

SENATE BILL No. 66

January 24, 2007, Introduced by Senator HUNTER 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 2006 PA 342.

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.
10 Unless otherwise approved by the department, a center program
11 either shall serve all constituent districts within an intermediate

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

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

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

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

1 pupils received by transfer and minus pupils lost as defined by
2 rules promulgated by the superintendent, and as corrected by a
3 subsequent department audit. The amount of the foundation allowance
4 for a pupil in membership is determined under section 20. In making
5 the calculation of membership, all of the following, as applicable,
6 apply to determining the membership of a district, public school
7 academy, university 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 membership
10 in the pupil's educating district or districts. An individual pupil
11 shall not be counted for more than a total of 1.0 full-time equated
12 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 district
16 of residence does not give the educating district its approval to
17 count the pupil in membership in the educating district, and if the
18 pupil is not covered by an exception specified in subsection (6) to
19 the requirement that the educating district must have the approval
20 of the pupil's district of residence to count the pupil in
21 membership, the pupil shall not be counted in membership in any
22 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 on-grounds
27 program of a juvenile detention facility, a child caring

1 institution, or a mental health institution, or a pupil funded
2 under section 53a, shall be counted in membership in the district
3 or intermediate district approved by the department to operate the
4 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, MCL
12 380.690, 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, membership
20 for the first 2 full or partial fiscal years of operation shall be
21 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 full-time
24 equated pupils in grades K to 12 actually enrolled and in regular
25 daily attendance on the pupil membership count day for the current
26 school year and on the supplemental count day for the current
27 school year, as determined by the department and calculated by

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

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

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

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

27 (l) Pupils to be counted in membership shall be not less than 5

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

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

16 (n) If a pupil counted in membership in a public school
17 academy is also educated by a district or intermediate district as
18 part of a cooperative education program, the pupil shall be counted
19 in membership only in the public school academy unless a written
20 agreement signed by all parties designates the party or parties in
21 which the pupil shall be counted in membership, 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 pupils
25 receiving instruction in both a public school academy and in a
26 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 public
6 school academy provides divided by the number of hours specified in
7 subdivision (q) for full-time equivalency, and the remainder of the
8 full-time membership for each of those pupils shall be allocated to
9 the district or intermediate district providing the remainder of
10 the hours of instruction.

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

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

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

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

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

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

1 the current school year, and dividing that sum by 2.

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

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

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

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

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

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

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

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

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

26 (y) If a district's membership for a particular fiscal year,
27 as otherwise calculated under this subsection, would be less than

1 ~~1,550 pupils and the district has 4.5 or fewer pupils per square~~
2 ~~mile, as determined by the department~~ **THE DISTRICT'S MEMBERSHIP FOR**
3 **THE IMMEDIATELY PRECEDING FISCAL YEAR, AS OTHERWISE CALCULATED**
4 **UNDER THIS SECTION,** and if the district does not receive funding
5 under section 22d, the district's membership shall be considered to
6 be the membership figure calculated under this subdivision. ~~If a~~
7 ~~district educates and counts in its membership pupils in grades 9~~
8 ~~to 12 who reside in a contiguous district that does not operate~~
9 ~~grades 9 to 12 and if 1 or both of the affected districts request~~
10 ~~the department to use the determination allowed under this~~
11 ~~sentence, the department shall include the square mileage of both~~
12 ~~districts in determining the number of pupils per square mile for~~
13 ~~each of the districts for the purposes of this subdivision.~~ The
14 membership figure calculated under this subdivision is the greater
15 of the following:

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

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

23 (z) If a public school academy that is not in its first or
24 second year of operation closes at the end of a school year and
25 does not reopen for the next school year, the department shall
26 adjust the membership count of the district in which a former pupil
27 of the public school academy enrolls and is in regular daily

1 attendance for the next school year to ensure that the district
2 receives the same amount of membership aid for the pupil as if the
3 pupil were counted in the district on the supplemental count day of
4 the preceding school year.

5
6 (aa) Full-time equated memberships for preprimary-aged special
7 education pupils who are not enrolled in kindergarten but are
8 enrolled in a classroom program under R 340.1754 of the Michigan
9 administrative code shall be determined by dividing the number of
10 class hours scheduled and provided per year by 450. Full-time
11 equated memberships for preprimary-aged special education pupils
12 who are not enrolled in kindergarten but are receiving nonclassroom
13 services under R 340.1755 of the Michigan administrative code shall
14 be determined by dividing the number of hours of service scheduled
15 and provided per year per pupil by 180.

16 (bb) Full-time equated memberships for pupils enrolled in a
17 public school academy that is wholly contained within a county
18 juvenile detention facility shall be considered to be the average
19 daily attendance of pupils enrolled in the public school academy
20 for the immediately preceding fiscal year, as reported by the
21 public school academy and audited by the intermediate district in
22 which the public school academy is located. However, if a public
23 school academy described in this subdivision does not provide
24 definitive information to the auditing intermediate district to
25 support the pupil memberships generated by average daily
26 attendance, then full-time equated memberships for pupils enrolled
27 in that public school academy shall be calculated as otherwise

1 provided under this subsection.

2 (cc) A pupil of a district that begins its school year after
3 Labor day who is enrolled in an intermediate district program that
4 begins before Labor day shall not be considered to be less than a
5 full-time pupil solely due to instructional time scheduled but not
6 attended by the pupil before Labor day.

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. A
11 district must have the approval of the pupil's district of
12 residence to count the pupil in membership, except approval by the
13 pupil's district of residence is not required for any of the
14 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 in
18 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 section
24 91 if the intermediate district and its constituent districts have
25 been exempted from section 105.

26 (e) A pupil enrolled in a district other than the pupil's
27 district of residence if the pupil is enrolled in accordance with

1 section 105 or 105c.

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

16 (i) "At school" means in a classroom, elsewhere on school
17 premises, on a school bus or other school-related vehicle, or at a
18 school-sponsored activity or event whether or not it is held on
19 school premises.

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

25 (g) A pupil whose district of residence changed after the
26 pupil membership count day and before the supplemental count day
27 and who continues to be enrolled on the supplemental count day as a

1 nonresident in the district in which he or she was enrolled as a
2 resident on the pupil membership count day of the same school year.

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

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

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

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

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

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

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

18 However, if a district that is not a first class district
19 educates pupils who reside in a first class district and if the
20 primary instructional site for those pupils is located within the
21 boundaries of the first class district, the educating district must
22 have the approval of the first class district to count those pupils
23 in membership. As used in this subsection, "first class district"
24 means a district organized as a school district of the first class
25 under the revised school code.

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, with
4 the approval of the superintendent, the immediately following day
5 on which school is in session in the district or building.

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

8 (i) Fourth Wednesday in July.

9 (ii) Fourth Wednesday after Labor day.

10 (iii) Second Wednesday in February.

11 (iv) Fourth Wednesday in April.

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

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

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

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

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

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

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

1 (14) "Supplemental count day" means the day on which the
2 supplemental pupil count is conducted under section 6a.

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

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

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

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

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