the amount raised by a levy of 25 percent times the adjusted net tax capacity of the district.

*[For text of subs 5 to 7, see M.S.2002]*

**History:** *1Sp2003 c 9 art 4 s 4*

**NOTE:** The amendment to subdivision 4 by Laws 2003, First Special Session chapter 9, article 4, section 4, is effective for revenue for fiscal year 2005. Laws 2003, First Special Session chapter 9, article 4, section 4, the effective date.

### 123B.54 DEBT SERVICE APPROPRIATION.

(a) \$25,987,000 in fiscal year 2002, \$29,941,000 in fiscal year 2003, \$40,075,000 in fiscal year 2004, and \$39,774,000 in fiscal years 2005 and later are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.

(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:** *2003 c 130 s 12*

### 123B.57 CAPITAL EXPENDITURE; HEALTH AND SAFETY.

Subdivision 1. **Health and safety program.** (a) To receive health and safety revenue for any fiscal year a district must submit to the commissioner an application for aid and levy by the date determined by the commissioner. The application may be for hazardous substance removal, fire and life safety code repairs, labor and industry regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management. The application must include a health and safety program adopted by the school district board. The program must include the estimated cost, per building, of the program by fiscal year. Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards and the approval of the Department of Education, a school district may include its proportionate share of the costs of health and safety projects for an intermediate district in its application.

(b) Health and safety projects with an estimated cost of \$500,000 or more per site, approved after February 1, 2003, are not eligible for health and safety revenue. Health and safety projects with an estimated cost of \$500,000 or more per site, approved after February 1, 2003, that meet all other requirements for health and safety funding, are eligible for alternative facilities bonding and levy revenue according to section 123B.59. A school board shall not separate portions of a single project into components to qualify for health and safety revenue, and shall not combine unrelated projects into a single project to qualify for alternative facilities bonding and levy revenue.

[For text of subds 2 and 3, see M.S.2002]

**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 \$2,935.

[For text of subd 5, see M.S.2002]

**Subd. 6. Uses of health and safety revenue.** (a) Health and safety revenue may be used only for approved expenditures necessary to correct fire and life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, 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, Minnesota occupational safety and health administration regulated facility and equipment hazards, indoor air quality mold abatement, upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and State Mechanical Code, Department of Health Food Code and swimming pool hazards excluding depth correction, and health, safety, and environmental management. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education.

(b) Notwithstanding paragraph (a), health and safety revenue must not be used for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics, building and heating, ventilating and air conditioning supplies, maintenance, cleaning, testing, and calibration activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).

[For text of subds 7 and 8, see M.S.2002]

**History:** 1Sp2003 c 9 art 4 s 5-7

### 123B.59 ALTERNATIVE FACILITIES BONDING AND LEVY PROGRAM.

**Subdivision 1. To quality.** (a) 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 and the average age of building space is 15 years or older or over 1,500,000 square feet and the average age of building space is 35 years or older;
- (3) 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

(4) a ten-year facility plan approved by the commissioner according to subdivision 2.

(b) An independent or special school district not eligible to participate in the alternative facilities bonding and levy program under paragraph (a) qualifies for limited participation in the program if the district has:

- (1) one or more health and safety projects with an estimated cost of \$500,000 or more per site that would qualify for health and safety revenue except for the project size limitation in section 123B.57, subdivision 1, paragraph (b); and

(2) insufficient funds from capital facilities revenue to fund those projects.

Subd. 2. **Facility plan.** (a) A district qualifying under subdivision 1, paragraph (a), must have a ten-year facility plan approved by the commissioner that includes an inventory of projects and costs that would be eligible for:

(1) health and safety revenue, without restriction as to project size;

(2) disabled access levy; and

(3) deferred capital expenditures and maintenance projects necessary to prevent further erosion of facilities.

(b) A district qualifying under subdivision 1, paragraph (b), must have a five-year plan approved by the commissioner that includes an inventory of projects and costs for health and safety projects with an estimated cost of \$500,000 or more per site that would qualify for health and safety revenue except for the project size limitation in section 123B.57, subdivision 1, paragraph (b).

(c) The school district must:

(1) annually update the plans;

(2) biennially submit a facility maintenance plan; and

(3) indicate whether the district will issue bonds to finance the plan or levy for the costs.

Subd. 3. **Bond authorization.** (a) A school district may issue general obligation bonds under this section to finance facilities plans approved by its board and the commissioner. Chapter 475, except sections 475.58 and 475.59, must be complied with. The district may levy under subdivision 5 for the debt service revenue. The authority to issue bonds under this section is in addition to any bonding authority authorized by this chapter, or other law. The amount of bonding authority authorized under this section must be disregarded in calculating the bonding or net debt limits of this chapter, or any other law other than section 475.53, subdivision 4.

(b) Before a district issues bonds under this subdivision, it must publish notice of the intended projects, the amount of the bond issue, and the total amount of district indebtedness.

Subd. 3a. **Levy authorization.** (a) A school district may levy under this section to finance the portion of facilities plans approved by its board and the commissioner that are not financed through bond issues according to subdivision 3.

(b) Before a district levies under this subdivision, it must publish notice of the intended projects, including the total estimated project cost.

*[For text of subd 4, see M.S.2002]*

Subd. 5. **Levy authorized.** A district may levy for costs related to an approved facility plan as follows:

(a) if the district has indicated to the commissioner that bonds will be issued, the district may levy for the principal and interest payments on outstanding bonds issued according to subdivision 3 after reduction for any alternative facilities aid receivable under subdivision 6; or

(b) if the district has indicated to the commissioner that the plan will be funded through levy, the district may levy according to the schedule approved in the plan after reduction for any alternative facilities aid receivable under subdivision 6.

*[For text of subd 6, see M.S.2002]*

Subd. 7. **Alternative facilities appropriation.** (a) An amount not to exceed \$19,700,000 for fiscal year 2000 and \$20,000,000 for fiscal year 2001 and each year thereafter is appropriated from the general fund to the commissioner of education for payment of alternative facilities aid under subdivision 6.

(b) The appropriation 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.

*[For text of subd 8, see M.S.2002]*

**History:** 2003 c 130 s 12; 1Sp2003 c 9 art 4 s 8-12; 1Sp2003 c 23 s 17



**NOTE:** The amendments to subdivisions 1 and 2 by Laws 2003, First Special Session chapter 9, article 4, sections 8 and 9, are effective for fiscal year 2005. Laws 2003, First Special Session chapter 9, article 4, sections 8 and 9, the effective dates.

### 123B.63 CAPITAL PROJECT REFERENDUM.

Subdivision 1. **Creation of a capital project referendum account.** A district may create a capital project referendum account as a separate account in its general fund or its building construction fund. All proceeds from the capital project levy must be deposited in the capital project referendum account in its general fund. The portion of the proceeds to be used for building construction must be transferred to the capital project referendum account in its building construction fund. Interest income attributable to the capital project referendum account must be credited to the account.

Subd. 2. **Uses of the account.** Money in the capital project referendum account must be used for the costs of acquisition and betterment for a project that has been reviewed under section 123B.71 and has been approved according to subdivision 3.

Subd. 3. **Capital project levy referendum.** A district may levy the local tax rate approved by a majority of the electors voting on the question to provide funds for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date set by the board. A referendum for a project not receiving a positive review and comment by the commissioner under section 123B.71 must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

(1) separately, before an election for the issuance of obligations for the project under chapter 475; or

(2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or

(3) notwithstanding section 475.59, as a conjunctive question authorizing both the capital project levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner, state the maximum amount of the capital project levy as a percentage of net tax capacity, state the amount that will be raised by that local tax rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

"Shall the capital project levy proposed by the board of ..... School District No. .... be approved?"

If approved, the amount provided by the approved local tax rate applied to the net tax capacity for the year preceding the year the levy is certified may be certified for the number of years approved.

In the event a conjunctive question proposes to authorize both the capital project levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of the results of the referendum.

Subd. 4. **Excess levy proceeds.** Any funds remaining in the capital project referendum account that are not applied to the payment of the costs of the approved project before its final completion must be transferred to the district's debt redemption fund.

**History:** 1Sp2003 c 9 art 4 s 13-16

### 123B.68 APPROVAL; APPLICATION FORMS.

Subdivision 1. **Approval by commissioner.** The commissioner of education may approve or disapprove applications under section 123B.69. The grant money must be used only to remove architectural barriers from a building or site.

*[For text of subs 2 and 3, see M.S.2002]*

**History:** 2003 c 130 s 12

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

Subdivision 1. **Consultation.** A school district shall consult with the commissioner of education before developing any plans and specifications to construct, remodel, or improve the building or site of an educational facility for which the estimated cost exceeds \$250,000. This consultation shall occur before a referendum for bonds, solicitation for bids, or use of capital expenditure facilities revenue according to section 126C.10, subdivision 14, clause (2). The commissioner may require the district to participate in a management assistance plan before conducting a review and comment on the project.

*[For text of subs 2 to 4, see M.S.2002]*

Subd. 5. **Final plans.** If a construction contract has not been awarded within two years of approval, the approval shall not be valid. After approval, final plans and the approval shall be filed with the commissioner of education. If substantial changes are made to approved plans, documents reflecting the changes shall be submitted to the commissioner for approval. Upon completing a project, the school board shall certify to the commissioner that the project was completed according to the approved plans.

*[For text of subd 6, see M.S.2002]*

Subd. 7. **Rulemaking.** The commissioner of education may adopt rules for public school buildings.

*[For text of subs 8 to 12, see M.S.2002]*

**History:** 2003 c 130 s 12

### 123B.72 SCHOOL FACILITY COMMISSIONING.

*[For text of subs 1 and 2, see M.S.2002]*

Subd. 3. **Certification.** Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision 9, clause (11). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

*[For text of subd 4, see M.S.2002]*

**History:** 1Sp2003 c 9 art 12 s 6

**123B.73** [Repealed, 1Sp2003 c 2 art 4 s 32]

### 123B.749 STRUCTURALLY BALANCED SCHOOL DISTRICT BUDGETS.

(a) Prior to approving a collective bargaining agreement that does not result from an interest arbitration decision, a school board must determine by board resolution that the proposed agreement will not cause structural imbalance in the district's budget during the period of the agreement.

(b) A school board may only determine that an agreement will not cause structural imbalance if expenditures will not exceed available funds, taking into account:

(1) current state aid formulas; and

(2) reasonable and comprehensive projections of ongoing revenues and expenditures for the period of the agreement. It is expected that onetime revenue may not be used for ongoing expenditures. The school board must make available with the resolution a summary of the projections and calculations supporting the determination. The projections and calculations must include state aid formulas, pupil units, and employee costs, including the

terms of labor agreements, including the agreement under consideration, fringe benefits, severance pay, and staff changes.

(c) In addition to the determination required in paragraph (a), the school board must project revenues, expenditures, and fund balances for one year following the period of the agreement. The projections must include the categories of information described in paragraph (b), be reasonable and comprehensive, and reference current state aid formulas.

(d) All projections and calculations required by this section must be made available to the public prior to and at the meeting where the resolution is adopted in a manner consistent with state law on public notice and access to public data.

(e) In an interest arbitration, the district must submit, and the exclusive bargaining representative may submit, proposed determinations with supporting projections and calculations consistent with paragraph (b) of the effect of the potential decision on the structural balance of the district's budget. The arbitrator must consider the potential effect of a decision on the structural balance of the district's budget for the term of the agreement. The arbitrator's decision must describe the effect of the decision on the structural balance of the district's budget in a manner consistent with paragraph (b). The arbitrator's decision must also show the effect of the decision on the school budget for one year following the term of the contract at issue. Within 30 days of receipt of the decision or when the board acts on the decision, whichever is earlier, the school board must by resolution determine the effect of the decision on the structural balance of its budget for the term of the agreement consistent with paragraph (b).

(f) A copy of the resolution with the supporting projections and calculations must be submitted to the commissioner of education with the uniform collective bargaining agreement settlement document within 30 days of adoption of the resolution. The commissioner must develop a model form for use by districts in reporting projections and calculations. The commissioner must make all resolutions, projections, and calculations available to the public.

(g) Compliance with this section by itself is not an unfair labor practice under section 179A.13, subdivision 2.

**History:** 2003 c 130 s 12

### 123B.75 REVENUE; REPORTING.

*[For text of subs 1 to 4, see M.S.2002]*

Subd. 5. **Levy recognition.** (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

(b) In June of 2003, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; plus

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6.

(c) For fiscal year 2004 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) the greater of 45 percent of the referendum levy certified according to section 126C.17, in the prior calendar year or 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; plus

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6; plus

(iii) 45 percent of the amount of the levy certified in the prior calendar year for the school district's general and community service funds, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, that remains after subtracting the referendum levy certified according to section 126C.17 and the amount recognized according to clause (ii).

*[For text of subs 6 to 9, see M.S.2002]*

**History:** 1Sp2003 c 9 art 5 s 4; 1Sp2003 c 23 s 19

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

*[For text of subs 1 to 3, see M.S.2002]*

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 Education.

*[For text of subs 5 and 6, see M.S.2002]*

**History:** 2003 c 130 s 12

### 123B.78 CASH FLOW; SCHOOL DISTRICT REVENUES; BORROWING FOR CURRENT OPERATING COSTS; CAPITAL EXPENDITURE DEFICITS.

Subdivision 1. **State aids payment.** The commissioner of finance shall remit all payments of state aids to districts in conformance with the dates provided by law or, when not so provided, with a schedule of aid payments to be established by the commissioner of education in consultation with other affected state agencies.

*[For text of subs 2 to 5, see M.S.2002]*

**History:** 2003 c 130 s 12

### 123B.81 STATUTORY OPERATING DEBT.

*[For text of subs 1 to 5, see M.S.2002]*

Subd. 6. [Repealed, 1Sp2003 c 9 art 1 s 54]

*[For text of subs 7 and 8, see M.S.2002]*

### 123B.86 EQUAL TREATMENT.

*[For text of subs 1 to 3, see M.S.2002]*

Subd. 4. **Rules.** The commissioner of education may amend rules relating to equal transportation.

**History:** 2003 c 130 s 12

**123B.88 INDEPENDENT SCHOOL DISTRICTS; TRANSPORTATION.**

*[For text of subd 1, see M.S.2002]*

Subd. 2. **Voluntary surrender of transportation privileges.** The parent or guardian of a student may voluntarily surrender the student's to and from school transportation privileges granted under subdivision 1.

*[For text of subs 3 to 8, see M.S.2002]*

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 public safety 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 to 20, see M.S.2002]*

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 Education.

*[For text of subd 22, see M.S.2002]*

**History:** 1Sp2003 c 9 art 2 s 14; art 10 s 13

**123B.90 SCHOOL BUS SAFETY TRAINING.**

Subdivision 1. [Repealed, 1Sp2003 c 9 art 10 s 14]

Subd. 2. **Student training.** (a) Each district must provide public school pupils enrolled in kindergarten through grade 10 with age-appropriate school bus safety training, as described in this section, of the following 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; and
- (7) school bus evacuation.

(b) Each nonpublic school located within the district must provide all nonpublic school pupils enrolled in kindergarten through grade 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).

(c) Students enrolled in kindergarten through grade 6 who are transported by school bus and are enrolled during the first or second week of school must receive the school bus safety training competencies by the end of the third week of school. Students enrolled in grades 7 through 10 who are transported by school bus and are enrolled during the first or second week of school and have not received school bus safety training in kindergarten

through grade 6 must receive the training by the end of the sixth week of school. Students in grades 9 and 10 must receive training in the laws and proper procedures when operating a motor vehicle in the vicinity of a school bus. Students enrolled in kindergarten through grade 10 who enroll in a school after the second week of school and are transported by school bus and have not received training in their previous school district shall undergo school bus safety training or receive bus safety instructional materials within four weeks of the first day of attendance. The school transportation safety director in each district must certify to the superintendent of schools annually that all students transported by school bus within the district have received the school bus safety training according to this section. The principal or other chief administrator of each nonpublic school must certify annually to the school transportation safety director of the district in which the school is located that the school's students transported by school bus at public expense have received training according to this section.

(d) A district and a nonpublic school with students transported by school bus at public expense may 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 may also provide student safety education for bicycling and pedestrian safety, for students enrolled in kindergarten through grade 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 safety training of pupils known to speak English as a second language and pupils with disabilities.

(g) The district must provide students enrolled in kindergarten through grade 3 school bus safety training twice during the school year.

**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 and age-appropriate instructional materials.

**History:** *1Sp2003 c.9 art 1 s 6,7*

### 123B.91 SCHOOL DISTRICT BUS SAFETY RESPONSIBILITIES.

**Subdivision 1. Comprehensive policy.** Each district shall develop and implement a comprehensive, written policy governing pupil transportation safety, including transportation of nonpublic school students, when applicable. The policy, at minimum, must 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) 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;
- (5) 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;
- (6) a system for integrating school bus misconduct records with other discipline records;
- (7) where applicable, provisions governing bus monitor qualifications, training, and duties;
- (8) 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;
- (9) operating rules and procedures;
- (10) emergency procedures;
- (11) a system for maintaining and inspecting equipment; and
- (12) any other requirements of the school district.

[For text of subd 2, see M.S.2002]

**History:** 1Sp2003 c 9 art 1 s 8

### 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;

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

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

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:

(i) transportation to and from school during the regular school year for resident 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 resident pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the

school is less than one mile from the school and 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. 3. Alternative attendance programs.** A district that enrolls nonresident pupils in programs under sections 124D.03, 124D.06, 124D.08, 123A.05 to 123A.08, and 124D.68, must provide authorized transportation to the pupil within the attendance area for the school that the pupil attends at the same level of service that is provided to resident pupils within the attendance area. The resident district need not provide or pay for transportation between the pupil's residence and the district's border.

*[For text of subd 5, see M.S.2002]*

**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 year 2004 in section 126C.10, subdivision 2, the commissioner shall use the amount of the formula allowance for the current year minus \$415 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal year 2004.

**History:** *1Sp2003 c 9 art 1 s 9-11*

### **123B.93 ADVERTISING ON SCHOOL BUSES.**

(a) The commissioner, through a competitive process, may contract with advertisers regarding advertising on school buses. At a minimum, the contract must prohibit advertising and advertising images that:

(1) solicit the sale of, or promote the use of, alcoholic beverages and tobacco products;

(2) are discriminatory in nature or content;

(3) imply or declare an endorsement of the product or service by the school district;

(4) contain obscene material;

(5) are false, misleading, or deceptive; or

(6) relate to an illegal activity or antisocial behavior.

(b) Advertisement must meet the following conditions:

(1) the advertising attached to the school bus does not interfere with bus identification under section 169.441; and

(2) the bus with attached advertising meets the school bus equipment standards under sections 169.4501 to 169.4504.

(c) All buses operated by school districts may be attached with advertisements under the state contract. All school district contracts shall include a provision for advertisement. Each school district shall be reimbursed by the advertiser for all costs incurred by the district and its contractors for supporting the advertising program, including, but not limited to, retrofitting buses, storing advertising, attaching advertising to the bus, and related maintenance.

(d) The commissioner shall hold harmless and indemnify each district for all liabilities arising from the advertising program. Each district must tender defense of all such claims to the commissioner within five days of receipt.

(e) All revenue from the contract shall be deposited in the general fund.

**History:** *1Sp2003 c 9 art 12 s 7*