

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

**Introduced by Senators DeBeaussaert, Conroy, Gougeon, North, Bullard, Vaughn, V. Smith, Peters,
A. Smith, Young, Stallings, Byrum and Koivisto**

ENROLLED SENATE BILL No. 385

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 4, 5, 6, 504, 514, 605, 701, 1296, 1311, 1321, 1701, 1701a, 1711, 1723, 1724, 1751, 1756, 1757, and 1761 (MCL 380.4, 380.5, 380.6, 380.504, 380.514, 380.605, 380.701, 380.1296, 380.1311, 380.1321, 380.1701, 380.1701a, 380.1711, 380.1723, 380.1724, 380.1751, 380.1756, 380.1757, and 380.1761), section 5 as amended by 1995 PA 289, sections 504 and 1701a as amended and section 514 as added by 1994 PA 416, section 605 as amended by 1985 PA 86, section 1311 as amended by 1995 PA 250, section 1321 as amended by 1990 PA 163, and section 1724 as amended by 1994 PA 258.

The People of the State of Michigan enact:

Sec. 4. (1) "Educational media center" means a program operated by an intermediate school district and approved by the state board, which provides services to local school districts or constituent districts under section 671.

(2) "Intermediate school board" means the board of an intermediate school district.

(3) "Intermediate school district" means a corporate body established under part 7.

(4) "Intermediate school district election" means an election called by an intermediate school board and held on the date of the annual school elections of constituent districts or on a date determined by the intermediate school board under sections 661 and 662.

(5) "Intermediate school elector" means a person who is a school elector of a constituent district and who is registered in the city or township in which the person resides.

(6) "Intermediate superintendent" means the superintendent of an intermediate school district.

Sec. 5. (1) "Local act school district" or "special act school district" means a district governed by a special or local act or chapter of a local act. "Local school district" and "local school district board" as used in article 3 include local act school district and a local act school district board.

(2) "Membership" means the number of full-time equivalent pupils in a public school 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.

(3) "Nonpublic school" means a private, denominational, or parochial school.

(4) "Objectives" means measurable pupil academic skills and knowledge.

(5) "Person with disabilities" shall be defined by rules promulgated by the state board. Disability includes but is not limited to mental, physical, emotional, behavioral, sensory, and speech disabilities.

(6) "Public school" means a public elementary or secondary educational entity or agency that is established under this act, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, or by the department or state board. Public school also includes a laboratory school or other elementary or secondary school that is controlled and operated by a state public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(7) "Pupil membership count day" of a school district means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(8) "Reorganized intermediate school district" means an intermediate school district formed by consolidation or annexation of 2 or more intermediate school districts under sections 701 and 702.

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

Sec. 6. (1) "School district" or "local school district" means a general powers school district organized under this act, regardless of previous classification, or a school district of the first class.

(2) "School elector" means a person qualified as an elector under section 492 of the Michigan election law, 1954 PA 116, MCL 168.492, registered as provided in part 12, and resident of the school district, local act school district, or intermediate school district on or before the thirtieth day before the next ensuing annual or special school election.

(3) "School month" means a 4-week period of 5 days each unless otherwise specified in the teacher's contract.

(4) "Special education building and equipment" means a structure or portion of a structure or personal property accepted, leased, purchased, or otherwise acquired, prepared, or used for special education programs and services.

(5) "Special education personnel" means persons engaged in and having professional responsibility for the training, care, and education of persons with disabilities in special education programs and services including, but not limited to, teachers, aides, school social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, teachers of speech and language, instructional media-curriculum specialists, mobility specialists, teacher consultants, supervisors, and directors.

(6) "Special education programs and services" means educational and training services designed for persons with disabilities and operated by local school districts, local act school districts, intermediate school districts, the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, the department of social services, or a combination thereof, and ancillary professional services for persons with disabilities rendered by agencies approved by the state board. The programs shall include vocational training, but need not include academic programs of college or university level.

(7) "State approved nonpublic school" means a nonpublic school that complies with 1921 PA 302, MCL 388.551 to 388.558.

(8) "State board" means the state board of education unless clearly otherwise stated.

(9) "Department" means the department of education created and operating under sections 300 to 305 of the executive organization act of 1965, 1965 PA 380, MCL 16.400 to 16.405.

(10) "State school aid" means allotments from the general appropriating act for the purpose of aiding in the support of the public schools of the state.

(11) "The state school aid act of 1979" means 1979 PA 94, MCL 388.1601 to 388.1772.

Sec. 504. (1) A public school academy may be located in all or part of an existing public school building. A public school academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 502 and in the contract.

(2) A public school academy shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a person with disabilities, or any other basis that would be illegal if used by a school district. However, a public school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district.

(3) Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a resident of this state. Enrollment in the public school academy may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 502(2)(a) to (c) who meet the admission policy, except that admission to a public school academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 502(2)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a public school academy authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. If there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to attend using a random selection process. However, a public school academy may give enrollment priority to a sibling of a pupil enrolled in the public school academy. A public school academy shall allow any pupil who was enrolled in the public school academy in the immediately preceding school year to enroll in the public school academy in the appropriate grade unless the appropriate grade is not offered at that public school academy.

(4) A public school academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a public school academy may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

Sec. 514. (1) A public school academy may be located in all or part of an existing public school building. A public school academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 512 and in the contract.

(2) A public school academy shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a person with disabilities, or any other basis that would be illegal if used by a school district. However, a public school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district.

(3) Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a resident of this state. Enrollment in the public school academy may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 512(2)(a) to (c) who meet the admission policy, except that admission to a public school academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 512(2)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a public school academy authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. If there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to attend using a random selection process. However, a public school academy may give enrollment priority to a sibling of a pupil enrolled in the public school academy. A public school academy shall allow any pupil who was enrolled in the public school academy in the immediately preceding school year to enroll in the public school academy in the appropriate grade unless the appropriate grade is not offered at that public school academy.

(4) A public school academy shall comply with all state and federal law applicable to public schools concerning church-state issues.

(5) A public school academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a public school academy may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

(6) The educational goals and programs of, and curricula offered by, a public school academy shall be designed to fulfill at least 1 of the purposes of section 511(1).

Sec. 605. (1) If constituent districts of more than 1 intermediate school district are reorganized into a single school district, the reorganized school district shall be constituent to the intermediate school district designated by the board of the reorganized school district. If a decision is not reached within 30 days after the effective date of the reorganization of the constituent districts, the determination shall be made by the state board.

(2) A constituent district, by resolution of its board, may transfer and become constituent to another contiguous intermediate school district if approval is given by each intermediate school board affected. The intermediate school board shall take final action within 60 days after receiving a resolution. If an intermediate school district from which a constituent district wishes to transfer has fewer than 4,000 constituent district pupils and fails to take action or denies a transfer, the inaction or decision may be appealed to the state board using the procedures described in section 971 of

this act. If the intermediate school district to which transfer is proposed has adopted by referendum a program for financing special education programs for persons with disabilities, or has bonded indebtedness outstanding for special education building facilities, the registered school electors of the constituent district to be transferred shall vote on the acceptance of those sections and the assumption of the district's pro rata share of bonded indebtedness outstanding for special education facilities for persons with disabilities.

(3) If the intermediate school district to which transfer is proposed has established an area vocational-technical education program by referendum, or has bonded indebtedness outstanding for area vocational-technical education facilities, the registered school electors of the district to be transferred shall vote on the acceptance of those sections and the assumption of the district's pro rata share of bonded indebtedness outstanding for area vocational-technical education facilities.

(4) The transfer is effective only if the applicable issues relating to special education programs, area vocational-technical education programs, and bonded indebtedness for special education and area vocational-technical facilities are approved at an election in the constituent district proposing transfer at which all applicable issues are submitted and receive favorable majorities.

(5) The territory of a constituent district of an intermediate school district having bonded indebtedness for special education facilities or area vocational-technical education facilities which is transferred to another intermediate school district shall remain as a part of the intermediate school district from which transferred for the purpose of levying debt retirement taxes for the bonded indebtedness until the bonds are redeemed or sufficient funds are available in the debt retirement funds for that purpose. The transferred constituent district shall be a constituent district of the intermediate school district to which transferred for all other purposes.

Sec. 701. (1) Two or more adjoining intermediate school districts may combine to form a single intermediate school district when the reorganization is approved by a majority of the electors of each intermediate school district voting on the question in the annual elections of the constituent districts.

(2) The question of combining intermediate school districts may be submitted by a resolution of the intermediate school boards meeting in joint session.

(3) The question shall be submitted when petitions signed by a number of school electors of each intermediate school district equal to not less than 5% of the number of pupil memberships on the latest pupil membership count day of the combined constituent districts of the intermediate school district are filed with the secretary of 1 of the intermediate school boards. Within 30 days after receiving sufficient petitions, the secretary shall apply for approval to the state board. The secretary shall cause the question to be submitted at the next annual school election after the state board approves the merger.

(4) The ballots shall be furnished by each intermediate school board for its constituent districts and shall be in substantially the following form:

“Shall the following intermediate school districts be organized as a single intermediate school district?

(List names of intermediate school districts)

Yes ()

No ()”.

(5) If the consolidation is approved by a majority of the school electors voting on the question in each of the participating intermediate school districts, the reorganization shall become effective in the combined intermediate school districts 30 days after the annual election at which the question is submitted. The reorganized intermediate school district shall be a single intermediate school district subject to this part.

(6) The members of the intermediate school boards of the original intermediate school districts shall act as an interim board until a board of the combined intermediate school district is elected. The interim board shall possess all the powers and duties of an intermediate school board under this part. The person chosen by the interim intermediate school board as intermediate superintendent shall serve only until a successor is chosen by the elected intermediate school board. The secretary of the intermediate school board having the largest number of pupils in membership in its combined constituent districts at the time of reorganization shall call a meeting of the members of the interim intermediate school board for the purpose of organization within 15 days after the effective date of the reorganization. The secretary of the interim intermediate school board shall provide for the election of a board of the reorganized intermediate school district under section 617. At the first election there shall be elected 3 members of a board for 6 years, 2 for 4 years, and 2 for 2 years. Their successors shall be elected biennially on the first Monday of June for terms of 6 years. The time from the date of election to the next July 1 shall be considered 1 year.

(7) The reorganized intermediate school district shall operate as a single intermediate school district from the effective date of the reorganization. Within 10 days after the reorganization, all accounts of the reorganized intermediate school districts shall be audited in the manner established by the interim intermediate school board. The contracts of the intermediate superintendents in force on the effective date of reorganization shall continue in effect to time of their termination except as to position as intermediate superintendents.

(8) If, prior to reorganization of the intermediate school districts each of the combining intermediate school districts adopted special education programs by referendum pursuant to part 30 and approved the same annual property tax rates for the education of persons with disabilities, the special education programs and the annual property tax rates shall continue in effect in the reorganized intermediate school district.

Sec. 1296. The board of a school district that provides auxiliary services specified in this section to its resident pupils in the elementary and secondary grades shall provide the same auxiliary services on an equal basis to pupils in the elementary and secondary grades at nonpublic schools. The board may use state school aid to pay for the auxiliary services. The auxiliary services shall include health and nursing services and examinations; street crossing guards services; national defense education act testing services; teacher of speech and language services; school social work services; school psychological services; teacher consultant services for pupils with disabilities and other ancillary services for persons with disabilities; remedial reading; and other services determined by the legislature. Auxiliary services shall be provided under rules promulgated by the state board.

Sec. 1311. (1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is a person with disabilities, and the school district has not evaluated the pupil in accordance with rules of the state board to determine if the student is a person with disabilities, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

(2) If a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection (5). However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.

(b) The weapon was not knowingly possessed by the pupil.

(c) The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.

(d) The weapon was possessed by the pupil at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

(3) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, an individual expelled pursuant to subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to subsection (2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual expelled from a school district pursuant to subsection (2) is not placed in an alternative education program, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall be similar to those provided to homebound or hospitalized pupils under section 109 of the state school aid act of 1979, MCL 388.1709, and the services may be contracted for in the same manner as under that section. This subsection does not require a school district to expend more money for providing services for a pupil expelled pursuant to subsection (2) than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620.

(4) If a school board expels an individual pursuant to subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(5) The parent or legal guardian of an individual expelled pursuant to subsection (2) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition

another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

(a) For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 60 school days after the date of expulsion. For an individual who was enrolled in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time. For an individual who was in grade 6 or above at the time of expulsion, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may initiate a petition for reinstatement at any time after the expiration of 150 school days after the date of expulsion.

(b) An individual who was in grade 5 or below at the time of the expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion. An individual who was in grade 5 or below at the time of the expulsion and who has been expelled pursuant to subsection (2) for a reason other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of the expulsion. An individual who was in grade 6 or above at the time of the expulsion shall not be reinstated before the expiration of 180 school days after the date of expulsion.

(c) It is the responsibility of the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, of the individual to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by a parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual, a school board shall make available a form for a petition.

(d) Not later than 10 school days after receiving a petition for reinstatement under this subsection, a school board shall appoint a committee to review the petition and any supporting information submitted by the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, by the individual. The committee shall consist of 2 school board members, 1 school administrator, 1 teacher, and 1 parent of a pupil in the school district. During this time the superintendent of the school district may prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

(e) Not later than 10 school days after all members are appointed, the committee described in subdivision (d) shall review the petition and any supporting information and information provided by the school district and shall submit a recommendation to the school board on the issue of reinstatement. The recommendation shall be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation shall be based on consideration of all of the following factors:

(i) The extent to which reinstatement of the individual would create a risk of harm to pupils or school personnel.

(ii) The extent to which reinstatement of the individual would create a risk of school district or individual liability for the school board or school district personnel.

(iii) The age and maturity of the individual.

(iv) The individual's school record before the incident that caused the expulsion.

(v) The individual's attitude concerning the incident that caused the expulsion.

(vi) The individual's behavior since the expulsion and the prospects for remediation of the individual.

(vii) If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.

(f) Not later than the next regularly scheduled board meeting after receiving the recommendation of the committee under subdivision (e), a school board shall make a decision to unconditionally reinstate the individual, conditionally reinstate the individual, or deny reinstatement of the individual. The decision of the school board is final.

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

(6) A school board or school administrator that complies with subsection (2) is not liable for damages for expelling a pupil pursuant to subsection (2), and the authorizing body of a public school academy established under part 6a or part 6b is not liable for damages for expulsion of a pupil by the public school academy pursuant to subsection (2).

(7) The department shall develop and distribute to all school districts a form for a petition to be used under subsection (5).

(8) Subsections (2) to (7) do not diminish the due process rights under federal law of a pupil who has been determined to be eligible for special education programs and services.

(9) If a pupil expelled from a public school district pursuant to subsection (2) is enrolled by a public school sponsored alternative education program or a public school academy during the period of expulsion, the public school academy or the alternative education program shall immediately become eligible for the prorated share of either the public academy foundation allowance or the expelling school district's foundation allowance, whichever is higher.

(10) As used in this section:

(a) "Arson" means a felony violation of chapter X of the Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80.

(b) "Criminal sexual conduct" means a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(c) "Dangerous weapon" means that term as defined in section 1313.

(d) "Firearm" means that term as defined in section 921 of title 18 of the United States Code, 18 U.S.C. 921.

(e) "School board" means a school board, intermediate school board, or the board of directors of a public school academy established under part 6a or 6b.

(f) "School district" means a school district, a local act school district, an intermediate school district, or a public school academy established under part 6a or 6b.

(g) "Weapon free school zone" means that term as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

Sec. 1321. (1) Subject to the balance of this section, the board of a school district providing transportation for its resident pupils, other than pupils with disabilities transported under article 3 or other pupils who cannot safely walk to school, shall provide transportation for each resident public or nonpublic school pupil if all of the following requirements are met:

(a) The school district provides transportation for the elementary school level, middle or junior high school level, or high school level, as defined by the local school board, in which the pupil is enrolled.

(b) The pupil is a person for whom the school district is eligible to receive state school aid for transportation.

(c) The pupil is attending either the public or the nearest state approved nonpublic school in the school district to which the pupil is eligible to be admitted.

(2) Transportation provided under subsection (1) shall be without charge to the resident pupil, the parent, guardian, or person standing in loco parentis to the pupil.

(3) A school district is not required to transport or pay for transportation of a resident pupil living within 1-1/2 miles, by the nearest traveled route, to the public or state approved nonpublic school in which the pupil is enrolled. A school district is not required to transport or pay for the transportation of a resident pupil attending a nonpublic school who lives in an area less than 1-1/2 miles from a public school in which public school pupils are not transported, except that the school district is required to transport or pay for the transportation of the resident pupil from the public school within the area to the nonpublic school the pupil attends.

(4) A school district is not required to transport or pay for the transportation of resident pupils to state approved nonpublic schools located outside the district unless the school district transports some of its resident pupils, other than pupils with disabilities under article 3, to public schools located outside the district, in which case the school district shall transport or pay for the transportation of resident pupils attending a state approved nonpublic school at least to the distance of the public schools located outside the district to which the district transports resident pupils and in the same general direction.

Sec. 1701. The state board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with intermediate school boards, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every person with disabilities. The plan shall coordinate all special education programs and services.

(b) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with the state plan, to be approved by the state board.

(c) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.

Sec. 1701a. For the purposes of ensuring that a person with disabilities enrolled in a public school academy created under part 6a or 6b is provided with special education programs and services, the public school academy is considered to be a local school district under this article.

Sec. 1711. (1) The intermediate school board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with its constituent districts, a plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of each person with disabilities of whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the state board for its approval.

(b) Contract for the delivery of a special education program or service, in accordance with the intermediate school district plan in compliance with section 1701. Under the contract the intermediate school board may operate special education programs or services and furnish transportation services and room and board.

(c) Employ or engage special education personnel in accordance with the intermediate school district plan, and appoint a director of special education meeting the qualifications and requirements of the rules promulgated by the state board.

(d) Accept and use available funds or contributions from governmental or private sources for the purpose of providing special education programs and services consistent with this article.

(e) Lease, purchase, or otherwise acquire vehicles, sites, buildings, or portions thereof, and equip them for its special education staff, programs, and services.

(f) Maintain a record of each person with disabilities under 26 years of age, who is a resident of 1 of its constituent districts and who has not completed a normal course of study and graduated from high school, and the special education programs or services in which the person with disabilities is participating on the fourth Friday after Labor day and Friday before Memorial day. The sole basis for determining the local school district in which a person with disabilities is a resident shall be the rules promulgated by the state board notwithstanding the provisions of section 1148. The records shall be maintained in accordance with rules promulgated by the state board.

(g) Have the authority to place in appropriate special education programs or services a person with disabilities for whom a constituent district is required to provide special education programs or services under section 1751.

(h) Investigate special education programs and services operated or contracted for by the intermediate school board or constituent district boards and report in writing failures to comply with the provisions of a contract, statute, or rule governing the special education programs and services or with the intermediate school district plan, to the local school district board and to the state board.

(i) Operate the special education programs or services or contract for the delivery of special education programs or services by local school district boards, in accordance with section 1702, as if a local school district under section 1751. The contract shall provide for items stated in section 1751 and shall be approved by the state board. The intermediate school board shall contract for the transportation, or room and board, or both, or persons participating in the program or service as if a local school district board under sections 1756 and 1757.

(j) Receive the report of a parent or guardian or, with the consent of a parent or guardian, receive the report of a licensed physician, registered nurse, social worker, or school or other appropriate professional personnel whose training and relationship to persons with disabilities provide competence to judge same and who in good faith believes that a person under 26 years of age examined by the professional is or may be disabled, and immediately evaluate the person pursuant to rules promulgated by the state board. A person making or filing this report or a local school district board shall not incur liability to a person by reason of filing the report or seeking the evaluation, unless lack of good faith is proven.

(k) Evaluate pupils in accordance with section 1311.

(2) The intermediate school board may expend up to 10% of the annual budget but not to exceed \$12,500.00, for special education programs approved by the intermediate school board without having to secure the approval of the state board.

Sec. 1723. The ballot submitting the question of the adoption of sections 1722 to 1729 to the school electors of an intermediate school district shall be substantially in the following form:

“Shall the _____ (legal name of the intermediate school district), state of Michigan, come under sections 1722 to 1729 of the revised school code, which are designed to encourage the education of persons with disabilities, if the annual property tax levied for administration is limited to _____ mills?

Yes ()

No ()”.

Sec. 1724. Subject to section 1724a, an intermediate school board operating under sections 1722 to 1729 may direct that the question of increasing the millage limit on the annual property tax levied for special education be submitted to the school electors of the intermediate school district. The election shall be called and held in the manner provided in sections 661 and 662. The ballot shall be substantially in the following form:

“Shall the _____ mill limitation on the annual property tax previously approved by the electors of the _____, state of Michigan, for the education of persons with disabilities be increased by _____ mills?
Yes ()
No ()”.

Sec. 1751. (1) The board of a local school district shall provide special education programs and services designed to develop the maximum potential of each person with disabilities in its district on record under section 1711 for whom an appropriate educational or training program can be provided in accordance with the intermediate school district special education plan, in either of the following ways or a combination thereof:

(a) Operate the special education program or service.

(b) Contract with its intermediate school board, another intermediate school board, another local school district board, an adjacent school district board in a bordering state, the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, the family independence agency, or any combination thereof, for delivery of the special education programs or services, or with an agency approved by the state board for delivery of an ancillary professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

(2) A local school district contract for the provision of a special education program or service shall provide specifically for:

(a) Special education buildings, equipment, and personnel necessary for the operation of the subject program or service.

(b) Transportation or room and board, or both, for persons participating in the programs or services as required under sections 1756 and 1757.

(c) The contribution to be made by the sending local school district if the program or service is to be operated by another party to the contract. The contribution shall be in accordance with rules promulgated by the state board.

(d) Other matters which the parties deem appropriate.

(3) Each program or service operated or contracted for by a local school district shall be in accordance with the intermediate school district’s plan established pursuant to section 1711.

(4) A local school district may provide additional special education programs and services not included in, or required by, the intermediate school district plan.

(5) This section shall be construed to allow operation of programs by departments of state government without local school district contribution.

Sec. 1756. The board of a local school district shall provide by contract or agreement for the transportation of a person with disabilities who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district under section 1751, except for a person with disabilities in residence at facilities operated by the department of mental health or the family independence agency. The board of a school district may provide for weekend transportation of a person with disabilities in residence at the Michigan school for the blind and the Michigan school for the deaf.

Sec. 1757. The board of a local school district shall provide by contract or otherwise for the room and board of a person with disabilities who would otherwise be unable to participate in an appropriate special education program or service operated or contracted for by the local school district board pursuant to section 1751, except those operated by the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, or the family independence agency.

Sec. 1761. The board of a local school district shall not solicit nor seek reimbursement from a person with disabilities or person otherwise liable for the care of the person with disabilities for cost of a special education program or service attributable to the expense for room and board. The board of a local school district shall have the right to reimbursement for room and board in an amount which may be paid reasonably by the person in accordance with rules promulgated by the state board.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Maya Rudolph

Clerk of the House of Representatives.

Approved _____

Governor.