



HOUSE BILL No. 5042

September 22, 1993, Introduced by Rep. Keith and referred to the Committee on Education.

A bill to amend sections 6 and 101 of Act No. 94 of the Public Acts of 1979, entitled as amended "The state school aid act of 1979," section 6 as amended by Act No. 95 of the Public Acts of 1993 and section 101 as amended by Act No. 148 of the Public Acts of 1992, being sections 388.1606 and 388.1701 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6 and 101 of Act No. 94 of the Public
2 Acts of 1979, section 6 as amended by Act No. 95 of the Public
3 Acts of 1993 and section 101 as amended by Act No. 148 of the
4 Public Acts of 1992, being sections 388.1606 and 388.1701 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 6. (1) "Center program" means a program operated by a
7 district or intermediate district for special education pupils

1 from several districts in programs for the autistically impaired,
2 trainable mentally impaired, severely mentally impaired, severely
3 multiply impaired, hearing impaired, physically and otherwise
4 health impaired, and visually impaired. Programs for emotionally
5 impaired pupils housed in buildings that do not serve regular
6 education pupils shall also qualify. Unless otherwise approved
7 by the department, a center program either shall serve all con-
8 stituent districts within an intermediate district or shall serve
9 several districts with less than 50% of the pupils residing in
10 the operating district. In addition, pupils approved by the
11 department, who formerly would have been placed in a center pro-
12 gram, placed in noncenter programs to comply with the least
13 restrictive environment provisions of section 612 of part B of
14 the individuals with disabilities education act, public law
15 91-230, 20 U.S.C. 1412, may be counted under this section
16 ~~provided~~ IF ALL OF THE FOLLOWING ARE MET:

17 (a) The pupil is special education eligible and receiving
18 special education programs or services on the pupil count date.
19 ~~, and~~

20 (b) The pupil is eligible as autistically impaired, traina-
21 ble mentally impaired, severely mentally impaired, and severely
22 multiply impaired.

23 (2) "District pupil retention rate" means the proportion of
24 pupils who have not dropped out of school in the immediately pre-
25 ceding school year and is equal to 1 minus the quotient of the
26 number of pupils unaccounted for in the immediately preceding

1 school year, as determined pursuant to subsection (3), divided by
2 the pupils of the immediately preceding school year.

3 (3) "District pupil retention report" means a report of the
4 number of pupils, excluding migrant and adult, in the district
5 for the immediately preceding school year, adjusted for those
6 pupils who have transferred into the district, transferred out of
7 the district, transferred to alternative programs, and have grad-
8 uated, to determine the number of pupils who are unaccounted
9 for. The number of pupils unaccounted for shall be calculated as
10 determined by the department.

11 (4) "Membership", except as otherwise provided in sections
12 56 and 62, means the number of full-time equivalent pupils in
13 grades K to 12 and in adult education programs actually enrolled
14 and in regular daily attendance on the pupil membership count day
15 as determined by the number of pupils registered for attendance
16 plus pupils received by transfer and minus pupils lost as defined
17 by rules promulgated by the state board. However, for 1992-93
18 only, a district's or intermediate district's membership for all
19 full-time pupils in grades K to 12, except pupils counted under
20 section 24 or section 24a, shall be considered to be the number
21 of full-time pupils in grades K to 12, except pupils counted
22 under section 24 or section 24a, in membership in the district or
23 intermediate district in 1991-92, as determined by the department
24 in the 1991-92 final audited membership count. In a district
25 operating an extended school year program approved by the state
26 board, a pupil enrolled, but not scheduled to be in regular daily
27 attendance on the pupil membership count day, shall be counted.

1 A pupil enrolled in a university-operated instructional program
2 under section 23c shall not be counted in membership in a
3 district. The department shall give a uniform interpretation of
4 full-time and part-time memberships. The state board may provide
5 a district with an adjustment of the district's membership count
6 upon the showing of a substantial increase in membership due to
7 the closing of a nonpublic school or a substantial influx of new
8 residents into the district resulting in a membership increase in
9 a single building of at least 5% but not less than 25 pupils
10 after the pupil membership count day. In a district offering
11 classes that are scheduled for a full year in which different
12 pupils participate in different sessions, known as "slot-funded"
13 classes, full-time equated memberships shall be determined by
14 dividing the number of class hours scheduled and provided per
15 year per pupil by 900 for elementary and secondary pupils and by
16 480 for adult education pupils, and for each 480-hour block of
17 such a class for adult education pupils, the maximum full-time
18 equated membership per training station is 1 full-time equated
19 membership. The number of pupils enrolled in each 480-hour block
20 of a class that is scheduled for a full year in which different
21 pupils participate in different sessions and the number of par-
22 ticipants in an EDGE program under section 107b shall not exceed
23 the number of training stations. ~~After January 1, 1993, a dis-~~
24 ~~trict shall not include persons enrolled in a "slot funded" class~~
25 ~~in membership unless the class began before December 1, 1992 and~~
26 ~~is scheduled to end not later than February 1, 1993. For~~
27 ~~1992-93, a district's membership in "slot funded" classes shall~~

1 ~~not exceed 1/2 of the district's 1991-92 final audited membership~~
 2 ~~in those classes, not counting pupils age 18 to 20 with a high~~
 3 ~~school diploma.~~

4 (5) "Pupil" means a person in membership in a public
 5 school. A district must have the approval of the pupil's dis-
 6 trict of residence to count the pupil in membership, except
 7 approval by the pupil's district of residence shall not be
 8 required for adult or nonpublic part-time pupils, for pupils
 9 receiving 1/2 or less of their instruction in a district other
 10 than their district of residence, or for those pupils who were
 11 enrolled and in regular daily attendance and remain enrolled and
 12 in regular daily attendance in the district other than their dis-
 13 trict of residence before April 1, 1981.

14 (6) "Pupil membership count day" of a district means:

15 (a) The fourth Friday following Labor day each school year.

16 (b) For a district maintaining school during the entire
 17 school year, the ~~following days:~~ FOURTH FRIDAY AFTER SCHOOL
 18 BEGINS IN EACH QUARTER OF EACH SCHOOL YEAR.

19 ~~(i) Fourth Friday in July.~~

20 ~~(ii) Fourth Friday in October.~~

21 ~~(iii) Fourth Friday in January.~~

22 ~~(iv) Fourth Friday in April.~~

23 (c) A district receiving funds from the job training part-
 24 nership act, Public Law 97-300, 96 Stat. 1322, or a district
 25 operating a training program approved by the department may amend
 26 the number of pupils counted on the pupil membership count day to
 27 include pupils participating in the job training partnership act

1 program or a training program approved by the department. The
2 pupil membership count day for these pupils shall be the third
3 Friday after the first Monday after the start of instruction for
4 the program. Aid received under section 21(1) for these pupils
5 shall be reduced $1/480$ for each hour of classroom instruction the
6 pupils are scheduled to receive under 480 hours and further
7 reduced to ensure that the combined section 21(1) and the job
8 training partnership act or other approved training program aid
9 for the programs do not exceed the cost of the instructional com-
10 ponent of the programs as verified by the intermediate school
11 district of the district operating the programs.

12 (7) "Rule" means a rule promulgated pursuant to the adminis-
13 trative procedures act of 1969, Act No. 306 of the Public Acts of
14 1969, as amended, being sections 24.201 to 24.328 of the Michigan
15 Compiled Laws.

16 (8) "The school code of 1976" means Act No. 451 of the
17 Public Acts of 1976, as amended, being sections 380.1 to 380.1852
18 of the Michigan Compiled Laws.

19 (9) "School fiscal year" means a fiscal year which commences
20 July 1 and continues through June 30.

21 (10) "State board" means the state board of education.

22 (11) "Tuition pupil" means a pupil of school age attending
23 school in a district other than the pupil's district of
24 residence. A pupil's district of residence shall not require a
25 high school tuition pupil, as provided under section 111, to
26 attend another school district after the pupil has been assigned
27 to a school district.

1 Sec. 101. (1) To be eligible to receive state aid under
2 this act, not later than the third Friday following the pupil
3 membership count day, each district superintendent through the
4 secretary of the district's board shall file with the intermedi-
5 ate superintendent a certified and sworn copy of the district's
6 enrollment for the current school year. In addition, a district
7 maintaining school during the entire year, as provided under sec-
8 tion 1561 of the school code of 1976, being section 380.1561 of
9 the Michigan Compiled Laws, shall file with the intermediate
10 superintendent a certified and sworn copy of the enrollment for
11 the current school year pursuant to rules promulgated by the
12 state board. In case of failure to file the sworn and certified
13 copy not later than 30 calendar days after the pupil membership
14 count day or pursuant to rules promulgated by the state board,
15 state aid due to be distributed on December 15 under this act
16 shall be withheld from the defaulting district. A person who
17 willfully falsifies a figure or statement in the certified and
18 sworn copy of enrollment shall be punished in the manner pre-
19 scribed by the laws of this state.

20 (2) Each district shall provide a minimum of 180 days of
21 pupil instruction, COMPUTED ACCORDING TO SUBSECTION (4), AND A
22 MINIMUM OF 2 TEACHER PROFESSIONAL DEVELOPMENT DAYS OR NONINSTRUC-
23 TIONAL WORK DAYS FOR TEACHERS. Except as OTHERWISE provided in
24 ~~subsections (3) and (5)~~ THIS SECTION, a district failing to
25 hold 180 days of pupil instruction shall forfeit 1/180 of its
26 total state aid appropriation for each day of failure. A
27 district failing to comply with rules promulgated by the state

1 board, which rules establish the minimum time pupil instruction
2 is to be provided to pupils for the regular school year, shall
3 forfeit from its total state aid allocation an amount determined
4 by applying a ratio of the time duration the district was in non-
5 compliance in relation to the minimum time pupil instruction is
6 required. A district failing to meet both the minimum 180 days
7 of pupil instruction requirement and the prescribed time of pupil
8 instruction requirement shall be penalized only the higher of the
9 2 amounts calculated under the forfeiture provisions of this
10 subsection. Not later than August 1, the board of each district
11 shall certify to the department the number of days of pupil
12 instruction in the previous school year. If the district did not
13 hold at least 180 days of pupil instruction, the deduction of
14 state aid shall be made in the following fiscal year from the
15 first payment of state school aid. Days lost because of strikes
16 or teachers' conferences shall not be counted as days of pupil
17 instruction. A district not having the specified percentage of
18 the district's membership in attendance on any day shall receive
19 state aid in that proportion of $1/180$ that the actual percent of
20 attendance bears to the specified percentage. The specified per-
21 centage to be used for this requirement shall be ~~70% for 1991-92~~
22 ~~and 75%. for each subsequent state fiscal year.~~ The state
23 board shall promulgate rules for the implementation of this
24 subsection.

25 (3) The first 2 days when pupil instruction is not provided
26 because of conditions not within the control of school
27 authorities, such as severe storms, fires, epidemics, or health

1 conditions as defined by the city, county, or state health
2 authorities, shall be counted as days of pupil instruction.
3 Subsequent such days shall not be counted as days of pupil
4 instruction.

5 (4) FOR PURPOSES OF COMPUTING THE MINIMUM 180 DAYS OF PUPIL
6 INSTRUCTION PRESCRIBED IN THIS SECTION, THE SCHOOL YEAR SHALL
7 CONCLUDE ON OR BEFORE THE THIRD FRIDAY IN JUNE. SATURDAYS,
8 SUNDAYS, LABOR DAY, THANKSGIVING DAY, CHRISTMAS DAY, NEW YEAR'S
9 DAY, MEMORIAL DAY, DAYS LOST BECAUSE OF AN EMPLOYEES' STRIKE,
10 DAYS LOST BECAUSE OF TEACHERS' CONFERENCES, TEACHER PROFESSIONAL
11 DEVELOPMENT DAYS, OR NONINSTRUCTIONAL WORK DAYS SHALL NOT BE
12 COUNTED AS DAYS OF PUPIL INSTRUCTION. THE SCHOOL YEAR SHALL
13 INCLUDE AT LEAST 10 VACATION DAYS, SCHEDULED AFTER THE FIRST 2
14 WEEKS OF THE SCHOOL YEAR AND BEFORE THE LAST 2 WEEKS OF THE
15 SCHOOL YEAR. SATURDAYS, SUNDAYS, HOLIDAYS, TEACHER PROFESSIONAL
16 DEVELOPMENT DAYS, OR NONINSTRUCTIONAL WORK DAYS SHALL NOT BE
17 COUNTED AS VACATION DAYS.

18 (5) ~~(4)~~ A district shall not be allotted or paid a sum
19 under this act in a fiscal year if the department determines that
20 at the end of the preceding school fiscal year the amount of
21 funds on hand in the district available for the payment of the
22 operation cost in the district exceeded the amount of money
23 expended for operation cost in the district during the preceding
24 school fiscal year.

25 (6) IF A DISTRICT IS UNABLE TO PROVIDE THE MINIMUM 180 DAYS
26 OF PUPIL INSTRUCTION PRESCRIBED IN THIS SECTION BEFORE THE THIRD
27 FRIDAY IN JUNE BECAUSE OF A LEGAL PUBLIC SCHOOL EMPLOYEES'

1 STRIKE, THEN FOR EACH DAY THE REQUIREMENT IS NOT FULFILLED THE
2 DISTRICT SHALL NOT PAY TO AN EMPLOYEE PARTICIPATING IN THE
3 STRIKE, AND EACH EMPLOYEE PARTICIPATING IN THE STRIKE SHALL FOR-
4 FEIT, 1/180 OR A DAY'S PROPORTION, WHICHEVER IS LESS, OF THE
5 EMPLOYEE'S ANNUAL SALARY, AS DETERMINED IN THE APPLICABLE COLLEC-
6 TIVE BARGAINING AGREEMENT OR EMPLOYMENT CONTRACT. IF THE
7 EMPLOYEE DISPUTES THE AMOUNT OF THE FORFEITURE, HE OR SHE MAY
8 APPLY TO THE EMPLOYMENT RELATIONS COMMISSION CREATED PURSUANT TO
9 SECTION 3 OF ACT NO. 176 OF THE PUBLIC ACTS OF 1939, BEING
10 SECTION 423.3 OF THE MICHIGAN COMPILED LAWS, FOR A DETERMINATION
11 OF THE EXACT AMOUNT OF THE FORFEITURE UNDER RULES THE EMPLOYMENT
12 RELATIONS COMMISSION PROMULGATES. UPON PROPER SHOWING BY THE
13 EMPLOYEE, THE EMPLOYMENT RELATIONS COMMISSION MAY ISSUE AN ORDER
14 CORRECTING THE EMPLOYER'S DETERMINATION.

15 (7) IF A DISTRICT IS UNABLE TO PROVIDE THE MINIMUM 180 DAYS
16 OF PUPIL INSTRUCTION PRESCRIBED IN THIS SECTION BEFORE THE THIRD
17 FRIDAY IN JUNE BECAUSE OF A LEGAL PUBLIC SCHOOL EMPLOYEES'
18 STRIKE, THE DEPARTMENT SHALL ESTIMATE AND MAKE A DEDUCTION FROM
19 THE DISTRICT'S TOTAL STATE SCHOOL AID IN THE SAME FISCAL YEAR THE
20 STRIKE OCCURS IN AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE FOR-
21 FEITURE OF WAGES OR SALARY REQUIRED FOR THE STRIKING EMPLOYEES
22 UNDER SUBSECTION (6) AND SECTION 21 OF ACT NO. 336 OF THE PUBLIC
23 ACTS OF 1947, BEING SECTION 423.221 OF THE MICHIGAN COMPILED
24 LAWS. IF THE REQUIRED DEDUCTION EXCEEDS THE DISTRICT'S TOTAL
25 STATE SCHOOL AID, THE DISTRICT SHALL PAY TO THE STATE, IN A
26 MANNER PRESCRIBED BY THE DEPARTMENT, AN AMOUNT EQUAL TO THE
27 AMOUNT OF THE EXCESS. IF THE DISTRICT DOES NOT RECEIVE STATE

1 AID, THE DISTRICT SHALL PAY TO THE STATE, IN A MANNER PRESCRIBED
2 BY THE DEPARTMENT, AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE
3 FORFEITURE OF WAGES OR SALARY REQUIRED FOR THE STRIKING EMPLOYEES
4 UNDER SUBSECTION (6) AND SECTION 21 OF ACT NO. 336 OF THE PUBLIC
5 ACTS OF 1947. MONEY PAID TO THE STATE UNDER THIS SUBSECTION
6 SHALL BE DEPOSITED IN THE GENERAL FUND OF THE STATE. IF A DIS-
7 PUTE CONCERNING THE FORFEITURE OF WAGES OR SALARY UNDER SECTION
8 21 OF ACT NO. 336 OF THE PUBLIC ACTS OF 1947 IS PENDING, THE
9 AMOUNT OF THE SALARY OR WAGE FORFEITURE IN DISPUTE SHALL NOT BE
10 DEDUCTED FROM THE DISTRICT'S STATE AID OR REMITTED FROM THE
11 DISTRICT'S GENERAL FUND UNTIL THE DISPUTE IS RESOLVED.

12 (8) ~~(5)~~ A district shall not forfeit part of its state aid
13 appropriation if it adopts or has in existence an alternative
14 scheduling program for pupils in kindergarten, which program is
15 approved by the state board.

16 (9) ~~(6)~~ Upon application by the district for a particular
17 fiscal year, the state board may waive the 180-day requirement of
18 subsection (2) for a district if the district has adopted an
19 experimental school year schedule in 1 or more buildings in the
20 district if the experimental school year schedule provides 900 or
21 more hours of pupil instruction and is consistent with all state
22 board policies on school improvement and restructuring. If a
23 district applies for and receives a waiver under this subsection
24 and complies with the terms of the waiver, for the fiscal year
25 covered by the waiver the district is not subject to forfeiture
26 of part of its state aid allocation for the specific building or
27 program covered by the waiver.

1 (10) AS USED IN THIS SECTION, "LEGAL PUBLIC SCHOOL
2 EMPLOYEES' STRIKE" MEANS A STRIKE PERMITTED UNDER SECTION 20 OF
3 ACT NO. 336 OF THE PUBLIC ACTS OF 1947, BEING SECTION 423.220 OF
4 THE MICHIGAN COMPILED LAWS.

5 Section 2. This amendatory act shall not take effect unless
6 all of the following bills of the 87th Legislature are enacted
7 into law:

8 (a) Senate Bill No. _____ or House Bill No. 5043 (request
9 no. 04992'93).

10 (b) Senate Bill No. _____ or House Bill No. 5041 (request
11 no. 04994'93).