

CHAPTER 121

SCHOOL FINANCE

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SUBCHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

121.004 Definitions. In this chapter, unless the context clearly requires otherwise:

(1) **FUND.** "Fund" is an independent accounting entity with its own assets, liabilities, fund balances, receipts, and disbursements, as prescribed under s. 115.28 (13).

(5) **PUPILS ENROLLED.** (a) "Pupils enrolled" is the total number of pupils, as expressed by official enrollments, in all schools of the school district, except as provided in pars. (b) to (d). If such total contains a fraction, it shall be expressed as the nearest whole number. The same method shall be used in computing the number of pupils enrolled for resident pupils, nonresident pupils or both.

(b) A first grade pupil may be counted only if the pupil attains the age permitted under s. 115.28 (8) or required under s. 118.14 for first grade admission.

(c) A pupil enrolled in kindergarten may be counted only if the pupil attains the age permit-

ted under s. 115.28 (8) or required under s. 118.14 for kindergarten admission. A kindergarten pupil shall be counted as one-half pupil.

(d) A pupil enrolled in a program under subch. V of ch. 115 who is 3 to 5 years of age shall be counted as one-half pupil.

(5m) **TEACHERS EMPLOYED.** "Teacher" means a person holding a license or certificate under s. 115.28 (7), but does not include any person under s. 115.29 (3). In computing the number of teachers employed, professional workers who devote less than full time to their professional duties shall be counted in proportion to the time devoted to such duties. Teachers who devote full time to handicapped children shall not be counted.

(5w) **TEACHER-PUPIL RATIO.** "Teacher-pupil ratio" is the quotient of the number of pupils enrolled divided by the number of teachers employed.

(6) **AVERAGE DAILY MEMBERSHIP.** "Average daily membership" is the sum of all pupils enrolled in all schools of the school district for each day of the school term, divided by the number of days school is actually taught. If it contains a fraction, the quotient shall be expressed as the nearest whole number.

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(7) **SUMMER AVERAGE DAILY MEMBERSHIP EQUIVALENT.** "Summer average daily membership equivalent" is the sum of all summer classroom or laboratory periods in which each pupil is enrolled, as determined by multiplying the total number of periods in each day in which the pupil is enrolled by the total number of days for which the pupil is enrolled, divided by 1,080.

(8) **MEMBERSHIP.** (a) "Membership" is the sum of the current membership and the declining enrollment increment, if any.

(b) "Current membership" for any school district is the sum of pupils enrolled as reported under s. 121.05 and the summer average daily membership equivalent for classes approved under s. 121.14. Only district resident pupils and pupils enrolled under s. 121.05 (1) (a) 3 and 4 may be counted in computing current membership.

(c) "Declining enrollment increment" for any school district is a number equal to the product of one-half times the difference between the current membership for the current school year and 96.9% of the membership for the prior school year, rounded to the nearest whole number. This paragraph applies only to a school district whose current membership for the current school year is less than 96.9% of its membership for the prior school year.

(9) **EQUALIZED VALUATION.** The "equalized valuation" of a school district is the full value of the taxable property of the territory in the school district as certified for the prior year under s. 121.06 (2).

History: 1977 c. 29 ss. 1081, 1085e, 1085m; 1977 c. 418, 429; 1979 c. 34, 221; 1979 c. 346 s. 15

121.006 State aid withheld. (1) (a) The state superintendent may withhold state aid from any school district in which the scope and character of the work are not maintained in such manner as to meet the state superintendent's approval.

(b) No state aid may be paid in any year under this chapter to a school district which fails to meet the requirements under sub. (2).

(2) Unless the state superintendent is satisfied that the failure to meet the requirements of pars. (a) and (b) was occasioned by some extraordinary cause not arising from intention or neglect on the part of the responsible officers, every school district shall:

(a) Hold school for at least 180 days each year, less any days during which the state superintendent determines that school is not held or educational standards are not maintained as the result of a strike by school district employees, the days to be computed in accordance with s. 115.01 (10).

(b) Employ teachers qualified under s. 118.19.

(c) File all reports as required by state law.

(5) In the event of a school district labor dispute, s. 121.23 shall apply.

History: 1973 c. 90, 157; 1977 c. 26; 1977 c. 29 s. 1097; 1977 c. 178, 203, 206, 273, 447; 1979 c. 221

121.007 Use of state aid; exemption from execution. All moneys paid to a school district under s. 20.255 (1) (cc), (cf), (fg), (fj) and (fs) and (4) (fg) shall be used by the school district solely for the purposes for which paid. Such moneys are exempt from execution, attachment, garnishment or other process in favor of creditors, except as to claims for salaries or wages of teachers and other school employes and as to claims for school materials, supplies, fuel and current repairs.

History: 1971 c. 125 s. 522 (1); 1973 c. 90; 1975 c. 39, 220; 1977 c. 29 s. 1099; 1979 c. 34 s. 2102 (43) (a); 1979 c. 221

SUBCHAPTER II**GENERAL AID**

121.01 Purpose. It is declared to be the policy of this state that education is a state function and that some relief should be afforded from the local general property tax as a source of public school revenue where such tax is excessive, and that other sources of revenue should contribute a larger percentage of the total funds needed. It is further declared that in order to provide reasonable equality of educational opportunity for all the children of this state, the state must guarantee that a basic educational opportunity be available to each pupil, but that the state should be obligated to contribute to the educational program only if the school district provides a program which meets state standards. It is the purpose of the state aid formula set forth in this subchapter to cause the state to assume a greater proportion of the costs of public education and to relieve the general property of some of its tax burden.

A "uniform" education: reform of local property tax school finance systems through state constitutions. 62 MLR 565.

121.02 School district standards. (1) A school district shall meet the following standards under criteria established by the department in compliance with sub. (2).

(a) Every teacher, supervisor, administrator and professional staff member shall hold a certificate, license or permit to teach issued by the department before entering on duties for such position.

(b) It shall provide a planned, continuous in-service program for the professional staff.

(c) Provision shall be made for remedial reading services for under-achieving students in grades kindergarten through grade 3.

(d) It shall operate a 5-year-old kindergarten program.

(e) It shall make available guidance and counseling services.

(f) School shall be held and students shall receive actual instruction for at least 180 days, as defined in s. 115.01 (10), less any days during which the state superintendent determines that school is not held or educational standards are not maintained as the result of a strike by school district employes.

(g) Provision shall be made for emergency nursing services.

(h) It shall provide adequate instructional materials, texts and library services which reflect the cultural diversity and pluralistic nature of American society.

(i) It shall make adequate provision for safe and healthful facilities.

(j) Provision shall be made for instruction in elementary and high schools by qualified teachers in health, physical education, art and music.

(2) A school district shall be in compliance with all standards established in this section by July 1, 1975, except as provided in subs. (3) and (4).

(3) Union high school districts are exempt from standards in sub. (1) (c) and (d) but are subject to all other provisions of this section.

(4) Any school district which is completely surrounded by water may meet the requirements of this section by being in substantial compliance with the standards in sub. (1). Annually by August 15, the school district shall submit to the state superintendent for approval a report describing the methods by which the school district intends to substantially comply with the standards. The state superintendent shall allow any such school district maximum flexibility in the school district's substantial compliance plans.

(5) Prior to any finding that a school district is not in compliance with the standards under sub. (1), the state superintendent shall, upon request of the school board, conduct a public hearing in the school district. If the state superintendent, after the hearing, finds that the district is not in compliance with the standards, the state superintendent may develop with the school board a plan which describes methods of achieving compliance. The plan shall specify the time within which compliance shall be achieved. The state superintendent may provide in the criteria established by the department under sub. (1) alternative methods for districts

to comply with each of the standards in this section.

History: 1973 c. 90, 115, 243, 333; 1975 c. 39, 198; 1977 c. 29, 178, 206, 418, 429, 447; 1979 c. 34, 221.

121.05 Budget and membership report.

(1) Annually on or before October 1, the school district clerk shall file with the department a report stating:

(a) The number of pupils enrolled on the 3rd Friday of September of the current year, including:

1. Pupils enrolled concurrently in the school district and in a special education program operated by a county handicapped children's education board and in facilities of the school district;

2. Pupils enrolled in home instruction or any other school district special education program under s. 115.83;

3. Pupils who are residents of one school district who are enrolled in another school district and for whom tuition is paid under s. 115.87 (5) or 121.78; and

4. Pupils who are residents of the school district who are enrolled in special education model schools and for whom tuition is paid under s. 36.25 (19) (b).

(b) The number of teachers employed in the school district on the 3rd Friday of September of the current school year; and

(c) The estimated budget for the current school year which shall be based upon the uniform accounting system prescribed by the department.

(d) In school years 1980-81 to 1984-85, the number of pupils for whom contracts with private education services are entered into under s. 120.13 (26) or 120.49 (15).

(2) In a school district operating its regular school term on a continuous basis, the school district clerk shall add to the number of pupils enrolled on the 3rd Friday of September any pupils who are not then enrolled but are residing in the school district and will become full-time pupils on or before December 31 of the same year.

(3) If a school district is unable to hold school on the 3rd Friday of September, the state superintendent shall designate an alternative membership counting date and may designate an alternative reporting date.

History: 1971 c. 125; 1973 c. 89; 1975 c. 224; 1977 c. 29, 418; 1979 c. 34, 221, 244.

121.06 Determination and certification of equalized valuation.

(1) Annually on or before October 1, the full value of the taxable property in each school district, in each part of a city, village and town in a joint school district

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and in each city authorized to issue bonds for school purposes, including territory attached only for school purposes, shall be determined by the department of revenue according to its best judgment from all sources of information available to it and shall be certified by the department to the state superintendent. The valuation certified by the department shall include the adjustments for merchants' stock-in-trade, manufacturers' materials and finished products and livestock under s. 70.57 (5).

(2) The state superintendent shall certify to each school district clerk the appropriate full values certified to the state superintendent under sub. (1).

History: 1973 c. 61, 90; 1977 c. 29 ss. 1084, 1647 (13); 1977 c. 300 s. 8.

121.07 General provisions; state aid computation. In this subchapter:

(1) **BASIS FOR STATISTICS.** (a) The membership and teacher-pupil ratio of the school district on the 3rd Friday in September and the estimated shared cost for the current school year shall be used in computing general aid. In computing general aid, the membership shall not exceed 25 times the number of teachers reported under s. 121.05 (1) (b).

(b) If the school district valuation is increased or decreased due to an alteration in school district boundaries before the 3rd Friday in September, the estimated shared cost for the current school year and the estimated mill levy rate shall be based on the school district equalized valuation of the territory comprising the altered school district.

(c) If an order of school district reorganization is not effective due to litigation until after the 3rd Friday in September but takes effect before April 1 of the current school year, state aid for the reorganized school district for the first year of operation shall be computed after the order takes effect using calculations by the state superintendent of the number of pupils enrolled and teacher-pupil ratio for the territory in the reorganized school district, which shall be made as if the school district had been in existence on the 3rd Friday in September.

(d) At the end of the school year, the department shall adjust state aid payments according to the actual shared cost of the school district for that school year.

(6) **SHARED COST.** (a) "Shared cost" is the sum of the school district general fund operational cost and annual capital outlay, minus the operational receipts, plus principal and interest payments on long-term indebtedness for the current school year. The sum of principal and interest payments on long-term indebtedness

included in shared cost may not exceed \$90 per member.

(b) The "primary ceiling cost per member" is 110% of the state average shared cost per member for the previous school year, as determined by the state superintendent, except as provided in s. 121.23.

(c) The "primary shared cost" is that portion of a district's shared cost which is less than the primary ceiling cost per member multiplied by its membership.

(d) The "secondary shared cost" is that portion of a district's shared cost which is not included in the primary shared cost.

(7) GUARANTEED VALUATION PER MEMBER.

(a) The "primary guaranteed valuation per member" shall be \$166,000 in the 1979-80 school year and \$195,900 thereafter.

(b) The "secondary guaranteed valuation per member" shall be an amount rounded to the nearest \$100 determined by dividing the equalized valuation of the state by the state total membership.

(c) For districts operating only high school grades, the amounts in pars. (a) and (b) shall be multiplied by 3 and rounded to the nearest \$100.

(d) For districts operating only elementary grades, the amounts in pars. (a) and (b) shall be multiplied by 1.5 and rounded to the nearest \$100.

(8) **GUARANTEED VALUATION.** A school district's primary and secondary guaranteed valuations are determined by multiplying the amounts in sub. (7) by the district's membership.

(10) **REQUIRED LEVY RATE.** (a) The "required levy rate" is the sum of the rates derived in pars. (b) and (c).

(b) The "primary required levy rate" is the primary shared cost divided by the primary guaranteed valuation.

(c) The "secondary required levy rate" is the secondary shared cost divided by the secondary guaranteed valuation.

History: 1971 c. 125; 1973 c. 61, 90, 190, 333; 1975 c. 39; 1977 c. 29, 178, 418; 1979 c. 34, 221.

121.08 Payment of state aids; reductions.

(1) The state shall pay to the school district a sum equal to the amount by which the primary guaranteed valuation exceeds the school district equalized valuation, multiplied by the primary required levy rate and a sum equal to the amount by which the secondary guaranteed valuation exceeds the school district equalized valuation multiplied by the secondary required levy rate.

(2) The aid computed under sub. (1) shall be reduced by the amount by which the school

district equalized valuation exceeds the secondary guaranteed valuation, multiplied by the secondary required levy rate. In no case may the aid under this section be less than zero.

History: 1973 c. 90; 1977 c. 29.

121.085 Supplemental state aid. (1) The state shall pay to each school district the amount determined by subtracting the amount determined under par. (b) from the amount determined under par. (a):

(a) The amount which would be paid by the state to the school district under this subchapter other than this section if the full value of the taxable property of the territory in the school district were calculated and certified under s. 121.06 with the equalized valuation of any taxable property in a tax incremental district not exceeding its equalized value determined for the purpose of the determination of the tax incremental base of that district under s. 66.46.

(b) The amount to be paid to the school district under this subchapter other than this section with the full value of the taxable property of the school district calculated and certified as provided in s. 121.06.

(2) Equalized valuation of the state for the purpose of calculations under sub. (1) means the full value of taxable property, including value increments under s. 66.46.

History: 1977 c. 418.

121.10 Special adjustment aids. (1) If a school district would receive less general aid under s. 121.08 for the current school year than it received as state aid in the previous school year, its general aid for the current school year shall be increased by an amount equal to 50% of the difference between state aid received in the previous school year and the amount computed under s. 121.08 for the current school year.

(2) To be eligible to receive aid under sub. (1) a school district shall meet the following criteria:

(a) Its percentage increase in equalized valuation per member for the current school year from that of the previous school year must be greater than the average percentage increase in equalized valuation per member for the current school year from that of the previous school year for school districts of like organization;

(b) Its equalized valuation must be less than the primary guaranteed valuation for school districts of like organization; and

(c) Its secondary shared cost, if any, must be less than 20% of its primary shared cost, if its equalized valuation exceeds the secondary guaranteed valuation for school districts of like organization.

(3) For the purposes of this section, "state aid" means the sum of the amounts received as general aid under s. 121.08, aids paid under section 1617s of chapter 29, laws of 1977, and aids paid under sub. (1).

(4) If the appropriation under s. 20.255 (1) (fs) in any one year is insufficient to fund the full amount otherwise payable under this section, special adjustment aid payments shall be prorated among the districts entitled thereto.

History: 1977 c. 29, 418.

121.11 Reimbursement for excess tax base loss. (1) (a) The state shall pay to each school district the amount computed by multiplying the excess tax base loss under par. (b) by the shared cost levy rate under par. (c), and subtracting the reduction under par. (d).

(b) The excess tax base loss shall be computed by subtracting 5.4% of the equalized valuation of the school district without reduction for fractional assessment under s. 70.57 (5) from the full value within the school district of merchants' stock-in-trade, manufacturers' materials and finished products and livestock without reduction for fractional assessment under s. 70.57 (5), and multiplying the remainder by the percentage of such property not included in the school district equalized valuation under s. 70.57 (5). If this computation results in a negative amount, the excess tax base loss shall be zero.

(c) For purposes of this section, the shared cost levy rate shall be computed by dividing the school district shared cost under s. 121.07 (6), less the amount of general aid determined under s. 121.08 without reduction for fractional assessment under s. 70.57 (5), by the school district equalized valuation without reduction for fractional assessment under s. 70.57 (5).

(d) The product of the excess tax base loss and the shared cost levy rate shall be reduced by the amount received by the school district as a result of the transfer from the personal property tax relief appropriation to general school aid under s. 79.16.

(2) Beginning in the 1979-80 school year, the state shall pay the following percentages of the amount computed under sub. (1):

- (a) In 1979-80, 100%.
- (b) In 1980-81, 80%.
- (c) In 1981-82, 60%.
- (d) In 1982-83, 40%.
- (e) In 1983-84, 20%.

(3) No aid may be paid under this section after the 1983-84 school year.

History: 1979 c. 34, 221.

121.135 State aid to county handicapped children's education boards. If, upon receipt

of the report under s. 115.84, the state superintendent is satisfied that any children enrolled and participating in a special education program provided by a county handicapped children's education board under this subchapter and not counted as pupils enrolled under s. 121.05 are receiving the substantial equivalent of an elementary or high school education from those services, the superintendent shall certify to the department of administration from the appropriation under s. 20.255 (1) (cc) in favor of the county handicapped children's education board providing those services \$88 per pupil enrolled. Enrollment for aid purposes shall be determined in accordance with s. 121.05. Aids payable under this subsection shall take effect with the fiscal year beginning July 1, 1973.

History: 1973 c. 89, 243; 1979 c. 34 s. 2102 (43) (a); 1979 c. 176

121.14 State aid for summer classes. (1)

State aid shall be paid to each district or county handicapped children's education board only for those academic summer classes or laboratory periods for which the state superintendent has given prior review and approval as to the content of such classes or laboratory periods so as to assure that such classes and laboratory periods are only for necessary academic purposes. Recreational programs and team sports shall not be eligible for aid under this section, and pupils participating in such programs shall not be counted as pupils enrolled under s. 121.004 (8) nor shall costs associated with such programs be included in shared costs under s. 121.07 (6).

(2) (a) State aid for summer classes shall be incorporated into the state aid paid for regular classes under this subchapter.

(b) Annually on or before October 1, the school district clerk or chairperson of the county handicapped children's education board shall file with the department a report stating the summer average daily membership equivalent.

History: 1973 c. 89, 90, 243, 333; 1975 c. 39; 1977 c. 29

121.15 Payment of state aid. (1) State aid under s. 121.08 shall be paid to school districts according to the following distribution schedule:

(a) Each school district shall receive 10% of its total aid entitlement in each month from August to February and 30% of its total aid entitlement in June.

(b) For the payments made from August to October, the total aid entitlement for each district shall be estimated based upon the total aid payment in the previous year.

(c) For the payments from November to June, the total aid entitlement for each district shall be computed on the basis of the budget and membership report under s. 121.05.

(d) Any aid adjustment for the previous year required under s. 121.07 (1) (d) shall be made by increasing or decreasing the payment made in June.

(2) No state aid payments may be made to any district until the annual report under s. 120.18 has been filed with the department.

(3) No state aid payments may be made to any district in the months of November to June until the budget and membership report under s. 121.05 is filed with the department.

History: 1977 c. 29 s. 1098; 1977 c. 273; 1979 c. 34

121.155 General aid; cost controls. General aid under this subchapter shall not be paid on expenditures which exceed the maximum budgeted controllable cost under subch. VII.

History: 1977 c. 29

121.16 Proration of state aid. If the appropriation under s. 20.255 (1) (cc) in any one year is insufficient to pay the full amount under s. 121.08, state aid payments shall be prorated among the school districts entitled thereto.

History: 1971 c. 125 s. 522 (1); 1973 c. 90; 1977 c. 29 s. 1100; 1979 c. 34 s. 2102 (43) (a)

121.17 Use of federal revenue sharing funds.

It is the intent of the legislature that school districts receiving federal revenue sharing funds through the state under this subchapter shall utilize these funds in compliance with the federal revenue sharing requirements as defined in the state and local fiscal assistance act of 1972 (P.L. 92-512), as amended by P.L. 94-488. The department of public instruction shall assure compliance with this section.

History: 1973 c. 90; 1977 c. 29 s. 1101

121.23 Payment of aids in school district labor disputes. (1)

In the event that the state superintendent finds that school is not held, or educational standards are not maintained in accordance with s. 121.02 (1) (f) as the result of a strike by school district employes, make-up days are authorized to be scheduled but no make-up days are required.

(2) If a school district holds less than 180 days of school as the result of a strike by school district employes, for the purposes of computing general aid, the state superintendent shall compute the school district's primary ceiling cost per member in accordance with the procedure specified in pars. (a) to (e). In making the calculation, the state superintendent shall:

(a) Determine the amount of shared cost not incurred by the school district because of the strike.

(b) Determine the amount of shared cost that the school district would have incurred had the strike not occurred.

(c) Divide the amount determined under par. (a) by the amount determined under par. (b).

(d) Multiply the quotient determined under par. (c) by the amount determined under s. 121.07 (6) (b).

(e) Subtract the product determined under par. (d) from the amount determined under s. 121.07 (6) (b).

History: 1977 c. 178; 1979 c. 221 s. 2202 (43).

SUBCHAPTER III

DRIVER EDUCATION AID

121.41 State aid for driver education programs. To promote a uniformly effective driver education program among high school and vocational, technical and adult education school pupils, each school district operating high school grades, each county handicapped children's education board which provides the substantial equivalent of a high school education and each vocational, technical and adult education district shall receive \$40 for each pupil of high school age who successfully completes a course in driver education approved by the department, but in no case may the state aid exceed the actual cost of instruction. If the appropriation under s. 20.255 (1) (r) is inadequate in any year to provide \$40 per pupil, the state aid shall be prorated after the appropriation for administration is deducted. Such state aid shall be paid at the same time as the state aid under s. 121.08 is paid.

History: 1971 c. 125 s. 522 (1); 1971 c. 154, 211; 1973 c. 89, 90, 309, 336; 1977 c. 29 s. 1096.

SUBCHAPTER IV

TRANSPORTATION AID

121.51 Definitions. In this subchapter:

(1) "School bus" has the meaning designated in s. 340.01 (56).

(2) "School board" has the meaning designated in s. 115.01 (4) and includes any governmental agency transporting children to and from public schools.

(3) "Private school" means any parochial or private elementary or high school in this state offering any academic grades comparable to those described in s. 115.01 (2), including kindergarten.

(4) "Attendance area" is the geographic area designated by the governing body of a private school as the area from which its pupils

attend and approved by the school board of the district in which the private school is located. If the private school and the school board cannot agree on the attendance area, the state superintendent shall, upon the request of the private school and the board, make a final determination of the attendance area. The attendance areas of private schools affiliated with the same religious denomination shall not overlap.

History: 1975 c. 120

"The attendance areas of private schools affiliated with the same religious denomination shall not overlap," is not construed as mere surplusage, for although it adds no special restrictive ban on overlapping in that such restriction is inherent in the whole concept of "attendance areas," it makes the phrase "affiliated with the same religious denomination" the test of affiliation in a single school system rather than operation by a single agency or set of trustees or religious order within a particular religious denomination. State ex rel Vanko v. Kahl, 52 W (2d) 206, 188 NW (2d) 460.

See note to Art. I, sec. 18, citing Holy Trinity Community School v. Kahl, 82 W (2d) 139, 262 NW (2d) 210

121.52 Vehicle, operator and driver requirements. (1) (a) Rules governing the design, construction, inspection and operation of school busses adopted by the secretary of transportation under s. 110.06 (2) shall by reference be made part of any contract for the transportation of pupils.

(b) The school board may adopt additional rules, not inconsistent with law or with rules of the secretary of transportation or the state superintendent, for the protection of the pupils or to govern the conduct of the person in charge of the motor vehicle used for transportation of pupils for compensation.

(2) (a) All drivers of motor vehicles owned by the school district and used for the transportation of pupils shall be under written contract with the school board of the district.

(b) The owner or lessee of all privately owned motor vehicles transporting pupils for compensation shall be under written contract with the school board of the district for which such transportation is provided.

(c) The form of contract shall be prescribed by the department and shall provide that all parties to the contract are subject at all times to rules adopted by the secretary of transportation under s. 110.06 (2) and by the department.

(3) (a) If the contract is made under sub. (2)(b), the contract shall provide that the owner or lessee require his bus drivers, as a condition of employment, to take a physical examination, including a chest X-ray or tuberculin test, and to submit the physical examination report to the school board. If the reaction to the tuberculin test is positive, a chest X-ray shall be required. Freedom from tuberculosis in a communicable form is a condition of employment as a bus driver. Additional physical examinations shall be required thereafter at intervals determined

by the school board but at not less than 3-year intervals for each bus driver.

(b) The contract shall provide that a physical examination report may be submitted on forms prescribed by the federal authority regulating motor carriers or the department and that a copy of a physical examination report obtained for other purposes within one year of the date of the contract may be substituted for the examination, if the report contains substantially the same information required by the department.

(c) Such physical examinations, chest X-rays or tuberculin tests shall not be required of a bus driver who files with the school board an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he is to the best of his knowledge and belief in good health and that he claims exemption from health examination on these grounds. Notwithstanding the filing of such affidavit, if there is reasonable cause to believe that the bus driver is suffering from an illness detrimental to the health of the pupils, the school board may require a health examination of the bus driver sufficient to indicate whether or not he is suffering from such an illness. No bus driver may be discriminated against by reason of his filing such affidavit.

(4) The use of any motor vehicle to transport pupils shall be discontinued upon receipt of an order signed by the state superintendent or the secretary of transportation ordering such discontinuance. Personnel under the state superintendent or the secretary of transportation may ride any school bus at any time for the purpose of inspection.

History: 1977 c. 29 s. 1654 (7) (d).

121.53 School bus insurance. (1) No motor vehicle may be used as a school bus unless a policy of bodily injury and property damage liability insurance, issued by an insurer authorized to transact business in this state, is maintained thereon. The policy shall provide property damage liability coverage with a limit of not less than \$10,000. The policy also shall provide bodily injury liability coverage with limits of not less than \$75,000 for each person and, subject to such limit for each person, total limits as follows:

(a) \$150,000 for each accident for each such motor vehicle having a seating capacity of 7 passengers or less.

(b) \$200,000 for each accident for each such motor vehicle having a seating capacity of 8 to 15 passengers.

(c) \$250,000 for each accident for each such motor vehicle having a seating capacity of 16 to 24 passengers.

(d) \$375,000 for each accident for each such motor vehicle having a seating capacity of 25 to 36 passengers.

(e) \$1,000,000 for each accident for each such motor vehicle having a seating capacity of 37 to 49 passengers.

(f) Not less than \$10,000 for each accident for each passenger seat accommodation for each such motor vehicle having a seating capacity of 50 or more passengers.

(2) The policy under this section shall cover the transportation of pupils, their parents or guardians, authorized chaperones, school district officers, faculty and employes and school doctors, dentists and nurses:

(a) To and from the school or school district which operates the school bus or contracts for its operation:

(b) In connection with any extracurricular school activity authorized by and made in compliance with s. 121.54 (7).

(3) An insurer issuing a policy under this section may exclude coverage for public or livery use of the school bus, but any such exclusion does not apply:

(a) When the school bus, while regularly used as such, also is used to transport pupils of another public or private school, whether or not a charge is made for such transportation.

(b) When used in accordance with sub. (2), whether or not any person lawfully transported is required to pay a charge therefor.

(4) Every school board shall require that there be filed with it and with the department of transportation a certificate of insurance showing that an insurance policy has been procured and is in effect which covers the owner and operator of the school bus and the school board or shall procure an insurance policy and file such certificate with the department of transportation. Unless such certificate is on file with the department of transportation, no registration plates for a school bus may be issued by the department of transportation. No such policy may be terminated prior to its expiration or canceled for any reason, unless a notice thereof is filed with the department of transportation and with the school board by the insurer at least 10 days prior to the date of termination or cancellation. The department of transportation shall revoke the registration of a school bus on which the policy has been terminated or canceled, effective on the date of termination or cancellation.

(5) Subsections (1) to (4) do not apply to:

(a) A motor vehicle owned or operated by a parent or guardian transporting only his own children, whether or not any contract is made with or compensation paid to the parent or

guardian for such transportation by a school board.

(b) A motor vehicle operated by a common carrier certificated under ch. 194, where such motor vehicle is used under contract pursuant to this subchapter, if the common carrier has complied with s. 194.41 or 194.42.

(c) A taxicab regulated by a municipal ordinance under s. 349.24 when used to transport pupils.

(6) Within 10 days after its occurrence, every accident involving a motor vehicle while providing transportation under this subchapter shall be reported to the appropriate school board and promptly by it to the state superintendent on forms provided by him.

History: 1975 c. 60; 1977 c. 29 s. 1654 (7) (b); 1979 c. 281

121.54 Transportation by school districts.

(1) CITY OPTION. Subsections (2) and (6) and s. 121.57 do not apply to pupils who reside in cities unless the school they attend is located outside the city but within the boundaries of the school district. Where an annual or special meeting of a common school district or a union high school district, or the school board of a city school district or unified school district determines to provide transportation for such pupils, state aid shall be paid in accordance with s. 121.58 and there shall be reasonable uniformity in the transportation furnished such pupils whether they attend public or private schools. This subsection does not apply to pupils who reside in a city of the 1st, 2nd or 3rd class with a population exceeding 40,000 unless transportation for such pupils is available through a common carrier of passengers operating under s. 85.05 or ch. 194.

(2) GENERAL TRANSPORTATION. (a) Except as provided in sub. (1), every school board shall provide transportation to and from public school for all pupils who reside in the school district 2 miles or more from the nearest public school they are entitled to attend.

(b) 1. Except as provided in sub. (1) or otherwise provided in this subsection, the school board of each district operating high school grades shall provide transportation to and from the school he attends for each pupil residing in the school district who attends any elementary grade, including kindergarten, or high school grade at a private school located 2 miles or more from his residence, if such private school is a school within whose attendance area the pupil resides and is situated within the school district or not more than 5 miles beyond the boundaries of the school district measured along the usually traveled route.

2. In lieu of transporting students under subd. 1 and paying for transportation under sub. (8)

(b), an underlying elementary school district of a union high school district may elect, by resolution adopted at its annual or special meeting, to transport elementary school children who reside within the underlying district and qualify for transportation under subd. 1, in vehicles owned, operated or contracted for by the district. Once adopted, such a resolution may be repealed only upon one year's notice to the board of the union high school district of which the underlying district is a part. An elementary school district shall notify the union high school district of any action under this paragraph no later than June 15 preceding the school year in which the elementary school district's action takes effect.

3. No later than May 15 in each year, each private school shall notify each school board of the names, grade levels and locations of all pupils, if any, eligible to have transportation provided by such school board under this paragraph and planning to attend such private school during the forthcoming school term. The school board may extend the notification deadline.

(c) An annual or special meeting of a common school district or union high school district, or the school board of a city school district or unified school district may determine to provide transportation for all or part of the pupils who reside in the school district to and from the nearest public school they are entitled to attend or the private school within or without the school district within whose attendance area they reside, but if transportation is provided for less than all such pupils there shall be reasonable uniformity in the minimum distance that pupils attending public and private schools will be transported. Except for elementary school districts electing to furnish transportation under par. (b) 2, this paragraph does not permit the annual or special meeting or school board in a district operating only elementary grades to provide for the transportation of pupils attending private schools.

(d) A school board may provide transportation for teachers to and from public school, subject to the same controls and limitations as apply to the transportation of pupils.

(3) TRANSPORTATION FOR CHILDREN WITH EXCEPTIONAL EDUCATIONAL NEEDS. Every school board shall provide transportation for children with exceptional educational needs, as defined in s. 115.76 (3), to any public or private elementary or high school, to the Wisconsin school for the visually handicapped or the Wisconsin school for the deaf or to any special educational program for children with exceptional educational needs sponsored by a state tax-supported institution of higher education, regardless of distance, if the request for such transportation is approved by the state superin-

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tendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this subsection.

(4) SUMMER CLASS TRANSPORTATION. (a) A school board may provide transportation for pupils residing in the school district and attending summer classes. If the school board provides transportation for less than all pupils, there shall be reasonable uniformity in the minimum and maximum distances pupils are transported.

(b) A school board, a county handicapped children's education board or a cooperative educational service agency may provide transportation regardless of distance for children with exceptional educational needs who attend a summer special education program under s. 115.83 (4), if a request for such transportation is approved by the state superintendent. Approval shall be based on whether or not the child can walk to school with safety and comfort. Section 121.53 shall apply to transportation provided under this paragraph.

(5) TRANSPORTATION TO VOCATIONAL SCHOOLS. The school board of a district operating high school grades may provide for the transportation or board and lodging of residents of the school district attending vocational, technical and adult education schools outside the school district who are not high school graduates, are less than 20 years of age and attend such schools full time. The school district shall be paid state aid for such transportation or board and lodging in accordance with s. 121.58. This subsection shall not apply to cases where the distance between a pupil's home and the vocational, technical and adult education school along the usually traveled public highway is more than 15 miles, except where the pupil resides on an approved bus route or where board and lodging are provided.

(6) TRANSPORTATION IN SPECIAL CASES. The school board of a district operating high school grades which, under s. 121.84 (2), must permit a pupil to attend high school outside the school district shall provide transportation for such pupil if he resides 2 or more miles from the high school he attends.

(7) TRANSPORTATION FOR EXTRACURRICULAR ACTIVITIES. (a) A school board may provide transportation for pupils attending public or private schools, their parents or guardians, authorized chaperones, school officers, faculty and employes and school doctors, dentists and nurses in connection with any extracurricular activity of the public or private school, such as a school athletic contest, school game, school outing or school field trip or any other similar trip when:

1. A school bus which is regularly used by or for the school district is used and such transportation is under the immediate supervision of a competent adult employe of the school district and the school bus is operated by a driver regularly used as a bus driver by the school district;

2. A school operated by the school district or the private school has an actual interest in the safety and welfare of the children transported to the activity;

4. The school principal or other person with comparable authority authorizes such use.

(b) 1. If transportation is provided to pupils and other persons in connection with any extracurricular activity of a public school under par. (a), the school board may make a charge for such transportation, to be paid by the persons transported, sufficient to reimburse it for the cost of providing the transportation. If transportation is provided to pupils and other persons in connection with any extracurricular activity of a private school under par. (a), the school board shall make a charge for such transportation, to be paid by the private school or the persons transported, sufficient to reimburse it for the cost of providing the transportation.

2. The school board may contract under s. 121.52 (2) (b) for transportation authorized under par. (a) for pupils attending public schools. The school board may authorize a charge for the transportation, to be paid by the persons transported, sufficient to make reimbursement for the cost of providing the transportation.

(8) PAYMENT OF TRANSPORTATION COSTS.

(a) The cost of providing transportation for pupils under subs. (1) to (6) and s. 121.57 shall be paid by the school district in which they reside, and no part of such cost may be charged to the pupils or their parents or guardians.

(b) At the end of the school term, every union high school district shall submit to each of its underlying school districts operating only elementary grades a certified statement of the actual cost for the school year, less the amount to be paid for such pupils for that school year under s. 121.58 (2), of transporting the private school pupils residing in the underlying school district under sub. (2) (b). On or before June 30 in each year each underlying school district shall reimburse the union high school district for the net cost of transporting its resident private school pupils as so reported in the statement.

(9) TRANSPORTATION IN AREAS OF UNUSUAL HAZARDS. (a) In school districts in which unusual hazards exist for pupils in walking to and from the school where they are enrolled, the school board shall develop a plan which shall show by map and explanation the nature of the

unusual hazards to pupil travel and propose a plan of transportation if such transportation is necessary, which will provide proper safeguards for the school attendance of such pupils. Copies of the plan shall be filed with the sheriff of the county in which the principal office of the school district is located. The sheriff shall review the plan and may make suggestions for revision deemed appropriate. The sheriff shall investigate the site and plan and make a determination as to whether unusual hazards exist which cannot be corrected by local government and shall report the findings in writing to the state superintendent and the school board concerned. Within 60, but not less than 30, days from the day on which the state superintendent receives the sheriff's report, the state superintendent shall determine whether unusual hazards to pupil travel exist and whether the plan provides proper safeguards for such pupils. If the state superintendent makes findings which support the plan and the determination that unusual hazards exist which seriously jeopardize the safety of the pupils in their travel to and from school, the school board shall put the plan into effect and state aid shall be paid under s. 121.58 (2) (c) for any transportation of pupils under this subsection. Any city, village or town may reimburse, in whole or in part, a school district for costs incurred in providing transportation under this subsection for pupils who reside in the city, village or town.

(am) Any person aggrieved by the failure of a school board to file a plan with the sheriff as provided in par. (a) may notify the school board in writing that an area of unusual hazard exists. The school board shall reply to the aggrieved person in writing within 30 days of receipt of the aggrieved person's notice. The school board shall send a copy of the board's reply to the sheriff of the county in which the principal office of the school district is located and to the state superintendent. Upon receipt of the school board's reply, the aggrieved person may request a hearing before the state superintendent for a determination as to whether an area of unusual hazard exists. If the state superintendent determines that an area of unusual hazard exists, the state superintendent shall direct the school board to proceed as provided in par. (a).

(b) Within 30 days after the sheriff's report is received by the state superintendent, any aggrieved person may request a hearing before the state superintendent on the determination by the sheriff and on the plan. After such hearing, the state superintendent shall proceed as provided in par. (a).

(c) The state superintendent and the department of transportation shall establish a definition of "unusual hazards" and "area of unusual

hazards" for the implementation of this subsection. Such definition shall be promulgated, as a rule, by the state superintendent.

History: 1971 c. 162; 1973 c. 89, 107, 333; 1975 c. 60, 392, 421; 1977 c. 227, 252, 418.

121.51 (4) and 121.54 (2) (b) 1 as enacted in 1969 are constitutional. *State ex rel. Vanko v. Kahl*, 52 W (2d) 206, 188 NW (2d) 460.

Exceptions to the mandatory provision of transportation should be narrowly construed. The exception for children who "reside in cities" should be confined to its common and approved usage. *Morrisette v. DeZonia*, 63 W (2d) 429, 217 NW (2d) 377.

Although private school was only 127 feet beyond 5-mile limit of (2) (b) 1, statutory construction is not available to extend such limit. *Young v. Bd. of Ed., Jt. Dist. No. 10*, 74 W (2d) 144, 246 NW (2d) 230.

Refusal of board to transport parochial pupils during public school vacation violated (2) (b) 1. *Hahner v. Board of Ed. Wisconsin Rapids*, 89 W (2d) 180, 278 NW (2d) 474 (Ct. App. 1979).

Transportation must be on a reasonably uniform basis to all children attending either public or private schools. 61 Atty. Gen. 240.

Students living less than 2 miles from school may not be transported by the school board at parental expense. 62 Atty. Gen. 95.

City school bussing policies adopted pursuant to (1) and (2) (b) 1 were without rational basis and violated the equal protection rights of city resident private school students who resided more than 2 miles from school but were denied transportation solely because the school was located 400 feet outside the city and school district boundaries. *Deutsch v. Teel*, 400 F. Supp. 598.

Sub. (2) (b) 1 does not deny equal protection to students attending parochial school beyond 5-mile limit. *O'Connell v. Kniskern*, 484 F. Supp. 896 (1980).

121.545 Additional transportation. The parent or guardian of a pupil who attends a public or private school and who is not required to be transported under s. 121.54 may contract with the school board of the district for transportation under this section. The school board of the district may provide transportation under this section to a pupil not required to be transported under s. 121.54, if requested to do so by the parent or guardian of the pupil and if the parent or guardian agrees to pay to the school board a fee sufficient to reimburse the board for the costs incurred in providing such transportation. State aid shall not be provided for transportation under this section.

History: 1979 c. 221.

121.55 Methods of providing transportation. (1) School boards may provide transportation by any of the following methods:

(a) By contract with a common carrier, a taxi company or other parties.

(b) By contract with the parent or guardian of the pupil to be transported. If the school board and the parent or guardian cannot agree upon the amount of compensation, the department shall determine the amount of compensation to be designated in the contract.

(c) By contract with another school board, board of control of a co-operative educational service agency or the proper officials of any private school or private school association.

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(d) By contract between 2 or more school boards and an individual or a common carrier.

(e) By the purchase and operation of a motor vehicle.

(2) The term of any contract made under this section shall not exceed 3 years.

(3) A school board may fulfill its obligation to transport a pupil under s. 121.54 (2) (b) 1 by offering to contract with the parent or guardian of the pupil. The contract shall provide for an annual payment for each pupil of not less than \$5 times the distance in miles between the pupil's residence and the private school he or she attends, or the school district's average cost per pupil for bus transportation in the previous year exclusive of transportation for kindergarten pupils during the noon hour and for handicapped pupils, whichever is greater, but the payment shall not exceed the actual cost nor may the aids paid under s. 121.58 (2) (a) for the pupil exceed the cost thereof.

(4) A school board which intends to offer a contract under sub. (3) shall notify the parent or guardian of the private school pupil of its intention at least 30 days before the commencement of the school year of the public school district.

History: 1979 c. 34, 221.

121.56 School bus routes. The school board of each district shall make and be responsible for all necessary provisions for the transportation of pupils, including establishment, administration and scheduling of school bus routes. Upon the request of any school board, the state superintendent shall provide advice and counsel on problems of school transportation. Any private school shall, upon the request of the public school officials, supply all necessary information and reports. The transportation of public and private school pupils shall be effectively co-ordinated to insure the safety and welfare of the pupils. Upon receipt of a signed order from the state superintendent, the school board shall discontinue any route specified by him.

See note to 121.54, citing *Hahner v. Board of Ed. Wisconsin Rapids*, 89 W (2d) 180, 278 NW (2d) 474 (Ct. App. 1979).

121.57 Board and lodging or house rental in lieu of transportation.

(1) (a) If a school board determines it is to the advantage of the school district and if the parent or guardian determines it is to the advantage of the pupil that board and lodging in lieu of transportation be provided for all or part of the time for a pupil of the school district required to be transported or for whom it has been authorized under s. 121.54 (2), the school board shall enter into a

written contract under which the pupil shall be properly boarded and lodged and the school board shall pay for such board and lodging. The parent or guardian may select the home in which his child is boarded and lodged. If a school board determines it is in the interest of the school district, it may pay the tuition of a pupil in a school in another school district in lieu of providing transportation to a school in the school district of residence or board and lodging. If the distance from the pupil's home to the school in another school district is 2 miles or more, the school board of the district of residence shall provide transportation.

(b) This subsection also applies to handicapped children. The state superintendent may grant permission for a handicapped child to be transported to a school in another school district if an acceptable form of transportation is provided and if such school offers equal or better educational opportunities for the child.

(2) If a school board determines it is in the interest of the school district to rent a house for the family of children required to be transported in lieu of providing such transportation, it may enter into a written lease for such housing and pay as rental therefor not more than the amount which otherwise would be paid for transportation.

(3) This section does not apply to pupils who attend private schools.

121.58 State aid. (1) REPORT. In the report filed under s. 120.18 the school district clerk shall include such information as the department requires on the number of pupils for whom transportation or board and lodging is provided.

(2) **STATE AID FOR TRANSPORTATION.** (a) A school district which provides transportation to and from a school under ss. 121.54 (1) to (3), (5) and (6) and 121.57 shall be paid state aid for such transportation at the rate of \$30 per school year per pupil so transported whose residence is at least 2 miles and not more than 5 miles from the school attended, \$45 per school year per pupil so transported whose residence is at least 5 miles and not more than 8 miles from the school attended, \$60 per school year per pupil so transported whose residence is at least 8 miles and not more than 12 miles from the school attended, \$68 per school year per pupil so transported whose residence is at least 12 miles and not more than 15 miles from the school attended, \$75 per school year per pupil so transported whose residence is at least 15 miles and not more than 18 miles from the school attended, and \$85 per school year per pupil so transported whose residence is more than 18 miles from the school attended. Such state aid

shall be reduced proportionately in the case of a pupil transported for less than a full school year because of nonenrollment. State aid for transportation shall not exceed the actual cost thereof. No state aid of any kind may be paid to a school district which charges the pupil transported or his or her parent or guardian any part of the cost of transportation provided under ss. 121.54 (1) to (3), (5) and (6) and 121.57 or which wilfully or negligently fails to transport all pupils for whom transportation is required under s. 121.54.

(c) A school district which provides transportation to and from a school under s. 121.54 (9) shall be paid state aid for such transportation at the rate of \$12 per school year per pupil so transported. Such state aid shall be reduced proportionately in the case of a pupil transported for less than a full year because of nonenrollment. State aid for such transportation shall not exceed the actual cost thereof.

(3) STATE AID FOR BOARD AND LODGING. A school district which provides board and lodging or housing under s. 121.57 (2) in lieu of transportation shall be paid state aid for such board and lodging or housing at the rate of not more than \$6 per week of 5 days for each pupil so boarded and lodged or housed, but not to exceed 60% of the cost. For children with exceptional educational needs such state aid shall be supplemented by the state aid under s. 115.88 in an amount not to exceed the full cost of such board and lodging.

(4) STATE AID FOR SUMMER CLASS TRANSPORTATION. Annually on or before October 1 of the year in which transportation is provided under s. 121.54 (4), the school district clerk shall file with the department a report, containing such information as the department requires, on transportation provided by the school board to and from summer classes. Upon receipt of such report and if the summer classes meet the requirements of s. 121.14 (1), state aid shall be paid for such transportation. A school district which provides such transportation shall be paid state aid for such transportation at the rate of \$4 per pupil transported to and from public school whose residence is at least 2 miles and not more than 5 miles by the nearest traveled route from the public school attended, and \$6 per pupil transported to and from public school whose residence is more than 5 miles by the nearest traveled route from the public school attended, if the pupil is transported 30 days or more. The state aid shall be reduced proportionately if the pupil is transported less than 30 days.

(5) STATE SUPERINTENDENT APPROVAL. If the state superintendent is satisfied that transportation or board and lodging was provided in

compliance with law, he shall certify to the department of administration the sum due the school district. In case of differences concerning the character and sufficiency of the transportation or board and lodging, the state superintendent may determine such matter and his decision thereon is final.

(6) APPROPRIATION PRORATED. If the appropriations under s. 20.255 (1) (fg) or (4) (fg) in any one year are insufficient to pay the full amount of approved claims under this section, state aid payments shall be prorated among the school districts entitled thereto.

History: 1971 c. 125 s. 522 (1); 1973 c. 89, 333; 1975 c. 392; 1977 c. 29; 1979 c. 34 ss. 966d, 2102 (43) (a); 1979 c. 221

SUBCHAPTER V

TUITION PAYMENTS

121.77 Admission of nonresident pupils.

(1) Every elementary school and high school shall be free to all persons of school age who reside in the school district. If facilities are adequate, a school board may admit nonresident pupils who meet the entrance requirements to the schools of the school district. Nonresident pupils shall have all the rights and privileges of resident pupils and shall be subject to the same rules and regulations as resident pupils. The school board shall charge tuition for each nonresident pupil.

(2) Annually on or before August 15, the school district clerk shall file with the department a certified copy of each tuition claim of the school district.

History: 1977 c. 29, 78, 203.

"Legal settlement" as used in (1) interpreted 65 Atty Gen. 301.

121.78 Tuition payments by school districts.

(1) Upon the approval of the state superintendent, the school board of the district of residence and the school board of the district of attendance may make a written agreement to permit an elementary or high school pupil to attend a public school, including an out-of-state school, outside the school district of residence, and the school district of residence shall pay the tuition. The school district of residence shall be paid state aid as though the pupil were enrolled in the school district of residence.

(2) A school board, upon its own order, may provide for the enrollment of a pupil in a public school located outside this state, if the course of study in such school is equivalent to the course of study in this state and if the school is at least 1.5 miles nearer the pupil's home than any public school in this state. The school board shall pay the tuition for such pupil and the school district

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shall be paid state aid as though such pupil was enrolled in the school district of residence. The school board shall pay for the transportation of a pupil so enrolled who resides 2 or more miles from such out-of-state school. The school district shall be paid state aid under subch. IV for the transportation of such pupil as though the pupil had been transported to the school of the school district of residence.

(3) (a) Annually, the school board of any school district may, upon the approval of the state superintendent, enter into an agreement for the enrollment of some of its resident pupils in the schools of an adjacent school district, if:

1. That school district determines that its enrollment of resident pupils in the following school year will be greater than its enrollment of resident pupils in the base school year as reported under s. 121.05; and

2. The adjacent school district determines that its enrollment of resident pupils in the following school year will be less than its enrollment of resident pupils in the base school year as reported under s. 121.05.

(b) For pupils enrolled as part of an agreement under par. (a), the school district of residence shall pay tuition to the school district of attendance, and such pupils shall be counted as pupils enrolled in the school district of residence for the computation of state aid under subch. II. A copy of any agreement under this section shall be provided to the state superintendent as part of the school district report under s. 121.05.

(c) Any pupil who has attended a high school for one or more years through an agreement under par. (a) shall be permitted to graduate from that school, notwithstanding the termination of the original agreement. Tuition for such pupils shall be paid by the district of residence, and such pupils shall be counted as pupils enrolled in the district of residence for the computation of state aid under subch. II.

(d) In this subsection, "base school year" means the school year prior to the school year for which an agreement is first effective under this section.

History: 1977 c. 29, 418; 1979 c. 244.

121.79 Tuition payments by state. (1)

The state shall pay tuition from the appropriation under s. 20.255 (1) (cf) for children attending public schools in the following cases:

(a) For children in children's homes.

(b) For children of parents employed at and residing on the grounds of a state or federal military camp, federal veteran hospital or state charitable or penal institution.

(c) For children in the care, custody or control of the department of health and social

services residing at camp Flambeau in Winter, Wisconsin, who are enrolled in nearby local school districts.

(d) For children in foster homes, and beginning in the 1978-79 fiscal year, for claims incurred in the 1977-78 school year and thereafter, for children in group homes, if:

1. The foster or group home is located outside the school district in which the child's parent or guardian resides; and

2. The foster or group home is exempted under s. 70.11.

(2) When transportation is provided for children under this section, state aid shall be paid in accordance with subch. IV.

History: 1971 c. 125 ss. 459, 460, 522 (1); 1973 c. 89, 90, 336; 1975 c. 39, 199; 1977 c. 29; 1979 c. 34 s. 2102 (43) (a); 1979 c. 60, 221.

121.80 Tuition payments by counties. The county shall pay the elementary and high school tuition of every person of school age who is a child of a parent employed at and residing on the grounds of a county institution. The county board may charge such tuition to the account of the county asylum or the county home.

121.81 Tuition payments by parents. (1)

GENERAL. Before the admission of a nonresident pupil to an elementary or a high school of a school district, the school board of that district shall make a written agreement with the parents for the payment of tuition at the rate established in accordance with this subchapter, except when the tuition is otherwise chargeable under this subchapter or under subch. V of ch. 115.

(2) **SPECIAL.** (a) A pupil whose parent or legal custodian is a resident of this state but not a resident of the school district may file with the school board of the district a written application for enrollment in the schools of the school district. The application shall be accompanied by a written declaration of the parent or legal custodian that he will establish residence in the school district by a specified time. If facilities are adequate, the school board may permit the pupil to enroll in the schools of the school district, and may require prepayment of a tuition fee for 9 school weeks or may waive the tuition requirement for that pupil. If the parent or legal custodian establishes residence in the school district within such 9 school weeks, the school board shall refund the tuition fee. If such residence is not established there shall be no refund of the tuition fee but another written application for enrollment may be filed for the next succeeding 9 school weeks and, upon prepayment of a tuition fee for such 9 school weeks, the school board may permit the pupil to reenroll. If the parent or legal custodian establishes

residence in the school district within the second 9 school weeks, the school board shall refund the tuition fee for the second 9 school weeks.

(b) If the parent or legal custodian establishes residence in the school district prior to the expiration of the first 18 school weeks of the school term and if the pupil was enrolled in the school district on the 3rd Friday in September, the pupil shall be considered a resident pupil in computing general aid under subch. II.

(c) The parent or legal custodian of a pupil who is enrolled under this subsection shall be responsible for the transportation of such pupil to the school in which the pupil is so enrolled. No transportation aid under subch. IV may be paid for such transportation.

History: 1971 c. 200; 1977 c. 29; 1979 c. 346 s. 15

121.82 Computation of tuition. (1) In computing tuition, 5 school days constitute a school week. No deduction of tuition may be made because of the absence of a pupil, unless the pupil has been absent more than 10 consecutive school days. In case of an absence for more than 10 consecutive school days, deduction shall be made only for the absence in excess of 10 days. If a school is closed pursuant to an order of a health officer during the school term and if operation and maintenance costs are incurred by the school district as if the school were operating, tuition shall be charged as if the school were operating.

(2) (a) The tuition for any given year shall be the sum of the school district general fund operational cost and annual capital outlay, minus the operational receipts, plus principal and interest payments on long-term indebtedness for the current school year divided by the average daily membership of the district providing the service, rounded to the nearest dollar.

(b) The tuition for summer classes shall be the tuition for the previous school year multiplied by the quotient of the summer average daily membership equivalent and the average daily membership for the previous school year.

(3) All disbursements for tuition shall be made from the school district general fund. All receipts for tuition shall be made to the school district general fund.

History: 1977 c. 29.

121.84 Tuition waiver; special cases; reorganized districts. (1) (a) The school board of a district may permit a pupil who is enrolled in a school under its jurisdiction and is a resident of the school district at the beginning of the 2nd semester of the school year to complete the school year at the school without payment of tuition, even though his or her parents move out

of the school district before the close of the school year.

(b) The school board of a district operating high school grades may permit a pupil who has gained 12th grade status in a high school under its jurisdiction and is a resident of the school district at the time of gaining such status to complete 12th grade at the high school without payment of tuition, even though his parents move out of the school district.

(c) The transportation requirement in s. 121.54 (2) shall not apply to transportation beyond the school district boundaries for pupils under this subsection.

(2) The school board of a district operating high school grades shall permit a high school pupil who resides in the school district as the result of school district reorganization and has completed 9th and 10th grades at one high school outside the school district to complete his high school education at such high school. The school board of residence shall pay tuition for such pupil. If the parent or guardian of such pupil has paid tuition in order to enroll such pupil in such high school, the school board of residence shall reimburse the parent or guardian for the tuition upon receipt of a tuition claim within 3 years from the date such tuition was paid.

(3) (a) A reorganized school district, in its first year of operating high school grades, may provide for its 11th and 12th grade pupils on a tuition basis and, in its 2nd such year, may provide for its 12th grade pupils on a tuition basis. The clerk of the school district in which nonresident pupils under this subsection are enrolled shall certify the number of such pupils enrolled to the department and to the clerk of their school district of residence. The school district of residence shall include such pupils in membership for aid under subch. II.

(b) A reorganized school district which has at least one operating high school within its territory and which does not have sufficient building facilities to provide high school educational services for all of the high school pupils residing in the reorganized school district may provide for such high school pupils on a tuition basis for a period of 2 years. The reorganized school district shall be eligible for state aid in accordance with par. (a).

History: 1973 c. 90; 1977 c. 29, 78.

SUBCHAPTER VI

SPECIAL TRANSFER AID

121.85 Special transfer programs. (1) DEFINITIONS. In this section:

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(a) "Minority group pupil" means a pupil who is a Black American, a native American, a Spanish-surnamed American or an Oriental American and who has reached the age of 4 on or before September 1 of the year he or she enters school.

(b) "Attendance area" means the geographical area within a school district established by the school board thereof for the purpose of designating the elementary, middle, high or other school which pupils residing within the area normally would attend.

(c) "Total cost" is the sum of the school district general fund operational cost and annual capital outlay, minus the operational receipts, plus the principal and interest payments on long-term indebtedness for the current school year.

(d) "School" means an organized educational activity operated by the school board and approved by the department of public instruction.

(2) APPLICABILITY OF SECTION. This section applies to transfers:

(a) *Interdistrict*. 1. By minority group pupils who reside in an attendance area in a school district where minority group pupils constitute 30% or more of the number of pupils enrolled in the school serving that attendance area and which the pupil would normally attend, from that district to a school in a school district where minority group pupils constitute less than 30% of the number of pupils enrolled in that school, as of May 1 of the prior year.

2. By nonminority group pupils who have reached the age of 4 on or before September 1 of the year they enter school and who reside in an attendance area in a school district where minority group pupils constitute less than 30% of the number of pupils enrolled in the school serving that attendance area and which the pupil would normally attend in the district, from that district to a school in a school district where minority group pupils constitute 30% or more of the number of pupils enrolled in that school, as of May 1 of the prior year.

(b) *Intradistrict*. 1. By minority group pupils who reside in an attendance area where minority group pupils constitute 30% or more of the number of pupils enrolled in the school serving that attendance area and which the pupil normally would attend, from that school to another school within the district where minority group pupils constitute less than 30% of the number of pupils enrolled in that school or to a school serving the entire district.

2. By nonminority group pupils who have reached the age of 4 on or before September 1 of the year they enter school and who reside in an attendance area where minority group pupils constitute less than 30% of the number of pupils

enrolled in the school serving that attendance area and which the pupil normally would attend, from that school to another school within the district where minority group pupils constitute 30% or more of the number of pupils enrolled in that school or to a school serving the entire district.

(3) TRANSFER AGREEMENTS. In accordance with sub. (2) and with the approval of the parents or guardian of the pupil:

(a) *Interdistrict*. The school board of the district of residence and the school board of the district of attendance may enter into annual written agreements to permit a pupil to attend a public school outside the school district of residence.

(b) *Intradistrict*. The school board of the district may permit a pupil to attend a public school within the district which is outside the pupil's attendance area.

(4) OTHER PLANS TO REDUCE RACIAL IMBALANCE. Pupil transfers resulting from a plan implemented by the school board to reduce racial imbalance in a school district or attendance area shall be deemed to be transfer agreements under sub. (3) and shall be eligible for state aid under this section if the transfers comply with sub. (2).

(5) PART-TIME TRANSFERS. Part-time transfers for curriculum offerings also may be permitted under this section. The department shall establish procedures for aid computations in such cases.

(6) STATE AIDS. (a) *Intradistrict transfer*. The school district of attendance of pupils transferring from one attendance area to another under subs. (3) (b) and (4) shall be entitled to:

1. An amount equal to that produced by counting each transfer pupil as 1.0 pupil in membership for general aid under subch. II; plus

2. An amount equal to that produced by counting each transfer pupil as 0.325 pupil in membership for general aid under subch. II.

(b) *Interdistrict transfer*. 1. If a pupil transfers from one school district to another under sub. (3) (a), the school district of residence shall count each such pupil as 1.0 pupil in membership for general aid under subch. II.

2. If, in any one school year, the number of pupils transferring from one school district to another under sub. (3) (a) constitute less than 5% of the total membership of the school district of attendance, the school district of attendance shall receive an amount equal to that produced by multiplying the number of pupils transferred into the district under sub. (3) (a) by the amount produced by dividing the school district's net school cost by the sum of the

membership, plus the number of pupils transferred into the district of attendance under sub. (3) (a).

3. If, in any one school year, the number of pupils transferring from one school district to another under sub. (3) (a) constitute 5% or more of the total membership of the school district of attendance, the school district of attendance shall receive an amount equal to 1.2 multiplied by the amount to which the district is entitled under subd. 2.

(c) *Special applications.* If a school district finds that it has incurred costs beyond aids received because of the number of pupils which it has accepted as transfers under this section, it may apply to the department for supplementary aids under this subsection. If the department finds that the school district has incurred costs for which reimbursement has not been made under par. (b) 2 or 3, it shall supplement the state aids paid to the district under this subchapter in an amount equal to the unreimbursed cost.

(d) *Aid in lieu of tuition.* Aid payments under this subchapter shall be in lieu of tuition payments required under subch. V. Aid payments under this subchapter shall not be made for interdistrict transfers under sub. (6) (b), if tuition payments are made from funds received by the school district of residence under P.L. 73-167 and P.L. 81-874, as amended, for pupils so transferring from such district of residence.

(e) *Sources of aid payments.* State aid under this subchapter shall be paid from the appropriation under s. 20.255 (1) (cc).

(f) *Applicability.* No school district may receive state aid under par. (a) 1 or (b) 1 for transfer pupils who have not reached the age of 5 on or before September 1 of the year they enter school.

(7) **TRANSPORTATION.** Transportation shall be provided to pupils transferring schools under this subchapter if required under subch. IV. Transportation for a pupil attending a public school under sub. (3) (a) outside the pupil's school district of residence shall be provided pursuant to agreement between the school district of residence and the school district of attendance. If either the school district of residence or the school district of attendance operates a program of intradistrict transfers under sub. (3) (b), that school district shall be responsible for the cost of transportation. The school district may meet this responsibility either by contracting directly for provision of transportation or by reimbursing another school district for the cost of such a contract. Transportation for a pupil attending a public school under sub. (3) (b) outside his or her attendance area of residence may be provided by his or her

school district. A school district providing transportation under this subsection may not claim transportation aid under subch. IV for pupils so transported.

(8) **TRANSFERRED PUPILS.** Pupils transferring schools under this section shall be subject to the same rules and regulations as resident pupils and shall have the responsibilities, privileges and rights of resident pupils in the school district or attendance area. Subject to this subsection, a pupil transferring schools under either sub. (3) (a) or (b) has the right to complete his or her education at the elementary, middle or high school to which he or she transfers so long as full funding therefor is available under s. 20.255 (1) (cc).

(9) **PLANNING COUNCILS.** (a) Annually, beginning within 60 days after May 4, 1976, and thereafter on or before October 1, the school board of each school district lying wholly or partially within a county having a population of 500,000 or more shall organize a planning council with the school board of the school district within such county containing a city of the 1st class. Each planning council shall consist of 10 members, 5 members from the school district containing a city of the 1st class and 5 members from the school district which does not contain a city of the 1st class. The representatives of the planning council from each school district shall include, for terms of membership determined by the school board, 3 school board members, the school district administrator and one public member who resides in the school district. In the case of school districts containing a city of the 1st class, the school board may appoint the same persons as representatives to more than one planning council, and the school district administrator may select a representative to serve in his or her place on any planning council. Within 180 days after its appointment, each planning council shall make a recommendation to its appointing school boards on a cooperative program designed to facilitate transfers under sub. (3) (a) for the ensuing school term to promote cultural and racial integration. The recommendations shall include socio-economic, achievement and other relevant factors for the school boards to consider in permitting pupils to transfer for the purpose of facilitating, so far as possible, a balanced representation of the pupils who might transfer under sub. (3) (a). Within 90 days after receiving the recommendation of the planning council, each school board shall determine the extent to which its district will participate in the cooperative program. Upon making its determination, each school board shall disseminate information concerning the cooperative program to pupils and parents and guardians of pupils in the school district. Infor-

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mation shall be disseminated regarding the availability of transfers, the nature of the transportation to be provided, the courses and programs to be available to transfer pupils and any other aspects which the school board determines to be appropriate.

(b) Within 90 days after determining that its district will participate in transfers under this section, the school board of a district not subject to par. (a) shall make appointments to, and shall organize with other participating school districts, a planning council to make recommendations to facilitate cooperative programs.

(c) The obligation under par. (a) to organize planning councils shall apply only with regard to school terms for which full pupil transfer aids are appropriated under s. 20.255 (1) (cc) and planning council assistance funds are appropriated under s. 20.255 (1) (a).

History: 1975 c. 220; 1977 c. 29, 418; 1979 c. 34 ss. 966m, 2102 (43) (a); 1979 c. 221.

Note: Chapter 220, laws of 1975, which created this section, contains a legislative declaration of policy in section 1 of the act. See the 1975 session law volume.

SUBCHAPTER VII**COST CONTROLS**

121.90 Definitions. In this subchapter:

(1) "Controllable cost" means shared cost as defined in s. 121.07 (6) (a), excluding any amount included therein for principal and interest payments on long-term indebtedness.

(2) "Cost control membership" means the number calculated under par. (a) or (b).

(a) For any school district whose membership in the current school year is not greater than 102% of its membership in the previous school year, the cost control membership is the average, rounded to the nearest whole number, of the school district's current membership for the previous school year and its current membership of the current school year.

(b) For any school district whose membership in the current school year exceeds 102% of its membership in the previous school year, the cost control membership is the sum of subds. 1 and 2.

1. One hundred and one percent of the school district's membership in the previous school year, rounded to the nearest whole number.

2. The difference between the school district's membership in the current school year and 102% of the school district's membership in the previous school year, rounded to the nearest whole number.

History: 1975 c. 39, 80; 1977 c. 29, 418.

121.91 Cost control formula. (1) The budgeted controllable cost for each school dis-

trict is limited to the sum of its controllable cost per member for the previous school year and 10.5% of its controllable cost per member for the previous school year, multiplied by the cost control membership. For the purpose of this subsection, the controllable cost per member for the previous school year does not include any amounts expended in excess of the maximum budgeted controllable cost allowed under this subchapter in the previous year.

(1m) A school district whose controllable cost per member is below the statewide average may increase its controllable cost per member by an amount not to exceed the statewide average controllable cost per member for the previous school year times the percentage established under sub. (1), multiplied by the cost control membership. For the purpose of this subsection, the controllable cost per member for the previous school year does not include any amounts expended in excess of the maximum budgeted controllable cost allowed under this subchapter in the previous year.

(2) In addition to the amounts set forth in sub. (1) or (1m), a school district may include in its budgeted controllable cost such additional amounts as determined by the state superintendent, after finding that there is evidence that the shared cost limitation controls under this subchapter would:

(a) Prevent the development of new or expanded programs under subch. V of ch. 115;

(b) Prevent the payment of operational or nonoperational costs for a newly constructed school building or an addition to or improvement of an existing school building or other school facility.

(c) Prevent the full implementation of a comprehensive plan to eliminate racial imbalance in the school district by a stated date;

(d) Affect compliance by the school district with the specific order of a court or a state or federal agency, with the exception of orders issued by the department of public instruction, directing that school district to take an action not required by the order of all other school districts. For the purposes of this paragraph, a decision of a mediator-arbitrator acting under s. 111.70 (4) (cm) does not constitute an order of a court or a state or federal agency.

(e) Apply to any documented inflationary increase in the costs of heat for buildings and electricity which exceeds the percentage established under sub. (1) of the previous school year's expenditures for heat for buildings and electricity; or

(f) Prevent the employment of a reading specialist under s. 118.015.

(g) Prevent the provision of transportation for pupils in areas of unusual hazards under s.

121.54 (9), where such transportation was not provided in the previous school year.

(h) Prevent the provision of transportation for pupils living 2 miles or more from school in a city, where such transportation was not provided in the previous school year.

(i) Prevent compliance by the school district with state or federal regulations requiring programs to be accessible to children with exceptional educational needs.

(j) Prevent the payment of expenses attributable to the cost of fuel for pupil transportation, which exceed the percentage, established under sub. (1), of the previous school year's expenditures attributable to the cost of fuel for pupil transportation.

(k) Prevent the full implementation of the uniform financial fund accounting system under s. 115.28 (13).

(L) Prevent the assumption of costs related to programs under subch. IV of ch. 115 in a school district subscribing to programs operated by a county handicapped children's education board due to the withdrawal from or dissolution of the program under s. 115.86 (7) or to the discontinuation of the board under s. 115.86 (9) (b).

(m) For the 1980-81 school year, prevent full implementation of the checkpoint immunization program under s. 140.05 (16).

(n) Prevent the development of new or expanded programs under subch. IV of ch. 115.

NOTE: Sub. (2) is repealed effective July 1, 1981.

(3) (a) After determining that it has reached the maximum amount allowable for its budgeted controllable cost under this section, a school district may file a request with the state superintendent for an adjustment of its controllable cost per member for the previous school year, along with such evidence as required by the state superintendent. The state superintendent may authorize such an adjustment, if supported by clear, convincing and substantial evidence for any of the following:

1. A cost that was payable in the previous school year, but paid in the current school year including any retroactive salary or employee benefit increases resulting from a negotiated collective bargaining agreement or from a decision of a mediator-arbitrator acting under s. 111.70 (4) (cm), but excluding any other retroactive obligation.

2. A receipt received in the current school year which was receivable in the previous school year.

3. A change in the classification of receipts and disbursements that is uniformly applied to all districts.

4. Salary amounts budgeted but not paid in the prior school year because of a work stoppage by school district employees.

(b) The state superintendent shall initiate an adjustment of the prior year per pupil shared cost in order to carry out par. (a) 2.

(d) A cost attributable to the upgrading of school buildings to energy efficient standards, but the state superintendent shall, in the subsequent school year, exclude such cost.

(3m) No school district may file a request with the state superintendent under sub. (2) or (3) after March 1 of the school year in which the request would apply.

(4) In a school district whose boundaries have been altered through school district reorganization, the state superintendent shall compute the controllable cost per member for the previous school year for the reorganized district which is substantially comparable to the controllable cost per member of the territory included in the reorganized district prior to reorganization.

(5) Any school district which is completely surrounded by water is exempt from the budget limitations under this subchapter.

History: 1975 c. 39, 80, 189, 198, 224, 422; 1977 c. 29, 178, 418; 1979 c. 34, 221, 334; 1979 c. 346 ss 14, 15; 1979 c. 355

121.93 Referendum requirements. (1)

Notwithstanding any other statutes, school boards shall follow the procedures set forth in this section prior to final adoption of any school district budget which contains an excess cost; an "excess cost" is the amount by which the budgeted controllable cost exceeds the controllable cost allowed under this subchapter.

(2) (a) Whenever a school board recommends the adoption of a school district budget which contains an excess cost, it shall promptly adopt a resolution supporting inclusion in the final school district budget of an amount equal to the excess cost.

(b) Upon adoption of the resolution, the school board shall direct its clerk to call a referendum for the purpose of submitting the resolution to the electors for approval or rejection. In lieu of a separately held referendum, the school board may specify that the referendum be held at the next succeeding spring primary or election or September primary or general election, if such election is to be held within 90 days of the adoption of the resolution of the school board.

(3) The school district clerk shall publish a class 2 notice, under ch. 985, containing a statement of the purpose of the referendum and the amount of money specified in sub. (2) (a), and stating the date, polling places and hours during which the polls will be open.

(4) The clerk of the school board shall provide the election officials with all necessary election supplies, registration lists if the district has a register of its electors, and, for a referendum held at other than a spring primary or election or September primary or general election, shall provide or arrange for the necessary voting machines, electronic voting systems or ballot boxes and booths and shall select the necessary election officials. The form of the ballot shall correspond substantially with form "D1" annexed to s. 5.64 (2). The notice of the

election and the ballot to be used shall embody a copy of the resolution, and the question submitted shall be whether the resolution shall or shall not be approved.

(5) Votes cast at the referendum shall be counted and canvassed as at regular municipal elections and the results certified to the school district clerk. A majority of all votes cast in the school district shall decide the question.

History: 1975 c. 39, 198; 1977 c. 29, 427; 1979 c. 301, 311, 355, 357.