

CHAPTER 121

SCHOOL FINANCE

<p style="text-align: center;">SUBCHAPTER I</p> <p style="text-align: center;">STATE AID FOR ELEMENTARY AND HIGH SCHOOLS</p> <p>121.01 Purpose.</p> <p>121.02 School district standards.</p> <p>121.05 Budget and membership report.</p> <p>121.06 Determination and certification of equalized valuation.</p> <p>121.07 General provisions; state aid computation.</p> <p>121.08 State aids; payments by certain districts.</p> <p>121.09 Special transitional aid.</p> <p>121.12 State aid for preschool educational project.</p> <p>121.135 State aid to county handicapped children's education boards.</p> <p>121.14 State aid for summer classes.</p> <p>121.15 State aid for driver education programs.</p> <p>121.17 State aid withheld.</p> <p>121.19 Advance payment of state aid.</p> <p>121.20 Use of state aid; exemption from execution.</p> <p>121.21 Proration of state aid.</p> <p>121.22 Use of federal revenue sharing funds.</p> <p style="text-align: center;">SUBCHAPTER II</p> <p style="text-align: center;">TRANSPORTATION</p> <p>121.51 Definitions.</p> <p>121.52 Vehicle, operator and driver requirements.</p> <p>121.53 School bus insurance.</p>	<p>121.54 Transportation by school districts.</p> <p>121.55 Methods of providing transportation.</p> <p>121.56 School bus routes.</p> <p>121.57 Board and lodging or house rental in lieu of transportation.</p> <p>121.58 State aid.</p> <p style="text-align: center;">SUBCHAPTER III</p> <p style="text-align: center;">TUITION</p> <p>121.76 Definitions.</p> <p>121.77 Admission of nonresident pupils.</p> <p>121.78 Tuition payments by school districts.</p> <p>121.79 Tuition payments by state.</p> <p>121.80 Tuition payments by counties.</p> <p>121.81 Tuition payments by parents.</p> <p>121.82 Computation of tuition.</p> <p>121.83 Tuition payments for summer classes.</p> <p>121.84 High school; special cases.</p> <p>121.85 Special transfer programs.</p> <p style="text-align: center;">SUBCHAPTER IV</p> <p style="text-align: center;">BUDGET LIMITATIONS AND REFERENDUM REQUIREMENTS</p> <p>121.90 Definitions.</p> <p>121.91 School district shared cost limitation.</p> <p>121.92 Adjustment for principal and interest.</p> <p>121.93 Referendum requirements.</p>
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SUBCHAPTER I

STATE AID FOR ELEMENTARY AND HIGH SCHOOLS

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.

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) Every teacher shall be paid at least the minimum salary and granted the sick leave specified in s. 121.17 and the district shall comply with ss. 42.39 to 42.43, 118.01, 118.02, 118.07 (2) and 120.13 (14).

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

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

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

(f) It shall operate, or be part of a cooperative, or otherwise make provision for education programs for children with exceptional educational needs as identified in s. 115.76 (3).

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

(h) School shall be held and students shall receive actual instruction for at least 180 days with additional days included as provided in s. 115.01 (10).

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

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

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

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

(m) A school district operating only elementary grades shall levy a tax at a rate of at least 3 mills. A school district operating only grades 9 to 12 shall levy a tax at a rate of at least 3 mills. A school district operating both elementary and high school grades shall levy a tax at a rate of at least 5 mills.

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

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

History: 1973 c. 90, 115, 243, 333; 1975 c. 39, 198.

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 pupils enrolled concurrently in the school district and in a special education program operated by a county handicapped children's education board and attending one or more regular classes operated by the school district and including pupils enrolled in home instruction or any other school district special education program under s. 115.83;

(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.

(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.

History: 1971 c. 125; 1973 c. 89; 1975 c. 224.

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 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.

(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.

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

(1) PUPILS ENROLLED. "Pupils enrolled" is the total number of pupils, as expressed by official enrollments, in all schools of the school district as reported under s. 121.05, except as provided in pars. (a) to (c). 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.

(a) A first grade pupil may be counted only if he attains the age of 6 years on or before December 1 of the school year in which he enters first grade.

(b) A pupil enrolled in kindergarten may be counted only if he attains the age of 5 years on or before December 1 of the school year in which he enrolls. A kindergarten pupil shall be counted as one-half pupil.

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

(c) In computing state aid, the number of resident pupils enrolled shall not exceed 25 times the number of teachers reported under s. 121.05.

(2) 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.

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

(4) SCHOOL DISTRICT EQUALIZED VALUATION. "School district equalized valuation" 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).

(5) BASIS FOR STATISTICS. (a) The number of pupils enrolled 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 state aid.

121.07 SCHOOL FINANCE

2400

(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 cost of operation, minus the operational receipts plus the principal and interest payments on long-term indebtedness and annual capital outlay, for the current school year. The sum of the principal and interest payments on long-term indebtedness and annual capital outlay included in shared cost shall not exceed \$100 per pupil. Any amounts contributed by the school district to provide food service programs for the elderly shall not be included.

(b) In computing state aid for a school district, that portion of its shared cost per pupil which is more than 10% above the average per pupil shared cost for the previous school year, as determined by the state superintendent, shall be excluded except as provided in par. (c).

(c) In computing state aid on the shared cost excluded under par. (b), the secondary guaranteed valuation shall be used.

(7) SCHOOL DISTRICT GUARANTEED VALUATIONS FOR DISTRICTS OPERATING BOTH ELEMENTARY AND HIGH SCHOOL GRADES. "School district guaranteed valuation" is the amount set forth in pars. (a) and (b) multiplied by the number of resident pupils enrolled.

(a) The primary guaranteed valuation shall be \$90,200 in the 1975-76 school year and \$102,700 thereafter.

(b) The secondary guaranteed valuation shall be an amount rounded to the nearest \$100 determined by dividing the equalized valuation of the state by the number of pupils enrolled in the state.

(8) SCHOOL DISTRICT GUARANTEED VALUATIONS FOR DISTRICTS OPERATING ONLY ELEMENTARY GRADES. "School district guaranteed valuation" is the amount set forth in pars. (a) and (b) multiplied by the number of resident pupils enrolled.

(a) The primary guaranteed valuation shall be \$99,500 in the 1975-76 school year and \$113,300 thereafter.

(b) The secondary guaranteed valuation shall be an amount rounded to the nearest \$100 determined by multiplying the amount in par. (a) by the quotient of the amount in sub. (7) (b) divided by the amount in sub. (7) (a).

(c) For the 1975-76 and 1976-77 school years, the state superintendent shall substitute the amounts in par. (a) with amounts rounded to the nearest \$100 determined by multiplying the amounts in sub. (7) (a) by 1.1895.

(9) SCHOOL DISTRICT GUARANTEED VALUATIONS FOR DISTRICTS OPERATING ONLY HIGH SCHOOL GRADES. "School district guaranteed valuation" is the amount set forth in pars. (a) and (b) multiplied by the number of resident pupils enrolled.

(a) The primary guaranteed valuation shall be \$248,900 in the 1975-76 school year and \$283,300 thereafter.

(b) The secondary guaranteed valuation shall be an amount rounded to the nearest \$100 determined by multiplying the amount in par. (a) by the quotient of the amount in sub. (7) (b) divided by the amount in sub. (7) (a).

(c) For the 1975-76 and 1976-77 school years the state superintendent shall substitute the amounts in par. (a) with amounts rounded to the nearest \$100 determined by multiplying the amounts in sub. (7) (a) by 2.8050.

(10) MILL LEVY RATE. "Mill levy rate" is the sum of the rates derived in pars. (a) and (b).

(a) The primary required levy rate is the quotient of the shared cost not excluded by sub. (6) (b) divided by the school district primary guaranteed valuation.

(b) The secondary required levy rate is the quotient of the shared costs determined in sub. (6) (c) divided by the school district secondary guaranteed valuation.

History: 1971 c. 125; 1973 c. 61, 90, 190, 333; 1975 c. 39

121.08 State aids; payments by certain districts. (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 school district shall pay to the state the sum of pars. (a) and (b).

(a) Beginning with the 1977-78 school year the amount by which the school district equalized valuation exceeds the primary guaranteed valuation, multiplied by the primary required levy rate.

(b) The amount by which the school district equalized valuation exceeds the secondary guaranteed valuation, multiplied by the secondary required levy rate.

(3) If the net amount computed under subs. (1) and (2) results in a negative sum, that amount shall constitute the negative aid payment due. The negative aid payment due shall be certified to the school district by the state superintendent on or before March 15. The school district treasurer shall transmit the amount certified to the state treasurer on or before May 15. The state treasurer shall credit this amount to the negative aid payment appropriation under s. 20.255 (1) (k). No negative aid payment shall be required under this subsection prior to the 1976-77 school year.

(4) (a) If a school district would receive less general state aid under this section in 1973-74 than it received as general state aid in 1972-73, the net amount computed under subs. (1) and (2) in 1973-74 shall be increased by 90% of the difference between its general state aid in 1972-73 and the net amount computed under subs. (1) and (2).

(b) In each year thereafter in which a school district would receive less general state aid under this section than it received as general state aid in 1972-73, the net amount computed under subs. (1) and (2) in each year shall be increased by a percentage of the difference between its general state aid in 1972-73 and the net amount computed under subs. (1) and (2) in such year. The percentage by which such difference is multiplied under this paragraph shall be reduced by 10 percentage points each year for 9 years thereafter.

(c) For the purposes of this subsection, "general state aid in 1972-73" means the sum of the amounts received as general state aids and the employer's share of teachers retirement and social security payments.

History: 1973 c. 90.

121.09 Special transitional aid. (1) State aid shall be paid under this section to those school districts which were eligible to receive a state aid payment under s. 121.08 (4) for the 1974-75 school year.

(2) In this section "shared cost levy rate" means the quotient of the shared cost under s. 121.07 (6), 1973 stats., minus state aid received

under s. 121.08 divided by the school district equalized valuation.

(3) The department shall determine the following:

(a) The 1974-75 shared cost levy rate for each school district using the 1973 equalized valuation before adjustment for the property tax exemption granted under s. 70.11 (27), 1973 stats.

(b) The 1974-75 shared cost levy rate for each school district using the 1973 equalized valuation after adjustment for the property tax exemption as provided under chapter 333, laws of 1973, section 201c.

(c) For each school district under this section an amount equal to the state aid under s. 121.08 which would have been required in 1974-75 to make the shared cost levy rate under par. (b) equal the shared cost levy rate under par. (a).

(4) For the 1975-76 school year, school districts under this section shall receive an amount calculated under sub. (3) (c) multiplied by 70%. The percentage applied to the amount calculated under sub. (3) (c) shall be reduced by 10 percentage points each year for 7 years thereafter.

(5) If a district is not eligible to receive state aid under s. 121.08 (4), it shall not receive payment under this section.

(6) If the appropriation under s. 20.255 (1) (fg) in any one year is insufficient to pay the full amount under this section, special transitional aid payments shall be prorated among the districts entitled thereto.

History: 1975 c. 39, 224.

121.12 State aid for preschool educational project. Any school district or nonprofit, nonsectarian agency selected for participation in the preschool educational project by the board of regents under s. 36.25 (16) shall receive state aid in the amount certified annually to the state superintendent by the university of Wisconsin system. The state superintendent shall develop such administrative and reporting procedures as are necessary to properly administer the state aids under this section. Such procedures shall be consistent with the objectives of the project.

History: 1975 c. 39.

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

121.135 SCHOOL FINANCE

those services, he shall certify to the department of administration from the appropriation under s. 20.255 (1) (f) 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.

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. 121.07 (1) 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 chairman of the county handicapped children's education board shall file with the department a report stating the number of pupils enrolled in summer classes. In computing the number of pupils enrolled in summer classes, the total number of classroom or laboratory periods approved pursuant to sub. (1), 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 in which enrolled, shall be divided by 1,080. The quotient represents the proportion of a pupil enrolled for which the school district or county handicapped children's education board shall be paid state aid.

(c) For the purpose of computing state aid, the total number of pupils enrolled in summer classes determined under par. (b) shall be added to the number of pupils enrolled in the school district as reported under s. 121.05 or 115.84 where applicable or enrolled in a program operated by a county handicapped children's education board as reported under s. 115.84. School districts shall be paid the sum of \$70 for each nonresident elementary school pupil and \$88 for each nonresident high school pupil in summer classes under this section. For nonresident students who are receiving the substantial equivalent of a high school or elementary

education, the county handicapped children's education board shall be paid the amounts set forth in s. 121.135.

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

121.15 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.

121.17 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 his approval.

(b) No state aid may be paid in any year under this subchapter to a school district which fails to meet the requirements under subs. (2) and (3).

(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, except a school district operating under ch. 119, shall:

(a) Hold school for at least 180 days each year, the days to be computed in accordance with s. 115.01 (10).

(b) Employ teachers qualified under s. 118.19.

(c) Provide in the contract between the school board and teacher the following:

1. A leave of absence for each teacher because of personal sickness, without deduction from the salary of the teacher, of at least 5 days each school year with an accumulation of at least 30 days of unused sick leave from year to year.

2. A salary for each school year for each teacher of not less than \$2,400 if the teacher's certificate or license is based on 2 years of professional training, not less than \$3,000 if the

teacher's certificate or license is based on not less than 3 years of professional training and not less than \$4,000 if the teacher's certificate or license is based on 4 years of professional training and a bachelor's degree.

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

(3) Unless the state superintendent is satisfied that failure to meet the requirements of this subsection was occasioned by some extraordinary cause not arising from intention or neglect on the part of the responsible officers, a school district operating under ch. 119 shall, for the full period during which school is in session during each year as provided by the rules of the board of school directors, employ teachers qualified under s. 118.19 and pay a salary of not less than \$266 a month to each regular teacher and of not less than \$10 a day to each qualified continuous substitute teacher.

(4) Notwithstanding subs. (1) and (3), full state school aids shall be paid to districts that fail during an energy emergency, as defined in s. 340.01 (15s), to comply with the days of school required by that section.

History: 1973 c. 90, 157

121.19 Advance payment of state aid. Upon the request of a school board filed on or after July 15 and if the annual report of the school district for the previous school year has been filed, the state superintendent upon his determination of need may grant advance payment of the state aid payable to the school district in an amount not to exceed 75% of its total state aid for the school year.

121.20 Use of state aid; exemption from execution. All moneys paid to a school district under s. 20.255 (1) (f), (fb), (fg), (fh) and (fp) 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.

121.21 Proration of state aid. If the appropriation under s. 20.255 (1) (f) 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

121.22 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). The department of public instruction shall assure compliance with this section.

History: 1973 c. 90.

SUBCHAPTER II

TRANSPORTATION

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.

121.52 Vehicle, operator and driver requirements. (1)(a) Rules governing the design, construction, inspection and operation of school busses adopted by the administrator of the division of motor vehicles 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 administrator of the division of motor vehicles 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.

121.52 SCHOOL FINANCE

2404

(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 administrator of the division of motor vehicles 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

administrator of the division of motor vehicles ordering such discontinuance. Personnel under the state superintendent or the administrator of the division of motor vehicles may ride any school bus at any time for the purpose of inspection.

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 \$5,000. The policy also shall provide bodily injury liability coverage with limits of not less than \$15,000 for each person and, subject to such limit for each person, total limits as follows:

(a) \$30,000 for each accident for each such motor vehicle having a seating capacity of 7 passengers or less.

(b) \$40,000 for each accident for each such motor vehicle having a seating capacity of 8 to 15 passengers.

(c) \$50,000 for each accident for each such motor vehicle having a seating capacity of 16 to 24 passengers.

(d) \$75,000 for each accident for each such motor vehicle having a seating capacity of 25 to 36 passengers.

(e) \$100,000 for each accident for each such motor vehicle having a seating capacity of 37 to 49 passengers.

(f) Not less than \$2,000 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 division of motor vehicles 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 division of motor vehicles. Unless such certificate is on file with the division of motor vehicles, no registration plates for a school bus may be issued by the division of motor vehicles. No such policy may be terminated prior to its expiration or canceled for any reason, unless a notice thereof is filed with the division of motor vehicles and with the school board by the insurer at least 10 days prior to the date of termination or cancellation. The division of motor vehicles 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.

(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.

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.

(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 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 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 schools only, their parents or guardians, authorized chaperones, school district officers, faculty and employes and school doctors, dentists and nurses in connection with any extracurricular school activity, 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 has an actual educational interest in such activity;

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

(b) The school board may make a charge for such transportation, to be paid by the persons transported, sufficient to reimburse it for the use of the school bus. If the school bus is operated by a person under contract with the school board under s. 121.52 (2) (b), the school board may authorize a charge for the transportation, to be paid by the persons transported, sufficient to make reimbursement for such use.

(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 in walking to and from school for pupils who reside less than 2 miles 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, which may include transportation 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 may 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. A school district may make a charge for transportation provided under this subsection to be paid by the parent or guardian of the child transported. Such charges shall not exceed a sum sufficient to reimburse the school district for costs incurred in such transportation. If the school board and the parent or guardian cannot agree on the amount of the charges, the department shall determine whether the amount of the charges exceed the costs.

(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.

121.51 (4) and 121.54 (2) (b) 1 as enacted in 1969 are constitutional. State ex rel. Vankov 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.

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.

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.

(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 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 attends. Such contract shall provide for a payment of not less than \$80 per pupil per year, 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.

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

121.56 SCHOOL FINANCE

2408

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.

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 \$24 per school year per pupil so transported whose residence is at least 2 miles and not more than 5 miles from the school attended, \$36 per school year per pupil so transported whose residence is at least 5 miles and not more than 8 miles from the school attended, \$48 per school year per pupil so transported whose residence is at least 8 miles and not more than 12 miles from the school attended and \$54 per school year per pupil so transported whose residence is more than 12 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 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.

(b) State aid for approved transportation under s. 121.54 (3) shall be paid on the same basis as it is paid for transportation of children who do not have exceptional educational needs, except that state aid shall be paid for such approved transportation of less than 2 miles at the rate of \$24 per school year per pupil. Such state aid shall be supplemented by the state aid under s. 115.88 in an amount not to exceed the full cost.

(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.** (a) 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.

(b) State aid for approved transportation under s. 121.54 (4) (b) shall be paid on the same basis as it is paid for children who do not have exceptional educational needs, except that state aid shall be paid for such approved transportation of less than 2 miles at the rate of \$4 per pupil. Such state aid shall be supplemented by state aid under s. 115.88 (2).

(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 appropriation under s. 20.255 (1) (fh) in any one year is 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.

SUBCHAPTER III

TUITION

121.76 Definitions. In this subchapter:

(1) "Pupils in average daily membership" is the sum of actual daily memberships, as expressed by official enrollments, 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. A first grade pupil may be counted only if he attains the age of 6 years on or before December 1 of the school year in which he enters first grade. A pupil enrolled in kindergarten may be counted only if he attains the age of 5 years on or before December 1 of the school year in which he enrolls. A kindergarten pupil shall be counted as one-half pupil.

(2) "Pupils enrolled" has the meaning set forth in s. 121.07 (1).

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, except a nonresident pupil having legal settlement, as defined in s. 49.10, in the school district.

(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.

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.

(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 1-1/2 miles nearer the pupil's home than any public school in this state. The school board shall pay the tuition for such pupil. The cost of such tuition shall be treated as part of the operation and maintenance costs of the school district and it 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 for the transportation of such pupil as though he had been transported to the school of the school district of residence.

121.79 SCHOOL FINANCE

2410

121.79 Tuition payments by state. (1) The state shall pay tuition from the appropriation under s. 20.255 (1) (fb) 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, except children in foster homes, in the care, custody or control of the department of health and social services in such public schools as the department of health and social services designates in the best interests of children.

(d) For children in foster homes, except a child not defined under s. 115.76 (3) whose foster home is located within the school district in which the child's parent or guardian resides.

(2) Beginning in the 1976-77 fiscal year, for claims incurred in the 1975-76 school year and thereafter, the state shall make no tuition payment for any child in a foster home unless such home is exempted under s. 70.11 and is located outside of the school district in which the child's parents or guardian resides.

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

History: 1971 c. 125 ss. 459, 460, 522 (1); 1973 c. 89, 90, 336; 1975 c. 39, 199

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. IV 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 the state aid paid to the school district.

(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 he is so enrolled. No state aid may be paid for such transportation.

History: 1971 c. 200.

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) The tuition for any given year shall be determined as follows:

(a) From the sum total of money expended by the school district for interest on short-term indebtedness, operation and maintenance, transportation, principal and interest on long-term indebtedness, there shall be subtracted an amount equal to the sums of federal, state (except general), county and transportation aids to establish the net cost of the school district.

(b) For a school district operating only elementary grades, the net cost of the school district divided by the number of pupils in average daily membership for the given year

shall be the amount chargeable as elementary school tuition.

(c) For a school district operating only high school grades, the net cost of the school district shall be divided by the number of pupils in average daily membership for the given year. From this amount shall be subtracted the state aid received for each nonresident pupil enrolled. The amount so determined shall be the amount chargeable per pupil as nonresident high school tuition.

(d) In school districts operating both elementary and high school grades, the net cost for elementary grades and the net cost for high school grades shall be determined by the school district under procedures established by the state superintendent and using a state-wide ratio which the state superintendent shall establish annually based on his best judgment, from all sources of information available to him, of the division of elementary and high school costs in school districts operating both elementary and high school grades. The amount chargeable per pupil as nonresident elementary school tuition and nonresident high school tuition shall be determined in accordance with procedures established by the state superintendent.

(3) Amounts paid by school districts as rent, which are used to retire indebtedness on the buildings or properties for which the rent is paid, shall not be included in the total cost of operation and maintenance for the purpose of computing tuition.

121.83 Tuition payments for summer classes. The tuition for summer classes shall be computed separately for elementary grades and high school grades in accordance with this section. Membership in summer classes shall be determined by dividing the total number of approved classroom or laboratory periods in which each pupil is enrolled by 720. The membership in summer classes shall be added to the estimated number of pupils in average daily membership for the succeeding school term and the estimated cost of operating the summer classes shall be added to the estimated cost of operating the schools of the school district during the succeeding school term. The combined cost shall be divided by the combined membership. The quotient shall be multiplied by the total number of approved classroom or laboratory periods in which the pupil is enrolled, and divided by 720, to determine the tuition charge for each pupil enrolled in summer classes.

121.84 High school; special cases. (1) (a) The school board of a district operating high school grades may permit a pupil who is enrolled in a high 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 high school without payment of tuition, even though his 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 determining for state aid purposes the total number of pupils enrolled in the school district.

(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

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

121.85 SCHOOL FINANCE

2412

(a) "Minority group pupil" means a pupil who is a Black American, a native American, a Spanish-surnamed American or an Oriental American.

(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 cost of operation, minus the operational receipts, plus the principal and interest payments on long-term indebtedness and annual capital outlay, for the current school year.

(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.

2. By nonminority group pupils 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.

(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.

2. By nonminority group pupils 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.

(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) PARI-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 one pupil enrolled in computing state aid under ss. 121.07 and 121.08; plus

2. An amount equal to that produced by counting each transfer pupil as 2 pupil enrolled for state aid computation purposes under ss. 121.07 and 121.08.

(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 one pupil enrolled for state aid computation purposes under ss. 121.07 and 121.08.

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 pupils enrolled in 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 total cost by the sum of the number of resident pupils enrolled, as defined under s. 121.07 (1), 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 pupils enrolled in 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 in an amount equal to the unreimbursed cost.

(d) *Aid in lieu of tuition.* Aid payments under this section shall be in lieu of tuition payments otherwise required under this subchapter. Aid payments under this section 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 for pupils counted under pars. (a) 1 and (b) 1 shall be paid from the appropriation under s. 20.255 (1) (f). Other state aid under this subsection shall be paid from the appropriation under s. 20.255 (1) (fp).

(7) **TRANSPORTATION.** Transportation shall be provided to pupils transferring schools under this section if required under subch. II. 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. 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 shall be paid state aid for full costs incurred therefor from the appropriation under s. 20.255 (1) (fp).

(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) (fp).

(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. Information 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) (fp) and planning council assistance funds are appropriated under s. 20.255 (1) (a).

History: 1975 c 220.

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 IV

BUDGET LIMITATIONS AND
REFERENDUM REQUIREMENTS**121.90 Definitions.** In this subchapter:

(1) "Shared cost budget" means the estimate made pursuant to s. 121.07 (5) of the shared cost defined in s. 121.07 (6), excluding any amount included therein for principal and interest payments on long-term indebtedness.

(2) "Allowable shared cost budget" means that portion of the shared cost budget which does not exceed the budget limitations under s. 121.91.

(3) "Budgeted per pupil shared cost" is the shared cost budget divided by the membership.

(4) "Membership" means those pupils enrolled, as defined in s. 121.07 (1), who are residents of the school district.

History: 1975 c. 39, 80.

121.91 School district shared cost limitation. (1) For the 1975-76 school year, and annually thereafter, for school districts budgeting on a school year basis, the allowable shared cost budget shall be computed as follows: the budgeted per pupil shared cost increase for each school district over its prior school year per pupil shared cost shall be limited to 9.5%.

(2) (a) For the 1975-76 school year or the 1976 calendar year, and annually thereafter, for school districts budgeting on a calendar year basis, the allowable shared cost budget shall be computed either under sub. (1) or as follows: the budgeted per pupil shared cost increase for each school district over its prior calendar year per pupil shared cost shall be limited to 9.5%.

(b) After the initial decision to determine its allowable shared cost budget under sub. (1) or par. (a) school districts budgeting on a calendar year basis shall employ the same 12-month period in the computation of each succeeding allowable shared cost budget.

(3) (a) In determining the per pupil shared cost increase for 1975-76 under sub. (1) or for 1976 under sub. (2) each school district may increase its 1974-75 or 1975 shared cost by amounts received in that year under ss. 59.20 (13), 77.04 (3) and 79.04 (1) (c), 1973 stats.

(b) In addition to par. (a), a school district may increase its 1974-75 or 1975 per pupil shared cost by reducing its 1974-75 membership by a number equal to the difference between the 1974 summer school pupils eligible for state aid as calculated under s. 121.14 (2) (b), 1973 stats., and as calculated under s. 121.14 (2) (b).

(4) For the purpose of determining the per pupil shared cost increase under this section:

(a) Districts whose current year membership is less than their prior year's membership may increase their current year membership by a number equal to one-half of the difference between their prior year's membership and current year membership.

(b) Districts whose current year membership is greater than their prior year membership shall increase their prior year membership by a number not to exceed one-half of the difference between their current year membership and prior year membership.

(c) Districts computing their allowable shared cost budgets under sub. (2) shall employ the same current and prior year's memberships as districts computing their allowable shared cost budgets under sub. (1).

(5) In addition to the amounts set forth in subs. (1) or (2), a school district may include in its allowable shared cost budget such additional amounts as determined by the state superintendent, after finding that there is evidence that the shared cost limitation would:

(a) Prevent the development of new or expanded programs under subch. IV 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; or

(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.

(5a) In addition to any amounts determined under sub. (5), the state superintendent may determine that a school district may exceed its allowable shared cost budget as set forth in subs. (1) and (2) by any documented inflationary increase in the costs of heat for buildings and electricity which exceeds 9.5% of the prior year's expenditures for heat for buildings and electricity.

(5m) (a) After determining that it has reached the maximum amount allowable under sub. (1) or (2), a school board may file a request with the state superintendent for an adjustment of its prior year per pupil shared cost, along with such evidence as required by the state superintendent. The state superintendent may adjust the prior year per pupil shared cost of the school district for the purpose of computing the allowable shared cost budget for any of the following:

1. A cost that was payable in the prior year, but paid in the current year, and only where costs payable in the current year are not retroactive obligations.

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

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

(b) Any decision by the state superintendent under this subsection shall be supported by clear, convincing and substantial evidence.

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

(6) In a school district whose boundaries have been altered through school district reorganization, the state superintendent shall compute the per pupil shared cost for such school district for the purposes of this subchapter. The state superintendent shall compute a base year per pupil shared cost for the reorganized district which is substantially comparable to the per pupil shared cost of the territory included in the reorganized district prior to reorganization.

History: 1975 c. 39, 80, 189, 198, 224, 422

121.92 Adjustment for principal and interest. In addition to the allowable increase in shared cost per pupil computed under s. 121.91, a school district may increase its allowable shared cost budget by an amount equal to 9.5% multiplied by the amount excluded under s. 121.90 (1) for principal and interest payments on long-term indebtedness.

History: 1975 c. 80, 224.

121.93 Referendum requirements. (1) Notwithstanding any other statutes, school boards and school district annual meetings shall follow the procedures set forth in this section prior to final adoption of any school district shared cost budget which exceeds the allowable shared cost budget.

(2) (a) Whenever a school board or annual meeting recommends the adoption of a school

district budget which exceeds the allowable shared cost budget, it shall promptly adopt a resolution supporting inclusion in the final school district budget of an amount equal to the difference between the proposed shared cost budget and the allowable shared cost budget.

(b) Upon adoption of the resolution, the school board shall direct its clerk to call a special election for the purpose of submitting the resolution to the electors for approval or rejection. In lieu of a special election, the school board may specify that the election 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 by which the proposed shared cost budget exceeds the allowable shared cost budget, and stating the time, date and place of holding such referendum election and the 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 special election, shall provide or arrange for the necessary ballot boxes and booths and 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 thereat shall embody a copy of the resolution, and the question submitted shall be whether the resolution shall be or shall not be approved.

(5) The election shall be held and conducted and the votes cast thereat 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