

**123B.92 TRANSPORTATION AID ENTITLEMENT.**

Subdivision 1. **Definitions.** For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type III vehicles, as defined in section 169.011, subdivision 71, which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person or other location chosen

by the pupil's parent or guardian, or an after-school program for children operated by a political subdivision of the state, as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility, residence, or program is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes;

(vii) transportation of pupils for a curricular field trip activity on a school bus equipped with a power lift when the power lift is required by a student's disability or section 504 plan; and

(viii) services described in clauses (i) to (vii), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individualized education program or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education initial aid under section 125A.76, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a student in a shelter care facility as defined in section 260C.007, subdivision 30, a homeless student in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a). For purposes of subitem (A), a school district may transport a child who does not have a school of origin to the same school attended by that child's sibling, if the siblings are homeless or in a shelter care facility.

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

Subd. 2. [Repealed, 1999 c 241 art 1 s 69]

Subd. 3. **Alternative attendance programs.** (a) A district that enrolls nonresident pupils in programs under sections 123A.05 to 123A.08, 124D.03, 124D.08, and 124D.68, must provide authorized transportation to the pupil within the attendance area for the school that the pupil attends at the same level of service that is provided to resident pupils within the attendance area. The resident district need not provide or pay for transportation between the pupil's residence and the district's border.

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

(c) A homeless nonresident pupil enrolled under section 124D.08, subdivision 2a, must be provided transportation from the pupil's district of residence to and from the school of enrollment.

Subd. 4. [Repealed, 1999 c 241 art 1 s 69]

Subd. 5. **District reports.** (a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated

as the district transportation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) A school district that contracts for transportation service may allocate transportation expense to transportation categories based upon contract rates. Districts may only allocate transportation expense to transportation categories based upon contract rates if contract rates are reasonably consistent on a cost-per-hour, cost-per-mile, cost-per-route, or cost-per-student basis. In order to allocate transportation expense based upon contract rates, a school district, if audited, must be able to demonstrate to the auditor that variances in the application of transportation cost basis rates are appropriate.

(e) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, may be allocated among transportation categories based on cost-per-mile or cost-per-student regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among transportation categories based on cost-per-mile or cost-per-student. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

Subd. 6. [Repealed, 1999 c 241 art 1 s 69]

Subd. 7. [Repealed, 1999 c 241 art 1 s 69]

Subd. 8. [Repealed, 1999 c 241 art 1 s 69]

Subd. 9. **Nonpublic pupil transportation aid.** (a) A district's nonpublic pupil transportation aid for the 1996-1997 and later school years for transportation services for nonpublic school pupils according to sections 123B.88, 123B.84 to 123B.86, and this section, equals the sum of the amounts computed in paragraphs (b) and (c). This aid does not limit the obligation to transport pupils under sections 123B.84 to 123B.87.

(b) For regular and excess transportation according to subdivision 1, paragraph (b), clauses (1) and (2), an amount equal to the product of:

(1) the district's actual expenditure per pupil transported in the regular and excess transportation categories during the second preceding school year; times

(2) the number of nonpublic school pupils residing in the district who receive regular or excess transportation service or reimbursement for the current school year; times

(3) the ratio of the formula allowance pursuant to section 126C.10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C.10, subdivision 2, for the second preceding school year.

(c) For nonpublic nonregular transportation according to subdivision 1, paragraph (b), clause (5), an amount equal to the product of:

(1) the district's actual expenditure for nonpublic nonregular transportation during the second preceding school year; times

(2) the ratio of the formula allowance pursuant to section 126C.10, subdivision 2, for the current school year to the formula allowance pursuant to section 126C.10, subdivision 2, for the second preceding school year.

(d) Notwithstanding the amount of the formula allowance for fiscal years 2015 and 2016 in section 126C.10, subdivision 2, the commissioner shall use the amount of the formula allowance for the current year minus \$414 in determining the nonpublic pupil transportation revenue in paragraphs (b) and (c) for fiscal years 2015 and 2016.

Subd. 10. [Repealed, 1999 c 241 art 1 s 69]

**History:** 1979 c 334 art 2 s 8; 1980 c 609 art 2 s 2; 1981 c 356 s 167; 1981 c 358 art 2 s 3-13; 1Sp1981 c 2 s 8; 3Sp1981 c 2 art 2 s 9; 1982 c 548 art 2 s 3; 1983 c 314 art 2 s 2; 1Sp1985 c 12 art 2 s 3-10; 1Sp1986 c 1 art 9 s 7,8; 1987 c 398 art 2 s 2-7; art 7 s 42; 1988 c 486 s 35,36; 1988 c 718 art 2 s 5; art 7 s 29; 1989 c 222 s 14-25; 1989 c 329 art 2 s 3,9; 1990 c 562 art 2 s 5-7; 1991 c 130 s 37; 1991 c 199 art 2 s 10; 1991 c 265 art 2 s 6-14; art 3 s 38; 1991 c 277 s 17; 1992 c 499 art 12 s 29; 1993 c 224 art 2 s 5-9; art 7 s 10,11; 1994 c 647 art 2 s 2; art 3 s 24; art 12 s 8,9; art 13 s 7; 1Sp1995 c 3 art 2 s 11-24; art 4 s 30; art 16 s 13; 1996 c 412 art 2 s 9-12; 1Sp1997 c 4 art 1 s 19-24; 1998 c 397 art 7 s 31-34,164; art 11 s 3; 1998 c 398 art 5 s 55; art 6 s 23,24; 1999 c 241 art 1 s 1; 1Sp2001 c 5 art 2 s 7; 1Sp2001 c 6 art 1 s 55 subd 2; 1Sp2003 c 9 art 1 s 9-11; 1Sp2005 c 5 art 1 s 9,10; 2006 c 263 art 2 s 11,12; 2007 c 146 art 1 s 25; art 2 s 17; art 3 s 1; 2009 c 96 art 8 s 1; 2010 c 351 s 1; 2011 c 103 s 3; 1Sp2011 c 11 art 2 s 24; art 3 s 12; art 10 s 2,3; 2012 c 239 art 1 s 12,33; 2013 c 116 art 1 s 9-11; 1Sp2017 c 5 art 1 s 7