

HOUSE BILL No. 5272

November 6, 2003, Introduced by Reps. Hunter, Sheltroun, Adamini, Gillard, Elkins, Brown, Sak, Tobocman and Vagnozzi and referred to the Committee on Appropriations.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 6 (MCL 388.1606), as amended by 2003 PA 158.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) "Center program" means a program operated by a
2 district or intermediate district for special education pupils
3 from several districts in programs for the autistically impaired,
4 trainable mentally impaired, severely mentally impaired, severely
5 multiply impaired, hearing impaired, physically and otherwise
6 health impaired, and visually impaired. Programs for emotionally
7 impaired pupils housed in buildings that do not serve regular
8 education pupils also qualify. Unless otherwise approved by the
9 department, a center program either shall serve all constituent
10 districts within an intermediate district or shall serve several
11 districts with less than 50% of the pupils residing in the

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1 operating district. In addition, special education center
2 program pupils placed part-time in noncenter programs to comply
3 with the least restrictive environment provisions of section 612
4 of part B of the individuals with disabilities education act,
5 title VI of Public Law 91-230, 20 U.S.C. 1412, may be considered
6 center program pupils for pupil accounting purposes for the time
7 scheduled in either a center program or a noncenter program.

8 (2) "District and high school graduation rate" means the
9 annual completion and pupil dropout rate that is calculated by
10 the center pursuant to nationally recognized standards.

11 (3) "District and high school graduation report" means a
12 report of the number of pupils, excluding migrant and adult, in
13 the district for the immediately preceding school year, adjusted
14 for those pupils who have transferred into or out of the district
15 or transferred to alternative programs, who leave high school
16 with a diploma or other credential.

17 (4) "Membership", except as otherwise provided in this act,
18 means for a district, public school academy, university school,
19 or intermediate district the sum of the product of .8 times the
20 number of full-time equated pupils in grades K to 12 actually
21 enrolled and in regular daily attendance on the pupil membership
22 count day for the current school year, plus the product of .2
23 times the final audited count from the supplemental count day for
24 the immediately preceding school year. All pupil counts used in
25 this subsection are as determined by the department and
26 calculated by adding the number of pupils registered for
27 attendance plus pupils received by transfer and minus pupils lost

1 as defined by rules promulgated by the superintendent, and as
2 corrected by a subsequent department audit. The amount of the
3 foundation allowance for a pupil in membership is determined
4 under section 20. In making the calculation of membership, all
5 of the following, as applicable, apply to determining the
6 membership of a district, public school academy, university
7 school, or intermediate district:

8 (a) Except as otherwise provided in this subsection, and
9 pursuant to subsection (6), a pupil shall be counted in
10 membership in the pupil's educating district or districts. An
11 individual pupil shall not be counted for more than a total of
12 1.0 full-time equated membership.

13 (b) If a pupil is educated in a district other than the
14 pupil's district of residence, if the pupil is not being educated
15 as part of a cooperative education program, if the pupil's
16 district of residence does not give the educating district its
17 approval to count the pupil in membership in the educating
18 district, and if the pupil is not covered by an exception
19 specified in subsection (6) to the requirement that the educating
20 district must have the approval of the pupil's district of
21 residence to count the pupil in membership, the pupil shall not
22 be counted in membership in any district.

23 (c) A special education pupil educated by the intermediate
24 district shall be counted in membership in the intermediate
25 district.

26 (d) A pupil placed by a court or state agency in an
27 on-grounds program of a juvenile detention facility, a child

1 caring institution, or a mental health institution, or a pupil
2 funded under section 53a, shall be counted in membership in the
3 district or intermediate district approved by the department to
4 operate the program.

5 (e) A pupil enrolled in the Michigan schools for the deaf and
6 blind shall be counted in membership in the pupil's intermediate
7 district of residence.

8 (f) A pupil enrolled in a vocational education program
9 supported by a millage levied over an area larger than a single
10 district or in an area vocational-technical education program
11 established pursuant to section 690 of the revised school code,
12 MCL 380.690, shall be counted only in the pupil's district of
13 residence.

14 (g) A pupil enrolled in a university school shall be counted
15 in membership in the university school.

16 (h) A pupil enrolled in a public school academy shall be
17 counted in membership in the public school academy.

18 (i) For a new district, university school, or public school
19 academy beginning its operation after December 31, 1994,
20 membership for the first 2 full or partial fiscal years of
21 operation shall be determined as follows:

22 (i) If operations begin before the pupil membership count day
23 for the fiscal year, membership is the average number of
24 full-time equated pupils in grades K to 12 actually enrolled and
25 in regular daily attendance on the pupil membership count day for
26 the current school year and on the supplemental count day for the
27 current school year, as determined by the department and

1 calculated by adding the number of pupils registered for
2 attendance on the pupil membership count day plus pupils received
3 by transfer and minus pupils lost as defined by rules promulgated
4 by the superintendent, and as corrected by a subsequent
5 department audit, plus the final audited count from the
6 supplemental count day for the current school year, and dividing
7 that sum by 2.

8 (ii) If operations begin after the pupil membership count day
9 for the fiscal year and not later than the supplemental count day
10 for the fiscal year, membership is the final audited count of the
11 number of full-time equated pupils in grades K to 12 actually
12 enrolled and in regular daily attendance on the supplemental
13 count day for the current school year.

14 (j) If a district is the authorizing body for a public school
15 academy, then, in the first school year in which pupils are
16 counted in membership on the pupil membership count day in the
17 public school academy, the determination of the district's
18 membership shall exclude from the district's pupil count for the
19 immediately preceding supplemental count day any pupils who are
20 counted in the public school academy on that first pupil
21 membership count day who were also counted in the district on the
22 immediately preceding supplemental count day.

23 (k) In a district, public school academy, university school,
24 or intermediate district operating an extended school year
25 program approved by the superintendent, a pupil enrolled, but not
26 scheduled to be in regular daily attendance on a pupil membership
27 count day, shall be counted.

1 (l) Pupils to be counted in membership shall be not less than
2 5 years of age on December 1 and less than 20 years of age on
3 September 1 of the school year except a special education pupil
4 who is enrolled and receiving instruction in a special education
5 program or service approved by the department and not having a
6 high school diploma who is less than 26 years of age as of
7 September 1 of the current school year shall be counted in
8 membership.

9 (m) An individual who has obtained a high school diploma
10 shall not be counted in membership. An individual who has
11 obtained a general education development (G.E.D.) certificate
12 shall not be counted in membership. An individual participating
13 in a job training program funded under former section 107a or a
14 jobs program funded under former section 107b, administered by
15 the Michigan strategic fund or the department of career
16 development, or participating in any successor of either of those
17 2 programs, shall not be counted in membership.

18 (n) If a pupil counted in membership in a public school
19 academy is also educated by a district or intermediate district
20 as part of a cooperative education program, the pupil shall be
21 counted in membership only in the public school academy, and the
22 instructional time scheduled for the pupil in the district or
23 intermediate district shall be included in the full-time equated
24 membership determination under subdivision (q). However, for
25 pupils receiving instruction in both a public school academy and
26 in a district or intermediate district but not as a part of a
27 cooperative education program, the following apply:

1 (i) If the public school academy provides instruction for at
2 least 1/2 of the class hours specified in subdivision (q), the
3 public school academy shall receive as its prorated share of the
4 full-time equated membership for each of those pupils an amount
5 equal to 1 times the product of the hours of instruction the
6 public school academy provides divided by the number of hours
7 specified in subdivision (q) for full-time equivalency, and the
8 remainder of the full-time membership for each of those pupils
9 shall be allocated to the district or intermediate district
10 providing the remainder of the hours of instruction.

11 (ii) If the public school academy provides instruction for
12 less than 1/2 of the class hours specified in subdivision (q),
13 the district or intermediate district providing the remainder of
14 the hours of instruction shall receive as its prorated share of
15 the full-time equated membership for each of those pupils an
16 amount equal to 1 times the product of the hours of instruction
17 the district or intermediate district provides divided by the
18 number of hours specified in subdivision (q) for full-time
19 equivalency, and the remainder of the full-time membership for
20 each of those pupils shall be allocated to the public school
21 academy.

22 (o) An individual less than 16 years of age as of September 1
23 of the current school year who is being educated in an
24 alternative education program shall not be counted in membership
25 if there are also adult education participants being educated in
26 the same program or classroom.

27 (p) The department shall give a uniform interpretation of

1 full-time and part-time memberships.

2 (q) The number of class hours used to calculate full-time
3 equated memberships shall be consistent with section 101(3). In
4 determining full-time equated memberships for pupils who are
5 enrolled in a postsecondary institution, a pupil shall not be
6 considered to be less than a full-time equated pupil solely
7 because of the effect of his or her postsecondary enrollment,
8 including necessary travel time, on the number of class hours
9 provided by the district to the pupil.

10 (r) Full-time equated memberships for pupils in kindergarten
11 shall be determined by dividing the number of class hours
12 scheduled and provided per year per kindergarten pupil by a
13 number equal to 1/2 the number used for determining full-time
14 equated memberships for pupils in grades 1 to 12.

15 (s) For a district, university school, or public school
16 academy that has pupils enrolled in a grade level that was not
17 offered by the district, university school, or public school
18 academy in the immediately preceding school year, the number of
19 pupils enrolled in that grade level to be counted in membership
20 is the average of the number of those pupils enrolled and in
21 regular daily attendance on the pupil membership count day and
22 the supplemental count day of the current school year, as
23 determined by the department. Membership shall be calculated by
24 adding the number of pupils registered for attendance in that
25 grade level on the pupil membership count day plus pupils
26 received by transfer and minus pupils lost as defined by rules
27 promulgated by the superintendent, and as corrected by subsequent

1 department audit, plus the final audited count from the
2 supplemental count day for the current school year, and dividing
3 that sum by 2.

4 (t) A pupil enrolled in a cooperative education program may
5 be counted in membership in the pupil's district of residence
6 with the written approval of all parties to the cooperative
7 agreement.

8 (u) If, as a result of a disciplinary action, a district
9 determines through the district's alternative or disciplinary
10 education program that the best instructional placement for a
11 pupil is in the pupil's home, if that placement is authorized in
12 writing by the district superintendent and district alternative
13 or disciplinary education supervisor, and if the district
14 provides appropriate instruction as described in this subdivision
15 to the pupil at the pupil's home, the district may count the
16 pupil in membership on a pro rata basis, with the proration based
17 on the number of hours of instruction the district actually
18 provides to the pupil divided by the number of hours specified in
19 subdivision (q) for full-time equivalency. For the purposes of
20 this subdivision, a district shall be considered to be providing
21 appropriate instruction if all of the following are met:

22 (i) The district provides at least 2 nonconsecutive hours of
23 instruction per week to the pupil at the pupil's home under the
24 supervision of a certificated teacher.

25 (ii) The district provides instructional materials,
26 resources, and supplies, except computers, that are comparable to
27 those otherwise provided in the district's alternative education

1 program.

2 (iii) Course content is comparable to that in the district's
3 alternative education program.

4 (iv) Credit earned is awarded to the pupil and placed on the
5 pupil's transcript.

6 (v) A pupil enrolled in an alternative or disciplinary
7 education program described in section 25 shall be counted in
8 membership in the district or public school academy that expelled
9 the pupil.

10 (w) If a pupil was enrolled in a public school academy on the
11 pupil membership count day, if the public school academy's
12 contract with its authorizing body is revoked, and if the pupil
13 enrolls in a district within 45 days after the pupil membership
14 count day, the department shall adjust the district's pupil count
15 for the pupil membership count day to include the pupil in the
16 count.

17 (x) For a public school academy that has been in operation
18 for at least 2 years and that suspended operations for at least 1
19 semester and is resuming operations, membership is the sum of the
20 product of .8 times the number of full-time equated pupils in
21 grades K to 12 actually enrolled and in regular daily attendance
22 on the first pupil membership count day or supplemental count
23 day, whichever is first, occurring after operations resume, plus
24 the product of .2 times the final audited count from the most
25 recent pupil membership count day or supplemental count day that
26 occurred before suspending operations, as determined by the
27 superintendent.

1 (y) If a district's membership for a particular fiscal year,
2 as otherwise calculated under this subsection, would be less than
3 ~~1,550 pupils and the district has 4.5 or fewer pupils per square~~
4 ~~mile, as determined by the department,~~ **the district's membership**
5 **for the immediately preceding fiscal year, as otherwise**
6 **calculated under this section,** the district's membership shall be
7 considered to be the membership figure calculated under this
8 subdivision. ~~If a district educates and counts in its~~
9 ~~membership pupils in grades 9 to 12 who reside in a contiguous~~
10 ~~district that does not operate grades 9 to 12 and if 1 or both of~~
11 ~~the affected districts request the department to use the~~
12 ~~determination allowed under this sentence, the department shall~~
13 ~~include the square mileage of both districts in determining the~~
14 ~~number of pupils per square mile for each of the districts for~~
15 ~~the purposes of this subdivision.~~ The membership figure
16 calculated under this subdivision is the greater of the
17 following:

18 (i) The average of the district's membership for the
19 3-fiscal-year period ending with that fiscal year, calculated by
20 adding the district's actual membership for each of those 3
21 fiscal years, as otherwise calculated under this subsection, and
22 dividing the sum of those 3 membership figures by 3.

23 (ii) The district's actual membership for that fiscal year as
24 otherwise calculated under this subsection.

25 (z) If a public school academy that is not in its first or
26 second year of operation closes at the end of a school year and
27 does not reopen for the next school year, the department shall

1 adjust the membership count of the district in which a former
2 pupil of the public school academy enrolls and is in regular
3 daily attendance for the next school year to ensure that the
4 district receives the same amount of membership aid for the pupil
5 as if the pupil were counted in the district on the supplemental
6 count day of the preceding school year.

7 (5) "Public school academy" means a public school academy,
8 urban high school academy, or strict discipline academy operating
9 under the revised school code.

10 (6) "Pupil" means a person in membership in a public school.
11 A district must have the approval of the pupil's district of
12 residence to count the pupil in membership, except approval by
13 the pupil's district of residence shall not be required for any
14 of the following:

15 (a) A nonpublic part-time pupil enrolled in grades 1 to 12 in
16 accordance with section 166b.

17 (b) A pupil receiving 1/2 or less of his or her instruction
18 in a district other than the pupil's district of residence.

19 (c) A pupil enrolled in a public school academy or university
20 school.

21 (d) A pupil enrolled in a district other than the pupil's
22 district of residence under an intermediate district schools of
23 choice pilot program as described in section 91a or former
24 section 91 if the intermediate district and its constituent
25 districts have been exempted from section 105.

26 (e) A pupil enrolled in a district other than the pupil's
27 district of residence but within the same intermediate district

1 if the educating district enrolls nonresident pupils in
2 accordance with section 105.

3 (f) A pupil enrolled in a district other than the pupil's
4 district of residence if the pupil has been continuously enrolled
5 in the educating district since a school year in which the pupil
6 enrolled in the educating district under section 105 or 105c and
7 in which the educating district enrolled nonresident pupils in
8 accordance with section 105 or 105c.

9 (g) A pupil who has made an official written complaint or
10 whose parent or legal guardian has made an official written
11 complaint to law enforcement officials and to school officials of
12 the pupil's district of residence that the pupil has been the
13 victim of a criminal sexual assault or other serious assault, if
14 the official complaint either indicates that the assault occurred
15 at school or that the assault was committed by 1 or more other
16 pupils enrolled in the school the pupil would otherwise attend in
17 the district of residence or by an employee of the district of
18 residence. A person who intentionally makes a false report of a
19 crime to law enforcement officials for the purposes of this
20 subdivision is subject to section 411a of the Michigan penal
21 code, 1931 PA 328, MCL 750.411a, which provides criminal
22 penalties for that conduct. As used in this subdivision:

23 (i) "At school" means in a classroom, elsewhere on school
24 premises, on a school bus or other school-related vehicle, or at
25 a school-sponsored activity or event whether or not it is held on
26 school premises.

27 (ii) "Serious assault" means an act that constitutes a felony

1 violation of chapter XI of the Michigan penal code, 1931 PA 328,
2 MCL 750.81 to 750.90g, or that constitutes an assault and
3 infliction of serious or aggravated injury under section 81a of
4 the Michigan penal code, 1931 PA 328, MCL 750.81a.

5 (h) A pupil enrolled in a district located in a contiguous
6 intermediate district, as described in section 105c, if the
7 educating district enrolls those nonresident pupils in accordance
8 with section 105c.

9 (i) A pupil whose district of residence changed after the
10 pupil membership count day and before the supplemental count day
11 and who continues to be enrolled on the supplemental count day as
12 a nonresident in the district in which he or she was enrolled as
13 a resident on the pupil membership count day of the same school
14 year.

15 (j) A pupil enrolled in an alternative education program
16 operated by a district other than his or her district of
17 residence who meets 1 or more of the following:

18 (i) The pupil has been suspended or expelled from his or her
19 district of residence for any reason, including, but not limited
20 to, a suspension or expulsion under section 1310, 1311, or 1311a
21 of the revised school code, MCL 380.1310, 380.1311, and
22 380.1311a.

23 (ii) The pupil had previously dropped out of school.

24 (iii) The pupil is pregnant or is a parent.

25 (iv) The pupil has been referred to the program by a court.

26 (k) A pupil enrolled in the Michigan virtual high school, for
27 the pupil's enrollment in the Michigan virtual high school.

1 However, if a district that is not a first class district
2 educates pupils who reside in a first class district and if the
3 primary instructional site for those pupils is located within the
4 boundaries of the first class district, the educating district
5 must have the approval of the first class district to count those
6 pupils in membership. As used in this subsection, "first class
7 district" means a district organized as a school district of the
8 first class under the revised school code.

9 (7) "Pupil membership count day" of a district or
10 intermediate district means:

11 (a) Except as provided in subdivision (b), the fourth
12 Wednesday in September each school year.

13 (b) For a district or intermediate district maintaining
14 school during the entire school year, the following days:

15 (i) Fourth Wednesday in July.

16 (ii) Fourth Wednesday in September.

17 (iii) Second Wednesday in February.

18 (iv) Fourth Wednesday in April.

19 (8) "Pupils in grades K to 12 actually enrolled and in
20 regular daily attendance" means pupils in grades K to 12 in
21 attendance and receiving instruction in all classes for which
22 they are enrolled on the pupil membership count day or the
23 supplemental count day, as applicable. A pupil who is absent
24 from any of the classes in which the pupil is enrolled on the
25 pupil membership count day or supplemental count day and who does
26 not attend each of those classes during the 10 consecutive school
27 days immediately following the pupil membership count day or

1 supplemental count day, except for a pupil who has been excused
2 by the district, shall not be counted as 1.0 full-time equated
3 membership. In addition, a pupil who is excused from attendance
4 on the pupil membership count day or supplemental count day and
5 who fails to attend each of the classes in which the pupil is
6 enrolled within 30 calendar days after the pupil membership count
7 day or supplemental count day shall not be counted as 1.0
8 full-time equated membership. Pupils not counted as 1.0
9 full-time equated membership due to an absence from a class shall
10 be counted as a prorated membership for the classes the pupil
11 attended. For purposes of this subsection, "class" means a
12 period of time in 1 day when pupils and a certificated teacher or
13 legally qualified substitute teacher are together and instruction
14 is taking place.

15 (9) "Rule" means a rule promulgated pursuant to the
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
17 24.328.

18 (10) "The revised school code" means 1976 PA 451, MCL 380.1
19 to 380.1852.

20 (11) "School fiscal year" means a fiscal year that commences
21 July 1 and continues through June 30.

22 (12) "State board" means the state board of education.

23 (13) "Superintendent", unless the context clearly refers to a
24 district or intermediate district superintendent, means the
25 superintendent of public instruction described in section 3 of
26 article VIII of the state constitution of 1963.

27 (14) "Supplemental count day" means the day on which the

1 supplemental pupil count is conducted under section 6a.

2 (15) "Tuition pupil" means a pupil of school age attending
3 school in a district other than the pupil's district of residence
4 for whom tuition may be charged. Tuition pupil does not include
5 a pupil who is a special education pupil or a pupil described in
6 subsection (6)(d) to (k). A pupil's district of residence shall
7 not require a high school tuition pupil, as provided under
8 section 111, to attend another school district after the pupil
9 has been assigned to a school district.

10 (16) "State school aid fund" means the state school aid fund
11 established in section 11 of article IX of the state constitution
12 of 1963.

13 (17) "Taxable value" means the taxable value of property as
14 determined under section 27a of the general property tax act,
15 1893 PA 206, MCL 211.27a.

16 (18) "Textbook" means a book that is selected and approved by
17 the governing board of a district and that contains a
18 presentation of principles of a subject, or that is a literary
19 work relevant to the study of a subject required for the use of
20 classroom pupils, or another type of course material that forms
21 the basis of classroom instruction.

22 (19) "Total state aid" or "total state school aid" means the
23 total combined amount of all funds due to a district,
24 intermediate district, or other entity under all of the
25 provisions of this act.

26 (20) "University school" means an instructional program
27 operated by a public university under section 23 that meets the

1 requirements of section 23.