

SENATE BILL NO. 410

May 04, 2021, Introduced by Senators THEIS, LASATA, BARRETT, VICTORY, DALEY and ZORN and referred to the Committee on Education and Career Readiness.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 105c (MCL 388.1705c), as amended by 2020 PA
165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105c. (1) In order to avoid a penalty under this section,
2 and in order to count a nonresident pupil residing in a district
3 located in a contiguous intermediate district in membership without
4 the approval of the pupil's district of residence, a district must

1 comply with this section.

2 (2) Except as otherwise provided in this section, a district
3 shall determine whether or not it will accept applications for
4 enrollment by nonresident applicants residing in a district located
5 in a contiguous intermediate district for the next school year. If
6 the district determines to accept applications for enrollment of a
7 number of nonresidents under this section, beyond those entitled to
8 preference under this section, the district shall use the following
9 procedures for accepting applications from and enrolling
10 nonresidents under this section:

11 (a) The district shall publish the grades, schools, and
12 special programs, if any, for which enrollment may be available to,
13 and for which applications will be accepted from, nonresident
14 applicants residing in a district located in a contiguous
15 intermediate district.

16 (b) If the district has a limited number of positions
17 available for nonresidents residing in a district located in a
18 contiguous intermediate district in a grade, school, or program,
19 all of the following apply to accepting applications for and
20 enrollment of nonresidents under this section in that grade,
21 school, or program:

22 (i) The district shall do all of the following not later than
23 the second Friday in August:

24 (A) Provide notice to the general public that applications
25 will be taken for a period of at least 15 calendar days but not
26 more than 30 calendar days from nonresidents residing in a district
27 located in a contiguous intermediate district for enrollment in
28 that grade, school, or program. The notice must identify the dates
29 of the application period and the place and manner for submitting

1 applications.

2 (B) During the application period under sub-subparagraph (A),
3 accept applications from nonresidents residing in a district
4 located in a contiguous intermediate district for enrollment in
5 that grade, school, or program.

6 (C) Within 15 calendar days after the end of the application
7 period under sub-subparagraph (A) or, for 2020-2021 only, not later
8 than October 13, 2020, using the procedures and preferences
9 required under this section, determine which nonresident applicants
10 will be allowed to enroll under this section in that grade, school,
11 or program, using the random draw system required under subsection
12 (14) as necessary, and notify the parent or legal guardian of each
13 nonresident applicant of whether or not the applicant may enroll in
14 the district. The notification to parents or legal guardians of
15 nonresident applicants accepted for enrollment under this section
16 must contain notification of the date by which the applicant must
17 enroll in the district and procedures for enrollment. The date for
18 enrollment must be no later than the end of the first week of
19 school or, for 2020-2021 only, not later than October 13, 2020.

20 (ii) Beginning on the third Monday in August and not later than
21 the end of the first week of school or, for 2020-2021 only, not
22 later than October 13, 2020, if any positions become available in a
23 grade, school, or program due to accepted applicants failing to
24 enroll or to more positions being added, the district may enroll
25 nonresident applicants from the waiting list maintained under
26 subsection (14), offering enrollment in the order that applicants
27 appear on the waiting list. If there are still positions available
28 after enrolling all applicants from the waiting list who desire to
29 enroll, the district may not fill those positions until the second

1 semester or trimester enrollment under subsection (3), as provided
2 under that subsection, or until the next school year.

3 (c) For a grade, school, or program that has an unlimited
4 number of positions available for nonresidents residing in a
5 district located in a contiguous intermediate district, all of the
6 following apply to enrollment of nonresidents in that grade,
7 school, or program under this section:

8 (i) The district may accept applications for enrollment in that
9 grade, school, or program, and may enroll nonresidents residing in
10 a district located in a contiguous intermediate district in that
11 grade, school, or program until the end of the first week of school
12 or, for 2020-2021 only, the district may enroll nonresidents
13 residing in a district located in a contiguous intermediate
14 district in that grade, school, or program until October 13, 2020
15 if the application was received by the end of the first week of
16 school. The district shall provide notice to the general public of
17 the place and manner for submitting applications and, if the
18 district has a limited application period, the notice must include
19 the dates of the application period. The application period must be
20 at least a 15-calendar-day period.

21 (ii) Not later than the end of the first week of school or, for
22 2020-2021 only, not later than October 13, 2020, the district shall
23 notify the parent or legal guardian of each nonresident applicant
24 who is accepted for enrollment under this section that the
25 applicant has been accepted for enrollment in the grade, school, or
26 program and of the date by which the applicant must enroll in the
27 district and the procedures for enrollment. The date for enrollment
28 must be no later than the end of the first week of school or, for
29 2020-2021 only, not later than October 13, 2020.

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

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

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

21 (c) By the beginning of the second semester or trimester,
22 using the procedures and preferences required under this section,
23 the district shall determine which nonresident applicants will be
24 allowed to enroll under this section in the district for the second
25 semester or trimester and notify the parent or legal guardian of
26 each nonresident applicant residing in a district located in a
27 contiguous intermediate district of whether or not the applicant
28 may enroll in the district. The notification to parents or legal
29 guardians of nonresident applicants accepted for enrollment must

1 contain notification of the date by which the applicant must enroll
2 in the district and procedures for enrollment. The date for
3 enrollment must be no later than the end of the first week of
4 school.

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

10 (5) A district offering to enroll nonresident applicants
11 residing in a district located in a contiguous intermediate
12 district **under this section** may limit the number of those
13 nonresident pupils it accepts in a grade, school, or program, at
14 its discretion, and may use that limit as the reason for refusal to
15 enroll an applicant under this section.

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

27 (7) A nonresident applicant residing in a district located in
28 a contiguous intermediate district must not be granted or refused
29 enrollment under this section based on age, except that a district

1 may refuse to admit a nonresident applicant applying for a program
2 that is not appropriate for the age of the applicant.

3 (8) A nonresident applicant residing in a district located in
4 a contiguous intermediate district must not be granted or refused
5 enrollment under this section based upon religion, race, color,
6 national origin, sex, height, weight, marital status, or athletic
7 ability, or, generally, in violation of any state or federal law
8 prohibiting discrimination.

9 (9) Subject to subsection (10), a district may refuse to
10 enroll a nonresident applicant under this section if any of the
11 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
28 district until the pupil graduates from high school. This
29 subsection does not prohibit a district from expelling a pupil

1 described in this subsection for disciplinary reasons.

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

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

16 (14) If the number of qualified nonresident applicants
17 eligible for acceptance under this section in a school, grade, or
18 program does not exceed the positions available for nonresident
19 pupils under this section in the school, grade, or program, the
20 school district shall accept for enrollment all of the qualified
21 nonresident applicants eligible for acceptance. If the number of
22 qualified nonresident applicants residing in a district located in
23 a contiguous intermediate district eligible for acceptance under
24 this section exceeds the positions available in a grade, school, or
25 program in a district for nonresident pupils, the district shall
26 use a random draw system, subject to the need to abide by state and
27 federal antidiscrimination laws and court orders and subject to
28 preferences allowed by this section. The district shall develop and
29 maintain a waiting list based on the order in which nonresident

1 applicants were drawn under this random draw system.

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

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

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

20 (18) A district may participate in a cooperative education
21 program with 1 or more other districts or intermediate districts
22 whether or not the district enrolls any nonresidents ~~pursuant to~~
23 **under** this section.

24 (19) ~~In~~ **Except as otherwise provided in this subsection, in**
25 order for a district or intermediate district to enroll under this
26 section a nonresident pupil who resides in a district located in a
27 contiguous intermediate district and who is eligible for special
28 education programs and services according to statute or rule, or
29 who is a child with disabilities, as defined under the individuals

1 with disabilities education act, Public Law 108-446, the enrolling
2 district shall have a written agreement with the resident district
3 of the pupil for the purpose of providing the pupil with a free
4 appropriate public education. The written agreement **described in**
5 **this subsection** must include, but is not limited to, an agreement
6 on the responsibility for the payment of the added costs of special
7 education programs and services for the pupil. The written
8 agreement **described in this subsection** must address how the
9 agreement must be amended in the event of significant changes in
10 the costs or level of special education programs or services
11 required by the pupil. **Beginning on the effective date of the**
12 **amendatory act that added this sentence, if an agreement as**
13 **described in this subsection is not reached, a district or**
14 **intermediate district may enroll under this section a nonresident**
15 **pupil who resides in a district located in a contiguous**
16 **intermediate district and who is eligible for special education**
17 **programs and services according to statute or rule, or who is a**
18 **child with disabilities, as defined under the individuals with**
19 **disabilities education act, Public Law 108-446, and the resident**
20 **intermediate district of the pupil, upon the pupil's enrollment as**
21 **described in this sentence, shall transfer its special education**
22 **millage support per pupil, in addition to all other state and**
23 **federal funding that would otherwise be provided to the enrolling**
24 **district or intermediate district under this act for the pupil, to**
25 **the enrolling district or intermediate district. If an agreement as**
26 **described in this subsection is not reached as described in the**
27 **immediately preceding sentence, the enrolling district or**
28 **intermediate district under this subsection is responsible,**
29 **consistent with state and federal law, for providing the enrolling**

1 **pupil with a free appropriate public education.**

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 (22) This section is repealed if the final decision of a court
9 of competent jurisdiction holds that any portion of this section is
10 unconstitutional, ineffective, invalid, or in violation of federal
11 law.

12 (23) As used in this section: ~~7-"district~~

13 **(a) "District** located in a contiguous intermediate district"
14 means a district located in an intermediate district that is
15 contiguous to the intermediate district in which a pupil's district
16 of residence is located.

17 **(b) "Special education millage support per pupil" means the**
18 **total of the proceeds from millages authorized or renewed after the**
19 **effective date of the amendatory act that added this subdivision by**
20 **the resident intermediate district of the pupil under section 1724a**
21 **of the revised school code, MCL 380.1724a, divided by the sum of**
22 **the number of special education pupils who are counted in**
23 **membership by the resident intermediate district of the pupil and**
24 **the number of pupils who are counted in membership in constituent**
25 **districts of the resident intermediate district of the pupil. As**
26 **used in this subdivision, "constituent district" means a district**
27 **or public school academy that is located within the geographic**
28 **boundaries of the intermediate district.**

29 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 411 of the 101st Legislature is enacted into
2 law.