

HOUSE BILL No. 4056

January 28, 2003, Introduced by Rep. Whitmer and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 105 and 105c (MCL 388.1705 and 388.1705c),
section 105 as amended by 2002 PA 191 and section 105c as amended
by 2000 PA 297.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (2) Except as otherwise provided in this section, a district
7 shall determine whether or not it will accept applications for
8 enrollment by nonresident applicants residing within the same
9 intermediate district for the next school year. If the district

1 determines to accept applications for enrollment of a number of
2 nonresidents, beyond those entitled to preference under this
3 section, the district shall use the following procedures for
4 accepting applications from and enrolling nonresidents:

5 (a) The district shall publish the grades, schools, and
6 special programs, if any, for which enrollment may be available
7 to, and for which applications will be accepted from, nonresident
8 applicants residing within the same intermediate district.

9 (b) If the district has a limited number of positions
10 available for nonresidents residing within the same intermediate
11 district in a grade, school, or program, all of the following
12 apply to accepting applications for and enrollment of
13 nonresidents in that grade, school, or program:

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

16 (A) Provide notice to the general public that applications
17 will be taken for a 15-day period from nonresidents residing
18 within the same intermediate district for enrollment in that
19 grade, school, or program. The notice shall identify the 15-day
20 period and the place and manner for submitting applications.

21 (B) During the application period under sub-subparagraph (A),
22 accept applications from nonresidents residing within the same
23 intermediate district for enrollment in that grade, school, or
24 program.

25 (C) Within 15 days after the end of the application period
26 under sub-subparagraph (A), using the procedures and preferences
27 required under this section, determine which nonresident

1 applicants will be allowed to enroll in that grade, school, or
2 program, using the random draw system required under
3 subsection (13) as necessary, and notify the parent or legal
4 guardian of each nonresident applicant of whether or not the
5 applicant may enroll in the district. The notification to
6 parents or legal guardians of nonresident applicants accepted for
7 enrollment shall contain notification of the date by which the
8 applicant must enroll in the district and procedures for
9 enrollment.

10 (ii) Beginning on the third Monday in August and not later
11 than the ~~end of the first week of school~~ **pupil membership count**
12 **day**, if any positions become available in a grade, school, or
13 program due to accepted applicants failing to enroll or to more
14 positions being added, the district may enroll nonresident
15 applicants from the waiting list maintained under subsection
16 (13), offering enrollment in the order that applicants appear on
17 the waiting list. If there are still positions available after
18 enrolling all applicants from the waiting list who desire to
19 enroll, the district may not fill those positions until the
20 second semester enrollment under subsection (3), as provided
21 under that subsection, or until the next school year.

22 (c) For a grade, school, or program that has an unlimited
23 number of positions available for nonresidents residing within
24 the same intermediate district, all of the following apply to
25 enrollment of nonresidents in that grade, school, or program:

26 (i) The district may accept applications for enrollment in
27 that grade, school, or program, and may enroll nonresidents

1 residing within the same intermediate district in that grade,
2 school, or program, until the ~~end of the first week of school~~
3 **pupil membership count day**. The district shall provide notice to
4 the general public of the place and manner for submitting
5 applications and, if the district has a limited application
6 period, the notice shall include the dates of the application
7 period. The application period shall be at least a 15-day period
8 **and shall not end before the pupil membership count day**.

9 (ii) ~~Not later than the end of the first week of school,~~
10 ~~the~~ **The** district shall notify the parent or legal guardian of
11 each nonresident applicant who is accepted for enrollment that
12 the applicant has been accepted for enrollment in the grade,
13 school, or program and of the date by which the applicant must
14 enroll in the district and the procedures for enrollment.

15 (3) If a district determines during the first semester of a
16 school year that it has positions available for enrollment of a
17 number of nonresidents residing within the same intermediate
18 district, beyond those entitled to preference under this section,
19 for the second semester of the school year, the district may
20 accept applications from and enroll nonresidents residing within
21 the same intermediate district for the second semester using the
22 following procedures:

23 (a) Not later than 2 weeks before the end of the first
24 semester, the district shall publish the grades, schools, and
25 special programs, if any, for which enrollment for the second
26 semester may be available to, and for which applications will be
27 accepted from, nonresident applicants residing within the same

1 intermediate district.

2 (b) During the last 2 weeks of the first semester, the
3 district shall accept applications from nonresidents residing
4 within the same intermediate district for enrollment for the
5 second semester in the available grades, schools, and programs.

6 (c) By the beginning of the second semester, using the
7 procedures and preferences required under this section, the
8 district shall determine which nonresident applicants will be
9 allowed to enroll in the district for the second semester and
10 notify the parent or legal guardian of each nonresident applicant
11 residing within the same intermediate district of whether or not
12 the applicant may enroll in the district. The notification to
13 parents or legal guardians of nonresident applicants accepted for
14 enrollment shall contain notification of the date by which the
15 applicant must enroll in the district and procedures for
16 enrollment.

17 (4) If deadlines similar to those described in subsection (2)
18 or (3) have been established in an intermediate district, and if
19 those deadlines are not later than the deadlines under
20 subsection (2) or (3), the districts within the intermediate
21 district may use those deadlines.

22 (5) A district offering to enroll nonresident applicants
23 residing within the same intermediate district may limit the
24 number of nonresident pupils it accepts in a grade, school, or
25 program, at its discretion, and may use that limit as the reason
26 for refusal to enroll an applicant.

27 (6) A nonresident applicant residing within the same

1 intermediate district shall not be granted or refused enrollment
2 based on intellectual, academic, artistic, or other ability,
3 talent, or accomplishment, or lack thereof, or based on a mental
4 or physical disability, except that a district may refuse to
5 admit a nonresident applicant if the applicant does not meet the
6 same criteria, other than residence, that an applicant who is a
7 resident of the district must meet to be accepted for enrollment
8 in a grade or a specialized, magnet, or intra-district choice
9 school or program to which the applicant applies.

10 (7) A nonresident applicant residing within the same
11 intermediate district shall not be granted or refused enrollment
12 based on age, except that a district may refuse to admit a
13 nonresident applicant applying for a program that is not
14 appropriate for the age of the applicant.

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

21 (9) A district may refuse to enroll a nonresident applicant
22 if the applicant is, or has been within the preceding 2 years,
23 suspended from another school or if the applicant has ever been
24 expelled from another school.

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

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

5 (11) A district shall give preference for enrollment under
6 this section over all other nonresident applicants residing
7 within the same intermediate district to other school-age
8 children who reside in the same household as a pupil described in
9 subsection (10).

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

19 (13) If the number of qualified nonresident applicants
20 eligible for acceptance in a school, grade, or program does not
21 exceed the positions available for nonresident pupils in the
22 school, grade, or program, the school district shall accept for
23 enrollment all of the qualified nonresident applicants eligible
24 for acceptance. If the number of qualified nonresident
25 applicants residing within the same intermediate district
26 eligible for acceptance exceeds the positions available in a
27 grade, school, or program in a district for nonresident pupils,

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

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

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

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

27 ~~(17) If the total number of pupils enrolled and counted in~~

~~1 membership in a district for 2001-2002 is less than 90% of the
2 total number of pupils residing in the district who are enrolled
3 and counted in membership in either that district or 1 or more
4 other districts for 2001-2002, the total amount of money
5 allocated to that district for 2001-2002 under sections 22a and
6 22b shall be adjusted so that the district receives a total
7 allocation under those sections equal to the amount the district
8 would receive under those sections if exactly 90% of the pupils
9 residing in the district who are enrolled and counted in either
10 that district or 1 or more other districts were enrolled and
11 counted in membership in that district.~~

12 (17) ~~—(18)—~~ Beginning in 2002-2003, if the total number of
13 pupils enrolled and counted in membership in a district for a
14 fiscal year is less than 90% of the sum of the total number of
15 pupils residing in the district who are enrolled and counted in
16 membership for the fiscal year in that district plus the total
17 number of pupils residing in that district who are enrolled and
18 counted in membership for the fiscal year in 1 or more other
19 districts under this section or section 105c, the department
20 shall calculate the total amount of money that would be allocated
21 to that district for the fiscal year under sections 22a and 22b
22 if exactly 90% of the sum of the total number of pupils residing
23 in the district who are enrolled and counted in membership for
24 the fiscal year in that district plus the total number of pupils
25 residing in that district who are enrolled and counted in
26 membership for the fiscal year in 1 or more other districts under
27 this section or section 105c were enrolled and counted in

1 membership in that district for the fiscal year. The department
2 shall use this calculation to calculate a payment under
3 subsection ~~-(19)-~~ (18).

4 (18) ~~-(19)-~~ Subject to subsection ~~-(20)-~~ (19), beginning in
5 2002-2003, the department shall make a payment to a district
6 described in subsection ~~-(18)-~~ (17) in an amount equal to a
7 percentage of the difference between the total amount of money
8 the district would receive under sections 22a and 22b for the
9 particular fiscal year as otherwise calculated under this act and
10 the amount calculated under subsection ~~-(18)-~~ (17). This
11 percentage is as follows:

12 (a) For 2002-2003, 75%.

13 (b) For 2003-2004, 50%.

14 (c) For 2004-2005, 25%.

15 (d) For 2005-2006 and succeeding fiscal years, 0%.

16 (19) ~~-(20)-~~ A district is not eligible for a payment under
17 subsection ~~-(19)-~~ (18) if the district receives additional
18 funding for the applicable fiscal year due to the membership
19 calculation under section 6(4)(y).

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

24 (21) ~~-(22)-~~ A district that, pursuant to this section,
25 enrolls a nonresident pupil who is eligible for special education
26 programs and services according to statute or rule, or who is a
27 child with disabilities, as defined under the individuals with

1 disabilities education act, title VI of Public Law 91-230, shall
2 be considered to be the resident district of the pupil for the
3 purpose of providing the pupil with a free appropriate public
4 education. Consistent with state and federal law, that district
5 is responsible for developing and implementing an individualized
6 education plan annually for a nonresident pupil described in this
7 subsection.

8 **(22)** ~~—(23)—~~ If a district does not comply with this section,
9 the district forfeits 5% of the total state school aid allocation
10 to the district under this act.

11 **(23)** ~~—(24)—~~ Upon application by a district, the
12 superintendent may grant a waiver for the district from a
13 specific requirement under this section for not more than 1
14 year.

15 Sec. 105c. (1) In order to avoid a penalty under this
16 section, and in order to count a nonresident pupil residing in a
17 district located in a contiguous intermediate district in
18 membership without the approval of the pupil's district of
19 residence, a district shall comply with this section.

20 (2) Except as otherwise provided in this section, a district
21 shall determine whether or not it will accept applications for
22 enrollment by nonresident applicants residing in a district
23 located in a contiguous intermediate district for the next school
24 year. If the district determines to accept applications for
25 enrollment of a number of nonresidents under this section, beyond
26 those entitled to preference under this section, the district
27 shall use the following procedures for accepting applications

1 from and enrolling nonresidents under this section:

2 (a) The district shall publish the grades, schools, and
3 special programs, if any, for which enrollment may be available
4 to, and for which applications will be accepted from, nonresident
5 applicants residing in a district located in a contiguous
6 intermediate district.

7 (b) If the district has a limited number of positions
8 available for nonresidents residing in a district located in a
9 contiguous intermediate district in a grade, school, or program,
10 all of the following apply to accepting applications for and
11 enrollment of nonresidents under this section in that grade,
12 school, or program:

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

15 (A) Provide notice to the general public that applications
16 will be taken for a 15-day period from nonresidents residing in a
17 district located in a contiguous intermediate district for
18 enrollment in that grade, school, or program. The notice shall
19 identify the 15-day period and the place and manner for
20 submitting applications.

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

25 (C) Within 15 days after the end of the application period
26 under sub-subparagraph (A), using the procedures and preferences
27 required under this section, determine which nonresident

1 applicants will be allowed to enroll under this section in that
2 grade, school, or program, using the random draw system required
3 under subsection (13) as necessary, and notify the parent or
4 legal guardian of each nonresident applicant of whether or not
5 the applicant may enroll in the district. The notification to
6 parents or legal guardians of nonresident applicants accepted for
7 enrollment under this section shall contain notification of the
8 date by which the applicant must enroll in the district and
9 procedures for enrollment.

10 (ii) Beginning on the third Monday in August and not later
11 than the ~~end of the first week of school~~ **pupil membership count**
12 **day**, if any positions become available in a grade, school, or
13 program due to accepted applicants failing to enroll or to more
14 positions being added, the district may enroll nonresident
15 applicants from the waiting list maintained under subsection
16 (13), offering enrollment in the order that applicants appear on
17 the waiting list. If there are still positions available after
18 enrolling all applicants from the waiting list who desire to
19 enroll, the district may not fill those positions until the
20 second semester enrollment under subsection (3), as provided
21 under that subsection, or until the next school year.

22 (c) For a grade, school, or program that has an unlimited
23 number of positions available for nonresidents residing in a
24 district located in a contiguous intermediate district, all of
25 the following apply to enrollment of nonresidents in that grade,
26 school, or program under this section:

27 (i) The district may accept applications for enrollment in

1 that grade, school, or program, and may enroll nonresidents
2 residing in a district located in a contiguous intermediate
3 district in that grade, school, or program, until the ~~end of the~~
4 ~~first week of school~~ **pupil membership count day**. The district
5 shall provide notice to the general public of the place and
6 manner for submitting applications and, if the district has a
7 limited application period, the notice shall include the dates of
8 the application period. The application period shall be at least
9 a 15-day period **and shall not end before the pupil membership**
10 **count day**.

11 (ii) ~~Not later than the end of the first week of school,~~
12 ~~the~~ **The** district shall notify the parent or legal guardian of
13 each nonresident applicant who is accepted for enrollment under
14 this section that the applicant has been accepted for enrollment
15 in the grade, school, or program and of the date by which the
16 applicant must enroll in the district and the procedures for
17 enrollment.

18 (3) If a district determines during the first semester of a
19 school year that it has positions available for enrollment of a
20 number of nonresidents residing in a district located in a
21 contiguous intermediate district, beyond those entitled to
22 preference under this section, for the second semester of the
23 school year, the district may accept applications from and enroll
24 nonresidents residing in a district located in a contiguous
25 intermediate district for the second semester using the following
26 procedures:

27 (a) Not later than 2 weeks before the end of the first

1 semester, the district shall publish the grades, schools, and
2 special programs, if any, for which enrollment for the second
3 semester may be available to, and for which applications will be
4 accepted from, nonresident applicants residing in a district
5 located in a contiguous intermediate district.

6 (b) During the last 2 weeks of the first semester, the
7 district shall accept applications from nonresidents residing in
8 a district located in a contiguous intermediate district for
9 enrollment for the second semester in the available grades,
10 schools, and programs.

11 (c) By the beginning of the second semester, using the
12 procedures and preferences required under this section, the
13 district shall determine which nonresident applicants will be
14 allowed to enroll under this section in the district for the
15 second semester and notify the parent or legal guardian of each
16 nonresident applicant residing in a district located in a
17 contiguous intermediate district of whether or not the applicant
18 may enroll in the district. The notification to parents or legal
19 guardians of nonresident applicants accepted for enrollment shall
20 contain notification of the date by which the applicant must
21 enroll in the district and procedures for enrollment.

22 (4) If deadlines similar to those described in subsection (2)
23 or (3) have been established in an intermediate district, and if
24 those deadlines are not later than the deadlines under
25 subsection (2) or (3), the districts within the intermediate
26 district may use those deadlines.

27 (5) A district offering to enroll nonresident applicants

1 residing in a district located in a contiguous intermediate
2 district may limit the number of those nonresident pupils it
3 accepts in a grade, school, or program, at its discretion, and
4 may use that limit as the reason for refusal to enroll an
5 applicant under this section.

6 (6) A nonresident applicant residing in a district located in
7 a contiguous intermediate district shall not be granted or
8 refused enrollment based on intellectual, academic, artistic, or
9 other ability, talent, or accomplishment, or lack thereof, or
10 based on a mental or physical disability, except that a district
11 may refuse to admit a nonresident applicant under this section if
12 the applicant does not meet the same criteria, other than
13 residence, that an applicant who is a resident of the district
14 must meet to be accepted for enrollment in a grade or a
15 specialized, magnet, or intra-district choice school or program
16 to which the applicant applies.

17 (7) A nonresident applicant residing in a district located in
18 a contiguous intermediate district shall not be granted or
19 refused enrollment under this section based on age, except that a
20 district may refuse to admit a nonresident applicant applying for
21 a program that is not appropriate for the age of the applicant.

22 (8) A nonresident applicant residing in a district located in
23 a contiguous intermediate district shall not be granted or
24 refused enrollment under this section based upon religion, race,
25 color, national origin, sex, height, weight, marital status, or
26 athletic ability, or, generally, in violation of any state or
27 federal law prohibiting discrimination.

1 (9) A district may refuse to enroll a nonresident applicant
2 under this section if the applicant is, or has been within the
3 preceding 2 years, suspended from another school or if the
4 applicant has ever been expelled from another school.

5 (10) A district shall continue to allow a pupil who was
6 enrolled in and attended the district under this section in the
7 school year or semester immediately preceding the school year or
8 semester in question to enroll in the district until the pupil
9 graduates from high school. This subsection does not prohibit a
10 district from expelling a pupil described in this subsection for
11 disciplinary reasons.

12 (11) A district shall give preference for enrollment under
13 this section over all other nonresident applicants residing in a
14 district located in a contiguous intermediate district to other
15 school-age children who reside in the same household as a pupil
16 described in subsection (10).

17 (12) If a nonresident pupil was enrolled in and attending
18 school in a district as a nonresident pupil in the 1995-96 school
19 year and continues to be enrolled continuously each school year
20 in that district, the district shall allow that nonresident pupil
21 to continue to enroll in and attend school in the district until
22 high school graduation, without requiring the nonresident pupil
23 to apply for enrollment under this section. This subsection does
24 not prohibit a district from expelling a pupil described in this
25 subsection for disciplinary reasons.

26 (13) If the number of qualified nonresident applicants
27 eligible for acceptance under this section in a school, grade, or

1 program does not exceed the positions available for nonresident
2 pupils under this section in the school, grade, or program, the
3 school district shall accept for enrollment all of the qualified
4 nonresident applicants eligible for acceptance. If the number of
5 qualified nonresident applicants residing in a district located
6 in a contiguous intermediate district eligible for acceptance
7 under this section exceeds the positions available in a grade,
8 school, or program in a district for nonresident pupils, the
9 district shall use a random draw system, subject to the need to
10 abide by state and federal antidiscrimination laws and court
11 orders and subject to preferences allowed by this section. The
12 district shall develop and maintain a waiting list based on the
13 order in which nonresident applicants were drawn under this
14 random draw system.

15 (14) If a district, or the nonresident applicant, requests
16 the district in which a nonresident applicant resides to supply
17 information needed by the district for evaluating the applicant's
18 application for enrollment or for enrolling the applicant under
19 this section, the district of residence shall provide that
20 information on a timely basis.

21 (15) If a district is subject to a court-ordered
22 desegregation plan, and if the court issues an order prohibiting
23 pupils residing in that district from enrolling in another
24 district or prohibiting pupils residing in another district from
25 enrolling in that district, this section is subject to the court
26 order.

27 (16) This section does not require a district to provide

1 transportation for a nonresident pupil enrolled in the district
2 under this section or for a resident pupil enrolled in another
3 district under this section. However, at the time a nonresident
4 pupil enrolls in the district, a district shall provide to the
5 pupil's parent or legal guardian information on available
6 transportation to and from the school in which the pupil
7 enrolls.

8 (17) A district may participate in a cooperative education
9 program with 1 or more other districts or intermediate districts
10 whether or not the district enrolls any nonresidents pursuant to
11 this section.

12 (18) In order for a district or intermediate district to
13 enroll pursuant to this section a nonresident pupil who resides
14 in a district located in a contiguous intermediate district and
15 who is eligible for special education programs and services
16 according to statute or rule, or who is a child with
17 disabilities, as defined under the individuals with disabilities
18 education act, title VI of Public Law 91-230, the enrolling
19 district shall have a written agreement with the resident
20 district of the pupil for the purpose of providing the pupil with
21 a free appropriate public education. The written agreement shall
22 include, but is not limited to, an agreement on the
23 responsibility for the payment of the added costs of special
24 education programs and services for the pupil.

25 (19) If a district does not comply with this section, the
26 district forfeits 5% of the total state school aid allocation to
27 the district under this act.

1 (20) Upon application by a district, the superintendent may
2 grant a waiver for the district from a specific requirement under
3 this section for not more than 1 year.

4 (21) This section is repealed if the final decision of a
5 court of competent jurisdiction holds that any portion of this
6 section is unconstitutional, ineffective, invalid, or in
7 violation of federal law.

8 (22) As used in this section, "district located in a
9 contiguous intermediate district" means a district located in an
10 intermediate district that is contiguous to the intermediate
11 district in which a pupil's district of residence is located.