the fuel and purchase gas adjustment clauses mentioned in the statute represent two enumerated exceptions to the notice and hearing requirements of section 6a and that all other, albeit similar, clauses to cover any other variable expense are hereby excluded under the *expressio unius est exclusio alterius* doctrine. The legislature specifically mentioned that increases under fuel or purchase gas adjustment clauses would be exempt from the notice and hearing requirements of the statute, but did not provide for any general term in the statute to indicate that any other variable expenses could be so treated. Thus, it cannot be assumed that the legislature intended that purchase and interchange power expense, or any other variable expense, other than fuel or purchase gas, could be passed on to the rate payers without the requisite notice and hearing as guaranteed by 1939 PA 3, § 6a(1), *supra.*

The conclusion is therefore inescapable that the legislature did not authorize the Public Service Commission to permit an automatic flow-through of purchase and interchange power expense to the rate payer by way of an adjustment clause without prior notice and hearing. If the Public Service Commission is to adopt a clause in a rate schedule allowing purchase and interchange power expense, it may do so only after a clear mandate is obtained from the legislature.

FRANK J. KELLEY,
Attorney General.

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SCHOOL DISTRICTS: Auxiliary Services.

A board of education that provides street crossing guard services to resident children attending the public schools is required to provide street crossing guard services to resident and nonresident students attending nonpublic schools located within the public school district boundaries. A public school board is not required to provide these services outside the boundaries of the public school district.

Opinion No. 4842 December 9, 1974.

Dr. John W. Porter
Superintendent of Public Instruction
Department of Education
Lansing, Michigan

You have requested my opinion on a question which may be phrased as follows:

> Under § 622 of 1955 PA 269, added by 1965 PA 343, when a board of education provides street crossing guard services to resident children attending the public schools, is the board of education required to provide street crossing guard services to students attending nonpublic schools located within the public school district boundaries, irrespective of whether the nonpublic school students are residents or nonresidents of the public school district?

In 1955 PA 269, § 622, added by 1965 PA 343, MCLA 340.622; MSA 15.3622, the legislature has provided:

> "Whenever the board of education of a school district provides any of the auxiliary services specified in this section to any of its *resident children in attendance* in the elementary and high school grades, it shall provide the same auxiliary services on an equal basis to *school children in attendance* in the elementary and high school grades at non-public schools. *The board of education may use state school aid funds of the district to pay for such auxiliary services.* Such auxiliary services shall include health and nursing services and examinations; *street crossing guards services;* national defense education act testing services; speech correction services; visiting teacher services for delinquent and disturbed children; school diagnostician services for all mentally handicappd children; teacher counsellor services for physically handicapped children; teacher consultant services for mentally handicapped or emotionally disturbed children; remedial reading; and such other services as may be determined by the legislature. Such auxiliary services shall be provided in accordance with rules and regulations promulgated by the state board of education. . . ." (Emphasis added.)

By its plain terms, the statutory section quoted above, although containing an express reference to resident public school students, does not contain any similar language limiting auxiliary services to resident students attending nonpublic schools. Clearly, if the legislature had intended that only resident nonpublic school children be afforded auxiliary services, they would have so provided by inserting the word resident before that portion of the statute referring to "school children in attendance in the elementary and high school grades at non-public schools." If, as here, the language employed in a statute is plain and unambiguous, then courts must give effect to the plain meaning of the statute. *Big Bear Markets of Michigan, Inc* v *Liquor Control Commission,* 345 Mich 569, 574; 77 NW2d 135, 138 (1956).

In addition, pursuant to 1955 PA 269, § 622, added by 1965 PA 343, the State Board of Education has administrative rule-making authority. In the exercise of such authority, the State Board of Education has adopted the following administrative rule:

> "Rule 1. As used in section 622 and these rules:
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> • • •
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> "(d) 'In attendance in the elementary and high school grades at nonpublic schools' means that a public school district providing any of the services to its resident children in attendance within the district shall provide the same and equal services to nonpublic children *in attendance within the school district boundaries.*" (Emphasis added.) Administrative Code 1964-1965 AACS, R 340.291, p 3241.

This administrative rule plainly provides, in conformity with 1955 PA 269, § 622, added by 1965 PA 343, *supra,* that auxiliary services must be provided to students attending nonpublic schools within the public school district boundaries, irrespective of whether such students are residents or nonresidents of the public school district.

It should be observed that the boundaries of public school districts and nonpublic school systems are not necessarily coterminous. The legislature has provided, in 1955 PA 269, § 622, added by 1965 PA 343, *supra,* that school districts may use state school aid funds to pay for auxiliary services. State school aid funds paid to school districts are derived from state taxes paid by all of the people of Michigan. See Const 1963, art 9, § 11, and 1972 PA 258, as amended; MCLA 388.1101 *et seq.;* MSA 15.1919(501) *et seq.*

The Michigan Supreme Court has held that providing auxiliary services to nonpublic school children pursuant to 1955 PA 269, § 622, added by 1965 PA 343, *supra,* is constitutionally permissible. The Court, in reaching that conclusion characterized auxiliary services as general health, safety and welfare measures for Michigan's school children. *Traverse City School District* v *Attorney General,* 384 Mich 390, 417-421; 185 NW2d 9, 20-22 (1971).

In conclusion, it is the opinion of the Attorney General that, under 1955 PA 269, § 622, added by 1965 PA 343, *supra,* when a board of education provides street crossing guard services to resident children attending the public schools, it is required to provide street crossing guard services to both resident and nonresident students attending nonpublic schools located within the public school district boundaries. This statute, however, does not require a public school district to provide these services outside the boundaries of the public school district.

FRANK J. KELLEY,
Attorney General.

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CONSTITUTIONAL LAW: Statutes.

STATUTES: Effective date.

A statute enacted with an effective date prior to expiration of 90 days from the end of the session at which it was passed, but without having obtained the requisite vote to give it immediate effect, has no force and effect until 90 days after the end of the session.

Opinion No. 4856 December 13, 1974.

Mr. Robert R. Eldredge
Executive Secretary
Board of Pharmacy
Department of Licensing and Regulation
1033 South Washington Avenue
Lansing, Michigan 48926

You have requested my opinion as to the date upon which 1974 PA 155, an amendment to the pharmacy act, 1962 PA 151; MCLA 338.1101 *et seq.;* MSA 14.757(1) *et seq.,* will become effective. This amendment to the pharmacy act is popularly referred to as the "drug substitution bill." 1974 PA 155, § 2, provides as follows: