

**SUBSTITUTE FOR
HOUSE BILL NO. 4719**

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 2002 PA 521.

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

13 (a) Except as otherwise provided in this subsection, and
14 pursuant to subsection (6), a pupil shall be counted in
15 membership in the pupil's educating district or districts. An
16 individual pupil shall not be counted for more than a total of
17 1.0 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
21 district of residence does not give the educating district its
22 approval to count the pupil in membership in the educating
23 district, and if the pupil is not covered by an exception
24 specified in subsection (6) to the requirement that the educating
25 district must have the approval of the pupil's district of
26 residence to count the pupil in membership, the pupil shall not
27 be counted in 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 and
11 blind shall be counted in membership in the pupil's intermediate
12 district of residence.

13 (f) A pupil enrolled in a vocational education program
14 supported by a millage levied over an area larger than a single
15 district or in an area vocational-technical education program
16 established 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,
25 membership for the first 2 full or partial fiscal years of
26 operation shall be determined as follows:

27 (i) If operations begin before the pupil membership count day

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

13 (ii) If operations begin after the pupil membership count day
14 for the fiscal year and not later than the supplemental count day
15 for the fiscal year, membership is the final audited count of the
16 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 school
20 academy, then, in the first school year in which pupils are
21 counted in membership on the pupil membership count day in the
22 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
26 membership count day who were also counted in the district on the
27 immediately preceding supplemental count day.

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

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

13 (m) An individual who has obtained a high school diploma
14 shall not be counted in membership. An individual who has
15 obtained a general education development (G.E.D.) certificate
16 shall not be counted in membership. An individual participating
17 in a job training program funded under former section 107a or a
18 jobs program funded under former section 107b, administered by
19 the Michigan strategic fund or the department of career
20 development, or participating in any successor of either of those
21 2 programs, shall not be counted in membership.

22 (n) If a pupil counted in membership in a public school
23 academy is also educated by a district or intermediate district
24 as part of a cooperative education program, the pupil shall be
25 counted in membership only in the public school academy, and the
26 instructional time scheduled for the pupil in the district or
27 intermediate district shall be included in the full-time equated

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

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

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

26 (o) An individual less than 16 years of age as of September 1
27 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
16 scheduled and provided per year per kindergarten pupil by a
17 number equal to $1/2$ the number used for determining full-time
18 equated 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
25 regular daily attendance on the pupil membership count day and
26 the supplemental count day of the current school year, as
27 determined by the department. Membership shall be calculated by

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

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

12 (u) If, as a result of a disciplinary action, a district
13 determines through the district's alternative or disciplinary
14 education program that the best instructional placement for a
15 pupil is in the pupil's home, if that placement is authorized in
16 writing by the district superintendent and district alternative
17 or disciplinary education supervisor, ~~and~~ if the district
18 provides appropriate instruction as described in this subdivision
19 to the pupil at the pupil's home, **and if the pupil is not counted**
20 **in membership under subdivision (aa)**, the district may count the
21 pupil in membership on a pro rata basis, with the proration based
22 on the number of hours of instruction the district actually
23 provides to the pupil divided by the number of hours specified in
24 subdivision (q) for full-time equivalency. For the purposes of
25 this subdivision, a district shall be considered to be providing
26 appropriate instruction if all of the following are met:

27 (i) The district provides at least 2 nonconsecutive hours of

1 instruction per week to the pupil at the pupil's home under the
2 supervision of a certificated teacher.

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

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

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

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

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

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

1 day, whichever is first, occurring after operations resume, plus
2 the product of .2 times the final audited count from the most
3 recent pupil membership count day or supplemental count day that
4 occurred before suspending operations, as determined by the
5 superintendent.

6 (y) If a district's membership for a particular fiscal year,
7 as otherwise calculated under this subsection, would be less than
8 1,550 pupils and the district has 4.5 or fewer pupils per square
9 mile, as determined by the department, the district's membership
10 shall be considered to be the membership figure calculated under
11 this subdivision. ~~However, beginning in 2003-2004, this~~
12 ~~subdivision applies only to districts located in the Lower~~
13 ~~Peninsula.~~ If a district educates and counts in its membership
14 pupils in grades 9 to 12 who reside in a contiguous district that
15 does not operate grades 9 to 12 and if 1 or both of the affected
16 districts request the department to use the determination allowed
17 under this sentence, the department shall include the square
18 mileage of both districts in determining the number of pupils per
19 square mile for each of the districts for the purposes of this
20 subdivision. The membership figure calculated under this
21 subdivision is the greater of the following:

22 (i) The average of the district's membership for the
23 3-fiscal-year period ending with that fiscal year, calculated by
24 adding the district's actual membership for each of those 3
25 fiscal years, as otherwise calculated under this subsection, and
26 dividing the sum of those 3 membership figures by 3.

27 (ii) The district's actual membership for that fiscal year as

1 otherwise calculated under this subsection.

2 (z) If a public school academy that is not in its first or
3 second year of operation closes at the end of a school year and
4 does not reopen for the next school year, the department shall
5 adjust the membership count of the district in which a former
6 pupil of the public school academy enrolls and is in regular
7 daily attendance for the next school year to ensure that the
8 district receives the same amount of membership aid for the pupil
9 as if the pupil were counted in the district on the supplemental
10 count day of the preceding school year.

11 (aa) A pupil receiving all or a majority of his or her
12 instruction through a distance learning program operated by a
13 district or public school academy may be counted in membership as
14 a full-time pupil in that district or public school academy if
15 all of the following are met:

16 (i) The pupil is unable to attend school on a regular basis
17 due to 1 or more of the following:

18 (A) The pupil has a documented health condition affecting his
19 or her ability to attend school on a regular basis.

20 (B) The pupil has been expelled from school and is not
21 counted in membership under subdivision (u).

22 (C) The pupil is pregnant or is caring for his or her newborn
23 child.

24 (D) Another reason determined by the board of the district or
25 board of directors of the public school academy to be a valid
26 reason for not attending school on a regular basis.

27 (ii) The amount and content of the instruction the pupil is

1 receiving through the distance learning program is substantially
2 equivalent to the amount and content of instruction the pupil
3 would receive if he or she were in attendance at school in the
4 district or public school academy.

5 (iii) The district or public school academy can track and
6 document the days and hours of distance learning instruction
7 provided to the pupil and can verify the pupil's identity during
8 his or her participation in the distance learning instruction.

9 (iv) The number of pupils the district or public school
10 academy counts in membership under this section does not exceed
11 5% of the district's or public school academy's total membership,
12 or 25 pupils, whichever is greater.

13 (5) "Public school academy" means a public school academy or
14 strict discipline academy operating under the revised school
15 code.

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

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

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

25 (c) A pupil enrolled in a public school academy or university
26 school.

27 (d) A pupil enrolled in a district other than the pupil's

1 district of residence under an intermediate district schools of
2 choice pilot program as described in section 91a or former
3 section 91 if the intermediate district and its constituent
4 districts have been exempted from section 105.

5 (e) A pupil enrolled in a district other than the pupil's
6 district of residence but within the same intermediate district
7 if the educating district enrolls nonresident pupils in
8 accordance with section 105.

9 (f) A pupil enrolled in a district other than the pupil's
10 district of residence if the pupil has been continuously enrolled
11 in the educating district since a school year in which the pupil
12 enrolled in the educating district under section 105 or 105c and
13 in which the educating district enrolled nonresident pupils in
14 accordance with section 105 or 105c.

15 (g) 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
27 code, 1931 PA 328, MCL 750.411a, which provides criminal

1 penalties for 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
4 a 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
10 the Michigan penal code, 1931 PA 328, MCL 750.81a.

11 (h) A pupil enrolled in a district located in a contiguous
12 intermediate district, as described in section 105c, if the
13 educating district enrolls those nonresident pupils in accordance
14 with section 105c.

15 (i) A pupil whose district of residence changed after the
16 pupil membership count day and before the supplemental count day
17 and who continues to be enrolled on the supplemental count day as
18 a nonresident in the district in which he or she was enrolled as
19 a resident on the pupil membership count day of the same school
20 year.

21 (j) A pupil enrolled in an alternative education program
22 operated by a district other than his or her district of
23 residence who meets 1 or more of the following:

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

1 380.1311a.

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

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

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

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

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

15 (7) "Pupil membership count day" of a district or
16 intermediate district means:

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

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

21 (i) Fourth Wednesday in July.

22 (ii) Fourth Wednesday in September.

23 (iii) Second Wednesday in February.

24 (iv) Fourth Wednesday in April.

25 (8) "Pupils in grades K to 12 actually enrolled and in
26 regular daily attendance" means pupils in grades K to 12 in
27 attendance and receiving instruction in all classes for which

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

21 (9) "Rule" means a rule promulgated pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

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

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

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

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

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

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

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

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

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

26 (19) "University school" means an instructional program
27 operated by a public university under section 23 that meets the

1 requirements of section 23.