

HOUSE BILL No. 6448

September 7, 2006, Introduced by Rep. Mortimer 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 2005 PA 155.

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 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

1 districts with less than 50% of the pupils residing in the
2 operating district. In addition, special education center program
3 pupils placed part-time in noncenter programs to comply with the
4 least restrictive environment provisions of section 612 of part B
5 of the individuals with disabilities education act, 20 USC 1412,
6 may be considered center program pupils for pupil accounting
7 purposes for the time scheduled in either a center program or a
8 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~~ **UNTIL 2007-2008**, to be counted in membership **A**

1 PUPIL shall be ~~not less than~~ **AT LEAST** 5 years of age on December
2 1 and less than 20 years of age on September 1 of the school year.
3 ~~except a~~ **FOR 2007-2008, TO BE COUNTED IN MEMBERSHIP A PUPIL SHALL**
4 **BE AT LEAST 5 YEARS OF AGE ON NOVEMBER 1, 2007 AND LESS THAN 20**
5 **YEARS OF AGE ON SEPTEMBER 1, 2007. FOR 2008-2009, TO BE COUNTED IN**
6 **MEMBERSHIP A PUPIL SHALL BE AT LEAST 5 YEARS OF AGE ON OCTOBER 1,**
7 **2008 AND LESS THAN 20 YEARS OF AGE ON SEPTEMBER 1, 2008. BEGINNING**
8 **WITH 2009-2010, TO BE COUNTED IN MEMBERSHIP A PUPIL SHALL BE AT**
9 **LEAST 5 YEARS OF AGE AND LESS THAN 20 YEARS OF AGE ON SEPTEMBER 1**
10 **OF THE SCHOOL YEAR. A** special education pupil who is enrolled and
11 receiving instruction in a special education program or service
12 approved by the department, ~~and not having~~ **WHO DOES NOT HAVE** a
13 high school diploma, **AND** who is less than 26 years of age as of
14 September 1 of the current school year shall be counted in
15 membership.

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

25 (n) If a pupil counted in membership in a public school
26 academy is also educated by a district or intermediate district as
27 part of a cooperative education program, the pupil shall be counted

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

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

20 (ii) If the public school academy provides instruction for less
21 than 1/2 of the class hours specified in subdivision (q), the
22 district or intermediate district providing the remainder of the
23 hours of instruction shall receive as its prorated share of the
24 full-time equated membership for each of those pupils an amount
25 equal to 1 times the product of the hours of instruction the
26 district or intermediate district provides divided by the number of
27 hours specified in subdivision (q) for full-time equivalency, and

1 the remainder of the full-time membership for each of those pupils
2 shall be allocated to the public school academy.

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

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

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

18 (r) Full-time equated memberships for pupils in kindergarten
19 shall be determined by dividing the number of class hours scheduled
20 and provided per year per kindergarten pupil by a number equal to
21 $1/2$ the number used for determining full-time equated memberships
22 for pupils in grades 1 to 12. However, beginning in 2006-2007, if a
23 pupil is eligible to enroll in kindergarten but is enrolled in a
24 prekindergarten, developmental kindergarten, or similar class, the
25 pupil shall not be counted as a pupil in membership, and the costs
26 associated with educating the pupil shall instead be reported and
27 reimbursed under section 31b.

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

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

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

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

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

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

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

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

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

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

27 (x) For a public school academy that has been in operation for

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

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

25 (i) The average of the district's membership for the 3-fiscal-
26 year period ending with that fiscal year, calculated by adding the
27 district's actual membership for each of those 3 fiscal years, as

1 otherwise calculated under this subsection, and dividing the sum of
2 those 3 membership figures by 3.

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

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

14 (aa) For 2005-2006 only, if a pupil who has been evacuated
15 from another state and has relocated in this state due to a natural
16 disaster enrolls in a district within 60 days after the pupil
17 membership count day, the department shall adjust the district's
18 pupil count for the pupil membership count day to include the pupil
19 in the count.

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

1 be determined by dividing the number of hours of service scheduled
2 and provided per year per pupil by 180.

3 (cc) Full-time equated memberships for pupils enrolled in a
4 public school academy that is wholly contained within a county
5 juvenile detention facility shall be considered to be the average
6 daily attendance of pupils enrolled in the public school academy
7 for the immediately preceding fiscal year, as reported by the
8 public school academy and audited by the intermediate district in
9 which the public school academy is located. However, if a public
10 school academy described in this subdivision does not provide
11 definitive information to the auditing intermediate district to
12 support the pupil memberships generated by average daily
13 attendance, then full-time equated memberships for pupils enrolled
14 in that public school academy shall be calculated as otherwise
15 provided under this subsection.

16 (5) "Public school academy" means a public school academy,
17 urban high school academy, or strict discipline academy operating
18 under the revised school code.

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

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

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

1 (c) A pupil enrolled in a public school academy or university
2 school.

3 (d) A pupil enrolled in a district other than the pupil's
4 district of residence under an intermediate district schools of
5 choice pilot program as described in section 91a or former section
6 91 if the intermediate district and its constituent districts have
7 been exempted from section 105.

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

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

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

1 school premises.

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

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

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

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

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

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

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

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

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

27 However, if a district that is not a first class district

1 educates pupils who reside in a first class district and if the
2 primary instructional site for those pupils is located within the
3 boundaries of the first class district, the educating district must
4 have the approval of the first class district to count those pupils
5 in membership. As used in this subsection, "first class district"
6 means a district organized as a school district of the first class
7 under the revised school code.

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

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

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

14 (i) Fourth Wednesday in July.

15 (ii) Fourth Wednesday in September.

16 (iii) Second Wednesday in February.

17 (iv) Fourth Wednesday in April.

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

1 been excused by the district, shall not be counted as 1.0 full-time
2 equated membership. A pupil who is excused from attendance on the
3 pupil membership count day or supplemental count day and who fails
4 to attend each of the classes in which the pupil is enrolled within
5 30 calendar days after the pupil membership count day or
6 supplemental count day shall not be counted as 1.0 full-time
7 equated membership. In addition, a pupil who was enrolled and in
8 attendance in a district, intermediate district, or public school
9 academy before the pupil membership count day or supplemental count
10 day of a particular year but was expelled on the pupil membership
11 count day or supplemental count day shall only be counted as 1.0
12 full-time equated membership if the pupil resumed attendance in the
13 district, intermediate district, or public school academy within 45
14 days after the pupil membership count day or supplemental count
15 day. Pupils not counted as 1.0 full-time equated membership due to
16 an absence from a class shall be counted as a prorated membership
17 for the classes the pupil attended. For purposes of this
18 subsection, "class" means a period of time in 1 day when pupils and
19 a certificated teacher or legally qualified substitute teacher are
20 together and instruction is taking place.

21 (9) "Rule" means a rule promulgated pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
25 380.1852.

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

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

2 (13) "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 (14) "Supplemental count day" means the day on which the
7 supplemental pupil count is conducted under section 6a.

8 (15) "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)(d) to (j). 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 (16) "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 (17) "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 (18) "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 (19) "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 (20) "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. ____ or House Bill No. 6446(request no.
9 06279'06) of the 93rd Legislature is enacted into law.