

# HOUSE BILL No. 5785

March 12, 2002, Introduced by Reps. Van Woerkom and Meyer and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending section 6 (MCL 388.1606), as amended by 2001 PA 121.

## 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  
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 pre-  
10 ceding 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 grad-  
19 uated, 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 a district, public school academy, university school,  
24 or intermediate district the sum of the product of .8 times the  
25 number of full-time equated pupils in grades K to 12 actually  
26 enrolled and in regular daily attendance on the pupil membership  
27 count day for the current school year, plus the product of .2

1 times the final audited count from the supplemental count day for  
2 the immediately preceding school year. All pupil counts used in  
3 this subsection are as determined by the department and calcu-  
4 lated by adding the number of pupils registered for attendance  
5 plus pupils received by transfer and minus pupils lost as defined  
6 by rules promulgated by the superintendent, and as corrected by a  
7 subsequent department audit. The amount of the foundation allow-  
8 ance for a pupil in membership is determined under section 20.  
9 In making the calculation of membership, all of the following, as  
10 applicable, apply to determining the membership of a district,  
11 public school academy, university school, or intermediate  
12 district:

13 (a) Except as otherwise provided in this subsection, and  
14 pursuant to subsection (6), a pupil shall be counted in member-  
15 ship in the pupil's educating district or districts. An individ-  
16 ual pupil shall not be counted for more than a total of 1.0  
17 full-time equated membership.

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

1 (c) A special education pupil educated by the intermediate  
2 district shall be counted in membership in the intermediate  
3 district.

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

10 (e) A pupil enrolled in the Michigan schools for the deaf  
11 and blind shall be counted in membership in the pupil's interme-  
12 diate district of residence.

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

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

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

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

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

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

19           (j) If a district is the authorizing body for a public  
20 school academy, then, in the first school year in which pupils  
21 are counted in membership on the pupil membership count day in  
22 the public school academy, the determination of the district's  
23 membership shall exclude from the district's pupil count for the  
24 immediately preceding supplemental count day any pupils who are  
25 counted in the public school academy on that first pupil member-  
26 ship count day who were also counted in the district on the  
27 immediately preceding supplemental count day.

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

(l) Pupils to be counted in membership shall be ~~not less than~~ AT LEAST 5 years of age ~~on December 1~~ and less than 20 years of age on September 1 of the school year. ~~except~~ HOWEVER, a special education pupil who is enrolled and receiving instruction in a special education program approved by the department, ~~and not having~~ WHO DOES NOT HAVE a high school diploma, AND who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

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

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy, and the instructional time scheduled for the pupil in the district or

1 intermediate district shall be included in the full-time equated  
2 membership determination under subdivision (q). However, for  
3 pupils receiving instruction in both a public school academy and  
4 in a district or intermediate district but not as a part of a  
5 cooperative education program, the following apply:

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

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

26 (o) An individual less than 16 years of age as of September  
27 1 of the current school year who is being educated in an

1 alternative education program shall not be counted in membership  
2 if there are also adult education participants being educated in  
3 the same program or classroom.

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

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

14 (r) Full-time equated memberships for pupils in kindergarten  
15 shall be determined by dividing the number of class hours sched-  
16 uled and provided per year per kindergarten pupil by a number  
17 equal to 1/2 the number used for determining full-time equated  
18 memberships for pupils in grades 1 to 12.

19 (s) For a district, university school, or public school  
20 academy that has pupils enrolled in a grade level that was not  
21 offered by the district, university school, or public school  
22 academy in the immediately preceding school year, the number of  
23 pupils enrolled in that grade level to be counted in membership  
24 is the average of the number of those pupils enrolled and in reg-  
25 ular daily attendance on the pupil membership count day and the  
26 supplemental count day of the current school year, as determined  
27 by the department. Membership shall be calculated by adding the



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

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

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

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

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

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

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

9           (v) A pupil enrolled in an alternative or disciplinary edu-  
10 cation program described in section 25 shall be counted in mem-  
11 bership in the district or public school academy that expelled  
12 the pupil.

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

20           (x) For a public school academy that has been in operation  
21 for at least 2 years and that suspended operations for at least 1  
22 semester and is resuming operations, membership is the sum of the  
23 product of .8 times the number of full-time equated pupils in  
24 grades K to 12 actually enrolled and in regular daily attendance  
25 on the first pupil membership count day or supplemental count  
26 day, whichever is first, occurring after operations resume, plus  
27 the product of .2 times the final audited count from the most

1 recent pupil membership count day or supplemental count day that  
2 occurred before suspending operations, as determined by the  
3 superintendent.

4 (y) For 2000-2001 only, if a district's membership for that  
5 fiscal year, as otherwise calculated under this subsection, would  
6 be less than 1,550 pupils, the district's membership for that  
7 fiscal year shall be considered to be the membership figure cal-  
8 culated under this subdivision. For 2001-2002 only, if a  
9 district's membership for that fiscal year, as otherwise calcu-  
10 lated under this subsection, would be less than 1,550 pupils and  
11 the district has 4.5 or fewer pupils per square mile, as deter-  
12 mined by the department, the district's membership shall be con-  
13 sidered to be the membership figure calculated under this  
14 subsection. The membership figure calculated under this subsec-  
15 tion is the greater of the following:

16 (i) The average of the district's membership for the  
17 3-fiscal-year period ending with that fiscal year, calculated by  
18 adding the district's actual membership for that fiscal year, as  
19 otherwise calculated under this subsection, plus the district's  
20 membership as calculated under this subdivision for each of the  
21 2 immediately preceding fiscal years, and dividing the sum of  
22 those 3 membership figures by 3.

23 (ii) The district's actual membership as otherwise calcu-  
24 lated under this subsection.

25 (5) "Public school academy" means a public school academy or  
26 strict discipline academy operating under the revised school  
27 code.

1       (6) "Pupil" means a person in membership in a public  
2 school. A district must have the approval of the pupil's dis-  
3 trict of residence to count the pupil in membership, except  
4 approval by the pupil's district of residence shall not be  
5 required for any of the following:

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

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

10       (c) A pupil enrolled in a public school academy or univer-  
11 sity school.

12       (d) A pupil enrolled in a district other than the pupil's  
13 district of residence under an intermediate district schools of  
14 choice pilot program as described in section 91a or former  
15 section 91 if the intermediate district and its constituent dis-  
16 tricts have been exempted from section 105.

17       (e) A pupil enrolled in a district other than the pupil's  
18 district of residence but within the same intermediate district  
19 if the educating district enrolls nonresident pupils in accord-  
20 ance with section 105.

21       (f) A pupil enrolled in a district other than the pupil's  
22 district of residence if the pupil has been continuously enrolled  
23 in the educating district since a school year in which the pupil  
24 enrolled in the educating district under section 105 or 105c and  
25 in which the educating district enrolled nonresident pupils in  
26 accordance with section 105 or 105c.

1 (g) A pupil who has made an official written complaint or  
2 whose parent or legal guardian has made an official written  
3 complaint to law enforcement officials and to school officials of  
4 the pupil's district of residence that the pupil has been the  
5 victim of a criminal sexual assault or other serious assault, if  
6 the official complaint either indicates that the assault occurred  
7 at school or that the assault was committed by 1 or more other  
8 pupils enrolled in the school the pupil would otherwise attend in  
9 the district of residence or by an employee of the district of  
10 residence. A person who intentionally makes a false report of a  
11 crime to law enforcement officials for the purposes of this sub-  
12 division is subject to section 411a of the Michigan penal code,  
13 1931 PA 328, MCL 750.411a, which provides criminal penalties for  
14 that conduct. As used in this subdivision:

15 (i) "At school" means in a classroom, elsewhere on school  
16 premises, on a school bus or other school-related vehicle, or at  
17 a school-sponsored activity or event whether or not it is held on  
18 school premises.

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

24 (h) A pupil enrolled in a district located in a contiguous  
25 intermediate district, as described in section 105c, if the edu-  
26 cating district enrolls those nonresident pupils in accordance  
27 with section 105c.

1       (i) A pupil whose district of residence changed after the  
2 pupil membership count day and before the supplemental count day  
3 and who continues to be enrolled on the supplemental count day as  
4 a nonresident in the district in which he or she was enrolled as  
5 a resident on the pupil membership count day of the same school  
6 year.

7       (j) A pupil enrolled in an alternative education program  
8 operated by a district other than his or her district of resi-  
9 dence who meets 1 or more of the following:

10       (i) The pupil has been suspended or expelled from his or her  
11 district of residence for any reason, including, but not limited  
12 to, a suspension or expulsion under section 1310, 1311, or 1311a  
13 of the revised school code, MCL 380.1310, 380.1311, and  
14 380.1311a.

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

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

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

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

20       However, if a district that is not a first class district  
21 educates pupils who reside in a first class district and if the  
22 primary instructional site for those pupils is located within the  
23 boundaries of the first class district, the educating district  
24 must have the approval of the first class district to count those  
25 pupils in membership. As used in this subsection, "first class  
26 district" means a district organized as a school district of the  
27 first class under the revised school code.

1 (7) "Pupil membership count day" of a district or  
2 intermediate district means:

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

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

7 (i) Fourth Wednesday in July.

8 (ii) Fourth Wednesday in September.

9 (iii) Second Wednesday in February.

10 (iv) Fourth Wednesday in April.

11 (8) "Pupils in grades K to 12 actually enrolled and in regu-  
12 lar daily attendance" means pupils in grades K to 12 in  
13 attendance and receiving instruction in all classes for which  
14 they are enrolled on the pupil membership count day or the sup-  
15 plemental count day, as applicable. A pupil who is absent from  
16 any of the classes in which the pupil is enrolled on the pupil  
17 membership count day or supplemental count day and who does not  
18 attend each of those classes during the 10 consecutive school  
19 days immediately following the pupil membership count day or sup-  
20 plemental count day, except for a pupil who has been excused by  
21 the district, shall not be counted as 1.0 full-time equated  
22 membership. In addition, a pupil who is excused from attendance  
23 on the pupil membership count day or supplemental count day and  
24 who fails to attend each of the classes in which the pupil is  
25 enrolled within 30 calendar days after the pupil membership count  
26 day or supplemental count day shall not be counted as 1.0  
27 full-time equated membership. Pupils not counted as 1.0

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

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

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

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

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

15 (13) "Superintendent", unless the context clearly refers to  
16 a district or intermediate district superintendent, means the  
17 superintendent of public instruction described in section 3 of  
18 article VIII of the state constitution of 1963.

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

21 (15) "Tuition pupil" means a pupil of school age attending  
22 school in a district other than the pupil's district of residence  
23 for whom tuition may be charged. Tuition pupil does not include  
24 a pupil who is a special education pupil or a pupil described in  
25 subsection (6)(d) to (k). A pupil's district of residence shall  
26 not require a high school tuition pupil, as provided under



1 section 111, to attend another school district after the pupil  
2 has been assigned to a school district.

3 (16) "State school aid fund" means the state school aid fund  
4 established in section 11 of article IX of the state constitution  
5 of 1963.

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

9 (18) "Total state aid" or "total state school aid" means the  
10 total combined amount of all funds due to a district, intermedi-  
11 ate district, or other entity under all of the provisions of this  
12 act.

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

16 Enacting section 1. This amendatory act does not take  
17 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5784  
18 (request no. 06705'02) of the 91st Legislature is enacted into  
19 law.