

# HOUSE BILL No. 4579

March 24, 2005, Introduced by Reps. Waters, Virgil Smith, Cushingberry, Dillon, Miller, Murphy, Sak, Lemmons, Jr., Gaffney, Hunter and Hood 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. The membership figure calculated under this  
10 subdivision is the greater of the following:

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

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

18 **(Z) FOR 2005-2006 ONLY, SUBJECT TO SUBDIVISION (AA), IF A**  
19 **DISTRICT'S MEMBERSHIP FOR THE 2005-2006 FISCAL YEAR, AS OTHERWISE**  
20 **CALCULATED UNDER THIS SUBSECTION, WOULD BE MORE THAN 5% LESS THAN**  
21 **THE DISTRICT'S MEMBERSHIP FOR 2004-2005, AND IF THE DISTRICT DOES**  
22 **NOT RECEIVE FUNDING UNDER SECTION 22D, THE DISTRICT'S MEMBERSHIP**  
23 **SHALL BE CONSIDERED TO BE THE SUM OF THE DISTRICT'S ACTUAL**  
24 **MEMBERSHIP FOR THAT FISCAL YEAR AS OTHERWISE CALCULATED UNDER THIS**  
25 **SUBSECTION PLUS A PERCENTAGE OF THAT FIGURE EQUAL TO THE PERCENTAGE**  
26 **BY WHICH THE DISTRICT'S ACTUAL MEMBERSHIP HAS DECLINED FROM 2004-**  
27 **2005 DIVIDED BY 2.**

1 (AA) FOR 2005-2006 ONLY, IF A DISTRICT'S MEMBERSHIP FOR THE  
2 2005-2006 FISCAL YEAR, AS OTHERWISE CALCULATED UNDER THIS  
3 SUBSECTION, WOULD BE MORE THAN 10% LESS THAN THE DISTRICT'S  
4 MEMBERSHIP FOR 2004-2005, AND IF THE DISTRICT DOES NOT RECEIVE  
5 FUNDING UNDER SECTION 22D, THE DISTRICT'S MEMBERSHIP SHALL BE  
6 CONSIDERED TO BE THE AVERAGE OF THE DISTRICT'S MEMBERSHIP FOR THE  
7 3-FISCAL-YEAR PERIOD ENDING WITH THAT FISCAL YEAR, CALCULATED BY  
8 ADDING THE DISTRICT'S ACTUAL MEMBERSHIP FOR EACH OF THOSE 3 FISCAL  
9 YEARS, AS OTHERWISE CALCULATED UNDER THIS SUBSECTION, AND DIVIDING  
10 THE SUM OF THOSE 3 MEMBERSHIP FIGURES BY 3.

11 (BB) ~~-(z)-~~ If a public school academy that is not in its first  
12 or second year of operation closes at the end of a school year and  
13 does not reopen for the next school year, the department shall  
14 adjust the membership count of the district in which a former pupil  
15 of the public school academy enrolls and is in regular daily  
16 attendance for the next school year to ensure that the district  
17 receives the same amount of membership aid for the pupil as if the  
18 pupil were counted in the district on the supplemental count day of  
19 the preceding school year.

20 (5) "Public school academy" means a public school academy,  
21 urban high school academy, or strict discipline academy operating  
22 under the revised school code.

23 (6) "Pupil" means a person in membership in a public school. A  
24 district must have the approval of the pupil's district of  
25 residence to count the pupil in membership, except approval by the  
26 pupil's district of residence is not required for any of the  
27 following:

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

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

5 (c) A pupil enrolled in a public school academy or university  
6 school.

7 (d) A pupil enrolled in a district other than the pupil's  
8 district of residence under an intermediate district schools of  
9 choice pilot program as described in section 91a or former section  
10 91 if the intermediate district and its constituent districts have  
11 been exempted from section 105.

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

15 (f) A pupil who has made an official written complaint or  
16 whose parent or legal guardian has made an official written  
17 complaint to law enforcement officials and to school officials of  
18 the pupil's district of residence that the pupil has been the  
19 victim of a criminal sexual assault or other serious assault, if  
20 the official complaint either indicates that the assault occurred  
21 at school or that the assault was committed by 1 or more other  
22 pupils enrolled in the school the pupil would otherwise attend in  
23 the district of residence or by an employee of the district of  
24 residence. A person who intentionally makes a false report of a  
25 crime to law enforcement officials for the purposes of this  
26 subdivision is subject to section 411a of the Michigan penal code,  
27 1931 PA 328, MCL 750.411a, which provides criminal penalties for

1 that conduct. As used in this subdivision:

2 (i) "At school" means in a classroom, elsewhere on school  
3 premises, on a school bus or other school-related vehicle, or at a  
4 school-sponsored activity or event whether or not it is held on  
5 school premises.

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

11 (g) A pupil whose district of residence changed after the  
12 pupil membership count day and before the supplemental count day  
13 and who continues to be enrolled on the supplemental count day as a  
14 nonresident in the district in which he or she was enrolled as a  
15 resident on the pupil membership count day of the same school year.

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

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

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

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

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

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

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

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

12 (7) "Pupil membership count day" of a district or intermediate  
13 district means:

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

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

18 (i) Fourth Wednesday in July.

19 (ii) Fourth Wednesday in September.

20 (iii) Second Wednesday in February.

21 (iv) Fourth Wednesday in April.

22 (8) "Pupils in grades K to 12 actually enrolled and in regular  
23 daily attendance" means pupils in grades K to 12 in attendance and  
24 receiving instruction in all classes for which they are enrolled on  
25 the pupil membership count day or the supplemental count day, as  
26 applicable. A pupil who is absent from any of the classes in which  
27 the pupil is enrolled on the pupil membership count day or

1 supplemental count day and who does not attend each of those  
2 classes during the 10 consecutive school days immediately following  
3 the pupil membership count day or supplemental count day, except  
4 for a pupil who has been excused by the district, shall not be  
5 counted as 1.0 full-time equated membership. In addition, a pupil  
6 who is excused from attendance on the pupil membership count day or  
7 supplemental count day and who fails to attend each of the classes  
8 in which the pupil is enrolled within 30 calendar days after the  
9 pupil membership count day or supplemental count day shall not be  
10 counted as 1.0 full-time equated membership. Pupils not counted as  
11 1.0 full-time equated membership due to an absence from a class  
12 shall be counted as a prorated membership for the classes the pupil  
13 attended. For purposes of this subsection, "class" means a period  
14 of time in 1 day when pupils and a certificated teacher or legally  
15 qualified substitute teacher are together and instruction is taking  
16 place.

17 (9) "Rule" means a rule promulgated pursuant to the  
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
19 24.328.

20 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to  
21 380.1852.

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

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

25 (13) "Superintendent", unless the context clearly refers to a  
26 district or intermediate district superintendent, means the  
27 superintendent of public instruction described in section 3 of

1 article VIII of the state constitution of 1963.

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

4 (15) "Tuition pupil" means a pupil of school age attending  
5 school in a district other than the pupil's district of residence  
6 for whom tuition may be charged. Tuition pupil does not include a  
7 pupil who is a special education pupil or a pupil described in  
8 subsection (6)(d) to (j). A pupil's district of residence shall not  
9 require a high school tuition pupil, as provided under section 111,  
10 to attend another school district after the pupil has been assigned  
11 to a school district.

12 (16) "State school aid fund" means the state school aid fund  
13 established in section 11 of article IX of the state constitution  
14 of 1963.

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

18 (18) "Textbook" means a book that is selected and approved by  
19 the governing board of a district and that contains a presentation  
20 of principles of a subject, or that is a literary work relevant to  
21 the study of a subject required for the use of classroom pupils, or  
22 another type of course material that forms the basis of classroom  
23 instruction.

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

27 (20) "University school" means an instructional program

1 operated by a public university under section 23 that meets the  
2 requirements of section 23.