

HOUSE BILL No. 5299

September 2, 2009, Introduced by Reps. Kurtz, Valentine, Proos, Lori, Walsh, Leland, Ebli, Bledsoe, Bauer, Smith, Barnett, Haase, Liss and DeShazor and referred to the Committee on Families and Children's Services.

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 6 (MCL 388.1606), as amended by 2009 PA 73.

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

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

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

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

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

1 by adding the number of pupils registered for attendance plus
2 pupils received by transfer and minus pupils lost as defined by
3 rules promulgated by the superintendent, and as corrected by a
4 subsequent department audit. The amount of the foundation allowance
5 for a pupil in membership is determined under section 20. In making
6 the calculation of membership, all of the following, as applicable,
7 apply to determining the membership of a district, public school
8 academy, university school, or intermediate district:

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

14 (b) If a pupil is educated in a district other than the
15 pupil's district of residence, if the pupil is not being educated
16 as part of a cooperative education program, if the pupil's district
17 of residence does not give the educating district its approval to
18 count the pupil in membership in the educating district, and if the
19 pupil is not covered by an exception specified in subsection (6) to
20 the requirement that the educating district must have the approval
21 of the pupil's district of residence to count the pupil in
22 membership, the pupil shall not be counted in membership in any
23 district.

24 (c) A special education pupil educated by the intermediate
25 district shall be counted in membership in the intermediate
26 district.

27 (d) A pupil placed by a court or state agency in an on-grounds

1 program of a juvenile detention facility, a child caring
2 institution, or a mental health institution, or a pupil funded
3 under section 53a, shall be counted in membership in the district
4 or intermediate district approved by the department to operate the
5 program.

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

9 (f) A pupil enrolled in a vocational education program
10 supported by a millage levied over an area larger than a single
11 district or in an area vocational-technical education program
12 established pursuant to section 690 of the revised school code, MCL
13 380.690, shall be counted only in the pupil's district of
14 residence.

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

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

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

23 (i) If operations begin before the pupil membership count day
24 for the fiscal year, membership is the average number of full-time
25 equated pupils in grades K to 12 actually enrolled and in regular
26 daily attendance on the pupil membership count day for the current
27 school year and on the supplemental count day for the current

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

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

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

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

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

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

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

1 cooperative education program, the following apply:

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

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

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

27 (p) The department shall give a uniform interpretation of

1 full-time and part-time memberships.

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

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

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

1 superintendent, and as corrected by subsequent department audit,
2 plus the final audited count from the supplemental count day for
3 the current school year, and dividing that sum by 2.

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

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

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

27 (ii) The district provides instructional materials, resources,

1 and supplies, except computers, that are comparable to those
2 otherwise provided in the district's alternative education program.

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

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

7 (v) For 2007-2008 only, a pupil enrolled in an alternative or
8 disciplinary education program described in section 25 shall be
9 counted in membership in the district or public school academy that
10 expelled the pupil.

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

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

1 (y) If a district's membership for a particular fiscal year,
2 as otherwise calculated under this subsection, would be less than
3 1,550 pupils and the district has 4.5 or fewer pupils per square
4 mile, as determined by the department, and, beginning in 2007-2008,
5 if the district does not receive funding under section 22d(2), the
6 district's membership shall be considered to be the membership
7 figure calculated under this subdivision. If a district educates
8 and counts in its membership pupils in grades 9 to 12 who reside in
9 a contiguous district that does not operate grades 9 to 12 and if 1
10 or both of the affected districts request the department to use the
11 determination allowed under this sentence, the department shall
12 include the square mileage of both districts in determining the
13 number of pupils per square mile for each of the districts for the
14 purposes of this subdivision. The membership figure calculated
15 under this subdivision is the greater 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 (aa) Full-time equated memberships for preprimary-aged special
6 education pupils who are not enrolled in kindergarten but are
7 enrolled in a classroom program under R 340.1754 of the Michigan
8 administrative code shall be determined by dividing the number of
9 class hours scheduled and provided per year by 450. Full-time
10 equated memberships for preprimary-aged special education pupils
11 who are not enrolled in kindergarten but are receiving nonclassroom
12 services under R 340.1755 of the Michigan administrative code shall
13 be determined by dividing the number of hours of service scheduled
14 and provided per year per pupil by 180.

15 (bb) A pupil of a district that begins its school year after
16 Labor day who is enrolled in an intermediate district program that
17 begins before Labor day shall not be considered to be less than a
18 full-time pupil solely due to instructional time scheduled but not
19 attended by the pupil before Labor day.

20 (cc) For the first year in which a pupil is counted in
21 membership on the pupil membership count day in a middle college
22 program described in section 64, the membership is the average of
23 the full-time equated membership on the pupil membership count day
24 and on the supplemental count day for the current school year, as
25 determined by the department. If a pupil was counted by the
26 operating district on the immediately preceding supplemental count
27 day, the pupil shall be excluded from the district's immediately

1 preceding supplemental count for purposes of determining the
2 district's membership.

3 (DD) A PUPIL ENROLLED IN A DISTRICT OTHER THAN THE PUPIL'S
4 DISTRICT OF RESIDENCE PURSUANT TO SECTION 1148(2) OF THE REVISED
5 SCHOOL CODE, MCL 380.1148, SHALL BE COUNTED IN THE EDUCATING
6 DISTRICT.

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 (v) The pupil is enrolled in an alternative or disciplinary
14 education program described in section 25.

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

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

20 (k) An expelled pupil who has been denied reinstatement by the
21 expelling district and is reinstated by another school board under
22 section 1311 or 1311a of the revised school code, MCL 380.1311 and
23 380.1311a.

24 (l) A pupil enrolled in a district other than the pupil's
25 district of residence in a program described in section 64 if the
26 pupil's district of residence and the enrolling district are both
27 constituent districts of the same intermediate district.

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

4 (N) A PUPIL ENROLLED IN A DISTRICT OTHER THAN THE PUPIL'S
5 DISTRICT OF RESIDENCE PURSUANT TO SECTION 1148(2) OF THE REVISED
6 SCHOOL CODE, MCL 380.1148.

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

15 (7) "Pupil membership count day" of a district or intermediate
16 district means:

17 (a) Except as provided in subdivision (b), the fourth
18 Wednesday after Labor day each school year or, for a district or
19 building in which school is not in session on that Wednesday due to
20 conditions not within the control of school authorities, with the
21 approval of the superintendent, the immediately following day on
22 which school is in session in the district or building.

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

25 (i) Fourth Wednesday in July.

26 (ii) Fourth Wednesday after Labor day.

27 (iii) Second Wednesday in February.

1 (iv) Fourth Wednesday in April.

2 (8) "Pupils in grades K to 12 actually enrolled and in regular
3 daily attendance" means pupils in grades K to 12 in attendance and
4 receiving instruction in all classes for which they are enrolled on
5 the pupil membership count day or the supplemental count day, as
6 applicable. Except as otherwise provided in this subsection, a
7 pupil who is absent from any of the classes in which the pupil is
8 enrolled on the pupil membership count day or supplemental count
9 day and who does not attend each of those classes during the 10
10 consecutive school days immediately following the pupil membership
11 count day or supplemental count day, except for a pupil who has
12 been excused by the district, shall not be counted as 1.0 full-time
13 equated membership. A pupil who is excused from attendance on the
14 pupil membership count day or supplemental count day and who fails
15 to attend each of the classes in which the pupil is enrolled within
16 30 calendar days after the pupil membership count day or
17 supplemental count day shall not be counted as 1.0 full-time
18 equated membership. In addition, a pupil who was enrolled and in
19 attendance in a district, intermediate district, or public school
20 academy before the pupil membership count day or supplemental count
21 day of a particular year but was expelled or suspended on the pupil
22 membership count day or supplemental count day shall only be
23 counted as 1.0 full-time equated membership if the pupil resumed
24 attendance in the district, intermediate district, or public school
25 academy within 45 days after the pupil membership count day or
26 supplemental count day of that particular year. Pupils not counted
27 as 1.0 full-time equated membership due to an absence from a class

1 shall be counted as a prorated membership for the classes the pupil
2 attended. For purposes of this subsection, "class" means a period
3 of time in 1 day when pupils and a certificated teacher or legally
4 qualified substitute teacher are together and instruction is taking
5 place.

6 (9) "Rule" means a rule promulgated pursuant to the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

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

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

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

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

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

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

24 (16) "Tuition pupil" means a pupil of school age attending
25 school in a district other than the pupil's district of residence
26 for whom tuition may be charged. Tuition pupil does not include a
27 pupil who is a special education pupil or a pupil described in

1 subsection (6) (c) to (m). A pupil's district of residence shall not
2 require a high school tuition pupil, as provided under section 111,
3 to attend another school district after the pupil has been assigned
4 to a school district.

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

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

11 (19) "Textbook" means a book that is selected and approved by
12 the governing board of a district and that contains a presentation
13 of principles of a subject, or that is a literary work relevant to
14 the study of a subject required for the use of classroom pupils, or
15 another type of course material that forms the basis of classroom
16 instruction.

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

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

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. _____ or House Bill No. 5298 (request no.
25 04333'09) of the 95th Legislature is enacted into law.