

1999 DRAFTING REQUEST

Bill

Received: 04/8/99

Received By: grantpr

Wanted: As time permits

Identical to LRB:

For: Marc Duff (608) 266-1190

By/Representing: Jane Henkel

This file may be shown to any legislator: NO

Drafter: grantpr

May Contact:

Alt. Drafters:

Subject: Education - school boards
Education - state superintendent

Extra Copies: MJL

Pre Topic:

No specific pre topic given

Topic:

Open enrollment and tuition waivers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	grantpr 04/14/99	chanaman 04/15/99		_____			S&L
/P1			martykr 04/20/99	_____	lrb_docadmin 04/20/99		S&L
/1	grantpr 05/11/99	chanaman 05/11/99	martykr 05/13/99	_____	lrb_docadmin 05/13/99	lrb_docadmin 05/13/99	

FE Sent For:

<END>

06-03-99
G →

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/P1		CMT S/11 /1	martykr 04/20/99	_____	lrb_docadmin 04/20/99		
FE Sent For:			Km 5/12	Jb 5/12			

<END>

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1/?	grantpr	cmh /pi als	kmj /b	dfy /m/19	<i>Please submit.</i>		

FE Sent For:

<END>

Grant, Peter

From: Henkel, Jane
Sent: Thursday, April 08, 1999 12:09 PM
To: Grant, Peter
Subject: FW: Open enrollment/ tuition waiver and payment drafting instructions

Here is the drafting request. Have fun.

Jane Henkel
Wisconsin Legislative Council Staff
jane.henkel@legis.state.wi.us

-----Original Message-----

From: Henkel, Jane
Sent: Thursday, April 08, 1999 12:06 PM
To: Cleaver, Mary; Duff, Marc
Subject: Open enrollment/ tuition waiver and payment drafting instructions



08grant.pdf



dpi_spec.doc

Attached are drafting instructions relating to open enrollment and tuition waivers and payments. I am submitting the attached instructions and a copy of this message to Peter Grant today to get the drafting process started.

Please pay particular attention to, and let me know what problems you have with, the following (or any other provisions of the instructions):

1. I did not change "school year" to "school term" in s. 121.84 for the following reasons: (a) the purposes to be achieved by that proposed change are accomplished by the use of the Sept. and Jan. count dates and the 20 day requirement; and (b) the use of "school year" avoids potential summer problems.

2. Under these instructions, a pupil who attends a nonresident school district for the **remainder of the school year** during which the pupil moves out of the district **and/or** during the school year **after** the one during which he or she moves is treated in the same manner as an open enrollment pupil for the purposes of allocating responsibility for special education.

Mary Jo -- please review or have your special education people review the statutes listed in item 2. of the attached instruction and let me know which of these provisions should apply to each of these groups of pupils. I am especially in a quandary about the "remainder of the school year pupils", but I also have some questions about the application of all of these provisions to the "next year" pupils.

3. Under these instructions, a pupil attending a nonresident school district in the school year **after** the one during which the pupil moves out of the district is treated in the same manner as an open enrollment pupil for the purposes of state aid adjustments and payments, revenue limits and transportation. (Also, see item 2., above, relating to the responsibility for providing special education programs.)

4. I have added a requirement that a pupil may attend a nonresident school district in the school year **after** the one during which he or she moves, without the payment of tuition, only if the pupil continues to be a **resident of the state**.

Thanks.

Jane Henkel
Wisconsin Legislative Council Staff
jane.henkel@legis.state.wi.us

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

LEGISLATIVE COUNCIL STAFF
ONE EAST MAIN STREET, SUITE 401
P.O. Box 2536
MADISON, WI 53701-2536
TELEPHONE: (608) 266-1304
FAX: (608) 266-3830
EMAIL: leg.council@legis.state.wi.us

DATE: April 8, 1999
TO: Peter Grant, Managing Attorney, Legislative Reference Bureau
FROM: Jane R. Henkel, Deputy Director
SUBJECT: Drafting Request for Representative Duff, Relating to Public School Full-Time Open Enrollment Law

Please draft a bill for **Representative Marc Duff** containing the following changes to the public school full-time open enrollment law and statutes pertaining to tuition waivers and payments:

1. Amend s. 121.84 (1) (a), relating to tuition waivers to do the following:
 - a. Require a school board to permit a pupil who is enrolled in a school under its jurisdiction and is a resident of the school district on either third Friday in September or the second Friday in January of the school year to **complete the school year** at the school, without the payment of tuition, even though the pupil is no longer a resident of the school district, if the pupil was enrolled in the school and a resident of the school district for at least 20 days on which school was actually taught during that school year prior to ceasing to be a resident of the school district. The school district of attendance shall continue to count the pupil in its membership as provided under s. 121.84 (3).
 - b. Require a school board to permit a pupil who is not a resident of the school district to attend school in the school district* without payment of tuition, if the pupil: (1) was a resident of the school district on the second Friday in January of the prior school year; (2) was enrolled in a school under the school board's jurisdiction continuously from the second Friday in January of the prior school year through the last school day of the prior school year; (3) ceased to be a resident of the school district after the beginning of the open enrollment application period under s. 118.51 (3) (a) 1. of the prior school year (currently, the first Monday in February); and (4) and continues to be a resident of the state.

*Note that this allows the pupil to continue to attend school in the school district, not necessarily at the same school.

c. For the school year that a pupil attends school in a nonresident school district *under item b.*, above, provide that:

- ✓ (1) State aid adjustments and tuition payments shall be made for the pupil as provided under the open enrollment law. [See s. 118.51 (16) and (17).] The pupil's new resident school district shall count the pupil for state aid and revenue limit purposes. In other words, these pupils need to be treated in the same manner as open enrollment pupils for those purposes. [See ss. 121.05 (1) (a) 11. and 121.90 (1) (intro).]
50% of res count pupil
- ✓ (2) The pupil's new resident school district may deny the pupil's continued attendance at the nonresident district (i.e., the pupil's former resident school district) as provided in s. 118.51 (12) (b), relating to special education programs under the open enrollment program. The nonresident district may deny the enrollment, based on availability of special education and related services required pursuant to an individualized education program (IEP) developed or revised during this school term, as provided under s. 118.51 (12) (a).
- ✓ (3) Any denial under item (2) may be appealed to the Department of Public Instruction within 30 days of the decision. The department shall affirm the school board's decision unless the department finds that the decision was arbitrary or unreasonable. (This appeal process would be the same as the open enrollment appeal process under s. 118.51 (9).)
- ✓ (4) The pupil shall be treated in the same manner as an open enrollment pupil for transportation purposes. [See ss. 118.51 (14), 121.54 (10) and 121.58 (2) (a) and (4).]
Am 121.51 (10) 121.58 (2)(a)
- ✓ (5) Section 121.77 (1) (b) and (2) do not apply to the pupil. (This is the same as the treatment of open enrollment pupils under s. 121.77 (3).)

2. Expand the cross-references to s. 118.51 in the following sections of subch. V., ch. 115, to include cross-references to children attending a nonresident school district *under items 1. a. and b.*, above:

- ✓ • s. 115.77 (1) and (4) (j) 10.
- ✓ • s. 115.777 (1) (a), (b) and (c)
- ✓ • s. 115.78 (1)
- ✓ • s. 115.782 (2) (d) and ~~(3) (d)~~
115.787
- ✓ • s. 115.79 (2)
- ✓ • s. 115.792 (1) (b) and (3) (a)

- ✓ • s. 115.80 (8)
- ✓ • s. 115.82 (2) (b)
- ✓ • s. 115.88 (8)

✓ 3. Amend the full-time open enrollment law to use the phrase "special education or related services" in place of phrases such as "special education program or related service," and "special education program or services." *See the attachment to this memorandum.*

✓ 4. Amend s. 115.782 (2) (d) and ^(115.787) (3) (d), to require the IEP team to include "at least one person designated by the school board of the child's school district of residence who meets the requirements of s. 115.78 (1m) (f)." This requirement would replace the current requirement, in s. 115.782 (2) (d), that the IEP team "collaborate with appropriate personnel designated by the school board of the child's school district of residence" and the current requirement, in s. 115.787 (3) (d), that the IEP be developed "in collaboration" with such personnel. (Also, see item 2., above, relating to expanding the cross-references in these paragraphs.) man (a) 3. ✓

✓ 5. Amend s. 121.81 (1), relating to tuition payments by parents, to provide that the amount of tuition shall be the amount described in s. 118.51 (16) (a) and (c), except that if the child is receiving special education or related services in accordance with an IEP under s. 115.787 (2), the tuition amount shall be calculated using the daily tuition rate under s. 121.83 for children enrolled in such special education and related services in the nonresident school district or an amount agreed to by the school board and the parent. } use calc. under 121.83 ✓
see 118.51 (a)

✓ 6. Amend s. 118.51 (3) (a) 1., to change the ending date of the open enrollment application period from the "third Friday in February" to the "third Friday following the first Monday in February."

✓ 7. The act shall take effect upon publication and items 1., 2., 4. and 5. shall first apply to a pupil attending school in a school district other than the one in which he or she resides in the 1999-2000 school year.

If you have any questions about these instructions, do not hesitate to contact me at 266-3370.

Thanks.

JRH:rv:tlu;ksm

Attachment

Attachment

DPI Proposed Amendment to Open Enrollment

Issue: Children with Disabilities

Language in the open enrollment statute is inconsistent with the intent of recent changes in federal and state laws relating to children with disabilities. Specifically, references to availability of special education "programs" imply a procedure where a pupil's disability is equated with a specific program, rather than a procedure that examines the pupil's IEP and determines whether the special education and related services can be provided to the pupil.

For example, some might assume an application from a pupil with the disability of "emotionally disturbed" may be denied because a school district does not have an "ED program." However, an examination of the pupil's IEP might show that the pupil could be served in another type of special education classroom or in a regular classroom setting.

Recommendation:

Clarify that a district must determine whether the "special education and related services" specified in the IEP are available, rather than whether a specific program is available.

Drafting Instructions:

Amend s. 118.51 (5) (a) 4. as follows:

118.51 (5) (a) 4. Whether the special education ~~program~~ or related services described in the child's individualized education program under s. 115.787 (2) are available in the nonresident school district or whether there is space available in the special education ~~program~~ identified in the child's individualized education program, including any class size limits, pupil-teacher ratios or enrollment projections established by the nonresident school board.

Amend s. 118.51 (12) (a) as follows:

118.51 (12) (a) Unavailable after enrollment. If the individualized education program for a pupil, developed or revised under s. 115.787 after a child begins attending public school in a nonresident school district under this section, requires a special education ~~program~~ or related ~~service~~ services that ~~is~~ are not available in the nonresident school district or if there is no space available in the special education ~~program~~ or related ~~service~~ identified in the child's individualized education program, including any class size limits, pupil-teacher ratios or enrollment projections established by the nonresident school board, the nonresident school board may notify the child's parent and the child's resident school board that the ~~program~~ special education or related ~~service~~ is not available in the nonresident school district. If such notice is provided, the child shall be transferred to his or her resident school district, which shall provide an educational placement for the child under s. 115.79 (2).

Amend s. 118.51 (12) (b) 1. as follows:

1. If the costs of the special education ~~program~~ or related services required in the individualized education program under s. 115.787 (2) for a child with a disability whose parent has submitted an application under sub. (3) (a), as proposed to be implemented by the nonresident school district, would impose upon the child's resident school district an undue financial burden in light of the resident school district's total economic circumstances, including its revenue limit under subch. VII of ch. 121, its ability to pay tuition costs for the pupil and the per pupil special education ~~program~~ or related services costs for children with disabilities continuing to be served by the resident school district, the child's resident school board may notify the child's parent and the

to provide

x rel. serv.

(exists?)

(title)

to provide

(of all (b))

nonresident school board by the first Friday following the first Monday in April that the pupil may not attend the nonresident school district to which the child has applied.

Amend s 118.51 (12) (b) 2. as follows:

118.51 (12) (b) 2. If the costs of the special education ~~program~~ or related services required in an individualized education program for a pupil, developed or revised under s. 115.787 after a child begins attending public school in a nonresident school district under this section, as implemented or proposed to be implemented by the nonresident school district, would impose upon the child's resident school district an undue financial burden in light of the resident school district's total economic circumstances, including its revenue limit under subch. VII of ch. 121, its ability to pay tuition costs for the pupil and the per pupil special education ~~program~~ or related services costs for children with disabilities continuing to be served by the resident school district, the child's resident school board may notify the pupil's parent and the nonresident school board that the ~~program~~ cost of the special education or related services impose such an undue financial burden on the resident school district. If such notice is provided, the child shall be transferred to his or her resident school district, which shall provide an educational placement for the child under s. 115.79 (2). The pupil's parent may appeal a required transfer under this subdivision to the department within 30 days after receipt of the notice. The department shall affirm the resident school board's determination unless the department finds that the determination was arbitrary or unreasonable.

Amend s. 118.51 (17) as follows:

118.51 (17) Special Education Tuition. The resident school board shall pay to the nonresident school board, for each child who is attending public school in the nonresident school district under this section and is ~~enrolled in a program for children with disabilities receiving special education or related services in accordance with an individualized education program under s. 115.787 (2)~~, tuition calculated using the daily tuition rate under s. 121.83 for children enrolled in such ~~programs~~ special education and related services in the nonresident school district, or an amount agreed to by the school boards of the 2 school districts.

Q's

✓ ① # 6. class am 118.51(3)(a) 2 ?

✓ ② # 5 → line: mech unit described
in (a)3? (plus provisor if necessary)

✓ → last part: mech calculated
under 121.83?

✓ #3,
③ RE DPI request relating to spec. ed.
"ad. services" instead of "spec. ed program":

✓ see 115.817(2)(a), (a)(a)
115.82(1), (1m)(a), (3), (8)

✓ eg see 118.51(5)(a)4. on DPI memo.
Thru Δ lit ref, but on 3rd line "spec. ed.
program" is OK. why?

✓ ④ 121.84 (4) re school term / sch. year

✓ ⑤ init. app: lit applies to pupils attending non-
sch. inst w/ 99-00
→ under these sections? or to whom these sec ^{would}
apply in 99-00? why not just eff. date of 1185 w date of app. ^{note}

INITIAL APP.

121.84 (1)(a), (2), (3) + (4)

115.77 (1) + (4) (j) (i).

115.777 ~~(2)~~ (1), 115.78 (1)

115.782 (2) (d), 115.787 (3) (d)

115.79 (2)

115.792 (1) (4), (3) (a)

115.80 (8)

115.82 (2) (b)

115.88 (2)

RA 121.81 (1) → 121.81 (1) (1)(f)(i)

CR 121.81 (1) (a) (b)

1999

Date (time) needed

5:00pm

LRB - 2866, P1

PG: cmr/

BILL

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to: . . . sched. district open enrollment . . . and tuition waivers . . . and payments . . .

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

For the main heading [old =M], execute: create → anal: → title: → head

For the subheading [old =S], execute: create → anal: → title: → sub

For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub

(91) This is a preliminary draft. An analysis will be provided on a later version.

(9) FE - SL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

Section #. 115.77 (1) of the statutes is amended to read:

115.77 (1) In sub. (1m) (a) to (d), except as provided in s. 118.51 (12) (a) and (b) 2., if a child with a disability is attending a public school in a nonresident school district under s. 118.51, "local educational agency" means the school district that the child is attending.

History: 1997 a. 164.

or
121.84 (1)(a) or (4)

Section #. 115.77 (4) (j) 10. of the statutes is amended to read:

Amended 121.84 (1) (a)
Amended (4)

SS.
115.77 (4) (j) 10. If the local educational agency is a school district, the number of children with disabilities who attend the school district under ~~§~~ 118.51, the disability of each such child and the special education or related services received by each such child.

History: 1997 a. 164.

Section #. 115.777⁽¹⁾ of the statutes is amended to read:

121.84⁽¹⁾
(a) or (4)

no B

~~115.777 Special education referrals~~ (1) (a) A physician, nurse, psychologist, social worker or administrator of a social agency who reasonably believes that a child brought to him or her for services has a disability shall refer the child to the local educational agency. If the local educational agency to whom the referral is made is the school district in which the child resides but the child is attending a public school in a nonresident school district under s. 118.51, the school board of the school district in which the child resides shall provide the name of the child and related information to the school board of the school district that the child is attending.

(b) A person who is required to be licensed under s. 115.28 (7), who is employed by a local educational agency and who reasonably believes a child has a disability, shall refer the child to the local educational agency. If the local educational agency to whom the referral is made is the school district that the child is attending but the child is a nonresident attending a public school in that school district under s. 118.51, the school board of the school district that the child is attending shall provide the name of the child and related information to the school board of the child's school district of residence.

(c) Any person other than those specified under par. (a) or (b) who reasonably believes that a child is a child with a disability may refer the child to a local educational agency. If the local educational agency to whom the referral is made is the school district in which the child resides but the child is attending a public school in a nonresident school district under s. 118.51, the school board of the school district in which the child resides shall provide the name of the child and related information to the school board of the school district that the child is attending.

(2) (a) All referrals shall be in writing and shall include the name of the child and the reasons why the person believes that the child is a child with a disability.

Section #. 115.78 (1) of the statutes is amended to read:

or 121.84 (1)(a) or (4)

115.78 (1) DEFINITION. In this section, for a child who is attending a public school in a nonresident school district under s. 118.51, "local educational agency" means the school board of the school district that the child is attending.

History: 1997 a. 164.

or 121.84 (1)(a) or (4)

Section #. 115.782 (2) (d) of the statutes is amended to read:

when the individualized team conducts

115.782 (2) (d) If the child being evaluated is attending a public school in a nonresident school district under s. 118.51, ~~as part of its initial evaluation of the child and as part of any reevaluation of the child under sub. (4), the individualized education program team shall collaborate with appropriate personnel designated by the school board of the child's school district of residence,~~

History: 1997 a. 164.

include at least one person

strike comma

who has knowledge of special expertise about the child

or 121.84 (1)(a) or (4)

Section #. 115.787 (3) (d) of the statutes is amended to read:

include at least one person

115.787 (3) (d) If a child is attending a public school in a nonresident school district under s. 118.51, the individualized education program team for the child shall ~~develop the child's individualized education program in collaboration with appropriate personnel~~ designated by the school board of the school district in which the child resides.

History: 1997 a. 164.

who has knowledge or special expertise about the child

Section #. 115.79 (2) of the statutes is amended to read:

or 121.84 (1)(a)
or (4)

115.79 (2) An educational placement is provided to implement a child's individualized education program. Except as provided in s. 118.51 (12) (a) and (b) 2., if a child with a disability is attending a public school in a nonresident school district under s. 118.51, the school board of the school district that the child is attending shall provide an educational placement for the child and shall pay tuition charges instead of the school district in which the child resides if required by the placement.

History: 1997 a. 164.

Section #. 115.792 (1) (b) of the statutes is amended to read:

115.792 (1) (b) The local educational agency shall establish and maintain procedures to ensure that a child's parents are provided prior written notice whenever the local educational agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation or educational placement of the child, or the provision of a free appropriate public education to the child. In this paragraph, "local educational agency" includes the nonresident school district that a child is attending under s. 118.51.

History: 1997 a. 164.

or 121.84 (1)(a) or (4)

✓
Section #. 115.792 (3) (a) of the statutes is amended to read:

✓
or 121.84 (1) (a) or (4) ✓

115.792 (3) (a) In this subsection, "local educational agency" includes the nonresident school district that a child is attending under s. 118.51.

History: 1997 a. 164.

✓
Section #. 115.80 (8) of the statutes is amended to read:

115.80 (8) Except as provided in 20 USC 1415 (k), during the pendency of any proceedings under this section, the local educational agency may not change the educational placement of a child unless the child's parents agree to the change. If the child is applying for initial admission to a public school, the child shall, with the consent of the child's parents, be placed in the public school program until all proceedings under this section have been completed. In this subsection, "local educational agency" includes the nonresident school district that a child is attending under s. 118.51.

History: 1997 a. 164, 251.

or 121.84 (1)(a) or (4)

Section #. 115.82 (2) (b) of the statutes is amended to read:

or 121.84 (1) (a) or (4)

115.82 (2) (b) If the child is attending a public school in a nonresident school district under s. 118.51, the nonresident school district shall provide transportation.

History: 1997 a. 164.

✓
Section #. 115.88 (8) of the statutes is amended to read:

✓
or 121.84 (1)(a) or (4)

115.88 (8) ENROLLMENT OUT OF STATE. If a child with a disability is enrolled in a public special education program located in another state and the state superintendent is satisfied that the program in which the child is enrolled complies with this subchapter, the state superintendent shall certify to the department of administration in favor of the school district in which the child resides or the school district attended by the child under s. 118.51 a sum equal to the percentage of the approved costs under subs. (1) and (2) of the amount expended by the school district during the preceding year for the additional costs associated with the child's special education program. The department of administration shall pay the amount to the school district from the appropriation under s. 20.255 (2) (b).

History: 1997 a. 164.

Section #. 118.51 (3) (a) of the statutes ~~is~~ amended to read:

following the first Monday

118.51 (3) (a) ~~Submission and acceptance or rejection.~~ 1. The parent of a pupil who wishes to attend a public school in a nonresident school district under this section shall submit an application, on a form provided by the department under sub. (15) (a), to the school board of the nonresident school district that the pupil wishes to attend, not earlier than the first Monday in February and not later than the 3rd Friday in February of the school year immediately preceding the school year in which the pupil wishes to attend. On the 4th Monday in February, the nonresident school board shall send a copy of the application to the pupil's resident school board and the department. The application may include a request to attend a specific school or program offered by the nonresident school district.

following the first Monday
2. A nonresident school board may not act on any application received under subd. 1. until after the 3rd Friday in February. If a nonresident school board receives more applications for a particular grade or program than there are spaces available in the grade or program, the nonresident school board shall determine which pupils to accept on a random basis.

3. On or before the first Friday following the first Monday in April following receipt of the application, the nonresident school board shall notify the applicant, in writing, whether it has accepted the application. If the nonresident school board rejects an application, it shall include in the notice the reason for the rejection.

4. On or before the first Friday following the first Monday in April following receipt of a copy of the application, if a resident school board denies a pupil's enrollment in a nonresident school district under sub. (6), (7) or (12) (b) 1., the resident school board shall notify the applicant and the nonresident school board, in writing, that the application has been denied and include in the notice the reason for the denial.

5. If an application is accepted, on or before the 2nd Friday following the first Monday in May following receipt of the application, the nonresident school board shall notify the applicant, in writing, of the specific school or program that the pupil may attend in the following school year.

✓
Section #. 118.51 (5) (a) 4. of the statutes is amended to read:

118.51 (5) (a) 4. Whether the special education ~~program~~ or related services described in the child's individualized education program under s. 115.787 (2) are available in the nonresident school district or whether there is space available ^{to provide} ~~in~~ the special education ~~program~~ ^{or related services} identified in the child's individualized education program, including any class size limits, pupil-teacher ratios or enrollment projections established by the nonresident school board.

History: 1997 a. 27, 41, 164.

✓
Section #. 118.51 (9) of the statutes is amended to read:

118.51 (9) APPEAL OF REJECTION. If the nonresident school board rejects an application under sub. (3) (a) or (7) or the resident school board prohibits a pupil from attending public school in a nonresident school district under sub. (6), (7) or (12) (b) 1., the pupil's parent may appeal the decision to the department within 30 days after the decision. The department shall affirm the school board's decision unless the department finds that the decision was arbitrary or unreasonable.

History: 1997 a. 27, 41, 164.

If the resident school board provides notice of transfer under sub. (12) (b) 2., the pupil's parent may appeal the required transfer to the department within 30 days after receipt of the notice.

Section #. 118.51 (12) of the statutes is amended to read:

(CF, Xle)

118.51 (12) SPECIAL EDUCATION ~~PROGRAM~~ OR RELATED SERVICES. (a) *Unavailable after enrollment.* If the individualized education program for a pupil, developed or revised under s. 115.787 after a child begins attending public school in a nonresident school district under this section, requires a special education ~~program~~ or related ~~service~~ that is not available in the nonresident school district or if there is no space available in the special education ~~program~~ identified in the child's individualized education program, including any class size limits, pupil-teacher ratios or enrollment projections established by the nonresident school board, the nonresident school board may notify the child's parent and the child's resident school board that the ~~program or service~~ ^{special education or related} is not available in the nonresident school district. If such notice is provided, the child shall be transferred to his or her resident school district, which shall provide an educational placement for the child under s. 115.79 (2).

(b) *Undue financial burden.* 1. If the costs of the special education ~~program~~ or ^{related} services required in the individualized education program under s. 115.787 (2) for a child with a disability whose parent has submitted an application under sub. (3) (a), as proposed to be implemented by the nonresident school district, would impose upon the child's resident school district an undue financial burden in light of the resident school district's total economic circumstances, including its revenue limit under subch. VII of ch. 121, its ability to pay tuition costs for the pupil and the per pupil special education ~~program~~ or ^{related} services costs for children with disabilities continuing to be served by the resident school district, the child's resident school board may notify the child's parent and the nonresident school board by the first Friday following the first Monday in April that the pupil may not attend the nonresident school district to which the child has applied.

2. If the costs of the special education ~~program~~ or ^{related} services required in an individualized education program for a pupil, developed or revised under s. 115.787 after a child begins attending public school in a nonresident school district under this section, as implemented or proposed to be implemented by the nonresident school district, would impose upon the child's resident school district an

undue financial burden in light of the resident school district's total economic circumstances, including its revenue limit under subch. VII of ch. 121, its ability to pay tuition costs for the pupil and the per pupil special education ~~program~~ ^{related} or services costs for children with disabilities continuing to be served by the resident school district, the child's resident school board may notify the pupil's parent and the nonresident school board that the ~~program~~ ^{related} or services impose such an undue financial burden on the resident school district. If such notice is provided, the child shall be transferred to his or her resident school district, which shall provide an educational placement for the child under s. 115.79

(2). ~~The pupil's parent may appeal a required transfer under this subdivision to the department within 30 days after receipt of the notice. The department shall affirm the resident school board's determination unless the department finds that the determination was arbitrary or unreasonable.~~

History: 1997 a. 27, 41, 164.

costs of the special education

Section #. 118.51 (17) of the statutes is amended to read:

118.51 (17) SPECIAL EDUCATION TUITION. The resident school board shall pay to the nonresident school board, for each child who is attending public school in the nonresident school district under this section and is ~~enrolled in a program for children with disabilities~~, tuition calculated using the daily tuition rate under s. 121.83 for ^{such} children ~~enrolled in such programs~~ in the nonresident school district, or an amount agreed to by the school boards of the 2 school districts.

History: 1997 a. 27, 41, 164.

receiving special education
or related services under
subch. V of ch. 115

Section #. 121.05 (1) (a) 11. of the statutes is amended to read:

121.05 (1) (a) 11. Pupils residing in the school district but attending a public school in another school district under s. 118.51 ^{or 121.84 (4)}

History: 1971 c. 125; 1973 c. 89; 1975 c. 224; 1977 c. 29, 418; 1979 c. 34, 221, 244; 1981 c. 20, 251; 1983 a. 27, 192, 509; 1985 a. 29, 218; 1985 a. 225 s. 100; 1987 a. 27, 399; 1989 a. 336; 1991 a. 39; 1993 a. 16, 395; 1995 a. 27 ss. 4040x, 4042, 9145 (1); 1995 a. 225; 1997 a. 27, 113, 164.

✓
Section #. 121.54 (10) of the statutes is amended to read:

121.54 (10) FULL-TIME OPEN ENROLLMENT. Subject to s. 118.51 (14) (a) 2., a school board may elect to provide transportation, including transportation to and from summer classes, for nonresident pupils who are attending public school in the school district under s. 118.51, or its resident pupils who are attending public school in another school district under s. 118.51, or both, except that a school board may not provide transportation under this subsection for a nonresident pupil to or from a location within the boundaries of the school district in which the pupil resides.

History: 1971 c. 162; 1973 c. 89, 107, 333; 1975 c. 60, 392, 421; 1977 c. 227, 252, 418; 1981 c. 20 s. 2202 (51) (e); 1983 a. 27, 175; 1985 a. 29 s. 3202 (43); 1985 a. 218, 225, 240; 1993 a. 399, 492; 1995 a. 27 s. 9145 (1); 1995 a. 439; 1997 a. 27, 113, 164.

or 121.84(4)

✓

Section #. 121.58 (2) (a) of the statutes is amended to read:

121.58 (2) (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, and the nonresident school district that a pupil attends under s. 118.51 ^{or 121.54(4)} which elects to provide transportation under s. 121.54 (10), 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), (6) and (10) and 121.57 or which wilfully or negligently fails to transport all pupils for whom transportation is required under s. 121.54.

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; 1983 a. 27, 538; 1985 a. 29; 1993 a. 492; 1995 a. 27, 439; 1997 a. 27, 113, 164.

✓

Section #. 121.58 (4) of the statutes is amended to read:

121.58 (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), or under s. 121.54 (10) if the transportation is provided by the nonresident school district that a pupil attends under s. 118.51, 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.

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; 1983 a. 27, 538; 1985 a. 29; 1993 a. 492; 1995 a. 27, 439; 1997 a. 27, 113, 164.

✓
~ 121.84(4)

✓
Section #. 121.77 (3) of the statutes is amended to read:

121.77 (3) Subsections (1) (b) and (2) do not apply to a pupil attending a public school in a nonresident school district under s. 118.51 ~~✓~~ or 121.84 (4)

History: 1977 c. 29, 78, 203; 1985 a. 29; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164.

Section #. 121.81 (1) of the statutes is renumbered 121.81(1)(intro.) and amended to read:

121.81 (1) (intro.) 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 pupil's parent or guardian 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.

History: 1971 c. 200; 1977 c. 29; 1979 c. 346 s. 15; 1993 a. 492.

score new period

The tuition shall be ^{amount} ~~an amount equal to~~ ~~the amount determined~~ calculated under s. 118.51 (16) (a) 3. except as follows:

(a)

SEC. CR; 121.81 (1) (a) and (b)

(a)

^{by} If the nonresident pupil attends school in the school district for less than a full school term, the tuition amount shall be prorated based on the number of days that school is in session and the nonresident pupil attends school in the school district.

(a)

(b) If the pupil is receiving

special education or related services
under subch. ~~II~~ [✓] of ch. 115, the
tuition amount shall be calculated
using the daily tuition rate
under s. 121.83 or an amount agreed
to by the school ^{board} and the pupil's
parent ^{or} guardian.

for children receiving such special
education and related services

Section #. 121.84 (1) (a) of the statutes is amended to read:

121.84 (1) (a) A school board shall permit a pupil who ~~is enrolled in a school under its jurisdiction~~ ^{was} and ~~is~~ a resident of the school district at the ~~beginning of the school year~~ to complete the ~~school year~~ ^{current} at the school without payment of tuition, even though the pupil is no longer a resident of the school district.

History: 1973 c. 90; 1977 c. 29, 78; 1985 a. 29, 218; 1989 a. 31, 114; 1997 a. 27, 286.

he or she is attending

and who has been enrolled in the school district for at least 20 days on which school was actually taught during the ^{current} school year

on the 3rd Friday of September or the 2nd Friday of January of the current school year

✓
Section #. 121.84 (1m) of the statutes is amended to read:

121.84 (1m) The school boards of 2 school districts operating high school grades may enter into an agreement under which a high school pupil who resides in one of the school districts as the result of a reorganization under ch. 117 and who has completed 9th and 10th grades at a high school in the other school district may complete his or her high school education at the latter high school without payment of tuition. ~~The school district of attendance shall count the pupil in its membership for state-aid purposes under subch. H.~~

History: 1973 c. 90; 1977 c. 29, 78; 1985 a. 29, 218; 1989 a. 31, 114; 1997 a. 27, 286.

Section #. 121.84 (2) of the statutes is amended to read:

121.84 (2) The transportation requirement in s. 121.54 (2) shall not apply to transportation beyond the school district boundaries for pupils under ~~this section.~~ subs. (1) and (1m)

History: 1973 c. 90; 1977 c. 29, 78; 1985 a. 29, 218; 1989 a. 31, 114; 1997 a. 27, 286.

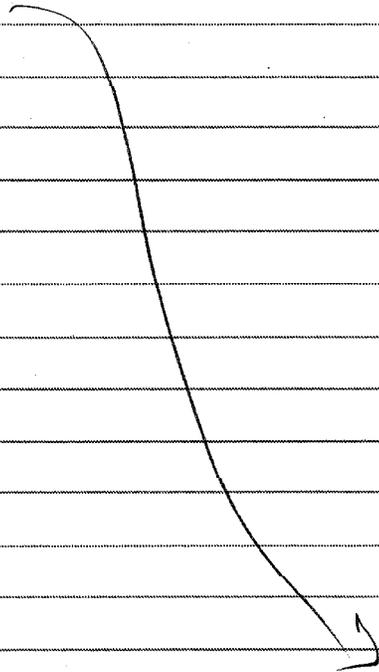
Section #. 121.84 (3) of the statutes is amended to read:

121.84 (3) The school district of attendance shall continue to count pupils under ~~sub~~^{subs.} (1) ~~in mem-~~^{and (1m)}bership.

History: 1973 c. 90; 1977 c. 29, 78; 1985 a. 29, 218; 1989 a. 31, 114; 1997 a. 27, 286.

✓
SER. CR. 121.84(4)

① 121.84 (4) (a) A school board shall permit a pupil ^{to whom} ~~(whose residence)~~ all of the following ^{apply} to attend school in the school district in the current school year without payment of tuition:



~~SEC. CR. 121.84(1)(a) 2.~~

~~121.84(1)(a) 2. A school board may permit a~~

(91) 1. The pupil ~~was~~ was a resident of the school district on the 2nd Friday

of January of the previous school

year. (91) 2. The pupil was enrolled in the school

district continuously from the 2nd Friday of January of the previous school

year to the end of the school term

of the previous school year. (91) 3. The pupil ceased to be a

resident of the school district after

the first Monday in February of the previous school year, ~~and remains a resident of this state~~ to attend school

~~in the school district in the current~~

~~school year, without payment of tuition~~

(91) 4. The pupil continues to be a resident of this state.

(a) (b) If a pupil attends school in a school district outside the pupil's school district of residence under par. (a),

s. 118.51 (12), (14), (15) and (17) apply to

the pupil ~~under par. (a)~~ as if ~~they were~~ the school in

pupil were attending a nonresident school

district under s. 118.51. If the pupil is rejected

as a result of s. 118.51 (12)(a), ~~is~~ prohibited from attending

as a result of s. 118.51 (12)(b) 1. or transferred

as a result of s. 118.51 (12)(b) 2., s. 118.51 (9)

applies.

1999

Nonstat File Sequence: **EEE**

LRB _____ / _____

_____ : _____ : _____

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # 93 . **Initial applicability;**

.....

(#1) ()

..... The treatment of sections ..
 121.81 (1) and 121.84 (1)(a) and (2) to (4) ..
 of the statutes, and the creation of section ..
 121.81 (1)(a) and (b) of the statutes
 first ^{apply} applies to pupils who wish to attend school in a
 school district outside their school district of
 residence in the school year beginning after the
 effective date of this subsection.

(Ehel)

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . **Initial applicability;**

.....

(#1) () This act first ap-
plies to

5/5/99 Jan Hestek

① p. 7 l. 3-5

② p. 9 l. 15 (fill)

③ p. 12 p. 14 :

allent ~~line~~ ^{reimburse} current law of (mcg)

your payment of tuition

I will use all assets
(like transport)

~~SE RPN AS MR JORDAN~~
~~MJL MDK JK ASM IVY MD~~
~~Winter~~
~~before who's~~

121.84

~~AFFIDAVIT TO REMOVE CALL DPT-~~
(1) (2) Sch. bd. ~~must~~ permit pupil to continue if...
(b)

~~15~~
① see 121.84 (1)(b) & (1m): ~~why~~ why not allow sds to elect to provide transp. to them?

(see p. 9 l. 15-22, which refers only 121.84(4)).

② see 121.84(2) ^(is draft) which says transp. requirement under 121.54(2) doesn't apply to transporting beyond boundaries of sd for pupils under (1) & (1m). That implies that it does apply for pupils under (4).

But p. 9 l. 15-22 (am of 121.54(10)) says sch. bd. may elect to provide transp. for pupils under 121.84(4).
→ don't know ~~to~~ 121.84(2)

RE Transportation, & who is req'd to provide it:
✓ (3) How to square 118.51 (14) (a) 2.

w/ 115.82 (2) (b) + 121.54 (10) [in draft] ?

✓ (4) If put current law in 121.84 (1) (a)
back in as permissive, as 121.84 (1) (a) 1.

Which means X-ref to 121.84 (1) (a) in draft

put it up; X-ref to 121.84 (4) will not. ok?

✓ (5) new 121.84 (1) (a) 1. (i.e. current law as
permissive) - why do we need this?

If we put this in, it implies that a sd

is prohibited from waiving tuition in other

circumstances. Does Duff want that? (For example,

say kid was a res. of sd at beg. of sch yr,

but attended a priv. sch. Leaves the priv. school

in Nov, & attends pub. sch. In March, moves out

of sd. but wants to keep attending. Under draft, sd must ^{change} tuition.)

✓ (6) In 121.84 (1) (a) 2: can we use "school days"

Not case of "days on which school was
actually taught" ? (See 115. ~~29~~ 01 (10))



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2866/2
PG:cmh:km

By FRIDAY

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

regenerate

1 **AN ACT to renumber and amend 121.81 (1); to amend 115.77 (1); 115.77 (4) (j)**
 2 **10., 115.777 (1), 115.78 (1), 115.782 (2) (d), 115.787 (3) (d), 115.79 (2), 115.792**
 3 **(1) (b), 115.792 (3) (a), 115.80 (8), 115.82 (2) (b), 115.88 (8), 118.51 (3) (a) 1. and**
 4 **2., 118.51 (5) (a) 4., 118.51 (9), 118.51 (12), 118.51 (17), 121.05 (1) (a) 11., 121.54**
 5 **(10), 121.58 (2) (a), 121.58 (4), 121.77 (3), 121.84 (1) (a), 121.84 (1m), 121.84 (2)**
 6 **and 121.84 (3); and to create 121.81 (1) (a) and (b) and 121.84 (4) of the statutes;**
 7 **relating to: school district open enrollment and tuition waivers and payments.**

Analysis by the Legislative Reference Bureau

INS. A

~~This is a preliminary draft. An analysis will be provided on a later version.
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 115.77 (1) of the statutes is amended to read:
 9 115.77 (1) In sub. (1m) (a) to (d), except as provided in s. 118.51 (12) (a) and (b)
 10 2., if a child with a disability is attending a public school in a nonresident school

1 district under s. 118.51 or 121.84 (1) (a) or (4), “local educational agency” means the
2 school district that the child is attending.

3 **SECTION 2.** 115.77 (4) (j) 10. of the statutes is amended to read:

4 115.77 (4) (j) 10. If the local educational agency is a school district, the number
5 of children with disabilities who attend the school district under s. ss. 118.51 and
6 121.84 (1) (a) and (4), the disability of each such child and the special education or
7 related services received by each such child.

8 **SECTION 3.** 115.777 (1) of the statutes is amended to read:

9 115.777 (1) (a) A physician, nurse, psychologist, social worker or administrator
10 of a social agency who reasonably believes that a child brought to him or her for
11 services has a disability shall refer the child to the local educational agency. If the
12 local educational agency to whom the referral is made is the school district in which
13 the child resides but the child is attending a public school in a nonresident school
14 district under s. 118.51 or 121.84 (1) (a) or (4), the school board of the school district
15 in which the child resides shall provide the name of the child and related information
16 to the school board of the school district that the child is attending.

17 (b) A person who is required to be licensed under s. 115.28 (7), who is employed
18 by a local educational agency and who reasonably believes a child has a disability,
19 shall refer the child to the local educational agency. If the local educational agency
20 to whom the referral is made is the school district that the child is attending but the
21 child is a nonresident attending a public school in that school district under s. 118.51
22 or 121.84 (1) (a) or (4), the school board of the school district that the child is attending
23 shall provide the name of the child and related information to the school board of the
24 child’s school district of residence.

1 (c) Any person other than those specified under par. (a) or (b) who reasonably
 2 believes that a child is a child with a disability may refer the child to a local
 3 educational agency. If the local educational agency to whom the referral is made is
 4 the school district in which the child resides but the child is attending a public school
 5 in a nonresident school district under s. 118.51 or 121.84 (1) (a) or (4), the school
 6 board of the school district in which the child resides shall provide the name of the
 7 child and related information to the school board of the school district that the child
 8 is attending.

9 SECTION 4. 115.78 (1) of the statutes is amended to read:

10 115.78 (1) DEFINITION. In this section, for a child who is attending a public
 11 school in a nonresident school district under s. 118.51 or 121.84 (1) (a) or (4), "local
 12 educational agency" means the school board of the school district that the child is
 13 attending.

14 SECTION 5. 115.782 (2) (d) of the statutes is amended to read:

15 115.782 (2) (d) If ^a~~the child being evaluated~~ is attending a public school in a
 16 nonresident school district under s. 118.51, ~~as part of~~ or 121.84 (1) (a) or (4), when
 17 the individualized education program team conducts its initial evaluation of the child ~~and as part of~~ or
 18 any reevaluation of the child under sub. (4), the individualized education program
 19 team shall ~~collaborate with appropriate personnel~~ include at least one person
 20 designated by the school board of the child's school district of residence who has
 21 knowledge or special expertise about the child.

22 SECTION 6. 115.787 (3) (d) of the statutes is amended to read:

23 115.787 (3) (d) If a child is attending a public school in a nonresident school
 24 district under s. 118.51 ^{add stricken comma} ~~or 121.84 (1) (a) or (4)~~ ^{when} the individualized education program
 25 team for the child ~~shall develop~~ the child's individualized education program in

develops

stet

plain space

1 ~~collaboration with appropriate personnel~~ ^{the team shall} include at least one person designated by
2 the school board of the school district in which the child resides who has knowledge
3 or special expertise about the child.

4 **SECTION 7.** 115.79 (2) of the statutes is amended to read:

5 115.79 (2) An educational placement is provided to implement a child's
6 individualized education program. Except as provided in s. 118.51 (12) (a) and (b)
7 2., if a child with a disability is attending a public school in a nonresident school
8 district under s. 118.51 or 121.84 (1) (a) or (4), the school board of the school district
9 that the child is attending shall provide an educational placement for the child and
10 shall pay tuition charges instead of the school district in which the child resides if
11 required by the placement.

12 **SECTION 8.** 115.792 (1) (b) of the statutes is amended to read:

13 115.792 (1) (b) The local educational agency shall establish and maintain
14 procedures to ensure that a child's parents are provided prior written notice
15 whenever the local educational agency proposes to initiate or change, or refuses to
16 initiate or change, the identification, evaluation or educational placement of the
17 child, or the provision of a free appropriate public education to the child. In this
18 paragraph, "local educational agency" includes the nonresident school district that
19 a child is attending under s. 118.51 or 121.84 (1) (a) or (4).

20 **SECTION 9.** 115.792 (3) (a) of the statutes is amended to read:

21 115.792 (3) (a) In this subsection, "local educational agency" includes the
22 nonresident school district that a child is attending under s. 118.51 or 121.84 (1) (a)
23 or (4).

24 **SECTION 10.** 115.80 (8) of the statutes is amended to read:

1 115.80 (8) Except as provided in 20 USC 1415 (k), during the pendency of any
2 proceedings under this section, the local educational agency may not change the
3 educational placement of a child unless the child's parents agree to the change. If
4 the child is applying for initial admission to a public school, the child shall, with the
5 consent of the child's parents, be placed in the public school program until all
6 proceedings under this section have been completed. In this subsection, "local
7 educational agency" includes the nonresident school district that a child is attending
8 under s. 118.51 or 121.84 (1) (a) or (4).

9 **SECTION 11.** 115.82 (2) (b) of the statutes is amended to read:

10 115.82 (2) (b) If the child is attending a public school in a nonresident school
11 district under s. 118.51 or 121.84 (1) (a) or (4), the nonresident school district shall
12 provide transportation.

13 **SECTION 12.** 115.88 (8) of the statutes is amended to read:

14 115.88 (8) ENROLLMENT OUT OF STATE. If a child with a disability is enrolled in
15 a public special education program located in another state and the state
16 superintendent is satisfied that the program in which the child is enrolled complies
17 with this subchapter, the state superintendent shall certify to the department of
18 administration in favor of the school district in which the child resides or the school
19 district attended by the child under s. 118.51 or 121.84 (1) (a) or (4) a sum equal to
20 the percentage of the approved costs under subs. (1) and (2) of the amount expended
21 by the school district during the preceding year for the additional costs associated
22 with the child's special education program. The department of administration shall
23 pay the amount to the school district from the appropriation under s. 20.255 (2) (b).

24 **SECTION 13.** 118.51 (3) (a) 1. and 2. of the statutes are amended to read.

1 118.51 (3) (a) 1. The parent of a pupil who wishes to attend a public school in
2 a nonresident school district under this section shall submit an application, on a form
3 provided by the department under sub. (15)(a), to the school board of the nonresident
4 school district that the pupil wishes to attend, not earlier than the first Monday in
5 February and not later than the 3rd Friday following the first Monday in February
6 of the school year immediately preceding the school year in which the pupil wishes
7 to attend. On the 4th Monday in February, the nonresident school board shall send
8 a copy of the application to the pupil's resident school board and the department. The
9 application may include a request to attend a specific school or program offered by
10 the nonresident school district.

11 2. A nonresident school board may not act on any application received under
12 subd. 1. until after the 3rd Friday following the first Monday in February. If a
13 nonresident school board receives more applications for a particular grade or
14 program than there are spaces available in the grade or program, the nonresident
15 school board shall determine which pupils to accept on a random basis.

16 **SECTION 14.** 118.51 (5) (a) 4. of the statutes is amended to read:

17 118.51 (5) (a) 4. Whether the special education ~~program~~ or related services
18 described in the child's individualized education program under s. 115.787 (2) are
19 available in the nonresident school district or whether there is space available ~~in to~~
20 provide the special education ~~program~~ or related services identified in the child's
21 individualized education program, including any class size limits, pupil-teacher
22 ratios or enrollment projections established by the nonresident school board.

23 **SECTION 15.** 118.51 (9) of the statutes is amended to read:

24 118.51 (9) **APPEAL OF REJECTION.** If the nonresident school board rejects an
25 application under sub. (3)(a) or (7) or the resident school board prohibits a pupil from

1 attending public school in a nonresident school district under sub. (6), (7) or (12) (b)
2 1., the pupil's parent may appeal the decision to the department within 30 days after
3 the decision. If the resident school board provides notice of transfer under sub. (12)
4 (b) 2., the pupil's parent may appeal the required transfer to the department within
5 30 days after receipt of the notice. The department shall affirm the school board's
6 decision unless the department finds that the decision was arbitrary or
7 unreasonable.

8 SECTION 16. 118.51 (12) of the statutes is amended to read:

9 118.51 (12) SPECIAL EDUCATION PROGRAM OR RELATED SERVICES. (a) *Unavailable*
10 *after enrollment.* If the individualized education program for a pupil, developed or
11 revised under s. 115.787 after a child begins attending public school in a nonresident
12 school district under this section, requires a special education program or related
13 service services that is are not available in the nonresident school district or if there
14 is no space available in to provide the special education program or related services
15 identified in the child's individualized education program, including any class size
16 limits, pupil-teacher ratios or enrollment projections established by the nonresident
17 school board, the nonresident school board may notify the child's parent and the
18 child's resident school board that the ~~program or~~ special education or related service
19 is not available in the nonresident school district. If such notice is provided, the child
20 shall be transferred to his or her resident school district, which shall provide an
21 educational placement for the child under s. 115.79 (2).

22 (b) *Undue financial burden.* 1. If the costs of the special education ~~program~~
23 or related services required in the individualized education program under s.
24 115.787 (2) for a child with a disability whose parent has submitted an application
25 under sub. (3) (a), as proposed to be implemented by the nonresident school district,

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1 would impose upon the child's resident school district an undue financial burden in
2 light of the resident school district's total economic circumstances, including its
3 revenue limit under subch. VII of ch. 121, its ability to pay tuition costs for the pupil
4 and the per pupil special education ~~program~~ or related services costs for children
5 with disabilities continuing to be served by the resident school district, the child's
6 resident school board may notify the child's parent and the nonresident school board
7 by the first Friday following the first Monday in April that the pupil may not attend
8 the nonresident school district to which the child has applied.

9 2. If the costs of the special education ~~program~~ or related services required in
10 an individualized education program for a pupil, developed or revised under s.
11 115.787 after a child begins attending public school in a nonresident school district
12 under this section, as implemented or proposed to be implemented by the
13 nonresident school district, would impose upon the child's resident school district an
14 undue financial burden in light of the resident school district's total economic
15 circumstances, including its revenue limit under subch. VII of ch. 121, its ability to
16 pay tuition costs for the pupil and the per pupil special education ~~program~~ or related
17 services costs for children with disabilities continuing to be served by the resident
18 school district, the child's resident school board may notify the pupil's parent and the
19 nonresident school board that the ~~program~~ costs of the special education or related
20 services impose such an undue financial burden on the resident school district. If
21 such notice is provided, the child shall be transferred to his or her resident school
22 district, which shall provide an educational placement for the child under s. 115.79
23 (2). ~~The pupil's parent may appeal a required transfer under this subdivision to the~~
24 ~~department within 30 days after receipt of the notice. The department shall affirm~~

1 ~~the resident school board's determination unless the department finds that the~~
2 ~~determination was arbitrary or unreasonable.~~

3 SECTION 17. 118.51 (17) of the statutes is amended to read:

4 118.51 (17) SPECIAL EDUCATION TUITION. The resident school board shall pay
5 to the nonresident school board, for each child who is attending public school in the
6 nonresident school district under this section and is ~~enrolled in a program for~~
7 ~~children with disabilities~~ receiving special education or related services under
8 subch. V of ch. 115, tuition calculated using the daily tuition rate under s. 121.83 for
9 such children enrolled in ~~such programs~~ in the nonresident school district, or an
10 amount agreed to by the school boards of the 2 school districts.

11 SECTION 18. 121.05 (1) (a) 11. of the statutes is amended to read:

12 121.05 (1) (a) 11. Pupils residing in the school district but attending a public
13 school in another school district under s. 118.51 or 121.84 (4).

14 SECTION 19. 121.54 (10) of the statutes is amended to read:

15 121.54 (10) ~~FULL-TIME OPEN ENROLLMENT~~ Subject to s. 118.51 (14) (a) 2., a school
16 board may elect to provide transportation, including transportation to and from
17 summer classes, for nonresident pupils who are attending public school in the school
18 district under s. 118.51 or 121.84 (4), or its resident pupils who are attending public
19 school in another school district under s. 118.51 or 121.84 (4), or both, except that a
20 school board may not provide transportation under this subsection for a nonresident
21 pupil to or from a location within the boundaries of the school district in which the
22 pupil resides.

23 SECTION 20. 121.58 (2) (a) of the statutes is amended to read:

24 121.58 (2) (a) A school district which provides transportation to and from a
25 school under ss. 121.54 (1) to (3), (5) and (6) and 121.57, and the nonresident school

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ATTENDANCE IN NONRESIDENT SCHOOL DISTRICT
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1 district that a pupil attends under s. 118.51 or 121.84 (4) which elects to provide
2 transportation under s. 121.54 (10), shall be paid state aid for such transportation
3 at the rate of \$30 per school year per pupil so transported whose residence is at least
4 2 miles and not more than 5 miles from the school attended, \$45 per school year per
5 pupil so transported whose residence is at least 5 miles and not more than 8 miles
6 from the school attended, \$60 per school year per pupil so transported whose
7 residence is at least 8 miles and not more than 12 miles from the school attended, \$68
8 per school year per pupil so transported whose residence is at least 12 miles and not
9 more than 15 miles from the school attended, \$75 per school year per pupil so
10 transported whose residence is at least 15 miles and not more than 18 miles from the
11 school attended, and \$85 per school year per pupil so transported whose residence
12 is more than 18 miles from the school attended. Such state aid shall be reduced
13 proportionately in the case of a pupil transported for less than a full school year
14 because of nonenrollment. State aid for transportation shall not exceed the actual
15 cost thereof. No state aid of any kind may be paid to a school district which charges
16 the pupil transported or his or her parent or guardian any part of the cost of
17 transportation provided under ss. 121.54 (1) to (3), (5), (6) and (10) and 121.57 or
18 which wilfully or negligently fails to transport all pupils for whom transportation is
19 required under s. 121.54.

20 **SECTION 21.** 121.58 (4) of the statutes is amended to read:

21 121.58 (4) STATE AID FOR SUMMER CLASS TRANSPORTATION. Annually on or before
22 October 1 of the year in which transportation is provided under s. 121.54 (4), or under
23 s. 121.54 (10) if the transportation is provided by the nonresident school district that
24 a pupil attends under s. 118.51 or 121.84 (4), the school district clerk shall file with
25 the department a report, containing such information as the department requires,

1 on transportation provided by the school board to and from summer classes. Upon
2 receipt of such report and if the summer classes meet the requirements of s. 121.14
3 (1), state aid shall be paid for such transportation. A school district which provides
4 such transportation shall be paid state aid for such transportation at the rate of \$4
5 per pupil transported to and from public school whose residence is at least 2 miles
6 and not more than 5 miles by the nearest traveled route from the public school
7 attended, and \$6 per pupil transported to and from public school whose residence is
8 more than 5 miles by the nearest traveled route from the public school attended, if
9 the pupil is transported 30 days or more. The state aid shall be reduced
10 proportionately if the pupil is transported less than 30 days.

11 **SECTION 22.** 121.77 (3) of the statutes is amended to read:

12 121.77 (3) Subsections (1) (b) and (2) do not apply to a pupil attending a public
13 school in a nonresident school district under s. 118.51 or 121.84 (4).

14 **SECTION 23.** 121.81 (1) of the statutes is renumbered 121.81 (1) (intro.) and
15 amended to read:

16 121.81 (1) (intro.) **GENERAL.** Before the admission of a nonresident pupil to an
17 elementary or a high school of a school district, the school board of that district shall
18 make a written agreement with the parents pupil's parent or guardian for the
19 payment of tuition ~~at the rate established in accordance with this subchapter, except~~
20 ~~when the tuition is otherwise chargeable under this subchapter or under subch. V~~
21 ~~of ch. 115.~~ The tuition amount shall be calculated under s. 118.51 (16) (a) 3. except
22 as follows:

23 **SECTION 24.** 121.81 (1) (a) and (b) of the statutes are created to read:

24 121.81 (1) (a) If the nonresident pupil attends school in the school district for
25 less than a full school term, the tuition amount shall be prorated based on the

1 number of days that school is in session and the nonresident pupil attends school in
2 the school district.

3 (b) If the pupil is receiving special education or related services under subch.
4 V of ch. 115, the tuition amount shall be calculated using the daily tuition rate under
5 s. 121.83 for children receiving such special education and related services or an
6 amount agreed to by the school board and the pupil's parent or guardian.

7 **SECTION 25.** 121.84 (1) (a) of the statutes is amended to read:
8 ~~121.84 (1) (a) A school board shall permit a pupil who is enrolled in a school
9 under its jurisdiction and is was a resident of the school district at the beginning of
10 the school year on the 3rd Friday of September or the 2nd Friday of January of the
11 current school year and who has been enrolled in the school district for at least 20
12 days on which school was actually taught during the current school year to complete
13 the current school year at the school he or she is attending without payment of
14 tuition, even though the pupil is no longer a resident of the school district.~~

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15 **SECTION 26.** 121.84 (1m) of the statutes is amended to read:
16 ~~121.84 (1m) The school boards of 2 school districts operating high school grades
17 may enter into an agreement under which a high school pupil who resides in one of
18 the school districts as the result of a reorganization under ch. 117 and who has
19 completed 9th and 10th grades at a high school in the other school district may
20 complete his or her high school education at the latter high school without payment
21 of tuition. The school district of attendance shall count the pupil in its membership
22 for state aid purposes under subch. II.~~

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23

SECTION 27. 121.84 (2) of the statutes is amended to read: ~~ven number~~
121.84 (5).

1

121.84 (2) The transportation requirement in s. 121.54 (2) ^{does} shall not apply to transportation beyond the school district boundaries for pupils under this section subs. (1) and (1m).

2

3

4

SECTION 28. 121.84 (3) of the statutes is ^{renumbered 121.84 (1)(d) and} amended to read:

5

121.84 ^{(1)(d)} (3) The school district of attendance shall continue to count pupils

6

under sub. ~~AAA (1) AAAA~~ ^{this subsection} in membership.

7

SECTION 29. 121.84 (4) of the statutes is created to read:

8

121.84 (4) (a) A school board shall permit a pupil to whom all of the following

9

apply to attend school in the school district in the current school year without payment of tuition:

10

11

1. The pupil was a resident of the school district on the 2nd Friday ⁱⁿ of January of the previous school year.

12

13

2. The pupil was enrolled in the school district continuously from the 2nd

14

Friday ⁱⁿ of January of the previous school year to the end of the school term of the previous school year.

15

16

3. The pupil ceased to be a resident of the school district after the first Monday in February of the previous school year.

17

18

4. The pupil continues to be a resident of this state.

19

(b) If a pupil attends school in a school district outside the pupil's school district of residence under par. (a), s. 118.51 (12), (14), (16) and (17) apply to the pupil as if the pupil were attending school in a nonresident school district under s. 118.51. If the pupil is rejected as a result of s. 118.51 (12) (a), prohibited from attending as a result of s. 118.51 (12) (b) 1. or transferred as a result of s. 118.51 (12) (b) 2., s. 118.51 (9) applies.

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SECTION 30. Initial applicability.

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comment

(A)

(9) Under current law, a school board a resident of and must permit a pupil who was enrolled in the school district at the beginning of a school year to complete the school year ^{at} the school ^{he or she} he or she is attending without paying tuition, even though the pupil is no longer a resident of the school district.

(9) This bill allows a school ^{board} district to ^{waive} waive tuition in the ~~above~~ ^{circumstances} described above. The bill requires a school board district to ^{permit} permit a pupil who ~~waive tuition for a nonresident pupil~~ if the pupil was a ~~resident~~ school district resident on the ^{third} ~~third~~ ^{or} Friday ⁱⁿ ~~or~~ September or the ^{second} ~~second~~ ^{or} Friday ^{of} in January ^{of} of the current school year.

✓

also apply in these circumstances. For
example, if the pupil is a child with a
disability and ^{his or her} ~~the~~ individualized education
program ~~is~~ requires a special education
that is ^{is not} not available in the nonresident
school district, the pupil may be transferred
to his ^{or} her resident school district. Also, in
most circumstances the parent ^{or guardian} or guardian
of ~~the~~ ^{the} pupil ~~is~~ is responsible for transporting
the pupil to ^{and} from school in the
nonresident school district.

(9) Finally, the bill provides that in
most cases, the local educational agency
^{that is} responsible for ensuring a ~~free~~ free,
appropriate public education to a child
with a disability who is attending ^{a public} school

who has been
and ~~was~~ ^{was} enrolled in the school district
^{school}
for at least 20 days during the current
school year to ^{complete} ~~complete~~ the current school
year at the school he ^{or she} or she is
attending without paying tuition, even
though the pupil is no longer a school
district resident. ~~It is both~~ ^{The school}
~~district~~ ^{district} that the pupil is
attending ^{counts} ~~counts~~ the pupil for ^{state aid} ~~state aid~~
purposes.

91 The bill also requires a school ~~board~~
^{board} ^{is} to allow a pupil ^{to whom} ~~to whom~~ all of
the following apply to attend ^{school} school in
the school district in the ^{current} ~~current~~ school year
without paying tuition:

(91) 1. ^{resident} The pupil was a ~~resident~~ of

the school district on the ~~first~~ ^{second} Friday in
January of the previous school year.

(9) 2. The pupil who enrolled in the
school district continuously from the ~~end~~ ^{second}
Friday in January of the previous school
year to the ~~end~~ ^{end} of that school term.

(9) 3. The pupil ^{ceased} to be a resident
of the school district after the first
Monday in February of the previous school
year.

If a pupil attends school outside his or ^{her} school
district of residence ^{with} this
provision,
the school district of residence in which
the pupil resides counts the pupil for state
aid ^{and} purposes. In addition, ^{a number of} provisions that
currently apply to a pupil ~~who~~ attends
school outside ^{his or her} school district of
residence ^{residence} under the open enrollment program.

outside ^{his or her} his or her school district of
residence is the school district that the
child is attending.

(END OF INSERT)

~~91~~ ~~WEA~~

12-14

Section #. 121.84 (1) (a) of the statutes is renumbered 121.84(1)(a)1. and amended to read:

121.84 (1) (a) 1. A school board ~~shall~~^{may} permit a pupil who ~~is~~^{was} enrolled in a school under its jurisdiction and ~~is~~^{and} a resident of the school district at the beginning of the school year to complete the school year at the school ~~(without payment of tuition, even though the pupil is no longer a resident of the school district.~~^{he or she is attending}

History: 1973 c. 90; 1977 c. 29, 78; 1985 a. 29, 218; 1989 a. 31, 114; 1997 a. 27, 286.

91 SER. CR; 121.84(1)(a)2.

91 121.84(1)(a)2. A school board shall permit a pupil who was a resident of the school district on the 3rd Friday in September or the 2nd Friday in January of the current school year and who has been enrolled in the school district for at least 20 school days on which school was actually taught during the current school year to complete the current school year at the school he or she is attending without payment of tuition, even though the pupil is no longer a resident of the school district.

(END OF INSERT)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 5/13/99

To: Representative Duff

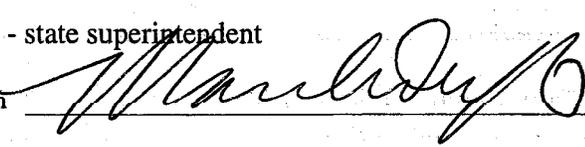
Relating to LRB drafting number: LRB-2866

Topic

Open enrollment and tuition waivers

Subject(s)

Education - school boards, Education - state superintendent

1. **JACKET** the draft for introduction 

in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Peter R. Grant, Managing Attorney
Telephone: (608) 267-3362