

Act No. 200
Public Acts of 1991
Approved by the Governor
January 2, 1992
Filed with the Secretary of State
January 2, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Rep. Jacobetti

ENROLLED HOUSE BILL No. 4596

AN ACT to amend sections 3, 6, 17, 21b, 23a, 24, 74, 75, 105, 107, 111, and 116 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 make appropriations for certain other purposes relating to education; 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," sections 3, 6, 17, 105, and 107 as amended and sections 21b and 23a as added by Act No. 118 of the Public Acts of 1991, sections 24 and 111 as amended by Act No. 207 of the Public Acts of 1990, section 75 as added by Act No. 212 of the Public Acts of 1986, and section 116 as amended by Act No. 218 of the Public Acts of 1983, being sections 388.1603, 388.1606, 388.1617, 388.1621b, 388.1623a, 388.1624, 388.1674, 388.1675, 388.1705, 388.1707, 388.1711, and 388.1716 of the Michigan Compiled Laws; to add sections 22 and 45; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Sections 3, 6, 17, 21b, 23a, 24, 74, 75, 105, 107, 111, and 116 of Act No. 94 of the Public Acts of 1979, sections 3, 6, 17, 105, and 107 as amended and sections 21b and 23a as added by Act No. 118 of the Public Acts of 1991, sections 24 and 111 as amended by Act No. 207 of the Public Acts of 1990, section 75 as added by Act No. 212 of the Public Acts of 1986, and section 116 as amended by Act No. 218 of the Public Acts of 1983, being sections 388.1603, 388.1606, 388.1617, 388.1621b, 388.1623a, 388.1624, 388.1674, 388.1675, 388.1705, 388.1707, 388.1711, and 388.1716 of the Michigan Compiled Laws, are amended and sections 22 and 45 are added 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) "Average annual membership" means the average of the number of full-time equivalent pupils in grades K-12 and in adult education determined to be actually enrolled and in regular daily attendance on the pupil membership count day using the membership determination under section 6(4) and the number of full-time equivalent pupils in grades K-12 and in adult education determined to be actually enrolled and in regular daily attendance on the subsequent membership reporting day using the membership determination under section 6(4). For 1991-92, the subsequent membership reporting day is the third Friday in February or, for a district that is not in session on that day, the most immediately preceding day on which the district is in session.

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

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

(5) "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.

(6) "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, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils shall also qualify. 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. In addition, pupils approved by the department, who formerly would have been placed in a center program, placed in noncenter programs to comply with the least restrictive environment provisions of section 612 of the education of the handicapped act, 20 U.S.C. 1412, may be counted under this section provided:

(a) The pupil is special education eligible and receiving special education programs or services on the pupil count date; and

(b) The pupil is eligible as autistically impaired, trainable mentally impaired, severely mentally impaired, and severely multiply impaired.

(2) "District pupil 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 pupils of the immediately preceding school year.

(3) "District pupil retention report" means a report of the number of pupils, excluding migrant and adult, in 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.

(4) "Membership", except as otherwise provided in sections 56 and 62, means the number of full-time equivalent pupils in grades K to 12 and in adult education programs 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. A pupil enrolled in a university-operated instructional program under section 23c shall not be counted in membership in a district. 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 or a substantial influx of new residents into the district resulting in a membership increase in a single building of at least 5% but not less than 25 pupils 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, known as "slot-funded" classes, 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 education pupils, and for each 480-hour block of such a class for adult education pupils, the maximum full-time equated membership per training station is 1 full-time equated membership. The number of pupils enrolled in each 480-hour block of a class that is scheduled for a full year in which different pupils participate in different sessions shall not exceed the number of training stations.

(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 1991-92 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. 17. (1) Not later than October 15, November 15, December 15, January 15, February 15, March 15, April 15, May 15, June 15, and August 15, the department shall prepare a statement of the amount to be distributed, inclusive of federal social security payments, in the installment to the districts and intermediate districts and deliver the statement to the state treasurer, and the state treasurer shall pay the installments on each of those dates or on the next business day following each of those dates. Except for section 22(2), the portion of the district's or intermediate district's state fiscal year entitlement to be included in each installment shall be 10%, 10%, 10%, 9%, 10%, 9%, 10%, 9%, 10%, and 13%, respectively. Section 22(2) allocations shall be paid in full in the October payment. The state treasurer shall make payment under this section by drawing a warrant in favor of the treasurer of each district or intermediate district for the amount payable to the district or intermediate district according to the statement and delivering the warrant to the treasurer of each district or intermediate district or, if the state treasurer receives a written request by the treasurer of the district or intermediate district specifying an account, by electronic funds transfer to that account of the amount payable to the district or intermediate district according to the statement. The department may make adjustments in payments made under this section through additional payments when changes in law, errors in computation, or receipt of official tax base sharing reports from regional controllers under section 752(2)(c) or 753(3)(c) of the school code of 1976, being sections 380.752 and 380.753 of the Michigan Compiled Laws, cause the regularly scheduled payment to be less than the amount to which the district or intermediate district is entitled pursuant to this act. For the 1990-91 and 1991-92 school fiscal years only, a district or intermediate district may consider the amount distributed in the August scheduled payment of the next school fiscal year to be continuously allocated for either the immediately preceding or current school fiscal year for state accounting purposes. A district or intermediate district that chooses to allocate the August payment to the immediately preceding school fiscal year shall notify in writing the department of its decision not later than October 16, 1991 for the 1990-91 school fiscal year and September 15, 1992 for the 1991-92 school fiscal year. Any district or intermediate district that does not so notify the department shall continue to allocate the August payment for state accounting purposes to the current school fiscal year in which the payments are received under the payment schedule of this section.

(2) Payments made pursuant to subsection (1) shall be adjusted so that districts and intermediate districts receive, in addition, in their 1982-83 school fiscal year those amounts by which their 1982-83 school fiscal year payments were reduced due to executive order 1982-13. Payments in subsequent fiscal years shall be adjusted so that districts and intermediate districts receive not later than October 31 of their school fiscal year those amounts by which the payments of that school fiscal year were reduced due to this subsection.

(3) Payments made pursuant to subsection (1) shall be adjusted so that districts and intermediate districts receive, in addition, in their 1983-84 school fiscal year 60% of those amounts by which their 1983-84 school fiscal year payments were reduced due to Executive Order 1983-5. Payments in subsequent fiscal years shall be adjusted so that districts and intermediate districts receive not later than October 31 for each school fiscal year those amounts by which the payments of that school fiscal year were reduced due to this subsection.

(4) In order to ensure that all districts and intermediate districts receive the adjustments provided for in subsections (2) and (3), the department may make any necessary adjustments in individual district and intermediate district payments.

(5) Payments to assist employer districts or employer intermediate districts in meeting their federal social security contribution obligations shall be disbursed by the state treasurer pursuant to this section.

(6) For the 1991-92 state fiscal year, if a district files a statement with the state treasurer not later than August 15, 1991 certifying that the district expects the amount of industrial facility tax levied under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, to exceed state school aid payments under section 21(1) in the 1991-92 state fiscal year and the district's industrial facility tax payment exceeded state school aid payments under section 21(1) in the 1990-91 state fiscal year, the October school aid payment shall be increased by the amount by which the state treasurer certifies that the industrial facility tax will exceed the payments under section 21(1). However, the amount of the increase shall not exceed the amount by which the industrial facility tax exceeded section 21(1) state school aid payments in the 1990-91 state fiscal year. If the state tax commission certifies that industrial facility tax collections for a district subject to this subsection are less than the sum of the adjustments made under this subsection and the district's entitlement under section 21(1), the difference shall be deducted from the August school aid payment.

(7) Except as otherwise specified in this act, grant payments under this act shall be paid in 2 equal installments to be paid not later than January 15 and April 15 of the state fiscal year.

(8) In order to receive payments under this act, a district shall comply with part 7a of the school code of 1976, being sections 380.751 to 380.756 of the Michigan Compiled Laws. If an out-of-formula district does not comply with part 7a of the school code of 1976, an amount equal to the amount of state aid that the out-of-formula district would have been paid under this act if it had complied with part 7a of the school code of 1976 shall be paid by the state treasurer not later than May 15 to the in-formula districts in the region in which the out-of-formula district is located on the same basis as payments are made to in-formula districts under part 7a of the school code of 1976. As used in this subsection, "in-formula district", "out-of-formula district", and "region" mean those terms as defined in part 7a of the school code of 1976.

Sec. 21b. (1) Subject to subsection (2), a district shall use funds allocated under this act to support the attendance of a district pupil at a public or private degree-granting postsecondary institution if all of the following conditions are met:

(a) The pupil has earned sufficient credits so that he or she is in grade 12 and needs 5 or fewer credits to achieve the total required for high school graduation, but he or she has not yet completed those graduation requirements.

(b) The pupil is enrolled in the district for at least the number of credits he or she needs to fulfill the graduation requirements of the district and is also enrolled in the postsecondary institution for a maximum of 1 course per term or semester of the postsecondary institution during the district's regular academic year.

(2) A district shall pay tuition and fees under this section only for a course that is not offered by the district.

(3) Upon determining by October 15, 1991 for the 1991-92 state fiscal year and by August 1 of a succeeding state fiscal year that a pupil is eligible for tuition/fee support under the criteria specified in this section, a district shall immediately provide to the dually-enrolled pupil a letter indicating his or her eligibility.

(4) A postsecondary institution enrolling a pupil described in this section shall transmit to the district a bill detailing the tuition and fees for the dual-enrollment course of the dually-enrolled pupil. A district that receives membership aid under section 21(1) shall pay the postsecondary institution an amount to be applied to the pupil's tuition and fees that represents the same proportion of the amount the district receives per pupil under section 21(1) per semester as the ratio of the time the pupil is attending classes at the postsecondary institution compared to the total time the pupil is attending classes in the district and at the postsecondary institution. A district that does not receive aid under section 21(1) shall pay the postsecondary institution an amount to be applied to the pupil's tuition and fees that represents the same proportion of the amount the district receives per pupil under this act per semester as the ratio of the time the pupil is attending classes at the postsecondary institution compared to the total time the pupil is attending classes in the district and at the postsecondary institution. The pupil is responsible for payment of the remainder of the tuition and fees associated with his or her dual enrollment.

(5) Upon completion of the district's high school graduation requirements, a pupil is no longer eligible for tuition/fee support under this section.

(6) If a dually-enrolled pupil does not complete the postsecondary course, the postsecondary institution shall forward to the district any funds that are refundable due to noncompletion of the course.

(7) The district shall submit to the department by July 15 of each state fiscal year a report on the dollars expended for dually-enrolled pupils and the number of dually-enrolled pupils. The department shall prepare a summary annual report based on the information received from districts under this subsection by September 30 of each state fiscal year.

Sec. 22. (1) A district formed after January 1 of a fiscal year by the consolidation or annexation of 2 or more districts or the attachment of a total district to another district is entitled to receive in the next succeeding fiscal year the same total allocation under section 21(1) that the individual districts that make up the new district would have been entitled to receive as separate districts.

(2) From the money appropriated in section 11, there is allocated an amount not to exceed \$40,000.00 for 1991-92 for districts formed by the consolidation or annexation of 2 or more districts or the attachment of a total district to another district after November 1, 1982. In order to be eligible to receive reorganization payments, districts shall have been formed by the consolidation or annexation of 2 or more districts or the attachment of a total district to another district not later than the second Monday in June immediately preceding the fiscal year in which the payments are to be received. Payments to eligible reorganized districts shall be, in the first year of the reorganization, the sum of \$850.00 per pupil for each transferred pupil in membership on the pupil membership count day or tuition pupil as provided for in section 111 in the school fiscal year immediately preceding the reorganization in the district contributing the least number of pupils to the reorganized district, \$600.00 per each such pupil in the second year of the reorganization, and \$350.00 per each such pupil in the third year of the reorganization. As an alternative an eligible reorganized district resulting from the merger of 3 or more total districts may elect a payment that shall be \$850.00 per pupil in the first year of the reorganization for each transferred pupil in membership on the pupil membership count date or tuition pupil as provided for in section 111 in the school fiscal year immediately preceding the reorganization in the districts other than the district contributing the largest number of pupils to the reorganized district, \$600.00 per each such pupil in the second year of the reorganization, and \$350.00 per each such pupil in the third year of the reorganization, except that payment shall not be made for more than 1,000 pupils to any 1 reorganized district under this alternative provision. Payments made to reorganized districts under this subsection shall not exceed 3 years.

Sec. 23a. (1) In order to receive funds under this act, each district that operates more than 1 school offering instruction at the same grade level shall establish a schools of choice planning committee not later than November 15, 1991. The schools of choice planning committee shall consist of representative parents, businesspersons, teachers, and building principals and other school administrators. At least 2/3 of the members of the schools of choice planning committee shall be parents who are not employees of the district.

(2) Not later than April 1, 1992, the schools of choice planning committee in each district shall develop and submit to the district board for approval an in-district schools of choice program that complies with subsection (8).

(3) In order to receive funds under this act, each district that operates more than 1 school offering instruction at the same grade level shall implement beginning in the 1992-93 school year an in-district schools of choice program based on its in-district schools of choice plan unless both of the following occur:

(a) At least 60 days before the district's last regularly scheduled school election or, for a fourth class or primary district, district annual meeting, before the beginning of the 1992-93 school year, the board of the district adopts a resolution exempting the district from implementing an in-district schools of choice program.

(b) At the last regularly scheduled school election or, for a fourth class or primary district, district annual meeting, before the beginning of the 1992-93 school year, a majority of the district's school electors voting at the election or meeting support the board's action by approving a ballot proposal exempting the district from implementing an in-district schools of choice program. The ballot proposal shall be substantially in the following form:

"Shall the _____ [insert name of district] school district be exempt from having schools of choice within the school district?

Yes []

No []".

(4) If the requirements under subsection (3) for an exemption from implementing an in-district schools of choice program in the 1992-93 school year cannot be met in a district described in subsection (3) because the district's last regularly scheduled school election or district annual meeting before the beginning of the 1992-93 school year occurs within 120 days after the effective date of this section, that district is not required to implement an in-district schools of choice program in the 1992-93 school year. However, in order to receive funds under this act, the district shall implement beginning in the 1993-94 school year an in-district schools of choice program based on its in-district schools of choice plan unless both of the following occur:

(a) At least 60 days before the district's last regularly scheduled school election or, for a fourth class or primary district, district annual meeting, before the beginning of the 1993-94 school year, the board of the district adopts a resolution exempting the district from implementing an in-district schools of choice program.

(b) At the last regularly scheduled school election or, for a fourth class or primary district, district annual meeting, before the beginning of the 1993-94 school year, a majority of the district's school electors voting at the

election or meeting support the board's action by approving a ballot proposal exempting the district from implementing an in-district schools of choice program. The ballot proposal shall be substantially in the following form:

"Shall the _____ [insert name of district] school district be exempt from having schools of choice within the school district?

Yes []

No []".

(5) After the 1992-93 school year, in order to receive funds under this act, a district that has implemented an in-district schools of choice program under subsection (3) or (4) or rescinded an exemption under subsection (6) shall offer the schools of choice program in each school year unless a majority of the district's school electors voting at a school election or, for a fourth class or primary district, district annual meeting, approve a ballot proposal exempting the district from offering an in-district schools of choice program. The proposal may be placed on the ballot by board resolution adopted at least 60 days before the school election or district annual meeting or by a petition signed by at least 10% of the district's school electors and submitted to the board at least 60 days before the school election or district annual meeting. The ballot proposal shall be in substantially the form specified in subsection (3)(b).

(6) An exemption from offering an in-district schools of choice program approved under subsection (3), (4), or (5) may be rescinded if a majority of the district's school electors voting at a school election or, for a fourth class or primary district, district annual meeting, approve a ballot proposal rescinding the exemption from offering an in-district schools of choice program. The proposal may be placed on the ballot by board resolution adopted at least 60 days before the school election or district annual meeting or by a petition signed by at least 10% of the district's school electors and submitted to the board at least 60 days before the school election or district annual meeting. The ballot proposal shall be substantially in the following form:

"Shall the previously approved exemption from having schools of choice within the _____ [insert name of district] school district be rescinded?

Yes []

No []".

(7) The question of exempting a district under subsection (5) from offering a schools of choice program or of rescinding an exemption under subsection (6) shall not be voted upon by the school electors of the district more than once in a 2-year period.

(8) An in-district schools of choice program shall include at least all of the following:

(a) A plan to ensure that the parent, legal guardian, or person in loco parentis of each school-aged child residing within the district is provided with both of the following:

(i) Adequate information about the schools of choice program to allow the parent, legal guardian, or person in loco parentis to make informed decisions about which school his or her child will attend.

(ii) Access to counseling about the schools of choice program.

(b) A plan to ensure that transportation to the school of choice within the district is provided to a pupil.

(c) A plan to ensure that each pupil has an equal opportunity for enrollment within the open enrollment availability provided in the school that his or her parent, legal guardian, or person in loco parentis chooses for him or her. The plan shall provide that, if the number of pupil applicants exceeds the number allowed by the district for a particular school, pupils will be selected to attend the school through a random selection process. However, if in 1990-91 a district operated 1 or more schools for which admission was based on testing or performance, such as a science or performing arts school, the district may continue to use such an admission process for that school or schools. The plan may give priority in placement in a school to a sibling of a pupil already enrolled in the school.

(d) A provision that if the district has joined an athletic association, the pupils and schools of the district will remain subject to the rules of that association.

(e) A plan to ensure that the district maintains all existing standards of racial and ethnic integration within the district.

(9) A district is not required to adopt a program under subsection (8) that would force pupils from neighborhood schools.

(10) To implement this section, the department shall do all of the following:

(a) Develop and provide to each district a guide to the criteria used in determining eligibility for additional transportation assistance for implementing an in-district schools of choice program.

(b) Provide technical assistance and administrative support to districts as requested.

(c) Disseminate information to districts, the public, and the legislature on the characteristics and outcomes of the various in-district schools of choice plans implemented under this section.

(d) Monitor all in-district schools of choice programs implemented under this section to ensure that they comply with the transportation requirements described in subdivision (a).

(e) Develop guidelines and recommendations for a possible transition to an intermediate district schools of choice program within the boundaries of an intermediate district.

(11) The state board may promulgate rules to implement this section.

(12) It is the intent of the legislature to provide in 1992-93 to a district that implements an in-district schools of choice program pursuant to this section a 20% increase in funding under section 71 as calculated under section 72 from the amount the district received in 1991-92 under section 71 as calculated under section 72.

Sec. 24. (1) A pupil under court jurisdiction who is placed in a private home or in a private or public institution located outside the district in which the pupil's parents or legal guardians reside may be counted as a resident of the district of attendance if other than the district of the pupil's parents or legal guardian. The pupil shall be counted by the district of attendance as 1-1/2 memberships. The total membership of these pupils shall be computed by adding the membership days attended by the pupils before April 1 of the current school year and dividing the total by the number of days in the school year of the district before April 1 of the current school year. Except as provided in subsection (2), the membership thus obtained shall be certified by the district to the department, which shall adjust the total membership of the district accordingly in determining the school aid to be paid during the 1991-92 and each succeeding fiscal year.

(2) In districts not receiving aid under section 21(1), the membership for these students shall be counted in membership in the intermediate district. For each pupil, the intermediate district in 1991-92 and each succeeding fiscal year shall receive under section 21(1) a membership aid gross allowance computed by averaging the actual membership aid gross allowances of the intermediate district's constituent districts weighted as to membership. The resulting membership aid shall be paid by the intermediate district to the district.

(3) Intermediate districts operating programs for children in homes operated by the juvenile division of the probate court under section 628 of the school code of 1976, being section 380.628 of the Michigan Compiled Laws, are allowed 1-1/2 memberships using the formula described in subsection (1) and shall receive membership aid in 1991-92 and each succeeding fiscal year as computed under subsection (2). Funds received under this section may be used to employ regular education personnel employed to meet the educational needs of these pupils.

(4) Special education pupils funded under section 53 shall not be counted under this section.

Sec. 45. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed \$2,000,000.00 in 1991-92 to provide grants to or contract with certain districts and intermediate districts for the provision of a school health education curriculum. Provision of the curriculum, such as the Michigan model or another comprehensive school health education curriculum, shall be in accordance with the health education goals established by the Michigan model for comprehensive school health education state steering committee. The state steering committee shall be comprised of a representative from each of the following offices and departments:

(a) The department of education.

(b) The department of mental health.

(c) The department of public health.

(d) The office of substance abuse services in the department of public health.

(e) The department of social services.

(f) The department of state police.

(2) Upon written or oral request, a pupil not less than 18 years of age or a parent or legal guardian of a pupil less than 18 years of age, within a reasonable period of time after the request is made, shall be informed of the content of a course in the health education curriculum and may examine textbooks and other classroom materials that are provided to the pupil or materials that are presented to the pupil in the classroom. This subsection does not require a school board to permit pupil or parental examination of test questions and answers, scoring keys, or other examination instruments or data used to administer an academic examination.

Sec. 74. In 1991-92 and each succeeding fiscal year, a state supported college or university or intermediate school district providing school bus driver safety instruction pursuant to section 305a of Act No. 300 of the Public Acts of 1949, as amended, being section 257.305a of the Michigan Compiled Laws, shall be granted an amount determined by the department not to exceed 75% of the actual cost of instruction and driver

compensation for each public or nonpublic school bus driver attending a course of instruction. For the purpose of computing compensation, the hourly rate allowed each school bus driver shall not exceed the hourly rate received for driving a school bus. Reimbursement compensating the driver during the course of instruction shall be made by the department to the college or university or intermediate school district providing the course of instruction.

Sec. 75. From the amount allocated in section 71, there shall be allocated in 1991-92 and each succeeding fiscal year the amount necessary to pay the reasonable costs of nonspecial education auxiliary services transportation provided pursuant to section 1323 of the school code of 1976, being section 380.1323 of the Michigan Compiled Laws. School districts funded under this section shall not receive funding under any other section of this act for nonspecial education auxiliary services transportation.

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. Beginning in 1991-92, not more than 15 membership pupils or 1% of the district's membership in the immediately preceding fiscal year or, for 1991-92 only, 80% of the district's membership counted under this subsection in slot-funded classes in the 1990-91 fiscal year, whichever is more, shall be counted in membership under this subsection in slot-funded classes in the district, and if 2 or more districts conduct slot-funded classes on a cooperative basis with each other, not more than 15 membership pupils or 1% of the sum of the membership in the constituent districts in the immediately preceding fiscal year or, for 1991-92 only, 80% of the district's membership counted under this subsection in slot-funded classes in the 1990-91 fiscal year, whichever is more, shall be counted in membership under this subsection in slot-funded classes in the cooperative program. For 1991-92 only, in a district that first offered slot-funded classes, either directly or indirectly, in July, August, or September of 1991, the district may count in membership under this subsection in 1991-92 in slot-funded classes a total equaling 10% of the district's membership in the 1990-91 fiscal year or 150 pupils, whichever is less. 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. A district or consortium of districts shall not receive membership credit under this subsection for pupils attending a community or junior college or 4-year institution of higher education. As used in this subsection, "slot-funded class" means a class that is now known as slot-funded under section 6(4).

(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, and up to 5 hours of tutorial assistance provided to a pupil to make up for an equal number of hours of excused absence by the pupil, as documented and reported by the district, 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 under section 105(2) or section 6(4), 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:

(a) For contracted programs offered by the district through a contract with a private entity, the adult education payment schedule shall be as follows:

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

(ii) 40% for enrollment of eligible pupils.

(iii) 20% for attainment of a high school diploma; for passage of the general education development (G.E.D.) test; for completion of the adult basic education objectives by achieving an eighth grade level in reading, English, or mathematics; or, for pupils counted in membership in a class known as a slot-funded class under section 6(4), completion of the class and demonstrated proficiency in the vocational skills to be learned in the class.

(iv) Not more than 40% for classroom attendance.

(b) For noncontracted adult education programs not covered by subdivision (c) or for contracted programs offered by the district through a contract with a public, nonprofit entity, the adult education payment schedule shall be as follows:

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

(ii) 70% for enrollment of eligible pupils.

(iii) 10% for attainment of a high school diploma; for passage of the general education development (G.E.D.) test; for completion of the adult basic education objectives by achieving an eighth grade level in reading, English, or mathematics; or, for pupils counted in membership in a class known as a slot-funded class under section 6(4), completion of the class and demonstrated proficiency in the vocational skills to be learned in the class.

(iv) Not more than 20% for classroom attendance.

(c) For 1991-92 only, for noncontracted adult education programs offered by a district whose 1990-91 total membership was less than 2,500 pupils, whose 1990-91 adult education membership comprised at least 40% of 1990-1991 total membership, and whose 1990-91 regular K-12 and special education membership exceeded its 1990-91 adult membership, the adult education payment schedule shall be as follows:

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

(ii) 80% for enrollment of eligible pupils.

(iii) 10% for attainment of a high school diploma; for passage of the general education development (G.E.D.) test; for completion of the adult basic education objectives by achieving an eighth grade level in reading, English, or mathematics; or, for pupils counted in membership in a class known as a slot-funded class under section 6(4), completion of the class and demonstrated proficiency in the vocational skills to be learned in the class.

(iv) 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 based on a percentage allowance for each percent of attendance of eligible pupils as follows: (a) For programs contracted with a private entity, 0.4% for each 1% of attendance, and (b) For noncontracted programs and programs contracted with a public nonprofit entity, 0.2% for each 1% of attendance. Rounding to the nearest whole percent may be used in determining percent of attendance.

Sec. 111. (1) Except as provided in section 113, a district having tuition pupils enrolled on the pupil membership count day of each year shall charge the district in which the tuition pupils reside the tuition rate computed under section 1401 of the school code of 1976, being section 380.1401 of the Michigan Compiled Laws, except tuition shall not be charged for adult part-time pupils. The resulting tuition rates shall be reduced by the gross per pupil membership guarantee provided under section 21(1), except that the following districts shall charge the full per capita operating cost determined under section 1401 of the school code of 1976 for tuition pupils other than special education pupils served in center programs:

(a) A district not receiving a membership allowance under section 21(1).

(b) A district that would not receive a membership allowance under section 21(1) if tuition pupils were not included in membership in the receiving district.

(c) A district enrolling pupils, other than special education pupils, who reside in a district that is legally liable for the payment of the tuition and levies a lower operating millage than the district enrolling the pupils.

(2) A district enrolling pupils who reside in a district that does not receive a membership allowance under section 21(1) shall charge the resident district the full per capita operating costs. This subdivision does not apply to pupils receiving 1/2 or less of their instruction in a district or districts other than their district of residence.

(3) A pupil for whom the full per capita operating cost, as determined under section 1401 of the school code of 1976, is charged as tuition under subsection (1) or (2) shall not be counted in membership in the receiving district for purposes of calculating state aid allocations under sections 21(1) and 143. A pupil for whom the full per capita operating cost, as determined under section 1401 of the school code of 1976, is paid by the pupil's district of residence under subsection (1) or (2) shall be counted in membership in the pupil's district of residence solely for purposes of calculating state aid allocations under sections 21(1) and 143.

(4) A district that counts pupils in membership pursuant to subsections (2) and (3), upon approval by the department, may count only the number of pupils necessary to obtain an allocation under section 21(1). In this instance, the educating district shall count all additional pupils.

(5) Special education tuition pupils enrolled in center programs in a district not receiving a net allocation under section 21(1) shall be counted in membership in the intermediate district to which the district is constituent, and the resulting membership aid shall be paid by the intermediate district to the receiving district and deducted from the tuition rates charged the sending district. In 1991-92 and each succeeding fiscal year, an additional allowance for nonpublic, nonresident pupils in part-time membership shall be made to the district receiving nonpublic, nonresident pupils in an amount equal to the difference between the per capita cost as determined under section 1401 of the school code of 1976 and the gross allowance calculated under section 21(1).

Sec. 116. In 1991-92 and each succeeding fiscal year, a district receiving aid under section 21(1) and having American Indian pupils in attendance, who reside within the district and upon a United States government

Indian reservation, shall be allowed in addition to the allowances provided by the other sections of this act an amount equal to the number of those pupils in attendance times 1/2 the tuition rate as computed under section 111 and under section 1401 of the school code of 1976, being section 380.1401 of the Michigan Compiled Laws.

Section 2. Sections 22 and 45 of Act No. 94 of the Public Acts of 1979, as amended, being sections 388.1622 and 388.1645 of the Michigan Compiled Laws, are repealed.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved

.....
Governor.