

SENATE BILL No. 1424

July 21, 2010, Introduced by Senator HUNTER and referred to the Committee on Education.

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 2009 PA 203.

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 from
3 several districts in programs for pupils with autism spectrum
4 disorder, pupils with severe cognitive impairment, pupils with
5 moderate cognitive impairment, pupils with severe multiple
6 impairments, pupils with hearing impairment, pupils with visual
7 impairment, and pupils with physical impairment or other health
8 impairment. Programs for pupils with emotional impairment housed in
9 buildings that do not serve regular education pupils also qualify.

1 Unless otherwise approved by the department, a center program
2 either shall serve all constituent districts within an intermediate
3 district or shall serve several districts with less than 50% of the
4 pupils residing in the operating district. In addition, special
5 education center program pupils placed part-time in noncenter
6 programs to comply with the least restrictive environment
7 provisions of section 612 of part B of the individuals with
8 disabilities education act, 20 USC 1412, may be considered center
9 program pupils for pupil accounting purposes for the time scheduled
10 in either a center program or a noncenter program.

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

14 (3) "District and high school graduation report" means a
15 report of the number of pupils, excluding adult participants, in
16 the district for the immediately preceding school year, adjusted
17 for those pupils who have transferred into or out of the district
18 or high school, who leave high school with a diploma or other
19 credential of equal status.

20 (4) "Membership", except as otherwise provided in this act,
21 means for a district, public school academy, university school, or
22 intermediate district the sum of the product of .75 times the
23 number of full-time equated pupils in grades K to 12 actually
24 enrolled and in regular daily attendance on the pupil membership
25 count day for the current school year, plus the product of .25
26 times the final audited count from the supplemental count day for
27 the immediately preceding school year. All pupil counts used in

1 this subsection are as determined by the department and calculated
2 by adding the number of pupils registered for attendance plus
3 pupils received by transfer and minus pupils lost as defined by
4 rules promulgated by the superintendent, and as corrected by a
5 subsequent department audit. For the purposes of this section and
6 section 6a, for a school of excellence that is a cyber school, as
7 defined in section 551 of the revised school code, MCL 380.551, and
8 is in compliance with section 553a of the revised school code, MCL
9 380.553a, a pupil's participation in the cyber school's educational
10 program is considered regular daily attendance. The amount of the
11 foundation allowance for a pupil in membership is determined under
12 section 20. In making the calculation of membership, all of the
13 following, as applicable, apply to determining the membership of a
14 district, public school academy, university school, or intermediate
15 district:

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

21 (b) If a pupil is educated in a district other than the
22 pupil's district of residence, if the pupil is not being educated
23 as part of a cooperative education program, if the pupil's district
24 of residence does not give the educating district its approval to
25 count the pupil in membership in the educating district, and if the
26 pupil is not covered by an exception specified in subsection (6) to
27 the requirement that the educating district must have the approval

1 of the pupil's district of residence to count the pupil in
2 membership, the pupil shall not be counted in membership in any
3 district.

4 (c) A special education pupil educated by the intermediate
5 district shall be counted in membership in the intermediate
6 district.

7 (d) A pupil placed by a court or state agency in an on-grounds
8 program of a juvenile detention facility, a child caring
9 institution, or a mental health institution, or a pupil funded
10 under section 53a, shall be counted in membership in the district
11 or intermediate district approved by the department to operate the
12 program.

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

16 (f) A pupil enrolled in a vocational education program
17 supported by a millage levied over an area larger than a single
18 district or in an area vocational-technical education program
19 established pursuant to section 690 of the revised school code, MCL
20 380.690, shall be counted only in the pupil's district of
21 residence.

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

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

26 (i) For a new district, university school, or public school
27 academy beginning its operation after December 31, 1994, membership

1 for the first 2 full or partial fiscal years of operation shall be
2 determined as follows:

3 (i) If operations begin before the pupil membership count day
4 for the fiscal year, membership is the average number of full-time
5 equated pupils in grades K to 12 actually enrolled and in regular
6 daily attendance on the pupil membership count day for the current
7 school year and on the supplemental count day for the current
8 school year, as determined by the department and calculated by
9 adding the number of pupils registered for attendance on the pupil
10 membership count day plus pupils received by transfer and minus
11 pupils lost as defined by rules promulgated by the superintendent,
12 and as corrected by a subsequent department audit, plus the final
13 audited count from the supplemental count day for the current
14 school year, and dividing that sum by 2.

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

21 (j) If a district is the authorizing body for a public school
22 academy, then, in the first school year in which pupils are counted
23 in membership on the pupil membership count day in the public
24 school academy, the determination of the district's membership
25 shall exclude from the district's pupil count for the immediately
26 preceding supplemental count day any pupils who are counted in the
27 public school academy on that first pupil membership count day who

1 were also counted in the district on the immediately preceding
2 supplemental count day.

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

8 (l) ~~Pupils~~ **UNTIL 2011-2012**, to be counted in membership **A PUPIL**
9 shall be ~~not less than~~ **AT LEAST** 5 years of age on December 1 and
10 less than 20 years of age on September 1 of the school year. ~~except~~
11 **BEGINNING WITH 2011-2012, TO BE COUNTED IN MEMBERSHIP A PUPIL SHALL**
12 **BE AT LEAST 5 YEARS OF AGE ON DECEMBER 31 OF THE SCHOOL YEAR AND**
13 **LESS THAN 20 YEARS OF AGE ON SEPTEMBER 1 OF THE SCHOOL YEAR.**
14 **HOWEVER**, a special education pupil who is enrolled and receiving
15 instruction in a special education program or service approved by
16 the department, ~~and not having~~ **WHO DOES NOT HAVE** a high school
17 diploma, **AND** who is less than 26 years of age as of September 1 of
18 the current school year shall be counted in membership.

19 (m) An individual who has obtained a high school diploma shall
20 not be counted in membership. An individual who has obtained a
21 general educational development (G.E.D.) certificate shall not be
22 counted in membership. An individual participating in a job
23 training program funded under former section 107a or a jobs program
24 funded under former section 107b, administered by the Michigan
25 strategic fund or the department of energy, labor, and economic
26 growth, or participating in any successor of either of those 2
27 programs, shall not be counted in membership.

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy unless a written agreement signed by all parties designates the party or parties in which the pupil shall be counted in membership, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

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

(ii) If the public school academy provides instruction for less than $1/2$ of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount

1 equal to 1 times the product of the hours of instruction the
2 district or intermediate district provides divided by the number of
3 hours specified in subdivision (q) for full-time equivalency, and
4 the remainder of the full-time membership for each of those pupils
5 shall be allocated to the public school academy.

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

11 (p) The department shall give a uniform interpretation of
12 full-time and part-time memberships.

13 (q) The number of class hours used to calculate full-time
14 equated memberships shall be consistent with section 101(3). In
15 determining full-time equated memberships for pupils who are
16 enrolled in a postsecondary institution, a pupil shall not be
17 considered to be less than a full-time equated pupil solely because
18 of the effect of his or her postsecondary enrollment, including
19 necessary travel time, on the number of class hours provided by the
20 district to the pupil.

21 (r) Except as otherwise provided in this subdivision, full-
22 time equated memberships for pupils in kindergarten shall be
23 determined by dividing the number of class hours scheduled and
24 provided per year per kindergarten pupil by a number equal to 1/2
25 the number used for determining full-time equated memberships for
26 pupils in grades 1 to 12.

27 (s) For a district, university school, or public school

1 academy that has pupils enrolled in a grade level that was not
2 offered by the district, university school, or public school
3 academy in the immediately preceding school year, the number of
4 pupils enrolled in that grade level to be counted in membership is
5 the average of the number of those pupils enrolled and in regular
6 daily attendance on the pupil membership count day and the
7 supplemental count day of the current school year, as determined by
8 the department. Membership shall be calculated by adding the number
9 of pupils registered for attendance in that grade level on the
10 pupil membership count day plus pupils received by transfer and
11 minus pupils lost as defined by rules promulgated by the
12 superintendent, and as corrected by subsequent department audit,
13 plus the final audited count from the supplemental count day for
14 the current school year, and dividing that sum by 2.

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

18 (u) If, as a result of a disciplinary action, a district
19 determines through the district's alternative or disciplinary
20 education program that the best instructional placement for a pupil
21 is in the pupil's home or otherwise apart from the general school
22 population, if that placement is authorized in writing by the
23 district superintendent and district alternative or disciplinary
24 education supervisor, and if the district provides appropriate
25 instruction as described in this subdivision to the pupil at the
26 pupil's home or otherwise apart from the general school population,
27 the district may count the pupil in membership on a pro rata basis,

1 with the proration based on the number of hours of instruction the
2 district actually provides to the pupil divided by the number of
3 hours specified in subdivision (q) for full-time equivalency. For
4 the purposes of this subdivision, a district shall be considered to
5 be providing appropriate instruction if all of the following are
6 met:

7 (i) The district provides at least 2 nonconsecutive hours of
8 instruction per week to the pupil at the pupil's home or otherwise
9 apart from the general school population under the supervision of a
10 certificated teacher.

11 (ii) The district provides instructional materials, resources,
12 and supplies, except computers, that are comparable to those
13 otherwise provided in the district's alternative education program.

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

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

18 (v) A pupil enrolled in an alternative or disciplinary
19 education program described in section 25 shall be counted in
20 membership in the district or public school academy that is
21 educating the pupil.

22 (w) If a pupil was enrolled in a public school academy on the
23 pupil membership count day, if the public school academy's contract
24 with its authorizing body is revoked or the public school academy
25 otherwise ceases to operate, and if the pupil enrolls in a district
26 within 45 days after the pupil membership count day, the department
27 shall adjust the district's pupil count for the pupil membership

1 count day to include the pupil in the count.

2 (x) For a public school academy that has been in operation for
3 at least 2 years and that suspended operations for at least 1
4 semester and is resuming operations, membership is the sum of the
5 product of .75 times the number of full-time equated pupils in
6 grades K to 12 actually enrolled and in regular daily attendance on
7 the first pupil membership count day or supplemental count day,
8 whichever is first, occurring after operations resume, plus the
9 product of .25 times the final audited count from the most recent
10 pupil membership count day or supplemental count day that occurred
11 before suspending operations, as determined by the superintendent.

12 (y) If a district's membership for a particular fiscal year,
13 as otherwise calculated under this subsection, would be less than
14 1,550 pupils and the district has 4.5 or fewer pupils per square
15 mile, as determined by the department, and, beginning in 2007-2008,
16 if the district does not receive funding under section 22d(2), the
17 district's membership shall be considered to be the membership
18 figure calculated under this subdivision. If a district educates
19 and counts in its membership pupils in grades 9 to 12 who reside in
20 a contiguous district that does not operate grades 9 to 12 and if 1
21 or both of the affected districts request the department to use the
22 determination allowed under this sentence, the department shall
23 include the square mileage of both districts in determining the
24 number of pupils per square mile for each of the districts for the
25 purposes of this subdivision. The membership figure calculated
26 under this subdivision is the greater of the following:

27 (i) The average of the district's membership for the 3-fiscal-

1 year period ending with that fiscal year, calculated by adding the
2 district's actual membership for each of those 3 fiscal years, as
3 otherwise calculated under this subsection, and dividing the sum of
4 those 3 membership figures by 3.

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

7 (z) If a public school academy that is not in its first or
8 second year of operation closes at the end of a school year and
9 does not reopen for the next school year, the department shall
10 adjust the membership count of the district in which a former pupil
11 of the public school academy enrolls and is in regular daily
12 attendance for the next school year to ensure that the district
13 receives the same amount of membership aid for the pupil as if the
14 pupil were counted in the district on the supplemental count day of
15 the preceding school year.

16 (aa) Full-time equated memberships for preprimary-aged special
17 education pupils who are not enrolled in kindergarten but are
18 enrolled in a classroom program under R 340.1754 of the Michigan
19 administrative code shall be determined by dividing the number of
20 class hours scheduled and provided per year by 450. Full-time
21 equated memberships for preprimary-aged special education pupils
22 who are not enrolled in kindergarten but are receiving nonclassroom
23 services under R 340.1755 of the Michigan administrative code shall
24 be determined by dividing the number of hours of service scheduled
25 and provided per year per pupil by 180.

26 (bb) A pupil of a district that begins its school year after
27 Labor day who is enrolled in an intermediate district program that

1 begins before Labor day shall not be considered to be less than a
2 full-time pupil solely due to instructional time scheduled but not
3 attended by the pupil before Labor day.

4 (cc) For the first year in which a pupil is counted in
5 membership on the pupil membership count day in a middle college
6 program described in section 64, the membership is the average of
7 the full-time equated membership on the pupil membership count day
8 and on the supplemental count day for the current school year, as
9 determined by the department. If a pupil was counted by the
10 operating district on the immediately preceding supplemental count
11 day, the pupil shall be excluded from the district's immediately
12 preceding supplemental count for purposes of determining the
13 district's membership.

14 (dd) A district that educates a pupil who attends a United
15 States Olympic education center may count the pupil in membership
16 regardless of whether or not the pupil is a resident of this state.

17 (ee) A pupil enrolled in a district other than the pupil's
18 district of residence pursuant to section 1148(2) of the revised
19 school code, MCL 380.1148, shall be counted in the educating
20 district.

21 (5) "Public school academy" means that term as defined in the
22 revised school code.

23 (6) "Pupil" means a person in membership in a public school. A
24 district must have the approval of the pupil's district of
25 residence to count the pupil in membership, except approval by the
26 pupil's district of residence is not required for any of the
27 following:

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

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

5 (c) A pupil enrolled in a public school academy or university
6 school.

7 (d) A pupil enrolled in a district other than the pupil's
8 district of residence under an intermediate district schools of
9 choice pilot program as described in section 91a or former section
10 91 if the intermediate district and its constituent districts have
11 been exempted from section 105.

12 (e) A pupil enrolled in a district other than the pupil's
13 district of residence if the pupil is enrolled in accordance with
14 section 105 or 105c.

15 (f) A pupil who has made an official written complaint or
16 whose parent or legal guardian has made an official written
17 complaint to law enforcement officials and to school officials of
18 the pupil's district of residence that the pupil has been the
19 victim of a criminal sexual assault or other serious assault, if
20 the official complaint either indicates that the assault occurred
21 at school or that the assault was committed by 1 or more other
22 pupils enrolled in the school the pupil would otherwise attend in
23 the district of residence or by an employee of the district of
24 residence. A person who intentionally makes a false report of a
25 crime to law enforcement officials for the purposes of this
26 subdivision is subject to section 411a of the Michigan penal code,
27 1931 PA 328, MCL 750.411a, which provides criminal penalties for

1 that conduct. As used in this subdivision:

2 (i) "At school" means in a classroom, elsewhere on school
3 premises, on a school bus or other school-related vehicle, or at a
4 school-sponsored activity or event whether or not it is held on
5 school premises.

6 (ii) "Serious assault" means an act that constitutes a felony
7 violation of chapter XI of the Michigan penal code, 1931 PA 328,
8 MCL 750.81 to 750.90g, or that constitutes an assault and
9 infliction of serious or aggravated injury under section 81a of the
10 Michigan penal code, 1931 PA 328, MCL 750.81a.

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

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

19 (i) The pupil has been suspended or expelled from his or her
20 district of residence for any reason, including, but not limited
21 to, a suspension or expulsion under section 1310, 1311, or 1311a of
22 the revised school code, MCL 380.1310, 380.1311, and 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 (v) The pupil is enrolled in an alternative or disciplinary
27 education program described in section 25.

1 (i) A pupil enrolled in the Michigan virtual high school, for
2 the pupil's enrollment in the Michigan virtual high school.

3 (j) A pupil who is the child of a person who is employed by
4 the district. As used in this subdivision, "child" includes an
5 adopted child, stepchild, or legal ward.

6 (k) An expelled pupil who has been denied reinstatement by the
7 expelling district and is reinstated by another school board under
8 section 1311 or 1311a of the revised school code, MCL 380.1311 and
9 380.1311a.

10 (l) A pupil enrolled in a district other than the pupil's
11 district of residence in a program described in section 64 if the
12 pupil's district of residence and the enrolling district are both
13 constituent districts of the same intermediate district.

14 (m) A pupil enrolled in a district other than the pupil's
15 district of residence who attends a United States Olympic education
16 center.

17 (n) A pupil enrolled in a district other than the pupil's
18 district of residence pursuant to section 1148(2) of the revised
19 school code, MCL 380.1148.

20 However, if a district educates pupils who reside in another
21 district and if the primary instructional site for those pupils is
22 established by the educating district after 2009-2010 and is
23 located within the boundaries of that other district, the educating
24 district must have the approval of that other district to count
25 those pupils in membership.

26 (7) "Pupil membership count day" of a district or intermediate
27 district means:

1 (a) Except as provided in subdivision (b), the fourth
2 Wednesday after Labor day each school year or, for a district or
3 building in which school is not in session on that Wednesday due to
4 conditions not within the control of school authorities, with the
5 approval of the superintendent, the immediately following day on
6 which school is in session in the district or building.

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

9 (i) Fourth Wednesday in July.

10 (ii) Fourth Wednesday after Labor day.

11 (iii) Second Wednesday in February.

12 (iv) Fourth Wednesday in April.

13 (8) "Pupils in grades K to 12 actually enrolled and in regular
14 daily attendance" means pupils in grades K to 12 in attendance and
15 receiving instruction in all classes for which they are enrolled on
16 the pupil membership count day or the supplemental count day, as
17 applicable. Except as otherwise provided in this subsection, a
18 pupil who is absent from any of the classes in which the pupil is
19 enrolled on the pupil membership count day or supplemental count
20 day and who does not attend each of those classes during the 10
21 consecutive school days immediately following the pupil membership
22 count day or supplemental count day, except for a pupil who has
23 been excused by the district, shall not be counted as 1.0 full-time
24 equated membership. A pupil who is excused from attendance on the
25 pupil membership count day or supplemental count day and who fails
26 to attend each of the classes in which the pupil is enrolled within
27 30 calendar days after the pupil membership count day or

1 supplemental count day shall not be counted as 1.0 full-time
2 equated membership. In addition, a pupil who was enrolled and in
3 attendance in a district, intermediate district, or public school
4 academy before the pupil membership count day or supplemental count
5 day of a particular year but was expelled or suspended on the pupil
6 membership count day or supplemental count day shall only be
7 counted as 1.0 full-time equated membership if the pupil resumed
8 attendance in the district, intermediate district, or public school
9 academy within 45 days after the pupil membership count day or
10 supplemental count day of that particular year. Pupils not counted
11 as 1.0 full-time equated membership due to an absence from a class
12 shall be counted as a prorated membership for the classes the pupil
13 attended. For purposes of this subsection, "class" means a period
14 of time in 1 day when pupils and a certificated teacher or legally
15 qualified substitute teacher are together and instruction is taking
16 place.

17 (9) "Rule" means a rule promulgated pursuant to the
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
19 24.328.

20 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
21 380.1852.

22 (11) "School district of the first class", "first class school
23 district", and "district of the first class", except in subsection
24 (6), mean a district that had at least 60,000 pupils in membership
25 for the immediately preceding fiscal year.

26 (12) "School fiscal year" means a fiscal year that commences
27 July 1 and continues through June 30.

1 (13) "State board" means the state board of education.

2 (14) "Superintendent", unless the context clearly refers to a
3 district or intermediate district superintendent, means the
4 superintendent of public instruction described in section 3 of
5 article VIII of the state constitution of 1963.

6 (15) "Supplemental count day" means the day on which the
7 supplemental pupil count is conducted under section 6a.

8 (16) "Tuition pupil" means a pupil of school age attending
9 school in a district other than the pupil's district of residence
10 for whom tuition may be charged. Tuition pupil does not include a
11 pupil who is a special education pupil or a pupil described in
12 subsection (6)(c) to (m). A pupil's district of residence shall not
13 require a high school tuition pupil, as provided under section 111,
14 to attend another school district after the pupil has been assigned
15 to a school district.

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

19 (18) "Taxable value" means the taxable value of property as
20 determined under section 27a of the general property tax act, 1893
21 PA 206, MCL 211.27a.

22 (19) "Textbook" means a book that is selected and approved by
23 the governing board of a district and that contains a presentation
24 of principles of a subject, or that is a literary work relevant to
25 the study of a subject required for the use of classroom pupils, or
26 another type of course material that forms the basis of classroom
27 instruction.

1 (20) "Total state aid" or "total state school aid" means the
2 total combined amount of all funds due to a district, intermediate
3 district, or other entity under all of the provisions of this act.

4 (21) "University school" means an instructional program
5 operated by a public university under section 23 that meets the
6 requirements of section 23.

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No. 1423

9 of the 95th Legislature is enacted into law.