

CHAPTER 127A

STATE ADMINISTRATION OF EDUCATION

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127A.095 IMPLEMENTATION OF NO CHILD LEFT BEHIND ACT.

Subdivision 1. **Continued implementation.** The Department of Education shall continue to implement the federal No Child Left Behind Act, Public Law 107-110, without interruption.

Subd. 2. **No Child Left Behind review.** (a) The legislature intends to require the Department of Education to conduct a comprehensive review of the consolidated state plan the state submitted to the federal Department of Education to implement the No Child Left Behind Act. The Minnesota Department of Education shall seek waivers under paragraph (b). If the Department of Education is unable to obtain waivers under paragraph (b), it should recommend in its report under paragraph (b) whether the state should opt out of the No Child Left Behind Act.

(b) The commissioner, by January 15, 2007, shall report to the house of representatives and senate committees having jurisdiction over kindergarten through grade 12 education policy and finance whether the department has received approval from the federal Department of Education to:

(1) allow the state to develop a plan for determining adequate yearly progress that uses multiple measures of student achievement that include value-added measurement of student achievement in addition to standardized test results to evaluate school and student performance;

(2) exclude from sanctions a school that is classified as not having made adequate yearly progress due solely to different subgroups testing below proficient levels for at least two consecutive years;

(3) allow the state to average three years of data for the purposes of identifying a school for improvement;

(4) allow the state to use No Child Left Behind Act money to provide supplemental education services only in the academic subject area that causes a school to miss adequate yearly progress;

(5) exclude from sanctions schools that have not made adequate yearly progress due solely to a subgroup of students with disabilities not testing at a proficient level;

(6) identify a school as not making adequate yearly progress only after the school has missed the adequate yearly progress targets in the same subject and subgroup for two consecutive years;

(7) limit the score of a student within multiple subgroups to the smallest subgroup in which that student is included when calculating adequate yearly progress;

(8) determine when to hold schools accountable for including a student with limited English proficiency in adequate yearly progress calculations; and

(9) use a fully computer-adaptive test for purposes of compliance with the No Child Left Behind Act.

Subd. 3. **Department of Finance certification.** If the federal Department of Education does not transmit to the commissioner of education its approval of the conditions in subdivision 2, paragraph (b), the commissioner of finance shall certify and report to the legislature annually beginning January 1, 2008, the amount of federal revenue, if any, that the federal government may withhold as a result of a potential state decision to discontinue implementation of the No Child Left Behind Act. The report shall also specify the intended purpose of the federal revenue and the amount of

revenue that the federal government may withhold from the state, each school district, and each charter school in each fiscal year.

History: *1Sp2005 c 5 art 2 s 72*

127A.10 STATE OFFICIALS AND SCHOOL BOARD MEMBERS TO BE DISINTERESTED; PENALTY.

If the commissioner of education, an assistant or any employee connected with the commissioner's office, or any member of any school board shall accept or receive any money, gift or any property, or favor from any person, firm, or corporation offering for sale any textbooks, or any agent thereof, or from any person in any way interested in the sale of textbooks, the person accepting or receiving it is guilty of a gross misdemeanor.

History: *2005 c 10 art 3 s 6*

127A.41 DISTRIBUTION OF SCHOOL AIDS; APPROPRIATION.

[For text of subds 1 to 7, see M.S.2004]

Subd. 8. **Appropriation transfers.** (a) If a direct appropriation from the general fund to the department for any education aid or grant authorized in this chapter and chapters 122A, 123A, 123B, 124D, 125A, 126C, and 134, excluding appropriations under sections 124D.135, 124D.16, 124D.20, 124D.22, 124D.52, 124D.531, 124D.55, and 124D.56, exceeds the amount required, the commissioner may transfer the excess to any education aid or grant appropriation that is insufficient. However, section 126C.20 applies to a deficiency in the direct appropriation for general education aid. Excess appropriations must be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of finance shall make the necessary transfers among appropriations according to the determinations of the commissioner. If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

(b) Transfers for aids paid under section 127A.45, subdivisions 12, paragraph (a), 12a, paragraph (a), and 13, shall be made during the fiscal year after the fiscal year of the entitlement. Transfers for aids paid under section 127A.45, subdivisions 11, 12, paragraph (b), and 12a, paragraph (b), shall be made during the fiscal year of the appropriation.

[For text of subds 9 and 10, see M.S.2004]

History: *1Sp2005 c 5 art 11 s 4*

127A.45 PAYMENT OF AIDS AND CREDITS TO SCHOOL DISTRICTS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Definitions.** (a) The term "other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) The term "cumulative amount guaranteed" means the product of

(1) the cumulative disbursement percentage shown in subdivision 3; times

(2) the sum of

(i) the current year aid payment percentage of the estimated aid and credit entitlements paid according to subdivision 13; plus

(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus

(iii) the other district receipts.

(c) The term "payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

[For text of subs 3 to 9, see M.S.2004]

Subd. 10. **Payments to school nonoperating funds.** Each fiscal year state general fund payments for a district nonoperating fund must be made at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. This amount shall be paid in 12 equal monthly installments. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement must be paid prior to October 31 of the following school year. The commissioner may make advance payments of debt service equalization aid for a district's debt service fund earlier than would occur under the preceding schedule if the district submits evidence showing a serious cash flow problem in the fund. The commissioner may make earlier payments during the year and, if necessary, increase the percent of the entitlement paid to reduce the cash flow problem.

Subd. 11. **Payment percentage for reimbursement aids.** One hundred percent of the aid for the previous fiscal year must be paid in the current year for the following aids: telecommunications/Internet access equity and according to section 125B.26, special education special pupil aid according to section 125A.75, subdivision 3, aid for litigation costs according to section 125A.75, subdivision 8, aid for court-placed special education expenses according to section 125A.79, subdivision 4, and aid for special education out-of-state tuition according to section 125A.79, subdivision 8, and shared time aid according to section 126C.01, subdivision 7.

Subd. 12. **Payment percentage for certain aids.** (a) One hundred percent of the aid for the current fiscal year must be paid for the following aids: reimbursement for enrollment options transportation, according to sections 124D.03, subdivision 8, 124D.09, subdivision 22, and 124D.10; school lunch aid, according to section 124D.111; and hearing impaired support services aid, according to section 124D.57.

(b) One hundred percent of the aid for the current fiscal year, based on enrollment in the previous year, must be paid for the first grade preparedness program according to section 124D.081.

[For text of subd 12a, see M.S.2004]

Subd. 13. **Aid payment percentage.** Except as provided in subdivisions 11, 12, 12a, and 14, each fiscal year, all education aids and credits in this chapter and chapters 120A, 120B, 121A, 122A, 123A, 123B, 124D, 125A, 125B, 126C, 134, and section 273.1392, shall be paid at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. For the purposes of this subdivision, a district's estimated entitlement for special education excess cost aid under section 125A.79 for fiscal year 2005 equals 70 percent of the district's entitlement for the second prior fiscal year. For the purposes of this subdivision, a district's estimated entitlement for special education excess cost aid under section 125A.79 for fiscal year 2006 and later equals 74.0 percent of the district's entitlement for the current fiscal year. The final adjustment payment, according to subdivision 9, must be the amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement.

Subd. 14. **Nonpublic aids.** The state shall pay aid according to sections 123B.40 to 123B.48 for pupils attending nonpublic schools as follows:

(1) an advance payment by November 30 equal to the current year aid payment percentage of the estimated entitlement for the current fiscal year; and

(2) a final payment by October 31 of the following fiscal year, adjusted for actual data.

If a payment advance to meet cash flow needs is requested by a district and approved by the commissioner, the state shall pay nonpublic pupil transportation aid according to section 123B.92 by October 31.

[For text of subds 14a and 15, see M.S.2004]

Subd. 16. Payments to third parties. Notwithstanding subdivision 3, the current year aid payment percentage of the amounts under section 123A.26, subdivision 3, shall be paid in equal installments on August 30, December 30, and March 30, with a final adjustment payment on October 30 of the next fiscal year of the remaining amount.

History: *1Sp2005 c 5 art 1 s 40; art 3 s 13; art 5 s 5-8; art 11 s 5*

127A.47 PAYMENTS TO RESIDENT AND NONRESIDENT DISTRICTS.

[For text of subds 1 to 6, see M.S.2004]

Subd. 7. Alternative attendance programs. The general education aid and special education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the referendum equalization aid attributable to the pupil in the nonresident district.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) For fiscal year 2006, the district of residence must pay tuition to a district or an area learning center, operated according to paragraph (f), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum aid per adjusted pupil unit.

(e) For fiscal year 2007 and later, special education aid paid to a resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services, including special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, for a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision, minus (2) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid attributable to that pupil for the portion of time the pupil receives special

instruction and services outside of the regular classroom, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, minus (3) special education aid attributable to that pupil, that is received by the district providing special instruction and services. For purposes of this paragraph, general education revenue and referendum aid attributable to a pupil must be calculated using the serving district's average general education revenue and referendum aid per adjusted pupil unit. Special education aid paid to the district or cooperative providing special instruction and services for the pupil, or to the fiscal agent district for a cooperative, must be increased by the amount of the reduction in the aid paid to the resident district. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aids due to the district.

(f) An area learning center operated by a service cooperative, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d) or (e), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center, plus the amount of compensatory revenue generated by pupils attending the area learning center.

Subd. 8. **Charter schools.** (a) The general education aid for districts must be adjusted for each pupil attending a charter school under section 124D.10. The adjustments must be made according to this subdivision.

(b) General education aid paid to a district in which a charter school not providing transportation according to section 124D.10, subdivision 16, is located must be increased by an amount equal to the sum of:

(1) the product of: (i) the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the district; times (ii) the adjusted marginal cost pupil units attributable to the pupil; plus

(2) the product of \$223 and the extended time marginal cost pupil units attributable to the pupil.

History: *1Sp2005 c 5 art 2 s 73; art 3 s 14*

127A.49 AID ADJUSTMENTS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Abatements.** Whenever by virtue of chapter 278, sections 270C.86, 375.192, or otherwise, the net tax capacity of any district for any taxable year is changed after the taxes for that year have been spread by the county auditor and the local tax rate as determined by the county auditor based upon the original net tax capacity is applied upon the changed net tax capacities, the county auditor shall, prior to February 1 of each year, certify to the commissioner of education the amount of any resulting net revenue loss that accrued to the district during the preceding year. Each year, the commissioner shall pay an abatement adjustment to the district in an amount calculated according to the provisions of this subdivision. This amount shall be deducted from the amount of the levy authorized by section 126C.46. The amount of the abatement adjustment must be the product of:

(1) the net revenue loss as certified by the county auditor, times

(2) the ratio of:

(i) the sum of the amounts of the district's certified levy in the third preceding year according to the following:

(A) section 123B.57, if the district received health and safety aid according to that section for the second preceding year;

(B) section 124D.20, if the district received aid for community education programs according to that section for the second preceding year;

(C) section 124D.135, subdivision 3, if the district received early childhood family education aid according to section 124D.135 for the second preceding year; and

(D) section 126C.17, subdivision 6, if the district received referendum equalization aid according to that section for the second preceding year; to

(ii) the total amount of the district's certified levy in the third preceding December, plus or minus auditor's adjustments.

Subd. 3. Excess tax increment. (a) If a return of excess tax increment is made to a district pursuant to sections 469.176, subdivision 2, and 469.177, subdivision 9, or upon decertification of a tax increment district, the school district's aid and levy limitations must be adjusted for the fiscal year in which the excess tax increment is paid under the provisions of this subdivision.

(b) An amount must be subtracted from the district's aid for the current fiscal year equal to the product of:

(1) the amount of the payment of excess tax increment to the district, times

(2) the ratio of:

(i) the sum of the amounts of the district's certified levy for the fiscal year in which the excess tax increment is paid according to the following:

(A) section 123B.57, if the district received health and safety aid according to that section for the second preceding year;

(B) section 124D.20, if the district received aid for community education programs according to that section for the second preceding year;

(C) section 124D.135, subdivision 3, if the district received early childhood family education aid according to section 124D.135 for the second preceding year; and

(D) section 126C.17, subdivision 6, if the district received referendum equalization aid according to that section for the second preceding year; to

(ii) the total amount of the district's certified levy for the fiscal year, plus or minus auditor's adjustments.

(c) An amount must be subtracted from the school district's levy limitation for the next levy certified equal to the difference between:

(1) the amount of the distribution of excess increment; and

(2) the amount subtracted from aid pursuant to clause (a).

If the aid and levy reductions required by this subdivision cannot be made to the aid for the fiscal year specified or to the levy specified, the reductions must be made from aid for subsequent fiscal years, and from subsequent levies. The school district must use the payment of excess tax increment to replace the aid and levy revenue reduced under this subdivision.

(d) This subdivision applies only to the total amount of excess increments received by a district for a calendar year that exceeds \$25,000.

History: *1Sp2005 c 5 art 1 s 41,42*