

HB

204

# STATE OF ALASKA THE LEGISLATURE

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Hess

April 15, 1987

April 16, 1987

April 22, 1987

April 24, 1987

# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/23/87

FURTHER REFERRALS:

4/24  
Finance

DATE: 4-24-87

The Health, Education and Social Services Committee has considered HB 204

"An Act relating to state aid for school construction; and providing for an effective date."

**RECOMMENDS:**

- replace with CSHB 204 (HESS)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Roll E. Kelly  
Glynn Sperry  
Bill Hudson  
Walter Munkey  
John Ellis  
Frank Donley

**SIGNING OTHER RECOMMENDATIONS:**

Roll E. Kelly needs fiscal note adequate

John Ellis  
 Chairman's signature  
Roll E. Kelly

HB 204

An Act relating to state aid for school construction; and providing for an effective date.

FILE CONTENTS

- 1) HB 204
- 2) Zero Fiscal Note, Department of Revenue, 4/14/87
- 3) Letter, Governor's Task Force on Local Government to Governor Cowper, 4/15/87
- 4) School Construction Debt Retirement stats
- 5) Memorandum, Dorothy Gones, 3/17/87
- 6) HB 204 Back-up (blue cover)
- 7) CS for HB 204 (HESS) (Levy, 4/22/87)
- 8) HESS Minutes, 4/15/87
- 9) HESS Minutes, 4/16/87
- 10) HESS Minutes, 4/22/87
- 11) HESS Minutes, 4/24/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 204

Publish Date: \_\_\_\_\_

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: Department of Revenue

Title: State Aid for School Construction

BRU: Treasury

Sponsor: Swackhammer

Components: \_\_\_\_\_

Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB

Phone: 465-2350

Division: Treasury

Date: April 14, 1987

Approved by Commissioner: [Signature]

Date: 9/15/87

Agency: Department of Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

GOVERNOR'S TASK FORCE ON LOCAL GOVERNMENT  
Dorothy Jones, Chairperson  
P.O. Box 1608  
Palmer, Alaska 99645

April 15, 1987

The Honorable Steve Cowper  
Alaska State Legislators

We, the Mayors of Alaskan Municipalities after many meetings and considerable investigation and work, have agreed upon the following points:

1. The legislature should act as quickly as possible to allow municipalities to refinance their existing school bond indebtedness. HB 204 represents the best approach. To avoid large impacts to local property taxes in most boroughs, the bill must be passed by May 1, 1987. Over 80% of the annual savings would accrue to the State.

2. SB 119, changes to the Education Foundation Formula should be passed as originally introduced, without amendments.

3. The state must continue adequate maintenance of state roads. The \$.08 increase in the motor fuel tax should be enacted and the funds targeted for operations and maintenance. Recent layoffs of maintenance personnel throughout the system indicate that FY '87 revised levels of appropriation are inadequate, even in a year when weather was not severe.

4. The senior citizens property tax exemption should be funded at \$3.0 million. Even if the legislature enacts HB 159, making the exemption a local option, this will not aid municipalities this year. Most municipalities have already granted the state mandated exemption for 1987.

5. Reductions to Municipal Assistance and Revenue Sharing should be the same as reduction to the overall state general programs--approximately 8.4%, not 20%. At least \$7.5 million, \$5.5 million and \$23 million respectively should be added to the current proposal levels of appropriations to meet this "fairness test."

Tom Knut  
Mayor of Anchorage

Dorothy A. Jones  
Mayor, Mat-Su

Juanita Helms  
Mayor, Fairbanks  
North Star

Stan Thompson  
Mayor - Kenai Borough

John R. Puskas  
Mayor, City of Kodiak

## GOVERNOR'S TASK FORCE ON LOCAL GOVERNMENT

Dorothy Jones, Chairperson  
 P.O. Box 1608  
 Palmer, Alaska 99645

April 10, 1987

The Honorable Steve Cowper  
 Alaska State Legislators

We, the Mayors of Alaskan Municipalities after many meetings and considerable investigation and work, have agreed upon the following points:

1. The legislature should act as quickly as possible to allow municipalities to refinance their existing school bond indebtedness. HB 204 represents the best approach. To avoid large impacts to local property taxes in most boroughs, the bill must be passed by May 1, 1987. Over 80% of the annual savings would accrue to the State.

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4. The senior citizens property tax exemption should be funded at \$3.0 million. Even if the legislature enacts HB 159, making the exemption a local option, this will not aid municipalities this year. Most municipalities have already granted the state-mandated exemption for 1987.

5. Reductions to Municipal Assistance, Revenue Sharing and School Debt Retirement should be the same as reductions to the overall state general programs--approximately 8.4%, not 20%. At least \$7.5 million, \$5.5 million and \$23 million respectively should be added to the current proposal levels of appropriations to meet this "fairness test."

  
 \_\_\_\_\_  
 Ralph Gregory, Mayor  
 Ketchikan Gateway Borough  
 \_\_\_\_\_  
 \_\_\_\_\_

SCHOOL CONSTRUCTION DEBT RETIREMENT -FY87 ACTUALS & FY88 ESTIMATED STATE AID

PREPARED 2/25/87

SCHOOL DISTRICTS	FY87 DISTRICT ENTITLEMENT	FY87 ENTITLEMENT PRO RATA AT 90%	FY88 DISTRICT PROJECTED ENTITLEMENT	FY88 ENTITLEMENT PRO RATA AT 70%
ANCHORAGE	\$28,097,901	\$25,288,111	\$25,777,072	\$18,043,950
BRISTOL BAY	\$434,470	\$391,023	\$609,662	\$426,763
CORDOVA	\$419,765	\$377,789	\$35,022	\$24,515
DILLINGHAM	\$208,686	\$187,817	\$6,961	\$4,873
FAIRBANKS	\$14,758,107	\$13,282,296	\$15,758,936	\$11,031,255
GALENA	\$190,045	\$171,041	\$50,953	\$35,667
HAINES	\$166,036	\$149,432	\$75,858	\$53,101
JUNEAU	\$6,798,517	\$6,118,665	\$6,882,712	\$4,817,898
KENAI	\$24,749,282	\$22,274,354	\$23,784,361	\$16,649,053
KETCHIKAN	\$4,165,716	\$3,749,144	\$3,236,407	\$2,265,485
KING COVE	\$17,727	\$15,954	\$0	\$0
KODIAK	\$5,766,287	\$5,189,658	\$4,957,476	\$3,470,233
MAT-SU	\$21,490,634	\$19,341,571	\$21,024,298	\$14,717,009
NENANA	\$18,296	\$16,466	\$189,944	\$132,961
NOME	\$854,869	\$759,382	\$881,738	\$617,217
NORTH SLOPE	\$12,881,687	\$11,593,518	\$9,248,588	\$6,474,012
PETERSBURG	\$733,544	\$660,190	\$632,352	\$442,646
SITKA	\$2,858,306	\$2,572,475	\$2,581,587	\$1,807,111
UNALASKA	\$231,510	\$208,359	\$230,154	\$161,108
VALDEZ	\$3,155,762	\$2,840,186	\$3,095,712	\$2,166,998
WRANGELL	\$890,189	\$801,170	\$909,835	\$636,885
YAKUTAT	\$0	\$0	\$68,912	\$48,238
TOTALS	\$128,887,336	\$115,998,601	\$120,038,540	\$84,026,978

M E M O R A N D U M

Date: March 17, 1987

TO: Dorothy Jones, Chairperson  
Governor's Task Force on Local Government

FROM: LeRoy H. Barton, Kenai Peninsula Borough,  
Task Force Member  
Susan M. Bendio, Municipal Underwriter,  
Task Force Resource  
Eric Wohlforth, Bond Counsel,  
Task Force Resource

SUBJECT: Result of Rating Agency and Bond Insurer Meetings  
March 11, 1987 -- March 13, 1987

The purpose of this memorandum is to give a brief summary of our recent trip to New York for meetings with:

- o Standard & Poor - Rating Agency
- o Moody's Investor Service - Rating Agency
- o AMBAC - Bond Insurer
- o FGIC - Bond Insurer
- o MBIA - Bond Insurer

The meetings at each of these firms were with the senior management and the specific analyst who evaluate Alaska municipal and State of Alaska issues. The individuals were:

- o Frieda Ackerman, Executive Vice President, Municipal Department, Moody's
- o Joe Rosenblum, Vice President, Municipal Department, Moody's
- o Robin Goldston, Municipal Analyst, Moody's
- o Hy Grossman, Executive Vice President, Municipals, Standard & Poor
- o Maury Cooper, Vice President, Municipal Finance Department, Standard and Poor
- o Dick Huff, Senior Vice President, Municipal Underwriting, AMBAC
- o Kenneth Alterman, Senior Vice President, Deputy Director of Underwriting
- o Deputy Director of Underwriting, AMBAC
- o C. Davis Palmer, First Vice President, Municipal Underwriting, AMBAC
- o Kate Hackett, Vice President, Municipal, AMBAC
- o Karen Daly, Acting Vice President, G.O. Underwriting, MBIA
- o David Lopp, Analyst, G.O. Underwriting, MBIA
- o Joe Lynch, Vice President/Manager, G.O. Underwriting

Each of the meetings were approximately 2-3 hours in length. The discussions were primarily directed at getting feedback on how they would respond to:

- o Local issuers restructuring outstanding school debt?
- o What impact would local restructuring of school debt have on the State of Alaska G.O. rating?
- o What is perceived as the "Prudhoe Bay Curve"?
- o Would the restructure and extension of G.O. School Debt to 20-year terms cause a downgrading either for the local issuer or the State?

The rating agencies and the bond insurers were very familiar with Kenai Peninsula Borough, Mr. Barton, Ms. Bendio, and Mr. Wohlforth. The discussions with both rating agencies and Bond Insurers were very candid and encompassed various aspects of state and local debt -- and their relationship to each. A brief overview is outlined below of their comments:

- o Restructure of Local debt does not have an impact on the State of Alaska debt.
- o Neither the State of Alaska nor Local issuers are or have been on "Credit Watch" - informally or formally. Like all issuers who have a resource based economy, they routinely review the state on an on-going basis.
- o Extension of debt beyond "The Prudhoe Bay Curve" has more of a direct relationship to State of Alaska debt - since its primary revenues are dependent on oil. Even that has changed in recent years with the establishment of the Permanent Fund, the Budget Reserve, etc.
- o Alaskan local governments have typically low millage rates, especially compared to national trends. While not being politically palatable, revenues can be projected over a more traditional term than the "Prudhoe Bay Curve," based on conservative population and tax base growth.
- o A restructure of local debt alone will not usually have an effect on an issuers rating. Other factors that are considered to be mitigating factors with a restructure are:
  - "Run-away" Capital Project Programs.
  - Inaction in assuring that annual revenues equal expenditures.
  - Unrealistic growth projections of tax base.

- o Alaskan Local issuers are very unique in so far as the shortness of the terms on their bonds..typically 10 to 12 years.

The Rating Agencies and Bond Insurers consider them very prudent to have taken advantage of short pay-down when State revenues were plentiful.

- o The Local issuers are wise to address the decline in state revenue sharing and other programs by developing short and long term fiscal plans to deal with their cash flow impact. The Rating Agencies were confused and surprised that local issuers were not using restructuring and other fiscal tools to deal with the decline of state revenues.
- o However, they expressed surprise that current legislation does not permit local issuers the flexibility to quickly respond to those almost certain reductions in revenue sharing programs. They expressed concern that these reductions may create a significant and rather abrupt change in the burden on their local tax base at a time when the local economies are already fragile.
- o A concern was voiced regarding the lack of direct communication in recent months with the State of Alaska. The sentiments were expressed that during cash flow shortfalls and declining revenues, it is especially important to keep communications open. So the agencies can continue to evaluate accurately the fiscal strategies and policies--rather than reading out-of-context media reports.
- o They also expressed the importance for State and Local issuers to keep in perspective -- That Rating Agencies DO NOT - nor will they, make fiscal policies -- they simply evaluate the impact of those policies on debt issued.
- o Another point they suggested be kept in perspective: If a down-grading is done, it would be extremely unusual to go from Aa to A (a full rating decrease). Therefore, they felt if, and it was stated that way, if a downgrade were to occur the additional interest cost would be in the range of 15-20 points or .15 of 1% to .20 of 1%.
- o Both agencies stated they would be happy to meet by telephone with Legislators and the Administration to answer questions or clarifications regarding these topics.
- o The recent informational statement by Moody's was not issued as a concern to the investor community that the state was about to default. But, rather as a rational response to the New York Times' article quoting the Administration that "...the State of Alaska was going to run out of money on

March \_\_\_\_ ..." Also, to rationally point out to the public that the Budget Reserve Fund, Permanent Fund earnings and etc., gave the Legislature alternatives to deal with cash flow shortfalls.

In summary, the meetings were positive and the consistent communication of both agencies were that they perceive the Alaskan local issuers as:

- o Acknowledging the realities of changed economic circumstances.
- o Developing prudent fiscal strategies to deal successfully with both short and long term.
- o Actively pursuing legislation to allow flexibility to proactively respond to local revenue program cuts in an orderly fashion.
- o And clearly communicating them to the rating agencies and the capital markets as a whole.

All of the entities look forward to coming to Alaska for a statewide economic to be held in August or September.

HOUSE BILL 204

HOUSE BILL 204  
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1 IN THE HOUSE

BY SWACKHAMMER

2

HOUSE BILL NO. 204

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to state aid for school construction; and providing for an effective date."

7

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

\* Section 1. AS 14.11.100(j) is amended to read:

10

(j) The state may not allocate money to a municipality for a

11

school construction project under (a)(5) of this section unless the

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municipality complies with the requirements of (1) and (2) [(1) - (4)]

13

of this subsection and the project is approved by the commissioner

14

before the local vote on the bond issue for the project. In approving

15

a project under this subsection, the commissioner shall require

16

(1) the municipality to include on the ballot for the bond

17

issue the estimated total cost of each project including estimated

18

annual operation and maintenance costs and the estimated amounts that

19

will be paid by the state and by the municipality; and

20

(2) [THAT THE BONDS MAY NOT BE REFUNDED UNLESS THE ANNUAL

21

DEBT SERVICE ON THE REFUNDING ISSUE IS NOT GREATER THAN THE ANNUAL

22

DEBT SERVICE ON THE ORIGINAL ISSUE;

23

(3) THAT THE BONDS MUST BE REPAID IN APPROXIMATELY EQUAL

24

ANNUAL PRINCIPAL PAYMENTS OR APPROXIMATE EQUAL DEBT SERVICE PAYMENTS

25

OVER A PERIOD OF AT LEAST 10 YEARS;

26

(4)] the municipality to demonstrate need for the project

27

by establishing that the school district has

28

(A) projected long-term student enrollment that indi-

29

cates the district has inadequate facilities to meet present or

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 J800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 3, 1987

SUBJECT: State aid for school construction  
(HB 204)

TO: Representative C. E. Swackhammer

FROM: Keith B. Levy *KBL*  
Legislative Counsel

You have requested a sectional analysis of HB 204. As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 amends AS 14.11.100(j) to repeal two requirements that bond issues for municipal school construction projects authorized since July 1, 1983, have had to comply with to receive debt retirement from the state. The first requirement is that the bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue (AS 14.11.100(j)(2)). The second requirement is that the bonds be repaid in equal payments over a period of at least 10 years (AS 14.11.100(j)(3)).

Section 2 makes the repeal of these requirements retroactive to July 1, 1983. Accordingly, projects that were approved between that date and the effective date of the bill would not have to meet those two requirements.

Section 3 provides for an immediate effective date.

KBL:csh  
c7/113



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

February 27, 1987

MEMORANDUM

TO: Representative C. E. Swackhammer

ATTN: Tom Wright

FROM: Jay Livey *JL*  
Legislative Analyst

RE: Implications of Proposed Changes in the Law Regarding Reimbursement  
of School Debt Service Payments  
Research Request 87.160

You asked that we analyze the effect of a proposed change in the law which would eliminate paragraphs (3) and (4) of AS 14.11.100(j). This change would allow municipalities more latitude in refinancing school bonds. Below, we explain the legal effect of the change and discuss the effect of the change on the finances of the State and municipalities.

EFFECT OF STATUTORY CHANGES

Alaska Statute 14.11.100 authorizes the State to reimburse municipalities for municipal debt service payments for school construction bonds. Section 14.11.100(j)(2) requires that "bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue." Section 14.11.100(j)(3) states that "bonds must be repaid in approximately equal annual principal or approximate equal debt service payments over a period of at least 10 years."

In effect, these two paragraphs prohibit a municipality from refunding a bond if the annual debt service payments on the refunded bond exceed what the annual payments would have been on the original bond. If the refunding extends the debt service over more years than the original payment schedule, some payments will be made in years in which no payments would have been made under the original issue. This violates the provision of current law which requires lower annual debt service payments after refunding.

Bonds are normally refinanced to either take advantage of lower interest rates or to alter the debt service schedule. The latter reason is the primary motivation behind these proposed changes. Although the repayment schedule on a bond that was used to finance a building would normally



## KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

STAN THOMPSON  
MAYOR

March 30, 1987

The Honorable C. E. Swackhammer  
Pouch V  
Juneau, AK 99811

Dear Representative Swackhammer:

Reference HB 204 which you have introduced, "An Act relating to state aid for school construction and providing for an effective date."

We, the borough mayors of most of the boroughs in Alaska, have been meeting regularly on the finance problems that we are having this year, and the funding problem for our school construction is our number one priority.

Your bill, HB 204, is, we feel, the proper and correct way to solve part of the problem. This would allow us to refinance any bonds that we feel it wise to refinance and would return the local control of the refinancing to the boroughs involved.

This could make the difference, in our borough, of  $2\frac{1}{2}$  to  $2\frac{1}{2}$  mills, depending on the bonds that it would be wise to refinance; and if all boroughs work together on this and refinanced, it could save the state \$50 million this year alone.

We do understand, and I think everyone concerned understands, that in the long run, if refinancing does occur, interest payments would increase - much like if you refinance a home or a car. We have run charts and graphs to show exactly what it could be, and we feel that, considering our tight finances at present, this is something that is essential for our borough at the present time and other borough mayors feel the same way.

We strongly support your bill, HB 204, and we thank you for introducing it. We hope that the legislature, both house and senate, will pass it as rapidly as possible as time is of the essence. If this isn't passed rapidly, we will not have time to refinance this year; which, again, means an increase in local taxes of as much as  $2\frac{1}{2}$  to  $2\frac{1}{2}$  mills.

Thank you again for introducing the bill and for your consideration of our borough problems.

Sincerely,

Stan Thompson  
Kenai Peninsula Borough Mayor

ST:lc



# Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-3246

BOROUGH MAYOR

April 2, 1987

Honorable C.E. Swackhammer, Representative  
House Finance Committee  
P.O. Box V  
Juneau, AK 99811

RE: HB 204

Dear Representative Swackhammer:

Several weeks ago, concerned mayors and finance personnel from the majority of the organized boroughs in Alaska, met to identify ways to better cope with the reduction in State funds which appear to be available in fiscal year 1988 and in ensuing years. We rapidly determined that one of the most critical issues facing local governments, was our ability to deal with payments on bonds which were issued for the purpose of constructing educational facilities. We identified two obstacles to having the flexibility to manage our bonded debt; 1) Department of Education regulations and 2) provisions of Alaska Statute Title 14 Chapter 11.

Members of this task force have met on several occasions with the Governor, Commissioner of Revenue, Director of OMB, and various other State officials seeking to identify a method of recifying our problems.

House Bill 204, introduced by Representative Swackhammer, contains modifications to Alaska Statute 14.11.100 that will eliminate one of the major roadblocks. I urge you in the strongest possible terms to lend your support in obtaining passage on this piece of legislation.

Passage of this legislation will restore to local governments the flexibility in structure to their bonded debt to schools in order to better cope with diminishing cash flows from the State. Your cooperation in this matter will be greatly appreciated.

Sincerely,

*Dorothy A. Jones*  
Dorothy A. Jones *uj*  
Mayor

VR:ld



April 2, 1987

The Honorable C.E. Swackhammer  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811


RE: House Bill 204

Dear Representative Swackhammer:

House Bill 204 relating to state aid for school construction by amending AS 14.11.100(j) provides the flexibility needed by municipalities to fund annual debt service. I support the bill and thank you for working to reduce the impact of impending revenue reduction.

Sincerely,

CITY OF KODIAK



JOHN R. PUGH  
Mayor

JRP:RAD/mhd

cc: The Honorable Jan Faiks  
The Honorable Don Bennett  
The Honorable John (Jack) Coghill  
The Honorable Fred Zharoff  
The Honorable Cliff Davidson



# Fairbanks North Star Borough

Mayor: Juanita Helms

March 31, 1987

Honorable C.E. Swackhammer  
Alaska State Legislature  
Pouch V  
Juneau AK 99811

Dear Representative Swackhammer:

I would like to offer my support for House Bill No. 204, which you recently introduced, relating to state aid for school construction.

Local municipalities have been hard hit the past two years and this bill would allow them the ability to carefully assess their option toward cash flow relief.

Again, I would like to reiterate my support for HB 204, and appreciate your timely introduction of this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Juanita Helms".

JUANITA HELMS  
Borough Mayor

JH:al

cc: Interior Legislative Delegation



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100

You asked that we update House Research Agency memorandum 85-233, "School Construction Costs FY 79 - FY 85," to include fiscal years 1986 and 1987. The following tables, 8 through 15, contain the updated information that you requested. (Tables 1 through 7 in the original memorandum are unchanged by the addition of this information so are not included in this memorandum.) Tables 8 and 9 are new tables and provide State payments for debt service reimbursement to the city and borough districts for fiscal years 1986 and 1987. Tables 10 through 15 use the same format as used in tables 8 through 13 in the original memorandum except that fiscal years 1986 and 1987 have been included.

Tables 8 and 9. Table 8 contains FY 86 State payments to reimburse city and borough districts for school bond debt service payments. Table 9 projects the State payments to city and borough districts for FY 87. Each district's entitlement is reduced by its cigarette tax payment. If a district's debt service is insufficient to offset its cigarette tax payment, the cigarette tax payment is included as a State payment to the district.

Table 10. This table provides a summary of State payments for reimbursement of city and borough debt service payments for fiscal years 1979 through 1987.

Tables 11 and 12. These tables contain capital appropriations for school repair and construction for fiscal years 1979 through 1987. Fiscal Year 1987 appropriations have been adjusted to reflect budget restrictions imposed by Governor Sheffield.

Table 13. Table 13 contains municipal grants to city and borough districts for FY 81 (the first year grants to municipalities were authorized) through FY 87. As with capital appropriations, the FY 87 municipal grant appropriations have been adjusted to reflect Governor Sheffield's budget restrictions.

Representative Larson  
February 4, 1987  
Page 2

Table 14. Table 14 summarizes the debt retirement payments, capital appropriations and municipal grants for school construction made to city and borough school districts from FY 79 through FY 87.

Table 15. This table ranks Alaska's school districts according to the State's contribution to construction funding per average ADM for the period FY 79 through FY 87.

I hope you find this information useful. Should you need additional research, please contact the agency.

JL

Attachments



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

February 27, 1987

MEMORANDUM

TO: Representative C. E. Swackhammer

ATTN: Tom Wright

FROM: Jay Livey *JL*  
Legislative Analyst

RE: Implications of Proposed Changes in the Law Regarding Reimbursement  
of School Debt Service Payments  
Research Request 87.160

You asked that we analyze the effect of a proposed change in the law which would eliminate paragraphs (3) and (4) of AS 14.11.100(j). This change would allow municipalities more latitude in refinancing school bonds. Below, we explain the legal effect of the change and discuss the effect of the change on the finances of the State and municipalities.

EFFECT OF STATUTORY CHANGES

Alaska Statute 14.11.100 authorizes the State to reimburse municipalities for municipal debt service payments for school construction bonds. Section 14.11.100(j)(2) requires that "bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue." Section 14.11.100(j)(3) states that "bonds must be repaid in approximately equal annual principal or approximate equal debt service payments over a period of at least 10 years."

In effect, these two paragraphs prohibit a municipality from refunding a bond if the annual debt service payments on the refunded bond exceed what the annual payments would have been on the original bond. If the refunding extends the debt service over more years than the original payment schedule, some payments will be made in years in which no payments would have been made under the original issue. This violates the provision of current law which requires lower annual debt service payments after refunding.

Bonds are normally refinanced to either take advantage of lower interest rates or to alter the debt service schedule. The latter reason is the primary motivation behind these proposed changes. Although the repayment schedule on a bond that was used to finance a building would normally

match the useful life of that building (20 to 30 years), many school bonds in Alaska have shorter pay back schedules to correspond to the "Prudhoe Bay curve." Municipal bond debt service payments were structured so that the bonds would be paid back before petroleum revenue from Prudhoe Bay production declined significantly. It is common for school bonds in Alaska to have pay back schedules of 10 to 12 years. As a result, the annual debt service payments of municipalities are higher than if the payments were extended over more years.

The recent decline in oil prices and subsequent State budget reductions have adversely affected the finances of many communities. One way for communities to respond to budgetary shortfalls is to restructure their debt so that principal and interest payments are made over a longer period of time. Although more debt service is paid if the payments are extended, the annual payments are reduced, helping to alleviate municipalities' immediate cash flow problems. The proposed changes to the law allow this restructuring.



## KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

STAN THOMPSON  
MAYOR

March 30, 1987

The Honorable C. E. Swackhammer  
Pouch V  
Juneau, AK 99811

Dear Representative Swackhammer:

Reference HB 204 which you have introduced, "An Act relating to state aid for school construction and providing for an effective date."

We, the borough mayors of most of the boroughs in Alaska, have been meeting regularly on the finance problems that we are having this year, and the funding problem for our school construction is our number one priority.

Your bill, HB 204, is, we feel, the proper and correct way to solve part of the problem. This would allow us to refinance any bonds that we feel it wise to refinance and would return the local control of the refinancing to the boroughs involved.

This could make the difference, in our borough, of  $2\frac{1}{4}$  to  $2\frac{1}{2}$  mills, depending on the bonds that it would be wise to refinance; and if all boroughs work together on this and refinanced, it could save the state \$50 million this year alone.

We do understand, and I think everyone concerned understands, that in the long run, if refinancing does occur, interest payments would increase - much like if you refinance a home or a car. We have run charts and graphs to show exactly what it could be, and we feel that, considering our tight finances at present, this is something that is essential for our borough at the present time and other borough mayors feel the same way.

We strongly support your bill, HB 204, and we thank you for introducing it. We hope that the legislature, both house and senate, will pass it as rapidly as possible as time is of the essence. If this isn't passed rapidly, we will not have time to refinance this year; which, again, means an increase in local taxes of as much as  $2\frac{1}{4}$  to  $2\frac{1}{2}$  mills.

Thank you again for introducing the bill and for your consideration of our borough problems.

Sincerely,

Stan Thompson  
Kenai Peninsula Borough Mayor

ST:lc



# Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-3246

BOROUGH MAYOR

April 2, 1987

Honorable C.E. Swackhammer, Representative  
House Finance Committee  
P.O. Box V  
Juneau, AK 99811

RE: HB 204

Dear Representative Swackhammer:

Several weeks ago, concerned mayors and finance personnel from the majority of the organized boroughs in Alaska, met to identify ways to better cope with the reduction in State funds which appear to be available in fiscal year 1988 and in ensuing years. We rapidly determined that one of the most critical issues facing local governments, was our ability to deal with payments on bonds which were issued for the purpose of constructing educational facilities. We identified two obstacles to having the flexibility to manage our bonded debt; 1) Department of Education regulations and 2) provisions of Alaska Statute Title 14 Chapter 11.

Members of this task force have met on several occasions with the Governor, Commissioner of Revenue, Director of OMB, and various other State officials seeking to identify a method of rectifying our problems.

House Bill 204, introduced by Representative Swackhammer, contains modifications to Alaska Statute 14.11.100 that will eliminate one of the major roadblocks. I urge you in the strongest possible terms to lend your support in obtaining passage on this piece of legislation.

Passage of this legislation will restore to local governments the flexibility in structure to their bonded debt to schools in order to better cope with diminishing cash flows from the State. Your cooperation in this matter will be greatly appreciated.

Sincerely,

*Dorothy A. Jones*  
Dorothy A. Jones *uj*  
Mayor

VR:ld



April 2, 1987

The Honorable C.E. Swackhammer  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811


RE: House Bill 204

Dear Representative Swackhammer:

House Bill 204 relating to state aid for school construction by amending AS 14.11.100(j) provides the flexibility needed by municipalities to fund annual debt service. I support the bill and thank you for working to reduce the impact of impending revenue reduction.

Sincerely,

CITY OF KODIAK



JOHN R. PUGH  
Mayor

JRP:RAD/mhd

cc: The Honorable Jan Faiks  
The Honorable Don Bennett  
The Honorable John (Jack) Coghill  
The Honorable Fred Zharoff  
The Honorable Cliff Davidson



# Fairbanks North Star Borough

Mayor: Juanita Helms

March 31, 1987

Honorable C.E. Swackhammer  
Alaska State Legislature  
Pouch V  
Juneau AK 99811

Dear Representative Swackhammer:

I would like to offer my support for House Bill No. 204, which you recently introduced, relating to state aid for school construction.

Local municipalities have been hard hit the past two years and this bill would allow them the ability to carefully assess their option toward cash flow relief.

Again, I would like to reiterate my support for HB 204, and appreciate your timely introduction of this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Juanita Helms".

JUANITA HELMS  
Borough Mayor

JH:al

cc: Interior Legislative Delegation



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100

You asked that we update House Research Agency memorandum 85-233, "School Construction Costs FY 79 - FY 85," to include fiscal years 1986 and 1987. The following tables, 8 through 15, contain the updated information that you requested. (Tables 1 through 7 in the original memorandum are unchanged by the addition of this information so are not included in this memorandum.) Tables 8 and 9 are new tables and provide State payments for debt service reimbursement to the city and borough districts for fiscal years 1986 and 1987. Tables 10 through 15 use the same format as used in tables 8 through 13 in the original memorandum except that fiscal years 1986 and 1987 have been included.

Tables 8 and 9. Table 8 contains FY 86 State payments to reimburse city and borough districts for school bond debt service payments. Table 9 projects the State payments to city and borough districts for FY 87. Each district's entitlement is reduced by its cigarette tax payment. If a district's debt service is insufficient to offset its cigarette tax payment, the cigarette tax payment is included as a State payment to the district.

Table 10. This table provides a summary of State payments for reimbursement of city and borough debt service payments for fiscal years 1979 through 1987.

Tables 11 and 12. These tables contain capital appropriations for school repair and construction for fiscal years 1979 through 1987. Fiscal Year 1987 appropriations have been adjusted to reflect budget restrictions imposed by Governor Sheffield.

Table 13. Table 13 contains municipal grants to city and borough districts for FY 81 (the first year grants to municipalities were authorized) through FY 87. As with capital appropriations, the FY 87 municipal grant appropriations have been adjusted to reflect Governor Sheffield's budget restrictions.

Representative Larson  
February 4, 1987  
Page 2

Table 14. Table 14 summarizes the debt retirement payments, capital appropriations and municipal grants for school construction made to city and borough school districts from FY 79 through FY 87.

Table 15. This table ranks Alaska's school districts according to the State's contribution to construction funding per average ADM for the period FY 79 through FY 87.

I hope you find this information useful. Should you need additional research, please contact the agency.

JL

Attachments

TABLE 8  
School District Debt Retirement FY 86

School District	Total District Entitlement	Less FY 84 Cigarette Tax	District Entitlement Pro Rata @ 96.9078
Anchorage	\$24,777,370	\$1,069,038	\$22,975,223
Bristol Bay	676,839	11,959	644,321
Cordova	282,379	18,651	255,573
Craig	0	9,784	9,784
Dillingham	258,549	19,203	231,945
Fairbanks	13,763,500	306,306	13,041,071
Galena	53,116	10,247	41,543
Haines	146,989	18,480	124,535
Hoonah	0	12,136	12,136
Hydaburg	0	7,268	7,268
Juneau	6,750,865	134,083	6,412,178
Take	0	11,205	11,205
Kenai	16,014,986	225,209	15,301,526
Ketchikan	3,238,163	84,391	3,056,251
King Cove	78,837	9,038	67,641
Klawock	0	9,968	9,968
Kodiak	6,415,689	74,996	6,144,626
Mat-Su	14,489,254	178,290	13,868,440
Nenana	223,702	10,544	206,567
Nome	0	29,540	29,540
North Slope	19,037,435	53,934	18,396,493
Pelican	0	5,733	5,733
Petersburg	1,039,061	23,027	984,616
Sand Point	0	8,461	8,461
Sitka	643,113	56,326	568,642
Skagway	11,146	10,387	736
St. Mary's	0	9,677	9,677
Tanana	0	7,333	7,333
Unalaska	238,986	10,543	221,379
Valdez	3,030,321	33,917	2,903,749
Wrangell	916,409	20,222	868,475
Yakutat	0	10,113	10,113

Source: Department of Education, Division of Management, Law and Finance.

Note: If the school district has insufficient local debt with which to offset the cigarette tax, the cigarette tax payment made two years previously is included in the pro-rata district entitlement column.

Prepared by the House Research Agency, February 1987 (debt86;010787-08).

TABLE 9  
Projected School District Debt Retirement FY 87

School District	Total District Entitlement	Less FY 84 Cigarette Tax	District Entitlement Pro Rata @ 89.0
Anchorage	\$29,176,969	\$1,079,068	\$25,007,132
Bristol Bay	445,859	11,389	386,678
Cordova	637,288	17,524	551,590
Craig	0	9,211	9,211
Dillingham	228,818	20,132	185,731
Fairbanks	15,065,339	307,232	13,134,715
Galena	200,145	10,101	169,139
Haines	183,323	17,287	147,772
Hoonah	0	11,488	11,488
Hydaburg	0	7,776	7,776
Juneau	6,929,048	130,529	6,050,682
Kake	0	11,479	11,479
Kenai	24,973,664	224,383	22,026,860
Ketchikan	4,243,394	77,678	3,707,487
King Cove	26,313	8,587	15,776
Klawock	0	9,180	9,180
Kodiak	5,838,344	72,057	5,131,995
Mat-Su	21,693,292	202,659	19,126,663
Nenana	27,700	9,404	16,283
Nome	883,990	29,122	760,833
North Slope	12,934,404	52,718	11,464,701
Pelican	0	5,344	5,344
Petersburg	755,520	21,977	652,853
Sand Point	0	7,457	7,457
Sitka	2,911,075	52,770	2,543,891
Skagway	0	8,587	8,587
St. Mary's	0	8,345	8,345
Tanana	0	7,171	7,171
Unalaska	241,258	9,749	206,043
Valdez	3,186,960	31,198	2,808,628
Wrangell	909,154	18,966	792,267
Yakutat	0	9,432	9,432

Source: Department of Education, Division of Management, Law and Finance.

Note: If the school district has insufficient local debt with which to offset the cigarette tax, the cigarette tax payment made two years previously is included in the pro-rata district entitlement column.

Prepared by the House Research Agency, February 1987 (debt87;010787-08).

TABLE 10

Summary of School Debt Reimbursement  
 City and Borough School Districts  
 FY 1979- FY 1987

School District	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87	Total Debt Service Reimbursement
Anchorage	\$9,944,228	\$9,739,145	\$11,446,809	\$9,914,812	\$10,600,508	\$18,552,237	\$17,368,912	\$22,975,223	\$25,007,132	\$135,549,006
Bristol Bay	115,702	66,666	83,934	18,033	248,427	369,613	348,873	644,321	386,678	2,282,247
Cordova	88,853	79,773	100,172	107,594	92,023	105,881	102,702	255,573	551,590	1,484,161
Craig	0	0	8,870	9,615	9,494	10,673	27,579	9,784	9,211	85,226
Dillingham	0	52,527	25,773	56,244	289,767	19,752	171,456	231,945	185,731	1,033,194
Fairbanks	3,423,535	2,950,046	4,682,779	4,264,639	3,957,939	10,572,624	12,235,372	13,041,071	13,134,715	68,262,720
Galena	41,472	8,900	19,591	8,861	38,899	45,998	310,177	41,543	169,139	684,581
Haines	59,180	62,281	79,347	76,815	70,287	71,383	45,375	124,535	147,772	736,975
Hoonah	0	0	12,648	11,940	11,480	13,013	30,578	12,136	11,488	103,283
Hydaburg	0	0	6,641	7,234	6,451	7,589	15,585	7,268	7,776	56,544
Juneau	951,494	906,071	750,591	716,130	596,430	6,862,038	6,459,259	6,412,178	6,050,682	29,704,873
Kake	20,226	17,842	10,044	10,243	10,047	12,037	28,579	11,205	11,479	131,702
Kenai	2,935,930	2,752,344	5,137,595	5,305,047	4,976,771	14,689,874	14,297,498	15,301,526	22,026,860	87,423,445
Ketchikan	445,871	474,445	633,000	829,553	579,141	2,497,585	2,850,188	3,056,251	3,707,487	15,073,521
King Cove	0	45,686	8,032	7,904	8,147	9,412	21,189	67,641	15,776	183,787
Klawock	0	0	5,250	5,517	5,793	7,149	15,683	9,968	9,180	58,540
Kodiak	283,949	317,600	616,090	634,491	409,500	3,080,245	5,581,074	6,144,626	5,131,995	22,199,591
Mat-Su	1,702,318	2,013,834	3,366,634	3,886,096	3,649,216	10,130,371	10,328,641	13,868,440	19,126,663	68,072,264
Menana	17,614	16,569	37,045	12,520	10,231	9,956	26,007	206,567	16,283	352,822
Nome	0	223	28,617	28,100	22,872	34,787	90,256	29,540	760,833	995,228
North Slope	1,427,177	2,385,356	8,874,459	9,197,724	9,635,035	18,269,302	17,415,286	18,396,493	11,464,701	97,065,933
Pelican	0	0	4,539	4,535	4,779	5,000	9,293	5,733	5,344	39,223
Petersburg	27,194	268,710	417,198	491,695	539,307	874,758	779,415	984,616	652,853	5,280,746
Sand Point	0	0	0	8,081	7,684	9,064	19,222	8,461	7,457	59,969
Sitka	339,460	430,335	400,861	657,758	658,421	1,019,581	242,348	568,642	2,543,891	6,861,298
Skagway	12,142	14,700	14,588	16,219	23,035	21,530	7,972	736	8,587	119,509
St. Mary's	76,559	0	43,963	8,486	8,424	9,522	21,532	9,677	8,345	186,508
Tanana	0	0	0	0	0	0	0	7,333	171	14,504
Unalaska	1,103	0	8,364	8,203	9,145	144,184	215,201	221,379	206,043	813,622
Valdez	103,004	1,484,242	1,604,466	1,993,931	2,716,220	3,117,975	4,056,164	2,903,749	2,808,628	20,788,379
Wrangell	10,799	2,485	45,261	82,855	63,803	161,514	322,277	868,475	792,267	2,349,736
Yakutat	0	0	8,165	8,049	8,473	28,130	14,785	10,113	9,432	87,147

Source: Department of Education, Division of Management, Law and Finance.

Notes: FY 1987 debt service reimbursements are estimated.

Prepared by the House Research Agency, February 1987 (sundre; 010787-08).

TABLE 11  
 Capital Appropriations For School Construction  
 Regional Educational Attendance Areas  
 FY 1979-1987

School District	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87	Total App.	Average	Total	
										FY 79-87	ADM	Approp. Per ADM	
Adak	\$2,000,000	\$0	\$0	\$0	\$480,800	\$0	\$0	\$0	\$50,000	\$2,530,800	585	\$4,326	
Alaska Gateway	2,615,000	144,000	1,529,200	3,610,300	145,000	2,250,000	7,900,000	0	200,000	18,393,500	453	40,584	
Aleutian	2,417,400	0	0	2,630,600	1,800,000	0	1,462,000	600,000	0	8,910,000	124	72,113	
Annette	0	0	4,392,500	1,100,000	120,000	0	0	1,000,000	0	6,612,500	364	18,144	
Bering Strait	13,310,700	0	4,666,000	8,934,300	2,200,000	2,340,000	4,300,000	0	0	35,751,000	821	43,552	
Chatham	1,900,000	0	1,251,000	1,216,000	435,500	1,950,000	1,450,000	493,700	0	8,696,200	257	33,779	
Chugach	0	1,600,000	0	0	0	160,000	2,170,000	325,000	0	4,255,000	83	51,541	
Copper River	0	81,500	1,200,000	75,000	1,134,600	0	1,400,000	3,000,000	575,000	7,466,100	547	13,652	
Delta/Greely	40,000	865,100	0	3,800,000	85,000	0	3,460,000	734,600	0	8,984,700	901	9,974	
Iditarod	5,693,500	829,300	2,711,000	2,357,500	250,000	3,200,000	4,300,000	50,000	856,300	18,247,600	325	56,089	
Kuspuk	4,656,500	605,000	8,438,700	5,630,000	230,000	1,000,000	1,640,000	0	0	22,200,200	334	66,401	
Lake & Peninsula	5,252,700	406,900	4,305,900	2,594,800	3,983,400	0	420,000	0	900,000	17,863,700	351	50,878	
Lower Kuskokwim	24,815,700	1,151,100	12,432,000	7,331,000	300,000	6,149,000	8,785,000	3,000,000	200,000	64,163,800	2,143	29,947	
Lower Yukon	5,770,500	1,670,800	3,741,000	5,012,200	1,631,800	0	3,421,000	200,000	0	21,447,300	1,214	17,660	
Northwest Arctic	12,211,400	542,900	10,658,700	10,091,500	0	2,550,000	0	2,000,000	4,400,000	42,454,500	1,466	28,966	
Pribilof	1,000,000	0	445,000	115,000	200,000	0	0	0	0	1,760,000	163	10,768	
Railbelt	3,400,000	401,000	2,735,000	0	100,000	500,000	2,500,000	0	0	9,636,000	338	28,528	
Southeast Island	571,000	0	856,000	776,000	0	1,590,000	1,353,000	635,000	105,600	5,886,600	378	15,568	
Southwest Region	6,420,900	0	2,392,000	5,523,200	1,000,000	2,035,000	1,750,000	0	50,000	19,171,100	486	39,474	
Yukon Flats	2,485,100	1,665,000	2,672,500	3,148,500	1,070,000	500,000	6,155,000	2,400,000	0	20,096,100	321	62,583	
Yukon Koyukuk	7,536,000	400,000	1,575,000	1,339,000	3,420,000	1,000,000	2,739,000	100,000	55,800	18,164,800	541	33,597	
Kashunamiut									0	0	0	162	0
Yupit									0	0	0	288	0

Notes: FY 81 appropriations include a \$75,000 municipal grant to Stebbins (Bering Strait) and a \$75,000 municipal grant to Ruby (Yukon-Koyukuk).  
 FY 82 appropriations includes municipal grants totaling \$71,000 to Eagle and Tanacross (Alaska Gateway), a grant of \$8,840,000 to Kotzebua (Northwest Arctic) and a \$35,000 municipal grant to Mulatto (Yukon-Koyukuk).  
 FY 83 appropriations include municipal grants totaling \$200,000 awarded to Stebbins and Koyuk (Bering Straits).  
 FY 85 appropriations include an \$808,300 municipal grant to Teller (Northwest Arctic).  
 FY 87 appropriations reflect Governor's budget restrictions imposed September 1986.  
 Kashunamiut and Yupit became school districts in FY 86.

Source: Department of Transportation and Public Facilities, Central Regional Office; Department of Education, Division of Management, Law and Finance; Summaries of Legis'lative Appropriations, FY 79-FY 87.

TABLE 12

Capital Appropriations FY 1979-FY 1987  
City and Borough School Districts

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87	Total App. FY 79-FY 87
Anchorage	\$0	\$150,000	\$3,180,000	\$0	\$0	\$17,121,500	\$0	\$0	\$0	\$20,451,500
Bristol Bay	0	600,000	0	0	0	0	0	0	0	600,000
Cordova	0	0	0	0	0	0	0	0	400,000	400,000
Craig	1,250,000	0	2,949,000	0	0	0	0	941,000	100,000	5,240,000
Dillingham	0	4,135,000	0	1,984,000	0	190,000	2,800,000	0	0	9,109,000
Fairbanks	0	0	10,000	0	1,859,900	2,691,600	0	0	0	4,561,500
Galena	0	65,000	0	0	0	0	3,000,000	0	0	3,065,000
Haines	245,000	250,000	1,332,000	1,089,200	0	0	34,000	0	0	2,950,200
Hoonah	0	0	0	0	0	0	0	0	0	0
Hydaburg	0	0	0	0	0	0	90,000	15,000	0	105,000
Juneau	0	0	2,500,000	0	0	0	2,250,000	0	0	4,750,000
Kenai	500,000	20,000	0	0	0	0	2,516,000	0	0	3,036,000
Kenai	0	0	0	0	0	0	0	0	0	0
Ketchikan	0	0	0	1,250,000	500,000	0	0	545,000	0	2,295,000
King Cove	0	0	0	0	0	0	3,200,000	0	0	3,200,000
Klawock	0	150,000	1,628,000	1,628,000	0	0	0	800,000	50,000	4,256,000
Kodiak	2,638,100	118,600	1,460,000	2,000,000	0	0	0	100,000	0	6,316,700
Mat-Su	0	340,000	225,000	0	106,705	2,000,000	30,000	0	0	2,701,705
Nenana	0	0	102,000	1,400,000	900,000	1,300,000	5,800,000	0	0	9,502,000
Nome	500,000	100,000	1,850,000	1,500,000	0	0	5,000,000	0	2,500,000	11,450,000
North Slope	400,000	0	0	0	0	0	0	0	0	400,000
Pelican	0	0	0	0	0	0	0	0	0	0
Petersburg	0	0	0	0	610,000	0	3,500,000	0	0	4,110,000
Sand Point	0	0	0	8,000,000	0	0	0	0	0	8,000,000
Sitka	0	0	0	0	0	0	0	0	0	0
Skagway	2,500,000	0	0	2,230,000	0	1,500,000	1,500,000	0	0	7,730,000
St. Mary's	0	208,000	2,035,000	2,000,000	200,000	200,000	750,000	0	0	5,393,000
Tanana	0	0	0	0	0	0	150,000	0	0	150,000
Unalaska	0	0	0	0	318,000	0	0	0	0	318,000
Valdez	0	0	0	0	0	0	0	0	0	0
Wrangell	3,000,000	250,000	1,500,000	0	0	6,000,000	0	0	0	10,750,000
Yakutat	0	0	0	0	400,000	0	2,250,000	300,000	0	2,950,000

Source: Department of Transportation and Public Facilities, Central Regional Offices; Department of Education, Division of Management, Law and Finance; Summaries of Legislative Appropriations FY 79 - FY 87. FY 87 appropriations have been revised to reflect the budget revisions of 9/86.

Prepared by the House Research Agency, February 1987. (approp87; 010787-08).

TABLE 13

## Municipal Grants FY 1981-FY 1987

## School Construction

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87	Total Grants FY 81-FY 87
Anchorage	\$4,048,000	\$28,618,500	\$29,335,100	\$50,000	\$50,407,300	\$22,467,000	\$35,000	\$138,960,900
Bristol Bay	0	0	0	0	300,000	0	70,000	370,000
Cordova	0	130,000	0	0	0	100,000	0	230,000
Craig	0	600,000	50,000	85,000	0	0	0	735,000
Dillingham	1,620,000	0	0	0	0	0	0	1,620,000
Fairbanks	0	2,626,000	3,156,200	1,875,000	7,617,000	1,876,200	224,000	17,374,400
Galena	100,000	0	0	0	0	0	0	100,000
Haines	0	0	0	186,000	0	30,000	0	216,000
Hoonah	600,000	0	295,500	1,500,000	2,012,500	0	0	4,408,000
Hydaburg	0	3,829,200	0	0	0	0	0	3,829,200
Juneau	0	0	0	3,500,000	0	0	0	3,500,000
Kake	0	0	0	0	0	0	0	0
Kenai	0	0	0	0	10,000	100,000	32,000	142,000
Ketchikan	0	0	0	250,000	750,000	0	0	1,000,000
King Cove	0	0	0	0	0	0	0	0
Klawock	0	0	0	0	0	0	0	0
Kodiak	0	0	450,000	463,000	900,000	2,000,000	0	3,813,000
Mat-Su	0	7,860,300	4,233,000	125,000	8,678,100	1,010,000	0	21,906,400
Nenana	0	0	25,000	0	0	0	0	25,000
Nome	0	0	0	496,500	0	0	0	496,500
North Slope	0	0	0	0	463,500	0	0	463,500
Pelican	0	0	533,000	0	0	0	0	533,000
Petersburg	0	2,100,000	0	287,000	23,874	0	0	2,410,874
Sand Point	0	0	0	0	0	0	0	0
Sitka	0	2,905,178	1,923,000	0	1,587,000	70,000	0	6,485,178
Skagway	0	0	0	0	0	0	0	0
St. Mary's	165,000	0	0	0	0	150,000	0	315,000
Tanana	0	0	0	0	0	0	0	0
Unalaska	0	0	0	0	0	0	0	0
Valdez	0	0	0	0	0	0	0	0
Wrangell	0	530,000	0	0	0	0	0	530,000
Yakutat	0	160,000	0	0	0	0	0	160,000

Source: Department of Administration, Division of Administrative Services; Summaries of Legislative Appropriations FY 79-FY 87.  
FY 1987 grants have been adjusted to reflect the Governors budget restrictions imposed 9/86.

TABLE 14

Summary of Municipal Grants, Capital Appropriations and Debt Service  
 City and Borough School District  
 FY 1979-FY 1987

	Total Grants FY 81-FY 87	Total App. FY 79-FY 87	Debt Service Reimbursement FY 79- FY 87	Total State Contributions FY 79-FY 87	Av. ADM FY 79-FY 87	State Contributions Per Ave. ADM
Anchorage	\$138,960,900	\$20,451,500	\$135,549,006	\$294,961,406	37,310	\$7,906
Bristol Bay	370,000	600,000	2,282,247	3,252,247	213	15,245
Cordova	230,000	400,000	1,484,161	2,114,161	427	4,949
Craig	735,000	5,240,000	85,226	6,060,226	163	37,154
Dillingham	1,620,000	9,109,000	1,033,194	11,762,194	403	29,187
Fairbanks	17,374,400	4,561,500	68,262,720	90,198,620	11,672	7,728
Galena	100,000	3,065,000	684,581	3,849,581	149	25,778
Haines	216,000	2,950,200	736,975	3,903,175	376	10,372
Hoonah	4,408,000	0	103,283	4,511,283	228	19,815
Hydaburg	3,829,200	105,000	58,544	3,992,744	94	42,376
Juneau	3,500,000	4,750,000	29,704,873	37,954,873	4,263	8,904
Kake	0	3,036,000	131,702	3,167,702	198	15,998
Kenai	142,000	0	87,423,445	87,565,445	6,809	12,861
Ketchikan	1,000,000	2,295,000	15,073,521	18,368,521	2,355	7,801
King Cove	0	3,200,000	183,787	3,383,787	118	28,622
Klawock	0	4,256,000	58,540	4,314,540	123	34,983
Kodiak	3,813,000	6,316,700	22,199,591	32,329,291	2,109	15,327
Mat-Su	21,906,400	2,701,705	68,072,264	92,680,369	6,069	15,271
Menana	25,000	9,502,000	352,822	9,879,822	158	62,707
Nome	496,500	11,450,000	995,228	12,941,728	752	17,202
North Slope	463,500	400,000	97,065,933	97,929,433	1,061	92,280
Pelican	533,000	0	39,223	572,223	46	12,350
Petersburg	2,410,874	4,110,000	5,280,746	11,801,620	570	20,721
Sand Point	0	8,000,000	59,969	8,059,969	113	71,609
Sitka	6,485,178	0	6,861,298	13,346,476	1,621	8,233
Skagway	0	7,730,000	119,509	7,849,509	164	47,960
St. Mary's	315,000	5,393,000	186,508	5,894,508	101	58,490
Tanana	0	150,000	14,504	164,504	77	2,143
Unalaska	0	318,000	813,622	1,131,622	158	7,182
Valdez	0	0	20,788,379	20,788,379	802	25,921
Wrangell	530,000	10,750,000	2,349,736	13,629,736	471	28,938
Yakutat	160,000	2,950,000	87,147	3,197,147	156	20,436

Source: Tables 10, 12 and 13.

TABLE 15

Ranking of State Contributions for School Construction  
City and Borough School Districts and REAA'S  
FY 1979 - FY 1987

Rank	Type of District	District	State Contributions Per Ave. ADM	Rank	Type of District	District	State Contributions Per Ave. ADM
1	C&B	North Slope	\$92,280	32	REAA	Lower Yukon	\$17,660
2	REAA	Aleutian	72,113	33	C&B	Nome	17,202
3	C&B	Sand Point	71,609	34	C&B	Kake	15,998
4	REAA	Kuspuk	66,401	35	REAA	Southeast Island	15,568
5	C&B	Nenana	62,707	36	C&B	Kodiak	15,327
6	REAA	Yukon Flats	62,583	37	C&B	Mat-Su	15,271
7	C&B	St. Mary's	58,490	38	C&B	Bristol Bay	15,245
8	REAA	Iditarod	56,089	39	REAA	Copper River	13,652
9	REAA	Chugach	51,541	40	C&B	Kenai	12,861
10	REAA	Lake & Peninsula	50,878	41	C&B	Pelican	12,350
11	C&B	Skagway	47,960	42	REAA	Pribilof	10,768
12	REAA	Bering Strait	43,552	43	C&B	Haines	10,372
13	C&B	Hydaburg	42,376	44	REAA	Delta/Greely	9,974
14	REAA	Alaska Gateway	40,584	45	C&B	Juneau	8,904
15	REAA	Southwest Region	39,474	46	C&B	Sitka	8,233
16	C&B	Craig	37,154	47	C&B	Anchorage	7,906
17	C&B	Klawock	34,983	48	C&B	Ketchikan	7,801
18	REAA	Chatham	33,779	49	C&B	Fairbanks	7,728
19	REAA	Yukon Koyukuk	33,597	50	C&B	Unalaska	7,182
20	REAA	Lower Kuskokwim	29,947	51	C&B	Cordova	4,949
21	C&B	Dillingham	29,187	52	REAA	Adak	4,326
22	REAA	Northwest Arctic	28,966	53	C&B	Tenana	2,143
23	C&B	Wrangell	28,938	54	REAA	Kashunamiut	0
24	C&B	King Cove	28,622	55	REAA	Yupit	0
25	REAA	Railbelt	28,528				
26	C&B	Valdez	25,921				
27	C&B	Galena	25,778				
28	C&B	Petersburg	20,721				
29	C&B	Yakutat	20,436				
30	C&B	Hoonah	19,815				
31	REAA	Annette	18,144				

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ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
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- Are there states which fund school construction through direct capital appropriation?
- Are there states which fund school construction through an administrative process?

In the case of states which use an administrative process to fund local school construction, we were also asked to provide examples of statutes used to authorize these programs.

We contacted the Education Commission of the States and obtained survey and descriptive information on the methods used by states to fund school construction. In addition, we contacted state education agencies in Alabama, Illinois, Indiana, Minnesota, Missouri, Nevada, Pennsylvania, South Carolina, Vermont, Washington, and Wisconsin to obtain specific information on school construction aid programs in these states.

#### Direct Legislative Appropriations

We have found only one example of a state other than Alaska which funds school construction through direct capital appropriation. Hawaii has only one school district, a statewide district, through which all school construction is funded. The Hawaii Legislature funds this construction on a project by project basis. According to Kay Jones of the Hawaii Department of Education, a statewide list of priorities is developed by the Department of Education; instructional space needs and facility rehabilitation are given top priority. Ms. Jones stated

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that the legislature generally follows the recommendations of the Department of Education with regards to the order of the projects. However, the department does not recommend the overall funding level; this is determined by the legislature. Ms. Jones noted that the legislature has occasionally funded projects which were not at the top of the priority list; however, these were few in number and usually involved less expensive additions such as recreational facilities and auditoriums, not major projects such as new schools.

In addition, Alabama funds school construction by state bond issues. The Alabama Legislature identifies school projects to be included on the ballot proposition placed before the voters; however, voter approval of the bond issue is required before the projects are funded. While this is not a direct legislative appropriation, the executive branch of government is not involved in the project selection process.

We encountered no other instances where states funded local school construction through direct legislative appropriation. However, we have contacted only eleven states directly. The remainder of our information is derived from two reports provided by the Education Commission of the States (ECS). Neither of these studies contains any reference to the use of direct capital appropriation as a method of providing state aid to local school construction. However, it is not clear that either of the studies intended to address nonadministrative programs for school construction assistance.

#### Administrative Methods of Funding School Construction

There appear to be six general methods used by states to fund local school construction: full state assumption of costs; cost sharing on a percentage basis; flat grants for school construction; an equalization funding system; low interest loan programs; and the creation of an independent authority which leases school facilities to local districts. In this section, we will provide a brief description of each method of school construction assistance, including examples of states which have implemented such programs.

At the end of each description, a list of the possible advantages and disadvantages of the program is provided. This list is derived from a survey article on school construction financing in the Journal of Education Finance.<sup>1</sup> For additional information on state school construction funding programs, we refer you to the article, which is

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<sup>1</sup> Richard Salmon and Stephen Thomas, Journal of Education Finance, "Financing Public School Facilities in the 80's," Volume 17, No. 1, Summer 1981, pp. 88-109.

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provided as Attachment A. In addition, we have provided an appendix which contains authorizing statutes from other states for each type of program.

Full State Support. Under full state support programs, the state undertakes to fund all capital and debt service expenditures associated with the construction of local schools. Full support programs do not always pay for the entire cost of school construction. If the amount of funds available from the state is less than the cost of all planned construction, local districts may have to supplement state funding or cancel projects. In the case of Hawaii, with a single, statewide school district, local governments may supplement school construction funds by donating equipment or locating recreational facilities adjacent to schools. The source of state funding may be legislative appropriation, as in the case of Hawaii, the sale of bonds, a dedicated fund, or from some combination of all three.

States with full support programs generally have a mechanism for determining the capital needs of local districts. As noted earlier, Hawaii develops a priority list giving first preference to instructional space needs, with needs such as recreational facilities given less weight. Florida develops an annual allocation for each school district based on projection of school facility needs, the district's school bond debt, and the district's ability to obtain funding from other sources.

In the appendix, we have included the statutes from Florida authorizing its full state support program.

Advantages:       there is a high degree of fiscal equalization among districts;

                  the local districts avoid over-taxing a single revenue source by using the state's greater access to revenue source;

                  the state can develop an allotment mechanism based on need;

                  there are savings in the bond market resulting from consolidation of bond issues into a single state issuance; and

                  the long delays and costs that may be incurred by local bond referendums are avoided.

Disadvantages: there is an additional concentration of power and control of public schools at the state level;

the unique need of varying localities may not be recognized because of uniformity among facilities within the state;

there may be less experimentation and innovation in local school facilities; and

needed facilities may be unnecessarily delayed due to the competition for resources at the state level.

Percentage-Matching. A percentage-matching state support program provides local school districts with assistance for school construction according to the amount contributed by the local district. Alaska has such a program, but only for the organized boroughs and first-class and home rule cities. Under these programs, the state defines the allowable costs to be used when determining the amount of school construction aid, and then pays a percentage of the total cost, a percentage of the local district's debt service, or both. Such expenses as site acquisition, architectural fees, and moveable equipment may or may not be included when calculating the total cost of the project for the purpose of providing aid.

In Vermont, the state contributes 30 percent of the audited cost of local school construction, not including site acquisition or moveable equipment. In addition, the state also pays for 20 percent of all principal and interest payments made by local districts for school bonds or short-term school construction loans. The statutes authorizing this program have been included in the appendix.

Advantages: initiation of school construction projects remains the prerogative of local school districts;

the state, through use of a project approval process, can encourage cost-effective construction practices; and

state assistance reduces the dependency on local resources.

Disadvantages: school districts with the greatest revenue bases benefit the most from such programs;

substantial resources may be required from the state to meet its percentage-match obligation; and

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school districts without significant facility needs would not benefit from state assistance.

Flat-Rates. Some states reimburse local school districts for school construction costs based on a fixed amount per unit. This unit may be the average attendance of the district, the rated capacity of the facility, or the square footage of the project. The significant feature of a flat-rate support program is that it does not take into account the revenue capacity of the district, the level of local expenditure, or the need for the capital project.

In South Carolina, the Department of Public Instruction provides each district with \$30 per year for every student enrolled in the district. According to Dr. Henry Hollingsworth, with the Department of Public Instruction, South Carolina pays approximately \$18 million per year for school construction to the local district. This covers about 20 percent of the cost of school construction in the state. There is currently a proposal in the South Carolina Legislature to increase the amount per student to \$127 annually next year, with the amount to fluctuate over the next several years, leveling off at \$80 per year.

In Indiana, every district receives a grant of \$40 per registered student each year. The school district must apply this money to any debt service obligations; if there is a remainder, it may be transferred to the district's general fund. We have included the Indiana statute authorizing this program in the appendix.

Advantages: the control of school building programs remains at the local level;

some measure of equalization is provided since money is provided irrespective of the local contribution;

the flat-rate grants reduce the school district's dependency on local revenue sources; and

the program is easily administered, as it has a simple allocation formula.

Disadvantages: programs may not provide sufficient funds to finance projects; and

programs may not take into account the building needs of each district.

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Equalization Aid. Equalization programs for state support of local school construction seek to provide a varying level of aid to different districts based on the district's ability to generate revenue. Thus, they seek to equalize the local districts' ability to finance school construction. Equalization support programs have two principal features: a method of determining the base amount of funding to be used, and a formula for calculating an equalization rate to be applied to the base amount of support to determine the actual amount of aid.

The equalization rate invariably includes some calculation which divides a number representing the size of the district's tax base by some measure of the size of the school system. A district with a large tax base will have lower ratio of reimbursement than a district of equal size with a small tax base. This may not be the only factor in calculating the equalization rate, however. The State of Washington includes projections of student growth and an inventory of existing buildings in the calculation of the district's equalization rate.

States use a variety of methods to determine the initial aid amount which is to be multiplied by the district's equalization ratio. Pennsylvania uses the student capacity of the project to determine the number used with the equalization ratio. For example, if a school district is building a high school with a capacity of 700, then the aid rate per student of \$3,000 is multiplied by 700 to derive a base aid rate of \$2.1 million. This is then multiplied by the district's equalization ratio. If the district had an equalization ratio of .5, it would receive \$1.05 million in aid for the school project.

Washington, on the other hand, uses a percentage match system in conjunction with its equalization program. Depending on the resources and needs of the district, the state reimburses between 20 and 90 percent of the cost of school construction projects.

The authorizing statutes for the Washington, Pennsylvania, and Wisconsin programs have been included in the appendix.

**Advantages:** comparable school facilities are available to districts independent of the capacity of the district to generate revenue; and

reduced need for local revenues for school construction allows municipalities to expend more on other needs.

**Disadvantages:** for the program to be effective, the state must fund the full amount needed for eligible school construction.

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Loans. In addition to providing grants to local school districts for school construction, states may also provide low-interest loans. Loans may be funded through direct appropriation, or the state may establish a revolving loan fund. State loans are generally not charged against the local school district's debt limit for bonding purposes. Some states may make loans available to any district, while some states may have provisions which favor needier districts. The amount of funds available to districts through state loans is usually modest.

Minnesota has a low-interest loan program established to assist newly emerging school districts and districts in areas of rapid population growth. According to Ron Laliberte, with the Minnesota Department of Education, these districts may be faced with a substantial school population before the local tax base has developed sufficiently to support the district's construction needs. Eligibility is determined by computing the taxable property valuation of the district per student. He noted that very few districts qualify for the program because their property valuation is too high.

In Minnesota, the loan program is funded by legislative appropriation. According to Mr. Laliberte, there have been no loans given out in the last two years due to a lack of appropriations from the legislature. There are currently no plans to reactivate the program.

Arkansas has a revolving loan program which makes approximately \$350,000 available annually for loans to local school districts at 6 percent interest. The loans are generally for six years, and the district is required to levy taxes to pay off the principal and interest in this period. Indiana has one loan program which makes a total of \$1.5 million available annually to school districts for school construction loans at an interest rate one percent below the current bond market rate. It also has a Veterans' Memorial School Construction Fund which makes a small amount of loans available at one percent interest rates.

We have included the statutes authorizing school construction loan programs from Indiana and Minnesota in the appendix.

**Advantages:** loan programs provide an economical way for local districts to borrow funds;

loans from the state are not generally charged against the district's debt limit;

the time required to obtain loans is generally less than for bonding; and

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the state, through an approval process, can encourage cost effective construction practices.

**Disadvantages:** state loan funds are frequently limited and provide only a small portion of the funds needed for school construction;

equalization of resources may not be addressed, depending on the structure of the program;

establishment of a loan fund may direct the attention of the legislature away from other, more substantial methods of funding school construction; and

local control of the schools may be diluted by the state approval process.

Authorities. The final method used by states is the establishment of a nonprofit corporation or building authority which issues the bonds for construction of school facilities, retains ownership of the facilities, and leases them to the local school districts. This method is usually used to bypass state limits on local bonded indebtedness by having another party issue the bonds. Generally, the school district is deeded the facility after the lease payments have covered the costs of the bonds.

Kentucky uses this method of school financing, provided districts have levied the maximum general fund tax rate, levied a local tax sufficient to be eligible for their equalization program, submitted a balanced budget and have no current or projected deficit in either general or capital construction funds; and have completed a facilities survey within the last five years.

In the appendix, we have included the Kentucky and Pennsylvania statutes authorizing the creation of building authorities.

**Advantages:** building authorities offer a method of evading tax and debt restrictions imposed by state law or the state constitution;

state, local, and federal revenues may be used by the school district to pay for the rental costs of the schools; and

building authorities may enable local school districts to acquire funds for construction without voter approval.

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Disadvantages: the creation of building authorities ignores the real problems of funding schools by circumventing tax and debt limitations;

building authorities generally use revenues bonds to finance school construction; these bonds have higher interest rates than general obligation bonds; and

the public's right to voter approval of school construction is circumvented by authorities.

In addition to the statutes included in the appendix and the article on school construction financing that is Attachment A, we have also attached to this memorandum a matrix chart prepared by the Education Commission of the States (Attachment B) which shows the operating and capital funding methods for the fifty states. For your purposes, the headings which run horizontally across the page are the pertinent categories; the vertical axis pertains to methods of funding operational expenditures. Unfortunately, the chart does not include information on states which permit building authorities.

There is a table in Attachment A which does show methods of capital funding by states and does include information on authorities; however, our telephone interviews have indicated that there are several inaccuracies in this table. It should be noted that we obtained information in our conversations with school officials in other states that was not in agreement with either chart. Therefore, while these summary tables provide somewhat useful indicators of the degree to which various types of programs are used, it appears likely that both contain at least some errors with regard to specific programs in individual states.

If you have any questions, or if we can provide further assistance, please do not hesitate to contact us.

JS

Attachments

APPENDIX

School Construction Finance Statutes

Florida  
Indiana  
Kentucky  
Minnesota  
Pennsylvania  
Vermont  
Washington  
Wisconsin

such contract adjustment following the end of the year following the end of the year... able to negotiate a satisfactory contractor first considered... the board determines to be reasonable, negotiations will be formally terminated. The... take negotiations with another... failing accord with the... board shall terminate... all then undertake negotiations... contractor until its original... election is made.

unable to negotiate a satisfactory of the originally selected... additional contractors and... accordance with this subsection... reached.

firm desiring to bid or receive... ce of any contract which... must first be certified by the... suant to law and rules of the... tion. The board shall be... e application for qualification... the application is presented... plication, the superintendent... ehalf of the board shall... examined and the statement... and, after obtaining whatever... is needed, shall determine... shall be recommended for... . If the applicant is found... qualifications, the superintendent... l recommend to the board... cation be issued. The board... tion of the superintendent... certificate of qualification... t time as it shall prescribe, b... however, the board may requ... ification for cause.

require all applicants to... at or president a statement... as as the board may prescribe... information with respect to... e, past performance record... ources, and capability, in... ward rules, together with... the board may deem necessary... may require that the applic... y a current financial statement... accountant certified in the... h standard reporting require... he state board. Financial... ured by such rules shall... not be disclosed to anyone... board and its staff who... lies as hereinafter provided... of qualification shall contain... ctual amount of work, in... h the applicant will be per... t with the board and not... e and may contain a statement... t to the submission of... a certain class of work... tions, the certificate of

shall authorize the holder to bid on all work in such bids are taken, or negotiate on all work in such contracts are negotiated, by the board during the period of time therein specified.

Any applicant for a certificate of qualification approved by the action of the board may, within 10 days after receiving notification of such action, request in writing a reconsideration by the board of the application and submit additional evidence of qualification. The board shall thereupon reconsider the application and may adhere to, modify, or reverse its original action. The board shall act upon any request for reconsideration within 30 days after the filing thereof and shall immediately notify the applicant of the action taken.

No contractor shall be qualified to bid or negotiate when an investigation by an agent or designee of the board discloses that such contractor is delinquent on a contract previously awarded by the board, and in such case, the certificate of qualification may be suspended or revoked by the board. The board may suspend, for a specified period of time, or revoke on good cause any certificate of qualification. Any person or firm found delinquent on a contract or whose certificate is revoked or suspended shall be given the same benefit of appeal and reconsideration as provided in the case of an applicant refused an original certificate.

All general laws, population acts, special acts, and local acts authorizing the exercise of power in connection with the provisions of this section are hereby repealed.

1955, ch. 49-55, 1949; CGL, 1940 Supp. 693017; ss. 1, 2, ch. 57-100; ss. 119, ch. 65-239; ss. 15, 15, ch. 69-106, s. 1, ch. 69-300; ss. 1, 1, ch. 72-299; s. 16, ch. 77-458; s. 104, ch. 79-400; s. 9, ch. 80-100; ss. 1, 1, ch. 81-251, ss. 11, 14, ch. 82-240.

Chapter 72-299, July 1, 1965, pursuant to s. 52, ch. 61-223, s. 52 is subject to the Legislature prior to that date. Expires July 1, 1965, pursuant to s. 52, ch. 61-223, s. 52, that date.

The word "or" was substituted by the editors for the word "and."

235.12 Educational plants construction (funds); Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

The commissioner, through the office, shall administer the Public Education Capital Outlay and Debt Service Trust Fund. The commissioner shall provide for timely encumbrances of funds for duly authorized projects. The commissioner shall provide for the timely disbursement of moneys necessary to meet the encumbrance authorizations of the boards, including the Board of Regents, to plan, construct, and equip facilities which have been approved by the State Board of Education. Records shall be maintained by the office to identify legislative appropriations, State Board of Education allocations, encumbrance authorizations, disbursements, transfers, investments, sinking funds, and revenue receipts by the Department of Education shall pay the administrative costs of the Public Education Capital Outlay and Debt Service Trust Fund from the funds which comprise the trust fund.

The Public Education Capital Outlay and Debt Service Trust Fund shall be comprised of the following sources, which are hereby appropriated to the trust fund:

Proceeds, premiums, and accrued interest from the sale of public education bonds and that portion of

the revenues accruing from the gross receipts tax as provided by s. 9A(1)(2), Art. XII of the State Constitution, as amended, interest on investments, and federal interest subsidies.

All student building fees and capital improvement fees collected, or to be collected, by the Board of Regents, except that portion that may be required for debt service and reserve requirements. Funds for such fees not required to pay prior lien amounts at each university for debt service administration pursuant to previous bond resolutions shall be deposited in the Public Education Capital Outlay and Debt Service Trust Fund within 30 days after collection.

That portion of federal revenue-sharing funds appropriated for educational facilities construction.

Any other funds for educational facilities construction, including all federal grants and donations.

All capital outlay funds previously appropriated and certified forward pursuant to s. 216.301.

(b) There is hereby appropriated from the trust fund all certifications forward to this fund and all previous allocations by the Board of Regents from student building and capital improvement fees. All future allocations, transfers, or increases for projects funded from student building and capital improvement fees shall be by legislative appropriation.

However, any funds required by law to be segregated or maintained in separate accounts shall be segregated or maintained in such manner that the relationship between program and revenue source is retained. Nothing in this subsection shall be construed so as to limit the use by the Public Education Capital Outlay and Debt Service Trust Fund of the resources of funds so segregated or maintained.

(3) Upon the request of each board, the office shall distribute to the board an amount sufficient to cover capital outlay disbursements anticipated from encumbrance authorizations for the following month. For projects costing in excess of \$50,000, contracts shall be approved and signed before any disbursements are authorized.

(4) The office may authorize each board to enter into contracts for a period exceeding 1 year, within amounts appropriated and budgeted for fixed capital outlay needs; but any contract so made shall be executory only for the value of the services to be rendered, or agreed to be paid for, in succeeding fiscal years. This subsection shall be incorporated verbatim in all executory contracts of a board.

(5) No board shall, during any fiscal year, expend any money, incur any liability, or enter into any contract which, by its terms, involves expenditure of money in excess of the amounts appropriated and budgeted or in excess of the cash that will be available to meet the disbursement requirements. Prior to entering into an executory, or any other, contract, a board shall obtain certification from the office that moneys will be available to meet the disbursement requirements. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no payment shall be made thereon.

(6) The State Board of Administration is authorized to invest the trust funds of any state-supported retirement system, and any other state funds available for loans, to the trust fund at a rate of interest

that is no less favorable than would have been received had such moneys been invested in accordance with authorized practices.

(7) Boards authorized to participate in the trust fund are district school boards, the community college district boards of trustees, the Trustees of the Florida School for the Deaf and the Blind, the Board of Regents, and other units of the state system of public education, and other educational purposes authorized by the Legislature.

(8)(a) The office shall make a monthly report, by project, of requests for encumbrance authorization from each agency. Each project shall be tracked in the following manner:

1. The date the request is received;
2. The anticipated encumbrance date requested by the agency;
3. The date the project is eligible for encumbrance authorization; and
4. The date the encumbrance authorization is issued.

In addition, the office shall make a monthly report of the amount of cash disbursed to the agency from each appropriated allocation and the amount of cash disbursed by the agency to vendors or contractors from each appropriated allocation, by month.

(b) In addition, the office shall make a monthly report showing updated adjustments to the budget fiscal year forecast for appropriations, encumbrances, disbursements, and cash available for encumbrance status.

History.—s. 14, ch. 74-374, s. 7, ch. 75-292, s. 3, ch. 76-280, s. 1, ch. 77-174, s. 21, ch. 77-454, s. 108, ch. 79-199, s. 30, ch. 81-223, s. 140, ch. 81-279, ss. 12, 14, ch. 82-240.

Note.—Expires July 1, 1985, pursuant to s. 14, ch. 82-240, and is subject to review by the Legislature pursuant to s. 51, ch. 81-223, prior to that date.

Note.—The words "costing in excess of" were substituted by the editors for the word "over."

**235.435 Funds for comprehensive educational plant needs.**—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(1)(a) Funds for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities shall be given priority consideration by the Legislature for appropriations allocated to the boards, including the Board of Regents, from the total amount of the Public Education Capital Outlay and Debt Service Trust Fund appropriated. These funds shall be calculated pursuant to the following basic formula: the building value times the building age over the sum of the years' digits assuming a 50-year building life. For relocatable facilities, a 20-year life shall be used. "Building value" is calculated by multiplying each building's total assignable square feet times the appropriate net-to-gross conversion rate found in state board rules and that product times the current average new construction cost. "Building age" is calculated by multiplying the prior year's building age times 1 minus the prior year's sum received from this subsection divided by the prior year's building value. To the net result shall be added the number 1. Each board shall receive the percentage generated by the preceding formula of the total amount appropriated for the purposes of this section.

(b) The provisions of chapters 230, 235, 236, 255, and 287 to the contrary notwithstanding, the remodeling, renovation, maintenance, repair, and site improvement projects funded under this section are exempt from day-labor limitations, performance bond requirements for projects costing less than \$25,000, the Consultants' Competitive Negotiation Act selection process for projects costing less than \$100,000, and the requirement of prior approval of plans and specifications by the Office of Educational Facilities. This exemption does not relieve each board, including the Board of Regents, of the duty and responsibility of ensuring compliance with all requirements of the State Uniform Building Code for Educational Facilities, or other applicable codes, for all remodeling, renovation, maintenance, repair, and site improvement performed or for the prudent management and efficient expenditure of all funds received pursuant to this section.

(c) Each board, including the Board of Regents, shall not use the funds received pursuant to this section to supplant funds in the current fiscal year approved operating budget, and all budgeted funds shall be expended at a rate not less than would have been expended had the funds under this section not been received.

(d) Each board, including the Board of Regents, shall maintain its effort for expenditures for remodeling, renovation, maintenance, repair, and site improvement for the budget fiscal year at not less than the level included in the approved operating budget for the current fiscal year.

(e) Each remodeling, renovation, maintenance, repair, or site improvement project will expand or upgrade current educational plants to prolong the useful life of the plant.

(f) Each board, including the Board of Regents, shall not reduce employment for the remodeling, renovation, maintenance, repair, and site improvement projects that are already budgeted in its current fiscal year approved operating budget.

(g) Each board, including the Board of Regents, shall maintain fund accounting in a manner which will permit a detailed audit of the funds expended in this program.

(h) Remodeling projects shall be based on the recommendations of a survey pursuant to s. 235.15.

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. The request must meet the following criteria to be considered by the committee:

1. The project must be recommended in the mo

ons of chapters 230, 235, 236, 237, contrary notwithstanding, the maintenance, repair, and renovation funded under this section shall be subject to the following labor limitations, performance standards for projects costing less than \$100,000: Competitive Negotiation process for projects costing less than \$100,000; requirement of prior approval of the Board of Regents, of the duty of ensuring compliance with all applicable codes, for renovation, maintenance, repair, and site improvement; prudent expenditure of all funds available under this section.

including the Board of Regents, and received pursuant to this section in the current fiscal year as budgeted, and all budgeted funds shall be expended at a rate not less than would have been the case if the funds under this section were available at the beginning of the fiscal year.

including the Board of Regents, for expenditures for remodeling, maintenance, repair, and site improvement in the current fiscal year at not less than the amount provided in the approved operating budget for that year.

remodeling, renovation, maintenance, and site improvement project will expand the use of educational plants to prolong the useful life of the plant.

including the Board of Regents, for the remodeling, renovation, repair, and site improvement project already budgeted in its current fiscal year operating budget.

including the Board of Regents, and accounting in a manner which shall be subject to a regular audit of the funds expended thereunder.

projects shall be based on the results of a survey pursuant to s. 235.15. The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in accordance with the provisions of paragraph (a) of this subsection, to be known as the "Conservation and Renewable Energy Construction Account." The department shall allocate construction funds to school districts for urgent construction needs based on the resources at present, and cannot be met by other sufficient resources within the current fiscal year, for these purposes from the following sources of revenue. A school district shall submit one specific request to the Special Facility Construction Committee. The request must meet the following criteria: (1) The project must be recommended in the

current survey or surveys by the district under the rules of the State Board of Education.

(c) The district must not have sufficient funds available in total from all capital outlay sources that would allow the district to raise the total estimated cost of the project by itself.

(d) There must be a certification from the Office of Educational Facilities of the inability of the district to pay for the project within 3 years from the total amount available from all capital outlay sources and that the project is recommended by survey.

(e) There must be a certification from the Office of Educational Facilities that the plans for the project are completed and approved.

(f) There must be an agreement signed by the district board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the office.

(g) If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility Construction Account to be reallocated to other projects on the list. However, an additional 30 days may be granted by the commissioner.

(h) The Special Facility Construction Committee shall be composed of the following: two representatives of the Department of Education, a representative from the Governor's office, a representative selected annually by the school boards, and a representative selected annually by the superintendents.

(i) The committee shall review the requests submitted from the districts, evaluate the projects' ability to relieve critical needs, and rank the requests in priority order. The committee shall subtract from the total amount of the project the total amount of funds generated by the requesting district from all sources including the 2-mill levy for the next 3 fiscal years. The resultant sum shall be the amount eligible to be funded by the Legislature. This statewide priority list for special facilities construction shall be submitted to the Legislature in the legislative budget request at least 45 days prior to the legislative session.

(j) Each district school board shall receive an amount from the Public Education Capital Outlay and Debt Service Trust Fund to be calculated by computing instruction units as defined in s. 235.02(1). The number of base units as of fiscal year 1967-1968 shall be computed; the number of growth units up to and including fiscal year 1978-1979 shall be computed; and the number of new growth units from fiscal year 1979-1980 through the prior fiscal year shall be computed. From the total amount appropriated by the Legislature pursuant to this subsection, an equal amount shall be allocated to base units, growth units, and new growth units. The allocation for each of the three groups shall be prorated among the districts in the same percentage that a district's units for each group are to the total units for that group for all district school boards. Each district school board shall receive the sum of all three calculations of instructional units.

(k) Funds accruing to a district school board from the provisions of this section shall be expended on capital projects as shown by survey or surveys under the rules of the State Board of Education.

(c) Funds allocated to each board in fiscal year prior to 1981-1982 may be spent on projects as defined in paragraph (b).

(d) Funds distributed to the district school boards shall only be allocated based on the provisions of paragraphs (1)(a) and (2)(a) and paragraph (a) of this subsection. No individual school district projects shall be funded off the top of funds allocated to district school boards.

(4)(a) The department shall establish, as part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined annually by the Legislature, to be known as the "Conservation and Renewable Energy Construction Account." The Conservation and Renewable Energy Construction Account shall be used to provide funding to school districts, community colleges, and universities to identify and upgrade energy-inefficient characteristics and equipment in existing facilities.

(b) Projects eligible for funding from the Conservation and Renewable Energy Construction Account are:

1. The purchase and installation of meters or other monitoring equipment designed to measure energy demand or consumption at the building level.

2. Technical assistance in the form of engineering design alternatives work for installation of energy-saving equipment or equipment using renewable energy.

3. The purchase and installation of energy-saving equipment or equipment using renewable energy.

(c) Eligibility and priorities for funding from the Conservation and Renewable Energy Construction Account shall be determined by the office in accordance with rules adopted by the State Board of Education. At a minimum, these rules shall assure that:

1. Boards, including the Board of Regents, which qualify for hardship funding under the criteria of the federal institutional building grants program are given first priority for funding from the Conservation and Renewable Energy Construction Account.

2. Projects eligible for federal or other supplemental energy-related funding are given a higher priority than projects not eligible for such funding.

3. Building audits are performed in a manner which assures that each building audited is eligible for supplemental funding from the institutional building grants program.

4. Funding for technical assistance or for purchase and installation of energy-saving equipment or equipment using renewable energy is available solely to boards, including the Board of Regents, which have audited and adequately metered all appropriate buildings.

Certification of the standing of a project with regard to its eligibility for federal funding shall be provided to the office by the agency responsible for administering the institutional building grants program.

(5)(a) The boards of trustees of the community colleges and the Board of Regents of the State University System shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legisla-

five budget request at least 45 days prior to the legislative session. The Division of Community Colleges shall submit a 3-year priority list for the entire State Community College System. The Board of Regents shall submit a 3-year priority list for the entire State University System. The lists shall reflect decisions by the boards concerning program priorities that implement the statewide plan for program growth and quality improvement in education. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

(b) The boards of trustees of the community colleges and the Board of Regents shall receive funds for remodeling, renovation, maintenance and repairs, and site improvement for existing satisfactory facilities pursuant to subsection (1).

History.— s. 7, ch. 71-345; s. 24, ch. 74-227; s. 16, ch. 74-374; s. 12, ch. 75-292; s. 1, ch. 75-293; s. 1, ch. 77-174; s. 1, ch. 77-175; s. 24, ch. 77-458; s. 4, ch. 79-426; s. 1, ch. 79-427; s. 11, ch. 79-485; s. 7, ch. 80-378; s. 9, ch. 80-414; s. 35, 50, 2, ch. 81-223; s. 1, ch. 82-137; s. 7, 14, ch. 82-240.

Note.— Expires July 1, 1985, pursuant to s. 52, ch. 81-223; s. 52 is subject to review by the Legislature prior to that date. Expires July 1, 1985, pursuant to s. 52, ch. 81-223. Provides that such repeal (expiration) is subject to review by the Legislature pursuant to s. 54, ch. 81-223. Expires July 1, 1985, pursuant to s. 52, ch. 81-223, and is subject to review by the Legislature pursuant to s. 54, ch. 81-223, prior to that date.

Note.— The amendment of this section by s. 7 of ch. 82-240 during the special session of March 29 and 31, 1982, failed to incorporate the amendment of the same section by s. 14 of ch. 82-137 during the regular session. Although the circumstance that separate sessions were involved takes the transaction out of the operation of s. 191, there was no apparent legislative intent to nullify the amendment from the regular session. Therefore, the section as published gives effect to both amendments.

Note.— The words "energy-saving equipment or equipment using renewable energy" were substituted by the editors for the words "such equipment."

Note.— Former s. 236.094.

CHAPTER 236

FINANCE AND TAXATION, SCHOOLS

- 236.1223 Additional categorical funds for teaching writing skills.
- 236.25 District school tax.
- 236.261 Levy based on interim assessment roll; reimbursement to state for additional taxes collected upon reconciliation of roll.

236.1223 Additional categorical funds for teaching writing skills.—

(1) This act shall be known as the "Jack Gordon Writing Skills Act of 1982."

(2) Any school district which establishes a separate course for teaching writing skills, or which demonstrates that teaching writing skills is a primary emphasis in English courses included in its existing curriculum and required as a prerequisite for graduation, may receive categorical funds as provided in this section in addition to the funds it receives from the Florida Education Finance Program.

(3) To be eligible to receive funds under this section, a school district shall certify to the Department of Education:

(a) That instruction in writing skills is provided in classes which contain no more than 25 students per teacher and no teacher who teaches writing skills as part of the instruction in an English class that is a

class required by the school district as a prerequisite for graduation teaches more than 100 students per day; however, the Commissioner of Education may approve alternative staffing plans, on an annual basis, submitted by a local district for those schools wherein there is a demonstrated lack of classroom space or a showing is made that the total instructional program requires teachers to instruct classes in English and another subject or subjects;

(b) The number of full-time equivalent students as defined in s. 236.013(2) who are enrolled in the basic 10-12 program and who receive instruction in writing skills as provided in paragraph (a);

(c) That it has complied with all criteria established by the Department of Education pursuant to this section.

(4) The Commissioner of Education shall establish specific criteria for determining whether the teaching of writing skills is a primary emphasis in an existing English course which a school district has required to be a prerequisite for graduation. Included in the criteria shall be a requirement that a student in such course write not less than one essay, report story, or other work product each week of class.

(5) The annual allocation to each district that is eligible to receive funds under this section shall be distributed to each such district by the Department of Education in the following manner:

(a) The school district shall receive an amount equal to 0.05 times the average number of students enrolled in such writing classes per day during survey weeks times the basic 10-12 program weight used in the Florida Education Finance Program times the Base Student Allocation used in the Florida Education Finance Program.

(b) If the number of dollars generated by using the formula provided in paragraph (a) for all eligible districts exceeds the appropriation made by the Legislature for the year, the department shall prorate each district's share of the appropriation.

History.— s. 1, 2, ch. 82-217

236.25 District school tax.—

(1) Each school board desiring to participate in the state allocation of funds for current operation as prescribed by s. 236.091(6) shall levy on the nonexempt assessed valuation for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for 1982/1983, pursuant to s. 236.091(4)(a)1., plus 1.5 mills. However, in no event shall the nonvoted discretionary millage of a district exceed 25 percent of the millage which is required pursuant to s. 236.091(4);

(2)(a) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than a 2-mill equivalent against the nonexempt assessed valuation for school purposes to fund:

1. New construction and remodeling projects, as set forth in s. 235.435(3)(b), without regard to the prioritization in that section, sites and site improve-

ment or expansion of school facilities, or ancillary facilities.

2. Maintenance of school plants.

(b) Maintenance of school plants, including plant current expenditures for maintenance, renovation, or replacement, shall be subject to the provisions of s. 236.091, Laws of Florida.

3. School bus replacement.

(c) Any school district pursuant to this subsection provided in s. 196.033 to

(d) The 2-mill equivalent shall be a rate computed pursuant to s. 236.091, mill levy for 1981-1982-1983.

(e) These taxes shall be collected as prescribed by s. 236.091.

(f) Nothing in s. 236.091 shall be construed to increase levies as provided for in

History.— s. 1925, ch. 19-277; s. 1, ch. 75-293; s. 1, ch. 77-174; s. 1, ch. 77-175; s. 24, ch. 77-458; s. 4, ch. 79-426; s. 1, ch. 79-427; s. 11, ch. 79-485; s. 7, ch. 80-378; s. 9, ch. 80-414; s. 35, 50, 2, ch. 81-223; s. 1, ch. 82-137; s. 7, 14, ch. 82-240.

Note.— Expires July 1, 1985, pursuant to s. 52, ch. 81-223, prior to that date.

236.261 Levy based on interim assessment roll; reimbursement to state for additional taxes collected upon reconciliation of roll.—

Year in which the base is guaranteed to school district funds, a school district on an interim assessment shall reimburse the state for the additional taxes collected during the interim period with the district's share of the state funds. The reimbursement date of the supply shall be the date of the supply. The district shall withhold all funds other than the amount of the reimbursement from the appropriation for the Finance Program of the state and shall completely reimburse the state.

History.— s. 7, ch. 82-226

CHAPTER 237  
FINANCIAL EXPENDITURES

- 237.151 Current loan conditions.
- 237.152 Obligations to state.
- 237.153 School funds deposited into deposit accounts.
- 237.211 School deposits and withdrawals.

237.151 Current loan conditions.— For purposes of this section, funds are estimated to

Indiana General Assembly of 1947" following "any school building corporation created pursuant to the provisions of."

Separability. Section 14 of Acts 1953, ch. 141, reads: "In case any section or provision or part of this act or application thereof shall be declared unconstitutional or invalid, it shall not in any way affect any other section, provision or part hereof or any other application hereof."

Repeals. Section 15 of Acts 1953, ch. 141, reads: "All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby repealed or superseded to the extent of such in-

consistency and so far as necessary to conform to and give full force and effect to the provisions of this act."

Section 11 of Acts 1973, P. L. 234, reads: "IC 1971, 21-1-4-14 is hereby repealed."

Emergencies. Section 16 of Acts 1953, ch. 141 declared an emergency. Approved March 11, 1953.

Section 3 of Acts 1957, ch. 18 declared an emergency. Approved February 25, 1957.

Section 12 of Acts 1973, P. L. 234 declared an emergency. Approved April 10, 1973.

#### 21-1-4-14. [Repealed.]

Compiler's Note. This section (Acts 1957, ch. 18, § 2, p. 30), a saving clause,

was repealed by Acts 1973, P. L. 234, § 11.

### CHAPTER 5

#### COMMON SCHOOL FUND BUILDING COMMISSION— ADVANCEMENTS TO CONSOLIDATED SCHOOLS—DISASTER LOSS

SECTION.		SECTION.	
21-1-5-1.	Advancements to consolidated school corporations—Application of act.	21-1-5-6.	Petition for advancement—Contents.
21-1-5-2.	Eminent domain by certain school corporations—Limitation on size of area taken—Replacement of damaged buildings.	21-1-5-7.	Advancement not obligation of school corporation—Constitutional limitation on indebtedness unaffected by advancement.
21-1-5-3.	Commission authorized to make advancements.	21-1-5-8.	Tax levy in debt service fund authorized—Transfer to general fund.
21-1-5-4.	Qualifications necessary for advancement.	21-1-5-9.	Priority of advancements.
21-1-5-5.	Length of time of advancement—Interest rate.	21-1-5-10.	Allocation of funds in government securities.

21-1-5-1 [28-81-1]. Advancements to consolidated school corporations—Application of act.—The provisions of this act [21-1-5-1—21-1-5-10] shall apply to those school corporations organized and formed through reorganization under ch. 123, of the Acts of 1947 [20-4-5-1—20-4-5-14], as now or hereafter amended, ch. 226 of the Acts of 1949 [20-4-8-1—20-4-8-26], as amended, and ch. 202 of the Acts of 1959 [20-4-1-2—20-4-1-40], as now or hereafter amended. Provided, That whenever any local school corporation in the state of Indiana has suffered loss by fire, wind, cyclone or other disaster, of all or the major part of its school building or buildings then the provisions of this act shall apply, notwithstanding any other provisions to the contrary. [Acts 1959, ch. 379, § 1, p. 1030; 1961, ch. 49, § 1, p. 96; 1965, ch. 210, § 1, p. 480.]

Compiler's Note. The words "Funds; Common School Funds" which preceded the chapter designation in the Code were omitted by the compiler.

Title of Act. The title of Acts 1959, ch. 379, reads: "An act authorizing advancements from the Indiana common

school fund by the Indiana common school fund building commission to certain consolidated school corporations to be used for the purpose of purchasing real estate, constructing school buildings and equipping such buildings." In force March 14, 1959.

so far as necessary to give full force and effect to this act."

of Acts 1973, P. L. 234, 271, 21-1-4-14 is hereby re-

Section 16 of Acts 1953, declared an emergency. Approved April 11, 1953.

of Acts 1957, ch. 18 declared an emergency. Approved February

of Acts 1973, P. L. 234 declared an emergency. Approved April 10,

by Acts 1973, P. L. 234,

#### COMMISSION— L.S.—DISASTER LOSS

petition for advancement — Contents.

advancement not obligation of school corporation — Constitutional limitation on indebtedness unaffected by advancement.

tax levy in debt service fund authorized — Transfer to general fund.

priority of advancements. Allocation of funds in government securities.

consolidated school corporations act [21-1-5-1—21-1-5-2] organized and formed by Acts of 1947 [20-4-5-1—20-4-5-2] of the Acts of 1949 [21-1-5-1—21-1-5-2] of the Acts of 1959 [21-1-5-1—21-1-5-2] amended. Provided, That the state of Indiana has suffered, of all or the more, then the provisions of this act apply to the provisions to the constitution, ch. 49, § 1, p. 96; 1965,

by the Indiana common school building commission to certified school corporations to the purpose of purchasing and constructing school buildings of such buildings." In force

Titles of Amendatory Acts. The title of Acts 1961, ch. 49, reads: "An act to amend section 1 of an act entitled '[Here follows title of 1959 Act]' approved March 14, 1959; and by adding a new and additional section to said act to be numbered section 1a wherein certain limitations and procedures for procurement of land on which to construct school buildings is prescribed."

The title of Acts 1965, ch. 210, reads: "An act to amend sections 1 and 4 of an act entitled '[Here follows title of 1959 Act]' as amended."

Amendments. As originally enacted this section read: "The provisions of this act shall apply only to those consolidated school corporations that have an average daily attendance not less than two hundred and seventy resident pupils in grades nine through twelve, as reported to the state superintendent of public instruction and which, subsequent to the effective date of this act, have been organized and formed by the consolidation of two or more school townships or by the consolidation of one or more school townships and a school city, school town, or consolidated school corporation in existence at the time of the effective date of this act. As used in this act the term 'consolidated school corporation' shall mean any school corporation where the original units have lost their individual corporate identity and shall not

mean and include any joint school corporation."

The 1961 amendment inserted the present proviso following the former first sentence.

The 1965 amendment placed this section in its present form.

Emergency. Section 3 of Acts 1961, ch. 49 declared an emergency. Approved March 6, 1961.

Cross-Reference. Veterans memorial school construction fund advancements for school construction where losses incurred through fire, wind, cyclone or other disaster, 21-1-11-3.1.

Opinions of Attorney-General. The Brown County school corporation organized by consolidation prior to the effective date of the above statute does not qualify for a loan under the 2½% Loan Act. The statute applies solely to school corporations organized by consolidation subsequent to its effective date. 1960, No. 15, p. 79.

If the county school corporation of Brown County is reorganized pursuant to provisions of the act above, the Indiana common school fund building commission could accept applications for loan from such school corporation. The purpose of this legislation seems to be to encourage larger school units. 1960, No. 15, p. 79.

21-1-5-2 [28-4008]. Eminent domain by certain school corporations — Limitation on size of area taken — Replacement of damaged buildings. — Whenever a school corporation has suffered loss by fire, wind, cyclone or other disaster of all or the major part of its school building or buildings then provisions of limitation shall be fixed as follows:

Any such school corporation seeking to exercise its right of eminent domain under the existing laws of the state of Indiana for the purpose of obtaining land for use in reconstruction of such destroyed school building, or buildings, or to replace the same, shall not be authorized to condemn more than twice the acreage now set by the state board of education as its minimum acreage requirement for the particular type of school building so destroyed and being replaced. In determining such acreage, any lands already owned by such school corporation which adjoin any part of the tract or acreage out of which some additional acreage is sought to be condemned shall be used in computing the total acreage for the reconstruction of such school building under the above provisions. The need of such school building shall be subject to judicial review in the court where such condemnation action is filed, and may, at the request of either party be tried either by the court or a jury before appraisers are appointed with full rights of appeal, by either party, from such interlocutory finding. This act shall be supplemental to any existing law and repeals by implication any act or parts of acts in conflict therewith. [Acts 1959, ch. 379, § 1a, as added by Acts 1961, ch. 49, § 2, p. 96.]

Compiler's Notes. Since this section is added as a section to "Acts 1959, ch. 379" it would seem that the words "this act" would refer to such entire act compiled as 21-1-5-1—21-1-5-10.

By Acts 1959, ch. 379, § 1 (21-1-5-1), this section applies only to the following school corporations: consolidated school corporations under 20-4-5-1—20-4-5-14; county school corporations under 20-4-8-

1—20-4-8-11; metropolitan school corporations under 20-4-8-12—20-4-8-26 and community school corporations under 20-4-1-2—20-4-1-10.

Emergency. Section 3 of Acts 1961, ch. 49 declared an emergency. Approved March 6, 1961.

Cross-Reference. Eminent domain by school corporations. 20-5-23-1—20-5-23-4.

#### Collateral References

Right to condemn property in excess of needs for a particular public purpose. 6 A. L. R. (3d) 297.

21-1-5-3 [28-815]. Commission authorized to make advancements. --The commission on general education of the Indiana state board of education created pursuant to the provisions of IC 1971, 20-1-1 [20-1-1-1—20-1-1-5] is hereby authorized to advance sums of money to consolidated school corporations from the Indiana common school fund to be used by such school corporations for the purchase of real estate, the construction of school buildings and the equipment of such buildings, subject to the limitations and conditions as prescribed in this chapter [21-1-5-1—21-1-5-10]. [Acts 1959, ch. 379, § 2, p. 1030; 1973, P. L. 234, § 9, p. 1211.]

Compiler's Note. Acts 1973, P. L. 234, § 8 is compiled as 21-1-4-13.

Amendment. The 1973 amendment at the beginning of the section substituted "The commission on general education of the Indiana state board of education created pursuant to the provisions of IC 1971, 20-1-1" for "The Indiana common school fund building commission" and at the end of the section substituted "chapter" for "act."

Opinions of Attorney-General. Where the Indiana common school fund building commission advances sums of money to consolidated school corporations from the Indiana common school fund it does not constitute an obligation of the school corporation within the meaning of the constitutional limitation against indebtedness. 1959, No. 22, p. 104.

Where the Indiana common school fund building commission advances sums

of money to consolidated school corporations from the Indiana common school fund, the prescribing of interest to be collected on the advancement is merely to meet the requirements of such constitutional provisions and to mitigate the loss of revenue by virtue of such change of investment of such common school fund and does not change the advancement into a loan or the creation of an indebtedness. 1959, No. 22, p. 104.

The Indiana common school fund building commission is authorized to advance sums of money to consolidated school corporations from the Indiana common school fund. The words "state school tuition fund" appearing in the first line of 21-1-5-7 should be construed to read "Indiana common school fund." 1959, No. 22, p. 104.

21-1-5-4 [28-816]. Qualifications necessary for advancement.—In order to qualify for an advancement under the provisions of this act [21-1-5-1—21-1-5-10], the consolidated school corporation is required to raise, either by a bond issue or by a cumulative fund tax levy or by both such bond issue and tax levy, a sum of money equivalent to not less than two per cent [2%] of the adjusted assessed valuation of its geographical district; and any advancement so made shall not exceed the sum of two thousand dollars [\$2,000] per pupil accommodated in the new structure less the sum of money raised by and made available to the corporation. [Acts 1959, ch. 379, § 3, p. 1030; 1963, ch. 321, § 1, p. 771.]

metropolitan school corporations, 20-1-8-12—20-1-8-26 and school corporations under 20-1-40.  
Section 3 of Acts 1961, ch. 210, an emergency. Approved  
Eminent domain by corporations, 20-5-23-1—20-5-23-4.

to make advancements. The Indiana state board of IC 1971, 20-1-1 advance sums of money Indiana common school for the purchase of real the equipment of such tions as prescribed in ch. 379, § 2, p. 1030;

consolidated school corporation Indiana common school describing of interest to be advancement is merely to urements of such constitu- ons and to mitigate the loss virtue of such change of h common school funds, ange the advancement the creation of an indebted- No. 22, p. 104.

common school fund build- is authorized to advance y to consolidated school from the Indiana common The words "state school appearing in the first line should be construed to read mon school fund." 1959, No.

for advancement.—In provisions of this act corporation is required tive fund tax levy or t money equivalent to ed assessed valuation ent so made shall not 00] per pupil accom- money raised by and ch. 379, § 3, p. 1030;

Title of Amendatory Act. The title of Acts 1963, ch. 321, reads: "An act to amend an act authorizing advancements from the Indiana common school fund by the Indiana common school fund building commission to certain consolidated school corporations to be used for the purpose of purchasing real estate, constructing school buildings and equipping such buildings."

Amendment. The 1963 amendment substituted "two thousand dollars" for "sixteen hundred dollars" following "shall not exceed the sum of."

Cross-Reference. Cumulative fund of school corporations, 21-2-6-1—21-2-6-3, 21-2-7-1, 21-2-8-1.

21-1-5-5 [23-817]. Length of time of advancement—Interest rate.—The money advanced pursuant to the provisions of this chapter [21-1-5-1—21-1-5-10] may be advanced for any period of time not exceeding twenty [20] years, and the receiving school corporation shall be required to pay interest, at the rate of not less than two and one half per cent [2½%] and not more than four per cent [4%] per annum, on the unpaid balance. In order to guarantee the payment of any advancement made, the state of Indiana is authorized in its sole discretion to withhold semi-annually from funds due to the school corporation an amount of money that could be raised by a tax levy not to exceed seventy-five cents [75c] on the adjusted valuation of the consolidated school corporation of such greater tax levy as shall be necessary to pay such advancement and interest in such twenty [20] year period, the exact sum to be fixed by the commission on general education of the Indiana state board of education at the time the advancement is negotiated by the school corporation: Provided, That in the case of any school corporation that currently has a loan hereunder such semi-annual withholding payment may be adjusted to conform with the provisions of this chapter. If available, such money should first be withheld from the distribution of the state school tuition fund: Provided, That if such distribution is not adequate, then money may be withheld from the distribution of other school funds. [Acts 1959, ch. 379, § 4, p. 1030; 1963, ch. 321, § 2, p. 771; 1965, ch. 210, § 2, p. 480; 1973, P. L. 234, § 10, p. 1211.]

Amendments. The 1963 amendment in the first sentence inserted "not less than" following "rate of" and inserted "and not more than four per cent" preceding "per annum"; and in the second sentence substituted "seventy-five" for "fifty" following "tax levy not to exceed."

The 1965 amendment in the second sentence substituted "in its sole discretion to withhold" for "but not limited to a withholding" following "authorized," inserted "of such greater tax levy as shall be necessary to pay such advancement and interest in such twenty year period" following "consolidated school corporation" and inserted the present first proviso.

The 1973 amendment substituted "chapter" for "act" wherever it appears and in the second sentence substituted "the commission on general education of the Indiana state board of education" for "the Indiana common school fund building commission" following "the exact sum to be fixed by."

Repeal. Section 11 of Acts 1973, P. L. 234, reads: "IC 1971, 21-1-4-14 is hereby repealed."

Emergencies. Section 3 of Acts 1965, ch. 210 declared an emergency. Approved March 9, 1965.

Section 12 of Acts 1973, P. L. 234 declared an emergency. Approved April 10, 1973.

Cross-Reference. State school tuition fund, 21-3-1-1—21-3-1-9.

Opinions of Attorney-General. The amount provided to be withheld from distribution under this section in an amount of money that could be raised by a tax levy of not less than seventy-five cents on the adjusted valuation of the consolidated school corporation is a mandatory minimum. 1964, No. 34, p. 183.

Where an agreement between the common school fund building commission and a school corporation was not finalized prior to August 12, 1963, the effective date of this act, the commission has

no authority subsequent to said date to agree to a repayment schedule at any lesser minimum rate than that prescribed in this section. 1964, No. 34, p. 183.

21-1-5-6 [28-818]. **Petition for advancement—Contents.**—Any consolidated school corporation desiring to obtain an advancement of funds pursuant to the provisions of this act [21-1-5-1—21-1-5-10] shall be required to submit a verified petition to the commission, said petition to contain the following information:

- (1) The date of the consolidation of the petitioning school corporation;
- (2) The average daily attendance of pupils in grades nine [9] through twelve [12];
- (3) The amount of money that has been raised and made available to the school corporation either by a bond issue or tax levy for the purpose of providing a cumulative building fund;
- (4) The amount of money needed and requested by the school corporation; and
- (5) Such other information as may be requested by the commission. [Acts 1959, ch. 379, § 5, p. 1030.]

**Cross-Reference.** Cumulative building fund of school corporation, 21-2-6-1—21-2-6-3, 21-2-7-1, 21-2-8-1.

21-1-5-7 [28-819]. **Advancement not obligation of school corporation—Constitutional limitation on indebtedness unaffected by advancement.**—Any such advancement out of the state school tuition fund shall not be an obligation of the school corporation within the meaning of the constitutional limitation against indebtedness. Nothing herein contained shall relieve the board of school trustees of any consolidated school corporation, receiving an advancement under the provisions of this act [21-1-5-1—21-1-5-10], of any obligation under the laws of this state to qualify such school corporation for state school tuition; and such board of school trustees shall continue to perform all the acts necessary to obtain such funds. Any consolidated school corporation receiving an advancement under the provisions of this act shall agree to have the total amount of money so advanced plus the semi-annual interest deducted from the semi-annual distribution of state school tuition support for a period of not to exceed twenty [20] years or until all of the money so advanced has been so deducted. The commission shall reduce the amount of each semi-annual distribution of state school tuition support to any consolidated school corporation which has received an advancement under the provisions of this act in an amount to be agreed upon by and between the commission and the consolidated school corporation. [Acts 1959, ch. 379, § 6, p. 1030.]

**Compiler's Note.** The "state school tuition fund" appearing in the first sentence of this section should be construed to read "Indiana common school fund." See 21-1-5-3 and Opinions of Attorney-General, 1959, No. 22, p. 104 set forth below.

**Opinions of Attorney-General.** Where the Indiana common school fund building commission advances sums of money to consolidated school corporations from the Indiana common school fund, it does

not constitute an obligation of the school corporation within the meaning of the constitutional limitation against indebtedness. 1959, No. 22, p. 104.

Where the Indiana common school fund building commission advances sums of money to consolidated school corporations from the Indiana common school fund, the prescribing of interest to be collected on the advancement is merely to meet the requirements of such constitutional provisions and to mitigate

maximum rate than that prescribed in 1964, No. 34, p. 183.

ment—Contents.—Any consolidated school corporation to obtain an advancement of such fund [21-1-5-1—21-1-5-10] from the commission, said corporation shall file with the commission a petitioning school corporation.

Such petitioning school corporation shall include in its petition the number of pupils in grades nine [9] through twelve [12] in the school corporation.

The amount of such advancement shall be raised and made available from the general fund or tax levy for the school corporation.

The amount of such advancement shall be requested by the school corporation.

The amount of such advancement shall be requested by the commission.

The provisions of this act shall not apply to the liquidation of school corporations which are unaffected by advancement of state school tuition fund within the meaning of this act. Nothing herein shall apply to the trustees of any consolidated school corporation under the provisions of this act.

For state school tuition; the commission shall continue to perform all the duties of the consolidated school corporation. The provisions of this act shall not apply to any advancement plus the semi-annual distribution of state school tuition funds which exceed twenty [20] years from the date when so deducted. The commission shall continue to perform all the duties of the consolidated school corporation. The provisions of this act shall not apply to any advancement between the commission and the school corporation. [Acts 1959, ch. 379, § 6, p. 1030.]

Such petitioning school corporation shall include in its petition the number of pupils in grades nine [9] through twelve [12] in the school corporation.

The amount of such advancement shall be raised and made available from the general fund or tax levy for the school corporation. The amount of such advancement shall be requested by the school corporation. The amount of such advancement shall be requested by the commission.

the loss of revenue by virtue of such change of investment of such common school funds, and does not change the advancement into a loan or the creation of an indebtedness. 1959, No. 22, p. 104.

The Indiana common school fund building commission is authorized to advance sums of money to consolidated school corporations from the Indiana common school fund. The words "state school tuition fund" appearing in the

first line of this section, should be construed to read "Indiana common school fund." 1959, No. 22, p. 104.

This section cannot be construed to authorize the commission to fix the amount of withholding from the semi-annual distribution without taking into account the other limitations and conditions imposed by 21-1-5-5, 1964, No. 34, p. 183.

**21-1-5-8 [28-820]. Tax levy in debt service fund authorized—Transfer to general fund.**—Any consolidated school corporation receiving an advancement from the Indiana common school fund under the provisions of this act [21-1-5-1—21-1-5-10] may annually levy a tax in the debt service fund sufficient to produce an amount equal to the amount deducted in the current year from the distribution of state school tuition fund for tuition purposes to pay principal and interest on any advancement from such fund under the provisions of this act. The amount received from such tax shall be transferred from the debt service fund to the general fund. [Acts 1959, ch. 379, § 7, p. 1030; 1967, ch. 336, § 1, p. 1282.]

Title of Amendatory Act. The title of Acts 1967, ch. 336, reads: "An act to amend an act authorizing advancement from the Indiana common school fund by the Indiana common school fund building commission to certain consolidated school corporations to be used for the purpose of purchasing real estate, constructing school buildings and equipping such buildings, in order to provide for repayment of advances to the treasurer of state by use of the debt service fund or the general fund and prescribing penalties." In force January 1, 1968.

Amendment. As originally enacted this section read: "Any consolidated school corporation receiving an advancement of state school tuition funds under the provisions of this act is hereby authorized to levy an annual tax on personal and real property located within the geographical limits of such school corporation for school purposes, at such rates as will produce revenue in an amount equal to the annual amount it would otherwise have received from the

distribution of state school tuition fund for tuition purposes had such consolidated school corporation not received an advancement from such fund under the provisions of this act, which tax shall be in addition to any other tax authorized by law to be levied for school purposes. Such rate hereby authorized may be levied, in addition to the maximum rates prescribed by law, for each year during which state school tuition funds are authorized to be withheld from such school corporation."

The 1967 amendment placed this section in its present form.

Effective Date. Section 2 of Acts 1967, ch. 336, reads: "This act shall be in full force from and after January 1, 1968: Provided, That it shall become effective July 1, 1967 for the purpose of preparing budgets and levying taxes for the calendar year of 1968."

Cross-Reference. Debt service fund, 21-2-4-1—21-2-4-6.

**21-1-5-9 [28-821]. Priority of advancements.**—Priority of advancements made under the provisions of this act [21-1-5-1—21-1-5-10] shall be made to the consolidated school corporations which have the least amount of adjusted assessed valuation per pupil in average daily attendance. [Acts 1959, ch. 379, § 8, p. 1030.]

**21-1-5-10 [28-822]. Allocation of funds in government securities.**—Any school corporation seeking funds from the Indiana common school fund may receive an allocation of not to exceed twenty-five per cent [25%] of the funds to be allocated in United States government

CHAPTER 4  
COMMISSION ON GENERAL EDUCATION

21-1-4-2 [28-802]. Administrative control.

**Compiler's Notes.** The statutory entity created by this section was abolished and all powers, duties and functions terminated, effective June 30, 1986, or on the date when all bonds, indebtedness and lease agreements outstanding on June 30, 1986, are retired, by 4-26-3-23(a).

CHAPTER 5  
COMMISSION ON GENERAL EDUCATION—ADVANCEMENTS  
TO CONSOLIDATED SCHOOLS—DISASTER LOSS

## SECTION.

21-1-5-3. Commission authorized to make advancements.

21-1-5-4. Qualifications necessary for advancement.

## SECTION.

21-1-5-5. Length of time of advancement — Interest rate.

**21-1-5-3 [28-815]. Commission authorized to make advancements.** — The commission on general education of the Indiana state board of education established under the provisions of IC 20-1-1 [20-1-1-1 — 20-1-1-6] is hereby authorized to advance sums of money to consolidated school corporations from the Indiana common school fund to be used by such school corporations for the purchase of real estate, the construction of school buildings and the equipment of such buildings and the remodeling, repairing, or improving of school facilities, subject to the limitations and conditions as prescribed in this chapter. However, a dollar limitation placed by the commission on the amount a school corporation may receive under this chapter is waived if:

(1) The school corporation has an adjusted assessed valuation per pupil ADA of less than eighteen thousand dollars [\$18,000];

(2) The school corporation's debt service tax rate would exceed one dollar fifty cents [\$1.50] per one hundred dollars [\$100] of assessed valuation without a waiver of the dollar limitation; and

(3) The school property tax control board recommends a waiver of the dollar limitation. [Acts 1959, ch. 379, § 2; 1973, P.L. 234, § 9; 1975, P.L. 246, § 1; 1980, P.L. 44, § 2.]

**Amendments.** The 1980 amendment inserted "and the remodeling, repairing, or improving of school facilities" in the first sentence, substituted "eighteen thousand dollars" for "eight thousand four hundred dollars" in subdivision (1), and substituted

"one dollar fifty cents" for "three dollars" in subdivision (2).

**Effective Dates.** Acts 1980, P.L. 44, § 6, declared an emergency. Approved March 3, 1980.

**21-1-5-4 [28-816]. Qualifications necessary for advancement.** — In order to qualify for an advancement under the provisions of this act, the consolidated school corporation is required to raise, either by a bond issue or by a cumulative fund tax levy or by both such bond issue and tax levy, a sum of money equivalent to not less than two percent [2%] of the adjusted assessed valuation of its geographical district; and any advancement so made shall not exceed the sum of four thousand dollars [\$4,000] per pupil accommodated in the new or improved structure less the sum of money raised by and made available to the corporation. [Acts 1959, ch. 379, § 3; 1963, ch. 321, § 1; 1980, P.L. 44, § 3.]

CHAPTER 4  
GENERAL EDUCATION

ive control.

all bonds, indebtedness and lease agreements outstanding on June 30, 1986, are retired, by 4-26-3-23(a).

CHAPTER 5  
EDUCATION—ADVANCEMENTS  
SCHOOLS—DISASTER LOSS

SECTION.

21-1-5-5. Length of time of advancement — Interest rate.

authorized to make advancements. of the Indiana state board of education of IC 20-1-1 [20-1-1-1 — 20-1-1-6] is of money to consolidated school corporation fund to be used by such school corporation for the construction of school buildings and the remodeling, repairing, or to the limitations and conditions as a dollar limitation placed by the corporation may receive under this chapter

adjusted assessed valuation per pupil dollars (\$18.00);

service tax rate would exceed one dollar dollars [\$100] of assessed valuation; and

board recommends a waiver of the 2: 1973, P.L. 234, § 9; 1975, P.L. 246,

"one dollar fifty cents" for "three dollars" in subdivision (2).

Effective Dates. Acts 1980, P.L. 44, § 6, declared an emergency. Approved March 3, 1980.

ns necessary for advancement. — In under the provisions of this act, the required to raise, either by a bond issue by both such bond issue and tax levy, than two percent (2%) of the adjusted district; and any advancement so thousand dollars [\$4,000] per pupil ved structure less the sum of money corporation. [Acts 1959, ch. 379, § 3;

Amendments. The 1980 amendment substituted "four thousand dollars (\$4,000)" for "two thousand dollars (\$2,000)" and inserted "or improved" preceding "structure."

Effective Dates. Acts 1980, P.L. 44, § 6, declared an emergency. Approved March 3, 1980.

21-1-5-5 [28-817]. Length of time of advancement — Interest rate. — The money advanced pursuant to the provisions of this chapter may be advanced for any period of time not exceeding twenty (20) years, and the receiving school corporation shall be required to pay interest on the unpaid balance. The commission on general education of the Indiana state board of education shall select a nationally recognized index of municipal bond averages and shall select a date not less than one (1) month nor more than two (2) months prior to the granting of advancements. The rate of interest shall be one percent (1%) less than the average published on the date closest to the selected date by the selected nationally recognized index, rounded down to the next lowest even percent. Such commission may determine that the rounding down should be to a fraction of a percent which is a multiple of either one-tenth ( $\frac{1}{10}$ ) or one-quarter ( $\frac{1}{4}$ ) of one (1%) percent. In order to guarantee the payment of any advancement made, the state of Indiana is authorized in its sole discretion to withhold from funds due to the school corporation an amount of money that shall be necessary to pay such advancement and interest in such twenty (20) year period, the exact sum to be fixed by the commission on general education of the Indiana state board of education at the time the advancement is negotiated by the school corporation: Provided, That in the case of any school corporation that currently has a loan hereunder such semi-annual withholding payment may be adjusted to conform with the provisions of this chapter. If available, such money should first be withheld from the distribution of the state school tuition fund: Provided, That if such distribution is not adequate, then money may be withheld from the distribution of other school funds. [Acts 1959, ch. 379, § 4; 1963, ch. 321, § 2; 1965, ch. 210, § 2; 1973, P.L. 234, § 10; 1980, P.L. 44, § 4.]

Amendments. The 1980 amendment deleted "at the rate of not less than two and one half percent and not more than four percent per annum" preceding "on the unpaid balance" in the first sentence; added the second, third, and fourth sentences; and deleted "semi-annually" following "discretion to withhold" and "could be raised by a tax levy

not to exceed seventy-five cents on the adjusted valuation of the consolidated school corporation or such greater tax levy as" preceding "shall be necessary" in the present fifth sentence.

Effective Dates. Acts 1980, P.L. 44, § 6, declared an emergency. Approved March 3, 1980.

CHAPTER 7

COMMON SCHOOL FUND (AND UNIVERSITY PERMANENT ENDOWMENT FUND)—COUNTY TRUST

SECTION.

21-1-7-16. [Repealed.]

21-1-7-20. Default in making payments.

21-1-7-16 [28-720]. [Repealed.]

Compiler's Notes. This section (Acts 1943, ch. 251, § 16) concerning fees in connection with mortgage loans by counties was repealed

by Acts 1982, P.L. 1, § 71. For present provisions concerning fees of county officers see 36-2-7-9 — 36-2-7-18.

21-1-7-20 [28-724]. Default in making payments. — (a) It is the duty of the auditor of each county, in case of default in the payment of any installment of the principal or interest of any school fund loan, to at once proceed to enforce the collection of that principal or interest.

(b) The department of inspection and supervision of public offices shall examine the records and affairs of the school funds held in trust by the several counties, and in the event that any such examination discloses a violation of this chapter, then the state examiner shall order that the county auditor or other public official charged with the performance of any duty comply with this chapter. In the event that the county auditor or other public official fails to comply with any such order within a reasonable time, then the state examiner shall certify to the prosecuting attorney of the county a copy of the report of examination and of the order issued for proper proceeding to enforce this chapter. [Acts 1943, ch. 251, § 20, p. 707; 1978, P.L. 2, § 2102, p. 2.]

## CHAPTER 11

### VETERANS MEMORIAL SCHOOL CONSTRUCTION FUND

#### SECTION.

21-1-11-2. Commission authorized to make advancements.

#### SECTION.

21-1-11-3.1. Disaster loans.

21-1-11-5. School building index.

#### 21-1-11-1 [28-901]. Veterans memorial school construction fund.

Indiana Adm. Code. 510 IAC 3-5-2, 510 IAC 3-5-3.

21-1-11-2 [28-903]. Commission authorized to make advancements. — The commission is hereby authorized, subject to the provisions of this chapter [21-1-11-1 — 21-1-11-10], to order and direct the auditor of state to divert and make an advancement periodically from the state school tuition fund for the construction, remodeling or repair of school buildings to any school corporation or school organized and existing under and pursuant to any law of the state of Indiana for the operation of a public school which is a part of the common school system of the state. An advancement to any school or school corporation under section 3 [21-1-11-?] of this chapter shall not be in excess of two hundred fifty thousand dollar. [\$250,000]. However, this dollar limitation is waived if:

(1) the school corporation has an adjusted assessed valuation per pupil ADA of less than eight thousand four hundred dollars [\$8,400];

(2) the school corporation's debt service tax rate would exceed three dollars [\$3.00] for each one hundred dollars [\$100] of assessed valuation without a waiver of the dollar limitation; and

(3) the school property tax control board recommends a waiver of the limitation.

All advancements shall be made by the commission only as set forth in this chapter. In no instance shall an advancement be made for any purpose other than the construction, remodeling or repairing of school buildings and classrooms and shall not be made for gymnasiums, auditoriums or any athletic facilities. [Acts 1955, ch. 312, § 3, p. 958; 1974, P.L. 102, § 1, p. 371; 1975, P.L. 246, § 2, p. 1341.]

#### 21-1-11-3 [28-904]. Conditions for nondisaster advancements.

Indiana Adm. Code. 510 IAC 3-5-2.

21-1-11-3.1 [28-904a]. Disaster loans. — (a) The commission may make a disaster loan to a school corporation that has suffered loss by fire, flood, tornado, wind or other disaster which makes all or part of the school

and supervision of public offices shall of the school funds held in trust by the. If any such examination discloses a deficiency, the examiner shall order that the county auditor be charged with the performance of any duty that the county auditor or other public officer shall order within a reasonable time, then the prosecuting attorney of the county a. and of the order issued for proper pro. Acts 1943, ch. 251, § 20, p. 707; 1978, P.L.

CHAPTER 11

SCHOOL CONSTRUCTION FUND

SECTION

- 21-1-11-3.1. Disaster loans.
- 21-1-11-5. School building index.

Veterans Memorial school construction fund.

authorized to make advances hereby authorized, subject to the provisions of section 21-1-11-10, to order and direct the auditor to advance periodically from the state funds for remodeling or repair of school buildings organized and existing under and for the operation of a public school system of the state. An advance under section 3 [21-1-11-3] of more than two hundred fifty thousand dollars is waived if:

- (a) The assessed valuation per pupil is less than one hundred dollars [\$8,400];
- (b) The service tax rate would exceed three percent [3%] of assessed valuation; and
- (c) The board recommends a waiver of the advance.

The commission only as set forth in this section. No payment shall be made for any purpose other than the repairing of school buildings and gymnasiums, auditoriums or any other school buildings. Acts 1973, p. 958; 1974, P.L. 102, § 1, p. 371;

Non-disaster advancements.

Disaster loans. — (a) The commission may advance to a school corporation that has suffered loss by fire, flood, or other disaster which makes all or part of the school

building or buildings unfit for school purposes as defined in IC 1971, 20-5-44 [20-5-44-1 — 20-5-44-6].

(b) A loan made under this section may not exceed three million dollars [\$3,000,000]. The school corporation shall repay the loan within twenty [20] years at an annual interest rate of one per cent [1%] of the unpaid balance.

(c) The amounts repaid by school corporations under subsection (b) of this section shall be deposited in a special fund to be known as the "school disaster loan fund." The money remaining in the school disaster loan fund at the end of a fiscal year does not revert to the state general fund. The commission may use the money in the school disaster loan fund only to make disaster loans to school corporations under this section.

(d) The provisions of section[s] 5, 6, and 7 [21-1-11-5, 21-1-11-6, 21-1-11-7] of this chapter do not apply to loans made under this section. [IC 1971, 21-1-11-3.1, as added by Acts 1974, P.L. 102, § 3, p. 371; 1975, P.L. 247, § 1, p. 1342.]

21-1-11-4 [28-906]. Petition for advancement.

Indiana Adm. Code. 510 IAC 3-5-1.

21-1-11-5 [28-907]. School building index. — The commission shall compute and ascribe to such applicant school or school corporation a school building index, which shall be the ratio of the school building need, in terms of money, to the school corporation tax ability, in terms of money, both as defined in this section.

(a) The school building need, in terms of money, of a school or school corporation shall be determined by adding to the average daily attendance of school children in grades one [1] to twelve [12] of such school or school corporation during the current school year in which application for an advancement is made, twice the average daily attendance increase of said school or school corporation for the preceding three [3] years: Provided, however, That the general commission shall have authority to make adjustments to reflect the effect of changes of boundary lines, loss of transfer pupils and/or loss of resident pupils to private, parochial or cooperative program schools within such three [3] year period. The sum so obtained shall then be divided by twenty-five [25] to determine the number of classrooms needed to house the estimated enrollment increase. From the quotient so obtained there shall be subtracted the number of classrooms which are owned, or under a lease-rental arrangement, or under construction in said school corporation and which were constructed for and normally used for classroom purposes, at the time of making application for an advancement: Provided, however, That there shall not be subtracted classrooms in a building or buildings found to be inadequate for the proper education of pupils under standards and procedures prescribed by the commission on general education of the Indiana state board of education, or which have been condemned under the provisions of IC 1971, 20-5-44 [20-5-44-1 — 20-5-44-6] and which are to be replaced by funds applied for. The remainder so obtained shall be multiplied by the amount of twenty thousand dollars [\$20,000], and the product thereof shall be school building need of such school or school corporation in the terms of money.

(b) The school corporation tax ability, in terms of money, shall be six and one half per cent [6½%] of the value of the taxable property within a school corporation according to the last and latest assessment for state and county taxes immediately preceding the date of application, minus the principal amount of any outstanding general obligation bonds of such school or school corporation, and minus the principal amount of outstanding obligations of any corporation or holding company which has entered into a lease-rental

agreement with the applicant school corporation, and minus the principal amount of outstanding civil township, town or city school building bonds.

(c) If the school corporation tax ability of any school corporation as computed under subsection (b) of this section is less than one hundred dollars [\$100], the school corporation tax ability shall be deemed to be, and shall be considered for the purposes of this act [21-1-11-1 — 21-1-11-10] as being in the amount of one hundred dollars [\$100]. [Acts 1955, ch. 312, § 6, p. 958; 1959, ch. 382, § 2, p. 1051; 1975, P.L. 248, § 1, p. 1343.]

Indiana Adm. Code. 510 IAC 3-5-1, 510 IAC 3-5-2.

**21-1-11-6 [28-908]. Order of advancements.**

Indiana Adm. Code. 510 IAC 3-5-1.

**21-1-11-7 [28-909]. Constitutional limitation on indebtedness unaffected by advancement — Advancement deducted from semi-annual distribution.**

Burns' Adm. Rules and Reg., Code Edition. See Rule (21-1-11-7)-1.

**CHAPTER 12**

**VETERANS MEMORIAL SCHOOL CONSTRUCTION FUND—  
ADDITIONAL CONDITIONS FOR ADVANCEMENTS**

**21-1-12-1 [28-905]. Additional conditions for advancements.**

Indiana Adm. Code. 510 IAC 3-5-2.

**ARTICLE 2**

**SCHOOL FUNDS—LOCAL**

**CHAPTER.**

- 3.1. FUNDS FOR TOWNSHIP SCHOOL BUILDING, 21-2-3.1-1 — 21-2-3.1-4.
- 3.2. PETITION FOR TOWNSHIP SCHOOL BUILDING, 21-2-3.2-1 — 21-2-3.2-5.
- 4. DEBT SERVICE FUND — CONSTRUCTION BONDS, 21-2-4-2.
- 5.5. REPAIR AND REPLACEMENT FUND, 21-2-5.5-1 — 21-2-5.5-5.
- 5.6. FUNDS: SELF-INSURANCE, 21-2-5.6-1 — 21-2-5.6-4.
- 6. CUMULATIVE BUILDING OR SINKING FUND (— TAX LEVY), 21-2-6-1 — 21-2-6-2.2.
- 11. GENERAL SCHOOL FUND — TAX LEVY, 21-2-11-4.

**CHAPTER.**

- 11.5. SCHOOL TRANSPORTATION FUND, 21-2-11.5-1 — 21-2-11.5-4.
- 12. SUPPLEMENTAL SCHOOL CORPORATION FINANCING ACT — COUNTY SCHOOL DISTRIBUTION FUND, 21-2-12-2 — 21-2-12-3.1, 21-2-12-4.1, 21-2-12-5.1, 21-2-12-6.1, 21-2-12-7.1, 21-2-12-8.1.
- 13. SUPPLEMENTARY SCHOOL TAX ASSISTANCE IN DEARBORN COUNTY, 21-2-13-3, 21-2-13-6, 21-2-13-7.
- 14. LEVYING OF TAXES AND FUNDING BY DISTRESSED SCHOOL CORPORATIONS, 21-2-14-4, 21-2-14-6.

**CHAPTER 1**

**TOWNSHIPS—SEMINARY TOWNSHIP SCHOOL FUND**

**21-2-1-1 [28-528]. Seminary township school fund.**

Cross References. Building and building fixtures repair and replacement fund authorized, 21-2-5.5-1 — 21-2-5.5-5.

162.110

EDUCATION

DECISIONS UNDER PRIOR LAW

ANALYSIS

1. Time of sale.
2. Exceeding debt limit.

1. Time of Sale.  
The time of the sale of the bonds and not the time of election determined whether Const.,

§ 158 was violated. *Boll v. Ludlow*, 234 Ky. 812, 29 S.W.2d 547 (1930).  
2. Exceeding Debt Limit.  
If a bond issue exceeded the constitutional limits only the excess was void. *Boll v. Ludlow*, 234 Ky. 812, 29 S.W.2d 547 (1930).

162.110. Bonds of subdistricts. [Repealed.]

Compiler's Notes. This section (4399-13) was repealed by Acts 1966, ch. 255, § 283.

162.120. Independent district in city may convey property to city provide buildings. — For the purpose of providing buildings for school purposes, boards of education of school districts embracing a city of any class may convey to the city a fee simple title with covenant of general warranty to a site now held or hereafter acquired by such boards of education. (4421.)

Cross-References. City of first class may set apart land for municipal university, KRS 165.060.

Kentucky Law Journal. Meuth, The Development of Financing Public Improvements by Kentucky Municipalities 25 Ky. L.J. 230 (1937).

Opinions of Attorney General. Where the fee simple title to school property was owned by the county and the city wanted to blacktop certain roads on the property, the county was liable for its apportionate cost of the improvement as a benefited property owner. OAG 60-377.

A fund resulting from the sale of school property could be used for the purchase of sites for school buildings, for the erection and complete equipping of school buildings, and for the major alteration, enlargement and complete equipping of buildings, in accordance with the provisions of KRS 160.476, even though refunding revenue bonds were outstanding on other school property. OAG 66-224.

Other school property, title to which has been retained by the school district, does not represent part of the security for refunding revenue bonds issued to provide for a specific building. OAG 66-224.

Although, under this section through KRS 162.300, a certificate from the trustee stating certain bonds and coupons were redeemed and canceled is sufficient evidence that the bonds and coupons have been paid and properly canceled, the school board treasurer should normally visually inspect the bonds and coupons before incineration. OAG 72-487.

Under the provisions of this section through KRS 162.300 a school board may not raise itself of liability for the bonds and coupons; a transfer of the "rental" money to a trust since the board is contractually responsible for taking steps to insure that the debt service and liquidation of coupons and bonds for the benefit of bondholders is effectively secured. OAG 72-487.

Under the provisions of this section through KRS 162.300 the school board should require the trustee to make an accounting each year of money received and bonds and coupons paid. OAG 72-487.

Under this section through KRS 162.300 any excess money left after liability for the bonds has ceased would revert to the school board treasury. OAG 72-487.

Under this section through KRS 162.300 a paying agent or trustee pays a wrong bond or coupon the improper payment is the liability of the trustee and not the school board does not insure the trustee's acts in this regard; therefore, the trustee is liable to the board but the board is liable to the holder. OAG 72-487.

Under this section through KRS 162.300 when bonds or coupons are not presented at maturity liability for these items would continue subject to the applicable statute of limitations. OAG 72-487.

Since financing of school bonds is done almost exclusively through the authority of KRS 162.120 through 162.300 and KRS 68.000 through 68.120, there is no authority for any change in the preexisting administrative procedure used for school building revenue bonds and fiscal courts and county treasurer.

must continue to perform the customary functions heretofore served by them in that regard. OAG 77-139, modifying OAG 76-711. Cited: *Cole v. McCracken County*, 297 Ky. 197, 181 S.W.2d 461 (1944); *Fyfe v. Hardin County Bd. of Educ.*, 305 Ky. 589, 205 S.W.2d 163 (1947); *Bell v. Board of Educ.*, 308 Ky. 848,

215 S.W.2d 1007 (1948); *Fendley v. Board of Educ.*, 240 S.W.2d 837 (Ky. App. 1951); *Wagner v. Fiscal Court*, 306 S.W.2d 288 (Ky. App. 1957); *Stull v. Webster County Bd. of Educ.*, 339 S.W.2d 189 (Ky. App. 1960); *Fosson v. Fiscal Court*, 369 S.W.2d 108 (Ky. App. 1963).

## NOTES TO DECISIONS

(Cross-References. See note to KRS 162.140 under heading 2. Abuse of Board's Discretion. *Carter v. Taylor*, 313 Ky. 445, 231 S.W.2d 601 (1950))

## ANALYSIS

1. Conveyance and lease back.
2. Selection of site.
3. School building.
4. Merger with county after conveyance to city.
5. Acquisition of property and buildings.
6. Liability for tax.
7. Revenue bonds.

## 1. Conveyance and Lease Back.

Bonds issued by a city as a conduit of independent school district pursuant to KRS 162.120 to 162.300 to pay costs of school auditorium-gymnasium to be erected on site conveyed by county board of education to the independent school district which was to convey it to the city which was to lease it back to school district until retirement of the bonds would not constitute direct obligations of the city or of the independent school district but would be secured by a first lien upon the auditorium-gymnasium and the right of the bondholders to enforce the lien would in no way be affected by a merger of independent school district and county school district. *Ranier v. Board of Educ.*, 273 S.W.2d 577 (Ky. App. 1954).

The school board had the right to convey a school site to the city and then lease back the site and improvements thereon. *City of Bowling Green v. Board of Educ.*, 443 S.W.2d 143 (Ky. App. 1969).

The school board is authorized to convey a building site to the city and lease it back with improvements financed by city's bonds. *City of Bowling Green v. Board of Educ.*, 443 S.W.2d 243 (Ky. App. 1969).

The authority of the school board to convey property to the city and then lease back the property with improvements was not conditioned upon financing under any particular statutory authority. *City of Bowling Green v. Board of Educ.*, 443 S.W.2d 143 (Ky. App. 1969).

## 2. Selection of Site.

The selection of the site is to be made by the

board of education. *Franklin County v. Franklin County Bd. of Educ.*, 267 Ky. 554, 102 S.W.2d 1024 (1937).

## 3. School Building.

An auditorium-gymnasium is a school building within the meaning of KRS 162.120 to 162.300. *Ranier v. Board of Educ.*, 273 S.W.2d 577 (Ky. App. 1954).

## 4. Merger with County after Conveyance to City.

The fact that after conveyance to the city, the independent district was merged with the county district does not affect the right of the city to consummate the original plan. *Piggott v. Kasey*, 271 Ky. 651, 113 S.W.2d 5 (1938).

## 5. Acquisition of Property and Buildings.

A county or city may acquire property on which school buildings have already been erected and finance the cost of acquisition under the provisions of KRS 162.120 to 162.300. *Morgan v. Fayette County Bd. of Educ.*, 294 Ky. 597, 172 S.W.2d 64 (1943).

## 6. Liability for Tax.

Regardless of time or amount, the voting of a tax to pay revenue bonds issued for school construction does not impose a tax in futuro but merely grants authority to the taxing power to increase the amount of annual tax that the law otherwise authorized to be levied and property transferred by county school board to city school district is not liable for county school building tax voted prior to the transfer. *Board of Educ. v. Board of Educ.*, 250 S.W.2d 1017 (Ky. App. 1952).

## 7. Revenue Bonds.

Revenue bonds issued under KRS 162.120 to 162.300 did not constitute an indebtedness of county school district so city school district to which territory was transferred from county school district after voters of county district authorized a special school building tax to pay rentals for the school buildings to be erected and financed by the bonds was not liable for any part of the revenue bonds under proportional assumption statute KRS 160.065. *Board of Educ. v. Board of Educ.*, 250 S.W.2d 1017 (Ky. App. 1952).

City is required to cooperate with independent school district in the issuance and sale of bonds but it is merely a conduit through which the board of education acts to have the bonds issued and sold and has no

discretion in the matter. *Ranier v. Board of Educ.*, 273 S.W.2d 577 (Ky. App. 1954). Collateral References, 78 C.J.S., Schools and School Districts, § 241.

**162.130. City to contract for erection of building.** — Every city to which a site for a building has been conveyed, as provided in KRS 162.120, shall enter into a contract or contracts with some person for the erection on the site of a building with the necessary appurtenances, according to plans and specifications adopted by the city and approved by the board of education and the superintendent of public instruction. (4421-2.)

Cited: *Fyfe v. Hardin County Bd. of Educ.*, 305 Ky. 589, 205 S.W.2d 165 (1947).

NOTES TO DECISIONS

1. Financing Improvements.

The authority of the school board to convey property to the city and then lease back the property with improvements was not

conditioned upon financing under any particular statutory authority. *City of Bowling Green v. Board of Educ.*, 443 S.W.2d 243 (Ky. App. 1969).

**162.140. Lease of building by board of education — Terms — Amount** of rent. — Immediately upon the approval of the plans and specifications as provided in KRS 162.130, the board of education shall offer to lease the building for a term of one (1) year from the time the building is completed and ready for occupancy. The lease by its terms shall give the lessee the right and option to extend the term of the lease from year to year, for periods of one (1) year, until the original term of the lease has been extended for a total number of years, acceptable to the city, not exceeding thirty (30) years, at a rental which, if paid for the original term and for each of the full number of years for which the term is extended, will amortize the total cost of the erection of the building and appurtenances, provide an adequate maintenance fund and in addition thereto a sum sufficient to pay the cost of insuring the building against loss or damage by fire and windstorm or other calamity in such sum as may be agreed by the parties thereto. (4421-3.)

Opinions of Attorney General. The school board has broad discretion under KRS 160.160 and 160.290 in the selection of school sites and the establishment of schools so that even if the county is the legal owner of the property and is leasing it to the the school board under this section, as the school district holds equitable title, the fiscal court has no rights relative to a high school building which the board of education plans to tear down and replace with a new building, unless the county

could negotiate to purchase the property from the school board. OAG 74-221.

A school board should not tie up school property for a period exceeding a year but should, instead, provide for an extension of the term of the lease from year to year, for periods of one year, for a specified number of total years. OAG 77-771.

Cited: *Fyfe v. Hardin County Bd. of Educ.*, 305 Ky. 589, 205 S.W.2d 165 (1947); *Fosson v. Fiscal Court*, 369 S.W.2d 108 (Ky. App. 1963).

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NOTES TO DECISIONS

ANALYSIS

- 1 Authority to lease.
- 2 Abuse of board's discretion.
- 3 Lease for thirty years invalid.

1. Authority to Lease.  
 The authority of the school board to convey property to the city and then lease back the property with improvements was not conditioned upon financing under any particular statutory authority. City of Bowling Green v. Board of Educ., 443 S.W.2d 243 (Ky. App. 1969).

The school board had the right to convey a school site to the city and then lease back the site and improvements thereon. City of Bowling Green v. Board of Educ., 443 S.W.2d 243 (Ky. App. 1969).

The school board is authorized to convey a building site to the city and lease it back with improvements financed by city's bonds. City of Bowling Green v. Board of Educ., 443 S.W.2d 243 (Ky. App. 1969).

2. Abuse of Board's Discretion.  
 Where county had existing bonded debt of \$225,000 and the county board of education a

debt of nearly \$100,000 and estimates of future revenue indicated there would be available \$2,000 to \$5,600 more than necessary for servicing existing debts and meeting obligations incurred in building proposed new school, approval of plan by which county board of education and fiscal court proposed to erect a new high school and issue \$250,000 in bonds payable from rents received annually from school board over 20-year period was not an abuse of discretion. Carter v. Taylor, 313 Ky. 445, 231 S.W.2d 601 (1950).

3. Lease for Thirty Years Invalid.  
 A lease for one year with annual renewal option is valid, when rental involved does not result in violation of Const., § 157. However a 30-year lease is invalid since it does result in a violation of said constitutional section. Davis v. Board of Educ., 260 Ky. 294, 83 S.W.2d 34 (1935).

Collateral References. 78 C.J.S., Schools and School Districts, §§ 256, 263.  
 Lease of school property, power of school or local authorities as to grant of. 111 A.L.R. 1051.

162.150. City may erect school buildings. — Any city may establish and erect school buildings and necessary appurtenances within the corporate limits under the provisions of KRS 162.160 to 162.280, for the purpose of supplying the board of education of the independent district embracing the city with adequate buildings necessary to carry out its duties and powers. (4421-5.)

Collateral References. City of first class may set apart land for municipal university, KRS 165.060.

Kentucky Law Journal. Meuth, The Development of Financing Public Improvements by Kentucky Municipalities, 25 Ky. L.J. 230 (1937).

Opinions of Attorney General. Other school property, title to which has been returned by the school district, does not represent part of the security for refunding revenue bonds issued to provide for a specific building. OAG 66-224.

A fund resulting from the sale of school property could be used for the purchase of sites for school buildings, for the erection and

complete equipping of school buildings, and for the major alteration, enlargement and complete equipping of buildings, in accordance with the provisions of KRS 169.476, even though refunding revenue bonds were outstanding on other school property. OAG 66-224.

A city may establish and erect school buildings within its corporate limits for the purpose of supplying the board of education of an independent school district embracing the city with adequate buildings necessary to carry out its powers and duties. OAG 72-796.

Cited: City of Bowling Green v. Board of Educ., 443 S.W.2d 243 (Ky. App. 1969).

In the matter, Ranier v. Board of Education, 205 S.W.2d 577 (Ky. App. 1954).  
 Collateral References. 78 C.J.S., Schools and School Districts, § 241.

Building. — Every city to which provided in KRS 162.120, shall person for the erection on the premises, according to plans approved by the board of education. (4421-2.)

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conditioned upon financing under any particular statutory authority. City of Bowling Green v. Board of Educ., 443 S.W.2d 243 (Ky. App. 1969).

Education — Terms — Amount. — The plans and specifications for the building shall offer to lease the building is completed shall give the lessee the right to use the building for periods of one year to year, for periods of not less than one year, and may be extended for a total period not exceeding thirty (30) years, and shall provide for the amortization of the total cost of the building, provide an adequate fund sufficient to pay the cost of the building by fire and windstorm or other casualty, and the parties thereto. (4421-3)

Authority to purchase the property from the board. OAG 74-221.

The board should not tie up school property for a period exceeding a year but, instead, provide for an extension of the lease from year to year, for one year, for a specified number of years. OAG 77-771.

City of Hardin County Bd. of Education v. Board of Education, 205 S.W.2d 165 (1947); Foster v. Board of Education, 369 S.W.2d 108 (Ky. App. 1963).

## NOTES TO DECISIONS

**I. Acquisition of Property and Buildings.**

A county or city may acquire property on which school buildings have already been erected and finance the cost of acquisition under the provisions of KRS 162.120 to 162.300 and several buildings or properties may be included in one mortgage and bond

issue. *Morgan v. Fayette County Board of Educ.*, 294 Ky. 397, 172 S.W.2d 64 (1943).  
 Collateral References. 68 Am. Jur. 2d Schools, § 70.  
 78 C.J.S., Schools and School Districts, § 256.

**162.160. Plans and specifications for buildings — Board of education must offer to lease building before construction contract is made. — (1)** When any city desires to construct a school building, under the provisions of KRS 162.150, the governing body of the city shall, by ordinance, cause plans and specifications for the building to be duly made and filed in the office of the city clerk. The plans and specifications shall give a full description of the building to be constructed, the details thereof and the manner of construction. The plans and specifications shall be prepared by an architect selected by the city and approved by the board of education of the school district, and shall be submitted to the board of education of the school district and to the superintendent of public instruction for approval.

(2) If the plans and specifications are approved, and if the board of education of the school district offers to lease the building under a lease of the kind provided in KRS 162.140, the city governing body shall cause the city clerk to advertise for bids, and thereafter the city governing body, through the mayor or chairman of the board of trustees, may contract for the construction of the building. (4421-12.)

**Cross-References.** Public works involving two thousand dollars or more to be under supervision of registered engineer or architect, KRS 322.360.

**Cited:** *Bell v. Board of Educ.*, 308 Ky. 848, 215 S.W.2d 1007 (1948); *City of Louisville v. Manning*, 219 S.W.2d 13 (Ky. App. 1949).

**Collateral References.** 78 C.J.S., Schools and School Districts, §§ 256, 263, 282-285.

**162.170. Financing construction of buildings. —** For the purpose of defraying the cost of constructing or acquiring any school buildings and appurtenances thereto for common school purposes under the provisions of KRS 162.150, any city may borrow money and issue negotiable revenue bonds. No such bonds for common school purposes shall be issued until the conditions of KRS 162.160 have been complied with, and until authorized by an ordinance specifying the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest the bonds are to bear, which rate, as applicable to revenue bonds issued to finance buildings and appurtenant facilities for common school purposes, shall be established by regulation of the state board for elementary and secondary education. The ordinance shall further provide that the buildings and appurtenant facilities are to be constructed or acquired under the provisions of KRS 162.150 to 162.280. (4421-6, 4421-12: amend. Acts 1970, ch. 137, § 1; 1978, ch. 155, § 82, effective June 17, 1978.)

Cross-References Governmental agency may issue revenue bonds for any public property. KRS 58.010 to 58.120. Kentucky Law Journal. Martin. Administrative Action for Efficient Debt Management: The Kentucky Case, 49 Ky. L.J. 228 (1961). Opinions of Attorney General. The Kentucky statutes do not authorize the expending of bonds proceeds to renovate

school buildings presently existing and already acquired. OAG 71-107. The statutory sections relating to acquisition of existing buildings in this chapter and KRS chapter 58 are broad enough to include, by reasonable implication, whatever may be properly spent for the functional adaptation of purchased buildings to school purposes. OAG 71-107.

NOTES TO DECISIONS

ANALYSIS

- 1. Sale of bonds.
- 2. Sources of loans.
- 1. Sale of Bonds. Bonds issued hereunder may be sold directly to private individual by the city. J.D. Van Horner & Co. v. University of Ky., 262 Ky. 341, 90 S.W.2d 1029 (1936). See Piggott v. Lacey, 271 Ky. 651, 113 S.W.2d 5 (1938). But see Eagle v. City of Corbin, 275 Ky. 808, 122 S.W.2d 798 (1938).

- 2. Sources of Loans. Counties and cities, in financing construction of school buildings, may borrow money from sources other than the federal government. Morgan v. Fayette County Bd. of Educ., 294 Ky. 597, 172 S.W.2d 64 (1943). Collateral References. 78 C.J.S., Schools and School Districts, §§ 323-330.

162.180. Bonds — Interest on — When payable — How sold. — All bonds issued under the provisions of KRS 162.170 for common school purposes may bear interest at a rate not exceeding the maximum rate per annum which has been established by regulation of the state board for elementary and secondary education, payable semiannually, and shall be executed in such manner and be payable at such times, not exceeding thirty (30) years from the date thereof, and at such place as the governing body of the city determines. The bonds shall be sold in such manner and upon such terms as the governing body of the city deems for the best interest of the city. (421 7, 4421-8; amend. Acts 1970, ch. 137, § 2; 1978, ch. 155, § 82, effective June 17, 1978.)

Kentucky Law Journal. Martin. Administrative Action for Efficient Debt Management: The Kentucky Case, 49 Ky. L.J. 228 (1961). Cited: Morgan v. Fayette County Bd. of Educ., 294 Ky. 597, 172 S.W.2d 64 (1943); City of Bowling Green v. Board of Educ., 443 S.W.2d 243 (Ky. App. 1969).

162.185. Applicability of KRS 162.170 and 162.180. — Nothing contained in KRS 162.170 or 162.180 is intended to or shall be construed to make interest rates applicable to revenue bonds issued by the governing bodies of state institutions of higher learning under KRS 162.340 to 162.380, inclusive, subject to regulation, establishment, limitation or approval by the state board for elementary and secondary education. (Enact. Acts 1970, ch. 137, § 3; 1978, ch. 155, § 82, effective June 17, 1978.)

162.190. Bonds negotiable — Tax-exempt — Signatures — Not a city debt. — All bonds issued under the provisions of KRS 162.170 shall have all

Morgan v. Fayette County Bd. of Educ., 294 Ky. 597, 172 S.W.2d 64 (1943). Collateral References. 78 C.J.S., Schools and School Districts, §§ 323-330.

ings — Board of education on contract is made... shall, by ordinance... duly made and filed... specifications shall give... the details thereof... tions shall be prepared... by the board of education... board of education... ic instruction for... oved, and if the board... e building under a loan... rning body shall... the city govern... trustees, may contract...

References. 78 C.J.S., Schools and School Districts, §§ 323-330.

s. — For the purpose... any school building... s under the provisions... issue negotiable... shall be issued... and until authorized... the amount of bonds... bonds are to bear... finance buildings... shall be established... secondary education... and appurtenant... sions of KRS 162.170... § 1; 1978, ch. 155, § 82.

of the qualities of negotiable instruments, and shall not be subject to taxation. If any of the officers whose signatures appear on the bonds or coupons cease to be such officers before delivery of the bonds, the signatures shall nevertheless be valid for all purposes the same as if the officers had remained in office until delivery. The bonds shall be payable solely from the revenue derived from the school building as provided in KRS 162.230, and shall not constitute an indebtedness of the city within the meaning of the constitutional provisions or limitations. It shall be plainly stated on the face of each bond that it was issued under the provisions of KRS 162.150 to 162.280 and that it does not constitute an indebtedness of the city. (4421-8.)

Cited: Pulaski County v. Ben Hur Life Ass'n, 286 Ky. 119, 149 S.W.2d 738 (1941); Board of Educ. v. Fyfe v. Hardin County Bd. of Educ., 305 Ky. 589, 205 S.W.2d 165 (1947); Board of Educ., 250 S.W.2d 1017 (Ky. App. 1952).

#### NOTES TO DECISIONS

##### 1. Constitutionality.

The tax exemption feature does not violate Const., §§ 3, 170 or 171. J.D. Van Hooser & Co. v. University of Ky., 262 Ky. 581, 90 S.W.2d 1029 (1936).

Collateral References. 78 C.J.S., Schools and School Districts, §§ 359, 371, 373.

162.200. Use of funds — Lien on building. — All money received from any bonds issued pursuant to KRS 162.170 shall be used solely for the establishment or erection of the school building and necessary appurtenances, except that the money may be used also to advance the payment of the interest on bonds during the first three (3) years following the date of the bonds. There shall be a statutory mortgage lien upon the school building and appurtenances in favor of the holders of the bonds and coupons. (4421-9.)

Kentucky Law Journal. Martin, Administrative Action for Efficient Debt Management: The Kentucky Case, 49 Ky. L.J. 505 (1961).

Opinions of Attorney General. A fund resulting from the sale of school property could be used for the purchase of sites for school buildings, for the erection and complete equipping of school buildings, and for the major alteration, enlargement and

complete equipping of buildings, in accordance with the provisions of KRS 160.476, even though refunding revenue bonds were outstanding on other school property. OAG 66-224.

Other school property, title to which has been retained by the school district, does not represent part of the security for refunding revenue bonds issued to provide for a specific building. OAG 66-224.

#### NOTES TO DECISIONS

##### 1. Lien on Reversionary Interest.

The lien created by this section is only as good as the title to the property offered as security and subject to the terms of that title and where deed to school board provided it was not to be sold to anyone for residence

purposes but was to remain a part of the colored school property so long as the school remained where then located and the colored school was abandoned and the property offered for sale by the board, the board's title terminated and the ownership of the property

id shall not be subject  
 tures appear on the bonds  
 y of the bonds, the signatures  
 the same as if the officers had  
 shall be payable solely from the  
 provided in KRS 162.230, and  
 ty within the meaning of the  
 ill be plainly stated on the face  
 provisions of KRS 162.150 to  
 btedness of the city. (4421-10)

S.W.2d 165 (1947); Board of Educa  
 of Educ., 250 S.W.2d 1017 Ky. App.

ONS

teral References. 78 C.J.S., Schools  
 ool Districts, §§ 359, 371, 373.

g. — All money received from  
 shall be used solely for the  
 of building and necessary  
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 t three (3) years following  
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reverted to the grantor since the deed was a  
 fee simple with special limitation or a  
 determinable fee and the possibility of  
 reverter remained in grantor. Fleming

County Bd. of Educ. v. Hall, 380 S.W.2d 273  
 (Ky. App. 1964).  
 Collateral References, 78 C.J.S., Schools  
 and School Districts, §§ 317, 410.

162.210. Rights of bondholders to enforce lien. — The school building  
 and appurtenances shall remain subject to the statutory lien provided by  
 KRS 152.200 until the payment in full of the principal and interest of the  
 bonds. Any holder of the bonds or of any of the coupons may, either at law  
 or in equity, protect and enforce the lien, and may by action enforce and  
 compel performance of all duties required by KRS 162.150 to 162.280,  
 including the making and collecting of sufficient rents, the segregation of  
 the income and revenue, and the application thereof. (4421-10.)

Opinions of Attorney General. A fund  
 resulting from the sale of school property  
 could be used for the purchase of sites for  
 school buildings, for the erection and  
 complete equipping of school buildings, and  
 for the major alteration, enlargement and  
 complete equipping of buildings, in  
 accordance with the provisions of KRS  
 160.476, even though refunding revenue

bonds were outstanding on other school  
 property. OAG 66-224.  
 Other school property, title to which has  
 been retained by the school district, does not  
 represent part of the security for refunding  
 revenue bonds issued to provide for a specific  
 building. OAG 66-224.  
 Collateral References, 78 C.J.S., Schools  
 and School Districts, § 317.

162.220. Receiver in case of default. — If there is any default in the  
 payment of the principal or interest on any of the bonds, any court having  
 jurisdiction of the action may appoint a receiver to administer the school  
 building on behalf of the city, with power to charge and collect rentals  
 sufficient to provide for the payment of any bonds or obligations outstanding  
 against the school building and for the payment of the operating expenses,  
 and to apply the income and revenues in conformity with KRS 162.150 to  
 162.280, and the ordinance referred to in KRS 162.170 and 162.230.  
 (4421-11.)

162.230. Rent — Disposition of to be fixed by ordinance. — At or before  
 the issuance of the bonds, the governing body of the city shall, by ordinance,  
 set aside and pledge the income of the building into a special fund to be used  
 and applied in payment of the cost and maintenance of the building. The  
 ordinance shall definitely fix the amount of revenue necessary to be set aside  
 and applied for the payment of the principal and interest of the bonds. The  
 balance of the income shall be set aside for the reasonable and proper  
 maintenance of the building, including a sufficient sum to pay the cost of  
 insurance. The city governing body may provide by ordinance any provision  
 and stipulation it deems necessary for the administration of the income for  
 the security of the bondholders. (4421-13, 4421-17.)

Collateral References, 79 C.J.S., Schools  
 and School Districts, § 374.

162.210. Deposit and investment of sinking fund. — The sinking fund

shall be deposited in a depository selected by the governing body of the city. The deposit, where practicable, shall be continuously secured by a pledge to the city of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the account or in some other manner acceptable to the purchasers or holders of the bonds. The securities shall be deposited with the city or held by a trustee or agent satisfactory to the governing body of the city. The sinking fund may be invested in direct obligations of the United States. (4421-17.)

**Cross-References.** Sinking funds may be invested in bonds secured by credit of United States, KRS 386.050.

**Opinions of Attorney General.** Boards of education may place their general funds in banks designated as depositories pursuant to KRS 160.570 and obtain from such banks certificates of deposit representing time deposits of surplus funds subject to withdrawal on demand. OAG 64-70.

The "school building revenue bond and interest redemption fund" mentioned on the face of the specimen copy of a typical school

bond is really a part and parcel of the "sinking fund" mentioned in this section, and the transfer of such funds finally to the trustee of the bonds does not automatically relieve the board of education (now board for elementary and secondary education) of liability, since the board is contractually responsible for taking steps to insure that the debt service and liquidation of coupons and bonds for the benefit of bondholders is effectively secured. OAG 73-188.

**Collateral References.** 79 C.J.S., Schools and School Districts, § 374.

**162.250. Maintenance fund surplus to be transferred to sinking fund.** -- If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building during the remainder of the calendar or fiscal year, as may be provided by the ordinance required by KRS 162.230, and the cost of maintaining and operating the building for the succeeding like calendar or fiscal year, the excess over such amount shall be transferred to the sinking fund. (4421-14.)

**Collateral References.** 79 C.J.S., Schools and School Districts, §§ 338, 374.

**162.260. Refunding bonds may be issued.** -- The city may issue refunding bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure prescribed for the issuance of the original bonds. The refunding bonds shall be secured to the same extent and shall have the same source of payment as the bonds which are refunded. (4421-15.)

**Opinions of Attorney General.** A fund resulting from the sale of school property could be used for the purchase of sites for school buildings, for the erection and complete equipping of school buildings, and for the major alteration, enlargement and complete equipping of buildings, in

accordance with the provisions of KRS 160.476, even though refunding revenue bonds were outstanding on other school property. OAG 66-224.

Other school property, title to which has been retained by the school district, does not represent part of the security for refunding

revenue bonds issued to provide for a specific building OAG 66-224.

Cited: Morgan v. Fayette County Bd. of Educ., 294 Ky. 597, 172 S.W.2d 64 (1943).

NOTES TO DECISIONS

New obligations. Refunding bonds always create a new obligation, but the issue, if otherwise proper, is authorized by this section. Hemlepp v. Aronberg, 369 S.W.2d 121 (Ky. App. 1963).

Collateral References. 79 C.J.S., Schools and School Districts, § 370.

162.270. Additional bonds authorized. — If the governing body of the city finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the same procedure. (4421-16.)

Collateral References. 79 C.J.S., Schools and School Districts, § 359.

162.280. When city to convey property to board. — When the board of education of the school district has paid rent, as provided in KRS 162.160, sufficient to amortize the cost of erection of the building and appurtenances and to maintain the building and pay the cost of insurance, the city shall thereupon convey the premises to the board, and shall transfer any balance remaining in the funds provided for in KRS 162.230 to 162.250 to the account of the board of education. (4421-18.)

Collateral References. 78 C.J.S., Schools and School Districts, §§ 241, 242, 244.

162.290. Alternative methods — Other procedure not required. — KRS 162.120 to 162.140 and KRS 162.150 to 162.280 are additional and alternate methods for the acquisition of school buildings by boards of education of independent districts embracing cities of any class, and do not include, alter, amend or repeal any other statute. No proceeding shall be required for the acquisition of any school building or the issuance of bonds under KRS 162.150 to 162.280 except such as are prescribed by those sections. (4421-4, 4421-19.)

Collateral References. 78 C.J.S., Schools and School Districts, §§ 241, 242, 244.

162.300. County boards of education and boards of independent districts not embracing cities may obtain school buildings in manner provided in KRS 162.120 to 162.290. — County boards of education and boards of education of independent districts not embracing a city of any class may obtain buildings for school purposes by proceedings under the provisions of KRS 162.120 to 162.290. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

governing body of the city... secured by a pledge... exclusive of accrued... deposit in the account... sers or holders of... or held by a trustee... The sinking fund... s. (4421-17.)

ent and parcel of the... in this section, and... ends finally to the trustee... t automatically relieve... (now board for elementary... cation) of liability, and... ally responsible for taking... hat the debt service... spons and bonds for the... ders is effectively secured... rences. 79 C.J.S., Schools... s, § 374.

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- (1) "City" means "county" or "urban-county," as the case may be.
- (2) "City clerk" means "county clerk" or the appropriate record keeping officer in an urban-county government.
- (3) "Governing body of the city" means "fiscal court" or the governing body of an urban-county government, as the case may be.
- (4) "Mayor or chairman of the board of trustees" means "county judge/executive" or "chief executive officer of the urban-county government," as the case may be.
- (5) "Ordinance" means either "ordinance" or "resolution." (4421-20 to 4421-38; amend. Acts 1974, ch. 367, § 1.)

**Cross-References.** Governmental agency may issue revenue bonds for any public project. KRS 58.010 to 58.120.

Kentucky Law Journal. Meuth, The Development of Financing Public Improvements by Kentucky Municipalities, 25 Ky. L.J. 230 (1937).

Opinions of Attorney General. Where the fee simple title to school property was owned by the county and the city wanted to blacktop certain roads on the property, the county was liable for its apportionate cost of the improvement as a benefited property owner. OAG 60-377.

A fund resulting from the sale of school property could be used for the purchase of sites for school buildings, for the erection and complete equipping of school buildings, and for the major alteration, enlargement and complete equipping of buildings, in accordance with the provisions of KRS 160.476, even though refunding revenue bonds were outstanding on other school property. OAG 66-224.

Other school property, title to which has been retained by the school district, does not represent part of the security for refunding revenue bonds issued to provide for a specific building. OAG 66-224.

Where the construction of a school building and later lease back to the school district was to be assumed by the county, a company in which the county judge (now county judge/executive) was the principal stockholder would be prohibited from selling materials to private contractors building the school. OAG 66-514.

After merger, an urban-county government would stand in the place of the fiscal court as far as the agency to contract with the county board of education in connection with the construction of school facilities in the county and the issuance of bonds for such construction. OAG 74-187.

Cited: City of Louisville v. Manning, 210 S.W.2d 13 (Ky. App. 1949); Fosson v. Fiscal Court, 369 S.W.2d 108 (Ky. App. 1963).

## NOTES TO DECISIONS

### ANALYSIS

1. Authority of board.
2. Determination of site.
3. Acquisition of school buildings.
4. Borrowing money.
5. Lease of school building.
6. Power of fiscal court.
7. Bondholders' rights.

#### 1. Authority of Board.

The authority vested in the school board is clearly a general and comprehensive power, given it without limitation, express or implied, effective to forbid it from making its financing plan of a group conveyance of three school properties and providing for a refund of all taxes paid by holders of its school bonds where amount was within its annual income. Scott County Bd. of Educ., v. McMillen, 270 Ky. 483, 109 S.W.2d 1201 (1937).

County board of education is vested with the broad power and authority to control, buy and sell real estate for school sites, and to control and manage all public school property of its district and to use such school funds and property to promote public education in such ways as it deems necessary and proper in the exercise of its judgment and discretion. Scott County Bd. of Educ. v. McMillen, 270 Ky. 483, 109 S.W.2d 1201 (1937).

A county board of education had no authority to execute a plan by which board was to convey to a nonprofit corporation 20 percent of school property in county, but not site on which school building was to be erected, and corporation was to erect building and execute lease-option contract to board by which, after payment of rental for period of years, board was to become owner of all property conveyed to corporation. Weeks v.

Collateral References. 79 C.J.S., Schools and School Districts. § 338.

STATE PROPERTY AND BUILDINGS COMMISSION

162.510. Kentucky public school authority — Public corporation. [Repealed.]

Compiler's Notes. This section (Acts 1960, ch. 81, § 1) was repealed by Acts 1964, ch. 7, § 2.

162.520. Definitions for KRS 162.520 to 162.620. — As used in KRS 162.520 to 162.620, the following terms and words have the following respective meanings, unless another meaning is clearly indicated by the context:

- (1) As used in KRS 162.540, 162.550, 162.580, 162.590, 162.600 and 162.620 "authority" means "state property and buildings commission;"
- (2) "Department" means the state department of education;
- (3) "Superintendent" means the superintendent of public instruction;
- (4) "Board of education" means the governing body of a county school district, or of an independent school district, for which the authority issues revenue bonds pursuant to KRS 162.520 to 162.620;
- (5) "Project" means any undertaking to provide for a board of education any school buildings, facilities, improvements, and appurtenances and may include not only such as are authorized in KRS 162.120 to 162.300, but also those for any purpose enumerated in KRS 160.477 (1) (a);
- (6) "Lease" or "lease instrument" means a written instrument for the leasing of one or more school projects executed by the authority as lessor and a board of education at lessee, conforming to the specifications set forth in KRS 162.140;
- (7) "Bonds" or "bonds of the authority" means bonds issued by the authority under KRS 162.520 to 162.620, payable as to principal and interest solely from rentals received from a board of education pursuant to a lease. (Repealed. Acts 1960, ch. 81, § 2; 1964, ch. 7, § 9.)

162.530. Membership — Succession — Quorum — Compensation — Officers — Register of membership — Official records — Regulations — Meetings. [Repealed.]

Compiler's Notes. This section (Acts 1960, ch. 81, § 3) was repealed by Acts 1964, ch. 7, § 12.

162.540. Interpretation of terms in KRS 162.120 to 162.300, when applied to KRS 162.520 to 162.620. — Upon receiving a request in writing from a board of education, the authority may, in its discretion, assist such board of education in financing any project by acting in the capacity and manner authorized to be performed by cities under KRS 162.120 to 162.300 and by counties under KRS 162.300. When applied to the authority, KRS 162.120 to 162.300 shall be so read that the following terms and passages have the following respective meanings or interpretations:

- (1) "City" or "county" means "authority";
- (2) "City clerk" or "county clerk" means "secretary or assistant secretary of the authority";
- (3) "Governing body of the city" or "fiscal court" means "authority";
- (4) "Mayor or chairman of the board of trustees" or "county judge/executive" means "chairman or vice-chairman of the authority";
- (5) "Ordinance" in the case of a city, or "resolution" in the case of a county, means a resolution of the authority;
- (6) "Building and appurtenances" means "project" as defined in subsection (5) of KRS 162.520;
- (7) The last sentence of KRS 162.190 shall read, "It shall be plainly stated on the face of each bond that it was or is issued under the provisions of KRS 162.520 to 162.620 (omitting reference to KRS 162.150 to 162.280 as such), and that it does not constitute an indebtedness of the authority or of the Commonwealth";
- (8) KRS 162.200 is modified to permit use of money received from bonds for the additional purpose of paying reasonable expenses incurred in the authorization, advertising, preparation, sale and delivery of bonds, and may include a fee contracted to be paid to a fiscal agent for financial advice and services if the contract or agreement therefor shall have been approved by the board of education and by the authority;
- (9) As used in KRS 162.140, "lease" shall have the meaning defined in subsection (6) of KRS 162.520, and the same shall be recorded or filed for recording in the office of the county clerk of the county in which the project is situated, as evidenced by a written receipt or acknowledgment of filing issued by such clerk, or by a copy of the lease attested or certified by such clerk as being of record in his office. It shall be the duty of the secretary of the authority to obtain such evidence before delivery of the bonds to a purchaser thereof; but failure to obtain the same shall not affect the validity of the bonds in the hands of any purchaser or holder;
- (10) KRS 162.240 shall not apply; and the following provisions shall govern in lieu thereof:

"One or more depositories and paying agents may be selected and designated by the board of education, subject to the approval of the authority, which approval shall not unreasonably be withheld; but each depository and paying agent shall be a financial institution, within or without the Commonwealth, which is a member of federal deposit insurance

corporation. All deposits of sinking funds and of bonds proceeds shall continuously be secured by a pledge to the authority of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the fund or account, such securities to be deposited with the authority or held by a trustee or agent designated by the authority; provided, however, in lieu of requiring such security the authority may in its discretion invest, or cause to be invested and reinvested, any moneys in direct obligations of the United States until such time as cash funds may be needed, and the authority may prescribe for the custody and safekeeping of such securities. When cash funds are needed, the authority shall direct the conversion into cash of such securities, or a sufficient portion thereof, and may require that the same be secured until disbursement, as herein provided. All income from such securities shall accrue to the board of education, but may be retained by the authority and credited upon any rental obligation of the board of education under the lease, or applied to supplement bond proceeds if the same should for any reason turn out to be insufficient to defray the costs and expenses of the project." (Enact. Acts 1960, ch. 81, § 4, effective June 16, 1960; 1976 (Ex. Sess.), ch. 20, § 6, effective January 2, 1978; 1978, ch. 384, § 293, effective June 17, 1978.)

NOTES TO DECISIONS

*In re* [illegible] v. [illegible], 369 S.W.2d 133 (Ky. App. 1963).  
 Designation of an out-of-state bank as agent whose duties were to protect bondholders rather than city does not invalidate revenue bond financing plan.

162.550. Ownership of certain moneys determined. — Moneys received by the authority as rentals under any lease, and from the sale of bonds, are declared not to be funds of the Commonwealth but shall be corporate funds of the authority to be held, administered, invested and disbursed as trust funds under the terms, provisions, pledges, covenants, and agreements set forth in its leases and bond resolutions and bonds. (Enact. Acts 1960, ch. 81, § 6, effective June 16, 1960.)

Collateral References. 78 C.J.S., Schools and School Districts, § 242.

162.560 to 162.570. [Repealed.]

Compiler's Notes. These sections (Acts 1960, ch. 81, §§ 6, 7) were repealed by Acts 1964, ch. 7, § 12.

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 RS 162.120 to 162.130  
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 leral deposit insurance

162.580. Duty of authority as to each bond issue. — In connection with each bond issue of the authority, it shall be the duty of the authority:

(1) To require the board of education to insure the project to its full insurable value, or to the amount of the bonds outstanding from time to time, whichever is the less, against the hazards covered by the standard fire insurance policy with standard indorsement of "extended coverage"; and to require that a copy of each policy be delivered to the authority for inspection and for its records;

(2) To require periodic accounting from all depositories of funds, the same to be submitted on forms prepared and supplied by the authority;

(3) To furnish to the auditing staff of the department a summary identification and description of each issue, and to request that the financial records of the board of education relating thereto be audited as a part of the annual audit of the board of education, and that a separate statement or report thereof be filed with the authority;

(4) To send to each board of education, at least thirty (30) days before the due date of any rental payment, a notice of the amount of rental to become due and the date thereof, and to require acknowledgment thereof;

(5) In the event of failure to receive from the board of education satisfactory evidence that sufficient funds have been transmitted to the authority, or will be so transmitted, for paying bond principal and/or interest when due, as provided in the lease, to notify and request that the department withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated to it, and to request that the department transfer the required amount thereof to the authority for the account of the board of education. (Enact. Acts 1960, ch. 81, § 8, effective June 16, 1960.)

Cross-References. Approval of contracts payable from revenue bonds, KRS 56.470.

Collateral References. 79 C.J.S., Schools and School Districts, § 363.

162.590. Duty of department upon request of authority. — It shall be the duty of the department, upon written request of the authority:

(1) To cause its auditing staff to audit the financial records of a board of education relating to any identified and described bond issue of the authority, as an incident to the department's next ensuing annual audit of such board of education, and each subsequent annual audit thereof; and to provide to the authority a statement or report thereof;

(2) Upon receiving a notification and request from the authority as described in KRS 162.580, to ascertain whether the lease of the board of education has been renewed and is in force in accordance with its terms; and if the same is ascertained to be in force, to withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated by the department for the board of education, and to comply

with the terms of the notification and request of the authority, for the amount of said board of education. (Enact. Acts 1960, ch. 81, § 9, effective June 16, 1960.)

*Cross-References.* Department of education, KRS 156.010.

**162.600. Bonds to issue in name of authority — Identification — Investment designation.** — (1) Bonds of the authority shall be issued in the name of the authority, shall be designated "school building revenue bonds," or, if appropriate, "school building revenue refunding bonds," and shall additionally be identified by the name of the board of education executing the lease. If the authority shall issue more than one (1) series of bonds for the same lessee from time to time, each series, including the first or subsequent to the first, shall additionally be identified distinctly by alphabetical or chronological designation, by date of the bonds, or otherwise as the authority may determine.

(2) For the purposes of determining any limit prescribed by any law for investment of any public funds, or funds of banks, trust companies, insurance companies, building and loan associations, credit unions, pension and retirement funds, and fiduciaries, in obligations of a single obligor, bonds issued by the authority pursuant to KRS 162.520 to 162.620 shall not be deemed to be bonds or obligations of the same obligor except to the aggregate of all series of bonds involving leases of a single board of education.

(3) Bonds issued by the authority under the provisions of KRS 162.520 to 162.620 are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law. (Enact. Acts 1960, ch. 81, § 10, effective June 16, 1960.)

*Cross-References.* State property and buildings commission, KRS 56.440 to 56.580. *Collateral References.* 79 C.J.S., School and School Districts, § 361.

162.610. Transactions of authority exempt from other control.  
[Repealed.]

Compiler's Notes. This section (Acts 1960, ch. 81, § 11) was repealed by Acts 1964, ch. 7, § 12.

162.620. Sale of bonds — Conditions. — Bonds of the authority shall be sold only upon the basis of sealed bids or proposals, publicly solicited, received, opened and acted upon. The "publication area," as that term is used in KRS chapter 424, shall not be deemed to be the area within which the office of the authority is situated, but shall be deemed to be the "publication area" of the board of education executing the lease. Each sale shall be publicly advertised by means of a notice conforming to the provisions of KRS 424.140 (3), and the same shall be published at least one (1) time, at least seven (7) days in advance of the date set forth for opening bids, in a daily newspaper having bona fide general circulation throughout the Commonwealth. If such publication is made, it shall be sufficient for publication in the "publication area" to be made only one (1) time, at least seven (7) days in advance for the date set forth for the opening of bids, notwithstanding provisions for publication more often as provided in KRS chapter 424. If a copy of the sale notice be delivered or transmitted in good faith to the qualified newspaper of the "publication area" in time for publication in an issue thereof published seven (7) days or more in advance of the date set forth for the opening of bids, and with direction for publication therein, any failure of such newspaper to make publication as directed shall not invalidate the sale of the bonds by the authority on the designated date, nor require postponement or cancellation thereof. (Enact. Acts 1960, ch. 81, § 12, effective June 16, 1960.)

Collateral References. 79 C.J.S., Schools and School Districts, § 370.

#### PENALTIES

162.990. Penalties. — Any person who violates any of the provisions of KRS 162.500 is liable to the board of education, in an action brought by the board of education, or by any citizen of the district, or by the superintendent of public instruction, for the restoration of the wrongful appropriation. In addition he is guilty of malfeasance in office and upon conviction shall forfeit his office, and may for each offense be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000), or imprisoned from one (1) to five (5) years, or both so fined and imprisoned. One-half (½) of the fine shall be paid to the board of education by the collecting officer. (3219a-7.)

Collateral References. 78 C.J.S., Schools and School Districts, §§ 140, 141.

the district shall remit to the commissioner, within ten days after its receipt of the last regular tax distribution in the year in which it is collected, the portion of the maximum effort debt service tax collections, including penalties and interest, which exceeds the required debt service levy. On or before November 1 in each year the commissioner shall notify the county auditor of each county containing taxable property situated within the school district of the amount of the maximum effort debt service levy of the district for that year, and said county auditor or auditors shall extend upon the tax rolls an ad valorem tax upon all taxable property within the district in the aggregate amount so certified.

History: Ex 1959 c 27 s 7; 1961 c 752 s 3,4; 1965 c 875 s 4,5; 1969 c 1056 s 14; 1973 c 492 s 14; 1975 c 432 s 55-57; 1981 c 358 art 9 s 5.6

124.43 CAPITAL LOANS.

Subdivision 1. Review by commissioner. (a) To the extent moneys are from time to time available hereunder, the commissioner may, after review and a favorable recommendation by the state board of education, make capital loans to school districts. Proceeds of the loans shall be used only for sites for school buildings and for acquiring, bettering, furnishing, or equipping school buildings under contracts to be entered into within 12 months from and after the date on which each loan is granted. Applications with the accompanying data specified in subdivision 2 shall be filed between October 1 of any year and the following June 1

(b) Any board which intends to submit an application for a capital loan shall submit a proposal to the commissioner for review and comment pursuant to section 122.90, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to construct the facility. The state board shall not make a favorable recommendation on an application for a capital loan for any facility unless:

- (1) the facility receives a favorable review and comment pursuant to section 122.90; and
- (2) the state board determines that
  - (A) the facilities are needed to replace facilities dangerous to the health and safety of pupils, or to provide for pupils for whom no adequate facilities exist;
  - (B) the facilities could not be made available through dissolution and attachment of the district to another district or through pairing, interdistrict cooperation, or consolidation with another district, or through the purchase or lease of facilities from existing institutions within the area. The preference of the school district regarding reorganization shall not be a criterion used by the state board in determining whether the facilities could be made available through reorganization;
  - (C) the facilities are comparable in size and quality to facilities recently constructed in other districts of similar enrollment; and
  - (D) the district's need for the facilities is comparable to needs which comparable districts are meeting through local bond issues.

The state board may recommend that the loan be approved in a reduced amount in order to meet the foregoing criteria. If the state board recommends that a loan not be approved, the commissioner shall not approve the loan, and if the state board recommends that the loan be approved in a reduced amount, the commissioner shall not approve a loan larger than that recommended by the state board.

(c) No loan shall be approved for any district exceeding an amount computed as follows:

- (1) The amount voted by the district under subdivision 2:

employ a clerk to administer the district's debt service tax collection account of the fund. 1969 c 6 s 22; 1973 c 57 s 1; 1978 c 706 s 34; 1981 c 358 art 9 s 5.6

ward; interest. Any school district which has a net debt of the district, and the maximum effort debt service tax collections, including penalties and interest, which exceeds the required debt service levy. On or before November 1 in each year the commissioner shall notify the county auditor of each county containing taxable property situated within the school district of the amount of the maximum effort debt service levy of the district for that year, and said county auditor or auditors shall extend upon the tax rolls an ad valorem tax upon all taxable property within the district in the aggregate amount so certified.

of the date and amount of each debt service loan evidenced thereby in the commissioner not later than the commissioner shall cause a copy of the note to be filed with the commissioner not later than the following June 1

commissioner shall issue to each school district a certificate of indebtedness on the debt service loan payable on presentation to the commissioner. Interest shall accrue from the date the loan is received and annual payments shall be made on the debt service loan in that year the maximum effort debt service levy is greater than the amount of the debt service tax collections, including penalties and interest, which exceeds the required debt service levy.

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(2) Plus the aggregate principal amount of general obligation bonds of the district outstanding on the date of approval, not exceeding the limitation on net debt of the district in section 475.53, subdivision 4, or 24 percent of the adjusted assessed value, whichever is less;

(3) Less the maximum net debt permissible for the district on the date of approval, under the limitation in section 475.53, subdivision 4, or 24 percent of the adjusted assessed value, whichever is less; and

(4) Less any amount by which the amount voted exceeds the total cost of the facilities for which the loan is granted, as estimated in accordance with subdivision 4, provided that the loan may be approved in an amount computed as provided in clauses (1) to (3), subject to subsequent reduction in accordance with this clause.

Subd. 2. **District procedures.** The school board of any district desiring a loan shall adopt a resolution stating the amount proposed to be borrowed, the purpose for which the debt is to be incurred, and an estimate of the dates when the facilities for which the loan is requested will be contracted for and completed. The question of authorizing the borrowing of funds for the facilities shall be submitted to the voters of the district at a regular or special election. The question submitted shall state the total amount to be borrowed from all sources. A majority of those voting on the question shall be sufficient to authorize the district to effect the state loan application and also to issue the bonds on public sale in accordance with chapter 475. Applications for loans shall be accompanied by (a) a copy of the resolution, (b) a certificate by the clerk showing the vote at the election, (c) a certificate by the clerk and treasurer showing the then outstanding indebtedness of the district, and (d) a certificate by the county auditor of each county in which a portion of the district lies showing the information in his official records which is required to be used in computing the debt limit of the district under section 475.53, subdivision 4. The clerk's and treasurer's certificate shall show, as to each outstanding bond issue, the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution, and the interest rates and due dates and amounts of principal thereon. Applications shall be in the form and accompanied by the additional data which the commissioner and state board of education prescribe. When an application is received, the commissioner shall obtain from the commissioner of revenue, and from the public utilities commission when required, the information in their official records which is required to be used in computing the debt limit of the district under section 475.53, subdivision 4.

Subd. 3. **Award of loans.** The commissioner shall examine and consider all applications for capital loans which have been recommended by the state board of education, and if any applicant district is found not qualified it shall be promptly notified thereof. On January 1 and July 1 of each year, the commissioner shall make a determination on all pending applications which have been on file with the commissioner more than one month. If an applicant is qualified in the opinion of the commissioner and the aggregate of the amounts applied for does not exceed the amount available or which can be made available in the capital loan account, all loans so applied for shall be granted, subject to acceptance by the respective districts as specified below. If the aggregate exceeds the amount which is or can be made available, the commissioner shall allot the available amount among the qualified applicant districts, or any of them, according to the commissioner's judgment and discretion based upon their respective needs. The commissioner shall promptly certify to each qualified applicant district the amount, if any, of the capital loan granted to it, subject to adjustment under subdivision 1, clause (4).

Subd. 4. **Contract.** Each capital loan shall be evidenced by a contract between the school district and the state acting through the commissioner. It shall obligate the state to pay to the district, out of the maximum effort school loan

obligation bonds of the  
ing the limitation on net  
24 percent of the adjusted

the district on the date of  
ision 4, or 24 percent of the

exceeds the total cost of the  
accordance with subdivision  
nt computed as provided in  
accordance with this clause.

of any district desiring a  
posed to be borrowed, the  
rate of the dates when the  
racted for and completed  
for the facilities shall be  
or special election. The  
borrowed from all sources  
sufficient to authorize the  
issue the bonds on public  
loans shall be accompanied  
erk showing the vote at the  
wing the then outstanding  
he county auditor of each  
e information in his official  
e debt limit of the district  
treasurer's certificate shall  
originally issued, the purpose  
w unpaid as of the date of  
amounts of principal  
panied by the additional  
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from the commissioner of  
required, the information  
computing the debt limit of

examine and consider all  
ended by the state board of  
ified it shall be promptly  
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have been on file with the  
qualified in the opinion of  
quired for does not exceed  
the capital loan account,  
eptance by the respective  
e amount which is or can  
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the amount, if any, of the  
subdivision 1, clause (4).  
evidenced by a contract  
he commissioner. It shall  
imum effort school loan

fund, an amount computed as provided in subdivision 1, upon receipt by the commissioner of a certified resolution of the school board reciting that contracts for construction of the facilities for which the loan is granted have been awarded and that bonds of the district have been issued and sold in the amount necessary to pay all costs thereof in excess of the amount of the loan, and estimating the costs. It shall obligate the district to repay the loan out of the excesses of its maximum effort debt service levy over its required debt service levy, including interest at a rate equal to the average annual rate payable on Minnesota state school loan bonds most recently issued prior to the disbursement of the loan to the district, but in no event less than 3 1/2 percent per annum on the principal amount from time to time unpaid. The district shall each year, as long as it is indebted to the state, levy for debt service (a) the amount of its maximum effort debt service levy or (b) the amount of its required debt service levy, whichever is greater, except as the required debt service levy may be reduced by a loan under section 124.42. Whenever the maximum effort debt service levy is greater, the district shall remit to the commissioner within ten days after its receipt of the last regular tax distribution in each year, that portion of the debt service tax collections, including penalties and interest, which exceeded the required debt service levy. The commissioner shall supervise the collection of outstanding accounts due the fund and may, by notice to the proper county auditor require the maximum levy to be made as required hereunder. Interest on capital loans shall be paid on December 15 of the year next following that in which the loan is granted and annually thereafter. On or before November 1 in each year the commissioner shall notify the county auditor of each county containing taxable property situated within the school district of the amount of the maximum effort debt service levy of the district for that year, and the county auditor or auditors shall extend upon the tax rolls an ad valorem tax upon all taxable property within the district in the aggregate amount so certified. If any capital loan is not paid within 30 years after it is granted from maximum effort debt service levies in excess of required debt service levies, the liability of the school district thereon shall be satisfied and discharged and interest thereon shall cease. After a district's capital loan has been outstanding for 20 years, the district shall not issue bonds on the public market except for the purpose of refunding the loan.

Subd. 5. Participation by county auditor; record of contract; payment of loan. Before delivery of any capital loan contract, the school district shall file a copy thereof with the county auditor of each county in which any portion of the district is situated, and shall obtain from each county auditor and furnish to the commissioner a certificate stating that the county auditor has entered the capital loan evidenced thereby in his bond register. As each executed contract is delivered to the commissioner, the commissioner shall cause a record thereof to be made and preserved showing the name and address of the district, the date of the contract, and the amount of the loan initially approved in accordance with subdivision 1. Upon receipt of the resolution required in subdivision 4, the commissioner shall issue a warrant on the capital loan account for the amount which may be disbursed in accordance with subdivision 1, payable on presentation to the state treasurer. On presentation the treasurer shall remit the amount to the district and enter the date and amount in his account with the district. Interest thereon shall accrue from that date.

Subd. 6. No district having an outstanding state loan shall issue and sell any bonds on the public market, except for the purpose of refunding state loans, unless it agrees to make the maximum effort debt service levy in each year thereafter at the higher rate provided in section 124.38, subdivision 7, and unless it schedules

the maturities of such bonds in accordance with section 475.54, subdivision 2. The district shall report each such sale to the commissioner of education.

*History: Ex1959 c 27 s 8; 1961 c 752 s 5,6; 1965 c 875 s 6-10; 1967 c 583 s 3; 1969 c 1056 s 5-9; 1973 c 492 s 14; 1973 c 582 s 3; 1975 c 432 s 58-61; 1976 c 271 s 53; 1980 c 545 s 2,3; 1980 c 614 s 123; 1981 c 358 art 9 s 7-11*

#### 124.44 PREPAYMENTS.

Any school district may at any time pay the entire principal or part thereof and interest then due on a note or contract held by the state, out of any moneys not needed for school purposes, and may issue and sell its refunding bonds in accordance with chapter 475, for such purpose, by actions of its school board and without the necessity of a vote by its electors, if such refunding bonds plus its net debt does not exceed the debt limit prescribed by said chapter 475. Any such refunding bonds may bear interest at a rate or rates higher or lower than the rate payable on the loan or loans refunded thereby.

*History: Ex1959 c 27 s 9; 1961 c 752 s 7*

#### 124.45 APPLICATIONS OF PAYMENT.

The commissioner shall apply payments received from collections of maximum effort debt service levies in excess of required debt service levies of a district on its debt service notes and capital loan contracts as follows: First, to payment of interest accrued on its notes, if any; second, to interest on its contracts, if any; third, toward principal of its notes, if any; and last, toward principal of its contracts, if any. While more than one note or more than one contract is held, priority of payment of interest shall be given to the one of earliest date, and after interest accrued on all notes is paid, similar priority shall be given in the application of any remaining amount to the payment of principal. In any year when the receipts from a district are not sufficient to pay the interest accrued on any of its notes or contracts, the deficiency shall be added to the principal, and the commissioner shall notify the district and each county auditor concerned of the new amount of principal of the note or contract.

*History: Ex1959 c 27 s 10; 1975 c 432 s 62*

#### 124.46 ISSUANCE AND SALE OF BONDS.

Subdivision 1. On or before October 1 in each year, the commissioner shall certify to the commissioner of finance the amount which he anticipates will be needed for debt service loans and capital loans to be made under the maximum effort school aid law prior to October 1 in the following year. Each such certification of the commissioner shall also state his estimate of the dates and amounts the certified amount will be needed in the maximum effort school loan fund and his estimate as to the years and amounts in which payments on debt service loans and capital loans will be received.

Subd. 2. Upon receipt of each such certification, subject to authorization as provided in subdivision 4, the commissioner of finance shall from time to time as needed issue and sell state of Minnesota school loan bonds in the aggregate principal amount stated in the commissioner's certificate, for the prompt and full payment of which, with the interest thereon, the full faith, credit, and taxing powers of the state are hereby irrevocably pledged, and shall credit the net proceeds of their sale to the purposes for which they are appropriated by section 124.40, subdivision 1. Such bonds shall be issued and sold at not less than their par value in such manner, in such number of series, at such times, and in such form and denominations, shall bear such dates of issue and of maturity, either without option of prior redemption or subject to prepayment upon such notice and

Library references: Schools and School Districts § 19(1), 77 et seq.; Schools and School Districts §§ 19, 21, 270 et seq.; P.L. Schools § 21

Historical Note

Code of 1919: The act of 1955 substituted "where" for "where in audit under the direction of the State Superintendent of Public Instruction reveals that", substituted "fails" for "has failed", substituted "substitution" from the "Authority" "these amendments", substituted "pay" for "may pay", and added words "in payment of the debts"

§ 7-786. Joint action of districts

With the approval of the Department of Public Instruction the county board of school directors, any two or more school districts may (1) jointly enter into contracts and leases with the State Public School Building Authority for the construction or improvement of a school building and the furnishings and equipment thereof for the use of school districts, and may (2) either jointly or individually convey or lease, as hereinbefore provided, to the Authority, any lands and improvements now owned or hereafter acquired by any one or more of such school districts, and may (3) jointly acquire title to additional lands or interests in land, as hereinbefore provided.

The sharing of the cost of such land and improvements and of the rental or rentals payable to the Authority and the maintenance, management and control of the school shall be agreed upon by the boards of directors of such districts so joining, in such manner and in such proportions as they may agree upon. All schools established under the provisions of this section shall be maintained, governed and controlled as other public schools under the laws of this Commonwealth.

March 10, P.L. 30, art. VII, § 786, added 1949, May 9, P.L. 1017. 1. Enrolled bill omits the word "may". Library references: Schools and School Districts § 71, 77 et seq.; C.J.S. Schools and School Districts §§ 256, 257, 270 et seq.

(G) MUNICIPALITY AUTHORITIES

Historical Note

Subdivision (G) added by act 1951, Jan. 21 (1952), P.L. 2195, § 3.

Cross References

Municipal Authorities Act of 1945, see sections 301 to 322, 373 and 374 of Title 53, Municipal and Quasi-Municipal Corporations.

§ 7-790. Grants, conveyances, appropriations to, contracts with, and leases from, municipality authorities

Whenever the board of any municipality authority shall have undertaken a school project or projects for use by a school district individually

for use by two or more school districts jointly, such school district and school districts shall have the power, upon written approval of the Department of Public Instruction:

(1) To sell, lease, lend, grant or convey to such municipality authority individually or jointly, with or without consideration, any lands, interests or rights in lands which may be deemed necessary for the project, together with any buildings, structures or improvements thereon erected, as well as furnishings and equipment used or useful in connection therewith.

(2) To purchase or otherwise acquire additional lands or interests in lands which may be deemed necessary for the project, and to finance such acquisition by the issuance and sale of general obligation bonds according to law.

(3) To transfer, assign and set over to such municipality authority any contract which may have been awarded for such project or projects.

(4) To make appropriations to such municipality authority out of their general funds or out of any other available funds, including proceeds of insurance on school property, the proceeds of bonds of the school district or districts issued for building purposes and not so used, and moneys set aside or otherwise available for building purposes. Any such funds which represent the proceeds of any general obligation bonds heretofore or hereafter issued by the school district shall be used by such municipality authority for or towards the purpose or purposes for which such bonds were issued and, in the event that any such bonds were issued pursuant to a vote of the electors, any appropriation of such proceeds, as above set forth, shall not be deemed such a change of purpose from that for which such bonds were authorized as shall require the question to be again submitted to a vote of the electors under existing law.

(5) To lease, individually or jointly, from such municipality authority such school project or projects for a term not exceeding forty (40) years, at such rental or rentals, payable out of current revenues, and upon such terms and conditions as may be authorized by the board of such municipality authority and the board or boards of school directors of such school district or school districts, and, in case of joint leases, to agree upon the manner of sharing, as between the school districts, the rental or rentals and any other sums payable to the municipality authority and the costs and expenses of insuring, operating, maintaining and repairing the school property leased.

(6) To make all other contracts or agreements with such municipality authority or with other school districts as may be deemed necessary or convenient in connection with the project.

**§ 7-781. Grants to State Public School Building Authority**

Any school district shall have power and authority, with the approval of the Department of Public Instruction, to grant, assign and convey to the State Public School Building Authority, with or without consideration, any lands, easements or rights in lands, together with improvements, buildings or structures therein or thereon, now owned by such school district or hereafter acquired by it, needed or convenient to carry out the purposes of these amendments, as well as furnishing and equipment for school buildings. 1949, March 10, P.L. 30, art. VII, § 781, added 1949, May 9, P.L. 1017, § 2.

Library references: Schools and School Districts § 65; C.J.S. Schools and School Districts § 211 et seq.; P.L.E. Schools §§ 51 et seq., 56, 58, 61, 83.

**§ 7-782. Acquisition of lands; bond issues**

Any school district shall have power and authority, with the approval of the Department of Public Instruction and in the manner hereinbefore provided, to acquire title in the name of the school district to any additional lands or interests in lands which may be required to carry out the purposes of these amendments and to finance such acquisition by the issuance and sale of its general obligation bonds in the manner provided by law. 1949, March 10, P.L. 30, art. VII, § 782, added 1949, May 9, P.L. 1017, § 2.

Library references: Schools and School Districts § 65, 97(1); C.J.S. Schools and School Districts §§ 211 et seq., 359 et seq.; P.L.E. Schools § 93.

**§ 7-783. Appropriations; use of proceeds of bond issues**

Any school district shall have power and authority, with approval of the Department of Public Instruction, to appropriate to the State Public School Building Authority any funds available for building purposes. Any such funds which represent the proceeds of any general obligation bonds issued by the school district shall be used by the State Public School Building Authority for or toward the purposes or purposes for which such bonds were issued, and in the event any such bonds were issued pursuant to a vote of the electors, any appropriation of such proceeds, as above set forth, shall not be deemed such a change of purpose from that for which such bonds were authorized as shall require the question to be again submitted to a vote of the electors under any existing law. 1949, March 10, P.L. 30, art. VII, § 783, added 1949, May 9, P.L. 1017, § 2.

Library references: Schools and School Districts § 93, 97(1); C.J.S. Schools and School Districts §§ 326, 339-343, 359 et seq.

**§ 7-784. Contracts to lease and leases; operation and maintenance**

Any school district shall have power and authority, with the approval of the Department of Public Instruction, to enter into contracts with the State Public School Building Authority to lease as lessee from the Authority any school building or any improvement thereto, and the furnishings and equipment thereof, constructed by the Authority, for a term not exceeding forty (40) years, at such rental or rentals as may be determined by the Authority, and upon the execution of a contract for the construction of, or during the period of construction of, or upon the completion of such school buildings or improvements and the furnishings and equipment thereof, the school district shall have power and authority to lease the same as lessee, for a term not exceeding forty (40) years, at such rental or rentals as may be determined by the Authority. There shall be included in the annual budget of all school districts an appropriation to meet the amount of such rental or rentals.

Any school district shall have the power and authority to pay for operation and maintenance of any school building or any improvement thereto, and furnishings and equipment thereof, leased as lessee by it from the Authority under the provisions of the first paragraph of this section. 1949, March 10, P.L. 30, art. VII, § 784, added 1949, May 9, P.L. 1017, § 2; as amended 1951, June 28, P.L. 920, No. 172, § 1.

Enrolled bill omitted the word "or".

Library references: Schools and School Districts § 77 et seq.; C.J.S. Schools and School Districts § 270 et seq.; P.L.E. Schools § 93.

**Historical Note**

Code of 1949: The act of 1951 inserted near the middle of this section: "execution of a contract . . . or upon the".

**§ 7-785. Failure to pay rent; withholding appropriation**

In all cases where the board of directors of any school district fails to pay or to provide for the payment of any rental or rentals due the State Public School Building Authority for any period in accordance with the terms of any lease entered into under the terms of subdivision (j) of this article, upon written notice thereof from the Authority, the State Superintendent of Public Instruction shall notify such board of school directors of its obligation and shall withhold out of any State appropriation due such school district an amount equal to the amount of the rental or rentals owing by such school district to the State Public School Building Authority and shall pay over the amount so withheld to the Authority in payment of the rental. 1949, March 10, P.L.

12) APPEALS FROM AUDIT DISTRICTS SECOND, THIRD AND FOURTH CLASS

§ 24—2151. Who may appeal; conditions

3. Bond on appeal

An appeal from a surcharge by a tax collector filed within the time limit will not be stricken off by reason of appellant's failure to file a bond until five days after the period for taking the ap-

peal had expired, since the court acquired jurisdiction on the timely filing of the appeal and its perfection was accomplished within a reasonable time. Appeal of Lefcourt, 49 D. & C.2d 176, 1970.

§ 24—2153. Procedure; jury trials; appeals to appellate courts

When any appeal is taken, the appeal may be placed upon the argument list by direction of any party interested by intervention or otherwise. Depositions of witnesses, and other evidence to be used at the argument, may be taken on behalf of any party, before any person competent to administer an oath, upon rule for that purpose served upon the opposite party or such party's counsel. After hearing argument the court shall file its finding of fact and conclusions of law, and enter judgment in accordance therewith. If, after argument, the court shall deem any question or questions of fact so doubtful, under the evidence submitted, as to render it desirable that an issue be directed as to such question or questions to be tried by a jury, the court may direct such an issue. As amended 1971, June 3, P.L. 1972, No. 6, § 1 (§ 509(a)(141)).

*The last sentence of this section is specifically repealed by the Appellate Court Jurisdiction Act of 1970, July 31, No. 223, § 509 (a)(141), added by Act 1971, June 3, No. 6 [17 P.S. § 211.509(a)(141)].*

(F) ACCOUNTS OF TEACHERS' INSTITUTES AND SCHOOL DIRECTORS' ASSOCIATIONS

§ 24—2401. Repealed. 1970, Jan. 14, P.L. (1969) 468, § 60, effective July 1, 1970

§ 24—2402. School directors' association

The account of the treasurer of a school director association within an intermediate unit shall be properly audited annually by a certified public accountant, and filed with the association. As amended 1970, Jan. 14, P.L. (1969) 468, § 70, effective July 1, 1970.

ARTICLE XXV. REIMBURSEMENTS BY COMMONWEALTH AND BETWEEN SCHOOL DISTRICTS

Law Review Commentaries  
School finance in Pennsylvania. (1980)  
41 U.Pitt.L.Rev. 715.

Rules and Regulations  
Computation of subsidy, see 22 Pa.  
Code § 329.1 et seq.

(A) DEFINITIONS

§ 25—2501. Definitions

For the purposes of this article the following terms shall have the following meanings:

(1) "District Pupils" of a school district shall designate all pupils enrolled in the public schools of the Commonwealth, and of adjacent states, who are residents of a given school district, except those pupils

For Title 24, Consolidated Statutes, see Appendix following this Title

who are enrolled in the public schools maintained by the vocational school district, the territorial limits of which include the school district, "District Pupils" of a vocational school district shall designate all pupils enrolled in the public schools, maintained by the vocational school district who are residents of the district.

(2) "Teaching Units" consist of twenty-two (22) high school pupils or thirty (30) elementary school pupils. Fractions thereof shall be fractional teaching units. If a district's pupil-teacher ratio exceeds thirty-three (33) its district teaching unit shall be obtained by multiplying the total number of all teaching units, as defined above, by thirty-three (33), and dividing the product so obtained by the pupil-teacher ratio of the district. High school pupils are those pupils in a secondary school program classified as such by the Department of Public Instruction, but in no case shall include any pupils below grade seven (7).

(3) "Average Daily Membership" shall be computed in accordance with rules of procedure as established by the Superintendent of Public Instruction.

(4) to (7) Repealed. 1966, Feb. 1, P.L. (1965) 1642, § 16, effective June 30, 1968.

(8) Deleted by amendment. 1968, June 12, P.L. 192, No. 96, § 3.

(9) "Real Property Valuation." A school district's or vocational school district's real property valuation, to be used for purposes of computing the basic account standard reimbursement fraction, the subsidiary account reimbursement fraction, and the aid ratio shall be the valuation placed upon its taxable real property by the State Tax Equalization Board.

(9.1) "Personal Income Valuation." A school district's personal income valuation for purposes of reimbursement to a school district under subsections (d), (e), and (f) of section 2502,<sup>1</sup> and section 2592<sup>2</sup> shall be the valuation of the total taxable income for the tax year preceding the immediate prior year, determined under Article III of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971,"<sup>3</sup> for each school district each year by the Secretary of Revenue and certified to the Secretary of Education.

(9.2) "Equalized Millage." A school district's tax effort to be used for purposes of determining the base earned for reimbursement and used for reimbursement under subsections (d) and (e) of section 2502,<sup>4</sup> shall be the amount of local school taxes collected during the year for which reimbursement is being computed, divided by the most recent real property valuation of the school district.

(9.3) "Median Equalized Millage." For the school year 1976-1977 and each year thereafter, the Secretary of Education shall annually calculate the equalized millage for which an equal number of districts are above and below for that year.

(10) "Number of District Teaching Units for Purposes of Determination of Basic Account Standard Reimbursement Fraction, and Subsidiary Account Reimbursement Fraction." A school district's or vocational school district's number of district teaching units for purposes of determination of the basic account standard reimbursement fraction and the subsidiary account reimbursement fraction shall be obtained as follows: (i) divide by twenty-two (22) the number of district pupils in average daily membership in a public high school and in high school grades of a laboratory school of a State-owned college during the preceding school term, (ii) divide by thirty (30) the number of district pupils in average daily membership in a public elementary school and laboratory school of a State-owned college during the preceding school term, and (iii) add the quotients obtained under (i) and (ii) above, except when the pupil

For Title 24, Consolidated Statutes, see Appendix following this Title

teacher ratio exceeds thirty-three (33), in which case, the sum obtained under (1) and (ii) above shall be multiplied by thirty-three (33) and the product so obtained shall be divided by the pupil-teacher ratio of the district. No school district or vocational school district shall be credited with less than one teaching unit. No school district or vocational school district shall be assigned a basic account standard reimbursement fraction lower in value than the minimum instruction subsidy divided by the maximum instruction subsidy. All one-room schools operated in accordance with the provisions of this act shall, if their operation is approved, be credited with at least one teaching unit. The State Board of Education shall withhold its approval of any one-room one-teacher school, unless (i) topography, distance or condition of roads are such as to make transportation of pupils impractical, or (ii) it is impossible to accommodate pupils in existing graded schools in the district or other districts, or (iii) the district is financially unable to construct a consolidated school.

(10.1) "Weighted Pupil" shall mean a value placed upon district pupils in average daily membership at various levels of instruction. Such values shall be as follows:

Kindergarten	0.50, if attending one session per day; 1.00, if attending two sessions per day.
Elementary	1.00
Secondary	1.36

(10.2) "Weighted Average Daily Membership" (WADM). The average daily membership for all resident pupils in the various levels of instruction shall be multiplied by the weight for that level as indicated to obtain the weighted average daily membership. The sum of the products so obtained shall be the weighted average daily membership for the district. The weighted average daily membership used in computing the aid ratio shall include kindergarten, elementary and secondary pupils.

(11.1) "Actual Instruction Expense per Weighted Average Daily Membership." For the school year 1966-1967, and each school year thereafter, the Superintendent of Public Instruction shall calculate for each school district the actual instruction expense per weighted average daily membership for each district pupil. The actual instruction expense shall include all General Fund expenses of the district except those for health services, transportation, debt service, capital outlay, homebound instruction, and outgoing transfers to community colleges and technical institutes. From this cost shall be deducted the amount received from the State for driver's education; special class operation; vocational curriculum; area vocational technical schools; payments of tuition by district patrons, parents, the State and Federal government; and all moneys received from the State or Federal government under Public Laws 89-10 (Elementary and Secondary Education Act),<sup>1</sup> 88-452 (Economic Opportunity Act),<sup>2</sup> and 87-415 (Manpower Training and Development Act)<sup>3</sup> and for projects under section 2508.3 of this act.<sup>4</sup> The actual instruction expense so determined, when divided by the weighted average daily membership for the district shall be the actual instruction expense per weighted average daily membership. Added 1966, Feb. 1, P.L. (1965) 1642, § 5.

(12) "State's Share of Total Cost." For the school year 1966-1967 and each school year thereafter, the State's share of total reimbursable cost shall be fifty percent (50%). Total reimbursable cost shall be the lesser of actual expense per WADM as defined in clause (11.1) or a maximum amount to be fixed by the general assembly each year to represent the estimated median actual instruction expense per WADM in the year for which the reimbursement is to be payable. For the school year

commencing the first day of July 1976 and each school year thereafter the maximum amount shall be the median actual instruction expense per WADM in the year for which the reimbursement is to be payable. The Secretary of Education annually shall calculate the State "median actual instruction expense per weighted average daily membership" and shall supply the same to the General Assembly.

(12.1) "Median Actual Instruction Expense Per Weighted Average Daily Membership." For the school year 1976-1977 and each school year thereafter, the Secretary of Education shall annually calculate the actual instruction expense per weighted average daily membership for which at equal number of districts are above and below for that year.

(13) "District's Share of Total Cost." The district's share of total cost shall be the State's share subtracted from 1.00.

(14) "Aid Ratio" shall represent the Commonwealth's share of reimbursable cost as defined in clause (12). The aid ratio shall be determined in the following manner: (a) divide the market value per weighted average daily membership of the district by the market value per weighted average daily membership of the State; (b) determine the product of (a) multiplied by district's share of total cost; (c) subtract the resultant product in (b) from one (1.0000) to determine the aid ratio

$$\text{Aid Ratio} = 1.0000 - \left[ \frac{\text{District MV/WADM}}{\text{State MV/WADM}} \right] \times 0.51$$

(14.1) "Market Value/Income Aid Ratio." For purposes of reimbursement to a school district under subsections (d), (e), and (f) of section 2502,<sup>4</sup> and section 2592,<sup>4</sup> shall be the Commonwealth's method of determining the combined market value and income wealth for each pupil and shall be computed as follows:

(a)(1) Divide the market value per weighted average daily membership of the district by the market value per weighted average daily membership of the State;

(ii) Determine the product of (a)(1) multiplied by the district's share of total costs which is .5;

(iii) Subtract the resultant product in (a)(ii) from 1.000 to determine the market value portion of the aid ratio.

(b)(1) Divide the income per weighted average daily membership of the district by the average personal income per weighted average daily membership of the State;

(ii) Determine the product of (b)(1) multiplied by the district's share of total costs which is .5;

(iii) Subtract the resultant product in (b)(ii) from 1.0000 to determine the income aid ratio.

(c) Add sixty percent (60%) of the market value aid ratio to forty percent (40%) of the income aid ratio to determine the market value/income aid ratio.

(15) "Minimum Subsidy." For the school years 1976-1977 and 1977-1978, in no case shall a district receive for each pupil in weighted average daily membership, an amount less than ten percent (10%) of the actual cost of instruction or ten percent (10%) of the base earned for reimbursement whichever is the lesser amount. For the 1978-1979 school year and each school year thereafter, no school district shall receive for each pupil in weighted average daily membership an amount less than fifteen percent (15%) of the base earned for reimbursement or actual instructional expense per WADM, whichever is the lesser amount. For 1976-1977 and each school year thereafter, a district whose actual instruction expense per weighted average daily membership is more than two hundred dollars (\$200) less than the median actual instruction ex

per weighted average daily membership, and whose equalized millage is within fifteen percent (15%) of the median equalized millage, the reimbursement shall be two hundred dollars (\$200) below the median actual instruction expense per weighted average daily membership times the district's aid ratio for each weighted average daily membership.

(16) "Density Factor" shall be assigned for those school districts whether coterminous with a city, borough, town or township or not, whose population exceeds ten thousand (10,000) per square mile as determined by the Superintendent of Public Instruction from the most recent records of the United States Census Bureau. Provided, That any school district which was assigned a density factor for any school year prior to 1969-1970, and for any school year thereafter is determined by the superintendent to have a population of ten thousand (10,000) per square mile or less shall qualify for a modified density payment which shall be in the ratio of its population per square mile to ten thousand (10,000) of the amount to which it would have been entitled had its population per square mile exceeded ten thousand (10,000): And, provided further, That any school district which was assigned a density factor for any school year prior to 1969-1970, and for any school year thereafter and as a result of a merger with one or more other school districts becomes a part of a new school district and such new school district is determined by the superintendent to have a population of ten thousand (10,000) per square mile or less, such new school district shall qualify for a modified density payment which shall be in the ratio of its population per square mile to ten thousand (10,000) of the amount to which it would have been entitled had its population per square mile exceeded ten thousand (10,000). A school district qualifying under the density factor shall be paid by the Commonwealth on account of excess expenditures per weighted average daily membership, not to exceed for the school year 1966-1967 one hundred dollars (\$100), for the school year 1967-1968 one hundred fifty dollars (\$150), for the school year 1968-1969 two hundred dollars (\$200), for the school year 1969-1970 and each school year thereafter two hundred fifty dollars (\$250), in excess of four hundred dollars (\$400), an amount to be determined by multiplying the excess expenditures by the aid ratio or by three hundred seventy-five thousandths (.375), whichever is greater and by the number of weighted pupils, such amount to be in addition to any other payments for such pupils: Provided, however, a school district qualifying under the density factor may, in lieu of the above payment, elect for any school year to be paid and the Commonwealth shall pay on account of excess expenditures per weighted average daily membership in excess of four hundred dollars (\$400) a sum of thirty dollars (\$30) per weighted average daily membership, such amount to be in addition to any other payments for such pupils.

Added 1966, Feb. 1, P.L. (1965) 1642, § 5, as amended 1970, June 22, P.L. 404, No. 132, § 1.

(17) "Sparsity Factor" shall be assigned for those districts whose population is less than fifty (50) per square mile as determined by the Secretary of Education from the most recent records of the United States Census Bureau. A school district qualifying under the sparsity factor shall be paid by the Commonwealth on account of excess expenditures per weighted average daily membership, not to exceed for the school year 1966-1967 one hundred dollars (\$100), for the school year 1967-1968 one hundred fifty dollars (\$150), for the school year 1968-1969 two hundred dollars (\$200), for the school year 1969-1970 through school year 1977-1978 two hundred fifty dollars (\$250), for the school year 1978-1979 and each school year thereafter two hundred sixty-five dollars (\$265) in excess of four hundred dollars (\$400), an amount to be determined by

multiplying the excess expenditures by the aid ratio or by three hundred seventy-five thousandths (.375), whichever is greater and by the number of weighted pupils, such amount to be in addition to any other payment for such pupils: Provided, however, a school district qualifying under the sparsity factor may, in lieu of the above payment, elect for any school year to be paid and the Commonwealth shall pay on account of excess expenditures per weighted average daily membership in excess of four hundred dollars (\$400) a sum of thirty dollars (\$30) per weighted average daily membership, such amount to be in addition to any other payments for such pupils.

Any school district determined by the Secretary of Education to have a population of at least fifty (50) per square mile but less than one hundred (100) per square mile shall, for the school year 1976-1977 and each school year thereafter, qualify for a modified sparsity payment which shall be the ratio of its population per square mile to fifty (50) subtracted from 2.00 and multiplied by the amount to which it would have been entitled had its population per square mile been less than fifty (50).

(17.1) "Base Earned for Reimbursement." Shall be the lesser of (a) the actual instruction expense per weighted average daily membership of the district, or (b) the amount earned as follows:

(i) Subtract the individual school district's equalized millage from the highest equalized millage in the State.

(ii) Divide the amount determined in subclause (i) by the difference between the highest and lowest equalized millage in the State.

(iii) Multiply the quotient determined in subclause (ii) by two hundred dollars (\$200) and round to the nearest whole dollar amount.

(iv) Subtract the amount determined in subclause (iii) from the median actual instruction expense per weighted average daily membership for the year for which reimbursement is being computed.

As amended 1965, Oct. 21, P.L. 601, § 50; 1966, Feb. 1, P.L. (1965) 1642, §§ 2, 3, 4, 5, 16, effective June 30, 1968; 1968, June 12, P.L. 192 No. 96, § 3, effective July 1, 1974; 1970, June 22, P.L. 404, No. 132, § 1 1971, Aug. 18, P.L. 339, No. 88, § 2, effective July 1, 1974; 1971, Aug. 18, P.L. 340, No. 88, § 2, effective July 1, 1974; 1971, Aug. 18, P.L. 341, No. 88, § 2, *imd.* effective; 1972, Nov. 15, P.L. 1229, No. 273, § 1 *imd.* effective; 1974, June 26, P.L. 370, No. 125, § 3, effective July 1 1974; 1977, Aug. 24, P.L. 199, No. 59, § 9, *imd.* effective; 1979, Jul 13 P.L. 94, No. 41, § 2, effective July 1, 1979; 1980, June 30, P.L. 271 No. 80, § 4.

1 Section 25-2502, subsecs. (d), (e), (f) of this title.

2 Section 25-2592 of this title.

3 72 P.S. § 7301 et seq.

4 Section 25-2502, subsecs. (d), (e) of this title.

5 Section 25-2502, subsecs. (d), (e), (f) of this title.

6 Section 25-2592 of this title.

Section 10 of Act 1979, July 13, P.L. 91, No. 41 provides:

"Section 10. Notwithstanding any other provisions of the act of March 10, 1949 (P.L. 30, No. 14), known as the 'Public School Code of 1949,' the board of school directors of each school district is authorized to and shall reopen its 1979 or 1979-1980 budget, whichever is applicable, during the month of August, 1979 only, to make any revisions in the budget and tax levies heretofore adopted to reflect anticipated increases in subsidies payable to the school district during its 1979 or 1979-1980 fiscal year under the provisions of this act."

Section 16. (repealed, 1979, July 13, P.L. 94, No. 41, § 9.)

"Section 14. Notwithstanding any other provisions of the act of March 10, 1949 (P.L. 30, No. 14), known as the 'Public School Code of 1949,' the board of school directors of each school district is authorized to and shall reopen its 1977

or 1977-1978 budget, whichever is applicable, during the month of August, 1979 only, to make any revisions in the budget and tax levies heretofore adopted to reflect anticipated increases in subsidies payable to the school district during its 1977 or 1977-1978 fiscal year under the provisions of this act."

"Section 15. It is the intent and purpose of the General Assembly that the funds which accrue to the school districts of the Commonwealth on account of the provisions of this act be expended only for the reduction of school district and the restoration of school district programs and activities reduced or eliminated as a result of the previous adopted 1977 or 1977-1978 budget of the district.

"Section 16. (a) It is the intent of the General Assembly that under no circumstances shall the increased costs resulting from the subsidy formula change set forth in this act, excluding subse-

changes applying to nonpublic schools, exceed the sum of \$10,000,000 for the 1976-1977 school year and \$150,000,000 for the 1977-1978 school year and each school year thereafter over the existing costs incurred by the Commonwealth under present law.

(b) It is the intent of the General Assembly that under no circumstances shall the increased costs resulting from the subsidy formula changes applicable for nonpublic schools set forth in this act exceed the sum of \$5,057,000 for the school year 1977-1978 and \$7,546,000 for the school year 1978-1979 and each school year thereafter over the existing costs incurred by the Commonwealth under present law.

(c) If the sums appropriated for any fiscal year for making payments provided in this act subject to the limitation set forth in subsection (a) are not sufficient to pay in full the total amounts to which all qualified school districts are entitled to receive under this act for such year, the allocations to such school districts, shall be proportionately reduced by the percentage of difference between the amount needed and the amount appropriated to the extent necessary to bring the aggregate of such allocations within the limits of the amount appropriated.

Sections 14, 15 and 16 of Act 1977, Aug. 24, P.L. 199, No. 59 provide as follows: Section 6 of Act 1974, June 26, P.L. 370, No. 125 provides as follows:

"It is the legislative intent that, except in school districts of the first class and first class A, wherever possible, school districts use the additional subsidy payments to reduce school real property taxes.

"Notwithstanding any other provisions of the 'Public School Code of 1949' [24 P.S. § 1-101 et seq.] to which this is an amendment, the board of school directors of each school district except school districts of the first class is hereby authorized, for the school year 1974-1975 to reopen its 1974-1975 budget during the month of July, 1974 only and to make any revisions in the budget and tax levies heretofore adopted to reflect anticipated increases in State subsidies payable during 1974-1975 to the school district under the provisions of this act."

Section 3 of the act of 1972 provided: "This act shall take effect immediately and shall be retroactive to July 1, 1971."

Sections 7 and 8 of Act 1971, Aug. 18, P.L. 339, No. 58, provided:

**Section 7.**

In addition to all other reimbursements payable to school districts of the second, third and fourth class an additional payment shall be made to certain school districts of such classes for the school year 1970-1971. The amount and manner of payment shall be determined as follows:

(1) There is hereby created a committee consisting of the Secretary of Education, who shall serve as chairman, and four members of the General Assembly to be determined as follows: (i) one member appointed by the President Pro Tempore of the Senate; (ii) one member appointed by the Minority Leader of the Senate; (iii) one member appointed by the Speaker of the House of Representatives; and (iv) one member appointed by the Minority Leader of the House of Representatives.

(2) The sum of five million dollars (\$5,000,000) shall be distributed among certain school districts of the second, third and fourth class by the committee.

(3) The amount, if any, that any such school district shall receive shall be determined solely by the committee. In making such determination the committee shall consider any and all amounts a school district will receive for the school year 1970-1971 as a result of the provisions of this amendatory act in order to arrive at a fair and equitable formula of distribution.

(4) The committee shall make its determination and distribute such payments during the fiscal year 1971-1972.

**Section 8.**

Any additional subsidy payable to a school district for the school year 1970-1971 by virtue of any provision of this amendatory act may be used by such school district to reduce its school real property taxes for the fiscal year 1971-1972 (or for the fiscal year 1972 in the case of any district operating on a calendar year) and any provisions of the "Public School Code of 1949," to the contrary notwithstanding, any school district receiving any such additional subsidy for the school year 1970-1971 may reduce any or all of its school real property tax rates for the fiscal year 1971-1972 (or for the fiscal year 1972 in the case of any district operating on a calendar year); provided, however, that the provisions of this section shall not apply to school districts of the first class and first class A.

It is the legislative intent of this section, that wherever possible, school districts use the additional subsidy payments to reduce school real property taxes.

Prior to repeal, subsections (5) and (6) were amended by Act 1963, Aug. 1, P.L. 461, § 1.

Budget and effective date provisions of 1968 amendatory act, with the 1969 amendment to that act, see note under section 11-1142 of this title.

Transfer of functions, powers and duties of the Department of Public Instruction to the Department of Education, see 71 P.S. § 1037.

1974 Amendment: In clause (12), deleted provisions relating to the years 1969-1972, and inserted provision relating to 1973 and each school year thereafter, and in clause (15), deleted provisions relating to the school years 1970-1971 and 1971-1972, and inserted provision relating to 1973-1974 and each school year thereafter.

1977 Amendment: Amended definitions of "valuation," "state's share of total cost," "minimum subsidy" and "sparsity factor" and added definitions of "personal income valuation," "equalized millage," "median equalized millage," "median actual instruction expense per weighted average daily membership," "market value/income aid ratio," and "base earned for reimbursement."

1979 Amendment: Amended definitions of "minimum subsidy," "sparsity factor" and "base earned for reimbursement."

1980 Amendment: In cl. (3.1), inserted "(for the tax year preceding the immediate prior year" and in cl. (15) made numerous changes.

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For Title 24, Consolidated Statutes, see Appendix following this Title

**1. Validity**

The two requirements of this section [clause (17)], for eligibility to receive "modified sparsity payments," namely, that a school district must have qualified for such payments in past years or must be comprised of one or more component school districts which were eligible for such payments, bear a rational relationship to legitimate state interests and are not violative of either the equal protection clause or substantive due process. *Northwestern School Dist. v. Pittenger*, 397 F.Supp. 975, D.C.1975.

Constitutionality of provisions of clause (17), which grant sparsity payment subsidies to certain school districts and not to others based on low population densities is to be judged under the rational basis test, rather than the strict judicial scrutiny test, *id.*

In absence of any allegation that Philadelphia school district had suffered any legal harm from projected financial deficit or that any Philadelphia public school student was suffering, had suffered or would suffer any legal injury as a result of operation of challenged state financing scheme and where there was no allegation that Philadelphia children were being denied an adequate or basic education and the only allegation was that Philadelphia school children were being denied a "normal program of educational services" available to other children in Pennsylvania, complaint based on allegation that the statutory system by which the Philadelphia school district was funded violated the Pennsylvania Constitution did not state a justiciable cause of action. *Danson v. Casey*, 399 A.2d 360, 484 Pa. 416, 1979.

As long as the legislative scheme for financing public education has a reasonable relation to providing for the maintenance and support of a thorough and efficient system of public schools, the General Assembly has fulfilled its constitutional duty to the public school students of Philadelphia. *id.*

In view of fact that the legislatively enacted school financing scheme was reasonably related to maintenance and support of a system of public education in the Commonwealth and where the framework was neutral with regard to the school district of Philadelphia and provided the Philadelphia school district with its fair share of state subsidy funds, the statutory scheme did not clearly, palpably and plainly violate the Pennsylvania Constitution. *id.*

**2. Construction and application**

If plaintiff, in civil rights action under 28 U.S.C.A. §§ 1331 and 1332(3) and 42 U.S.C.A. § 1984 brought against state officials challenging "modified sparsity payments" provisions, (clause (17)), had challenged the legislation as being violative of the Constitution and laws of Pennsylvania as well as of the Fourteenth Amendment's equal protection clause, (U.S.C.A. Const. Amend. 14), abstention would have been proper; likewise, if a separate action attacking the legislation primarily on state grounds were simultaneously proceeding in state court, abstention would have been appropriate; however, there being no ambiguity in the statute, the federal court would not abstain merely to await an attempt to vindicate the claim in state court. *Northwestern School Dist. v. Pittenger*, 397 F.Supp. 976, D.C.1975.

School district was without standing to bring civil rights action against various state officials challenging the constitutionality of provisions of this section [clause (17)], which grant sparsity payment subsidies to certain school districts and not to others based on the low population densities, but individuals who resided in the school district on paid taxes, had a sufficient personal stake in the outcome of the controversy to grant him standing, and he also has standing as the parent of two children presently attending public schools in the district. *id.*

Market value/income aid ratio of section 25-2502 of this title and this section was not meant to be an exact measure of each school district's actual effort, but rather a measure of high personal income and real estate value, have an ability of the state to raise revenue. *O'Donnell v. Casey*, 405 A.2d 1006, 45 Pa. Cmwlth. 394, 1979.

Challenge to section 25-2502 of the title and this section, concerning weight to be sacrificed personal income variable of aid ratio, was an attempt to enter degree of mathematical exactitude never deemed part of constitutional rational relation analysis and was also a later attempt to invoke judicial legislation. *id.*

Aid formula of section 25-2502 of the title and this section bears a rational relationship to promoting equal education aid opportunity; therefore, petition for review of such provisions failed to state a cause of action predicated on violation of due process. *id.*

Under now-repealed provision of this section, in computing basic account standard reimbursement fraction in the case of a school district, teaching units should have been based only upon enrolled public school pupils and could not be based upon all pupils residing in district attending public, parochial and private schools. 1959 Op. Atty. Gen. No. 18.

Department of Public Instruction need not calculate actual instruction expense as required by this section prior to making its first semi-annual payment to school districts for school year 1958-59 under § 25-2517 of this Title, where districts have not been able to furnish department with supporting data in time to allow necessary calculations to be made prior to October and November payment dates, but may calculate and make this payment on basis of actual amounts paid to school districts for preceding school year; however, calculation of actual instruction expense must be made before second payment in order that amounts paid will not exceed amount payable under formula provided by § 25-2502 of this Title. 1958 Op. Atty. Gen. No. 150.

**3. Purpose**

Purpose of section 25-2502 of this title and this section is to equalize education opportunity and to remove such opportunity from dependence upon student's status or status. *O'Donnell v. Casey*, 405 A.2d 1006, 45 Pa. Cmwlth. 394, 1979.

School district may contract with private, nonreligious school for vocational education program; and pupils attending such a program are enrolled in public school for average daily membership purposes and may be included for reimbursement computations. 1917 Op. Atty. Gen. No. 21.

For Title 24, Consolidated Statutes, see Appendix following this Title

changes applying to nonpublic schools, exceed the sum of \$100,000,000 for the 1976-1977 school year and \$150,000,000 for the 1977-1978 school year and each school year thereafter over the existing costs incurred by the Commonwealth under present law.

"(b) It is the intent of the General Assembly that under no circumstances shall the increased costs resulting from the subsidy formula changes applicable for nonpublic schools set forth in this act exceed the sum of \$5,057,000 for the school year 1977-1978 and \$7,586,000 for the school year 1978-1979 and each school year thereafter over the existing costs incurred by the Commonwealth under present law.

"(c) If the sums appropriated for any fiscal year for making payments provided in this act subject to the limitation set forth in subsection (a) are not sufficient to pay in full the total amounts to which all qualified school districts are entitled to receive under this act for such year, the allocations to such school districts shall be proportionately reduced by the percentage of difference between the amount needed and the amount appropriated to the extent necessary to bring the aggregate of such allocations within the limits of the amount appropriated."

Sections 14, 15 and 16 of Act 1977, Aug. 21, P.L. 329, No. 55 provide as follows: Section 6 of Act 1971, June 26, P.L. 370, No. 125 provides as follows:

"It is the legislative intent that, except in school districts of the first class and first class A, wherever possible, school districts use the additional subsidy payments to reduce school real property taxes.

"Notwithstanding any other provisions of the 'Public School Code of 1919' [24 P.S. § 1-101 et seq.] to which this is an amendment, the board of school directors of each school district except school districts of the first class is hereby authorized, for the school year 1974-1975 to reopen its 1974-1975 budget during the month of July, 1974 only and to make any revisions in the budget and tax levies heretofore adopted to reflect anticipated increases in State subsidies payable during 1974-1975 to the school district under the provisions of this act."

Section 3 of the act of 1972 provided: "This act shall take effect immediately and shall be retroactive to July 1, 1971."

Sections 7 and 8 of Act 1971, Aug. 18, P.L. 339, No. 88, provided:

**Section 7.**

In addition to all other reimbursements payable to school districts of the second, third and fourth class an additional payment shall be made to certain school districts of such classes for the school year 1970-1971. The amount and manner of payment shall be determined as follows:

(1) There is hereby created a committee consisting of the Secretary of Education, who shall serve as chairman, and four members of the General Assembly to be determined as follows: (i) one member appointed by the President Pro Tempore of the Senate; (ii) one member appointed by the Minority Leader of the Senate; (iii) one member appointed by the Speaker of the House of Representatives; and (iv) one member appointed by the Minority Leader of the House of Representatives.

(2) The sum of five million dollars (\$5,000,000) shall be distributed among certain school districts of the second, third and fourth class by the committee.

(3) The amount, if any, that any such school district shall receive shall be determined solely by the committee. In making such determination the committee shall consider any and all amounts a school district will receive for the school year 1970-1971 as a result of the provisions of this amendatory act in order to arrive at a fair and equitable formula of distribution.

(4) The committee shall make its determination and distribute such payments during the fiscal year 1971-1972.

**Section 8.**

Any additional subsidy payable to a school district for the school year 1970-1971 by virtue of any provision of this amendatory act may be used by such school district to reduce its school real property taxes for the fiscal year 1971-1972 (or for the fiscal year 1972 in the case of any district operating on a calendar year) and any provisions of the "Public School Code of 1919," to the contrary notwithstanding, any school district receiving any such additional subsidy for the school year 1970-1971 may reduce any or all of its school real property tax rates for the fiscal year 1971-1972 (or for the fiscal year 1972 in the case of any district operating on a calendar year). Provided, however, that the provisions of this section shall not apply to school districts of the first class and first class A.

It is the legislative intent of this section that wherever possible, school districts use the additional subsidy payments to reduce school real property taxes.

Prior to repeal, subsections (5) and (6) were amended by Act 1963, Aug. 1, P.L. 461, § 1.

Budget and effective date provisions of 1968 amendatory act, with the 1969 amendment to that act, see note under section 11-1142 of this title.

Transfer of functions, powers and duties of the Department of Public Instruction to the Department of Education, see 71 P.S. § 1027.

1974 Amendment: In clause (12), deleted provisions relating to the years 1963-1972, and inserted provision relating to 1973 and each school year thereafter, and in clause (15), deleted provisions relating to the school years 1970-1971 and 1971-1972, and inserted provision relating to 1973-1974 and each school year thereafter.

1977 Amendment: Amended definitions of "valuation," "state's share of total cost," "minimum subsidy" and "sparsity factor," and added definitions of "personal income valuation," "equalized millage," "median equalized millage," "median actual instruction expense per weighted average daily membership," "market value/income aid ratio," and "base earned for reimbursement."

1979 Amendment: Amended definitions of "minimum subsidy," "sparsity factor" and "base earned for reimbursement."

1980 Amendment: In cl. (9.1), inserted "for the tax year preceding the immediate prior year" and in cl. (16) made numerous changes.

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**1. Validity**

The two requirements of this section [clause (17)], for eligibility to receive "modified sparsity payments," namely, that a school district must have qualified for such payments in past years or must be comprised of one or more component school districts which were eligible for such payments, bear a rational relationship to legitimate state interests and are not violative of either the equal protection clause or substantive due process. *Northwestern School Dist. v. Pittenger*, 397 F.Supp. 975, 10 C.1975.

Constitutionality of provisions of clause (17), which grant sparsity payment subsidies to certain school districts and not to others based on low population densities is to be judged under the rational basis test, rather than the strict judicial scrutiny test. *Id.*

In absence of any allegation that Philadelphia school district had suffered any legal harm from projected financial deficit or that any Philadelphia public school student was suffering, had suffered or would suffer any legal injury as a result of operation of challenged state financing scheme and where there was no allegation that Philadelphia children were being denied an adequate or basic education and the only allegation was that Philadelphia school children were being denied a "normal program of educational services" available to other children in Pennsylvania, complaint based on allegation that the statutory system by which the Philadelphia school district was funded violated the Pennsylvania Constitution did not state a justiciable cause of action. *Danson v. Casey*, 399 A.2d 360, 481 Pa. 416, 1979.

As long as the legislative scheme for financing public education has a reasonable relation to providing for the maintenance and support of a thorough and efficient system of public schools, the General Assembly has fulfilled its constitutional duty to the public school students of Philadelphia. *Id.*

In view of fact that the legislatively enacted school financing scheme was reasonably related to maintenance and support of a system of public education in the Commonwealth and where the framework was neutral with regard to the school district of Philadelphia and provided the Philadelphia school district with its fair share of state subsidy funds, the statutory scheme did not clearly, palpably and plainly violate the Pennsylvania Constitution. *Id.*

**2. Construction and application**

If plaintiff, in civil rights action under 28 U.S.C.A. §§ 1331 and 1343(3) and 42 U.S.C.A. § 1981 brought against state officials challenging "modified sparsity payments" provisions, [clause (17)], had challenged the legislation as being violative of the Constitution and laws of Pennsylvania as well as of the Fourteenth Amendment's equal protection clause, (U.S.C.A. Const. Amend. 14), abstention would have been proper; likewise, if a separate action attacking the legislation primarily on state grounds were simultaneously proceeding in state court, abstention would have been appropriate; however, there being no ambiguity in the statute, the federal court would not abstain merely to await an attempt to vindicate the claim in state court. *Northwestern School Dist. v. Pittenger*, 397 F.Supp. 976, D.C.1976.

School district was without standing to bring civil rights action against various state officials challenging the constitutionality of provisions of this section [clause (17)], which grant sparsity payment subsidies to certain school districts and not to others based on their low population densities, but individuals who resided in the school district on paid taxes, had a sufficient personal stake in the outcome of the controversy to grant him standing, and he also had standing as the parent of two children presently attending public schools in the district. *Id.*

Market value/income aid ratio of section 25-2502 of this title and this section was not meant to be an exact measure of each school district's actual effort, but rather a measure of input personal income and real estate value have on ability of a district to raise revenue. *O'Donnell v. Casey*, 405 A.2d 1006, 45 Pa.Cmwlth. 394, 1979.

Challenge to section 25-2502 of the title and this section, concerning weight to be ascribed personal income variable of aid ratio, was an attempt to enter degree of mathematical exactitude never deemed part of constitutional rational relation analysis and was also a later attempt to invoke judicial legislation. *Id.*

Aid formula of section 25-2502 of the title and this section bears a rational relationship to promoting equal education aid opportunity; therefore, petition for review of such provisions failed to state a cause of action predicated on violation of due process. *Id.*

Under now-repealed provision of this section, in computing basic account standard reimbursement fraction in the case of a school district, teaching unit should have been based only upon enrolled public school pupils and could not be based upon all pupils residing in district attending public, parochial and private schools. 1959 Op. Atty. Gen. No. 18.

Department of Public Instruction need not calculate actual instruction expense as required by this section prior to making its first semi-annual payment to school districts for school year 1958-9 under § 25-2517 of this Title, where districts have not been able to furnish department with supporting data in time to allow necessary calculations to be made prior to October and November payment dates, but may calculate and make this payment on basis of actual amounts paid to school districts for preceding school year; however, calculation of actual instruction expense must be made before second payment in order that amounts paid will not exceed amount payable under formula provided by § 25-2502 of this Title. 1958 Op. Atty. Gen. No. 150.

**3. Purpose**

Goal of section 25-2502 of this title and this section is to equalize education opportunity and to remove such opportunity from dependence upon student's status or status. *O'Donnell v. Casey*, 405 A.2d 1006, 45 Pa.Cmwlth. 394, 1979.

School district may contract with private, nonreligious school for vocational education programs; and pupils attending such a program are enrolled in public school for average daily membership purposes and may be included for reimbursement computations. 1947 Op. Atty. Gen. No. 21.

## (E) REIMBURSEMENTS BETWEEN SCHOOL DISTRICTS

## § 25—2501. Tuition charges for pupils of other districts

A school district or vocational school district receiving elementary or high school pupils or vocational or other extension education pupils who are residents of another school district or another vocational school district shall compute the tuition charges as follows:

[See main volume for text of (1) and (2)]

(3) High School Tuition Charge. Add the salaries of supervisors, principals, clerks, assistants and teachers employed in the receiving district's high schools, the district's contribution to the retirement fund and social security contribution fund on behalf of teachers, supervisors and principals employed in the district's high schools, the cost of textbooks and supplies of the second class used in the district's high schools incurred for the school year immediately preceding, and divide the sum so obtained by the total number of pupils in average daily membership in the receiving district's high schools during the school year immediately preceding. The quotient so obtained shall be designated as the "instruction cost per high school pupil." Add to the instruction cost per high school pupil the overhead cost per pupil and a rental charge of eighteen dollars (\$18) per pupil for the use of the receiving district's school plant. For the school years 1952-1953 and 1953-1954 only, but not thereafter, deduct from the amount so obtained the per pupil State appropriation on account of high school teaching units. The cost so determined shall be the "tuition charge per high school pupil." Upon the request of the receiving district, the "tuition charge per high school pupil" shall be computed separately for pupils attending junior high school and pupils attending senior high school. As amended 1963, July 25, P.L. 281, § 1.

Effective July 1, 1963.

[See main volume for text of (4) and (5)]

(6) Institution tuition charge. When the public school district administers and delivers the educational services required by this act to a child referred to an institution, pursuant to a proceeding under 42 Pa.C.S. Ch. 63 (relating to Juvenile Matters), at the institution itself, the tuition to be charged to the district of residence of such child shall be one and one-half times the amount determined in accordance with clauses (1) through (5), but not to exceed the actual cost of the educational services provided to such child.

Added 1982, Dec. 17, P.L. 1378, No. 316, § 9, *imd.* effective.

Section 2 of the act of 1963 provided: "This act shall take effect July 1, 1963."

1. In general

Tuition rate calculation under this section for first year of operation of a

union or merged school district should be based in part upon the combined overhead cost for combined operation of component district during previous year. 1959 Op. Atty. Gen. No. 171.

## § 25—2503. Certification of pupils admitted from other districts; monthly payments

1. In general

Where receiving district certifies admission of pupils to sending district and sending district neither assents nor dissents at such time to payment of tuition for such pupils, superintendent of public instruction may deduct such tuition from any monies due sending district and pay said sum on account of unpaid tuition to receiving district. 1959 Op. Atty. Gen. No. 176.

List of names of non-residents in attendance at schools of receiving district, classes they are attending, and amount of tuition due monthly for each pupil based upon data for preceding year of operation of receiving school district is type of certification which will satisfy provisions of this section. *Id.*

## § 25—2504. Deductions from state appropriations

1. In general

Where a resident pupil attends high school in a receiving district at the expense of a sending district, superintendent of public instruction is authorized to withhold appropriations of sending district and pay same over to receiving district on account of unpaid tuition. 1959 Op. Atty. Gen. No. 175.

Where receiving district certifies admission of pupils to sending district and

sending district neither assents nor dissents at such time to payment of tuition for such pupils, superintendent of public instruction may deduct such tuition from any monies due sending district and pay said sum on account of unpaid tuition to receiving district. *Id.*

This section permits superintendent of public instruction to deduct only for tuition charges incurred during immediate past school year of operation. *Id.*

## (F) SCHOOL BUILDING RENTALS AND SINKING FUND CHARGES

## § 25—2572. State public school building authority and municipality authority and nonprofit corporation leases heretofore approved

(a) The Commonwealth shall pay annually to each school district erecting or sharing in the erection of a building or buildings or providing educational equipment under the provisions of the State Public School Building Authority Act<sup>1</sup> for every lease or contract entered into or approved by the Superintendent of Public Instruction prior to August 26, 1953, and to each school district which shall have entered into a lease approved by the Department of Public Instruction prior to August 26, 1953, with a municipality authority or with a non-profit corporation, for the rental of a school building or buildings or providing educational equipment, an amount to be determined by multiplying the school district's capital account reimbursement fraction computed for the year 1967 or aid ratio whichever is larger by the annual rental charge as fixed by the State Public School Building Authority, or by the annual rental or share thereof provided for under its lease with such municipality authority or non-profit corporation, as the case may be.

(b) The Commonwealth shall pay annually to each school district erecting or sharing in the erection of a building or buildings under the provisions of the State Public School Building Authority Act for every lease approved by the Department of Public Instruction on or after August 26, 1953, but prior to March 22, 1956, and to each school district which shall have entered into a lease approved by the Department of Public Instruction on or after August 26, 1953, but prior to March 22, 1956, with a municipality authority or with a non-profit corporation for the rental of a school building or buildings, an amount to be determined by multiplying the school district's capital account reimbursement fraction computed for the year 1967 or aid ratio whichever is larger by that portion of the annual rental charge or share thereof provided for under its lease with the State Public School Building Authority or municipality authority or non-profit corporation, as the case may be, sufficient during the period of the lease to pay the cost of acquiring or constructing the school buildings, the cost of acquiring the land upon which the school buildings are situate and the interest on such cost. As amended 1968, June 12, P.L. 192, No. 96, § 7.

<sup>1</sup> Section 791.1 et seq. of this title.

Budget and effective date provisions amendment to that act, see note under 1968 amendatory act, with the 1969 section 11-142 of this act.

## § 25—2574. Approved reimbursable rental for leases hereafter approved and approved reimbursable sinking fund charges on indebtedness

[See main volume for text of (a)]

(b) For new school buildings the approved building construction cost shall be the lesser of

[See main volume for text of (1) and (2)]

(3) The provisions of clause (2) of subsection (b) hereof shall apply to all school building projects for which the general construction contract is awarded prior to July 1, 1966, and for approved school building projects for which a lease was approved by the Department of Public Instruction prior to July 1, 1966. For school buildings for which the general construction contract is awarded subsequent to July 1, 1966, and for approved school building projects for which the general construction contract was awarded but for which a lease was not approved by the Department of Public Instruction prior to July 1, 1966, the product of the rated pupil capacity as determined by the Department of Public Instruction at the time the project is approved and (i) two thousand three hundred dollars (\$2300) in the case of elementary schools, (ii) three thousand dollars (\$3000) in the case of secondary schools, (iii) an amount in the case of combined elementary-secondary schools obtained by multiplying the rated elementary pupil capacity by two thousand three hundred dollars (\$2300) and the rated secondary pupil capacity by three thousand dollars (\$3000) and dividing the sum by the total rated pupil capacity.

Added 1966, Feb. 1, P.L.(1965) 1642, § 13, as amended 1968, June 12, P.L. 192, No. 96, § 8.

(c) For additions or alterations to existing buildings approved building construction cost shall be the lesser of

*[See main volume for text of (1) and (2)]*

(3) The provisions of clause (2) of subsection (c) hereof shall apply to all school building projects for which the general construction contract is awarded prior to July 1, 1966, and for approved school building projects for which a lease was approved by the Department of Public Instruction prior to July 1, 1966. For school buildings for which the general construction contract is awarded subsequent to July 1, 1966, and for approved school building projects for which the general construction contract was awarded but for which a lease was not approved by the Department of Public Instruction prior to July 1, 1966, the difference obtained by subtracting the appraisal value of the existing building from the product of rated pupil capacity of the altered or expanded building as determined by the Department of Public Instruction at the time the project is approved and (i) two thousand three hundred dollars (\$2300) in the case of elementary schools (ii) three thousand dollars (\$3000) in the case of secondary schools, (iii) an amount in the case of combined elementary-secondary schools obtained by multiplying the rated elementary pupil capacity of the altered or expanded building by two thousand three hundred dollars (\$2300) and the rated secondary pupil capacity of the altered or expanded building by three thousand dollars (\$3000) and dividing the sum by the total rated pupil capacity of the altered or expanded building.

Appraisal value shall be the valuation made immediately before the additions or alterations are begun by three competent appraisers, one appointed by the school authorities, one by the Superintendent of Public Instruction, and the third by the other two.

Added 1966, Feb. 1, P.L.(1965) 1642, § 13, as amended 1968, June 12, P.L. 192, No. 96, § 8.

*[See main volume for text of (c.1), (c.2) and (d)]*

(e) For area vocational-technical school and technical institute projects leased subsequent to July 1, 1964, by or for lease to a board of school directors authorized to operate such a school, the Department of Public Instruction shall calculate an approved reimbursable rental charge.

For area vocational-technical school and technical institute projects constructed or purchased subsequent to July 1, 1964, by a board of school directors authorized to operate such a school, the Department of

Public Instruction may calculate an approved reimbursable sinking fund charge.

Approved reimbursable rental or sinking fund charge shall consist of that part of the annual rental or sinking fund attributable to:

(1) Cost of acquiring land and preparing it for use to the extent that such costs are deemed reasonable by the Department of Public Instruction and the interest on such cost of acquisition, cost of preparation and the cost of sewage treatment and the interest on such costs.

(2) Machinery, apparatus, furniture and equipment and all other necessary expenses and interest charges, but excluding architects' fees in excess of six percent of the construction cost.

The approved building construction cost and the interest on such construction cost shall not exceed the product of the rated full-time pupil capacity, as determined by the Department of Public Instruction at the time the project is approved and two thousand two hundred dollars (\$2,200).

The provisions of the foregoing paragraph shall apply to all school building projects for which the general construction contract is awarded prior to July 1, 1966, and for approved school building projects for which a lease was approved by the Department of Public Instruction prior to July 1, 1966. For school buildings for which the general construction contract is awarded subsequent to July 1, 1966, and for approved school building projects for which the general construction contract was awarded but for which a lease was not approved by the Department of Public Instruction prior to July 1, 1966, the approved building construction cost and the interest on such construction cost shall not exceed the product of the rated full-time pupil capacity, as determined by the Department of Public Instruction at the time the project is approved, and three thousand seven hundred dollars (\$3700).

The Department of Public Instruction shall not approve the expenditure of any funds borrowed or obtained by the sale of bonds by any authority, nonprofit corporation, profit corporation, company or individual for construction of area vocational-technical schools or technical institutes for bleachers, athletic field, lighting equipment or apparatus used to promote and conduct interscholastic athletics.

Added 1963, Aug. 14, P.L. 1065, No. 463, § 16, as amended 1966, Feb 1 P.L. (1965) 1642, § 13; 1968, June 12, P.L. 192, No. 96, § 8.

(f) For the purchase of any building, reimbursement shall be computed in the same manner as for constructed school buildings and approved building cost shall be the lesser of

(1) The cost of purchasing the site and structure and the cost of approved renovations including appropriate fixtures and equipment, or

(2) For the purchase of any building (i) the product of the rated pupil capacity as determined by the Department of Education at the time the purchase is approved and (i) one thousand one hundred dollars (\$1,100) in the case of elementary schools, (ii) one thousand seven hundred dollars (\$1,700) in the case of secondary schools, and (iii) an amount in the case of combined elementary-secondary schools obtained by multiplying the rated elementary pupil capacity by one thousand one hundred dollars (\$1,100) and the rated secondary pupil capacity by one thousand seven hundred dollars (\$1,700) and dividing the sum by the total rated pupil capacity; and (ii) in the case of renovation of any building including appropriate fixtures and equipment, reimbursement shall be (i) one thousand two hundred dollars (\$1,200) for elementary schools, (ii) one thousand three hundred dollars (\$1,300) for secondary schools, and (iii) for combined elementary-secondary schools an amount obtained by multiplying the rated elementary capacity

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by one thousand two hundred dollars (\$1,200) and the secondary pupil capacity by one thousand three hundred dollars (\$1,300). Added 1972, June 1, P.L. 325, No. 89, § 4, *imd.* effective.

Budget and effective date provisions of 1965 amendatory act, with the 1969 amendment to that act, see note under section 11-1112 of this act.

1. Construction and application  
Failure of school district to obtain appraisal of existing school building be-

fore construction of addition was barred its receipt of reimbursement from Department of Education after construction of school addition. *School Dist. v. Pittsburgh v. Com., Dept. of Ed., 41 A.2d 230, 63 Pa.Cmwlth. 39, 1961, affirmed 451 A.2d 412.*

#### § 25-2574.1 Payments on account of building site costs

Whenever any school district acquires a site for a school building in advance of its need and in accordance with a long range master plan for school building construction approved by the Department of Public Instruction to the extent that the cost of the acquisition shall be deemed reasonable by the Department of Public Instruction, the Commonwealth shall pay, in the year of such acquisition, fifty per cent (50%) of the reimbursement due the district under applicable laws in force at that time for the cost of acquisition; the balance due the district on account of the original approved site acquisition cost shall become part of the approved reimbursable rental or sinking fund charge at the time the school building project is approved and shall be subject to such applicable laws as may be in effect at that time. If such site is not thereafter used by the district for school building purposes, the amounts paid to the district under this section shall be returned to the Commonwealth. As amended 1965, Oct. 21, P.L. 601, § 58.

*Amendment 1966, Jan. 26, P.L. (1965) 1591, § 1, see § 25-2574.1, post*

#### § 25-2574.1 Payments on account of building site costs

Whenever any school district acquires a site for a school building in advance of its need and in accordance with a long range master plan for school building construction approved by the State Board of Education to the extent that the cost of the acquisition shall be deemed reasonable by the Department of Public Instruction, the Commonwealth shall pay, in the year of such acquisition, one hundred percent (100%) of the reimbursement due the district under applicable laws in force at that time for the cost of acquisition. If such site is not thereafter used by the district for school building purposes, within a period of ten years from date of purchase, the amounts paid to the district under this section shall be returned to the Commonwealth by the district within two years of the end of such ten year period of non-use. If such amounts are not so returned within such two year period, Commonwealth moneys due and payable to the district by the Department of Public Instruction as a subsidy or reimbursement for any purpose shall first be withheld in the amount of the moneys owed the Commonwealth by the district under this section and credited as returned in full hereunder before any part of such Commonwealth reimbursement or subsidy is paid to the district. As amended 1966, Jan. 26, P.L. (1965) 1591, § 1.

*Amendment 1965, Oct. 21, P.L. 601, § 58, see § 25-2574.1, ante.*

#### Reimbursement

*Section 3 of Act 1966, Jan. 26, P.L. (1965) 1591, provided: "The Commonwealth shall pay all of the reimbursement due the school district for such sites heretofore or hereafter acquired including payments not heretofore made."*

This section was amended twice at the 1965 regular session of the General Assembly. Neither of the amendments referred to the other. Both of the amendments are set out in the text.  
See 1 Pa.C.S.A. § 1952.

1. Construction and application  
Under some circumstances, foresight can properly be a major motive in presently acquiring land needed for future expansion. In re School Dist. of Pittsburgh, Allegheny County, 211 A.2d 42, 440 Pa. 646, 1968.

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#### § 25-2574.2 Approved reimbursable annual rental for leases of buildings and facilities for school use

For extended leases of buildings and facilities for school use authorized under the provisions of section 703.1<sup>1</sup> which have been approved by the Secretary of Education, the Department of Education shall calculate an approved reimbursable annual rental charge.

Approved reimbursable annual rental for such approved leases of building facilities constructed for school use shall be the lesser of (1) the product of the annual rental payable under the provisions of the approved lease agreement times the ratio of the pupil scheduled area to the architectural area, or (2) the product of the rated pupil capacity as determined by the Department of Education at the time of initial lease times one hundred sixty dollars (\$160) for elementary schools, two hundred twenty dollars (\$220) for secondary schools, or two hundred seventy dollars (\$270) for area vocational-technical schools.

Annual approved rental payable for approved leases of existing facilities altered for school use shall be the lesser of (1) the product of the annual rental payable under the provisions of the approved lease agreement times the ratio of the pupil scheduled area to the architectural area, or (2) the product of the rated pupil capacity, as determined by the Department of Education at the time of initial lease, times one hundred twelve dollars (\$112) for elementary, one hundred fifty-four dollars (\$154) for secondary, or one hundred eighty-nine dollars (\$189) for area vocational-technical schools.

1949, March 10, P.L. 30, § 2574.2, added 1972, Dec. 6, P.L. 1445, No. 323, § 2, *imd.* effective.

<sup>1</sup> Section 7-703.1 of this title.

Cross References  
Approval of lease agreements, see 1. Lease of buildings, payment on account of approved rental, see § 25-2573.2 of this title.  
7-731.1 of this title.  
Power to lease buildings, see § 6-631, 7-703.1 of this title.

#### § 25-2575. Payments on account of leases hereafter approved and on account of sinking fund charges on indebtedness for school buildings hereafter constructed

(a) The Commonwealth shall pay annually to each school district erecting or sharing in the erection of a building or buildings under the provisions of the Public School Building Authority Act,<sup>1</sup> the Municipality Authority Act,<sup>2</sup> section 758 of the Public School Code of 1949,<sup>3</sup> or section 791 of the Public School Code of 1949,<sup>4</sup> on account of buildings for which the lease is approved on or after March 22, 1956, or through the incurring of indebtedness by the issuance of general obligation bonds on account of buildings for which the general construction contract is awarded on or after March 22, 1956, an amount to be determined by multiplying the district's capital account reimbursement fraction computed for the year 1967 or old ratio whichever is larger by the approved reimbursable rental or approved reimbursable sinking fund charge.

(b) The Commonwealth shall pay, annually, to each school district which constructs, purchases or leases with the approval of the Department of Public Instruction an area vocational-technical school building or technical institute building or which shares in the construction, purchase or lease of such building or buildings under provisions of the Public School Building Authority Act, the Municipality Authority Act, section 758 of the Public School Code of 1949, or section 791 of the Public School Code of 1949, or other agency, or through the incurring of indebtedness by the issuance of general obligation bonds, an amount to be determined by multiplying the district's old ratio or fifty per cent, whichever is more, by the approved reimbursable rental approved re-

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indemnifiable sinking fund charge multiplied by the district's proportionate share of such rental sinking fund charge.

As amended 1963, Aug. 14, P.L. 1065, No. 463, § 17; 1968, June 12, P.L. 192, No. 96, § 9.

- <sup>1</sup> Section 791 of this title.
- <sup>2</sup> 51 P.S. § 301 (1961), 371, 374.
- <sup>3</sup> Section 7-758 of this title.
- <sup>4</sup> Section 7-791 of this title.

Budget and effective date provisions amendment to that act, see note under of 1968 amendatory act, with the 1969 section 11-112 of this title.

§ 25-2575.1 Payments on account of building costs

The Commonwealth shall pay to any school district making a preliminary payment on account of the approved building construction cost as authorized by section 783<sup>1</sup> or by clause (4) of section 790<sup>2</sup> or by clause (5) of section 791 of this act,<sup>3</sup> an amount determined by multiplying the district's capital account reimbursement fraction computed for the year 1967 or aid ratio whichever is larger by the amount of the payment made by the school district.

Whenever any school district provides the full payment on account of approved building construction cost without incurring debt, or without assuming a lease, the Commonwealth shall pay to such school district an amount determined by multiplying the district's capital account reimbursement fraction computed for the year 1967 or aid ratio whichever is larger by the amount of the payment made by the school district.

The payment required by this section shall be made for the year in which the school district made its payment on account of the approved building construction cost.

As amended 1966, Jan. 26, P.L.(1965) 1591, § 2; 1968, June 12, P.L. 192, No. 96, § 10.

- <sup>1</sup> Section 7-783 of this title.
- <sup>2</sup> Section 7-790 of this title.
- <sup>3</sup> Section 7-791 of this title.

Cross References

Budget and effective date provisions of 1968 amendatory act, with the 1969 amendment to that act, see note under section 11-112 of this title.

1. In general

Failure of school district to obtain appraisal of existing school building be-

fore construction of addition was begun barred its receipt of reimbursement from Department of Education after construction of school addition. *School Dist. of Pittsburgh v. Com., Dept. of Ed.*, 137 A.2d 530, 65 Pa.Cmwlth. 39, 1981, affirmed 151 A.2d 112.

§ 25-2575.2 Payments on account of approved rental for leases of buildings and facilities for school use

The Commonwealth shall pay, annually, for the school year 1972-73 and each school year thereafter to each school district which leases with the approval of the Department of Education buildings and facilities for school use under the provisions of section 703.1,<sup>1</sup> an amount to be determined by multiplying the district's aid ratio by the approved reimbursable annual rental.

In the case of districts eligible under density factor the minimum annual payment shall be no less than fifty per centum (50%) of the approved reimbursable annual rental.

1949, March 10, P.L. 30, § 2575.2, added 1972, Dec. 6, P.L. 1445, No. 323, § 2, *Imd.* effective.

- <sup>1</sup> Section 7-703.1 of this title.

Cross References

Approval of lease agreement, see § 7-731.1 of this title.

Approved reimbursable annual rental for leases of buildings, see § 7-703.1 of this title.

Lease agreements, approval, see § 7-701.1 of this title.

Lease of buildings for school use, see § 7-703.1 of this title.

Power to lease buildings, see §§ 6-601, 7-701.1 of this title.

Index to Notes

Construction and application 1  
Time 2

1. Construction and application

School district with an approved lease signed between December 6, 1972, and June 30, 1974, is entitled to reimbursement. 1974 Op. Atty. Gen. No. 5.

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2. Time

Department of Education may not reimburse school district for lease of building for school use if such lease is for a period of time of less than five years. 1971 Op. Atty. Gen. No. 5.

Department of Education may reimburse school district for lease which was in effect on December 6, 1972, and is scheduled to run, or renegotiated to run, five or more years from Dec. 6, 1972. *Id.*

§ 25-2576. Approval of Department of Public Instruction

(a) No payment shall be made to any school district on account of any lease entered into with the State Public School Building Authority or any municipality authority or nonprofit corporation under section 758 of this act<sup>1</sup> or any profit or nonprofit corporation, partnership, association or person under section 791 of this act<sup>2</sup> or on account of sinking fund charges on indebtedness for school buildings unless such lease or sinking fund charge is approved by the Department of Public Instruction. Except as hereinafter provided, the Department of Public Instruction may give its approval to any lease heretofore or hereafter entered into and to any payments on account of sinking fund charges on indebtedness for school buildings if it shall find in the case of all school districts, except school districts of the first class, first class A and second class which are not part of a county-wide plan, that the leased project or the project for which the indebtedness is incurred, is in conformance with county-wide plans prepared by the county board of school directors and approved pursuant to the standards of the State Board of Education for the orderly development of improved attendance areas and administrative units and for the improved housing of public schools in the Commonwealth, and in the case of all school districts, that the school building will conform with standards and regulations prescribed by the department with respect to educational and architectural design, building materials, fixtures and equipment, location, usefulness for community activities, safety, comfort and convenience, and that the school district or school districts which incur the indebtedness or to which the project is to be leased will have the ability to meet from current revenues the rental or sinking fund charge or their respective shares of rental or sinking fund charge and to defray the cost of their respective shares of the cost of operation and maintenance of the project. As amended 1965, Oct. 21, P.L. 601, § 59.

[See main volume or text of (b) and (c)]

- <sup>1</sup> Section 7-758 of this title.

- <sup>2</sup> Section 7-791 of this title.

§ 25-2577. Limitations on approval of projects for reimbursement purposes

[See main volume for text of (a)]

(a.1) Repealed. 1966, Feb. 1, P.L.(1965) 1642, § 16, effective June 30, 1968.

(b) The Department of Public Instruction shall determine reimbursement eligibility of all projects including projects submitted for approval prior to the effective date of this act in the order of date of filing of applications for project approval with the department, except that in the case of applications for area vocational-technical schools, the department may grant priority to such applications in the order in which said applications are received and process them immediately. If a delay in departmental processing of any application on file is occasioned by the applying school district, the department shall proceed to determine reimbursement eligibility of projects next in order, except that in the event of an emergency due to fire, flood, orders from the Department of Labor and Industry to close school buildings or parts thereof where such school buildings or parts thereof are determined to be irreparable and are closed finally by the Department of Labor and Industry, or an act of God, which causes undue hardship beyond the control of the applying school district, the

For Title 24, Consolidated Statutes, see Appendix following this Title

department may grant priority over the eligibility of projects submitted prior to the emergency application; Provided, however, That in cases where priority is granted due to closed schools or parts thereof by orders of the Department of Labor and Industry, the approved reimbursable costs of such projects shall not be included within the aggregate for projects already undertaken or to be undertaken as provided in subsection (a) of this section. As amended 1963, Aug. 14, P.L. 1065, No. 463, § 19.

<sup>1</sup> Enrolled bill omitted "vocational".

[See main volume for text of (c)]

Prior to repeal, subsection (a.1) of this section was added by Act 1963, Aug. 14, P.L. 1065, No. 463, § 18, and amended by Acts 1965, Feb. 1, P.L. (1965) 1642, § 7, and 1968, Jan. 29, P.L. 51, No. 14, § 1. As last amended it provided that

the Department of Public Instruction might approve, for capital reimbursement purposes, area vocational-technical school and technical institute projects not to exceed a total of forty million dollars in any fiscal year.

### § 25-2578. Payments

[See main volume for text of (a)]

(b) All payments due school districts by the Commonwealth on account of obligations to the State Public School Building Authority, sinking fund charges, or rentals under leases with municipality authorities, nonprofit corporations or profit or nonprofit corporations, partnerships, technical schools, shall be paid to the intermediate unit operating the associations or persons for building or educational equipment for area school. School districts not originally parties to an agreement with the State Public School Building Authority or a lease with a municipality authority, a nonprofit corporation or a profit or nonprofit corporation, partnership, association or person for buildings or educational equipment for an area technical school but later electing to participate in the operation of the school and agreeing to pay a part of the annual payments due under the agreement or lease shall be entitled to payments by the Commonwealth to the same extent as though they had originally been parties to the agreement or lease. The amount thereof shall be paid to the intermediate unit. No payments shall be made on account of obligations or rentals for buildings or educational equipment for area technical schools unless the schools conform to plans approved by the State Board for Vocational Education.

As amended 1970, Jan. 14, P.L. (1969) 468, § 84, effective July 1, 1970.

### § 25-2578.1 Payments to school districts because of density factor

Beginning with the school year 1965-1966 and in each school year thereafter, to districts eligible under the density factor, payments on leases or sinking fund charges shall be no less than fifty percent (50%) of the approved reimbursable rental or sinking fund charge for a school building project. Such payments shall be made annually, semi-annually or as may otherwise be required by the terms of any agreement entered into by the school district with the approval of the Superintendent of Public Instruction.

1949, March 10, P.L. 30, art. XXV, § 2578.1, added 1966, Feb. 1, P.L. (1965) 1642, § 14. As amended 1968, June 12, P.L. 192, No. 96, § 11.

#### Cross References

Budget and effective date provisions of 1968 amendatory act, see note under section 11-1142 of this title.

### (H) ADDITIONAL PAYMENTS

§ 25-2501. Repealed. 1980, Feb. 1, P.L.(1965) 1642, § 16, effective June 30, 1988

### § 25-2502. Guaranteed payment

(a) The Secretary of Education shall, for each school district, determine the sum of the following subsidies payable in 1967-1968: instruction, as defined in section 2502.1 supplemental payments, tuition, minimum reimbursements as defined in section 2503.1 and extension education. The sum of such subsidies shall be divided by the weighted average daily membership of all pupils during 1966-1967 to determine an amount per pupil.

In 1967-1968, and in each school year thereafter, each school district shall receive from the Commonwealth an amount which is the greater of (a) the amount per pupil determined for 1966-1967 according to the preceding paragraph times the weighted average daily membership applicable to the year for which payment is being made, or (b) the amount as determined in accordance with subsections (d) and (e) of section 2502 of this act.

(b) The Secretary of Education shall, for each school district, determine the sum of the following subsidies payable in 1971-1972: payments on account of instruction under subsections (d) and (e) of section 2502 or subsection (a) of this section, whichever is applicable; payments on account of low actual instruction expense under subsection (g) of section 2502. The sum of such subsidies shall be divided by the weighted average daily membership of the district's pupils for the school year 1970-1971 to determine an amount per weighted average daily membership.

In 1972-1973 and in each school year thereafter, each school district shall receive from the Commonwealth an amount which is the greater of (a) the amount per weighted average daily membership determined for 1970-1971 according to the preceding paragraph for the district or its components times the weighted average daily membership applicable to the year for which payment is being made, or (b) the amount as determined in accordance with subsections (d) and (e) of section 2502 of this act.

(c) In the event that a district is eligible under the density or sparsity fraction, there shall be added to its payment, as determined above, an amount determined by multiplying the aid ratio or by three hundred seventy-five thousandths (.375), whichever is greater times expenditures in excess of four hundred dollars (\$400) per weighted average daily membership, up to a maximum of, for the school year 1966-1967 one hundred dollars (\$100), for the school year 1967-1968 one hundred fifty dollars (\$150), for the school year 1968-1969 two hundred dollars (\$200), for the school year 1969-1970 and each school year thereafter two hundred fifty dollars (\$250) and times the weighted average daily membership; Provided, however, a district eligible for added payment under the density or sparsity fraction may, in lieu of the above payment, elect for any school year to have added to its payment, and the Commonwealth shall add to its payment, on account of excess expenditures per weighted average daily membership in excess of four hundred dollars (\$400) a sum of thirty dollars (\$30) per weighted average daily membership.

1949, March 10, P.L. 30, art. XXV, § 2592, added 1966, Feb. 1, P.L. (1965) 1642, § 16. As amended 1967, June 30, P.L. 166, § 1; 1972, Dec. 29, P.L. 1732, No. 373, § 2, *lmd.* effective.

<sup>1</sup> Section 25-2502 of this title.

## GROUNDS AND BUILDINGS

## VALIDATION SALES

## § 872c. Validation of sales without proper notice and properly fixing terms and conditions

Whenever any board of school directors shall have heretofore sold any unused and unnecessary lands and buildings by public auction or sealed bids the sale of which is authorized under the provisions of the school laws of the Commonwealth, and such board of school directors has received the purchase price, then such sale shall be valid and binding on the school district, and all deeds or conveyances given by the school district for any such lands and buildings are hereby ratified, confirmed and validated, and such purchasers and their respective heirs, successors and assigns shall hold and may convey such titles and estates indefeasibly as to any rights of the school districts therein, notwithstanding the fact that the notice of the public auction or sealed bid sale was not published in the legal newspaper in the county, or by posting of handbills, nor over the exact period of time prescribed by law in one or more newspapers of general circulation published within the county or the school district and notwithstanding the fact that the terms and conditions of said sales were not fixed by the board of school directors in the motion or resolution authorizing said sales: Provided, That notice of such public auctions or invitation for sealed bids was published in one or more newspapers of general circulation published within the county or the school district for at least three times before the date fixed for said sales, each time being in a different week, and providing that the terms and conditions of said sales were fixed by the board of school directors prior to the holding of such sales, and providing also that all the other requirements of law concerning the authorization, advertising and holding of such sale have been complied with.

As amended 1963, April 2, P.L. 15, § 1; 1967, Dec. 14, P.L. 745, § 1; 1974, July 3, P.L. 430, No. 150, § 1, *imd.* effective.

1974 Amendment: Provisions of section extended to include sales through sealed bids.

Library references  
Schools and School Districts §§ 66, 74  
C.J.S. Schools and School Districts  
§§ 251, 255 et seq., 263,  
P.L.E. Schools §§ 62, 58.

## ASSISTANCE TO THIRD AND FOURTH CLASS DISTRICTS

§§ 778 to 782. Repealed. 1968, Aug. 13, P.L. 699, § 1.

## PUBLIC SCHOOL BUILDING AUTHORITY

## Cross References

Community college, eligibility for participation in the State Public School Building Authority Act, see section 5214 (h) of this title.

## § 701.1 Short title

## Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (4) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 23, P.L. 183.

For Title 24, Consolidated Statutes, see Appendix following this Title

## § 701.2 Definitions

The following terms whenever used or referred to in this act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

[See main volume for text of (a) to (f)]

(g) "School building" shall mean, but shall not be limited to, any structure used or useful for schools and playgrounds, including facilities for physical education, and any community college building; 1967, July 18, P.L. 175, § 1.

(g.1) "Local sponsor" shall mean a school district or a county, municipality, township or a county board of school directors, or any combination of school districts, counties, municipalities, townships or county boards of school directors which participate in the establishment and operation of a community college; Added 1967, July 18, P.L. 175, § 1.

(g.2) "Community college" shall mean a public college or technical institute as established under the act of August 24, 1963 (P.L. 1132), known as the "Community College Act of 1963";<sup>1</sup> Added 1967, July 18, P.L. 175, § 1.

(g.3) "Board of trustees" shall mean the board of trustees of a community college; Added 1967, July 18, P.L. 176, § 1.

(g.4) "Community college building" shall mean any facility or structure used or useful for a community college, the furnishings and equipment thereof and any land or interest in land related thereto; Added 1967, July 18, P.L. 175, § 1.

[See main volume for text of (h)]

(i) "Present Worth Method" shall mean the semiannual rate, compounded semiannually, necessary to discount to present worth as of the date of the bonds or notes the amounts payable on each interest payment date and on each stated maturity or earlier mandatory redemption date so that the aggregate of such amounts will equal the purchase price offered therefor exclusive of interest accrued to the date of delivery. The present worth interest cost shall be stated in terms of an annual percentage rate and shall be that rate of interest which is twice the semiannual rate so ascertained.

Added 1982, Dec. 17, P.L. 1372, No. 314, § 1, *imd.* effective.

<sup>1</sup> Section 5201 et seq. of this title.

## Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (4) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 23, P.L. 183.

## § 701.3 State Public School Building Authority

The Governor, the State Treasurer, the Auditor General, the Superintendent of Public Instruction, the Secretary of Property and Supplies, the President pro tempore of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, the minority leader of the House of Representatives, and their respective successors in office are hereby created a body corporate and politic, constituting a public corporation and governmental instrumentality by the name of the "State Public

For Title 24, Consolidated Statutes, see Appendix following this Title

School Building Authority." The President pro tempore of the Senate and minority leader of the Senate and the Speaker of the House of Representatives and minority leader of the House of Representatives may designate any member of the Senate or House, respectively, to act in their stead to serve at the discretion of the respective President pro tempore or minority leader and Speaker of the House of Representatives or minority leader. Said members of the Authority shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

The President pro tempore of the Senate and the Speaker of the House of Representatives, the minority leader of the Senate and the minority leader of the House of Representatives, shall continue as members of the Authority until their respective successors in office assume such office, regardless of whether or not they shall have ceased to be members of the Senate or the House of Representatives.

As amended 1963, June 21, P.L. 16<sup>1</sup>, § 1; 1969, Nov. 20, P.L. 305, § 1.

The act of 1969 authorized legislative members to designate other legislators to act in their stead.

#### Repeated in Part

Act 1947, July 5, 1947, P.L. 1217 is repeated insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (4) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.

#### Index to Notes

Construction and application 1  
Validity ½

#### ½. Validity

Legislature could create State Public School Building Authority to aid Department of Instruction in administering public school system. *Itupe v. State Public School Bldg. Authority*, 245 P. Supp. 726, D.C. 1965.

1. Construction and application  
State Public School Building Authority created for purpose of maintaining

public school buildings for use as public schools, as part of public school system of state under jurisdiction of Department of Public Instruction, was in constructing sanitary treatment plant and providing it for school building a governmental instrumentally charged with performance of governmental function, and as such, immune from liability of its agents or employees. *Itupe v. State Public School Bldg. Authority*, 245 P. Supp. 726, D.C. 1965.

The State School Building Authority is an agency of the Commonwealth. *Kilno v. State Public School Bldg. Authority*, 78 Dauph. 121, 1963.

#### § 791.4 Purposes and general powers

The Authority is created for the purpose of acquiring, financing, refinancing, constructing, improving, furnishing, equipping, maintaining and operating buildings for public school and educational broadcasting facilities for use as a part of the public school system of the Commonwealth of Pennsylvania under the jurisdiction of the Department of Education. The Authority also shall have for its purpose the acquiring, financing, refinancing, construction, improvement, furnishing, equipping, maintenance and operation of community college buildings.

As amended 1963, Aug. 24, P.L. 1191, § 1; 1967, July 18, P.L. 175, § 2; 1982, Dec. 17, P.L. 1372, No. 314, § 2, *Imd. effective*.

The Authority is hereby granted and shall have and may exercise all the powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:

[See main volume for text of (a) to (g)]

(h) To fix, alter, charge and collect rentals, and other charges for the use of the facilities of, or for the services rendered by, the Authority or

For Title 24, Consolidated Statutes, see Appendix following this Title

projects thereof, at reasonable rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, not provided for by appropriation by the Commonwealth, or otherwise, the acquiring, financing, refinancing, construction, improvement, repair, equipping and furnishing, maintenance and operation of projects and its facilities and properties, the payment of the principal of, and interest, on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations;

As amended 1982, Dec. 17, P.L. 1372, No. 314, § 3, *Imd. effective*.

(1) To borrow money for the purpose of financing or refinancing the cost of any project, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations (hereinafter called "bonds"), of the Authority, and to secure the payment of such bonds, or any part thereof, by pledge or deed of trust of all, or any of its revenues, rentals and receipts, and to make such agreements with the purchasers or holders of such bonds, or with others in connection with any such bonds, whether issued or to be issued as the Authority shall deem advisable, and in general to provide for the security for said bonds and the rights of the holders thereof;

As amended 1982, Dec. 17, P.L. 1372, No. 314, § 3, *Imd. effective*.

[See main volume for text of (j)]

(j.1) To enter into contracts with the board of school directors of any school district, the members of which school board are members of any nonprofit community corporation having a Federal Communications Commission license for educational broadcasting stations, for the purpose of acquiring, financing, refinancing, constructing, improving, furnishing, equipping, maintaining and operating these facilities as a part of the public school system of the Commonwealth of Pennsylvania.

Added 1963, Aug. 24, P.L. 1191, § 2. As amended 1982, Dec. 17, P.L. 1372, No. 314, § 3, *Imd. effective*.

[See main volume for text of (k) to (m)]

(n) To do all acts and things necessary or convenient to carry out the powers granted to it by this act 1 or any other acts;

Provided, further, That all contracts between the Authority and school districts shall be conditioned upon the preparation of general plans for the orderly development of improved attendance areas, and administrative units and for the improved housing of the public schools of the Commonwealth. These plans shall be prepared cooperatively by local, county and State school authorities, in accordance with standards and regulations prescribed by the Department. The Department shall have authority and its duty shall be to review all construction projects to determine:

Provided, however, That the Authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth or any of its school districts or local sponsors or boards of trustees of community colleges, nor shall any of its obligations or debts be deemed to be obligations of the Commonwealth, or any of its school districts or local sponsors or boards of trustees of any community college, nor shall the Commonwealth or any of its school districts or local sponsors or boards of trustees of any community college be liable for the payment of principal or interest on such obligations;

As amended 1967, July 18, P.L. 175, § 3.

(1) The extent to which they conform to general county and State plans;

(2) The amount of improvement to be brought about in attendance areas and administrative units;

(3) The adequacy of the proposed building with respect to educational design, location, usefulness for community activities, safety, comfort and convenience;

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(4) The ability of the local school district or districts to amortize the cost of the project, and to defray the cost of operation and maintenance.

No contract shall be executed between the Authority and school district without the specific written approval of the Department, 1917.

Provided further, That all contracts between the Authority and local sponsors and/or boards of trustees of community colleges and/or the Department of Public Instruction shall be conditioned upon any approval of the State Board of Education or the Department of Public Instruction required by the act of August 24, 1963 (P.L. 1132), known as the "Community College Act of 1963."<sup>2</sup>

Added 1967, July 18, P.L. 175, § 4.

<sup>1</sup> Section 391.1 et seq. of this title.

<sup>2</sup> Section 6701 et seq. of this title.

#### Repealed in Part

*Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (3) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 23, P.L. 184.*

#### Supplementary Index to Notes

Construction and application 1½  
Contracts 3

#### 1½. Construction and application

State Public School Building Authority created for purpose of maintaining public school buildings for use as public schools, as part of public school system of state under jurisdiction of Department of Public Instruction, was in constructing sanitary treatment plant and providing it for school building, a governmental instrumentally charged with performance of governmental function, and as such, immune from liability of its agents or employees. *Rupe v. State Public School Bldg. Authority*, 215 F Supp. 726, D.C. 1965.

#### 2. Actions

A school building authority is not a "political subdivision" within meaning of Pa.R.C.P. No. 2103, 42 Pa.C.S.A. that an action against a political subdivision may be brought only in county in which such subdivision is located. *Adamson Co., Inc. v. H. B. Benson & Sons, Inc.*, 396 A.2d 907, 10 Pa.Cswith. 140, 1979.

Even though this section provides that state public school building authority could "be sued," in the absence of any clearer legislation to the contrary, the authority was immune from provisions of borough ordinance requiring owners of improved property to connect with borough's sewer system. *Borough of Hummelstown v. Lower Dauphin School Dist.*, 357 A.2d 727, 21 Pa.Cswith. 486, 1976.

#### 3. Contracts

Electrical contractor was not precluded from recovering for additional work done pursuant to determination by the state public school building authority as to which of two electrical contractors was obligated under contract to install certain wiring, despite contention that resolution of the dispute was a discre-

tionary governmental act which could not be overturned absent a showing of fraud, collusion or bad faith; neither this section nor 42 Pa.C.S.A. § 6110 provided the authority with such discretion. *State Public School Bldg. Authority v. W. M. Anderson Co.*, 410 A.2d 1329, 49 Pa.Cswith. 420, 1980.

Where written authorization from contracting governmental authority was required before contractor could recover for additional work performed, contractor was not required to perform such work absent required authorization and contractor was entitled to recover any damages suffered by him as result of authority's delay in providing written authorization. *Dick Corp. v. State Public School Bldg. Authority*, 365 A.2d 663, 27 Pa.Cswith. 498, 1976.

Commonwealth Court's scope of review of decision of board of arbitration of claims granting partial relief to contractor on his claim for damages under contract with state public school building authority was limited, and Court would affirm board's order unless it was not in accordance with law or findings of fact were not supported by substantial evidence. *Id.*

Where, by terms of contract with governmental body, written orders for additional work are required, contractor cannot recover for extra work without compliance with contractual provisions. *Id.*

A contract involving a governmental agency can only be valid when it has been executed in accordance with the provisions of the statute authorizing its execution. *Kline v. State Public School Bldg. Authority*, 78 Dauph. 121, 1963.

The authority's liability on its contract could not exceed the total contract price. *Id.*

Where painting the arches and purlins, which had become discolored and damaged was an integral part of work being done, although not covered by the contract, Authority was entitled to enter into a special contract with respect to such painting. *Id.*

#### § 701.5 Contracts to lease and leases from authority

Any school district or districts within the Commonwealth shall have power and authority, with the approval of the Superintendent of Public Instruction, to enter into contracts with the Authority to lease as lessee from the Authority any school building, and the furnishings and equipment thereof constructed or improved by the Authority, for a term, with respect to each not exceeding forty (40) years, at such rental or rentals as may be determined by the Authority, and upon the execution of a contract or contracts for the construction of, or during the period of construction of, or upon the completion of said school building and the furnishings and equipment thereof, the school district or districts shall have power and authority, with the approval of the Superintendent of Public Instruction, to lease as lessee any school building and the furnishings and equipment thereof, for a term, with respect to each not exceeding forty (40) years, at such rental or rentals as may be determined by the Authority.

The board of trustees of a community college, with the approval of the department, and the department, with the approval of the Governor, each shall have the power and authority to enter into contracts with the Authority to lease, as lessee, from the Authority any community college building constructed, improved, maintained and operated by the Authority, for a term, with respect to each, not exceeding thirty (30) years, at such rental or rentals as may be determined by the Authority, and upon execution of a contract or contracts for the construction of or during the period of construction of, or upon the completion of said community college building, the board of trustees or the department shall have power and authority, with further approval of the department in the case of the board of trustees, or the Governor, in the case of the department, to lease, as lessee, from the Authority any such community college building for a term with respect to each not exceeding thirty (30) years, at such rental or rentals as may be determined by the Authority.

When any community college building is leased by the Authority to the department, the department shall have power and authority, with the approval of the Governor, to sublease such community college building to the board of trustees of the community college for which said community college building was constructed or improved, upon such terms and conditions as shall be agreed to, and the board of trustees of a community college, with the approval of the department, shall have the power and authority to sublease, as sublessee, from the department, any community college building leased by the Authority to the department.

There shall be included in the annual budget of a community college as prepared by each board of trustees which has entered into such a lease or sublease an amount equal to the annual amount of such rentals. Rentals payable by the department shall be payable out of current revenues of the Commonwealth of Pennsylvania; in pursuance thereof, the subleases from the department shall provide that rental payments thereunder shall be paid directly to the Authority or its assigns. Rentals payable to the department or its assigns pursuant to subleases, as provided above, shall be considered capital expenses for the purpose of reimbursement or payment by the Commonwealth as provided in the act of August 24, 1963 (P.L. 1132), known as the "Community College Act of 1963."<sup>2</sup>

In all cases where the board of trustees of a community college fails to pay or provide for the payment of any rental or rentals due the department or its assigns for any period in accordance with the terms of any sublease of a community college building entered into between the department, as lessor, and the board of trustees, as sublessee, the State Superintendent of Public Instruction shall notify such board of trustees and local sponsor of its obligation and shall withhold out of any

State appropriation that may be due to such community college on behalf of the local sponsor an amount equal to the amount of rental or rentals owing by such board of trustees to the department or its assigns, and shall apply such amount toward such rental or rentals due the department or its assigns.

Any lessee or sublessee of a community college building, as provided herein, shall have the power and authority to pay for operation and maintenance of such community college building.

As amended 1967, July 18, P.L. 175, § 5.

<sup>1</sup> Enrolled bill omitted "and".

<sup>2</sup> Section 6201 et seq. of this title.

#### Repealed In Part

*Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (4) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.*

#### § 701.0 Purposes and powers; bonds

(a) The bonds of the Authority, hereinabove referred to and authorized to be issued, shall be authorized by resolution of the board, and shall be of such series, bear such date or dates, mature at such time or times, not exceeding forty (40) years from their respective dates, bear interest at such rate or rates payable semi-annually, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment, and at such place or places, be subject to such terms of redemption, at such prices not exceeding one hundred five per centum of the principal amount thereof, and be entitled to such priorities in the revenues, rentals or receipts of the Authority as such resolution or resolutions may provide. The interest on bonds issued shall be paid during the term for which the bonds were issued. The bonds shall bear the facsimile signatures of the Governor and the President of the Authority, together with a facsimile of the corporate seal and the manual signature of the secretary and treasurer in attestation thereof, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the Authority, all as may be prescribed in such resolution or resolutions. Any such bonds may be issued and delivered notwithstanding that any of the aforesaid persons signing such bonds or whose facsimile signature shall be upon the bonds or coupons shall have ceased to hold their respective offices at the time when such bonds shall actually be delivered.

Said bonds shall be sold as the Authority shall determine, at private sale or to the highest responsible bidder or bidders after public notice by advertisement; the notice shall contain a general description of the bonds, the manner, place and time of the sale, or the time limit for the receipt of proposals, the name of the officer to whom bids or proposals shall be delivered, and a statement of the terms and conditions of sale, which shall include a statement of the highest net interest cost or highest interest cost computed by the Present Worth Method, whichever is specified, acceptable to the Authority. For the purposes of this section, net interest cost shall be determined by ascertaining the total amount of interest payable with respect to the bonds, computed from the date of the bonds to the stated maturity dates thereof, plus the amount of any discount from the principal amount of the bond or less the amount of any premium in excess of the principal amount of the bonds. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds, and may contain such terms and conditions as the Authority may determine.

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Such bonds are hereby made securities in which all officers of the State and its political subdivisions and municipal officers and administrative departments, boards and commissions of the Commonwealth, all banks, bankers, savings banks, trust companies, saving and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons whatsoever who now or may hereafter be authorized to invest in bonds or other obligations of the Commonwealth, may properly and legally invest any funds, including capital, belonging to them or within their control, and said bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with, and received by, any State or municipal officers or agency of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

As amended 1968, May 17, P.L. 124, No. 65, § 1; 1969, Oct. 22, P.L. 277, § 1; 1982, Dec. 17, P.L. 1372, No. 314, § 4, *imd. effective.*

*[See main volume for text of (b) and (c)]*

The act of 1969 increased the rate of interest on bonds to seven per centum for one year beginning on Oct. 22, 1969. Act 1970, July 14, P.L. 485, No. 165, § 1 (72 P.S. § 4051), as amended by Act 1971, June 29, P.L. 183, No. 21, § 1, and Act 1972, Oct. 2, P.L. 881, No. 205, § 1, authorizes the removal of limits imposed upon rates of interest and interest costs permitted to be paid upon bonds, obligations and indebtedness issued by the Commonwealth or its agencies or instrumentalities or authorities, or by local political subdivisions or their agencies or authorities, during the period commencing July 1, 1970, and ending June 30, 1974.

#### Repealed In Part

*Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (4) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.*

#### § 701.0a Refunding Bonds

The Authority is hereby authorized to provide, by resolution of the board, for the issuance of refunding bonds for the purpose of refunding any bonds of the Authority issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of such outstanding bonds or to provide funds to redeem and retire such outstanding bonds, with accrued interest, and any premium payable thereon at maturity or at any call date. The issuance of such refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the Authority in respect to the same, shall be governed by the foregoing provisions of this act in so far as the same may be applicable. Refunding bonds may be issued by the Authority to refund bonds originally issued or to refund bonds of the Authority previously issued for refunding purposes. Notwithstanding the provisions of section 6(a) of this act,<sup>1</sup> refunding bonds for bond issues closed by the Authority during calendar year 1975 may be sold at private sale, without advertisement or competitive bidding, for such price or prices as the Authority shall determine.

As amended 1977, Dec. 9, P.L. 273, No. 88, § 1, *imd. effective.*

<sup>1</sup> Section 791.6, subsec. (a) of this title.

§ 701.0b. Repealed. 1982, Dec. 17, P.L. 1372, No. 314, § 5, *imd. effective.*

The repealed section, which derived and was added by Act 1969, Oct. 22, P.L. from Act 1947, July 6, P.L. 1217, § 62, 277, § 2, related to term bonds.

For Title 24, Consolidated Statutes, see Appendix following this Title

§§ 701.7 to 701.9

## Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (1) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 184.

## § 701.10 Competition in award of contracts

If any project or any portion thereof, or any improvement thereof, shall be constructed pursuant to a contract, and the estimated cost thereof exceeds four thousand dollars (\$4,000), such contract shall be awarded to the lowest responsible bidder after advertisement for bids once a week for three weeks in at least one newspaper of general circulation in the county where the project or improvement is located. The authority may make rules and regulations for the submission of bids and the construction or improvement of any project or portion thereof. No contract shall be entered into for construction or improvement of any project or portion thereof, or for the purchase of materials, unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the Authority, and in an amount fixed by the Authority, for the faithful performance of the contract, and such contract shall be accompanied by an additional bond for the protection of those who furnish labor and material, for such amount and subject to the same terms and conditions as recommended by The Administrative Code of one thousand nine hundred twenty-nine, as amended, on contracts entered into by the Department of General Services for the erection of buildings. All construction contracts shall provide, among other things, that the person or corporation entering into such contract with the Authority will pay for all materials furnished and services rendered, for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the Authority to construct any project or portion thereof or any addition, betterment or extension thereto, directly by the officers, agents and employees of the Authority, or otherwise than by contract.

Subject to the aforesaid, the Authority may (but without intending by this provision to limit any powers of such Authority), enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the Authority may deem desirable, or as may be requested by any Federal agency that may assist in the financing of such project or any part thereof.

Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (No. 3), known as the "Steel Products Procurement Act."

As amended 1978, Oct. 4, P.L. 1024, No. 227, § 1, effective in 60 days; 1981, Dec. 22, P.L. 554, No. 164, § 1, effective in 60 days.

171 P.S. § 51 et seq.  
73 P.S. § 1881 et seq.

## Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set

For Title 24, Consolidated Statutes, see Appendix following this Title

forth in Const. art. VIII, § 7(a) (1) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 184.

Supplementary Index to Notes  
Limitations 2

## 1. Construction and application

Contractor, which entered low bid for construction of school building as result of its unilateral mistake in omitting approximate \$120,000 item from bid and which neither effectively informed Building Authority of reason for mistake in preparing bid nor effectively withdrew bid before bids were opened by authority, which had no knowledge of omission, in its main office, was not entitled to rescission of contract. *Madany v. State Public School Bldg. Authority*, 204 A.2d 276, 417 Pa. 39, 1965.

Attempt of contractor to withdraw bid on school construction after discovery of omission of item from bid, by telegram simply requesting withdrawal, without mentioning omission and without any additional attempt to contact authority in that regard, did not effectively withdraw bid, where contractor had been supplied with instruction permitting withdrawal only upon personal appearance with written request prior to time set for opening. *Id.*

Instructions to bidders on works contracts with regard to submission and withdrawal of bids and failure to give bonds or to execute contracts within time specified were material part of a contract. *Id.*

Reasonable regulations that protect interest of bidders on public contracts and the public interest and that are consonant with contract law will be upheld. *Id.*

Orderly procedure of making an offer, particularly in regard to public contracts, requires care that bidders as well as the public interest be protected. *Id.*

Under subcontractor's performance bond given to school authority and providing that surety would save harmless, protect, and indemnify obligee against all loss, damage and expense by reason of principal's failure to comply with contract on subcontractor's default, surety was not itself obligated to perform the contract. *Van Cor, Inc. v. American Cas. Co. of Reading, Pa.*, 204 A.2d 267, 417 Pa. 408, 1965.

Terms of subcontract and specifications between school authority and subcontractor became a part of subcontractor's performance bond as issued by surety. *Id.*

Section 1296 of Title 53 providing that no supplier to a subcontractor can sue on the bond given by the contractor in performance of a contract with a department or agency of the commonwealth, unless he has given notice of his claim within 30 days after the labor or materials are furnished, does not apply to an action brought under the State Public School Building Authority Act of July 5, 1947, P.L. 1217, as amended (section 791.1 et seq. of this title), under which suits on performance bonds may be brought within one year from the time the cause

of action accrued. *Cook-Anderson Co. v. Maryland Cas. Co.*, 12 D. & C.2d 620, 24 Weaver 65, 1967.

In action by a subcontractor against the principal and its surety on a bond for material sold to another subcontractor in connection with a housing authority contract, where the bond attached as an exhibit to the complaint provides recovery subject to this section, defendant's preliminary objections in the nature of a demurrer on the ground the suit was brought more than one year after the claim accrued will be overruled, since the one-year limitation applies only to a suit on the construction contract, whereas the action between the subcontractor and the surety is governed by section 638 of Title 71 in which there is no limitation of action. *Mercer County Housing Authority v. Madany Bros.*, 40 D. & C.2d 73, 1966.

Instructions to bidders, adopted by the authority under its statutory power to make rules and regulations for the submission of bids, must be strictly complied with. *Yost Blec. Co. v. State Public School Bldg. Authority*, 36 D. & C.2d 631, 83 Dauph. 295, 1965.

The State Public School Building Authority properly rejected low bid of plaintiff to perform electrical work on a school building project where plaintiff's bid proposal was not personally signed by him as required by instructions to bidders adopted by authority and where, in addition, authority of person who actually signed proposal was not made known at or before opening of bids. *Id.*

Fact that bid bond was personally signed by plaintiff was immaterial since it is bid proposal itself—not bid bond—which constitutes the essential document which would be capable of acceptance by authority. *Id.*

Where plaintiff, who was not a subcontractor, supplied materials to the job which were damaged, plaintiff's complaint against the surety company was not subject to demurrer. *Mechanical Insulation Co. v. J. Mercellus & Co.*, 36 D. & C.2d 163, 14 Bucks 223, 1965.

Where painting arches and purlins, which had become discolored and damaged, was an integral part of work being done, although not covered by the contract, Authority was entitled to enter into a special contract with respect to such painting. *Kilne v. State Public School Bldg. Authority*, 78 Dauph. 121, 1963.

This section limits suits in connection with performance of the contract to one year, but does not appear to so limit suits by furnishers of labor and material. A party, moreover, may be estopped or held to have waived the benefit of the limitation if he has deceptively induced the other to withhold filing suit. *State Public School Bldg. Authority v. National Union Fire Ins. Co.*, 26 Fay.L.J. 28, 1964.

## 2. Limitations

The limitation of action provision of this section refers to suits against the surety on the bond and not to suits under the contract. *Hampden Engineering Corp. v. Transamerica Co.*, 121 P.L.J. 334, 1972.

For Title 24, Consolidated Statutes, see Appendix following this Title

A material supplier's claim against the contractor's surety under a labor and material bond is barred by the lim-

itation of action provided for in this section one year after the cause of action accrues. Id.

§§ 701.11 to 701.13

Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (3) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.

Notes of Decisions under Repealed Sections

SECTION 701.11

1. Construction and application  
Where plaintiffs, who brought equitable action against state public school building authority to enjoin continuing trespasses upon their property, were alleging tortious conduct, plaintiffs were

properly requesting equitable relief for continuing trespass and did not have to proceed in eminent domain. *Scherbick v. Community College of Allegheny County*, 418 A.2d 791, 63 Pa.Cmwlth. 456, 1980.

§ 701.14 Exemption from taxation

Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (3) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.

Law Review Commentaries

Uneasy law of real estate tax exemptions in Pennsylvania. Cyril A. Fox, Jr. (1977) 39 D.PILL. L.Rev. 175.

1. Construction and application

State Public School Building Authority created for purpose of maintaining public school buildings for use as public schools, as part of public school system

of state under jurisdiction of Department of Public Instruction, was in constructing sanitary treatment plant and providing it for school building a governmental instrumentally charged with performance of governmental function, and as such, immune from liability of its own agents or employees. *Hupe v. State Public School Bldg. Authority*, 245 P.Supp. 726, D.C.1965.

§§ 701.15, 701.10

Repealed in Part

Act 1947, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (3) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.

§ 701.17 Transfer of projects to school districts or other lessees or sublessees

When the Authority shall have finally paid and discharged all bonds, including refunding bonds, together with all interest due thereon, which were issued for the purpose of financing the cost of construction of a project and shall have paid any and all other charges and obligations incurred in connection with such project, the Authority may (subject to the terms of any agreements, leases or indentures of trust concerning the operation, financing and disposition of such project) convey such project to the school district or school districts or board of trustees of any community college to which such project was leased or subleased. As amended 1967, July 18, P.L. 175, § 6.

For Title 24, Consolidated Statutes, see Appendix following this Title

Repealed in Part

Act 1937, July 5, 1947, P.L. 1217 is repealed insofar as it authorizes the incurring of Commonwealth debt subject to the limitation set forth in Const. art. VIII, § 7(a) (3) or is otherwise inconsistent with Act 1968, July 20, P.L. 550, No. 217 (72 P.S. § 3920.1 et seq.), known as the "Capital Facilities Debt Enabling Act," as amended by Act 1969, July 24, P.L. 183.

COUNTY SUPERINTENDENT AND ASSISTANTS

STENOGRAPHERS AND EQUIPMENT

§ 1027. Telephone, stenographer, office supplies and suitable space

Cross References

For other provisions covering the subject matter of this section, enacted earlier at the same session of the General Assembly, see sections 10-1010 and 10-1041 of this title.

Office rooms, see section 10-1039 of this title.  
Telephones and typewriter, see sections 10-1040, 10-1041 of this title.

§ 1028. Selection of stenographers; compensation

Cross References

For other provisions covering the subject matter of this section, enacted earlier at the same session of the General Assembly, see sections 10-1029 and 10-1041 of this title.

Selection and compensation of stenographer, see sections 10-1040, 10-1041 of this title.

§ 1028.1 Superintendent's budget; approval; payments; second class counties

Cross References

Telephone and typewriter, see sections 10-1040, 10-1041 of this title.

CERTIFICATION OF TEACHERS

Cross References

Professional standards and requirements for certification, see section 12-1261 et seq. of this title.

See, also, § 12-1201 et seq. of this title.  
Rules and Regulations  
Changes in certification, see 22 Pa. Code §§ 49.51, 49.52.

§ 1224. Elementary and secondary schools; certification and registration

The Department of Public Instruction shall provide for the registration of persons qualified to teach in elementary and secondary schools of this Commonwealth which are accredited by the Department of Public Instruction as conforming to the official standards promulgated by the State Board of Education. As amended 1963, Aug. 13, P.L. 649, § 1.

Title of Act:

An Act to regulate the certification and the registration of persons qualified to teach in accredited elementary and secondary schools in this State; imposing certain duties upon the Department of Public Instruction and the

State Board of Education; defining violations; providing penalties, and for appeal to the court of common pleas of Dauphin County, 1931, May 29, P.L. 210, as amended 1963, Aug. 13, P.L. 649, § 1.

§ 1225. Powers and duties of Department of Public Instruction

The Department of Public Instruction shall have the power, and its duty shall be—

{See main volume for text of (a)}

(b) To certify as qualified to practice the art of teaching in such schools any applicant eighteen (18) years of age, of good moral character, not

For Title 24, Consolidated Statutes, see Appendix following this Title

of the second sentence.

"and shall spend in each school year an amount which together with state aid, shall equal an average daily membership, provided however

generally.

No. 170 (Adj. Sess.). For provision relating to No. 170 (Adj. Sess.), which amended this section.

#### ANNOTATIONS

any regulations made by the board of education set forth under subsection (a) of this section.

of law. Town school districts which had closed out joining other districts had violated the law, but having done so with indirect knowledge, such aid should not be cut off for a reasonable time with the law or to give time for legislation. Atty. Gen. 101.

be used by a town school district or district only for legitimate items of current without limitation, the following: transportation, supervision and teachers' salaries to schools other than public schools as 11(3).—Amended 1971, No. 114, § 2, No. 170 (Adj. Sess.), § 8, eff. April 19, 1971.

#### HISTORY

Prior law: V.S. 1947, § 4417, repealed by 1954.

Sess.). Inserted "general" between "state" and "and substituted "subdivision 3441(3)" for "sentence.

No. 170 (Adj. Sess.). For provision relating to No. 170 (Adj. Sess.), which amended this section.

operation as current operating expense, see § 11(3).

#### ANNOTATIONS

ans for Separation of Church and State v. O. 13.

l. No. 40 (Sp. Sess.), § 8, eff. March 1971.

#### HISTORY

Former § 3446 referred to appropriations and was derived from 1949, No. 101, § 8.

§ 3447. School building construction—State bonds; city as school district

The state treasurer may issue bonds under chapter 13 of Title 32 in such amount as may from time to time be appropriated to assist incorporated school districts, town school districts, union school districts and academies which serve as the public high school for one or more towns or cities, or combination thereof, and which both receive their principal support from public funds and are conducted within the state under the authority and supervision of a board of trustees not less than two-thirds of whose membership is appointed by the selectmen of a town or by the city council of a city or in part by such selectmen and the remaining part by such council under the conditions and for the purpose set forth in sections 3447–3456 of this title. A city shall be deemed to be an incorporated school district within the meaning of sections 3447–3456 of this title.—1953, No. 256, § 1; amended 1955, No. 266, § 1; 1963, No. 213, § 1, eff. June 29, 1963; No. 220, § 1; 1967, No. 150, § 1.

#### HISTORY

Revision note. Reference to "termination date;" deleted following "state bonds" in catchline to conform catchline to current scope of text.

Amendments—1967. Deleted "high" between "union" and "school districts" in the first sentence.

1963. Act No. 213 and Act No. 220 rewrote the first sentence.

1955. Added the last sentence.

Cross references. Educational and health buildings financing agency, see § 3451 et seq. of this title.

H.-Vt. interstate school district, see § 771 et seq. of this title.

Union school districts, see § 701 et seq. of this title.

#### ANNOTATIONS

1. Incorporated school district. Montpelier union district was an incorporated school district within the meaning of sections 3447–3456 of this title and fact that such incorporated district acted through board of nine school commissioners rather than prudential committee did not change its legal character as an incorporated school district which came expressly within meaning of term "incorporated school district" as used in this section. 1954 Op. Atty. Gen. 141.

2. Right to interest from investment of funds. Where state aid was granted under provisions of sections 3447–3456 of this title to Burlington school district, not Burlington city, since school district rather than city was entitled to aid, any interest from investment of state aid funds belonged to school district rather than to city. 1958 Op. Atty. Gen. 94.

## § 3448. —Approval of projects

(a) Each school district which has voted funds in a specific amount, or issued bonds, to construct a new school plant, or make extensive additions or alterations to its existing school plant or to acquire pre-existing buildings, school facilities or relocatable units to house adequately or educate its pupils, or to conserve energy through a retrofit, and desires to avail itself of funds herein provided, shall make application in writing to the state board for approval of the project. If the voters of one or more municipalities which are served by an academy serving as a public high school and conducted by a board of trustees not less than two-thirds of whom are appointed by the selectmen of a town or the city council of a city as provided in section 3447 of this title, vote as a unit to approve a project in a specific amount for the construction, additions, alterations, or acquisitions, the board of trustees, if they have voted, appropriated, or otherwise have available funds in a specific amount for the project and if they desire to make available to the academy funds herein provided, shall also make application to the state board for state aid under this section. When the state board finds that the project is urgently needed, that the retrofitted building meets energy conservation standards adopted by the state energy office and department of education and that the proposed type, kind, quality, size and estimated cost of the project are suitable for the proposed curriculum and meet all other lawfully established standards and requirements so as to serve most effectively the largest number of pupils in any specified area, and that arrangements have been made for the supervision of actual construction by persons competent in the building trades; and the district or academy agrees to provide high school instruction for any high school pupil living in an area prescribed by the board who may elect to attend the school; and the district or academy has adequately provided for the financing of the remainder of the project, the state board shall award thirty per cent of the cost of the project. Nothing in this section shall be construed to require a multi-purpose room, auditorium, gymnasium, or other type of room not deemed necessary to maintain a standard curriculum, in any proposed school building nor may the board require that a gymnasium constituting part of the school plant be on land contiguous to the land where the main school building is located as long as the gymnasium is within a reasonable distance thereof so as to permit adequate supervision by the faculty of activities therein. For the purpose

ets

which has voted funds in a specific amount to construct a new school plant, or make additions to its existing school plant or to its school facilities or relocatable units, to relocate its pupils, or to conserve energy, may avail itself of funds herein provided in writing to the state board for the voters of one or more municipalities or academies serving as a public high school or academies, not less than two-thirds of the electors of a town or the city council under section 3447 of this title, vote as a unit to appropriate an amount for the construction, additions, or alterations, the board of trustees, if they have otherwise available funds in a specific amount, if they desire to make available to the school district or academy, shall also make application to the state board under this section. When the state board determines that the retrofitted building meets the minimum standards adopted by the state board of education and that the proposed estimated cost of the project are submitted in writing and meet all other lawful requirements so as to serve most effectively the needs of the community in any specified area, and that arrangements have been made for the supervision of actual construction by the contractor and building trades; and the district or academy has provided for school instruction for any high school building as described by the board who may elect to provide for the school district or academy has adequately provided for the remainder of the project, the state board may require that a gymnasium constructed under this section shall be construed to require a multi-purpose room, or other type of room not deemed to be a part of the standard curriculum, in any proposed project. The state board require that a gymnasium constructed under this section shall be on land contiguous to the land on which the building is located as long as the gymnasium is used for the purpose of activities therein. For the purpose of

the award the cost of construction of the additional buildings for area vocational centers and for retrofitting to conserve energy shall include any amounts derived from federal sources; the cost of construction of any other facilities shall not include amounts derived from federal sources. The cost of the award shall also include the cost of preliminary land test on the accepted project required under chapter 151 of Title 10. Upon satisfactory proof that the project for which an award has been made is under construction, the state board shall certify the award to the commissioner of finance who shall thereupon issue his warrant for the payment of one-half of the award, and after the project has been fully completed and the cost thereof has been audited by the board, the state board shall certify the remainder of the award that shall be due to the district or academy to the commissioner of finance who shall thereupon issue his warrant for the payment thereof.

(b) The state board shall also award each year to each school district or academy as defined in subsection (a) of this section which has voted or which votes at a meeting of the school district under a separate article included in the warning for such meeting to appropriate funds or to issue bonds to finance projects approved under subsection (a) of this section or section 3449 of this title, twenty per cent of the interest and principal accrued or paid on indebtedness for these projects during that year. The state board may require each district to submit such proof of payment on its obligations as the state board considers necessary. It shall not make an award under this subsection unless a school district otherwise entitled to an award claims payment within three months after the end of the fiscal year.

(c) Upon the sale by a school district of any item, building or relocatable unit, for which 30 percent state construction aid was awarded under subsection (a) of this section, the school district shall refund to the state 30 percent of the sale price, but in no event shall the sum refunded be in excess of the amount of the original state construction aid grant for the purchase of the item, building, or relocatable unit. All refunds shall be added to the appropriation for school construction aid, and if no appropriation exists for that purpose, to the general fund.

(d) No school district shall receive any state general aid unless the school district complies with subsection (c).

(e) In emergency situations, as determined by the commissioner, the commissioner of education may grant local school districts 30

percent capital construction aid up to \$3,000.00 for a maximum project cost of \$10,000.00 other provisions of this section notwithstanding.—1953, No. 256, § 2; amended 1957, No. 295, § 2; 1959, No. 134, eff. April 24, 1959; No. 239, eff. June 10, 1959; No. 323 (Adj. Sess.), § 8(a), (b); 1961, No. 49, § 1, eff. April 4, 1961; 1963, No. 213, § 2, eff. June 29, 1963; No. 220, § 2; 1965, No. 174, § 1; 1967, No. 150, § 2; 1967, No. 176; 1969, No. 124, § 1, eff. July 1, 1967; 1969, No. 298 (Adj. Sess.), § 9, eff. July 1, 1969; 1971, No. 20, eff. March 16, 1971; 1979, No. 83, § 2; 1979, No. 298 (Adj. Sess.), § 141, eff. May 9, 1980; 1981, No. 170 (Adj. Sess.), § 9, eff. April 19, 1982.

#### HISTORY

Revision note. References to "finance director" in subsec. (a) changed "commissioner of finance" to conform references to new title and reorganization of state government. See § 2201 et seq. of Title 3.

Reference to "auditor of accounts" changed to "finance director" pursuant to 1959, No. 323 (Adj. Sess.), § 8(b).

Amendments—1981 (Adj. Sess.). Subsection (d): Inserted "general" before "state" and "aid", deleted "pursuant to sections 3469-3470 of this title" after and substituted "subsection (c)" for "the provisions of section 3448 of this title".

—1979 (Adj. Sess.). Subsection (e): Added.

—1979. Subsection (a): Inserted "or to conserve energy through retrofitting" following "educate its pupils" in the first sentence, "that the retrofitted building meets energy conservation standards adopted by the state energy office" following "department of education" following "urgently needed" in the third sentence and "and for retrofitting to conserve energy" following "area vocational centers" in the fifth sentence.

—1971. Subsection (a): Added the sixth sentence.

—1969. Amended section generally.

—1969 (Adj. Sess.). Subsection (a): Amended generally.

Subsection (b): Amended generally.

Subsection (c): Added.

Subsection (d): Added.

—1967. Act No. 176 amended this section generally, apparently with reference to Act No. 150, which also amended the section generally to read as amended in the 1968 Replacement edition of this volume. After 1967, all amendments amended the version of the section created by Act No. 176. Prior to 1967, the section, which was derived from 1953, No. 256, § 2, had been amended by 1957, No. 295, § 2; 1959, No. 134; 1959, No. 239; No. 323 (Adj. Sess.), § 8(b); 1961, No. 49, § 1; 1963, No. 213, § 2; No. 220, § 2; and 1965, No. 174, § 1.

Effective date of 1969 amendment. 1969, No. 124, § 2, provided: "Sections 1 [which amended § 3448] and 2 [this section] of this act shall take effect on July 1, 1967. Any school district or academy which is entitled to aid by virtue of the retroactive effect of this act shall be allowed three months from the date of passage of this act to apply for such aid."

aid up to \$3,000.00 for a maximum  
 provisions of this section notwith-  
 § 2; amended 1957, No. 295, § 2; 1959,  
 No. 239, eff. June 10, 1959; No. 323  
 1961, No. 49, § 1, eff. April 4, 1961;  
 No. 220, § 2; 1965, No. 174  
 1967, No. 176; 1969, No. 124, § 1, eff.  
 1968 (Adj. Sess.), § 9, eff. July 1, 1970;  
 1971; 1979, No. 83, § 2; 1979, No. 206  
 May 9, 1980; 1981, No. 170 (Adj. Sess.)

## HISTORY

"finance director" in subsec. (a) changed to  
 conform references to new title and reorganiza-  
 tion act, 1971, No. 201 et seq. of Title 3.  
 "accounts" changed to "finance director" pursuant  
 to Act No. 201 (S(b)).

Subsection (d): Inserted "general" before  
 pursuant to sections 3469-3470 of this title" there-  
 in. Section (c) for "the provisions of section 3448(c)"

Section (e): Added.

Inserted "or to conserve energy through retrofits"  
 in the first sentence, "that the retrofitted building"  
 standards adopted by the state energy office and  
 following "urgently needed" in the third sentence  
 to conserve energy" following "area vocational"

the sixth sentence.

Generally.

Section (a): Amended generally.  
 generally.

Amended this section generally, apparently with  
 which also amended the section generally to read as  
 present edition of this volume. After 1967, all  
 section created by Act No. 176. Prior to  
 from 1953, No. 256, § 2, had been amended  
 No. 134; 1959, No. 239; No. 323 (Adj. Sess.), § 1;  
 No. 213, § 2; No. 220, § 2; and 1965, No. 174;  
 amendment, 1969, No. 124, § 2, provided: "Section  
 and 2 [this section] of this act shall take effect  
 district or academy which is entitled to aid by  
 this act shall be allowed three months from the  
 date for such aid."

Award for prepayment of debts due July 1, 1967. 1969, No. 123, § 1, eff.  
 April 23, 1969, provided: "Any school district which paid interest or principal  
 on debts due July 1, 1967, prior to the due date thereof, shall be entitled to an  
 award of twenty percent of the principal and interests so paid, under provi-  
 sion of 16 V.S.A. § 3448(b). Such payment shall be made notwithstanding that  
 the claim is made more than three months after the end of the fiscal year."

Prospective repeal of 1981, No. 170 (Adj. Sess.). For provision relating to  
 prospective repeal of 1981, No. 170 (Adj. Sess.), which amended this section,  
 see note under § 3441 of this title.

## ANNOTATIONS

Approval of projects, 1, 2  
 Approval by board, 1  
 Approval by voters, 2

Furnishing of instruction by dis-  
 trict, 3-5  
 Allocation of costs, 5  
 Designation of service area, 4  
 Generally, 3

1. Approval of projects—Approval by board. Notwithstanding deletion, by  
 amendments to this section, of word "contemplated" before "project" in  
 sentence, intent of legislature with respect to high degree of supervisory  
 responsibility and control by board of education from very beginning of every  
 project has not changed, and board has no authority to approve projects unless  
 application is made prior to their commencement. 1960 Op. Atty. Gen. 77.

Board of education has no authority to approve projects under this section  
 unless application is made prior to commencement of construction. 1956 Op.  
 Atty. Gen. 115.

Where a building site had been purchased and prepared, but construction  
 had not begun, approval of the project could be granted, and state aid allowed,  
 and no aid would be available as to costs already incurred. 1972 Op. Atty. Gen.  
 17.

Portion of project completed after date that application therefor was  
 received in department of education could lawfully be made basis of an award  
 under this section, notwithstanding board of education did not act on appli-  
 cation until some later date. 1954 Op. Atty. Gen. 124.

Portion of project completed prior to date of application received under  
 this section fell into category of project completed or partially completed  
 under § 3449 of this title and could not lawfully be made basis of an  
 award by board of education under this section. Id.

2. Approval by voters. This section requires vote by legal voters of town  
 school district on an article which specifies what is to be constructed and  
 the amount to be spent therefor, which article has been properly warned.  
 1966 Op. Atty. Gen. 115.

Town district must vote to approve total project and appropriate funds for  
 that purpose in order to qualify under this section as legislative branch of  
 district does not have such authority over school district funds for new proj-  
 ects in absence of vote authorizing same by voters. 1954 Op. Atty. Gen. 145.

3. Furnishing of instruction by district—Generally. A district getting aid  
 under this section should furnish complete high school instruction to students  
 attending it from such area as may be prescribed by board of education. 1956  
 Op. Atty. Gen. 109.

4. Designation of service area. The board, in prescribing area to be serv-  
 ed, must take into consideration (1) the estimated numbers of future stu-  
 dents, (2) the capacity of the plant, and (3) the probable life of the facility,  
 and the agreement should generally specify the maximum number of students

which the municipality might be required to accommodate and the period during which such accommodation should be furnished. 1956 Op. Atty. Gen. 109.

A school municipality should not be required to accept pupils from areas beyond the effective capacity of the contemplated educational plant, first consideration going to pupils of the municipality in question and agreement should cover only the period of normal life expectancy of the contemplated facility. Id.

5. —Allocation of costs. The board, in prescribing an area from which a union high school district must agree to accept pupils as the condition to receipt of construction aid, may stipulate that such district pay all capital and instructional costs. 1958 Op. Atty. Gen. 80.

§ 3448a. —Inclusion of amounts derived from private sources

Amounts derived from private sources and used for school construction commenced after June 10, 1959, shall be included in the cost of construction for the purpose of state aid awards. 1959 Op. Atty. Gen. No. 49, § 2, eff. April 4, 1961.

§ 3448b. —Employment practices

In the construction of any public school buildings local capital and labor shall be utilized whenever possible.—1971, No. 232 (74th Sess.), § 2, eff. April 5, 1972.

§ 3449. —Award, completed construction

Each incorporated school district or town school district which, since July 1, 1947, has completed an approved new school building or has made extensive additions or major alterations in its existing school plant, which additions or alterations have been approved by the state board of education and which other projects would not come under the provisions of sections 3447-3456 of this title, shall be entitled to and be awarded aid and assistance under such sections on the basis of twenty percent of the following portions of the cost of construction: twenty-twentieths for projects completed or partially completed in 1953; nineteen-twentieths for projects completed in 1952; eighteen-twentieths for projects completed in 1951; seventeen-twentieths for projects completed in 1950; sixteen-twentieths for projects completed in 1949; fifteen-twentieths for projects completed in 1948; and fourteen-twentieths for projects completed in 1947. For the purposes of such award the cost of construction shall not include any amounts derived from federal or private sources. Upon application by such school district the state board of education shall audit the cost of said projects, additions or alterations and shall make its award thereon and

required to accommodate and the period should be furnished. 1956 Op. Atty. Gen.

it be required to accept pupils from outside of the contemplated educational plant within the limits of the municipality in question and the period of normal life expectancy of the

board, in prescribing an area from which it is to accept pupils as the condition to stipulate that such district pay all capital expenditures. Gen. 80.

Amounts derived from private sources and used for school construction on or after June 10, 1959, shall be included in the computation of state aid awards.—1961

#### Practices

Public school buildings local capabilities should be made as complete as possible.—1971, No. 232 (Adj. Sess.)

#### Construction

A school district or town school district which has completed an approved new school plant or has made additions or major alterations in its old school plant which additions or alterations have been approved by the board of education and which otherwise comply with the provisions of sections 3447-3456 of this title shall be awarded aid and assistance under this section in the amount of twenty percent of the following fraction of the cost of such construction: twenty-twentieths for projects completed in 1953; nineteen-twentieths for projects completed in 1954; eighteen-twentieths for projects completed in 1955; seventeen-twentieths for projects completed in 1956; sixteen-twentieths for projects completed in 1957; fifteen-twentieths for projects completed in 1958; and fourteen-twentieths for projects completed in 1959. For the purposes of such award, the amount shall not include any amounts derived from state aid awards. Upon application by such school district, the board of education shall audit the cost of said plant and shall make its award thereon and shall

certify such award to the commissioner of finance who shall thereupon issue his warrants for the payment thereof. For this purpose there is hereby appropriated from the unappropriated surplus the sum of \$500,000.00 plus such additional sums as may be necessary from the bond issue authorized by section 3447 of this title.—1953, No. 256, § 3; 1959, No. 328, § 8(a), (b).

#### HISTORY

Revision note. Reference to "finance director" changed to "commissioner of finance" to conform reference to new title and reorganization of state government. See § 2201 et seq. of Title 3.

Reference to "auditor of accounts" changed to "finance director" pursuant to 1959, No. 328 (Adj. Sess.), § 8(b).

#### ANNOTATIONS

Approval of projects by board, 2  
Construction with other laws, 1

Supervision of use of funds by board, 3

1. Construction with other laws. Legislative branch of a district could legally apply funds awarded to it under this section toward payment of the portion of a local share of a project for which state aid was sought under § 3442 of this title. 1954 Op. Atty. Gen. 145.

2. Approval of projects by board. The board of education could lawfully make an award under this section for all construction completed or partially completed in 1953 which "otherwise would not come under the provisions of sections 3447-3456 of this title. 1954 Op. Atty. Gen. 133.

There is complete lack of authority for the state board of education to consider any proposal for reimbursement except as to those municipalities specifically mentioned in sections 3447-3456 of this title, namely, school districts, incorporated school districts, or union high school districts and this section does not even include union high school districts. 1954 Op. Atty. Gen. 131.

3. Supervision of use of funds by board. Once an award is made and received under this section any responsibility of state board of education for assuring legality of use within school district of funds received ceases to exist, other than general supervisory duties of board and commissioner, etc. 1954 Op. Atty. Gen. 145.

#### § 3450. —Appeal

Any municipal corporation or academy as defined in section 3447 of this title aggrieved by an order, allocation or award of the state board of education may, within thirty days, appeal therefrom to the superior court in the county in which the project is located.—1953, No. 256, § 4; amended 1963, No. 220, § 3.

#### HISTORY

Revision note. Reference to "court of chancery" changed to "superior court" pursuant to 1971, No. 135 (Adj. Sess.), § 236(d) and 1973 (Adj. Sess.), § 3. See notes under §§ 71 and 219 of Title 4.

## PART 4. ADVANCED EDUCATION

*Chapter 87. Scholarship and Student Loan Program*

## SUBCHAPTER 5. STUDENT LOAN PROGRAM

## NEW SECTION

§ 2869. Loan cancellation.

*Subchapter 5. Student Loan Program*

§ 2862. Rules and regulations

(c) The rules and regulations may provide that educational loans guaranteed, made, financed, serviced or otherwise administered by the corporation are exempt from the interest rate and charges limitations in sections 41a and 42 of Title 9.—Amended 1983, No. 76, § 2.

Revision note. In subsec. (c), "sections 41a and 42 of Title 9" was substituted for "9 V.S.A. §§ 41a and 42" to conform language to V.S.A. style. 1983 amendment. Subsection (c): Added.

§ 2869. Loan cancellation

(a) Loans obtained under this subchapter may be partially or completely cancelled and forgiven, for a borrower who is employed for a complete academic school year as a full-time certified teacher:

- (1) in a Vermont elementary or secondary school which is approved by the state board of education; and
- (2) in the subject area of mathematics, science, or computer science during a year when there is a critical shortage of certified teachers in that area.

(b) Annually the board shall determine, after consultation with the commissioner, whether a critical shortage of certified teachers exists in each of the subject areas of mathematics, science and computer science.

(c) The board shall determine the amount of loan to be cancelled for each complete academic year of teaching service. The amount so cancelled for each year shall not exceed 25 percent of the original principal amount plus any accrued interest.—Added 1983, No. 76, § 1.

## PART 6. FINANCING; SCHOOL FUNDS AND PROPERTIES

*Chapter 123. State Aid*

§ 3117. School building construction—State bonds; city as school district

§ 3448. —Approval of projects

(a) Each school district which has voted funds in a specific amount, or issued bonds, to construct a new school plant, or make extensive additions or alterations to its existing school plant or to acquire pre-existing buildings, school facilities or relocatable units, to house adequately or educate its pupils, or to conserve energy through a retrofit, and desires to avail itself of funds herein provided, shall make application in writing to the state board for approval of the project. If the voters of one or more municipalities which are served by an academy serving as a public high school and conducted by a board of trustees not less than two-thirds of whom are appointed by the selectmen of a town or the city council of a city as provided in section 3447 of this title, vote as a unit to approve a project in a specific amount for the construction, additions, alterations, or acquisitions, the board of trustees, if they have voted, appropriated, or otherwise have available funds in a specific amount for the project and if they desire to make available to the academy funds herein provided, shall also make application to the state board for state aid under this section. When the state board finds that the project is urgently needed, that the retrofitted building meets energy conservation standards adopted by the state energy office and department of education and that the proposed type, kind, quality, size and estimated cost of the project are suitable for the proposed curriculum and meet all other lawfully established standards and requirements so as to serve most effectively the largest number of pupils in any specified area, and that arrangements have been made for the supervision of actual construction by persons competent in the building trades; and the district or academy agrees to provide high school instruction for any high school pupil living in an area prescribed by the board who may elect to attend the school; and the district or academy has adequately provided for the financing of the remainder of the project, the state board shall award thirty percent of the cost of the project. Nothing in this section shall be construed to require a multi-purpose room, auditorium, gymnasium, or other type of room not deemed necessary to main-

tain a standard curriculum, in any proposed school building nor may the board require that a gymnasium constituting part of the school plant be on land contiguous to the land where the main school building is located as long as the gymnasium is within a reasonable distance thereof so as to permit adequate supervision by the faculty of activities therein. For the purpose of the award the cost of construction of the additional buildings for area vocational centers and for retrofitting to conserve energy shall include any amounts derived from federal sources; the cost of construction of any other facilities shall not include amounts derived from federal sources. The cost of the award shall also include the cost of preliminary land test on the accepted project required under chapter 151 of Title 10. Upon satisfactory proof that the project for which an award has been made is under construction, the state board shall certify the award to the commissioner of finance who shall thereupon issue his warrant for the payment of one-half of the award, and after the project has been fully completed and the cost thereof has been audited by the board, the state board shall certify the remainder of the award that shall be due to the district or academy to the commissioner of finance who shall thereupon issue his warrant for the payment thereof. Notwithstanding the foregoing, the state board may approve projects as eligible for an award subject to the availability of legislative appropriations. The state board shall award thirty percent of the cost of the project only to the extent of available legislative appropriations. Thereafter, projects approved in a prior fiscal year but not given an award shall be funded first. The order of awards shall be based upon the date of final approval by the state board except in cases classified by the state board as emergencies.

—Amended 1983, No. 94, § 9(b).

1983 amendment. Subsection (a): Added the last four sentences.

## TITLE SEVENTEEN

### *Elections*

#### *Chapter 43. Qualification and Registration of Voters*

##### *Subchapter 1. Qualifications of Voters*

##### § 2122. Residence; special cases; checklist

(b) A person may have his name on the checklist only in the town of which he is a resident. For the purpose of this chapter, "resident" shall mean a person who is domiciled in the town as evidenced by an intent to maintain a principal dwelling place in the town indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent. If a person removes to another town with the intention of remaining there indefinitely, he shall be considered to have lost his residence in the town in which he originally resided even though he intends to return at some future time. A person may have only one residence at a given time.—Amended 1983, No. 90, § 1, eff. April 29, 1983.

1983 amendment. Subsection (b): Substituted "chapter" for "section" following "purpose of this" in the second sentence.

##### *Subchapter 2. Registration of Voters*

##### § 2150. Removing names from checklist

(d) Except as provided in subsection (a) of this section, a board of civil authority shall only remove a name from the checklist in accordance with the following procedure:

(3) If after conducting its inquiry the board of civil authority is unable to locate a voter whose name is on the checklist, or if the inquiry reveals facts indicating that the voter may no longer be eligible to vote in the municipality or has not voted in any election within the last four years, the board of civil authority shall send a written notice to the voter. The notice shall be sent to the most recent known address of the voter, notifying the voter that, unless he

CHAPTER 28A.47

SCHOOL PLANT FACILITIES AID—BOND ISSUES

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28A.47.075 Portable buildings or classrooms.

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28A.47.220 Investment of current surpluses in public school building construction account and institutional building construction account—Deposit of securities—Duties of treasurer.

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28A.47.420 1955 emergency construction of school plant facilities—Bonds authorized—Form, term, etc.—Continuation of levy.

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28A.47.450 1955 emergency construction of school plant facilities—Bonds are negotiable, legal investments and security.

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28A.47.580 1959 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use.

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28A.47.798	1969 bond issue for construction, modernization of school plant facilities--Allotment of funds appropriated from common school building construction account--Local responsibility--Duties of state board of education.
28A.47.799	1969 bond issue for construction, modernization of school plant facilities--Appropriations to state board of education--Allocation of, limitations.
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28A.47.800	1969 appropriation for construction, modernization of school plant facilities.
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- 28A.47.802 1969 appropriation for construction, modernization of school plant facilities—Allocation, board duties
- 28A.47.803 1969 appropriation for construction, modernization of school plant facilities—Basis of state aid for school plant.
- 28A.47.804 1969 appropriation for construction, modernization of school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility for allotment.
- 28A.47.805 1969 appropriation for construction, modernization of school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district.
- 28A.47.806 1969 appropriation for construction, modernization of school plant facilities—Application by district for state assistance—Studies and surveys by state board
- 28A.47.807 1969 appropriation for construction, modernization of school plant facilities—Manual, other materials to guide and provide information to district.
- 28A.47.808 1969 appropriation for construction, modernization of school plant facilities—State board to provide district with consultatory, advisory service.
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- 28A.47.810 1969 appropriation for construction, modernization of school plant facilities—Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas.
- 28A.47.811 1969 appropriation for construction, modernization of school plant facilities—Permissible allocations.
- 28A.47.820 Board limited when prioritizes construction.
- 28A.47.830 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.

Cross References

Acquisition of works of art out of moneys appropriated for state assistance for original construction of school plant facility, see, § 28A.58.055.  
 Cigarette tax, see § 82.24.010 et seq.  
 Fiscal agency, see § 43.80.100 et seq.  
 School facilities cost stabilization program, see §§ 28A.03.400 to 28A.03.406 28A.03.409.

Law Review Commentaries

Constitutionality of taxation for financing Washington public schools; local school district building fund revenues as source for financing the district's educational program 18 Gonzaga L.Rev. 37 (1975).

SCHOOL PLANT FACILITIES AID 28A.47.055

28A.47.050 Statement of intent

It is hereby declared to be the intent of the legislature that the following provisions be enacted for the purpose of establishing and providing for the operation of a program of state assistance to school districts in providing school plant facilities.  
 Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.050, eff. July 1, 1970.

Historical Note

Source:

Laws 1947, ch. 278, § 1.  
 RRS § 4940-12.  
 Former § 28.47.050.

Library References

Schools 17.

C.J.S. Schools and School Districts § 18.

Notes of Decisions

1. In general

Applicable constitutional and statutory provisions provide this state with integrated system of agencies for acquisition, construction, financing, administration, supervision, maintenance, and operation of public schools, basic components of system being state and county superintendents, state and county boards and

committees and school districts. State ex rel. DuPont-Fort Lewis School Dist. v. Bruno (1963) 62 Wash.2d 790, 384 P.2d 608.

Use of state aid to assist districts in providing school buildings with radioactive fallout protection. Op. Atty.Gen.1961-62, No. 117.

28A.47.055 Definitions

Unless the context indicates otherwise the following words and phrases when used in this chapter shall have the meaning given in this section:

(1) An "educational unit" means one full time certificated employee for one school year; in case of part time employees, each hour's service per day for an entire school year, or one hundred eighty hours, shall equal one-sixth of a unit; and

(2) A "certificated employee" means an employee holding a position requiring a teaching certificate.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.055, eff. July 1, 1970.

Historical Note

Source:

Laws 1953, ch. 282, § 1.  
 Laws 1955, ch. 187, § 2.  
 Former § 28.41.010.

Library References

Schools  $\hookrightarrow$  17.

C.J.S. Schools and School Districts  
§ 18.

28A.47.060 Duties of state board of education

The state board of education shall have the power and it shall be its duty (1) to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever the board deems such action advisable and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and to prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the state board.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.060, eff. July 1, 1970

Historical Note

Source:

Laws 1947, ch. 278, § 2.  
RRS § 4940-13.  
Former § 28.47.060.

Library References

Schools  $\hookrightarrow$  47.

C.J.S. Schools and School Districts  
§§ 86 to 91.

Notes of Decisions

I. Fallout shelters

Use of state aid to assist districts radioactive fallout protection. Op in providing school buildings with Atty.Gen.1961-62, No. 117.

28A.47.070 Basis of state aid for school plants

The amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The board of directors of the district shall determine the total cost of the proposed project, which cost may include the

cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architect's fees, and a reasonable amount for contingencies and for other necessary incidental expenses: *Provided*, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The superintendent of public instruction shall (a) ascertain the assessed valuation of the district adjusted to fifty percent of the true and fair value in money of the taxable property in the district in accordance with the ratio of assessed valuation to actual valuation fixed by the state board of equalization for the county to which the district belongs; and (b) compute the ratio of the aforesaid assessed valuation of the district to the number of educational units approved prior thereto by the state board of education for allotment to the district of funds receivable under the provisions of RCW 28A.47.050 through 28A.47.120: *Provided*, That this number of units may be increased by the aforesaid officer for the use thereof specified in this chapter, upon the finding by said officer that completion of the proposed project will provide facilities for additional units and that such additional units will be needed to serve the school population of the district.

(3) The ratio of the assessed valuation of the district to the number of educational units thereof, computed in the manner hereinabove provided for, shall then be used in determining the percentage of state assistance for the district in accordance with the following table:

Ratio of assessed valuation to number of educational units	Percentage of state assistance
\$ 28,570 or less to 1	75.0%
30,000 to 1	73.9
35,000 to 1	70.2
40,000 to 1	66.7
45,000 to 1	63.3
50,000 to 1	60.0
55,000 to 1	56.9
60,000 to 1	53.8
65,000 to 1	50.9
70,000 to 1	48.1
75,000 to 1	45.5
80,000 to 1	42.9

Ratio of assessed valuation to number of educational units	Percentage of state assistance
\$ 85,000 to 1 .....	40.1%
90,000 to 1 .....	37.9
95,000 to 1 .....	35.6
100,000 to 1 .....	33.3
105,000 to 1 .....	31.1
110,000 to 1 .....	29.0
115,000 to 1 .....	27.0
120,000 to 1 .....	25.0
130,000 to 1 .....	21.2
140,000 to 1 .....	17.6
150,000 to 1 .....	14.3
160,000 to 1 .....	11.1
170,000 to 1 .....	8.1
180,000 to 1 .....	5.3
190,000 to 1 .....	2.6
200,000 to 1 .....	—

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: *Provided*, That need therefor has been established to the satisfaction of the superintendent of public instruction: *Provided further*, That additional state assistance may be allowed if it is found by the superintendent of public instruction that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden and excessive past or clearly foreseeable future increase in school population, and other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of nonresident students into parental schools or into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1955, and without benefit of the state assistance provided for in RCW 28A.47.050 to 28A.47.120, inclusive, the construction of a needed school building project or projects approved in conformity with the requirements of chapter 28A.47 RCW, after having first applied for and been denied state assistance because of the inadequacy of state funds avail-

ble for the purpose; or (d) conditions similar to those defined under (a), (b), and (c) hereinabove, creating a like emergency.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.070, eff. July 1, 1970.

Historical Note

Source:

Laws 1947, ch. 278, § 3.  
Laws 1949, ch. 108, § 1.

RRS § 4940-14.

Laws 1955, Ex.Sess., ch. 3, § 8.  
Former § 28.47.070.

Cross References

Bond issue for assistance in school plant facilities, see § 28A.47.130.

Library References

Schools ⇨ 19(1).

C.J.S. Schools and School Districts  
§§ 19, 21.

28A.47.073 Modernization of existing school facilities

Whenever funds are appropriated for modernization of existing school facilities, the state board of education is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706<sup>1</sup>) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.073, eff. July 1, 1970.

Amended by Laws 1980, ch. 154, § 17, eff. April 1, 1980.

<sup>1</sup> So in original; probably should read "Sec. 791".

Historical Note

The 1980 amendment, in the first sentence, preceding "appropriated" deleted "specifically" and inserted "and, as necessary to bring such facilities into compliance with the handicapped access requirements of section 504 of the federal rehabilitation acts of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes."

Purpose—Effective date—Savings—Disposition of certain funds—Severability—Laws 1980, ch. 154: See Historical Note preceding § 82.45-010.

Source:

Laws 1967, Ex.Sess., ch. 21, § 1.  
Former § 28.47.073.

## 28A.47.073 COMMON SCHOOL PROVISIONS

### Library References

Schools  $\hookrightarrow$  73.

C.J.S. Schools and School Districts  
§§ 252, 262.

## 28A.47.075 Portable buildings or classrooms

State matching funds shall not be denied to any school district undertaking any construction, repairs or improvements for school district purposes solely on the ground that said construction, repairs and improvements are in connection with portable buildings or classrooms

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.075, eff. July 1, 1970

### Historical Note

#### Source:

Laws 1953, ch. 158, § 1.  
Former § 28.47.075.

### Library References

Schools  $\hookrightarrow$  70, 71.

C.J.S. Schools and School Districts  
§§ 256, 257.

## 28A.47.080 Applications for aid—Rules and regulations—Recommendations

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the aforesaid officer for the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the aforesaid applications shall be submitted to the state board of education by the superintendent of public instruction together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.080, eff. July 1, 1970.

## SCHOOL PLANT FACILITIES AID 28A.47.090

### Historical Note

#### Source:

Laws 1947, ch. 278, § 4.  
RRS § 4940-15.  
Former § 28.47.080.

### Library References

Schools  $\hookrightarrow$  19(1).

C.J.S. Schools and School Districts  
§§ 19, 21.

## 28A.47.090 Manual—Contents—Preparation and revision

It shall be the duty of the superintendent of public instruction, in consultation with the Washington state department of social and health services, to prepare, and so often as he deems necessary revise, a manual for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the common schools. In the preparation and revision of the aforesaid manual due consideration shall be given to the presentation of information regarding (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.47.050 through 28A.47.120; (2) procedures in inaugurating and conducting a school plant planning program for a school district; (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (4) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (5) an acceptable school building maintenance program and the necessity therefor; (6) the relationship of an efficient school building operation's service to the health and educational progress of pupils; and (7) any other matters regarded by the aforesaid officer as pertinent or related to the purposes and requirements of RCW 28A.47 through 28A.47.120.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.090, eff. July 1, 1970.  
Amended by Laws 1979, ch. 141, § 36, eff. March 27, 1979.

### Historical Note

The 1979 amendment, in the first sentence, inserted "social and" and inserted "services".

#### Source:

Laws 1947, ch. 278, § 5.  
RRS § 4940-16.  
Former § 28.47.090.

## Library References

Schools ☞ 47.

C.J.S. Schools and School Districts  
§§ 86 to 91.**28A.47.100 State superintendent to assist districts and state board**

The superintendent of public instruction shall furnish (1) to school districts seeking state assistance under the provisions of RCW 28A.47.050 through 28A.47.120 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board under the provisions of RCW 28A.47.050 through 28A.47.120.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.100, eff. July 1, 1974

## Historical Note

## Source:

Laws 1947, ch. 278, § 6.  
RRS § 4940-17.  
Former § 28.47.100.

## Library References

Schools ☞ 47.

C.J.S. Schools and School Districts  
§§ 86 to 91.**28A.47.120 Federal grants—Rules and regulations**

Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such district in conformity with rules and regulations which the state board of education shall establish.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.120, eff. July 1, 1970.

## Historical Note

## Source:

Laws 1947, ch. 278, § 8.  
RRS § 4940-19.  
Former § 28.47.120.

## Library References

Schools ☞ 17.

C.J.S. Schools and School Districts  
§ 18.

## Notes of Decisions

## I. In general

Applicable constitutional and statutory provisions, including this section, provide this state with integrated system of agencies for acquisition, construction, financing, administration, supervision, maintenance, and operation of public schools, basic components of system being state and county superintendents, state and county boards and committees and school districts. State ex rel. DuPont-Fort Lewis School Dist. v. Bruno (1963) 62 Wash.2d 790, 384 P.2d 608.

School system of this state must operate in public interest, not only in providing adequate and effective academic training to children, but also in achieving most effective and efficient investment of public funds; and while there exists great degree of local autonomy in investment of local funds, such autonomy must yield to interests of system as whole and constitutional obligation of state to maintain such system. Id.

**28A.47.130 1949 bond issue for school plant facilities—Form, term, sale, etc.**

For the purpose of furnishing funds for state assistance in providing public school plant facilities under the provisions of RCW 28A.47.050 through 28A.47.120, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1960, general obligation bonds of the state of Washington in the sum of forty million dollars, or so much thereof as shall be required to finance the program herein set out, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: *Provided*, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of three percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

Added by Laws 1969, Ex.Sess., ch. 223, § 28A.47.130, eff. July 1, 1970.

## Historical Note

## Source:

Laws 1949, ch. 229, § 1.  
Former § 28.47.130.

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

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

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

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

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

History: 1977 c. 29 ss. 1081, 1085c, 1085m; 1977 c. 418, 429; 1979 c. 34, 221, 1979 c. 346 s. 5.

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

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

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

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

(b) Employ teachers qualified under s. 118.19.

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

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

History: 1973 c. 90, 157, 1977 c. 26, 1977 c. 29 s. 1097, 1977 c. 178, 203, 206, 273, 447, 1979 c. 22.

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

History: 1977 c. 125 s. 522 (1); 1973 c. 90; 1975 c. 39, 229; 1977 c. 29 s. 1099; 1979 c. 34 s. 2102 (43) (a); 1979 c. 221.

## SUBCHAPTER II

### GENERAL AID

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

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

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

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

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

Teachers qualified under s.

as required by state law.

of a school district labor shall apply.

1977 c. 26; 1977 c. 29 s. 1097; 1979 c. 221

#### State aid; exemption from

money paid to a school district

(1) (cc), (cf), (fg), (fj) and

shall be used by the school

for the purposes for which paid.

Exempt from execution, attachment or other process in favor

of claims for salaries or

and other school employees and

school materials, supplies, fuel

and

1977 c. 20; 1975 c. 39, 220;

1979 c. 221

## CHAPTER II

### GENERAL AID

It is declared to be the policy

of the state that education is a state function

and should be afforded from the

property tax as a source of public

education if such tax is excessive, and

if revenue should contribute a

substantial part of the total funds needed. It is

the policy of the state in order to provide reason-

able educational opportunity for all

children, the state must guaran-

tee educational opportunity be

available to all pupils, but that the state should

contribute to the educational

needs of the school district provides a

minimum state standards. It is the

policy of the state to assume a greater

share of the costs of public education and

to protect the real property of some of its tax-

paying property

from a reform of local property tax school

district standards. 62 MLR 565.

district standards. (1) A

school district shall meet the following stan-

dards established by the depart-

ment with sub. (2).

Each teacher, supervisor, administrator

or staff member shall hold a cer-

tificate to teach issued by the

department upon entering on duties for such

position.

Each teacher shall provide a planned, continuous in-

struction of the professional staff.

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

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

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

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

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

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

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

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

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

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

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

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

to comply with each of the standards in this section.

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

#### 121.05 Budget and membership report.

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

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

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

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

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

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

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

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

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

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

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

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

#### 121.06 Determination and certification of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 121.08 Payment of state aids; reductions.

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

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

red cost may not exceed \$90 per primary ceiling cost per member" is the average shared cost per previous school year, as determined by the superintendent, except as provided in s. 121.23.

"primary shared cost" is that portion of the shared cost which is less than the primary cost per member multiplied by the secondary shared cost" is that portion of the district's shared cost which is not the primary shared cost.

**121.06 TAXABLE VALUATION PER MEMBER.** The primary guaranteed valuation per member shall be \$166,000 in the 1979-80 school year and \$195,900 thereafter.

The secondary guaranteed valuation per member shall be an amount rounded to the nearest dollar determined by dividing the equalized valuation of the state by the state total

of the operating only high school districts in pars. (a) and (b) shall be rounded to the nearest dollar.

The operating only elementary districts in pars. (a) and (b) shall be rounded to the nearest dollar.

**121.07 EQUALIZED VALUATION.** A school district's secondary guaranteed valuation shall be determined by multiplying the primary guaranteed valuation by the ratio of (7) by the district's

**121.08 LEVY RATE.** (a) The "required primary levy rate" is the sum of the rates derived from the primary cost divided by the primary guaranteed valuation.

"secondary required levy rate" is the sum of the rates derived from the secondary cost divided by the secondary guaranteed valuation.

"total required levy rate" is the sum of the rates derived from the primary and secondary costs divided by the primary and secondary guaranteed valuations.

History: 1973 c. 41, § 90, 190, 333; 1975 c. 39, § 1, 2, 3, 4, 221.

**121.09 PAYMENT OF STATE AIDS; REDUCTIONS.**

The state shall pay to the school district an amount by which the primary guaranteed valuation exceeds the school district's primary guaranteed valuation, multiplied by the primary required levy rate and a sum equal to the secondary guaranteed valuation of the school district equalized valuation of the school district equalized valuation divided by the secondary required

levy rate. The amount computed under sub. (1) shall be rounded to the nearest dollar by which the school

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

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

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

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

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

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

History: 1977 c. 418.

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

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

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

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

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

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

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

History: 1977 c. 29, 418.

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

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

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

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

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

(a) In 1979-80, 100%.

(b) In 1980-81, 80%.

(c) In 1981-82, 60%.

(d) In 1982-83, 40%.

(e) In 1983-84, 20%.

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

History: 1979 c. 34, 221.

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

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

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

#### 121.14 State aid for summer classes. (1)

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 1977 c. 29.

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

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

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

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

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

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

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

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

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

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

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

### SUBCHAPTER III

#### DRIVER EDUCATION AID

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

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

### SUBCHAPTER IV

#### TRANSPORTATION AID

**121.51 Definitions.** In this subchapter:

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

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

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

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

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

History: 1975 c. 120.

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

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

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

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

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

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

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

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

## Financing Public School Facilities in the 80's

RICHARD G. SALMON  
and  
STEPHEN B. THOMAS

**D**UE TO escalating interest, energy, and construction costs, the difficulty of passing bond elections, and the nationwide demand to reduce taxation, many school districts face severe financial difficulties. Less affluent areas cannot fund an adequate educational program. As a result, low teacher salary schedules, shortened school years, and poorly maintained school buildings have become all too common across the country.

Although efforts to reform school finance have been numerous (either due to legislative enactment or court order), few have resulted in significant equalization for maintenance and operation expenditures, while yet fewer have dealt with building needs or the inability of local districts to support capital projects. In light of this dilemma, state and local funding options for the construction of public school facilities are reviewed in this paper. In addition, the current status of state-assisted capital funding programs and anticipated difficulties in obtaining current and future funding are discussed.

### FINANCING CAPITAL FACILITIES: LOCAL OPTIONS

Prior to the twentieth century, financing of public school facilities was the total responsibility of local governments. The schools were an integral part of American frontier life, and the actual construction of the buildings often proved to be one of the year's biggest social events. Initially, public school facilities were financed by private donations of sites and materials and erected by volunteer workers. Later, special local property taxes were levied in order to finance needed construction. By the latter part of the nineteenth century, communities found it necessary to borrow funds, and state legis-

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atures enacted laws which permitted school districts to issue bonds for school construction.<sup>1</sup>

Bonding became popular during the twentieth century with most capital projects financed almost totally from long-term general obligation bonds to be retired with revenue generated from local property taxes. This resulted in school construction being related more to assessed valuation of property than to building needs. Wealthy school districts were allowed to "have their cake and eat it too (that is, provide higher quality facilities while paying lower taxes), while poor districts, by contrast, had no cake at all."<sup>2</sup> Regardless of their tax effort, poor districts were unable to generate the necessary funds for major construction or remodeling projects, nor for the far greater costs of maintenance and operation. A few districts possessed a property base adequate to provide sophisticated athletic facilities, golf courses, swimming pools, air conditioning, auditoriums, and learning resource centers, while many districts struggled to maintain even minimally adequate school buildings. The location of power plants, oil and gas fields, railroads, and industry played a significant role in determining which school districts (and which children) would be provided adequate-to-substantial school facilities.<sup>3</sup>

The disparities so evident in the early twentieth century still exist today. Even though the inequities are well recognized, most states are still reluctant to accept the major responsibility for financing school facilities. As a result, school districts are forced to seek other alternatives for obtaining needed funds. In essence, local school districts are faced with one (or a combination) of the following four choices: current revenues; reserve funds, bonding, and shared facilities.

### CURRENT REVENUES

Often referred to as "pay-as-you-go" financing, the ability to finance the construction of school facilities from current revenues is an alternative available only for a large or affluent school system.<sup>4</sup> The annual yield of dedicated taxes can be used to produce revenue to pay for a school building if a district has a sufficiently large tax base.

1. W. Munfo: Barr, K. Forbis Jordan, C. Cole Hulston, Wendell J. Peterson, and William R. Wilkerson, *Financing Public Elementary and Secondary School Facilities in the United States*, Special Study Number Seven, National Educational Finance Project (Bloomington, IN: School of Education, Indiana University, 1970), p. 25.

2. *Serrano v. Priest*, 487 P.2d 1211 (1971), cert. denied 432 U.S. 507 (1971).

3. Stephen B. Thomas and Scot H. Edington, "The History and Reform of Financing School Facilities," *Texas Tech Journal of Education* 7, no. 3 (Fall 1980):198.

4. Barr et al., *Financing Public Elementary and Secondary School Facilities*, p. 127.

This method eliminates interest payments, bond attorney fees, and election costs. Such plans, however, do not produce adequate revenue in most school districts to finance school plant construction because of the relatively low assessed valuation and tax rates. Some districts used this plan of financing school facilities in the past, but found it impractical in recent years because of increased construction and interest costs.<sup>5</sup> Additionally, it is argued that the use of current revenue for financing capital facilities results in (1) the creation of tax friction between taxpayers and governmental agencies, and (2) the failure to realize the economic advantages of borrowing in periods of inflation.

#### RESERVE FUNDS

Some states permit school districts to accumulate tax funds for the purpose of funding the construction of future school facilities. The reserve building funds are kept separate from the school district's current operating funds and are commonly financed by special tax levies. Generally, state laws stipulate that the funds can be invested only under very controlled conditions, resulting in interest yields that normally do not keep pace with inflation.

One major criticism of building reserve plans concerns the "benefits received principle." Taxpayers who are taxed for the purpose of obtaining new school facilities may not necessarily be living in the district when the resulting buildings are constructed and ready for use. If bonds are sold before construction and then repaid during the life and use of the building, this principle seems to be satisfied (that is, those paying for the building benefit from its use).<sup>6</sup>

Other critics are concerned with the possibility of diverting reserve funds to purposes other than those intended and the rigid legal and accounting procedures which must be followed. Also, although reserve funds and current operating funds usually are financed and maintained separately, the taxpayer is only concerned with the total cost of the school district budget. Consequently, the higher tax rates required to finance the reserve building funds may create taxpayer resistance and result in a reduction of the current operating budget.<sup>7</sup>

There are advantages to the use of the reserve fund option. After sufficient funds have been accumulated, the project can be constructed without the delays and expenses associated with gaining voter

approval for the issuance of bonds. And, debt service charges are avoided and legal restrictions on taxing or debt limitations will not interfere with the project.<sup>8</sup> Reserve building funds are used by many districts, but currently provide only a relatively small amount of the total funds used for public school construction.

#### GENERAL OBLIGATION BONDS

Bonding is the most common of all local alternatives for financing capital outlay and debt-service expenditures. The taxpayers must give their approval for the district to issue long term bonds to acquire the necessary funds for the construction of schools or a major remodeling project. A bond is merely a written financial instrument issued by a corporate body to borrow money with the time and rate of interest, method of principal repayment, and the term of debt clearly expressed. Bonds are municipal in nature and may be term (all bonds maturing at the same time) or serial (bonds maturing at intervals over a period of time). Most school bonds are serial in an attempt to limit interest costs. Furthermore, most are "general obligation" (secured by the issuer's pledge of full faith, credit, and taxing power). In most states, the law carefully regulates such aspects of borrowing as school bond elections, the size of bond denominations, the maximum amount of interest payments, and the length of term of the issue.<sup>9</sup>

In addition to being exempt from federal income tax, one of the most desirable features of municipal bonds is the safety of principal. According to the New York Stock Exchange,

They [municipal bonds] are considered second only to obligations to the Federal Government. During their severest test—The Great Depression—only about 1/5 of 1 percent suffered any loss of principal and less than 2 percent defaulted, that is, failed to pay interest or principal on time. In most of these cases, bondholders eventually received their interest and principal.<sup>11</sup>

Municipal bonds, including general obligation bonds, are normally rated by one of the national rating companies for the purpose

8. K. Fuhls Jordan, *School Business Administration*, 3rd ed. (New York: Ronald Press Company, 1969), p. 205.

9. Stephen B. Thomas and Paul F. Zingales, "Rising Capital Costs and Bond Defaults in the State of Texas," *Texas School Business* 25 (September 1979):4, 14, 30.

10. Dewey H. Stellar, *Managing School Intellectuals* (Danville, IL: Interstate Printers and Publishers, 1967).

11. *Understanding Bonds and Preferred Stocks* (New York: New York Stock Exchange, Inc., August 1978).

5. Thomas and Edgington, "The History and Reform of Financing School Facilities," p. 206.

6. *Ibid.*, p. 206.

7. Percy E. Burtup, *Financing Education in a Climate of Change*, 2nd ed. (Boston, MA: Allyn and Bacon, Inc., 1977), pp. 240-41.

of informing potential purchasers of the relative security of the issue. The rating awarded the school district significantly influences the interest charged the issuer.

The constraints under which school districts operate regarding the issuance of general obligation bonds vary considerably among the states and even among districts in some states. Most states have enacted school district debt limitations in the form of a percentage of locally assessed valuation of real property. Restrictive debt limitations have proved particularly troublesome for those states or school districts that have limited local tax bases. There is also considerable variation among the states regarding the approval process required prior to the sale of general obligation bonds. Some states require a simple majority of those voting at referendum, while other states require more. The lack of uniform property assessment practices and the existence of inequitable tax rates plague some states, while voter-initiated property tax limitations confront other states. Nevertheless, despite the many problems confronting the sale of general obligation bonds, bonding remains the primary option for many districts and the only option for some districts.

#### SHARED FACILITIES

In a few states, school districts and other community agencies may cooperate in building a common, shared facility.<sup>12</sup> This can be accomplished by either initiating the construction and then leasing part of the facility to the other, or by both parties being equally (or on a prorata basis) responsible for the construction and operation of a common facility. This alternative, although appealing when local revenues are inadequate, is seldom available in practice and may lead to complicated legal and fiscal problems. School districts intending to take on such shared obligations should evaluate each alternative before making a commitment that may last thirty or more years.

#### FINANCING CAPITAL FACILITIES: STATE OPTIONS

As noted previously, prior to the twentieth century capital facilities for public elementary and secondary education were financed almost exclusively from local resources. Undoubtedly, some school districts experienced difficulty in providing adequate school facilities before 1900, but no state developed a continuing capital facilities assistance program until Alabama took the initiative in 1901 and established an aid plan for rural schools.<sup>13</sup> Two years later, in 1903,

12. Roe L. Johns and Edgar L. Morsphet, *The Economics and Financing of Education*, 3rd ed. (Englewood Cliffs, N.J.: Prentice-Hall Inc., 1975), p. 278.

Louisiana enacted a state plan in which bonds could be issued for the construction of school facilities in impoverished areas of the state. By 1909, South Carolina was providing state assistance for financing capital facilities serving black rural school children, while Virginia and North Carolina had established modest state loan funds.<sup>14</sup> The following twenty years saw several states implementing matching grants for the purpose of assisting and encouraging school consolidation and in 1927, Delaware took the first major step toward a comprehensive state program.<sup>15</sup>

During the years of the Great Depression and World War II, a shortage of both local and state resources virtually prohibited local school districts from engaging in extensive school building programs. Coupled with the problems of aging facilities, inadequate and insufficient buildings, and a growing desire for more and better school facilities the limited number of state assistance programs were either inadequate, inequitable, or both. A report by Webber in 1941 indicated that of the twelve states that had established various forms of state aid programs for assisting local school districts in financing school facilities, none could be regarded as equitable. Such programs were either "crude and inequitable distribution systems in which the principles of equalization are neither recognized nor applied . . . or else simple devices for loaning money to districts by the state on easy terms."<sup>16</sup>

Shortly after World War II, attention was once again given to the problem of providing the necessary funds for financing public school buildings. According to Johns, Florida, in 1947, became the first state to develop and adopt a plan based on determining the financial resources needed annually for each school district to replace its buildings at the end of their normal life expectancies.<sup>17</sup> Stimulated primarily by the increased demand for school facilities due to the post-War baby boom, many other states enacted various forms of state capital assistance plans. By 1950, approximately twenty states had enacted some form of state aid program for assisting at least some of their local districts in funding school construction.<sup>18</sup>

After 1950, still greater effort was made to encourage state participation in financing needed construction. For many years, school

13. M. David Alexander, "Financing Capital Outlay," *Critical Issues in Educational Finance*, eds. Stephen B. Thomas and Roy M. Lloyd (Charlottesville, VA: Virginia Institute for Educational Finance, 1975), p. 109.

14. Johns and Morsphet, *The Economics and Financing of Education*, p. 279.

15. Gerald D. Webber, *State Equalization of Capital Outlays for Public School Buildings* (Los Angeles, CA: University of Southern California Press, 1941), p. 5.

16. Johns and Morsphet, *The Economics and Financing of Education*, p. 280.

17. *Ibid.*

finance experts had been urging state legislatures to enact a wide assortment of state capital outlay programs.<sup>18</sup> Additional impetus was given to the drive for increased state funding when the United States Office of Education and the University of California at Berkeley cooperated in a national study of state public school capital outlay programs. After analysis of the various state programs had been completed, the researchers recommended, in part, that the states should provide additional leadership and financial resources for comprehensive and efficient public school capital outlay programs.<sup>19</sup>

During the past thirty years, state aid for capital outlay/debt service has become as varied as traditional allocation dimensions for current expenditures. Data from the United States Office of Education (see Table 1) reveal that the following methods of state aid are being used: full state support (three states), percentage-matching (seven states), flat grants (ten states), equalizing grants (fifteen states), state loans (ten states), and authorities (eight state level, nine local level). Allocation criteria are varied and include teacher units (Alabama), area (Georgia), weighted pupils (Kentucky), pupils in average daily attendance (Tennessee), or the like. Sharing and matching grants vary from 20 percent (Vermont) to almost 100 percent (Connecticut); equalization grants deal with a plethora of assessment ratios and millage rates; and state loans range from no interest (California) to 6 percent interest (Arkansas). Fourteen states provide no state aid for facilities (Texas), whereas several others provide for only marginal support. (Note that the sum of the states involved is sixty-seven rather than fifty. Several states were listed in more than one category because their support systems had multiple components; for example, Wisconsin, with state loans and equalizing grants, would count as one state in each group.)

#### COMPLETE STATE SUPPORT

As its name suggests, a complete state support program requires that the funding of capital and debt service expenditures of the public schools be borne by the state; debt service and principal become state debts. The selection of needy districts rests with the state; selection is usually based on age, adequacy, and size of current facilities,

18. Bair et al., *Financing Public Elementary and Secondary School Facilities*, p. 137.  
19. A total of sixteen specific recommendations were made by the researchers. See Estek L. Lindman, Clayton D. Hutchins, Edgar L. Moughet, and Theodore L. Reller, *State Provisions for Financing Public School Capital Outlay Programs* (Washington, D.C.: U.S. Government Printing Office, 1951), p. 136.

TABLE 1  
TYPES OF STATE AIDED CAPITAL OUTLAY  
AND DEBT SERVICE PROGRAMS BY THE  
UNITED STATES, 1978-79

Full State Support	Grants-Aid			Local	Authorities		No State Assistance
	Equalizing	Percentage-Matching	Flat		Local	State	
Florida Idaho Maryland	Alabama Illinois Maine Massachusetts Michigan New Jersey New Mexico New York Pennsylvania Rhode Island Tennessee Utah Washington Wisconsin Wyoming	Alaska Connecticut Delaware Georgia Missouri New Hampshire Vermont	Alabama Georgia Illinois* Indiana Kentucky Mississippi Missouri Nevada New Jersey South Carolina	Arkansas California* Indiana Michigan Minnesota North Carolina North Dakota Virginia Wisconsin Wyoming*	California Florida Indiana Illinois Iowa Kentucky Massachusetts New York Pennsylvania	Georgia Kentucky Maine Maryland North Dakota Pennsylvania Virginia Wyoming	Arizona Colorado Idaho Kansas Louisiana Montana Nebraska Oregon Ohio Oklahoma South Dakota Texas West Virginia

Source: Esther Tron, Ed., *State Public School Finance Programs, 1978-79* (Washington, DC: United States Office of Education, 1980).  
\*Divided or no school district has met eligibility requirements for participation.

and projected cost of future structures. Need, rather than wealth, determines expenditure.<sup>20</sup>

Only Florida, Hawaii, and Maryland are identified as having implemented complete state support programs. However, it can be argued that none of the three completely meets the criteria of complete state support. Neither Florida nor Maryland fully fund their capital outlay needs; the local school district either supplements state funds, or building needs are not met.<sup>21</sup> Hawaii, which is usually considered to have full state funding of both current and capital expenditures, permits a small local contribution for capital expenditures.

Proponents of complete state support argue that (1) a higher degree of fiscal equalization is achieved within the state because the quality of facilities is not a function of the taxpaying abilities of the local education agencies in the state; (2) state governments normally have access to a greater variety and quantity of resources than do local governments and can avoid the overutilization of a single resource; (3) a state government can develop an allotment mechanism based upon needs which will provide a higher level of efficiency; (4) if it were necessary for the state government to acquire the necessary funds from the issuance of bonds, it is likely that the larger issue would result in overall savings in interest and service charges; and (5) the restrictions placed on state governments are usually not as rigorous as those placed on local governments, and the long delays and costs incurred by local bond referendums would be avoided.

Disadvantages cited by opponents of the complete state support program include (1) additional concentration of power and control of the public schools will become focused at the state level thereby further alienating local citizens from the public schools; (2) the centralization of power will result in uniformity of public school facilities throughout the state, and such facilities will not recognize the unique needs of varying localities; (3) it is likely that a centralization of power in the state will result in less experimentation and innovation of local school facilities and in a high level of mediocrity; and (4) due to a high level of competition for resources at the state level, the construction of urgently needed public school facilities may be unnecessarily delayed.

20. Thomas and Edington, "The History and Reform of Financing School Facilities," p. 204.

21. L. Dean Webb, *Financing Capital Outlay* (Tucson, AR: Joint Select Committee on the Reform and School Finance of the Arizona Legislature, 1979), pp. 11-18.

*Florida Plan.*<sup>22</sup> Although the state government in Florida does not totally fund capital projects, its procedures are theoretically similar to those of a full state support model. In Florida, the Comprehensive School Construction and Debt Service Program (CSCDS) is designed to fund nearly the total costs of local public school facilities. The annual allocation to each school district is based on (a) projections of the costs of anticipated school plant needs, (b) the five-year debt service needs on voted ad valorem bonds, and (c) the additional resources from specified sources. Projected additional resources are subtracted from projected plant and debt service needs and the expenditure of ad valorem taxes in excess of 10 mills for the past five years is added. The result is the estimated cost of unfunded school plant and debt service needs for each district. The funds are then allocated to the respective districts in proportion to their percentage of the state total of unfunded school plant and debt service needs.

The CSCDS is funded by a trust fund which is comprised of proceeds from the sale of public education bonds, student building fees, capital improvement fees, federal revenue sharing funds appropriated for education facilities, and any other funds.

In addition to CSCDS, Florida allocates aid to local school districts through the Capital Outlay and Debt Service Fund. The allocation formula is based on the 1967-68 school year and varies from \$600 per instruction unit for base units to \$800 per instruction unit for growth units. The number of instruction units is calculated annually by multiplying the number of FTEs in each district by the program cost factors and then dividing by twenty-three (except that all basic program costs shall be one, and the special program cost factors for hospital and home bound part-time and for adult and community service shall be zero).

#### PERCENTAGE-MATCHING: STATE/LOCAL SHARING

The percentage-matching grant is designed to provide a fixed percentage of state support of each facilities project. The fiscal capacity of the local district is not taken into consideration, while the total amount of state assistance varies in accordance with the cost of the project. Equalization is generally not enhanced by such grants, for poor districts cannot afford to support capital projects unless the state percentage becomes substantial.

Advantages usually cited by proponents of the percentage-matching grants include (1) initiation of school construction projects re-

22. Esther Teoni, Ed., *State Public School Finance Programs, 1973-79* (Washington, DC: United States Office of Education, 1979).

mains the prerogative of the local school districts, and the building programs can be tailored to meet the needs and desires of the local citizens; (2) the state, through the use of its approval process, can encourage cost-effective construction practices and influence the design and location of school buildings; (3) state assistance would reduce the dependency on local resources; and (4) the economic health and the marketability of municipal bonds for other than school purposes would be enhanced.

Disadvantages usually cited by opponents of the percentage-matching grants include (1) such grants invariably penalize local school districts with limited fiscal capacities to support school building programs (That is, a local school district with high fiscal capacity can obtain sufficient funds to qualify for the state matching funds with relative ease, while a school district with lesser taxpaying ability can obtain the required matching funds only by an extraordinary tax effort by its citizens. Of course, if the state's matching percentage were quite high—50 percent state, 10 percent local—the disqualification effect of the percentage-matching grant would be neutralized, and the percentage-matching would take the characteristics of an equalization grant-in-aid.); (2) in order to guarantee funds for all local school districts with qualifying building projects, it would be necessary for the state to appropriate substantial resources; and (3) school districts with sufficient capital facilities would not be eligible for state assistance, and the citizens would see little direct benefit from their state taxes.

*Vermont Plan.*<sup>23</sup> Vermont attempts to assist local school districts to finance their school building and debt service programs through the use of percentage-matching grants. Upon approval of the state board of education, construction aid is granted on the basis of 30 percent of the cost of the approved projects to union school districts and academies, elementary schools, or other approved schools. However, 75 percent of the costs of new construction, alteration, or addition of special classrooms are borne by the state. The state also pays 20 percent of each school district's yearly payment for principal and interest on bond issues approved for construction.

#### FLAT GRANTS

The flat grant is designed so that the state allocates a fixed amount of funds per unit to the local school district to be used to finance local construction. Some states annually allocate a fixed amount of funds per ADA or ADM while other states allocate a fixed amount per state

23. *Ibid.*

approved project, per teacher, or per square foot regardless of fiscal capacity, effort, or need.

Advantages cited by proponents of the flat grant usually include (1) control of the local school building program generally remains with the local school district; (2) the flat grant does provide some measure of equity since statewide resources are used for funding the flat grant program; (3) state assistance in the form of a flat grant would reduce the dependency of local school districts on the property tax thereby freeing local resources for other governmental purposes; (4) the economic health of the local governments would be strengthened and the marketability of municipal bonds for other school purposes would be enhanced; and (5) the flat grant program can be administered easily due to its simple allocation technique and the ability to accurately anticipate the required funds.

Disadvantages cited by opponents of the flat grant program usually include (1) most programs only supplement the local funds required to finance the school building program, and (2) for those states that annually allocate funds on a per unit basis without consideration of building needs, some school districts receive unneeded funds while others have unfunded capital needs.

*Mississippi Plan.*<sup>24</sup> Mississippi assists local school districts in financing the construction of school facilities through the use of a flat grant. The annual appropriation is based on a flat amount of \$18 per ADA. However, the appropriation is merely credited to the local school district's account, and approval must be gained by the local school district from the State Educational Finance Commission prior to release of the funds. Various factors including district organization, location of school attendance centers, plans and specifications of proposed and existing facilities, desirable consolidation, and method of financing are taken into consideration by the commission before granting approval for release of funds.

Also, if the school district capital outlay and debt service needs exceed the amount credited to its account, the school district may borrow against anticipated flat grant allocations. Unless the state is charged a higher rate for funds, the annual interest rate of 2.5 percent is charged the local school districts for loans. The loans can be repaid from the annual flat grant appropriations, or other available resources, and are not charged against a school district's debt limitation. Loans from the State Public School Building Fund are limited to 75 percent of a school district's anticipated accumulation of the flat grant fund for twenty years.

24. *Ibid.*

## EQUALIZATION AID

The primary purpose of the equalization grant-in-aid is to provide a measure of taxpayer equity within the state. In absence of state support for the construction of public school facilities, taxpayers in school districts with low ability-to-pay are required to make a significantly greater fiscal effort to construct capital facilities than taxpayers in districts with higher fiscal ability. Consequently, equalization grants are designed to inversely allocate revenues (per unit of need) based on fiscal abilities of the local school districts. The variety of equalization grants in use in 1978-79 was extensive, ranging from an annual allocation in the manner of the Strayer-Haig equalization model<sup>25</sup> for current expenses to a varying percentage of state support based on the local school district's relative ability-to-pay.

Advantages cited by proponents of the equalization grants-in-aid usually include (1) comparable public school facilities can be provided throughout the state without the imposition of an excessive local tax burden on districts with low ability-to-pay; (2) since some local contribution is required for participation in most equalization grants-in-aid, the frivolous use of state funds would be curtailed; (3) the reduced dependency on the local property tax for the construction of school facilities would provide local governments with additional resources for other governmental services or tax relief; and (4) the economic health of local governments would be strengthened and the marketability of municipal bonds for other than school purposes would be enhanced.

Disadvantages cited by opponents of equalization grants-in-aid usually include (1) in order to guarantee funds for all school districts, a maximum amount of state resources would have to be dedicated to this purpose while inadequate appropriations would render the program ineffective; (2) a statewide system would not necessarily be responsive to the variation of local needs; and (3) local schools initially might experience difficulty in responding to immediate construction needs.

*New Jersey Plan.*<sup>26</sup> The New Jersey School Building Aid for Debt Service and Budgeted Capital Outlay is designed to compensate school districts for debt service payments of principal and interest on school bonds and other obligations used to finance the construction of local school facilities. In addition, compensation is included for those

25. See, for example, M. David Alexander, Richard G. Salmon, and Van Mueller, *Final Report of the Foundation Program Sub-Study* (Indianapolis, IN: Indiana School Finance Study, 1978), pp. 13-35.

26. *Tren, State Public School Finance Programs, 1978-79.*

capital outlay expenditures which are included in the annual school budget.

The distribution formula used for the allocation of the state's share of current expenses is used for debt service and capital outlay assistance. Specifically, the formula is as follows:

$$\text{(Step 1) State Support Ratio} = 1 - \left( \frac{\text{district's EV per pupil} \div \text{state guaranteed valuation per pupil}}{\text{state guaranteed valuation per pupil}} \right)$$

$$\text{(Step 2) State Support Ratio is multiplied by the total net debt service and budgeted capital outlay for the prebudget year.}$$

If the product is less than zero, no state support will be paid. Budgeted capital outlay used for the calculation of state support shall be the smaller of the budgeted capital outlay for the prebudget year or 1.5 percent of the sum of the current expense and budgeted capital outlay for the prebudget year.

## STATE LOANS

State capital assistance loan funds have been established to provide direct financial assistance to local school districts. Commonly, states have maintained a permanent fund for the purpose of providing low interest loans. Unlike the previous state assistance plans, loans contain the provision that the funds be repaid at a future date. With some exceptions,<sup>27</sup> loans do not take into consideration the relative fiscal capacities of the local school districts and, as a consequence, do not provide for a high degree of fiscal equalization. The aid available from state loan funds is usually modest and states have had to either restrict all districts to a certain amount per approved project or to control the number of eligible districts by implementing certain qualifying criteria.

Advantages cited by proponents of state loan funds usually include (1) the loan fund provides local school districts an economical mechanism for borrowing necessary funds due to the modest interest charged by the state; (2) generally, state loans are not charged against the district's debt limitation, thereby enabling access to additional resources; (3) the time required to acquire funds from state loan

27. Some states have combined the techniques of loan funds and grants-in-aid by implementing Loan-Grants. Loan Grants are designed to assist school districts that cannot make full repayment in a reasonable time period without exacting a burdensome tax effort. In such cases, the state is authorized to cancel the unpaid portion after a certain number of years. See Johns and Murphy, *The Economics and Financing of Education*, pp. 282-84.

funds is usually considerably less than the time required for the sale of bonds; and (4) the state, through the use of its approval process, can use cost effective construction practices and influence the design and location of school buildings.

Disadvantages usually cited by opponents of state loan funds include (1) state loan funds often are extremely limited and serve only as a minor resource in the total local school district building program; (2) fiscal equalization is not enhanced due to limited funds being available at the state level, plus the common practice of permitting all school districts equal access to state loans; (3) the establishment of a modest state loan fund often directs the attention of the legislature away from more fully funding the construction of school facilities; and (4) local control of school construction may be diluted through use of the state approval process required for those school districts seeking state loans.

*Arkansas Plan.*<sup>28</sup> The Revolving Loan Fund provides loans to local school districts for school construction and purchase of capital equipment from three sources:

- (1) A permanent revolving school fund of about \$1,850,000 makes approximately \$350,000 available for loans each year generally for periods of six years. Under special circumstances, loans to school districts for periods up to twenty years may be granted.
- (2) The state board of education can borrow up to \$2 million from the state treasury to finance loans to local school districts.
- (3) And, the state board of education can issue up to \$10 million in state bonds to finance six year loans to local school districts.

The state can loan each school district up to \$100,000 and the local school district is required to levy sufficient taxes to repay the loans and annual interest of 6 percent. The local school district indebtedness, including the loan, cannot exceed 15 percent of the assessed valuation of property unless special approval is obtained to raise the indebtedness level to 18 percent.

#### AUTHORITIES: LEASE-RENTAL FINANCING

Lease-rental financing is another method of supporting the construction of school buildings and has been used in Kentucky, Indiana, Pennsylvania, Maine, and Georgia. An arrangement of this nature involves the development of a nonprofit corporation or building

28. Tison, *State Public School Finance Programs, 1978-79*.

authority which receives a building site from the school district (1) bonds to pay for the construction, and then leases the building to (2) school board (generally for one year at a time). The rentals are renewed yearly until the bonds are amortized at a cost to the school district that does not exceed its budget. After retirement of the bonds, the building often is deeded to the school district. This method usually is employed to avoid the debt ratio requirement (the ratio of a school district's indebtedness to its assessed valuation of property) of states by allowing districts to build beyond their legal debt limit. For that reason, this alternative is not legally permissible in several states.<sup>29</sup>

Advantages cited by proponents of building authorities usually include (1) many of the debt and taxing restrictions on local school districts are imposed by state constitutions which often are difficult to amend; (2) unless prohibited by the state or federal government, a combination of state, local, and federal revenues may be used by the school district to pay the costs of lease rental or lease-purchase agreements with the building authorities; and (3) often, building authorities can be used by the local school district without acquiring voter approval, thereby avoiding building delays and added expense.

Disadvantages usually cited by opponents of building authorities include (1) the enactment of building authorities only ignores the more pressing problem of adequately financing the construction of public school facilities by evading taxing and debt limitations; (2) revenue bonds, with interest rates higher than general obligation bonds, are generally used to finance building authorities; and (3) the right of the taxpayer and citizen to express approval or disapproval often is circumvented by the use of building authorities.

*Kentucky Plan.*<sup>30</sup> The Kentucky School Building Authority provides assistance to local school districts if they (1) levy the maximum general fund tax rate, (2) levy a local tax sufficient to qualify for full participation in the proven equalization fund, (3) have submitted a balanced budget and have no current or projected deficit in either general or capital construction funds, and (4) have completed a facilities survey within the last five years.

The amount of funds for which each school district can qualify is determined through the use of the following formula:

$$MIP = N \times SF \times CSF \times \%$$

29. Thomas and Edlington, "The History and Reform of Financing School Facilities," p. 207.

30. Kentucky Statutes, Sections 157.810, 157.805, 157.810, 157.815, 157.820, 157.825, 157.830, 157.835, 157.840, 157.845, and 157.850, pp. 181-187, 1979.

where MP = maximum participation; N = number of pupils served; SF = square foot per pupil (elementary 70, middle 80, junior high 90, senior high 100); CSF = cost per square foot as determined at least annually by the Kentucky School Building Authority; % = varies from 30 percent for those districts having the highest EV per pupil to 70 percent for those districts having the lowest EV per pupil.

#### CURRENT STATUS AND PROBLEMS

Between 1929-30 and 1976-77 total expenditures for capital outlay and debt service increased from \$18 to \$184 per ADM. Yet, capital outlay accounted for 16 percent of the total expenditure in 1929-30, compared to only 8.3 percent in 1976-77. Interest payments, as a percent of total expenditures, declined from 4.0 percent to 2.8 percent during the same period. Therefore, although school construction and related capital projects increased ten-fold in cost, capital expenditures and debt service together declined from 20 percent of the total costs in 1929-30 to approximately 11.1 percent in 1976-77.<sup>31</sup>

#### BOND ELECTION RESULTS

As noted previously, the primary mechanism used for funding the construction of facilities is the sale of bonds. During fiscal year 1977, 858 school bond elections proposed the sale of \$2.4 billion in public school bonds. Bond issues were approved by the voters in 477 of the 858 elections, a success rate of 55.6 percent.

Between 1964 and 1968, the approval rate of bonds was from a low of 66.6 percent (1967) to a high of 74.7 percent (1965). Since 1969 the range in the approval rate has been 56.8 percent (1969) to 46.3 percent (1975), with an average of 52.1 percent. By the late 1970s, instead of voter approval in approximately three of four bond elections, only one of two could claim success.

#### BORROWING COSTS

The increased cost of borrowing also has expanded the number of districts in need of additional state aid. Interest rates are determined by community type (residential, business, or industrial), current outstanding debt, duration of repayment period, and tax base available for repayment. Accordingly, school districts that sell bonds may face varied interest rates. In 1977, Aaa bonds sold at an average of 4.91 percent, while Aa bonds went for 5.55 percent. These rates vacillated

31. National Center for Education Statistics, *Digest of Education Statistics, 1977-78* (Washington, DC: NCES, 1978), Table 30.31.69, 20170.

as bond security declined; that is, A bonds averaged 5.40 percent, Baa bonds sold for an average of 5.43 percent, and Ba bonds were marketed at 5.39 percent.

School districts were responsible for 81.8 percent of all governmental and special agency bond sales in 1976, although their sales accounted for only 66.4 percent of the dollar volume. State governments sold bonds at an average of 5.61 percent, while school districts averaged 6.36 percent (72 basis points greater—.72 percent). County, city, town, and other authorities ranged from 6.34 percent to 6.76 percent. No agency sold bonds at an average rate lower than the state.<sup>32</sup> Therefore, states with loan programs were generally able to reduce total debt service payments, thereby limiting the significant increases in interest cost.

Although aggregated data are not available for school bond sales since 1977, between 1977 and 1980 Aaa bonds increased in interest rate by 1.01 percent, Aa bonds by .87 percent, A bonds by .23 percent, and Baa bonds by .37 percent.<sup>33</sup> The Federal Reserve Board reported that during 1978, the prime bank rate rose 3.75 percent, while top-rated state and local bonds increased .74 percent.<sup>34</sup> By October of 1979, the prime rate had increased to 11.5 percent with many bankers predicting a 15 percent level by 1980.<sup>35</sup> Their estimates were conservative, for by March 1980, interest rates were at the 20 percent mark, and by the end of that year, rates had climbed over 21 percent.

#### CONSTRUCTION COSTS

Coupled with the high interest rates for bonds are the inflationary costs of school construction. Displayed in Table 2 are average costs per square foot for constructing elementary, middle, and high schools for fiscal years 1975 through 1978. In 1975, the combined average cost per square foot of the three reported types of public school facilities was \$37.93. By 1978, the average cost per square foot had risen to \$50.11, an increase of \$12.18 per square foot, or 32.1 percent. Also note that elementary school costs rose 28.7 percent during the four-year period, while middle and high school costs rose 35.3 and 37.5 percent, respectively. Furthermore, the average cost of all school construction increased 32.1 percent during the period.

32. Richard H. Barr, *Bond Sales for Public School Purposes, 1971-76* (Washington, DC: Department of Health, Education, and Welfare, 1978), p. 5.

33. Moody's Bond Record through February 1980.

34. "If You're Trying to Borrow Money Now," *U.S. News and World Report* 18 (December 1978):39-80.

35. "Sky-High Interest Rates: Any One in Sight," *U.S. News and World Report* 22 (October 1979):99-100.

TABLE 2  
COST PER SQUARE FOOT FOR THE  
CONSTRUCTION OF PUBLIC SCHOOL  
FACILITIES FOR  
FISCAL YEARS 1975-78

Fiscal Year	Elementary School Cost/Sq. Ft.	Middle School Cost/Sq. Ft.	High School Cost/Sq. Ft.	Average Cost/Sq. Ft.
1975	\$38.57	\$38.76	\$38.65	\$38.93
1976	25.69	47.89	40.24	37.94
1977	44.13	47.89	40.24	44.09
1978	47.48	32.44	50.10	50.11

Source: Paul Abramson, "Educational Construction: A Statistical Summary" (Various Years), *American School and University*, 1978-79.

Due to the high costs of public school construction, it is often better to sell bonds, even at extremely high interest costs than to postpone construction in anticipation of a more favorable bond market. If certain assumptions are made, it is possible for school districts to make the most cost effective decision by using the information displayed in Table 3. The break-even points were prepared by computing the annual borrowing rates for \$1 million at 6, 7, and 8 percent and applying the same repayment amount to various interest rates in order to derive the total interest costs of the bond issuer. For example, it is cost effective to sell bonds for fifteen years at 7 percent rather than wait for the possible lowering of interest rates to 6 percent a year from selling date assuming the inflation rate will be more than 6.8 percent. Accordingly, it is cost effective to sell bonds for twenty-five years at 9 percent rather than wait for the possible lowering of interest rates to 8 percent a year from selling date assuming the inflation rate will be more than 10.9 percent.

#### FISCAL EQUALIZATION LITIGATION

During the last decade, nearly all states have experienced litigation which challenged the manner in which state aid for public elementary and secondary schools was distributed. The lawsuits invariably were filed in both state and federal courts by plaintiffs who resided in districts with limited fiscal capacities to finance public schools. Plaintiffs sought to have the courts declare unconstitutional the system of financing public education in their state and order the restructuring of the state aid distribution formula so that the quality of a child's education was not a function of the wealth of his neighbors.

TABLE 3  
BUILDING CONSTRUCTION: INFLATION RATE  
BREAK-EVEN POINTS WITH CHANGE IN ANNUAL  
BORROWING RATES

Number of Years to Finance	Inflation Rate Break-Even Points with Interest Rate Shift Back to 6 Percent 1 Year Hence from Current Rate.				
	7.0%	8.0%	9.0%	10.0%	11.0%
15	6.8	15.5	20.5	27.7	35.1
20	8.3	18.8	25.5	34.7	44.0
25	9.6	19.8	30.1	40.8	51.8
30	10.9	22.9	34.0	48.0	58.9

Number of Years to Finance	Inflation Rate Break-Even Points with Interest Rate Shift Back to 7 Percent 1 Year Hence from Current Rate.				
	8.0%	9.0%	10.0%	11.0%	12.0%
15	6.4	13.0	19.7	26.7	33.7
20	7.9	16.0	24.4	33.0	41.8
25	9.2	18.8	28.4	38.4	48.8

Number of Years to Finance	Inflation Rate Break-Even Points with Interest Rate Shift Back to 8 Percent 1 Year Hence from Current Rate.			
	9.0%	10.0%	11.0%	12.0%
15	6.2	12.5	19.0	25.7
20	7.6	15.3	23.3	31.4
25	10.9	17.6	26.8	36.1

Source: William R. Wilkerson, Letter to Author, March 19, 1980.

The possibility of the plaintiffs gaining relief through the federal courts ceased with the landmark case, *San Antonio Independent School District v. Rodriguez*.<sup>36</sup> The United States Supreme Court observed that the Texas system was inequitable but that education was not a fundamental interest nor was the property wealth of a school district a suspect classification entitled to strict scrutiny by the courts.

However, several state courts have declared their state school finance programs unconstitutional under their respective state con-

36. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

stitutions. Most of the litigation, successful and unsuccessful,<sup>37</sup> has focused on the inequities of the current aid formula rather than the inequities that exist in the manner in which school districts fund the construction of their school facilities. In those states that have experienced successful assaults on state current aid distribution formulas, it is likely that similar litigation will be filed challenging systems of financing public school capital facilities.

#### DECLINING PUPIL POPULATION

Although some of the urgency to build public school facilities has waned for those states and school districts which are experiencing a declining pupil population, there is still a need for the construction of public school facilities. (Only nine states between 1975 and 1978 had growth in their elementary school enrollments while only nineteen had growth in their secondary school enrollments.)<sup>38</sup> In nearly all states, there are districts experiencing significant increases in enrollment. Even those districts with a high rate of pupil decline have shifts in housing patterns which result in a continuing need for space strategically located to serve the pupil population. Additionally, facilities are suffering from old age and need to be either replaced or renovated. (Although not related to declining pupil population, escalating petroleum costs often dictate expensive school building renovation in order to reduce energy expenditures.)

#### VOTER-INITIATED TAX OR SPENDING LIMITATIONS

Spurred by the success of California's Proposition 13, similar efforts have been made in other states either to restrict or reduce governmental spending and taxation. It is likely that such efforts will become common in the foreseeable future. For many school districts, however, the predicted catastrophe is already occurring in regard to the construction of public school facilities. Where tax revolts are threatening, bond ratings are lowered almost immediately resulting in an increase in the interest rate that is demanded by the bond purchaser.

With further increases in the cost of borrowing, many additional districts are prohibited from engaging in the construction of school facilities. Wealthy districts, in many states, have low tax rates and are less likely to experience spending restrictions. Poor districts, however,

37. See, for example, *Robinson v. Cahill*, 503 A.2d 275 (1975) and *Horton v. Mehall*, 332 A.2d 113 (1974).

38. See United States Center for Education Statistics, *Digest of Education Statistics*, annual and unpublished data.

are often forced to maintain high tax rates because fiscal ability (as measured by property value) is low. As a result, wealthy districts continue to build, while poor districts make do with existing (often inadequate) structures.

#### CONCLUSION

Financing school facilities in the 1980s will be a challenge for all school districts. Some will be fortunate to have a sufficiently large tax base from which to work or will be receiving adequate state support to offset a low tax ability. Others will meet the challenge by exerting extraordinary tax efforts, while yet others will forgo initiating or completing capital projects.

Reform attempts for capital outlay will become more common, but will take a back seat to the more pressing problem of providing for the growth in maintenance and operation costs. With spiralling interest rates, declining voter support, increasing construction costs, and the like, the only real hope for low ability districts is state support.

Attachment B

COMPARISON OF STATE SUPPORT SYSTEMS FOR CAPITAL OUTLAY/DEBT SERVICE AND CURRENT OPERATING EXPENDITURES (1981-82)

Current Operating Expenditure Systems	Capital Outlay/Debt Service Systems					
	Full State Assumption	Percentage Sharing	Flat Grant	Equalizing System	Loan Program	No Aid Provided
<u>Full State Assumption</u>	Hawaii	—	—	—	—	—
<u>Flat Grant</u>	—	—	—	—	North Carolina (4)	—
<u>Foundation Program</u>	Florida Maryland	Alaska (80%) New Hampshire (30%) North Dakota (30%)	Alabama (\$65/teacher) Georgia Indiana (\$40/pupil) Mississippi (\$18/pupil) South Carolina (\$30/pupil) West Virginia	New Mexico (Foundation) Tennessee (Percentage) Washington (Percentage)	California (Interest free)	Arizona Arkansas Idaho Iowa Louisiana Nebraska Nevada South Dakota Virginia
<u>Percentage Equalization</u>	Pennsylvania	Vermont (30%)	—	Massachusetts (Percentage) New Jersey (Percentage) New York (Percentage)	—	—
<u>Guaranteed Tax Base (GTB)</u>	—	—	—	Illinois (Percentage) Rhode Island (Percentage) Wisconsin (GTB)	—	COLORADO Kansas
<u>Two-Tiered Systems:</u>						
<u>Flat Grant/GTB</u>	—	Delaware (60%)	Kentucky (\$1,900/classroom)	Connecticut (Percentage) Minnesota (Foundation)	—	Michigan Oregon
<u>Foundation/GTB</u>	—	—	—	Maine (Foundation) Utah (Foundation) Wyoming (Foundation)	—	Missouri Montana Ohio Oklahoma Texas
	(4)	(5)	(7)	(14)	(2)	(18)

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HEADINGS TITLE 14.

EDUCATION.

CHAPTER 11.

CONSTRUCTION, REHABILITATION, AND IMPROVEMENT OF SCHOOLS AND  
EDUCATION-RELATED FACILITIES.

CITATION SEC. 14.11.100.

CATCH LINE

STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT.

TEXT (A) DURING EACH FISCAL YEAR, THE STATE SHALL ALLOCATE TO A  
MUNICIPALITY THAT IS A SCHOOL DISTRICT, THE FOLLOWING SUMS:

(1) PAYMENTS MADE BY THE MUNICIPALITY DURING THE  
FISCAL YEAR TWO YEARS EARLIER FOR THE RETIREMENT OF PRINCIPAL  
AND INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER  
INDEBTEDNESS INCURRED BEFORE JULY 1, 1977 TO PAY COSTS OF  
SCHOOL CONSTRUCTION;

(2) 90 PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE  
FISCAL YEAR TWO YEARS EARLIER FOR THE RETIREMENT OF  
PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR  
OTHER INDEBTEDNESS INCURRED AFTER JUNE 30, 1977 AND  
BEFORE JULY 1, 1978 TO PAY COSTS OF SCHOOL CONSTRUCTION;

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1976 AND  
BEFORE JULY 1, 1978 BY THE MUNICIPALITY DURING THE  
FISCAL YEAR TWO YEARS EARLIER TO PAY COSTS OF SCHOOL  
CONSTRUCTION;

(3) 90 PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE  
FISCAL YEAR TWO YEARS EARLIER FOR THE RETIREMENT OF  
PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR  
OTHER INDEBTEDNESS INCURRED AFTER JUNE 30, 1978 AND  
BEFORE JANUARY 1, 1982 TO PAY COSTS OF SCHOOL  
CONSTRUCTION PROJECTS APPROVED UNDER AS 14.07.020(11);

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1978 AND  
BEFORE JULY 1, 1982 BY THE MUNICIPALITY DURING THE  
FISCAL YEAR TWO YEARS EARLIER TO PAY COSTS OF SCHOOL  
CONSTRUCTION PROJECTS APPROVED UNDER AS 14.07.020(11);

(4) SUBJECT TO (H) AND (I) OF THIS SECTION UP TO 90  
PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE  
CURRENT FISCAL YEAR FOR THE RETIREMENT OF PRINCIPAL AND  
INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER  
INDEBTEDNESS INCURRED AFTER DECEMBER 31, 1981, AND  
AUTHORIZED BY THE QUALIFIED VOTERS OF THE MUNICIPALITY  
BEFORE JULY 1, 1983, TO PAY COSTS OF SCHOOL  
CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR  
REHABILITATION PROJECTS THAT EXCEED \$25,000 AND ARE  
APPROVED UNDER AS 14.07.020(11); AND

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1982, AND

BEFORE JULY 1, 1983, BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER TO PAY COSTS OF SCHOOL CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR REHABILITATION PROJECTS THAT EXCEED \$25,000 AND ARE APPROVED UNDER AS 14.07.020(11); AND

(C) PAYMENTS MADE BY THE MUNICIPALITY DURING THE CURRENT FISCAL YEAR FOR THE RETIREMENT OF PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES, OR OTHER INDEBTEDNESS TO PAY COSTS OF SCHOOL CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR REHABILITATION PROJECTS THAT EXCEED \$25,000 AND ARE SUBMITTED TO THE DEPARTMENT OF EDUCATION FOR APPROVAL UNDER AS 14.07.020(11) BEFORE JULY 1, 1983, AND APPROVED BY THE QUALIFIED VOTERS OF THE MUNICIPALITY BEFORE OCTOBER 15, 1983, NOT TO EXCEED A TOTAL PROJECT COST OF (I) \$6,600,000 IF THE ANNUAL GROWTH RATE OF AVERAGE DAILY MEMBERSHIP OF THE MUNICIPALITY IS MORE THAN 7 PERCENT BUT LESS THAN 12 PERCENT, OR (II) \$20,000,000 IF THE ANNUAL A GROWTH RATE OF AVERAGE DAILY MEMBERSHIP OF THE MUNICIPALITY IS 12 PERCENT OR MORE; PAYMENTS MADE BY A MUNICIPALITY UNDER THIS PARAGRAPH ON TOTAL PROJECT COSTS THAT EXCEED THE AMOUNTS SET OUT IN (I) AND (II) OF THIS PARAGRAPH ARE SUBJECT TO (A)(5)(A) OF THIS SECTION.

(5) SUBJECT TO (H), (I), AND (J) OF THIS SECTION, 80 PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE FISCAL YEAR FOR THE RETIREMENT OF PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER INDEBTEDNESS AUTHORIZED BY THE QUALIFIED VOTERS OF THE MUNICIPALITY AFTER JUNE 30, 1983, TO PAY COSTS OF SCHOOL CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR REHABILITATION PROJECTS THAT EXCEED \$25,000 AND ARE APPROVED UNDER AS 14.07.020(11); AND

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1983, BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER TO PAY COSTS OF SCHOOL CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR REHABILITATION PROJECTS THAT EXCEED \$25,000 AND ARE APPROVED UNDER AS 14.07.020(11).

(B) THE COMMISSIONER SHALL ADMINISTER THE PROGRAM OF REIMBURSEMENT AUTHORIZED UNDER THIS SECTION AND SHALL PROVIDE BY REGULATION FOR THE FILING OF APPLICATIONS FOR REIMBURSEMENT, THE FORM OF PROOF OF COSTS FOR WHICH APPLICATION FOR REIMBURSEMENT IS MADE, AND OTHER REGULATIONS NECESSARY TO ADMINISTER THE PROGRAM. THE COMMISSIONER SHALL EXCLUDE FROM THE TOTAL SCHOOL CONSTRUCTION COST OF THE LOCAL DISTRICT ALL STATE AND FEDERAL FUNDS INCLUDED IN THESE COSTS EXCEPT FUNDS PROVIDED UNDER THIS SECTION AND AS 43.50.140. IN APPROVING APPLICATIONS FOR REIMBURSEMENT, THE COMMISSIONER SHALL

(1) OFFSET AGAINST THE AMOUNT OF REIMBURSEMENT AUTHORIZED THE AMOUNT OF ANY FUNDS DISTRIBUTED TO THE BOROUGH OR CITY IN THE SECOND PRECEDING FISCAL YEAR FROM THE SCHOOL FUND PROVIDED FOR IN AS 43.50.140;

(2) REPEALED, SEC. 10 CH 92 SLA 1982.E

(C) THE SCHOOL CONSTRUCTION ACCOUNT IS ESTABLISHED. FUNDS TO CARRY OUT THE PROVISIONS OF THIS SECTION MAY BE APPROPRIATED ANNUALLY BY THE LEGISLATURE TO THE ACCOUNT. IF AMOUNTS IN THE

ACCOUNT ARE INSUFFICIENT FOR THE PURPOSE OF PROVIDING THE SHARE TO WHICH A BOROUGH OR CITY IS ENTITLED UNDER THIS SECTION, THOSE FUNDS THAT ARE AVAILABLE SHALL BE DISTRIBUTED PRO RATA AMONG THE ELIGIBLE LOCAL GOVERNMENTS.

(D) MONEY IN THE SCHOOL CONSTRUCTION ACCOUNT WHICH, AT THE END OF THE FISCAL YEAR FOR WHICH THE MONEY IS APPROPRIATED, EXCEEDS THE AMOUNT REQUIRED FOR THE ALLOCATIONS AUTHORIZED IN THIS SECTION REVERTS TO THE GENERAL FUND.

(E) THE COMMISSIONER SHALL ANNUALLY PROVIDE A REPORT TO THE LEGISLATURE ON ALLOCATIONS OF STATE AID MADE UNDER THIS SECTION, INCLUDING BUT NOT LIMITED TO, THE AMOUNT OF STATE AID PAID ON A PER CAPITA AND PER STUDENT BASIS AND THE RESULTANT EFFECT ON THE RATE OF LEVY OF TAXES BY THE MUNICIPALITY FOR EDUCATIONAL PURPOSES.

(F) ~~REPEALED~~, SEC. 17 CH 147 SLA 1978.£

(G) ~~REPEALED~~, SEC. 47 CH 6 SLA 1984.£

(H) AN ALLOCATION UNDER (A)(4) OR (5) OF THIS SECTION FOR SCHOOL CONSTRUCTION BEGUN AFTER JULY 1, 1982, SHALL BE REDUCED BY THE AMOUNT OF MONEY USED FOR THE CONSTRUCTION OF RESIDENTIAL SPACE, HOCKEY RINKS, PLANETARIUMS, SAUNAS, AND OTHER FACILITIES FOR SINGLE PURPOSE SPORTING OR RECREATIONAL USES THAT ARE NOT SUITABLE FOR OTHER ACTIVITIES AND BY THE MONEY USED FOR CONSTRUCTION THAT EXCEEDS THE AMOUNT NEEDED FOR CONSTRUCTION OF A FACILITY OF EFFICIENT DESIGN AS DETERMINED BY THE DEPARTMENT. AN ALLOCATION UNDER (A) (4) OR (5) OF THIS SECTION MAY NOT BE REDUCED BY THE AMOUNT OF MONEY USED FOR CONSTRUCTION OF A SMALL SWIMMING POOL, TANK, OR WATER STORAGE FACILITY USED FOR WATER SPORTS. HOWEVER, AN ALLOCATION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE AMOUNT OF MONEY USED TO CONSTRUCT A SWIMMING POOL THAT EXCEEDS THE STANDARDS ADOPTED BY THE DEPARTMENT AND THE AMOUNT OF MONEY THAT WOULD HAVE BEEN USED TO CONSTRUCT A SMALL SWIMMING POOL, TANK, OR WATER STORAGE FACILITY, AS DETERMINED BY THE COMMISSIONER.

(I) FOR THE PURPOSES OF (A)(4) AND (5) OF THIS SECTION

(1) AN INDEBTEDNESS FOR BONDS IS INCURRED AFTER THE BONDS ARE SOLD;

(2) REIMBURSEMENT FOR A CASH PAYMENT MAY ONLY BE MADE AFTER THE PAYMENT IS MADE TO A VENDOR; AND

(3) PAYMENTS MAY NOT BE MADE FOR COSTS THAT ARE INCURRED UNDER A CONTRACT AFTER THE CONTRACT HAS BEEN RELEASED.

(J) THE STATE MAY NOT ALLOCATE MONEY TO A MUNICIPALITY FOR A SCHOOL CONSTRUCTION PROJECT UNDER (A)(5) OF THIS SECTION UNLESS THE MUNICIPALITY COMPLIES WITH THE REQUIREMENTS OF (1) - (4) OF THIS SUBSECTION AND THE PROJECT IS APPROVED BY THE COMMISSIONER BEFORE THE LOCAL VOTE ON THE BOND ISSUE FOR THE PROJECT. IN APPROVING A PROJECT UNDER THIS SUBSECTION, THE COMMISSIONER SHALL REQUIRE

(1) THE MUNICIPALITY TO INCLUDE ON THE BALLOT FOR THE BOND ISSUE THE ESTIMATED TOTAL COST OF EACH PROJECT INCLUDING ESTIMATED ANNUAL OPERATION AND MAINTENANCE COSTS AND THE ESTIMATED AMOUNTS THAT WILL BE PAID BY THE STATE AND BY THE MUNICIPALITY;

(2) THAT THE BONDS MAY NOT BE REFUNDED UNLESS THE ANNUAL DEBT SERVICE ON THE REFUNDING ISSUE IS NOT GREATER THAN THE ANNUAL DEBT SERVICE ON THE ORIGINAL ISSUE;

(3) THE BONDS MUST BE REPAYED BY APPROXIMATELY EQUAL ANNUAL PRINCIPAL PAYMENTS OR APPROXIMATE EQUAL DEBT SERVICE PAYMENTS OVER A PERIOD OF AT LEAST 10 YEARS;

(4) THE MUNICIPALITY TO DEMONSTRATE NEED FOR THE PROJECT BY ESTABLISHING THAT THE SCHOOL DISTRICT HAS

(A) PROJECTED LONG-TERM STUDENT ENROLLMENT THAT INDICATES THE DISTRICT HAS INADEQUATE FACILITIES TO MEET PRESENT OR PROJECTED ENROLLMENT; OR

(B) FACILITIES THAT REQUIRE REPAIR OR REPLACEMENT IN ORDER TO MEET HEALTH AND SAFETY LAWS OR REGULATIONS OR BUILDING CODES.

(K) AN AMOUNT EQUAL TO THE INTEREST EARNED ON THE INVESTMENT OF THE PROCEEDS OF BONDS ISSUED FOR A SCHOOL CONSTRUCTION PROJECT SHALL BE USED BY THE MUNICIPALITY TO

(1) PAY THE COSTS OF THE PROJECT;

(2) PAY ACCRUED INTEREST ON THE BOND ISSUE;

(3) REDEEM ALL OR PART OF THE BONDS; OR

(4) PAY THE COSTS OF ISSUING THE BONDS.

#### HISTORY

(SEC. 1 CH 249 SLA 1970; AM SEC. 1 CH 93 SLA 1971; AM SEC. 2 CH 137 SLA 1972; AM SEC. 1 CH 28 SLA 1973; AM SEC. 47 CH 127 SLA 1974; AM SECS. 1 - 3 CH 120 SLA 1977; AM SECS. 12, 17 CH 147 SLA 1978; AM SEC. 25 CH 168 SLA 1978; AM SECS. 8 - 10 CH 92 SLA 1982; AM SECS. 1 - 3 CH 82 SLA 1983; AM SEC. 47 CH 6 SLA 1984; AM SEC. 1-5 CH 78 SLA 1985)

#### ANNOTATIONS

CROSS REFERENCES FOR PRESENT PROVISIONS OF FORMER SUBSECTION (G) OF THIS SECTION, SEE AS 14.11.135(3).

REVISOR'S NOTES ENACTED AS AS 43.18.100. RENUMBERED IN 1983.

#### AMENDMENT NOTES

EFFECT OF AMENDMENTS THE 1982 AMENDMENT, SUBSTITUTED "A MUNICIPALITY THAT" FOR "AN ORGANIZED BOROUGH OR A CITY WHICH" IN THE INTRODUCTORY LANGUAGE OF SUBSECTION (A), SUBSTITUTED "THE MUNICIPALITY" FOR "THE BOROUGH OR CITY" IN PARAGRAPHS (1), (2)(A) AND (B), AND (3)(A) AND (B), SUBSTITUTED "90 PERCENT" FOR "80 PERCENT" IN THE INTRODUCTORY LANGUAGE OF PARAGRAPHS (2) AND (3), INSERTED "AND BEFORE JANUARY 1, 1982" IN PARAGRAPH (3)(A) AND (B), AND ADDED PARAGRAPH (4). THE AMENDMENT ALSO REPEALED PARAGRAPH (2) OF SUBSECTION (B), WHICH READ "REQUIRED THE BOROUGH OR CITY TO PROVIDE, WITH ITS APPLICATION, A CERTIFIED COPY OF THE NOTICE TO TAXPAYERS REQUIRED BY AS 43.18.030," AND ADDED SUBSECTIONS (H) AND (I).

THE 1983 AMENDMENT I, IN PARAGRAPH (A)(4), INSERTED "UP TO" IN THE INTRODUCTORY LANGUAGE, INSERTED "AND AUTHORIZED BY THE QUALIFIED VOTERS OF THE MUNICIPALITY BEFORE JULY 1, 1983" IN (A), INSERTED "AND BEFORE JULY 1, 1983" IN (B), ADDED "AND" TO THE END OF (B), AND ADDED (C). THE AMENDMENT ALSO ADDED PARAGRAPH (A)(5) AND SUBSECTION (J).

THE 1984 AMENDMENT REPEALED FORMER SUBSECTION (G), WHICH DEFINED "COMMISSIONER" AND "COST OF SCHOOL CONSTRUCTION."

THE 1985 AMENDMENT, EFFECTIVE JULY 1, 1985, IN THE INTRODUCTORY LANGUAGE OF PARAGRAPH (5) OF SUBSECTION (A) INSERTED "AND (J)" AND MADE RELATED STYLISTIC CHANGES AND SUBSTITUTED "80" FOR "50"; IN SUBSECTION (H) IN THE FIRST SENTENCE INSERTED "OR (5)" NEAR THE BEGINNING OF THE SENTENCE AND AT THE END OF THE SENTENCE ADDED THE LANGUAGE BEGINNING "AND BY THE MONEY USED," INSERTED "OR (5)" IN THE SECOND SENTENCE, AND IN THE LAST SENTENCE

SUBSTITUTED "EXC ( )S THE STANDARDS ADOPTED BY THE DEPARTMENT" FOR  
"IS COMPETITION SIZE OR LARGER"; INSERTED "AND (5)" IN THE  
INTRODUCTORY LANGUAGE OF (I); IN SUBSECTION (J) INSERTED  
"MUNICIPALITY COMPLIES WITH THE REQUIREMENTS OF (1) - (4) OF  
THIS SUBSECTION AND THE," INSERTED "INCLUDING ESTIMATED ANNUAL  
OPERATION AND MAINTENANCE COSTS" IN PARAGRAPH (1), AND REWROTE  
PARAGRAPH (4); AND ADDED SUBSECTION (K).

EDITORS NOTES

EDITOR'S NOTES SECTION 10(A), CH. 78, SLA 1985 PROVIDES THAT THE  
1985 AMENDMENT TO (J) OF THIS SECTION APPLY ONLY TO SCHOOL  
CONSTRUCTION PROJECTS APPROVED BY THE COMMISSIONER OF EDUCATION  
AFTER JULY 1, 1985. LEGISLATIVE HISTORY REPORTS FOR REPORT ON  
CH. 28, SLA 1973 (HCSSB 114), SEE 1973 SENATE JOURNAL, P. 312.  
FOR REPORT ON CH. 127, SLA 1974 (SCSHB 817 AM S), SEE 1974 HOUSE  
JOURNAL, P. 657.

R0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

Original sponsors: Swackhammer  
and Menard

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 204 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to refunding bonds for school con-  
7 struction; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 14.11.100(c) is amended to read:

10 (c) The school construction account is established. Funds to  
11 carry out the provisions of this section may be appropriated annually  
12 by the legislature to the account. If amounts in the account are  
13 insufficient for the purpose of providing the share to which a borough  
14 or city is entitled under this section, those funds that are available  
15 shall be distributed pro rata among the eligible local governments,  
16 except that the legislature may direct that additional debt service on  
17 refunding bonds that exceeds the total debt service on the refunded  
18 bonds be disregarded in whole or in part.

19 \* Sec. 2. AS 14.11.100(j) is amended to read:

20 (j) The state may not allocate money to a municipality for a  
21 school construction project under (a)(5) of this section unless the  
22 municipality complies with the requirements of (1) and (2) [(1) - (4)]  
23 of this subsection and the project is approved by the commissioner  
24 before the local vote on the bond issue for the project. In approving  
25 a project under this subsection, the commissioner shall require

26 (1) the municipality to include on the ballot for the bond  
27 issue the estimated total cost of each project including estimated  
28 annual operation and maintenance costs and the estimated amounts that  
29 will be paid by the state and by the municipality; and

1 (2) [THAT THE BONDS MAY NOT BE REFUNDED UNLESS THE ANNUAL  
2 DEBT SERVICE ON THE REFUNDING ISSUE IS NOT GREATER THAN THE ANNUAL  
3 DEBT SERVICE ON THE ORIGINAL ISSUE;

4 (3) THAT THE BONDS MUST BE REPAID IN APPROXIMATELY EQUAL  
5 ANNUAL PRINCIPAL PAYMENTS OR APPROXIMATE EQUAL DEBT SERVICE PAYMENTS  
6 OVER A PERIOD OF AT LEAST 10 YEARS;

7 (4)] the municipality to demonstrate need for the project  
8 by establishing that the school district has

9 (A) projected long-term student enrollment that indi-  
10 cates the district has inadequate facilities to meet present or  
11 projected enrollment; or

12 (B) facilities that require repair or replacement in  
13 order to meet health and safety laws or regulations or building  
14 codes.

15 \* Sec. 3. AS 14.11.100 is amended by adding a new subsection to read:

16 (1) In this section, "outstanding bonds, notes, or other indebt-  
17 edness" includes bonds issued to refund bonds, notes, or other indebt-  
18 edness issued to pay costs of school construction or to refund the  
19 bonds. For the purposes of determining the level of reimbursement,  
20 refunding bonds are considered to be issued as of the date of the  
21 first issue of bonds, notes, or other indebtedness or of the bonds  
22 that refund the bonds, whichever is later. Refunded bonds, notes, or  
23 other indebtedness are not considered outstanding.

24 \* Sec. 4. This Act is retroactive to July 1, 1983.

25 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).  
26  
27



Official Business

**COMMITTEE:**

House HESS Committee

**DATE:** April 15, 1987

**SIGN-IN**

**Subject of meeting:**

- HJR 24 - Federal funds for job training ✓
- HB 248 - Adult Basic Education
- HB 204 - State Aid for School Construction
- HB 249 - Refinancing of University Housing

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? & Which Bill
F. McILHURGEY	249 COME LANE, SOLDOTNA 99664	262-4547	KENAI PENIN. BOARD	-
ROSIE PETERSON	205 N. FRANKLIN #2	6-1736	GOV. COUNCIL	HJR 24 ✓
Arnold Seguin	8204 Birch Lane	9-1958	AK State Voc Assn	HJR 24 ✓
Bruce Johnson	10014 CRAZY HORSE JUNEAU	6-2303	JUNIOR SCHOOLS	HJR 24 ✓
John Henderson	218 Front St. Juneau, AK	586-6806	Adult Education	HB 248
★ Gary Anderson	Box 1608, Palmer, AK	945-9682	Bank Assoc.	HB 204 ✓
Roy Deibel	P.O. Box 1290 Kodiak AK	486-3224	City of Kodiak	HB 204
Stan Thompson	PO Box 850 (SOLDOTNA)	262-4441	Kenai Board	HB 204 ✓



Official Business

**COMMITTEE:**

House HESS Committee

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**SIGN-IN**

**Subject of meeting:**

- HJR 24 - Federal funds for job training
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- HB 204 - State Aid for School Construction
- HB 249 - Refinancing of University Housing

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? & Which Bill
M: H Barker	Box 5B Juneau 99811	465-2750	DOR	Yes HB 204
Dori Kubly	Box 210207 Adak Bay	784-5251	Katchikan, Gateway Borough metlakatla, SA x mail	Yes HB 204