

# HOUSE BILL No. 4435

March 2, 2005, Introduced by Reps. Waters and Virgil Smith 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 2004 PA 351.

**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  
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 program  
3 pupils placed part-time in noncenter programs to comply with the  
4 least restrictive environment provisions of section 612 of part B  
5 of the individuals with disabilities education act, 20 USC 1412,  
6 may be considered center program pupils for pupil accounting  
7 purposes for the time scheduled in either a center program or a  
8 noncenter program.

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

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

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

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

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

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

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

26 (d) A pupil placed by a court or state agency in an on-grounds  
27 program of a juvenile detention facility, a child caring

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

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

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

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

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

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

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

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

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

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

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

27 (l) Pupils to be counted in membership shall be not less than 5

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

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

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

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

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

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

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

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

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

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

1 the current school year, and dividing that sum by 2.

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

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

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

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

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

27 (iv) Credit earned is awarded to the pupil and placed on the

1 pupil's transcript.

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

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

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

23 (y) If a district's membership for a particular fiscal year,  
24 as otherwise calculated under this subsection, would be less than  
25 1,550 pupils and the district has 4.5 or fewer pupils per square  
26 mile, as determined by the department, and if the district does not  
27 receive funding under section 22d, the district's membership shall

1 be considered to be the membership figure calculated under this  
2 subdivision. If a district educates and counts in its membership  
3 pupils in grades 9 to 12 who reside in a contiguous district that  
4 does not operate grades 9 to 12 and if 1 or both of the affected  
5 districts request the department to use the determination allowed  
6 under this sentence, the department shall include the square  
7 mileage of both districts in determining the number of pupils per  
8 square mile for each of the districts for the purposes of this  
9 subdivision. **IN ADDITION, FOR 2005-2006 ONLY, IF A DISTRICT'S**  
10 **MEMBERSHIP FOR THE 2005-2006 FISCAL YEAR, AS OTHERWISE CALCULATED**  
11 **UNDER THIS SUBSECTION, WOULD BE MORE THAN 2% LESS THAN THE**  
12 **DISTRICT'S MEMBERSHIP FOR 2004-2005, AND IF THE DISTRICT DOES NOT**  
13 **RECEIVE FUNDING UNDER SECTION 22D, THE DISTRICT'S MEMBERSHIP SHALL**  
14 **BE CONSIDERED TO BE THE MEMBERSHIP FIGURE CALCULATED UNDER THIS**  
15 **SUBDIVISION.** The membership figure calculated under this  
16 subdivision is the greater of the following:

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

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

24 (z) If a public school academy that is not in its first or  
25 second year of operation closes at the end of a school year and  
26 does not reopen for the next school year, the department shall  
27 adjust the membership count of the district in which a former pupil

1 of the public school academy enrolls and is in regular daily  
2 attendance for the next school year to ensure that the district  
3 receives the same amount of membership aid for the pupil as if the  
4 pupil were counted in the district on the supplemental count day of  
5 the preceding school year.

6 (5) "Public school academy" means a public school academy,  
7 urban high school academy, or strict discipline academy operating  
8 under the revised school code.

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

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

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

18 (c) A pupil enrolled in a public school academy or university  
19 school.

20 (d) A pupil enrolled in a district other than the pupil's  
21 district of residence under an intermediate district schools of  
22 choice pilot program as described in section 91a or former section  
23 91 if the intermediate district and its constituent districts have  
24 been exempted from section 105.

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

1           (f) 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  
12 subdivision 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 a  
17 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 felony  
20 violation of chapter XI of the Michigan penal code, 1931 PA 328,  
21 MCL 750.81 to 750.90g, or that constitutes an assault and  
22 infliction of serious or aggravated injury under section 81a of the  
23 Michigan penal code, 1931 PA 328, MCL 750.81a.

24           (g) A pupil whose district of residence changed after the  
25 pupil membership count day and before the supplemental count day  
26 and who continues to be enrolled on the supplemental count day as a  
27 nonresident in the district in which he or she was enrolled as a

1 resident on the pupil membership count day of the same school year.

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

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

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

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

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

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

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

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

25 (7) "Pupil membership count day" of a district or intermediate  
26 district means:

27 (a) Except as provided in subdivision (b), the fourth

1 Wednesday in September each school year.

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

4 (i) Fourth Wednesday in July.

5 (ii) Fourth Wednesday in September.

6 (iii) Second Wednesday in February.

7 (iv) Fourth Wednesday in April.

8 (8) "Pupils in grades K to 12 actually enrolled and in regular  
9 daily attendance" means pupils in grades K to 12 in attendance and  
10 receiving instruction in all classes for which they are enrolled on  
11 the pupil membership count day or the supplemental count day, as  
12 applicable. A pupil who is absent from any of the classes in which  
13 the pupil is enrolled on the pupil membership count day or  
14 supplemental count day and who does not attend each of those  
15 classes during the 10 consecutive school days immediately following  
16 the pupil membership count day or supplemental count day, except  
17 for a pupil who has been excused by the district, shall not be  
18 counted as 1.0 full-time equated membership. In addition, a pupil  
19 who is excused from attendance on the pupil membership count day or  
20 supplemental count day and who fails to attend each of the classes  
21 in which the pupil is enrolled within 30 calendar days after the  
22 pupil membership count day or supplemental count day shall not be  
23 counted as 1.0 full-time equated membership. Pupils not counted as  
24 1.0 full-time equated membership due to an absence from a class  
25 shall be counted as a prorated membership for the classes the pupil  
26 attended. For purposes of this subsection, "class" means a period  
27 of time in 1 day when pupils and a certificated teacher or legally

1 qualified substitute teacher are together and instruction is taking  
2 place.

3 (9) "Rule" means a rule promulgated pursuant to the  
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
5 24.328.

6 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to  
7 380.1852.

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

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

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

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

17 (15) "Tuition pupil" means a pupil of school age attending  
18 school in a district other than the pupil's district of residence  
19 for whom tuition may be charged. Tuition pupil does not include a  
20 pupil who is a special education pupil or a pupil described in  
21 subsection (6)(d) to (j). A pupil's district of residence shall not  
22 require a high school tuition pupil, as provided under section 111,  
23 to attend another school district after the pupil has been assigned  
24 to a school district.

25 (16) "State school aid fund" means the state school aid fund  
26 established in section 11 of article IX of the state constitution  
27 of 1963.

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

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

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

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