

Act No. 235
Public Acts of 1989
Approved by the Governor
December 21, 1989
Filed with the Secretary of State
December 21, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Jacobetti and O'Neill

ENROLLED HOUSE BILL No. 4043

AN ACT to amend sections 3, 6, 8, 19, 27, 37, 39, 46, 81, 98, 105, 107, and 158 of Act No. 94 of the Public Acts of 1979, entitled as amended "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal certain acts and parts of acts," section 3 as amended by Act No. 509 of the Public Acts of 1988 and sections 6, 8, 19, 37, 39, 46, 81, 98, 105, and 107 as amended and sections 27 and 158 as added by Act No. 197 of the Public Acts of 1989, being sections 388.1603, 388.1606, 388.1608, 388.1619, 388.1627, 388.1637, 388.1639, 388.1646, 388.1681, 388.1698, 388.1705, 388.1707, and 388.1758 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3, 6, 8, 19, 27, 37, 39, 46, 81, 98, 105, 107, and 158 of Act No. 94 of the Public Acts of 1979, section 3 as amended by Act No. 509 of the Public Acts of 1988 and sections 6, 8, 19, 37, 39, 46, 81, 98, 105, and 107 as amended and sections 27 and 158 as added by Act No. 197 of the Public Acts of 1989, being sections 388.1603, 388.1606, 388.1608, 388.1619, 388.1627, 388.1637, 388.1639, 388.1646, 388.1681, 388.1698, 388.1705, 388.1707, and 388.1758 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3. (1) "Average daily attendance", for the purposes of complying with section 198 of part F of title I of Public Law 89-10, 20 U.S.C. 2854, means 92% of the membership as defined in section 6(4).

(2) "Board" means the governing body of a district.

(3) "Department" means the department of education.

(4) "District" means a local school district established under part 2, 3, 4, 5, or 6 of the school code of 1976 or a local act school district.

(5) "District superintendent" means the superintendent of a district.

Sec. 6. (1) "Center program" means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, visually impaired, and programs for emotionally impaired housed in buildings that do not serve regular education pupils. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district.

(2) "District membership retention rate" means the proportion of pupils who have not dropped out of school in the immediately preceding school year and is equal to 1 minus the quotient of the number of pupils unaccounted for in the immediately preceding school year, as determined pursuant to subsection (3), divided by the membership of the immediately preceding school year.

(3) "District membership retention report" means a report of the membership of the district for the immediately preceding school year, adjusted for those pupils who have transferred into the district, transferred out of the district, transferred to alternative programs, and have graduated, to determine the number of pupils who are unaccounted for. The number of pupils unaccounted for shall be calculated as determined by the department. For purposes of this report, membership does not include migrant or adult pupils.

(4) "Membership", except as otherwise provided in sections 56 and 62, means the number of full-time equivalent pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board. In a district operating an extended school year program approved by the state board, a pupil enrolled, but not scheduled to be in regular daily attendance on the pupil membership count day, shall be counted. The department shall give a uniform interpretation of full-time and part-time memberships. The state board may provide a district with an adjustment of the district's membership count upon the showing of a substantial increase in membership due to the closing of a nonpublic school after the pupil membership count day. In a district offering classes that are scheduled for a full year in which different pupils participate in different sessions, full-time equated memberships shall be determined by dividing the number of class hours scheduled and provided per year per pupil by 900 for elementary and secondary pupils and by 480 for adult pupils.

(5) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence shall not be required for adult or nonpublic part-time pupils, for pupils receiving 1/2 or less of their instruction in a district other than their district of residence, or for those pupils who were enrolled and in regular daily attendance and remain enrolled and in regular daily attendance in the district other than their district of residence before April 1, 1981.

(6) "Pupil membership count day" of a district means:

(a) The fourth Friday following Labor day each school year.

(b) For a district maintaining school during the entire school year, the following days:

(i) Fourth Friday in July.

(ii) Fourth Friday in October.

(iii) Fourth Friday in January.

(iv) Fourth Friday in April.

(c) A district receiving funds from the job training partnership act, Public Law 97-300, 96 Stat. 1322, or a district operating a training program approved by the department may amend the number of pupils counted on the pupil membership count day to include pupils participating in the job training partnership act program or a training program approved by the department. The pupil membership count day for these pupils shall be the third Friday after the first Monday after the start of instruction for the program. Aid received under section 21(1) for these pupils shall be reduced 1/480 for each hour of classroom instruction the pupils are scheduled to receive under 480 hours and further reduced to ensure that the combined section 21(1) and the job training partnership act or other approved training program aid for the programs do not exceed the cost of the programs as verified by the intermediate school district of the district operating the programs.

(d) For the 1989-90 school year only, for a district whose pupils are not in regular daily attendance on the pupil membership count day or on any of the 15 regular school days before the pupil membership count day, at the option of the district, either the second or the third Friday following the first Monday after either the start or resumption of pupil instruction.

(7) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(8) "The school code of 1976" means Act No. 451 of the Public Acts of 1976, as amended, being sections 380.1 to 380.1852 of the Michigan Compiled Laws.

(9) "School fiscal year" means a fiscal year which commences July 1 and continues through June 30.

(10) "State board" means the state board of education.

(11) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence. A pupil's district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

Sec. 8. In 1990-91 and each year thereafter, on the basis of a district's membership as defined in section 6(4) and a district's membership retention report as defined in section 6(3), the department shall calculate an annual pupil dropout rate for each district. In addition, the department shall calculate an annual pupil dropout rate for the state in the same manner as that used to calculate the pupil dropout rate for a district. The department shall report all pupil dropout rates to the senate and house education committees and appropriations committees not later than February 1, each year.

Sec. 19. (1) Beginning in 1990-91, in order to receive all of the funds for which a district qualifies under this act, a district shall provide an annual education report as required by section 1204a of the school code of 1976, being section 380.1204a of the Michigan Compiled Laws. A district that fails to meet the requirements of this subsection shall forfeit in 1990-91 3% of the funds for which the district qualifies under this act.

(2) Beginning in 1991-92, in order to receive all of the funds for which a district qualifies under this act, a district shall administer a state board approved employability skills assessment. A district that fails to meet the requirements of this subsection shall forfeit in 1991-92 3% of the funds for which the district qualifies under this act.

Sec. 27. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed \$17,000,000.00 for 1989-90 to K to 12 districts that meet all of the following criteria:

(a) The district levied not less than 20 mills and levied not less than the district's authorized millage rate for school operating purposes after any reduction required by section 31 of article IX of the state constitution of 1963 in 1988-89 and 1989-90. In addition, the district's authorized operating millage rate before a reduction required by section 31 of article IX of the state constitution of 1963 is not less than the immediately preceding year's authorized rate before a reduction required by section 31 of article IX of the state constitution of 1963.

(b) The district may receive an allocation under section 25 or section 27, whichever is greater. However, a district shall not receive funds from both sections 25 and 27.

(c) The district has an average adjusted gross income per membership pupil less than 78.3% of the state average adjusted gross income per membership pupil. In 1989-90, the adjusted gross income per membership pupil shall be calculated by dividing the district's 1985 adjusted gross income as certified by the department of treasury by the district's 1988-89 membership. Beginning in 1990-91 and each year thereafter, the adjusted gross income per membership pupil shall be calculated by dividing the district's latest calendar year adjusted gross income for which data is available as of June 1 before the beginning of the fiscal year, as certified by the department of treasury, by the district's membership for the immediately preceding year.

(2) Each district is entitled under this section to \$1.00 per pupil for each \$1.00 that the district's average adjusted gross income per pupil is below 78.3% of the state average adjusted gross income per pupil. However, the allocation per pupil provided under this section, when combined with the sum of the per pupil allocation under section 21(1) calculated using the millage utilized for computing the gross allowance in 1988-89 and the product of the district's state equalized valuation behind each membership pupil utilized for computing the gross allowance in 1989-90 and the millage utilized for computing the gross allowance in 1988-89, shall not exceed in 1989-90 either \$3,100.00 per pupil or 1.076% of the sum of the product of the district's state equalized valuation behind each membership pupil utilized for computing the gross allowance in 1988-89 and the district's 1988-89 levied millage for school operations and the district's 1988-89 membership aid per pupil under section 21(1), whichever is less.

(3) As used in this section, "state average adjusted gross income per membership pupil" means the sum of the adjusted gross income of all districts, as certified by the department of treasury, divided by the total state membership.

Sec. 37. A district shall be eligible for an allocation under section 36 if, in a manner and on forms prescribed by the department, all of the following apply:

(a) The district complies with the state board approved standards of quality and curriculum guidelines for preschool programs for 4-year-olds. However, Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, does not apply to the district.

(b) The district provides for the active and continuous participation of parents or guardians of the children in the program, and describes the district's participation plan as part of the application.

(c) The district only employs for this program teachers possessing proper training in early childhood development, including a ZA endorsement and/or child development associate, and trained support staff.

(d) The district identifies in its application all early childhood development programs operating in the community and all collaborative activities between the district and other operators of early childhood development programs.

(e) The district has submitted for approval a program budget that includes only those costs not reimbursed or reimbursable by federal funding, that are clearly and directly attributable to the preschool readiness program, and that would not be incurred if the program were not being offered. If children other than those determined to be educationally disadvantaged participate in the program, state reimbursement under section 36 shall be limited to the portion of approved costs attributable to educationally disadvantaged children.

(f) The district has established a committee on early childhood education curriculum consisting of, at a minimum, classroom teachers for prekindergarten, kindergarten, and first grade, a parent of a prekindergarten pupil, the district curriculum director or equivalent administrator, and, if feasible, a school psychologist, school social worker, or school counselor. The committee shall do both of the following:

(i) Ensure the ongoing articulation of the preschool, kindergarten, and first grade programs offered by the district.

(ii) Review all referrals for participation in the preschool program and recommend pupils for placement.

(g) The district has submitted for departmental approval a plan to conduct and report annual preschool program evaluations using criteria approved by the department. At a minimum, the evaluations shall include assessment of the gains in educational readiness and progress through first grade of children participating in the preschool program.

(h) The district has established a community advisory committee that shall be involved in the planning and evaluation of the program and has provided for collaboration with and the involvement of appropriate community, volunteer, social service agencies and organizations, and parents in addressing all aspects of educational disadvantage.

(i) The district reviews and, if necessary, restructures all programs funded under section 31 for the purpose of ensuring that gains achieved in programs funded under section 36 are maintained and reinforced.

(j) At least 18 of the district's resident children of the age group specified in section 36, as described in section 36 and calculated under section 38, are construed to be in need of special readiness assistance. A district that receives an allocation under section 21(1) shall also be eligible for an allocation under section 36 if at least 50 children, as described in section 36 and calculated under section 38, are construed to be in need of special readiness assistance, regardless of the percentage they comprise of the district's resident children of the age group specified in section 36. In addition, a consortium of 2 or more districts shall be eligible for an allocation under section 36 if each of those districts has less than 18 of its resident children of the age group specified in section 36, as described in section 36 and calculated under section 38, and in combination the districts' combined number of children who are construed to be in need of special readiness assistance equals or exceeds 18. A district or intermediate district may administer a consortium described in this subdivision.

Sec. 39. (1) The tentative allocation to each eligible district under section 36 shall be determined by multiplying the number of children determined in section 38 by \$2,250.00 in 1989-90 and shall be distributed among districts in decreasing order of concentration of eligible pupils as determined by section 38 until the money appropriated in section 36 is distributed. Not later than November 1 of each year, each eligible district shall submit to the department a resolution adopted by its board certifying the number of 4-year-old children who will receive comprehensive compensatory education funded under this section. The tentative allocation provided in this subsection shall be subsequently adjusted based on the number of children certified in the board resolution. Any funds unallocated due to this provision shall be redistributed to eligible districts pursuant to this subsection.

(2) A district that receives an allocation under section 21(1) and that has not less than 50 eligible pupils shall receive priority over other eligible districts other than those districts funded under subsection (3).

(3) A district that received funds under this section in 1988-89 shall receive funds in 1989-90 for not less than the number of pupils for which the district received funds in 1988-89 and shall receive priority in funding over other eligible districts.

(4) For any district with 315 or more eligible pupils, the number of eligible pupils shall be 50% of the number calculated under section 38. However, none of these districts may have less than 315 pupils for purposes of calculating the tentative allocation under section 36.

Sec. 46. From the amount appropriated in section 11, there is allocated an amount not to exceed \$5,000,000.00 for 1989-90 to provide grants to districts for school dropout prevention programs approved by the department.

Sec. 81. (1) From the amount appropriated in section 11, there is allocated to the intermediate districts the sum necessary, but not to exceed \$21,714,200.00 for 1989-90, to provide state aid to intermediate districts. There shall be allocated to each intermediate district an amount obtained by adding 105.3% of the prior year's aid received under this section and 105.3% of the product of the prior year's state equalized valuation and the prior

year's operating millage, and subtracting from that sum the product of the current year's state equalized valuation and the prior year's operating millage. However, an intermediate district shall not receive less than an amount per pupil equal to 100% of the 1988-89 aid per pupil received under this section.

(2) From the amount appropriated in section 11, there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of \$3,500.00 for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

(3) From the amount appropriated in section 11, there is allocated an amount not to exceed \$200,000.00 for 1989-90 to applicant intermediate districts that provide support services for instruction in arts education. An applicant district may apply for a \$25,000.00 grant pursuant to guidelines and criteria for selection, as developed by the department, which assure regional representation for all schools according to geographical and population consideration. Funds received under this subsection shall be designated for reimbursement of salaries of support services personnel approved by the department or of expenditures to support program costs as approved by the department.

Sec. 98. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed \$1,872,000.00 for 1989-90 to applicant districts and intermediate districts approved by the department for the development of professional development programs in the areas of mathematics, science, computer literacy-competency, structured linguistics taught through a multisensory approach, reading, writing and composition, and other curricular areas.

(2) In order to be eligible for funding under this section, the applicant district or intermediate district shall submit a proposal for developing and operating professional development programs for teachers and administrators. The proposal shall be developed in accordance with criteria established by the department and shall be submitted to the department for approval. The criteria used by the department to approve programs shall include, but not be limited to, all of the following:

(a) Encouraging consortia among districts, community colleges, universities, and professional organizations.

(b) Developing training guidelines that show the relationship of curriculum goals within the content areas of mathematics, science, computer literacy-competency, and writing and composition to the general goals of the K to 12 program.

(c) Developing assessment strategies to identify major target audiences and training content needs in mathematics, science, computer literacy-competency, and writing and composition.

(3) Community colleges and teacher preparation institutions may enter into agreements with districts or intermediate districts that have been awarded grants under this section.

Sec. 105. (1) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except as follows:

(a) A special education pupil who is enrolled and receiving instruction in a special education program approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(b) A pupil who is enrolled in classes as specified under section 108(1) required for that pupil to obtain a high school diploma may be counted in membership regardless of age.

(c) A pupil not having a high school diploma taking instruction in an adult basic education program which provides instruction in mathematics, reading, or English, as specified under section 108(1), may be counted in membership regardless of age.

(d) A pupil not less than 16 years of age who is enrolled in classes in a program under section 108 may be counted in membership.

(2) A pupil less than 20 years of age on September 1 of the school year and having obtained a high school diploma shall be counted in membership if enrolled in academic or vocational-technical courses that would normally be credited toward high school completion and are to prepare pupils for employment, additional occupational skills training, or postsecondary education. A pupil less than 20 years of age on September 1 of the school year, who has obtained a high school diploma, who is attending a course offered directly or indirectly by a district, and who earns postsecondary credit for that course shall not be included in the membership calculation under this subsection. Beginning in 1989-90, a district or consortium of districts shall not receive more than 100% of the membership credit for those pupils attending a community or junior college or 4-year institution of higher education than it received in 1988-89 for pupils under this subsection who were attending a community or junior college or 4-year institution of higher education. In 1990-91, a district or consortium of districts shall not receive more than 50% of the membership credit for those pupils attending a community or

junior college or 4-year institution of higher education than it received in 1988-89 for pupils under this subsection who were attending a community or junior college or 4-year institution of higher education. In 1991-92 and each year thereafter, a district or consortium of districts shall not receive membership credit for pupils under this subsection who are attending a community or junior college or 4-year institution of higher education.

(3) A pupil 26 years of age or older residing in a mental health institution or a nursing home and receiving educational services on site shall not be counted in membership unless prior approval is received from the department. A district may request prior approval for adult basic education programs and general educational development test preparation programs. The department shall grant approval for adult basic education and general educational development test preparation programs that meet the requirements of subsection (1)(c) and section 108(1), as appropriate.

Sec. 107. (1) The prorated membership of a part-time pupil, who is 18 years of age or older on September 1 of a school year and is eligible to be counted in membership under section 105, shall be computed by applying a ratio which is the relation between the number of hours of student instruction received and 480 clock hours of classroom instruction. Time required to pass to and from classes shall be counted as classroom instruction, but meal time, study halls, or recess time shall not be counted. A district that counts pupils under this subsection shall have its board approve a districtwide plan for adult education. The plan shall address goals and objectives for the adult education program. The district shall submit to the department, not later than November 1 each year for each fiscal year in which funding is received for the adult education program, a resolution adopted by its board indicating that the district complies with all of the following requirements:

(a) The district has incorporated into its plan as required under subsection (1) as guidelines the adult education standards of quality approved by the state board.

(b) The district has implemented an adult education pupil retention plan.

(c) The district has implemented an adult education plan that includes placement, follow-up, and evaluation.

(2) For purposes of determining membership under this section, a district may count towards classroom instruction not more than 20 credits as specified in subdivisions (a) through (e) in the following courses and number of credit hours:

(a) Except as provided in subdivision (e), a total of 10 credits of English or communication skills, mathematics, science, and social science, with not more than 3 credits each of mathematics, science, and social science and not more than 4 credits of English or communication skills.

(b) Except as provided in subdivision (e), 1 credit of health.

(c) Except as provided in subdivision (e), 4 credits of a foreign language, vocational-technical education as approved by the department, occupational skills training as approved by the department, or any combination thereof.

(d) Except as provided in subdivision (e), 1 credit of computer education, or the equivalent, as approved by the department.

(e) A total of 4 additional credits of any of the subjects specified in subdivisions (a) through (d), fine and performing arts or practical arts, or any combination thereof, as approved by the department. Pupils enrolled in fine and performing arts or practical arts classes shall also be enrolled and attend within the same semester at least 1 of the classes listed in subdivisions (a) through (d) in order to generate membership for the fine and performing arts or practical arts class.

(3) For purposes of subsection (2), a credit hour shall not exceed 120 clock hours of classroom instruction, and credit hours earned by a pupil during previous school years shall be counted. Prorated membership may be included for pupils enrolled and making progress in adult basic education, which is instruction in mathematics, reading, or English at or below the eighth grade level.

(4) In order to be eligible to generate membership under this section, a district shall allow those pupils who have more than the total of 20 credits specified in subsection (2) to attend those classes needed in order to complete graduation requirements. The district shall not assess a fee or generate membership for these credits.

(5) A district that counts adult education pupils in membership and complies with the requirements of this section and section 108 shall receive regularly scheduled state aid payments for which the district qualifies under this act in accordance with the following table:

ADULT EDUCATION PAYMENTS

10% for demonstration of a completed comprehensive assessment as required by section 108(1)(c).

80% for enrollment of eligible pupils.

10% for attainment of a high school diploma, for passage of the general education development (GED) test, or for completion of the adult basic education objectives by achieving an eighth grade level in reading, English, or mathematics.

Not more than 10% for classroom attendance.

(6) For purposes of subsection (5), classroom attendance shall be measured by the total cumulative membership clock hours of classroom instruction. The total cumulative membership clock hours of classroom instruction shall be determined by multiplying the total membership by 480 hours. Credit for cumulative membership clock hours of classroom instruction shall be determined by dividing the total number of clock hours of classroom instruction attended by the total number of cumulative membership clock hours. The specific percentage allowable for attendance shall be in accordance with the following table:

- 0 - 25% attended clock hours - 2.5%
- 26 - 50% attended clock hours - 5%
- 51 - 75% attended clock hours - 7.5%
- 76 - 100% attended clock hours - 10%

Sec. 158. In order to receive funds under this act, each district shall furnish to the department, on a form and in a manner prescribed by the department, the information requested by the department that is necessary for the preparation of the district membership retention report defined in section 6(3).

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.