

HOUSE BILL No. 5748

March 22, 2018, Introduced by Rep. Reilly and referred to the Committee on Workforce and Talent Development.

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 6 and 163 (MCL 388.1606 and 388.1763), section 6 as amended by 2017 PA 108 and section 163 as amended by 2015 PA 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) "Center program" means a program operated by a
2 district or by an intermediate district for special education
3 pupils from several districts in programs for pupils with autism
4 spectrum disorder, pupils with severe cognitive impairment, pupils
5 with moderate cognitive impairment, pupils with severe multiple
6 impairments, pupils with hearing impairment, pupils with visual
7 impairment, and pupils with physical impairment or other health
8 impairment. Programs for pupils with emotional impairment housed in

1 buildings that do not serve regular education pupils also qualify.
2 Unless otherwise approved by the department, a center program
3 either shall serve all constituent districts within an intermediate
4 district or shall serve several districts with less than 50% of the
5 pupils residing in the operating district. In addition, special
6 education center program pupils placed part-time in noncenter
7 programs to comply with the least restrictive environment
8 provisions of section 612 of part B of the individuals with
9 disabilities education act, 20 USC 1412, may be considered center
10 program pupils for pupil accounting purposes for the time scheduled
11 in either a center program or a 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 adult education
17 participants, in the district for the immediately preceding school
18 year, adjusted for those pupils who have transferred into or out of
19 the district or high school, who leave high school with a diploma
20 or other credential of equal status.

21 (4) "Membership", except as otherwise provided in this
22 article, means for a district, a public school academy, or an
23 intermediate district the sum of the product of .90 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 .10
27 times the final audited count from the supplemental count day for

1 the immediately preceding school year. A district's, public school
2 academy's, or intermediate district's membership shall be adjusted
3 as provided under section 25e for pupils who enroll after the pupil
4 membership count day in a strict discipline academy operating under
5 sections 1311b to 1311m of the revised school code, MCL 380.1311b
6 to 380.1311m. However, for a district that is a community district,
7 "membership" means the sum of the product of .90 times the number
8 of full-time equated pupils in grades K to 12 actually enrolled and
9 in regular daily attendance in the community district on the pupil
10 membership count day for the current school year, plus the product
11 of .10 times the sum of the final audited count from the
12 supplemental count day of pupils in grades K to 12 actually
13 enrolled and in regular daily attendance in the community district
14 for the immediately preceding school year plus the final audited
15 count from the supplemental count day of pupils in grades K to 12
16 actually enrolled and in regular daily attendance in the education
17 achievement system for the immediately preceding school year. All
18 pupil counts used in this subsection are as determined by the
19 department and calculated by adding the number of pupils registered
20 for attendance plus pupils received by transfer and minus pupils
21 lost as defined by rules promulgated by the superintendent, and as
22 corrected by a subsequent department audit. The amount of the
23 foundation allowance for a pupil in membership is determined under
24 section 20. In making the calculation of membership, all of the
25 following, as applicable, apply to determining the membership of a
26 district, a public school academy, or an intermediate district:

27 (a) Except as otherwise provided in this subsection, and

1 pursuant to subsection (6), a pupil shall be counted in membership
2 in the pupil's educating district or districts. An individual pupil
3 shall not be counted for more than a total of 1.0 full-time equated
4 membership.

5 (b) If a pupil is educated in a district other than the
6 pupil's district of residence, if the pupil is not being educated
7 as part of a cooperative education program, if the pupil's district
8 of residence does not give the educating district its approval to
9 count the pupil in membership in the educating district, and if the
10 pupil is not covered by an exception specified in subsection (6) to
11 the requirement that the educating district must have the approval
12 of the pupil's district of residence to count the pupil in
13 membership, the pupil shall not be counted in membership in any
14 district.

15 (c) A special education pupil educated by the intermediate
16 district shall be counted in membership in the intermediate
17 district.

18 (d) A pupil placed by a court or state agency in an on-grounds
19 program of a juvenile detention facility, a child caring
20 institution, or a mental health institution, or a pupil funded
21 under section 53a, shall be counted in membership in the district
22 or intermediate district approved by the department to operate the
23 program.

24 (e) A pupil enrolled in the Michigan Schools for the Deaf and
25 Blind shall be counted in membership in the pupil's intermediate
26 district of residence.

27 (f) A pupil enrolled in a career and technical education

1 program supported by a millage levied over an area larger than a
2 single district or in an area vocational-technical education
3 program established pursuant to section 690 of the revised school
4 code, MCL 380.690, shall be counted only in the pupil's district of
5 residence.

6 (g) A pupil enrolled in a public school academy shall be
7 counted in membership in the public school academy.

8 (h) For the purposes of this section and section 6a, for a
9 cyber school, as defined in section 551 of the revised school code,
10 MCL 380.551, that is in compliance with section 553a of the revised
11 school code, MCL 380.553a, a pupil's participation in the cyber
12 school's educational program is considered regular daily
13 attendance, and for a district or public school academy, a pupil's
14 participation in a virtual course as defined in section 21f is
15 considered regular daily attendance.

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

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

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

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

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

20 (k) For an extended school year program approved by the
21 superintendent, a pupil enrolled, but not scheduled to be in
22 regular daily attendance, on a pupil membership count day, shall be
23 counted in membership.

24 (l) To be counted in membership, a pupil shall meet the
25 minimum age requirement to be eligible to attend school under
26 section 1147 of the revised school code, MCL 380.1147, or shall be
27 enrolled under subsection (3) of that section, and shall be less

1 than 20 years of age on September 1 of the school year except as
2 follows:

3 (i) A special education pupil who is enrolled and receiving
4 instruction in a special education program or service approved by
5 the department, who does not have a high school diploma, and who is
6 less than 26 years of age as of September 1 of the current school
7 year shall be counted in membership.

8 (ii) A pupil who is determined by the department to meet all
9 of the following may be counted in membership:

10 (A) Is enrolled in a public school academy or an alternative
11 education high school diploma program, that is primarily focused on
12 educating pupils with extreme barriers to education, such as being
13 homeless as defined under 42 USC 11302.

14 (B) Had dropped out of school.

15 (C) Is less than 22 years of age as of September 1 of the
16 current school year.

17 (iii) If a child does not meet the minimum age requirement to
18 be eligible to attend school for that school year under section
19 1147 of the revised school code, MCL 380.1147, but will be 5 years
20 of age not later than December 1 of that school year, the district
21 may count the child in membership for that school year if the
22 parent or legal guardian has notified the district in writing that
23 he or she intends to enroll the child in kindergarten for that
24 school year.

25 (m) An individual who has achieved a high school diploma shall
26 not be counted in membership. An individual who has achieved a high
27 school equivalency certificate shall not be counted in membership

1 unless the individual is a student with a disability as defined in
2 R 340.1702 of the Michigan Administrative Code. An individual
3 participating in a job training program funded under former section
4 107a or a jobs program funded under former section 107b,
5 administered by the department of talent and economic development,
6 or participating in any successor of either of those 2 programs,
7 shall not be counted in membership.

8 (n) If a pupil counted in membership in a public school
9 academy is also educated by a district or intermediate district as
10 part of a cooperative education program, the pupil shall be counted
11 in membership only in the public school academy unless a written
12 agreement signed by all parties designates the party or parties in
13 which the pupil shall be counted in membership, and the
14 instructional time scheduled for the pupil in the district or
15 intermediate district shall be included in the full-time equated
16 membership determination under subdivision (q) and section 101.
17 However, for pupils receiving instruction in both a public school
18 academy and in a district or intermediate district but not as a
19 part of a cooperative education program, the following apply:

20 (i) If the public school academy provides instruction for at
21 least 1/2 of the class hours required under section 101, the public
22 school academy shall receive as its prorated share of the full-time
23 equated membership for each of those pupils an amount equal to 1
24 times the product of the hours of instruction the public school
25 academy provides divided by the number of hours required under
26 section 101 for full-time equivalency, and the remainder of the
27 full-time membership for each of those pupils shall be allocated to

1 the district or intermediate district providing the remainder of
2 the hours of instruction.

3 (ii) If the public school academy provides instruction for
4 less than 1/2 of the class hours required under section 101, the
5 district or intermediate district providing the remainder of the
6 hours of instruction 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
9 district or intermediate district provides divided by the number of
10 hours required under section 101 for full-time equivalency, and the
11 remainder of the full-time membership for each of those pupils
12 shall be allocated to the public school academy.

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

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

20 (q) The number of class hours used to calculate full-time
21 equated memberships shall be consistent with section 101. In
22 determining full-time equated memberships for pupils who are
23 enrolled in a postsecondary institution, a pupil shall not be
24 considered to be less than a full-time equated pupil solely because
25 of the effect of his or her postsecondary enrollment, including
26 necessary travel time, on the number of class hours provided by the
27 district to the pupil.

1 (r) Full-time equated memberships for pupils in kindergarten
2 shall be determined by dividing the number of instructional hours
3 scheduled and provided per year per kindergarten pupil by the same
4 number used for determining full-time equated memberships for
5 pupils in grades 1 to 12. However, to the extent allowable under
6 federal law, for a district or public school academy that provides
7 evidence satisfactory to the department that it used federal title
8 I money in the 2 immediately preceding school fiscal years to fund
9 full-time kindergarten, full-time equated memberships for pupils in
10 kindergarten shall be determined by dividing the number of class
11 hours scheduled and provided per year per kindergarten pupil by a
12 number equal to 1/2 the number used for determining full-time
13 equated memberships for pupils in grades 1 to 12. The change in the
14 counting of full-time equated memberships for pupils in
15 kindergarten that took effect for 2012-2013 is not a mandate.

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

1 audit, plus the final audited count from the supplemental count day
2 for the current school year, and dividing that sum by 2.

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

6 (u) If, as a result of a disciplinary action, a district
7 determines through the district's alternative or disciplinary
8 education program that the best instructional placement for a pupil
9 is in the pupil's home or otherwise apart from the general school
10 population, if that placement is authorized in writing by the
11 district superintendent and district alternative or disciplinary
12 education supervisor, and if the district provides appropriate
13 instruction as described in this subdivision to the pupil at the
14 pupil's home or otherwise apart from the general school population,
15 the district may count the pupil in membership on a pro rata basis,
16 with the proration based on the number of hours of instruction the
17 district actually provides to the pupil divided by the number of
18 hours required under section 101 for full-time equivalency. For the
19 purposes of this subdivision, a district shall be considered to be
20 providing appropriate instruction if all of the following are met:

21 (i) The district provides at least 2 nonconsecutive hours of
22 instruction per week to the pupil at the pupil's home or otherwise
23 apart from the general school population under the supervision of a
24 certificated teacher.

25 (ii) The district provides instructional materials, resources,
26 and supplies that are comparable to those otherwise provided in the
27 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) If a pupil was enrolled in a public school academy on the
6 pupil membership count day, if the public school academy's contract
7 with its authorizing body is revoked or the public school academy
8 otherwise ceases to operate, and if the pupil enrolls in a district
9 within 45 days after the pupil membership count day, the department
10 shall adjust the district's pupil count for the pupil membership
11 count day to include the pupil in the count.

12 (w) For a public school academy that has been in operation for
13 at least 2 years and that suspended operations for at least 1
14 semester and is resuming operations, membership is the sum of the
15 product of .90 times the number of full-time equated pupils in
16 grades K to 12 actually enrolled and in regular daily attendance on
17 the first pupil membership count day or supplemental count day,
18 whichever is first, occurring after operations resume, plus the
19 product of .10 times the final audited count from the most recent
20 pupil membership count day or supplemental count day that occurred
21 before suspending operations, as determined by the superintendent.

22 (x) If a district's membership for a particular fiscal year,
23 as otherwise calculated under this subsection, would be less than
24 1,550 pupils and the district has 4.5 or fewer pupils per square
25 mile, as determined by the department, and if the district does not
26 receive funding under section 22d(2), the district's membership
27 shall be considered to be the membership figure calculated under

1 this subdivision. If a district educates and counts in its
2 membership pupils in grades 9 to 12 who reside in a contiguous
3 district that does not operate grades 9 to 12 and if 1 or both of
4 the affected districts request the department to use the
5 determination allowed under this sentence, the department shall
6 include the square mileage of both districts in determining the
7 number of pupils per square mile for each of the districts for the
8 purposes of this subdivision. The membership figure calculated
9 under this subdivision is the greater of the following:

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

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

17 (y) Full-time equated memberships for special education pupils
18 who are not enrolled in kindergarten but are enrolled in a
19 classroom program under R 340.1754 of the Michigan Administrative
20 Code shall be determined by dividing the number of class hours
21 scheduled and provided per year by 450. Full-time equated
22 memberships for special education pupils who are not enrolled in
23 kindergarten but are receiving early childhood special education
24 services under R 340.1755 or R 340.1862 of the Michigan
25 Administrative Code shall be determined by dividing the number of
26 hours of service scheduled and provided per year per-pupil by 180.

27 (z) A pupil of a district that begins its school year after

1 Labor Day who is enrolled in an intermediate district program that
2 begins before Labor Day shall not be considered to be less than a
3 full-time pupil solely due to instructional time scheduled but not
4 attended by the pupil before Labor Day.

5 (aa) For the first year in which a pupil is counted in
6 membership on the pupil membership count day in a middle college
7 program, the membership is the average of the full-time equated
8 membership on the pupil membership count day and on the
9 supplemental count day for the current school year, as determined
10 by the department. If a pupil described in this subdivision was
11 counted in membership by the operating district on the immediately
12 preceding supplemental count day, the pupil shall be excluded from
13 the district's immediately preceding supplemental count for the
14 purposes of determining the district's membership.

15 (bb) A district or public school academy that educates a pupil
16 who attends a United States Olympic Education Center may count the
17 pupil in membership regardless of whether or not the pupil is a
18 resident of this state.

19 (cc) A pupil enrolled in a district other than the pupil's
20 district of residence pursuant to section 1148(2) of the revised
21 school code, MCL 380.1148, shall be counted in the educating
22 district.

23 (dd) For a pupil enrolled in a dropout recovery program that
24 meets the requirements of section 23a, the pupil shall be counted
25 as 1/12 of a full-time equated membership for each month that the
26 district operating the program reports that the pupil was enrolled
27 in the program and was in full attendance. However, if the special

1 membership counting provisions under this subdivision and the
2 operation of the other membership counting provisions under this
3 subsection result in a pupil being counted as more than 1.0 FTE in
4 a fiscal year, the payment made for the pupil under sections 22a
5 and 22b shall not be based on more than 1.0 FTE for that pupil, and
6 any portion of an FTE for that pupil that exceeds 1.0 shall instead
7 be paid under section 25g. The district operating the program shall
8 report to the center the number of pupils who were enrolled in the
9 program and were in full attendance for a month not later than 30
10 days after the end of the month. A district shall not report a
11 pupil as being in full attendance for a month unless both of the
12 following are met:

13 (i) A personalized learning plan is in place on or before the
14 first school day of the month for the first month the pupil
15 participates in the program.

16 (ii) The pupil meets the district's definition under section
17 23a of satisfactory monthly progress for that month or, if the
18 pupil does not meet that definition of satisfactory monthly
19 progress for that month, the pupil did meet that definition of
20 satisfactory monthly progress in the immediately preceding month
21 and appropriate interventions are implemented within 10 school days
22 after it is determined that the pupil does not meet that definition
23 of satisfactory monthly progress.

24 (ee) A pupil participating in a virtual course under section
25 21f shall be counted in membership in the district enrolling the
26 pupil.

27 (ff) If a public school academy that is not in its first or

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

10 (gg) If a special education pupil is expelled under section
11 1311 or 1311a of the revised school code, MCL 380.1311 and
12 380.1311a, and is not in attendance on the pupil membership count
13 day because of the expulsion, and if the pupil remains enrolled in
14 the district and resumes regular daily attendance during that
15 school year, the district's membership shall be adjusted to count
16 the pupil in membership as if he or she had been in attendance on
17 the pupil membership count day.

18 (hh) A pupil enrolled in a community district shall be counted
19 in membership in the community district.

20 (ii) A part-time pupil enrolled in a nonpublic school in
21 grades K to 12 in accordance with section 166b shall not be counted
22 as more than 0.75 of a full-time equated membership.

23 (jj) A district that borders another state or a public school
24 academy that operates at least grades 9 to 12 and is located within
25 20 miles of a border with another state may count in membership a
26 pupil who is enrolled in a course at a college or university that
27 is located in the bordering state and within 20 miles of the border

1 with this state if all of the following are met:

2 (i) The pupil would meet the definition of an eligible student
3 under the postsecondary enrollment options act, 1996 PA 160, MCL
4 388.511 to 388.524, if the course were an eligible course under
5 that act.

6 (ii) The course in which the pupil is enrolled would meet the
7 definition of an eligible course under the postsecondary enrollment
8 options act, 1996 PA 160, MCL 388.511 to 388.524, if the course
9 were provided by an eligible postsecondary institution under that
10 act.

11 (iii) The department determines that the college or university
12 is an institution that, in the other state, fulfills a function
13 comparable to a state university or community college, as those
14 terms are defined in section 3 of the postsecondary enrollment
15 options act, 1996 PA 160, MCL 388.513, or is an independent
16 nonprofit degree-granting college or university.

17 (iv) The district or public school academy pays for a portion
18 of the pupil's tuition at the college or university in an amount
19 equal to the eligible charges that the district or public school
20 academy would pay to an eligible postsecondary institution under
21 the postsecondary enrollment options act, 1996 PA 160, MCL 388.511
22 to 388.524, as if the course were an eligible course under that
23 act.

24 (v) The district or public school academy awards high school
25 credit to a pupil who successfully completes a course as described
26 in this subdivision.

27 (kk) A pupil enrolled in a middle college program may be

1 counted for more than a total of 1.0 full-time equated membership
2 if the pupil is enrolled in more than the minimum number of
3 instructional days and hours required under section 101 and the
4 pupil is expected to complete the 5-year program with both a high
5 school diploma and at least 60 transferable college credits or is
6 expected to earn an associate's degree in fewer than 5 years.

7 (5) "Public school academy" means that term as defined in
8 section 5 of the revised school code, MCL 380.5.

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

14 (a) A nonpublic part-time pupil enrolled in grades K 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.

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

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

27 (f) A pupil who has made an official written complaint or

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

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

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

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

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

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

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

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

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

11 (i) A pupil enrolled in the Michigan Virtual School, for the
12 pupil's enrollment in the Michigan Virtual School.

13 (j) A pupil who is the child of a person who works at the
14 district or who is the child of a person who worked at the district
15 as of the time the pupil first enrolled in the district but who no
16 longer works at the district due to a workforce reduction. As used
17 in this subdivision, "child" includes an adopted child, stepchild,
18 or legal ward.

19 (k) An expelled pupil who has been denied reinstatement by the
20 expelling district and is reinstated by another school board under
21 section 1311 or 1311a of the revised school code, MCL 380.1311 and
22 380.1311a.

23 (l) A pupil enrolled in a district other than the pupil's
24 district of residence in a middle college program if the pupil's
25 district of residence and the enrolling district are both
26 constituent districts of the same intermediate district.

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

1 district of residence who attends a United States Olympic Education
2 Center.

3 (n) A pupil enrolled in a district other than the pupil's
4 district of residence pursuant to section 1148(2) of the revised
5 school code, MCL 380.1148.

6 (o) A pupil who enrolls in a district other than the pupil's
7 district of residence as a result of the pupil's school not making
8 adequate yearly progress under the no child left behind act of
9 2001, Public Law 107-110, or the every student succeeds act, Public
10 Law 114-95.

11 However, except for pupils enrolled in the youth challenge
12 program at the site at which the youth challenge program operated
13 for 2015-2016, if a district educates pupils who reside in another
14 district and if the primary instructional site for those pupils is
15 established by the educating district after 2009-2010 and is
16 located within the boundaries of that other district, the educating
17 district must have the approval of that other district to count
18 those pupils in membership.

19 (7) "Pupil membership count day" of a district or intermediate
20 district means:

21 (a) Except as provided in subdivision (b), the first Wednesday
22 in October each school year or, for a district or building in which
23 school is not in session on that Wednesday due to conditions not
24 within the control of school authorities, with the approval of the
25 superintendent, the immediately following day on which school is in
26 session in the district or building.

27 (b) For a district or intermediate district maintaining school

1 during the entire school year, the following days:

2 (i) Fourth Wednesday in July.

3 (ii) First Wednesday in October.

4 (iii) Second Wednesday in February.

5 (iv) Fourth Wednesday in April.

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

1 attendance in the district, intermediate district, or public school
2 academy within 45 days after the pupil membership count day or
3 supplemental count day of that particular year. Pupils not counted
4 as 1.0 full-time equated membership due to an absence from a class
5 shall be counted as a prorated membership for the classes the pupil
6 attended. For purposes of this subsection, "class" means a period
7 of time in 1 day when pupils and a certificated teacher, **A TEACHER**
8 **ENGAGED TO TEACH UNDER SECTION 1233B OF THE REVISED SCHOOL CODE,**
9 **MCL 380.1233B**, or legally qualified substitute teacher are together
10 and instruction is taking place.

11 (9) "Rule" means a rule promulgated pursuant to the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328.

14 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
15 380.1852.

16 (11) "School district of the first class", "first class school
17 district", and "district of the first class" mean, for the purposes
18 of this article only, a district that had at least 40,000 pupils in
19 membership for the immediately preceding fiscal year.

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

22 (13) "State board" means the state board of education.

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

27 (15) "Supplemental count day" means the day on which the

1 supplemental pupil count is conducted under section 6a.

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

12 (17) "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 (18) "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 (19) "Textbook" means a book, electronic book, or other
19 instructional print or electronic resource that is selected and
20 approved by the governing board of a district and that contains a
21 presentation of principles of a subject, or that is a literary work
22 relevant to the study of a subject required for the use of
23 classroom pupils, or another type of course material that forms the
24 basis of classroom instruction.

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

1 Sec. 163. (1) Except as provided in the revised school code,
2 the board of a district or intermediate district shall not permit
3 any of the following:

4 (a) A noncertificated educator to teach in an elementary or
5 secondary school or in an adult basic education or high school
6 completion program.

7 (b) A noncertificated educator to provide counseling services
8 to pupils in an elementary or secondary school or in an adult basic
9 education or high school completion program.

10 (c) A noncertificated educator to administer instructional
11 programs in an elementary or secondary school, or in an adult basic
12 education or high school completion program, unless that educator
13 is fulfilling applicable continuing education requirements.

14 (2) Except as provided in the revised school code, a district
15 or intermediate district employing educators not legally
16 certificated, ~~or licensed,~~ **OR ENGAGED TO TEACH UNDER SECTION 1233B**
17 **OF THE REVISED SCHOOL CODE, MCL 380.1233B,** shall have deducted the
18 sum equal to the amount paid the educators for the period of
19 noncertificated, unlicensed, or illegal employment. Each
20 intermediate superintendent shall notify the department of the name
21 of ~~the noncertificated or unlicensed educator,~~ **EACH EDUCATOR THAT**
22 **IS NOT LEGALLY CERTIFICATED, LICENSED, OR ENGAGED TO TEACH UNDER**
23 **SECTION 1233B OF THE REVISED SCHOOL CODE, MCL 380.1233B,** and the
24 district employing that individual and the amount of salary the
25 ~~noncertificated or unlicensed~~ educator was paid within a
26 constituent district.

27 (3) If a school official is notified by the department that he

1 or she is employing a ~~nonapproved, noncertificated, or unlicensed~~
2 **AN** educator in violation of this section and knowingly continues to
3 employ that educator, the school official is guilty of a
4 misdemeanor, punishable by a fine of \$1,500.00 for each incidence.
5 This penalty is in addition to all other financial penalties
6 otherwise specified in this article.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

9 Enacting section 2. This amendatory act does not take effect
10 unless Senate Bill No. ____ or House Bill No. 5747 (request no.
11 03081'17) of the 99th Legislature is enacted into law.