

## CHAPTER 123B

## SCHOOL DISTRICT POWERS AND DUTIES

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

*[For text of subs 1 to 23, see M.S.2006]*

Subd. 24. **Membership in economic development, community, and civic organizations.** The board may authorize and pay for the membership of the school district or of any district representative designated by the board in those local economic development associations or other community or civic organizations that the board deems appropriate.

**History:** 2007 c 146 art 2 s 15

**123B.10 PUBLICATION OF FINANCIAL INFORMATION.**

Subdivision 1. **Budgets; form of notification.** (a) Every board must publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner within one week of the acceptance of the final audit by the board, or November 30, whichever is earlier. The forms prescribed must be designed so that year to year comparisons of revenue, expenditures and fund balances can be made.

(b) A school board annually must notify the public of its revenue, expenditures, fund balances, and other relevant budget information. The board must include the budget information required by this section in the materials provided as a part of its truth in taxation hearing, post the materials in a conspicuous place on the district's official Web site, including a link to the district's school report card on the Department of Education's Web site, and publish the information in a qualified newspaper of general circulation in the district.

*[For text of subs 2 to 4, see M.S.2006]*

**History:** 2007 c 146 art 5 s 1

**123B.143 SUPERINTENDENT.**

Subdivision 1. **Contract; duties.** All districts maintaining a classified secondary school must employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent must be vested in the board in all cases. An individual employed by a board as a superintendent shall have an initial employment contract for a period of time no longer than three years from the date of employment. Any subsequent employment contract must not exceed a period of three years. A board, at its discretion, may or may not renew an employment contract. A board must not, by action or inaction, extend the duration of an existing employment contract. Beginning 365 days prior to the expiration date of an existing employment contract, a board may negotiate and enter into a subsequent employment contract to take effect upon the expiration of the existing contract. A subsequent contract must be contingent upon the employee completing the terms of an existing contract. If a contract between a board and a superintendent is termi-

nated prior to the date specified in the contract, the board may not enter into another superintendent contract with that same individual that has a term that extends beyond the date specified in the terminated contract. A board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 122A.40, subdivision 9 or 13. A superintendent shall not rely upon an employment contract with a board to assert any other continuing contract rights in the position of superintendent under section 122A.40. Notwithstanding the provisions of sections 122A.40, subdivision 10 or 11, 123A.32, 123A.75, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on order of employment in any district. If two or more districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on order of employment in a contracting district. The superintendent of a district shall perform the following:

- (1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;
- (2) recommend to the board employment and dismissal of teachers;
- (3) superintend school grading practices and examinations for promotions;
- (4) make reports required by the commissioner;
- (5) by January 10, submit an annual report to the commissioner in a manner prescribed by the commissioner, in consultation with school districts, identifying the expenditures that the district requires to ensure an 80 percent student passage rate on the MCA—IIIs taken in the eighth grade, identifying the highest student passage rate the district expects it will be able to attain on the MCA—IIIs by grade 12, and the amount of expenditures that the district requires to attain the targeted student passage rate; and
- (6) perform other duties prescribed by the board.

*[For text of subd 2, see M.S.2006]*

**History:** 2007 c 146 art 2 s 16

### 123B.52 CONTRACTS.

Subdivision 1. **Contracts.** A contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section 471.345, subdivision 3, must not be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. This notice must state the time and place of receiving bids and contain a brief description of the subject matter.

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

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract for which a call for bids has been issued must be awarded to the lowest responsible bidder, be duly executed in writing, and be otherwise conditioned as required by law. The person to whom the contract is awarded shall give a sufficient bond to the board for its faithful performance. Notwithstanding section 574.26 or any other law to the contrary, on a contract limited to the purchase of a finished tangible product, a board may require, at its discretion, a performance bond of a contractor in the amount the board considers necessary. A record must be kept of all bids, with names of bidders and amount of bids, and with the successful bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid must be rejected unless the alteration or erasure is corrected as provided in this section. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person

signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may readvertise. Standard requirement price contracts established for supplies or services to be purchased by the district must be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the contract may request that the other party demonstrate such increase or decrease. The term of such contracts must not exceed two years with an option on the part of the district to renew for an additional two years. Contracts for the purchase of perishable food items, except milk for school lunches and vocational training programs, in any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section 471.345, subdivision 3. All quotations obtained shall be kept on file for a period of at least one year after receipt.

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

*[For text of subd 1a, see M.S.2006]*

**Subd. 1b. Best value alternative.** As an alternative to the procurement method described in subdivision 1, a contract for construction, building, alteration, improvement, or repair work may be awarded to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

*[For text of subds 2 to 6, see M.S.2006]*

**History:** 2007 c 148 art 3 s 12,13

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

**Subdivision 1. Definitions.** (a) For purposes of this section, the eligible debt service revenue of a district is defined as follows:

(1) the amount needed to produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations of the district for eligible projects according to subdivision 2, including the amounts necessary for repayment of energy loans according to section 216C.37 or sections 298.292 to 298.298, debt service loans and capital loans, lease purchase payments under section 126C.40, subdivision 2, alternative facilities levies under section 123B.59, subdivision 5, paragraph (a), minus

(2) the amount of debt service excess levy reduction for that school year calculated according to the procedure established by the commissioner.

(b) The obligations in this paragraph are excluded from eligible debt service revenue:

(1) obligations under section 123B.61;

(2) the part of debt service principal and interest paid from the taconite environmental protection fund or Douglas J. Johnson economic protection trust;

(3) obligations issued under Laws 1991, chapter 265, article 5, section 18, as amended by Laws 1992, chapter 499, article 5, section 24; and

(4) obligations under section 123B.62.

(c) For purposes of this section, if a preexisting school district reorganized under sections 123A.35 to 123A.43, 123A.46, and 123A.48 is solely responsible for retirement of the

preexisting district's bonded indebtedness, capital loans or debt service loans, debt service equalization aid must be computed separately for each of the preexisting districts.

(d) For purposes of this section, the adjusted net tax capacity determined according to section 127A.48 shall be adjusted to include the tax capacity of property generally exempted from ad valorem taxes under section 272.02, subdivision 64.

*[For text of subs 2 to 7, see M.S.2006]*

**History:** 2007 c 146 art 4 s 5

### 123B.54 DEBT SERVICE APPROPRIATION.

(a) \$14,813,000 in fiscal year 2008, \$11,124,000 in fiscal year 2009, \$8,866,000 in fiscal year 2010, and \$6,631,000 in fiscal year 2011 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:** 2007 c 146 art 4 s 6

**NOTE:** The amendment to this section by Laws 2007, chapter 146, article 4, section 6, is effective for revenue for fiscal year 2009. Laws 2007, chapter 146, article 4, section 6, the effective date.

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

*[For text of subs 1 and 2, see M.S.2006]*

Subd. 3. **Health and safety revenue.** A district's health and safety revenue for a fiscal year equals the district's alternative facilities levy under section 123B.59, subdivision 5, paragraph (b), plus the greater of zero or:

(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, excluding expenditures funded with bonds issued under section 123B.59 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section 123B.61; levies under section 123B.58, 123B.59, 123B.63, or 126C.40, subdivision 1 or 6; and other federal, state, or local revenues, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable.

*[For text of subs 4 to 8, see M.S.2006]*

**History:** 2007 c 146 art 4 s 7

**NOTE:** The amendment to subdivision 3 by Laws 2007, chapter 146, article 4, section 7, is effective for revenue for fiscal year 2009. Laws 2007, chapter 146, article 4, section 7, the effective date.

### 123B.63 CAPITAL PROJECT REFERENDUM.

*[For text of subs 1 and 2, see M.S.2006]*

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, not to exceed ten, 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.

*[For text of subd 4, see M.S.2006]*

**History:** 2007 c 146 art 4 s 8

## **123B.65 ENERGY EFFICIENCY PROJECTS.**

*[For text of subd 1, see M.S.2006]*

Subd. 2. **Energy efficiency contract.** (a) Notwithstanding any law to the contrary, a school district may enter into a guaranteed energy savings contract with a qualified provider to significantly reduce energy or operating costs.

(b) Before entering into a contract under this subdivision, the board shall comply with clauses (1) to (5).

(1) The board must seek proposals from multiple qualified providers by publishing notice of the proposed guaranteed energy savings contract in the board's official newspaper and in other publications if the board determines that additional publication is necessary to notify multiple qualified providers.

(2) The school board must select the qualified provider that best meets the needs of the board. The board must provide public notice of the meeting at which it will select the qualified provider.

(3) The contract between the board and the qualified provider must describe the methods that will be used to calculate the costs of the contract and the operational and energy savings attributable to the contract.

(4) The qualified provider shall issue a report to the board giving a description of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and giving detailed calculations of the amounts by which energy or operating costs will be reduced and the projected payback schedule in years.

(5) The board must provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.

(c) The board must provide a copy of any contract entered into under paragraph (a) and the report provided under paragraph (b), clause (4), to the commissioner of commerce within 30 days of the effective date of the contract.

*[For text of subds 3 to 10, see M.S.2006]*

**History:** 2007 c 136 art 3 s 1

**123B.749** [Repealed, 2007 c 146 art 5 s 14]

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

*[For text of subds 1 to 3, see M.S.2006]*

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.

*[For text of subds 5 and 6, see M.S.2006]*

**History:** 2007 c 146 art 5 s 2

**123B.79 PERMANENT FUND TRANSFERS.**

*[For text of subds 1 to 5, see M.S.2006]*

Subd. 6. **Account transfer for statutory operating debt.** On June 30 of each year, a district may make a permanent transfer from the general fund account entitled "net unreserved general fund balance since statutory operating debt" to the account entitled "reserved fund balance reserve account for purposes of statutory operating debt reduction." The amount of the transfer is limited to the net unreserved general fund balance. If the net unreserved general fund balance is less than zero, the district may not make a transfer.

*[For text of subd 7, see M.S.2006]*

Subd. 8. **Account transfer for reorganizing districts.** A district that has reorganized according to sections 123A.35 to 123A.43, 123A.46, or 123A.48, or has conducted a successful referendum on the question of combination under section 123A.37, subdivision 2, or consolidation under section 123A.48, subdivision 15, or has been assigned an identification number by the commissioner under section 123A.48, subdivision 16, may make permanent transfers between any of the funds or accounts in the newly created or enlarged district with the exception of the debt redemption fund, food service fund, and health and safety account of the capital expenditure fund. Fund transfers under this section may be made for up to one year prior to the effective date of combination or consolidation by the consolidating boards and during the year following the effective date of reorganization by the consolidated board. The newly formed board of the combined district may adopt a resolution on or before August 30 of the year of the reorganization authorizing a transfer among accounts or funds of the previous independent school districts which transfer or transfers shall be reported in the affected districts' audited financial statements for the year immediately preceding the consolidation.

Subd. 9. **Elimination of reserve accounts.** A school board shall eliminate all reserve accounts established in the school district's general fund under Minnesota Statutes before July 1, 2006, for which no specific authority remains in statute as of June 30, 2007. Any balance in the district's reserved for bus purchases account as of June 30, 2007, shall be transferred to the reserved account for operating capital in the school district's general fund. Any

balance in other reserved accounts established in the school district's general fund under Minnesota Statutes before July 1, 2006, for which no specific authority remains in statute as of June 30, 2007, shall be transferred to the school district's unreserved general fund balance. A school board may, upon adoption of a resolution by the school board, establish a designated account for any program for which a reserved account has been eliminated.

**History:** 2007 c 146 art 5 s 3,4; art 11 s 3

### 123B.81 STATUTORY OPERATING DEBT.

*[For text of subd 1, see M.S.2006]*

Subd. 2. **Statutory operating debt.** If the amount of the operating debt is more than 2-1/2 percent of the most recent fiscal year's expenditure amount for the funds considered under subdivision 1, the net negative undesignated fund balance is defined as "statutory operating debt" for the purposes of this section and section 123B.83.

*[For text of subd 3, see M.S.2006]*

Subd. 4. **Debt elimination.** If an audit or other verification procedure conducted pursuant to subdivision 3 determines that a statutory operating debt exists, a district must follow the procedures set forth in this section to eliminate this statutory operating debt.

*[For text of subd 5, see M.S.2006]*

Subd. 7. **Applicability.** This section is applicable only to common, independent, and special school districts and districts formed pursuant to Laws 1967, chapter 822, as amended, and Laws 1969, chapters 775 and 1060, as amended. This section does not apply to Independent School District No. 625.

Subd. 8. [Repealed, 2007 c 146 art 11 s 19]

**History:** 2007 c 146 art 11 s 4-6

### 123B.83 EXPENDITURE LIMITATIONS.

Subd. 2. **Net unreserved general fund balances.** A school district must limit its expenditures so that its net unreserved general fund balance does not constitute statutory operating debt under section 123B.81.

*[For text of subs 3 and 4, see M.S.2006]*

**History:** 2007 c 146 art 11 s 7

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

*[For text of subs 1 to 11, see M.S.2006]*

Subd. 12. **Early childhood family education participants.** Districts may provide bus transportation along 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 transportation for the purposes of section 123B.92.

*[For text of subs 13 to 22, see M.S.2006]*

**History:** 2007 c 146 art 8 s 1

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

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 previously received school bus safety training must receive the training or receive bus safety instructional materials by the end of the sixth week of school. Students taking driver's training instructional classes must receive training in the laws and proper procedures when operating a motor vehicle in the vicinity of a school bus as required by section 169.446, subdivisions 2 and 3. 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. Upon request of the superintendent of schools, the school transportation safety director in each district must certify to the superintendent that all students transported by school bus within the district have received the school bus safety training according to this section. Upon request of the superintendent of the school district where the nonpublic school is located, the principal or other chief administrator of each nonpublic school must certify 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 and a nonpublic school with students transported by school bus at public expense must provide students enrolled in kindergarten through grade 3 school bus safety training twice during the school year.

(h) A district and a nonpublic school with students transported by school bus at public expense must conduct a school bus evacuation drill at least once during the school year.

*[For text of subd 3, see M.S.2006]*

**History:** 2007 c 146 art 8 s 2

### 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, school 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 atten-

dance 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 or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(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.

For purposes of computing special education initial aid under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(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) A district that enrolls nonresident pupils in programs under sections 123A.05 to 123A.08, 124D.03, 124D.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.

(b) A district may provide transportation to allow a student who attends a high-need English language learner program and who resides within the transportation attendance area of the program to continue in the program until the student completes the highest grade level offered by the program.

*[For text of subds 5 and 9, see M.S.2006]*

**History:** 2007 c 146 art 1 s 25; art 2 s 17; art 3 s 1