

**SUBSTITUTE FOR
HOUSE BILL NO. 4306**

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 6 and 17b (MCL 388.1606 and 388.1617b),
section 6 as amended by 2004 PA 351 and section 17b as amended by
2000 PA 297.

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 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

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

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

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

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

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

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

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

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

1 district.

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

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

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

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

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

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

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

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

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

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

25 (k) In a district, public school academy, university school,
26 or intermediate district operating an extended school year program
27 approved by the superintendent, a pupil enrolled, but not scheduled

1 to be in regular daily attendance on a pupil membership count day,
2 shall be counted.

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

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

19 (n) If a pupil counted in membership in a public school
20 academy is also educated by a district or intermediate district as
21 part of a cooperative education program, the pupil shall be counted
22 in membership only in the public school academy unless a written
23 agreement signed by all parties designates the party or parties in
24 which the pupil shall be counted in membership, and the
25 instructional time scheduled for the pupil in the district or
26 intermediate district shall be included in the full-time equated
27 membership determination under subdivision (q). However, for pupils

1 receiving instruction in both a public school academy and in a
2 district or intermediate district but not as a part of a
3 cooperative education program, the following apply:

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

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

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

1 program or classroom.

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

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

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

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

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

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

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

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

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

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

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

5 (v) A pupil enrolled in an alternative or disciplinary
6 education program described in section 25 shall be counted in
7 membership in the district or public school academy that expelled
8 the pupil.

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

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

26 (y) If a district's membership for a particular fiscal year,
27 as otherwise calculated under this subsection, would be less than

1 1,550 pupils and the district has 4.5 or fewer pupils per square
2 mile, as determined by the department, and if the district does not
3 receive funding under section 22d, the district's membership shall
4 be considered to be the membership figure calculated under this
5 subdivision. If a district educates and counts in its membership
6 pupils in grades 9 to 12 who reside in a contiguous district that
7 does not operate grades 9 to 12 and if 1 or both of the affected
8 districts request the department to use the determination allowed
9 under this sentence, the department shall include the square
10 mileage of both districts in determining the number of pupils per
11 square mile for each of the districts for the purposes of this
12 subdivision. The membership figure calculated under this
13 subdivision is the greater of the following:

14 (i) The average of the district's membership for the 3-fiscal-
15 year period ending with that fiscal year, calculated by adding the
16 district's actual membership for each of those 3 fiscal years, as
17 otherwise calculated under this subsection, and dividing the sum of
18 those 3 membership figures by 3.

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

21 (z) If a public school academy that is not in its first or
22 second year of operation closes at the end of a school year and
23 does not reopen for the next school year, the department shall
24 adjust the membership count of the district in which a former pupil
25 of the public school academy enrolls and is in regular daily
26 attendance for the next school year to ensure that the district
27 receives the same amount of membership aid for the pupil as if the

House Bill No. 4306 as amended September 14, 2005

1 pupil were counted in the district on the supplemental count day of
2 the preceding school year.

3 <<(AA) FOR 2005-2006 ONLY, IF A PUPIL WHO HAS BEEN EVACUATED FROM
4 ANOTHER STATE AND HAS RELOCATED IN THIS STATE DUE TO A NATURAL DISASTER
5 ENROLLS IN A DISTRICT WITHIN 60 DAYS AFTER THE PUPIL MEMBERSHIP COUNT
6 DAY, THE DEPARTMENT SHALL ADJUST THE DISTRICT'S PUPIL COUNT FOR THE PUPIL
7 MEMBERSHIP COUNT DAY TO INCLUDE THE PUPIL IN THE COUNT.

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10 (5) "Public school academy" means a public school academy,
11 urban high school academy, or strict discipline academy operating
12 under the revised school code.

13 (6) "Pupil" means a person in membership in a public school. A
14 district must have the approval of the pupil's district of
15 residence to count the pupil in membership, except approval by the
16 pupil's district of residence is not required for any of the
17 following:

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

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

22 (c) A pupil enrolled in a public school academy or university
23 school.

24 (d) A pupil enrolled in a district other than the pupil's
25 district of residence under an intermediate district schools of
26 choice pilot program as described in section 91a or former section
27 91 if the intermediate district and its constituent districts have

1 been exempted from section 105.

2 (e) A pupil enrolled in a district other than the pupil's
3 district of residence if the pupil is enrolled in accordance with
4 section 105 or 105c.

5 (f) A pupil who has made an official written complaint or
6 whose parent or legal guardian has made an official written
7 complaint to law enforcement officials and to school officials of
8 the pupil's district of residence that the pupil has been the
9 victim of a criminal sexual assault or other serious assault, if
10 the official complaint either indicates that the assault occurred
11 at school or that the assault was committed by 1 or more other
12 pupils enrolled in the school the pupil would otherwise attend in
13 the district of residence or by an employee of the district of
14 residence. A person who intentionally makes a false report of a
15 crime to law enforcement officials for the purposes of this
16 subdivision is subject to section 411a of the Michigan penal code,
17 1931 PA 328, MCL 750.411a, which provides criminal penalties for
18 that conduct. As used in this subdivision:

19 (i) "At school" means in a classroom, elsewhere on school
20 premises, on a school bus or other school-related vehicle, or at a
21 school-sponsored activity or event whether or not it is held on
22 school premises.

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

1 (g) 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 a
4 nonresident in the district in which he or she was enrolled as a
5 resident on the pupil membership count day of the same school year.

6 (h) A pupil enrolled in an alternative education program
7 operated by a district other than his or her district of residence
8 who meets 1 or more of the following:

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

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

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

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

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

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

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

1 under the revised school code.

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

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

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

8 (i) Fourth Wednesday in July.

9 (ii) Fourth Wednesday in September.

10 (iii) Second Wednesday in February.

11 (iv) Fourth Wednesday in April.

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

1 1.0 full-time equated membership due to an absence from a class
2 shall be counted as a prorated membership for the classes the pupil
3 attended. For purposes of this subsection, "class" means a period
4 of time in 1 day when pupils and a certificated teacher or legally
5 qualified substitute teacher are together and instruction is taking
6 place.

7 (9) "Rule" means a rule promulgated pursuant to the
8 administrative 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 to
11 380.1852.

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 a
16 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 a
24 pupil who is a special education pupil or a pupil described in
25 subsection (6)(d) to (j). A pupil's district of residence shall not
26 require a high school tuition pupil, as provided under section 111,
27 to attend another school district after the pupil has been assigned

1 to a school district.

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

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

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

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

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

20 Sec. 17b. (1) Not later than October 20, November 20, December
21 20, January 20, February 20, March 20, April 20, May 20, June 20,
22 July 20, and August 20, the department shall prepare a statement of
23 the amount to be distributed under this act in the installment to
24 the districts and intermediate districts and deliver the statement
25 to the state treasurer, and the state treasurer shall pay the
26 installments on each of those dates or, if the date is not a
27 business day, on the immediately preceding business day before that

1 date. Except as otherwise provided in this act, the portion of the
2 district's or intermediate district's state fiscal year entitlement
3 to be included in each installment shall be 1/11. A district or
4 intermediate district shall accrue the payments received in July
5 and August to the school fiscal year ending the immediately
6 preceding June 30.

7 (2) The state treasurer shall make payment under this section
8 by drawing a warrant in favor of the treasurer of each district or
9 intermediate district for the amount payable to the district or
10 intermediate district according to the statement and delivering the
11 warrant to the treasurer of each district or intermediate district,
12 or if the state treasurer receives a written request by the
13 treasurer of the district or intermediate district specifying an
14 account, by electronic funds transfer to that account of the amount
15 payable to the district or intermediate district according to the
16 statement. The department may make adjustments in payments made
17 under this section through additional payments when changes in law
18 or errors in computation cause the regularly scheduled payment to
19 be less than the amount to which the district or intermediate
20 district is entitled pursuant to this act.

21 (3) Except as otherwise ~~specified~~ **PROVIDED** in this act,
22 grant payments under this act shall be paid according to subsection
23 (1).

24 (4) Upon the written request of a district or intermediate
25 district and the submission of proof satisfactory to the department
26 of a need of a temporary and nonrecurring nature, the
27 superintendent, with the written concurrence of the state treasurer

1 and the state budget director, may authorize an advance release of
2 funds due a district or intermediate district under this act. ~~Such~~
3 ~~an~~ **AN** advance **AUTHORIZED UNDER THIS SUBSECTION** shall not cause
4 funds to be paid to a district or intermediate district more than
5 30 days earlier than the established payment date for those funds.