

SENATE BILL No. 624

September 7, 2011, Introduced by Senator PAVLOV and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 6 and 105 (MCL 388.1606 and 388.1705), section
6 as amended by 2011 PA 62 and section 105 as amended by 2008 PA
268; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) "Center program" means a program operated by a
2 district or by an intermediate district for special education
3 pupils from several districts in programs for pupils with autism
4 spectrum disorder, pupils with severe cognitive impairment, pupils
5 with moderate cognitive impairment, pupils with severe multiple
6 impairments, pupils with hearing impairment, pupils with visual
7 impairment, and pupils with physical impairment or other health
8 impairment. Programs for pupils with emotional impairment housed in

1 buildings that do not serve regular education pupils also qualify.
2 Unless otherwise approved by the department, a center program
3 either shall serve all constituent districts within an intermediate
4 district or shall serve several districts with less than 50% of the
5 pupils residing in the operating district. In addition, special
6 education center program pupils placed part-time in noncenter
7 programs to comply with the least restrictive environment
8 provisions of section 612 of part B of the individuals with
9 disabilities education act, 20 USC 1412, may be considered center
10 program pupils for pupil accounting purposes for the time scheduled
11 in either a center program or a noncenter program.

12 (2) "District and high school graduation rate" means the
13 annual completion and pupil dropout rate that is calculated by the
14 center pursuant to nationally recognized standards.

15 (3) "District and high school graduation report" means a
16 report of the number of pupils, excluding adult participants, in
17 the district for the immediately preceding school year, adjusted
18 for those pupils who have transferred into or out of the district
19 or high school, who leave high school with a diploma or other
20 credential of equal status.

21 (4) "Membership", except as otherwise provided in this
22 article, means for a district, public school academy, university
23 school, or intermediate district the sum of the product of .90
24 times the number of full-time equated pupils in grades K to 12
25 actually enrolled and in regular daily attendance on the pupil
26 membership count day for the current school year, plus the product
27 of .10 times the final audited count from the supplemental count

1 day for the immediately preceding school year. All pupil counts
2 used in this subsection are as determined by the department and
3 calculated by adding the number of pupils registered for attendance
4 plus pupils received by transfer and minus pupils lost as defined
5 by rules promulgated by the superintendent, and as corrected by a
6 subsequent department audit. For the purposes of this section and
7 section 6a, for a school of excellence that is a cyber school, as
8 defined in section 551 of the revised school code, MCL 380.551, and
9 is in compliance with section 553a of the revised school code, MCL
10 380.553a, a pupil's participation in the cyber school's educational
11 program is considered regular daily attendance. The amount of the
12 foundation allowance for a pupil in membership is determined under
13 section 20. In making the calculation of membership, all of the
14 following, as applicable, apply to determining the membership of a
15 district, public school academy, university school, or intermediate
16 district:

17 (a) Except as otherwise provided in this subsection, and
18 pursuant to subsection (6), a pupil shall be counted in membership
19 in the pupil's educating district or districts. An individual pupil
20 shall not be counted for more than a total of 1.0 full-time equated
21 membership.

22 (b) If a pupil is educated in a district other than the
23 pupil's district of residence, if the pupil is not being educated
24 as part of a cooperative education program, if the pupil's district
25 of residence does not give the educating district its approval to
26 count the pupil in membership in the educating district, and if the
27 pupil is not covered by an exception specified in subsection (6) to

1 the requirement that the educating district must have the approval
2 of the pupil's district of residence to count the pupil in
3 membership, the pupil shall not be counted in membership in any
4 district.

5 (c) A special education pupil educated by the intermediate
6 district shall be counted in membership in the intermediate
7 district.

8 (d) A pupil placed by a court or state agency in an on-grounds
9 program of a juvenile detention facility, a child caring
10 institution, or a mental health institution, or a pupil funded
11 under section 53a, shall be counted in membership in the district
12 or intermediate district approved by the department to operate the
13 program.

14 (e) A pupil enrolled in the Michigan schools for the deaf and
15 blind shall be counted in membership in the pupil's intermediate
16 district of residence.

17 (f) A pupil enrolled in a career and technical education
18 program supported by a millage levied over an area larger than a
19 single district or in an area vocational-technical education
20 program established pursuant to section 690 of the revised school
21 code, MCL 380.690, shall be counted only in the pupil's district of
22 residence.

23 (g) A pupil enrolled in a university school shall be counted
24 in membership in the university school.

25 (h) A pupil enrolled in a public school academy shall be
26 counted in membership in the public school academy.

27 (i) For a new district, university school, or public school

1 academy beginning its operation after December 31, 1994, membership
2 for the first 2 full or partial fiscal years of operation shall be
3 determined as follows:

4 (i) If operations begin before the pupil membership count day
5 for the fiscal year, membership is the average number of full-time
6 equated pupils in grades K to 12 actually enrolled and in regular
7 daily attendance on the pupil membership count day for the current
8 school year and on the supplemental count day for the current
9 school year, as determined by the department and calculated by
10 adding the number of pupils registered for attendance on the pupil
11 membership count day plus pupils received by transfer and minus
12 pupils lost as defined by rules promulgated by the superintendent,
13 and as corrected by a subsequent department audit, plus the final
14 audited count from the supplemental count day for the current
15 school year, and dividing that sum by 2.

16 (ii) If operations begin after the pupil membership count day
17 for the fiscal year and not later than the supplemental count day
18 for the fiscal year, membership is the final audited count of the
19 number of full-time equated pupils in grades K to 12 actually
20 enrolled and in regular daily attendance on the supplemental count
21 day for the current school year.

22 (j) If a district is the authorizing body for a public school
23 academy, then, in the first school year in which pupils are counted
24 in membership on the pupil membership count day in the public
25 school academy, the determination of the district's membership
26 shall exclude from the district's pupil count for the immediately
27 preceding supplemental count day any pupils who are counted in the

1 public school academy on that first pupil membership count day who
2 were also counted in the district on the immediately preceding
3 supplemental count day.

4 (k) In a district, public school academy, university school,
5 or intermediate district operating an extended school year program
6 approved by the superintendent, a pupil enrolled, but not scheduled
7 to be in regular daily attendance on a pupil membership count day,
8 shall be counted.

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

12 (i) A special education pupil who is enrolled and receiving
13 instruction in a special education program or service approved by
14 the department, who does not have a high school diploma, and who is
15 less than 26 years of age as of September 1 of the current school
16 year shall be counted in membership.

17 (ii) A pupil who is determined by the department to meet all of
18 the following may be counted in membership:

19 (A) Is enrolled in a public school academy or an alternative
20 education high school diploma program, that is primarily focused on
21 educating homeless pupils and that is located in a city with a
22 population of more than 500,000.

23 (B) Had dropped out of school for more than 1 year and has re-
24 entered school.

25 (C) Is less than 22 years of age as of September 1 of the
26 current school year.

27 (m) An individual who has obtained a high school diploma shall

1 not be counted in membership. An individual who has obtained a
2 general educational development (G.E.D.) certificate shall not be
3 counted in membership unless the individual is a student with a
4 disability as defined in R 340.1702 of the Michigan administrative
5 code. An individual participating in a job training program funded
6 under former section 107a or a jobs program funded under former
7 section 107b, administered by the Michigan strategic fund or the
8 workforce development agency, or participating in any successor of
9 either of those 2 programs, shall not be counted in membership.

10 (n) If a pupil counted in membership in a public school
11 academy is also educated by a district or intermediate district as
12 part of a cooperative education program, the pupil shall be counted
13 in membership only in the public school academy unless a written
14 agreement signed by all parties designates the party or parties in
15 which the pupil shall be counted in membership, and the
16 instructional time scheduled for the pupil in the district or
17 intermediate district shall be included in the full-time equated
18 membership determination under subdivision (q). However, for pupils
19 receiving instruction in both a public school academy and in a
20 district or intermediate district but not as a part of a
21 cooperative education program, the following apply:

22 (i) If the public school academy provides instruction for at
23 least 1/2 of the class hours specified in subdivision (q), the
24 public school academy shall receive as its prorated share of the
25 full-time equated membership for each of those pupils an amount
26 equal to 1 times the product of the hours of instruction the public
27 school academy provides divided by the number of hours specified in

1 subdivision (q) for full-time equivalency, and the remainder of the
2 full-time membership for each of those pupils shall be allocated to
3 the district or intermediate district providing the remainder of
4 the hours of instruction.

5 (ii) If the public school academy provides instruction for less
6 than 1/2 of the class hours specified in subdivision (q), the
7 district or intermediate district providing the remainder of the
8 hours of instruction shall receive as its prorated share of the
9 full-time equated membership for each of those pupils an amount
10 equal to 1 times the product of the hours of instruction the
11 district or intermediate district provides divided by the number of
12 hours specified in subdivision (q) for full-time equivalency, and
13 the remainder of the full-time membership for each of those pupils
14 shall be allocated to the public school academy.

15 (o) An individual less than 16 years of age as of September 1
16 of the current school year who is being educated in an alternative
17 education program shall not be counted in membership if there are
18 also adult education participants being educated in the same
19 program or classroom.

20 (p) The department shall give a uniform interpretation of
21 full-time and part-time memberships.

22 (q) The number of class hours used to calculate full-time
23 equated memberships shall be consistent with section 101(3). In
24 determining full-time equated memberships for pupils who are
25 enrolled in a postsecondary institution, a pupil shall not be
26 considered to be less than a full-time equated pupil solely because
27 of the effect of his or her postsecondary enrollment, including

1 necessary travel time, on the number of class hours provided by the
2 district to the pupil.

3 (r) Full-time equated memberships for pupils in kindergarten
4 shall be determined by dividing the number of class hours scheduled
5 and provided per year per kindergarten pupil by a number equal to
6 $1/2$ the number used for determining full-time equated memberships
7 for pupils in grades 1 to 12. However, beginning in 2012-2013,
8 full-time equated memberships for pupils in kindergarten shall be
9 determined by dividing the number of class hours scheduled and
10 provided per year per kindergarten pupil by the same number used
11 for determining full-time equated memberships for pupils in grades
12 1 to 12.

13 (s) For a district, university school, or public school
14 academy that has pupils enrolled in a grade level that was not
15 offered by the district, university school, or public school
16 academy in the immediately preceding school year, the number of
17 pupils enrolled in that grade level to be counted in membership is
18 the average of the number of those pupils enrolled and in regular
19 daily attendance on the pupil membership count day and the
20 supplemental count day of the current school year, as determined by
21 the department. Membership shall be calculated by adding the number
22 of pupils registered for attendance in that grade level on the
23 pupil membership count day plus pupils received by transfer and
24 minus pupils lost as defined by rules promulgated by the
25 superintendent, and as corrected by subsequent department audit,
26 plus the final audited count from the supplemental count day for
27 the current school year, and dividing that sum by 2.

1 (t) A pupil enrolled in a cooperative education program may be
2 counted in membership in the pupil's district of residence with the
3 written approval of all parties to the cooperative agreement.

4 (u) If, as a result of a disciplinary action, a district
5 determines through the district's alternative or disciplinary
6 education program that the best instructional placement for a pupil
7 is in the pupil's home or otherwise apart from the general school
8 population, if that placement is authorized in writing by the
9 district superintendent and district alternative or disciplinary
10 education supervisor, and if the district provides appropriate
11 instruction as described in this subdivision to the pupil at the
12 pupil's home or otherwise apart from the general school population,
13 the district may count the pupil in membership on a pro rata basis,
14 with the proration based on the number of hours of instruction the
15 district actually provides to the pupil divided by the number of
16 hours specified in subdivision (q) for full-time equivalency. For
17 the purposes of this subdivision, a district shall be considered to
18 be providing appropriate instruction if all of the following are
19 met:

20 (i) The district provides at least 2 nonconsecutive hours of
21 instruction per week to the pupil at the pupil's home or otherwise
22 apart from the general school population under the supervision of a
23 certificated teacher.

24 (ii) The district provides instructional materials, resources,
25 and supplies, except computers, that are comparable to those
26 otherwise provided in the district's alternative education program.

27 (iii) Course content is comparable to that in the district's

1 alternative education program.

2 (iv) Credit earned is awarded to the pupil and placed on the
3 pupil's transcript.

4 (v) A pupil enrolled in an alternative or disciplinary
5 education program described in section 25 shall be counted in
6 membership in the district or public school academy that is
7 educating the pupil.

8 (w) If a pupil was enrolled in a public school academy on the
9 pupil membership count day, if the public school academy's contract
10 with its authorizing body is revoked or the public school academy
11 otherwise ceases to operate, and if the pupil enrolls in a district
12 within 45 days after the pupil membership count day, the department
13 shall adjust the district's pupil count for the pupil membership
14 count day to include the pupil in the count.

15 (x) For a public school academy that has been in operation for
16 at least 2 years and that suspended operations for at least 1
17 semester and is resuming operations, membership is the sum of the
18 product of .90 times the number of full-time equated pupils in
19 grades K to 12 actually enrolled and in regular daily attendance on
20 the first pupil membership count day or supplemental count day,
21 whichever is first, occurring after operations resume, plus the
22 product of .10 times the final audited count from the most recent
23 pupil membership count day or supplemental count day that occurred
24 before suspending operations, as determined by the superintendent.

25 (y) If a district's membership for a particular fiscal year,
26 as otherwise calculated under this subsection, would be less than
27 1,550 pupils and the district has 4.5 or fewer pupils per square

1 mile, as determined by the department, and, beginning in 2007-2008,
2 if the district does not receive funding under section 22d(2), the
3 district's membership shall be considered to be the membership
4 figure calculated under this subdivision. If a district educates
5 and counts in its membership pupils in grades 9 to 12 who reside in
6 a contiguous district that does not operate grades 9 to 12 and if 1
7 or both of the affected districts request the department to use the
8 determination allowed under this sentence, the department shall
9 include the square mileage of both districts in determining the
10 number of pupils per square mile for each of the districts for the
11 purposes of this subdivision. The membership figure calculated
12 under this subdivision is the greater of the following:

13 (i) The average of the district's membership for the 3-fiscal-
14 year period ending with that fiscal year, calculated by adding the
15 district's actual membership for each of those 3 fiscal years, as
16 otherwise calculated under this subsection, and dividing the sum of
17 those 3 membership figures by 3.

18 (ii) The district's actual membership for that fiscal year as
19 otherwise calculated under this subsection.

20 (z) If a public school academy that is not in its first or
21 second year of operation closes at the end of a school year and
22 does not reopen for the next school year, the department shall
23 adjust the membership count of the district in which a former pupil
24 of the public school academy enrolls and is in regular daily
25 attendance for the next school year to ensure that the district
26 receives the same amount of membership aid for the pupil as if the
27 pupil were counted in the district on the supplemental count day of

1 the preceding school year.

2 (aa) Full-time equated memberships for preprimary-aged special
3 education pupils who are not enrolled in kindergarten but are
4 enrolled in a classroom program under R 340.1754 of the Michigan
5 administrative code shall be determined by dividing the number of
6 class hours scheduled and provided per year by 450. Full-time
7 equated memberships for preprimary-aged special education pupils
8 who are not enrolled in kindergarten but are receiving early
9 childhood special education services under R 340.1755 of the
10 Michigan administrative code shall be determined by dividing the
11 number of hours of service scheduled and provided per year per
12 pupil by 180.

13 (bb) A pupil of a district that begins its school year after
14 Labor day who is enrolled in an intermediate district program that
15 begins before Labor day shall not be considered to be less than a
16 full-time pupil solely due to instructional time scheduled but not
17 attended by the pupil before Labor day.

18 (cc) For the first year in which a pupil is counted in
19 membership on the pupil membership count day in a middle college
20 program, the membership is the average of the full-time equated
21 membership on the pupil membership count day and on the
22 supplemental count day for the current school year, as determined
23 by the department. If a pupil was counted by the operating district
24 on the immediately preceding supplemental count day, the pupil
25 shall be excluded from the district's immediately preceding
26 supplemental count for purposes of determining the district's
27 membership.

1 (dd) A district that educates a pupil who attends a United
2 States Olympic education center may count the pupil in membership
3 regardless of whether or not the pupil is a resident of this state.

4 (ee) A pupil enrolled in a district other than the pupil's
5 district of residence pursuant to section 1148(2) of the revised
6 school code, MCL 380.1148, shall be counted in the educating
7 district.

8 (5) "Public school academy" means that term as defined in the
9 revised school code.

10 (6) "Pupil" means a person in membership in a public school. **A**
11 **PERSON MUST BE A RESIDENT OF THIS STATE TO BE COUNTED AS A PUPIL IN**
12 **MEMBERSHIP.** A district must have the approval of the pupil's
13 district of residence to count the pupil in membership, except
14 approval by the pupil's district of residence is not required for
15 any of the following:

16 (a) A nonpublic part-time pupil enrolled in grades 1 to 12 in
17 accordance with section 166b.

18 (b) A pupil receiving 1/2 or less of his or her instruction in
19 a district other than the pupil's district of residence.

20 (c) A pupil enrolled in a public school academy or university
21 school.

22 (d) A pupil enrolled in a district other than the pupil's
23 district of residence under an intermediate district schools of
24 choice pilot program as described in section 91a or former section
25 91 if the intermediate district and its constituent districts have
26 been exempted from section 105.

27 (e) A pupil enrolled in a district other than the pupil's

1 district of residence if the pupil is enrolled in accordance with
2 section 105. ~~or 105e.~~

3 (f) A pupil who has made an official written complaint or
4 whose parent or legal guardian has made an official written
5 complaint to law enforcement officials and to school officials of
6 the pupil's district of residence that the pupil has been the
7 victim of a criminal sexual assault or other serious assault, if
8 the official complaint either indicates that the assault occurred
9 at school or that the assault was committed by 1 or more other
10 pupils enrolled in the school the pupil would otherwise attend in
11 the district of residence or by an employee of the district of
12 residence. A person who intentionally makes a false report of a
13 crime to law enforcement officials for the purposes of this
14 subdivision is subject to section 411a of the Michigan penal code,
15 1931 PA 328, MCL 750.411a, which provides criminal penalties for
16 that conduct. As used in this subdivision:

17 (i) "At school" means in a classroom, elsewhere on school
18 premises, on a school bus or other school-related vehicle, or at a
19 school-sponsored activity or event whether or not it is held on
20 school premises.

21 (ii) "Serious assault" means an act that constitutes a felony
22 violation of chapter XI of the Michigan penal code, 1931 PA 328,
23 MCL 750.81 to 750.90g, or that constitutes an assault and
24 infliction of serious or aggravated injury under section 81a of the
25 Michigan penal code, 1931 PA 328, MCL 750.81a.

26 (g) A pupil whose district of residence changed after the
27 pupil membership count day and before the supplemental count day

1 and who continues to be enrolled on the supplemental count day as a
2 nonresident in the district in which he or she was enrolled as a
3 resident on the pupil membership count day of the same school year.

4 (h) A pupil enrolled in an alternative education program
5 operated by a district other than his or her district of residence
6 who meets 1 or more of the following:

7 (i) The pupil has been suspended or expelled from his or her
8 district of residence for any reason, including, but not limited
9 to, a suspension or expulsion under section 1310, 1311, or 1311a of
10 the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

11 (ii) The pupil had previously dropped out of school.

12 (iii) The pupil is pregnant or is a parent.

13 (iv) The pupil has been referred to the program by a court.

14 (v) The pupil is enrolled in an alternative or disciplinary
15 education program described in section 25.

16 (i) A pupil enrolled in the Michigan virtual high school, for
17 the pupil's enrollment in the Michigan virtual high school.

18 (j) A pupil who is the child of a person who works at the
19 district or who is the child of a person who worked at the district
20 as of the time the pupil first enrolled in the district but who no
21 longer works at the district due to a workforce reduction. As used
22 in this subdivision, "child" includes an adopted child, stepchild,
23 or legal ward.

24 (k) An expelled pupil who has been denied reinstatement by the
25 expelling district and is reinstated by another school board under
26 section 1311 or 1311a of the revised school code, MCL 380.1311 and
27 380.1311a.

1 (l) A pupil enrolled in a district other than the pupil's
2 district of residence in a middle college program if the pupil's
3 district of residence and the enrolling district are both
4 constituent districts of the same intermediate district.

5 (m) A pupil enrolled in a district other than the pupil's
6 district of residence who attends a United States Olympic education
7 center.

8 (n) A pupil enrolled in a district other than the pupil's
9 district of residence pursuant to section 1148(2) of the revised
10 school code, MCL 380.1148.

11 (o) A pupil who enrolls in a district other than the pupil's
12 district of residence as a result of the pupil's school not making
13 adequate yearly progress under the no child left behind act of
14 2001, Public Law 107-110.

15 However, if a district educates pupils who reside in another
16 district and if the primary instructional site for those pupils is
17 established by the educating district after 2009-2010 and is
18 located within the boundaries of that other district, the educating
19 district must have the approval of that other district to count
20 those pupils in membership.

21 (7) "Pupil membership count day" of a district or intermediate
22 district means:

23 (a) Except as provided in subdivision (b), the first Wednesday
24 in October each school year or, for a district or building in which
25 school is not in session on that Wednesday due to conditions not
26 within the control of school authorities, with the approval of the
27 superintendent, the immediately following day on which school is in

1 session in the district or building.

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

4 (i) Fourth Wednesday in July.

5 (ii) First Wednesday in October.

6 (iii) Second Wednesday in February.

7 (iv) Fourth Wednesday in April.

8 (8) "Pupils in grades K to 12 actually enrolled and in regular
9 daily attendance" means pupils in grades K to 12 in attendance and
10 receiving instruction in all classes for which they are enrolled on
11 the pupil membership count day or the supplemental count day, as
12 applicable. Except as otherwise provided in this subsection, a
13 pupil who is absent from any of the classes in which the pupil is
14 enrolled on the pupil membership count day or supplemental count
15 day and who does not attend each of those classes during the 10
16 consecutive school days immediately following the pupil membership
17 count day or supplemental count day, except for a pupil who has
18 been excused by the district, shall not be counted as 1.0 full-time
19 equated membership. A pupil who is excused from attendance on the
20 pupil membership count day or supplemental count day and who fails
21 to attend each of the classes in which the pupil is enrolled within
22 30 calendar days after the pupil membership count day or
23 supplemental count day shall not be counted as 1.0 full-time
24 equated membership. In addition, a pupil who was enrolled and in
25 attendance in a district, intermediate district, or public school
26 academy before the pupil membership count day or supplemental count
27 day of a particular year but was expelled or suspended on the pupil

1 membership count day or supplemental count day shall only be
2 counted as 1.0 full-time equated membership if the pupil resumed
3 attendance in the district, intermediate district, or public school
4 academy within 45 days after the pupil membership count day or
5 supplemental count day of that particular year. Pupils not counted
6 as 1.0 full-time equated membership due to an absence from a class
7 shall be counted as a prorated membership for the classes the pupil
8 attended. For purposes of this subsection, "class" means a period
9 of time in 1 day when pupils and a certificated teacher or legally
10 qualified substitute teacher are together and instruction is taking
11 place.

12 (9) "Rule" means a rule promulgated pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328.

15 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
16 380.1852.

17 (11) "School district of the first class", "first class school
18 district", and "district of the first class" mean a district that
19 had at least 60,000 pupils in membership for the immediately
20 preceding fiscal year.

21 (12) "School fiscal year" means a fiscal year that commences
22 July 1 and continues through June 30.

23 (13) "State board" means the state board of education.

24 (14) "Superintendent", unless the context clearly refers to a
25 district or intermediate district superintendent, means the
26 superintendent of public instruction described in section 3 of
27 article VIII of the state constitution of 1963.

1 (15) "Supplemental count day" means the day on which the
2 supplemental pupil count is conducted under section 6a.

3 (16) "Tuition pupil" means a pupil of school age attending
4 school in a district other than the pupil's district of residence
5 for whom tuition may be charged. Tuition pupil does not include a
6 pupil who is a special education pupil or a pupil described in
7 subsection (6)(c) to (o). A pupil's district of residence shall not
8 require a high school tuition pupil, as provided under section 111,
9 to attend another school district after the pupil has been assigned
10 to a school district.

11 (17) "State school aid fund" means the state school aid fund
12 established in section 11 of article IX of the state constitution
13 of 1963.

14 (18) "Taxable value" means the taxable value of property as
15 determined under section 27a of the general property tax act, 1893
16 PA 206, MCL 211.27a.

17 (19) "Textbook" means a book, electronic book, or other
18 instructional print or electronic resource that is selected and
19 approved by the governing board of a district and that contains a
20 presentation of principles of a subject, or that is a literary work
21 relevant to the study of a subject required for the use of
22 classroom pupils, or another type of course material that forms the
23 basis of classroom instruction.

24 (20) "Total state aid" or "total state school aid" means the
25 total combined amount of all funds due to a district, intermediate
26 district, or other entity under all of the provisions of this
27 article.

1 (21) "University school" means an instructional program
2 operated by a public university under section 23 that meets the
3 requirements of section 23.

4 Sec. 105. (1) In order to avoid a penalty under this section,
5 and in order to count a nonresident pupil ~~residing within the same~~
6 ~~intermediate district~~ in membership without the approval of the
7 pupil's district of residence, a district shall comply with this
8 section.

9 (2) Except as otherwise provided in this section, a district
10 shall determine whether or not it ~~will~~ **HAS CAPACITY TO** accept
11 applications for enrollment by nonresident applicants ~~residing~~
12 ~~within the same intermediate district~~ for the next school year. If
13 the district determines **THAT IT HAS THE CAPACITY** to accept
14 applications for enrollment of a number of nonresidents, beyond
15 those entitled to preference under this section, the district shall
16 use the following procedures for accepting applications from and
17 enrolling nonresidents:

18 (a) The district shall publish the grades, schools, and
19 special programs, if any, for which enrollment may be available to,
20 and for which applications will be accepted from, nonresident
21 applicants. ~~residing within the same intermediate district.~~

22 (b) If the district has a limited number of positions
23 available for nonresidents ~~residing within the same intermediate~~
24 ~~district~~ in a grade, school, or program, all of the following apply
25 to accepting applications for and enrollment of nonresidents in
26 that grade, school, or program:

27 (i) The district shall do all of the following not later than

1 the second Friday in August:

2 (A) Provide notice to the general public that applications
3 will be taken for a period of at least 15 calendar days but not
4 more than 30 calendar days from nonresidents ~~residing within the~~
5 ~~same intermediate district~~ for enrollment in that grade, school, or
6 program. The notice shall identify the dates of the application
7 period and the place and manner for submitting applications.

8 (B) During the application period under sub-subparagraph (A),
9 accept applications from nonresidents ~~residing within the same~~
10 ~~intermediate district~~ for enrollment in that grade, school, or
11 program.

12 (C) Within 15 calendar days after the end of the application
13 period under sub-subparagraph (A), using the procedures and
14 preferences required under this section, determine which
15 nonresident applicants will be allowed to enroll in that grade,
16 school, or program, using the random draw system required under
17 subsection (14) as necessary, and notify the parent or legal
18 guardian of each nonresident applicant of whether or not the
19 applicant may enroll in the district. The notification to parents
20 or legal guardians of nonresident applicants accepted for
21 enrollment shall contain notification of the date by which the
22 applicant must enroll in the district and procedures for
23 enrollment. The date for enrollment shall be no later than the end
24 of the first week of school.

25 (ii) Beginning on the third Monday in August and not later than
26 the end of the first week of school, if any positions become
27 available in a grade, school, or program due to accepted applicants

1 failing to enroll or to more positions being added, the district
2 ~~may~~**SHALL** enroll nonresident applicants from the waiting list
3 maintained under subsection (14), offering enrollment in the order
4 that applicants appear on the waiting list. If there are still
5 positions available after enrolling all applicants from the waiting
6 list who desire to enroll, the district may not fill those
7 positions until the second semester or trimester enrollment under
8 subsection (3), as provided under that subsection, or until the
9 next school year.

10 (c) For a grade, school, or program that has an unlimited
11 number of positions available for nonresidents, ~~residing within the~~
12 ~~same intermediate district,~~ all of the following apply to
13 enrollment of nonresidents in that grade, school, or program:

14 (i) The district ~~may~~**SHALL** accept applications for enrollment
15 in that grade, school, or program, and ~~may~~**SHALL** enroll
16 nonresidents residing within the same intermediate district in that
17 grade, school, or program, until the end of the first week of
18 school. The district shall provide notice to the general public of
19 the place and manner for submitting applications and, if the
20 district has a limited application period, the notice shall include
21 the dates of the application period. The application period shall
22 be at least a 15-calendar-day period.

23 (ii) Not later than the end of the first week of school, the
24 district shall notify the parent or legal guardian of each
25 nonresident applicant who is accepted for enrollment that the
26 applicant has been accepted for enrollment in the grade, school, or
27 program and of the procedures for enrollment. The date for

1 enrollment shall be no later than the end of the first week of
2 school.

3 (3) If a district determines during the first semester or
4 trimester of a school year that it has positions available for
5 enrollment of a number of nonresidents, ~~residing within the same~~
6 ~~intermediate district,~~ beyond those entitled to preference under
7 this section, for the second semester or trimester of the school
8 year, the district ~~may~~ **SHALL** accept applications from and enroll
9 nonresidents ~~residing within the same intermediate district~~ for the
10 second semester or trimester using the following procedures:

11 (a) Not later than 2 weeks before the end of the first
12 semester or trimester, the district shall publish the grades,
13 schools, and special programs, if any, for which enrollment for the
14 second semester or trimester may be available to, and for which
15 applications will be accepted from, nonresident applicants.
16 ~~residing within the same intermediate district.~~

17 (b) During the last 2 weeks of the first semester or
18 trimester, the district shall accept applications from nonresidents
19 ~~residing within the same intermediate district~~ for enrollment for
20 the second semester or trimester in the available grades, schools,
21 and programs.

22 (c) By the beginning of the second semester or trimester,
23 using the procedures and preferences required under this section,
24 the district shall determine which nonresident applicants will be
25 allowed to enroll in the district for the second semester or
26 trimester and notify the parent or legal guardian of each
27 nonresident applicant ~~residing within the same intermediate~~

1 ~~district~~ of whether or not the applicant may enroll in the
2 district. The notification to parents or legal guardians of
3 nonresident applicants accepted for enrollment shall contain
4 notification of the date by which the applicant must enroll in the
5 district and procedures for enrollment. The date for enrollment
6 shall be no later than the end of the first week of school.

7 (4) If deadlines similar to those described in subsection (2)
8 or (3) have been established in an intermediate district, and if
9 those deadlines are not later than the deadlines under subsection
10 (2) or (3), the districts within the intermediate district may use
11 those deadlines.

12 (5) A district ~~offering to enroll nonresident applicants~~
13 ~~residing within the same intermediate district~~ may limit the number
14 of nonresident pupils it accepts in a grade, school, or program
15 **BASED ON AVAILABLE CAPACITY**, at its discretion, and may use that
16 limit as the reason for refusal to enroll an applicant.

17 (6) A nonresident applicant ~~residing within the same~~
18 ~~intermediate district~~ shall not be granted or refused enrollment
19 based on intellectual, academic, artistic, or other ability,
20 talent, or accomplishment, or lack thereof, or based on a mental or
21 physical disability, except that a district may refuse to admit a
22 nonresident applicant if the applicant does not meet the same
23 criteria, other than residence, that an applicant who is a resident
24 of the district must meet to be accepted for enrollment in a grade
25 or a specialized, magnet, or intra-district choice school or
26 program to which the applicant applies.

27 (7) A nonresident applicant ~~residing within the same~~

1 ~~intermediate district~~ shall not be granted or refused enrollment
2 based on age, except that a district may refuse to admit a
3 nonresident applicant applying for a program that is not
4 appropriate for the age of the applicant.

5 (8) A nonresident applicant ~~residing within the same~~
6 ~~intermediate district~~ shall not be granted or refused enrollment
7 based upon religion, race, color, national origin, sex, height,
8 weight, marital status, or athletic ability, or, generally, in
9 violation of any state or federal law prohibiting discrimination.

10 (9) Subject to subsection (10), a district may refuse to
11 enroll a nonresident applicant if any of the following are met:

12 (a) The applicant is, or has been within the preceding 2
13 years, suspended from another school.

14 (b) The applicant, at any time before enrolling under this
15 section, has been expelled from another school.

16 (c) The applicant, at any time before enrolling under this
17 section, has been convicted of a felony.

18 (10) If a district has counted a pupil in membership on either
19 the pupil membership count day or the supplemental count day, the
20 district shall not refuse to enroll or refuse to continue to enroll
21 that pupil for a reason specified in subsection (9). This
22 subsection does not prohibit a district from expelling a pupil
23 described in this subsection for disciplinary reasons.

24 (11) A district shall continue to allow a pupil who was
25 enrolled in and attended the district under this section in the
26 school year or semester or trimester immediately preceding the
27 school year or semester or trimester in question to enroll in the

1 district until the pupil graduates from high school. This
2 subsection does not prohibit a district from expelling a pupil
3 described in this subsection for disciplinary reasons.

4 (12) A district shall give preference for enrollment under
5 this section over all other nonresident applicants ~~residing within~~
6 ~~the same intermediate district~~ to other school-age children who
7 reside in the same household as a pupil described in subsection
8 (11).

9 (13) If a nonresident pupil was enrolled in and attending
10 school in a district as a nonresident pupil in the 1995-96 school
11 year and continues to be enrolled continuously each school year in
12 that district, the district shall allow that nonresident pupil to
13 continue to enroll in and attend school in the district until high
14 school graduation, without requiring the nonresident pupil to apply
15 for enrollment under this section. This subsection does not
16 prohibit a district from expelling a pupil described in this
17 subsection for disciplinary reasons.

18 (14) If the number of qualified nonresident applicants
19 eligible for acceptance in a school, grade, or program does not
20 exceed the positions available for nonresident pupils in the
21 school, grade, or program, the school district shall accept for
22 enrollment all of the qualified nonresident applicants eligible for
23 acceptance. If the number of qualified nonresident applicants
24 ~~residing within the same intermediate district~~ eligible for
25 acceptance exceeds the positions available in a grade, school, or
26 program in a district for nonresident pupils, the district shall
27 use a random draw system, subject to the need to abide by state and

1 federal antidiscrimination laws and court orders and subject to
2 preferences allowed by this section. The district shall develop and
3 maintain a waiting list based on the order in which nonresident
4 applicants were drawn under this random draw system.

5 (15) If a district, or the nonresident applicant, requests the
6 district in which a nonresident applicant resides to supply
7 information needed by the district for evaluating the applicant's
8 application for enrollment or for enrolling the applicant, the
9 district of residence shall provide that information on a timely
10 basis.

11 (16) If a district is subject to a court-ordered desegregation
12 plan, and if the court issues an order prohibiting pupils residing
13 in that district from enrolling in another district or prohibiting
14 pupils residing in another district from enrolling in that
15 district, this section is subject to the court order.

16 (17) This section does not require a district to provide
17 transportation for a nonresident pupil enrolled in the district
18 under this section or for a resident pupil enrolled in another
19 district under this section. However, at the time a nonresident
20 pupil enrolls in the district, a district shall provide to the
21 pupil's parent or legal guardian information on available
22 transportation to and from the school in which the pupil enrolls.

23 (18) A district may participate in a cooperative education
24 program with 1 or more other districts or intermediate districts
25 whether or not the district enrolls any nonresidents pursuant to
26 this section.

27 (19) **THE FOLLOWING APPLY TO ENROLLMENT UNDER THIS SECTION OF A**

1 NONRESIDENT PUPIL WHO IS ELIGIBLE FOR SPECIAL EDUCATION PROGRAMS
2 AND SERVICES ACCORDING TO STATUTE OR RULE, OR WHO IS A CHILD WITH
3 DISABILITIES, AS DEFINED UNDER THE INDIVIDUALS WITH DISABILITIES
4 EDUCATION ACT, PUBLIC LAW 108-446:

5 (A) ~~A district that, pursuant to this section, enrolls a~~
6 ~~nonresident pupil who is eligible for special education programs~~
7 ~~and services according to statute or rule, or who is a child with~~
8 ~~disabilities, as defined under the individuals with disabilities~~
9 ~~education act, Public Law 108-446,~~ **IF THE NONRESIDENT PUPIL RESIDES**
10 **WITHIN THE SAME INTERMEDIATE DISTRICT, THE DISTRICT THAT ENROLLS**
11 **THE PUPIL** shall be considered to be the resident district of the
12 pupil for the purpose of providing the pupil with a free
13 appropriate public education. Consistent with state and federal
14 law, that district is responsible for developing and implementing
15 an individualized education plan annually for a nonresident pupil
16 described in this subsection.

17 (B) **IF THE NONRESIDENT PUPIL DOES NOT RESIDE WITHIN THE SAME**
18 **INTERMEDIATE DISTRICT, THEN A DISTRICT OR INTERMEDIATE DISTRICT**
19 **SHALL NOT ENROLL THE PUPIL UNLESS THE ENROLLING DISTRICT OR**
20 **INTERMEDIATE DISTRICT HAS A WRITTEN AGREEMENT WITH THE RESIDENT**
21 **DISTRICT OF THE PUPIL FOR THE PURPOSE OF PROVIDING THE PUPIL WITH A**
22 **FREE APPROPRIATE PUBLIC EDUCATION. THE WRITTEN AGREEMENT SHALL**
23 **INCLUDE, BUT IS NOT LIMITED TO, AN AGREEMENT ON THE RESPONSIBILITY**
24 **FOR THE PAYMENT OF THE ADDED COSTS OF SPECIAL EDUCATION PROGRAMS**
25 **AND SERVICES FOR THE PUPIL. THE WRITTEN AGREEMENT SHALL ADDRESS HOW**
26 **THE AGREEMENT SHALL BE AMENDED IN THE EVENT OF SIGNIFICANT CHANGES**
27 **IN THE COSTS OR LEVEL OF SPECIAL EDUCATION PROGRAMS OR SERVICES**

1 **REQUIRED BY THE PUPIL.**

2 (20) If a district does not comply with this section, the
3 district forfeits 5% of the total state school aid allocation to
4 the district under this act.

5 (21) Upon application by a district, the superintendent may
6 grant a waiver for the district from a specific requirement under
7 this section for not more than 1 year.

8 Enacting section 1. Section 105c of the state school aid act
9 of 1979, 1979 PA 94, MCL 388.1705c, is repealed.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 96th Legislature are
12 enacted into law:

13 (a) Senate Bill No. 620.

14

15 (b) Senate Bill No. 618.

16

17 (c) Senate Bill No. 619.

18

19 (d) Senate Bill No. 621.

20