

# HOUSE BILL No. 5321

October 29, 1997, Introduced by Rep. Perricone 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 1997 PA 93,  
and by adding section 166f.

## 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  
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

1 districts with less than 50% of the pupils residing in the  
2 operating district. In addition, special education center pro-  
3 gram pupils placed part-time in noncenter programs to comply with  
4 the least restrictive environment provisions of section 612 of  
5 part B of the individuals with disabilities education act, title  
6 VI of Public Law 91-230, 20 U.S.C. 1412, may be considered center  
7 program pupils for pupil accounting purposes for the time sched-  
8 uled in either a center program or a noncenter program.

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

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

23 (4) In making the calculation of membership, all of the fol-  
24 lowing, as applicable, apply to determining the membership of a  
25 district, public school academy, university school, or intermedi-  
26 ate district:

1 (a) Except as otherwise provided in this subsection, a pupil  
2 shall be counted in membership in the pupil's educating district  
3 or districts. An individual pupil shall not be counted for more  
4 than a total of 1.0 full-time equated membership.

5 (b) If a pupil is educated in a district other than the  
6 pupil's district of residence and the educating district is not  
7 in the same intermediate district as the pupil's district of res-  
8 idence, if the pupil is not being educated as part of a coopera-  
9 tive education program, if the pupil's district of residence does  
10 not give the educating district its approval to count the pupil  
11 in membership in the educating district, and if the pupil is not  
12 covered by an exception specified in subsection (6) to the  
13 requirement that the educating district must have the approval of  
14 the pupil's district of residence to count the pupil in member-  
15 ship, the pupil shall not be counted in membership in any  
16 district.

17 (c) A special education pupil educated by the intermediate  
18 district shall be counted in membership in the intermediate  
19 district.

20 (d) A pupil placed by a court or state agency in an  
21 on-grounds program of a juvenile detention facility, a child  
22 caring institution, or a mental health institution, or a pupil  
23 funded under section 53a, shall be counted in membership in the  
24 district or intermediate district approved by the department to  
25 operate the program.

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

4 (f) A pupil enrolled in a vocational education program sup-  
5 ported by a millage levied over an area larger than a single dis-  
6 trict or in an area vocational-technical education program estab-  
7 lished pursuant to section 690 of the revised school code, MCL  
8 380.690, shall be counted only in the pupil's district of  
9 residence.

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

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

14 (i) For a new district, university school, or public school  
15 academy beginning its operation after December 31, 1994, member-  
16 ship for the first 2 full or partial fiscal years of operation  
17 shall be determined as follows:

18 (i) If operations begin before the pupil membership count  
19 day for the fiscal year, membership is the average number of  
20 full-time equated pupils in grades K to 12 actually enrolled and  
21 in regular daily attendance on the pupil membership count day for  
22 the current school year and on the supplemental count day for the  
23 current school year, as determined by the department and calcu-  
24 lated by adding the number of pupils registered for attendance on  
25 the pupil membership count day plus pupils received by transfer  
26 and minus pupils lost as defined by rules promulgated by the  
27 state board, and as corrected by a subsequent department audit,

1 plus the final audited count from the supplemental count day for  
2 the current school year, and dividing that sum by 2.

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

9       (j) If a district is the authorizing body for a public  
10 school academy, then, in the first school year in which pupils  
11 are counted in membership on the pupil membership count day in  
12 the public school academy, the determination of the district's  
13 membership shall exclude from the district's pupil count for the  
14 immediately preceding supplemental count day any pupils who are  
15 counted in the public school academy on that first pupil member-  
16 ship count day who were also counted in the district on the imme-  
17 diately preceding supplemental count day.

18       (k) In a district, public school academy, university school,  
19 or intermediate district operating an extended school year pro-  
20 gram approved by the state board, a pupil enrolled, but not  
21 scheduled to be in regular daily attendance on a pupil membership  
22 count day, shall be counted.

23       (l) Pupils to be counted in membership shall be not less  
24 than 5 years of age on December 1 and less than 20 years of age  
25 on September 1 of the school year except a special education  
26 pupil who is enrolled and receiving instruction in a special  
27 education program approved by the department and not having a

1 high school diploma who is less than 26 years of age as of  
2 September 1 of the current school year shall be counted in  
3 membership.

4 (m) An individual who has obtained a high school diploma  
5 shall not be counted in membership. An individual who has  
6 obtained a general education development (G.E.D.) certificate  
7 shall not be counted in membership. An individual participating  
8 in a job training program funded under former section 107a or a  
9 jobs program funded under former section 107b, both administered  
10 by the Michigan jobs commission, or participating in any succes-  
11 sor of either of those 2 programs, shall not be counted in  
12 membership.

13 (n) If a pupil counted in membership in a public school  
14 academy is also educated by a district or intermediate district  
15 as part of a cooperative education program, the pupil shall be  
16 counted in membership only in the public school academy, and the  
17 instructional time scheduled for the pupil in the district or  
18 intermediate district shall be included in the full-time equated  
19 membership determination under subdivision (q). However, for  
20 pupils receiving instruction in both a public school academy and  
21 in a district or intermediate district but not as a part of a  
22 cooperative education program, the following apply:

23 (i) If the public school academy provides instruction for at  
24 least 1/2 of the class hours specified in subdivision (q), the  
25 public school academy shall receive as its prorated share of the  
26 full-time equated membership for each of those pupils an amount  
27 equal to 1 times the product of the hours of instruction the

1 public school academy provides divided by the number of hours  
2 specified in subdivision (q) for full-time equivalency, and the  
3 remainder of the full-time membership for each of those pupils  
4 shall be allocated to the district or intermediate district pro-  
5 viding the remainder of the hours of instruction.

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

16       (o) An individual less than 16 years of age as of September  
17 1 of the current school year who is being educated in an alterna-  
18 tive education program shall not be counted in membership if  
19 there are also adult education participants being educated in the  
20 same program or classroom.

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

23       (q) The number of class hours used to calculate full-time  
24 equated memberships shall be consistent with section 1284 of the  
25 revised school code, MCL 380.1284. In determining full-time  
26 equated memberships for pupils who are enrolled in a  
27 postsecondary institution under the postsecondary enrollment

1 options act, 1996 PA 160, MCL 388.511 to 388.524, a pupil shall  
2 not be considered to be less than a full-time equated pupil  
3 solely because of the effect of his or her postsecondary enroll-  
4 ment, including necessary travel time, on the number of class  
5 hours provided by the district to the pupil.

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

11 (s) For a district that has qualified currently migrant  
12 pupils enrolled in the district as of the pupil membership count  
13 day who were not counted in membership in the district on the  
14 supplemental count day for the immediately preceding school year,  
15 as determined by the department using the criteria used for eli-  
16 gibility for the migrant education program under the improving  
17 America's schools act of 1994, Public Law 103-382, 108  
18 Stat. 3518, the number of those pupils counted in the district's  
19 membership is  $3/4$  of the number of those pupils counted on the  
20 pupil membership count day only.

21 (t) For a district, university school, or public school  
22 academy that has pupils enrolled in a grade level that was not  
23 offered by the district, university school, or public school  
24 academy in the immediately preceding school year, the number of  
25 pupils enrolled in that grade level to be counted in membership  
26 is the average of the number of those pupils enrolled and in  
27 regular daily attendance on the pupil membership count day and



1 the supplemental count day of the current school year, as  
2 determined by the department. Membership shall be calculated by  
3 adding the number of pupils registered for attendance in that  
4 grade level on the pupil membership count day plus pupils  
5 received by transfer and minus pupils lost as defined by rules  
6 promulgated by the state board, and as corrected by subsequent  
7 department audit, plus the final audited count from the supple-  
8 mental count day for the current school year, and dividing that  
9 sum by 2.

10 (u) A pupil enrolled in a cooperative education program may  
11 be counted in membership in the pupil's district of residence  
12 with the written approval of all parties to the cooperative  
13 agreement.

14 (v) If, as a result of a disciplinary action, a district  
15 determines through the district's alternative education program  
16 that the best instructional placement for a pupil is in the  
17 pupil's home, if that placement is authorized in writing by the  
18 district superintendent and district alternative education super-  
19 visor, and if the district provides appropriate instruction as  
20 described in this subdivision to the pupil at the pupil's home,  
21 the district may count the pupil in membership on a pro rata  
22 basis, with the proration based on the number of hours of  
23 instruction the district actually provides to the pupil divided  
24 by the number of hours specified in subdivision (q) for full-time  
25 equivalency. For the purposes of this subdivision, a district  
26 shall be considered to be providing appropriate instruction if  
27 all of the following are met:

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

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

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

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

12 (w) A pupil enrolled in an alternative education program  
 13 described in section 25 shall be counted in membership in the  
 14 district or public school academy that expelled the pupil.

15 (5) "Public school academy" means a public school academy  
 16 operating under part 6a or 6b of the revised school code, MCL  
 17 380.501 to 380.507 and 380.511 to 380.518.

18 (6) "Pupil" means a person in membership in a public  
 19 school. A district must have the approval of the pupil's dis-  
 20 trict of residence to count the pupil in membership, except  
 21 approval by the pupil's district of residence shall not be  
 22 required for ~~nonpublic~~ ANY OF THE FOLLOWING:

23 (A) NONPUBLIC part-time pupils. ~~—, for pupils—~~

24 (B) PUPILS receiving 1/2 or less of their instruction in a  
 25 district other than their district of residence. ~~—, for pupils—~~

26 (C) PUPILS enrolled in a public school academy or university  
 27 school. ~~—, for pupils—~~

1 (D) PUPILS enrolled in a district other than their district  
2 of residence under an intermediate district schools of choice  
3 pilot program as described in section 91a or former section 91 if  
4 the intermediate district and its constituent districts have been  
5 exempted from section 105. ~~, for pupils~~

6 (E) PUPILS enrolled in a district other than their district  
7 of residence but within the same intermediate district if the  
8 educating district enrolls nonresident pupils in accordance with  
9 section 105. ~~, or for pupils~~

10 (F) PUPILS enrolled in a district other than their district  
11 of residence if the pupils have been continuously enrolled in the  
12 educating district since a school year in which the pupils  
13 enrolled in the educating district under section 105 and in which  
14 the educating district enrolled nonresident pupils in accordance  
15 with section 105.

16 (G) A NONRESIDENT PUPIL WHO HAS BEEN PHYSICALLY ASSAULTED ON  
17 PROPERTY OWNED BY OR UNDER THE CONTROL OF THE DISTRICT OF RESI-  
18 DENCE, ON A VEHICLE USED BY THE DISTRICT OF RESIDENCE OR UNDER  
19 CONTRACT WITH THE DISTRICT OF RESIDENCE TO TRANSPORT PUPILS TO OR  
20 FROM SCHOOL, OR AT A SCHOOL-RELATED ACTIVITY SPONSORED OR  
21 APPROVED BY THE DISTRICT OF RESIDENCE.

22 In addition, if a district that is not a first class district  
23 educates pupils who reside in a first class district and if the  
24 primary instructional site for those pupils is located within the  
25 boundaries of the first class district, the educating district  
26 must have the approval of the first class district to count those  
27 pupils in membership. As used in this subsection, "first class

1 district" means a district organized as a school district of the  
2 first class under the revised school code.

3 (7) "Pupil membership count day" of a district or intermedi-  
4 ate district means:

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

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

9 (i) Fourth Wednesday in July.

10 (ii) Fourth Wednesday in September.

11 (iii) Second Wednesday in February.

12 (iv) Fourth Wednesday in April.

13 (8) "Rule" means a rule promulgated pursuant to the adminis-  
14 trative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
15 24.328.

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

18 (10) "School fiscal year" means a fiscal year that commences  
19 July 1 and continues through June 30.

20 (11) "State board" means the state board of education.

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

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

~~1 the same intermediate district if the educating district enrolls~~  
~~2 nonresident pupils in accordance with section 105; a pupil~~  
~~3 enrolled in a district other than the pupil's district of resi-~~  
~~4 dence if the pupil has been continuously enrolled in the educat-~~  
~~5 ing district since a school year in which the pupil enrolled in~~  
~~6 the educating district under section 105 and in which the educat-~~  
~~7 ing district enrolled nonresident pupils in accordance with sec-~~  
~~8 tion 105; or a pupil served by an intermediate district schools~~  
~~9 of choice pilot program as described in section 91a or former~~  
~~10 section 91 if the intermediate district and its constituent dis-~~  
~~11 tricts have been exempted from section 105~~ OR A PUPIL DESCRIBED  
12 IN SUBSECTION (6)(D) TO (G). A pupil's district of residence  
13 shall not require a high school tuition pupil, as provided under  
14 section 111, to attend another school district after the pupil  
15 has been assigned to a school district.

16 (14) "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 (15) "Taxable value" means the taxable value of property as  
20 determined under section 27a of the general property tax act,  
21 1893 PA 206, MCL 211.27a.

22 (16) "Total state aid" or "total state school aid" means the  
23 total combined amount of all funds due to a district, intermedi-  
24 ate district, or other entity under all of the provisions of this  
25 act.

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

4 SEC. 166F. (1) IF A PUPIL ENROLLS OR SEEKS TO ENROLL IN A  
5 DISTRICT OTHER THAN THE PUPIL'S DISTRICT OF RESIDENCE, UPON  
6 REQUEST BY THE PUPIL'S PARENT OR LEGAL GUARDIAN, THE BOARD OR A  
7 SCHOOL OFFICIAL OF THE DISTRICT OF RESIDENCE SHALL PROMPTLY  
8 RELEASE THE PUPIL'S EDUCATIONAL RECORDS TO THE DISTRICT IN WHICH  
9 THE PUPIL ENROLLS OR SEEKS TO ENROLL. UPON THE PUPIL'S ENROLL-  
10 MENT IN THE OTHER DISTRICT AND UPON REQUEST BY THE PUPIL'S PARENT  
11 OR LEGAL GUARDIAN, THE BOARD OR A SCHOOL OFFICIAL OF THE DISTRICT  
12 OF RESIDENCE SHALL PROMPTLY RELEASE TO THE PUPIL OR THE PUPIL'S  
13 PARENT OR LEGAL GUARDIAN ANY OTHER PROPERTY OF THE PUPIL OR  
14 PARENT OR LEGAL GUARDIAN THAT IS IN THE POSSESSION OF THE DIS-  
15 TRICT OF RESIDENCE. THE BOARD, A MEMBER OF THE BOARD, OR A  
16 SCHOOL OFFICIAL SHALL NOT REFUSE OR OTHERWISE INTERFERE WITH THE  
17 RELEASE OF THE PUPIL'S EDUCATIONAL RECORDS OR OTHER PROPERTY  
18 REQUESTED BY THE PARENT OR LEGAL GUARDIAN AS DESCRIBED UNDER THIS  
19 SUBSECTION.

20 (2) A DISTRICT IN WHICH THE BOARD, A MEMBER OF THE BOARD, OR  
21 ANOTHER SCHOOL OFFICIAL VIOLATES SUBSECTION (1) FORFEITS 5% OF  
22 ITS TOTAL STATE SCHOOL AID UNDER THIS ACT FOR THE FISCAL YEAR IN  
23 WHICH THE VIOLATION OCCURS.