

SENATE BILL No. 162

February 11, 2003, Introduced by Senators BISHOP, CASSIS, PATTERSON, KUIPERS,
ALLEN, TOY and JOHNSON 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 2002 PA 521.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SENATE BILL No. 162

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

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

8 (2) "District pupil retention rate" means the proportion of
9 pupils who have not dropped out of school in the immediately
10 preceding school year and is equal to 1 minus the quotient of the
11 number of pupils unaccounted for in the immediately preceding
12 school year, as determined pursuant to subsection (3), divided by
13 the pupils of the immediately preceding school year.

14 (3) "District pupil retention report" means a report of the
15 number of pupils, excluding migrant and adult, in the district
16 for the immediately preceding school year, adjusted for those
17 pupils who have transferred into the district, transferred out of
18 the district, transferred to alternative programs, and have
19 graduated, to determine the number of pupils who are unaccounted
20 for. The number of pupils unaccounted for shall be calculated as
21 determined by the department.

22 (4) "Membership", except as otherwise provided in this act,
23 means **for 2002-2003** for a district, public school academy,
24 university school, or intermediate district the sum of the
25 product of ~~—.8-~~ **.9** times the number of full-time equated pupils
26 in grades K to 12 actually enrolled and in regular daily
27 attendance on the pupil membership count day for the current

1 school year, plus the product of ~~—2—~~ .1 times the final audited
2 count from the supplemental count day for the immediately
3 preceding school year. **For 2003-2004 and each succeeding fiscal**
4 **year, membership means for a district, public school academy,**
5 **university school, or intermediate district the number of**
6 **full-time equated pupils in regular daily attendance on the pupil**
7 **membership count day for the current school year.** All pupil
8 counts used in this subsection are as determined by the
9 department and calculated by adding the number of pupils
10 registered for attendance plus pupils received by transfer and
11 minus pupils lost as defined by rules promulgated by the
12 superintendent, and as corrected by a subsequent department
13 audit. The amount of the foundation allowance for a pupil in
14 membership is determined under section 20. In making the
15 calculation of membership, all of the following, as applicable,
16 apply to determining the membership of a district, public school
17 academy, university school, or intermediate district:

18 (a) Except as otherwise provided in this subsection, and
19 pursuant to subsection (6), a pupil shall be counted in
20 membership in the pupil's educating district or districts. An
21 individual pupil shall not be counted for more than a total of
22 1.0 full-time equated membership.

23 (b) If a pupil is educated in a district other than the
24 pupil's district of residence, if the pupil is not being educated
25 as part of a cooperative education program, if the pupil's
26 district of residence does not give the educating district its
27 approval to count the pupil in membership in the educating

1 district, and if the pupil is not covered by an exception
2 specified in subsection (6) to the requirement that the educating
3 district must have the approval of the pupil's district of
4 residence to count the pupil in membership, the pupil shall not
5 be counted in membership in any district.

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

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

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

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

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

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

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

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

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

24 (j) If a district is the authorizing body for a public school
25 academy, then, in the first school year in which pupils are
26 counted in membership on the pupil membership count day in the
27 public school academy, the determination of the district's

1 membership shall exclude from the district's pupil count for the
2 immediately preceding supplemental count day any pupils who are
3 counted in the public school academy on that first pupil
4 membership count day who were also counted in the district on the
5 immediately preceding supplemental count day.

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

11 (l) Pupils to be counted in membership shall be not less than
12 5 years of age on December 1 and less than 20 years of age on
13 September 1 of the school year except a special education pupil
14 who is enrolled and receiving instruction in a special education
15 program approved by the department and not having a high school
16 diploma who is less than 26 years of age as of September 1 of the
17 current school year shall be counted in membership.

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

27 (n) If a pupil counted in membership in a public school

1 academy is also educated by a district or intermediate district
2 as part of a cooperative education program, the pupil shall be
3 counted in membership only in the public school academy, 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
7 pupils receiving instruction in both a public school academy and
8 in a 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
15 public school academy provides divided by the number of hours
16 specified in subdivision (q) for full-time equivalency, and the
17 remainder of the full-time membership for each of those pupils
18 shall be allocated to the district or intermediate district
19 providing the remainder of the hours of instruction.

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

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

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

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

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

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

24 (s) For a district, university school, or public school
25 academy that has pupils enrolled in a grade level that was not
26 offered by the district, university school, or public school
27 academy in the immediately preceding school year, the number of

1 pupils enrolled in that grade level to be counted in membership
2 is the average of the number of those pupils enrolled and in
3 regular daily attendance on the pupil membership count day and
4 the supplemental count day of the current school year, as
5 determined by the department. Membership shall be calculated by
6 adding the number of pupils registered for attendance in that
7 grade level on the pupil membership count day plus pupils
8 received by transfer and minus pupils lost as defined by rules
9 promulgated by the superintendent, and as corrected by subsequent
10 department audit, plus the final audited count from the
11 supplemental count day for the current school year, and dividing
12 that sum by 2.

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

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

1 subdivision (q) for full-time equivalency. For the purposes of
2 this subdivision, a district shall be considered to be providing
3 appropriate instruction if all of the following are met:

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

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

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

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

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

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

26 (x) For a public school academy that has been in operation
27 for at least 2 years and that suspended operations for at least 1

1 semester and is resuming operations, membership is the sum of the
2 product of .8 times the number of full-time equated pupils in
3 grades K to 12 actually enrolled and in regular daily attendance
4 on the first pupil membership count day or supplemental count
5 day, whichever is first, occurring after operations resume, plus
6 the product of .2 times the final audited count from the most
7 recent pupil membership count day or supplemental count day that
8 occurred before suspending operations, as determined by the
9 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, the district's membership
14 shall be considered to be the membership figure calculated under
15 this subdivision. However, beginning in 2003-2004, this
16 subdivision applies only to districts located in the Lower
17 Peninsula. If a district educates and counts in its membership
18 pupils in grades 9 to 12 who reside in a contiguous district that
19 does not operate grades 9 to 12 and if 1 or both of the affected
20 districts request the department to use the determination allowed
21 under this sentence, the department shall include the square
22 mileage of both districts in determining the number of pupils per
23 square mile for each of the districts for the purposes of this
24 subdivision. The membership figure calculated under this
25 subdivision is the greater of the following:

26 (i) The average of the district's membership for the
27 3-fiscal-year period ending with that fiscal year, calculated by

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

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

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

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

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

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

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

27 (c) A pupil enrolled in a public school academy or university

1 school.

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

7 (e) A pupil enrolled in a district other than the pupil's
8 district of residence but within the same intermediate district
9 if the educating district enrolls nonresident pupils in
10 accordance with section 105.

11 (f) A pupil enrolled in a district other than the pupil's
12 district of residence if the pupil has been continuously enrolled
13 in the educating district since a school year in which the pupil
14 enrolled in the educating district under section 105 or 105c and
15 in which the educating district enrolled nonresident pupils in
16 accordance with section 105 or 105c.

17 (g) A pupil who has made an official written complaint or
18 whose parent or legal guardian has made an official written
19 complaint to law enforcement officials and to school officials of
20 the pupil's district of residence that the pupil has been the
21 victim of a criminal sexual assault or other serious assault, if
22 the official complaint either indicates that the assault occurred
23 at school or that the assault was committed by 1 or more other
24 pupils enrolled in the school the pupil would otherwise attend in
25 the district of residence or by an employee of the district of
26 residence. A person who intentionally makes a false report of a
27 crime to law enforcement officials for the purposes of this

1 subdivision is subject to section 411a of the Michigan penal
2 code, 1931 PA 328, MCL 750.411a, which provides criminal
3 penalties for that conduct. As used in this subdivision:

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

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

13 (h) A pupil enrolled in a district located in a contiguous
14 intermediate district, as described in section 105c, if the
15 educating district enrolls those nonresident pupils in accordance
16 with section 105c.

17 (i) A pupil whose district of residence changed after the
18 pupil membership count day and before the supplemental count day
19 and who continues to be enrolled on the supplemental count day as
20 a nonresident in the district in which he or she was enrolled as
21 a resident on the pupil membership count day of the same school
22 year.

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

26 (i) The pupil has been suspended or expelled from his or her
27 district of residence for any reason, including, but not limited

1 to, a suspension or expulsion under section 1310, 1311, or 1311a
2 of the revised school code, MCL 380.1310, 380.1311, and
3 380.1311a.

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

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

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

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

9 However, if a district that is not a first class district
10 educates pupils who reside in a first class district and if the
11 primary instructional site for those pupils is located within the
12 boundaries of the first class district, the educating district
13 must have the approval of the first class district to count those
14 pupils in membership. As used in this subsection, "first class
15 district" means a district organized as a school district of the
16 first class under the revised school code.

17 (7) "Pupil membership count day" of a district or
18 intermediate district means:

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

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

23 (i) Fourth Wednesday in July.

24 (ii) Fourth Wednesday in September.

25 (iii) Second Wednesday in February.

26 (iv) Fourth Wednesday in April.

27 (8) "Pupils in grades K to 12 actually enrolled and in

1 regular daily attendance" means pupils in grades K to 12 in
2 attendance and receiving instruction in all classes for which
3 they are enrolled on the pupil membership count day or the
4 supplemental count day, as applicable. A pupil who is absent
5 from any of the classes in which the pupil is enrolled on the
6 pupil membership count day or supplemental count day and who does
7 not attend each of those classes during the 10 consecutive school
8 days immediately following the pupil membership count day or
9 supplemental count day, except for a pupil who has been excused
10 by the district, shall not be counted as 1.0 full-time equated
11 membership. In addition, a pupil who is excused from attendance
12 on the pupil membership count day or supplemental count day and
13 who fails to attend each of the classes in which the pupil is
14 enrolled within 30 calendar days after the pupil membership count
15 day or supplemental count day shall not be counted as 1.0
16 full-time equated membership. Pupils not counted as 1.0
17 full-time equated membership due to an absence from a class shall
18 be counted as a prorated membership for the classes the pupil
19 attended. For purposes of this subsection, "class" means a
20 period of time in 1 day when pupils and a certificated teacher or
21 legally qualified substitute teacher are together and instruction
22 is taking place.

23 (9) "Rule" means a rule promulgated pursuant to the
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
25 24.328.

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

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

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

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

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

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

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

21 (17) "Taxable value" means the taxable value of property as
22 determined under section 27a of the general property tax act,
23 1893 PA 206, MCL 211.27a.

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

1 (19) "University school" means an instructional program
2 operated by a public university under section 23 that meets the
3 requirements of section 23.