

**SUBSTITUTE FOR
HOUSE BILL NO. 5267**

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 6 and 101 (MCL 388.1606 and 388.1701), section
6 as amended by 2012 PA 29 and section 101 as amended by 2010 PA
110, and by adding section 23a.

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 participants, in
17 the district for the immediately preceding school year, adjusted
18 for those pupils who have transferred into or out of the district
19 or high school, who leave high school with a diploma or other
20 credential of equal status.

21 (4) "Membership", except as otherwise provided in this
22 article, means for a district, public school academy, university
23 school, or intermediate district the sum of the product of .90
24 times the number of full-time equated pupils in grades K to 12
25 actually enrolled and in regular daily attendance on the pupil
26 membership count day for the current school year, plus the product
27 of .10 times the final audited count from the supplemental count

1 day for the immediately preceding school year. All pupil counts
2 used in this subsection are as determined by the department and
3 calculated by adding the number of pupils registered for attendance
4 plus pupils received by transfer and minus pupils lost as defined
5 by rules promulgated by the superintendent, and as corrected by a
6 subsequent department audit. For the purposes of this section and
7 section 6a, for a school of excellence that is a cyber school, as
8 defined in section 551 of the revised school code, MCL 380.551, and
9 is in compliance with section 553a of the revised school code, MCL
10 380.553a, a pupil's participation in the cyber school's educational
11 program is considered regular daily attendance. The amount of the
12 foundation allowance for a pupil in membership is determined under
13 section 20. In making the calculation of membership, all of the
14 following, as applicable, apply to determining the membership of a
15 district, public school academy, university school, or intermediate
16 district:

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

22 (b) If a pupil is educated in a district other than the
23 pupil's district of residence, if the pupil is not being educated
24 as part of a cooperative education program, if the pupil's district
25 of residence does not give the educating district its approval to
26 count the pupil in membership in the educating district, and if the
27 pupil is not covered by an exception specified in subsection (6) to

1 the requirement that the educating district must have the approval
2 of the pupil's district of residence to count the pupil in
3 membership, the pupil shall not be counted in membership in any
4 district.

5 (c) A special education pupil educated by the intermediate
6 district shall be counted in membership in the intermediate
7 district.

8 (d) A pupil placed by a court or state agency in an on-grounds
9 program of a juvenile detention facility, a child caring
10 institution, or a mental health institution, or a pupil funded
11 under section 53a, shall be counted in membership in the district
12 or intermediate district approved by the department to operate the
13 program.

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

17 (f) A pupil enrolled in a career and technical education
18 program supported by a millage levied over an area larger than a
19 single district or in an area vocational-technical education
20 program established pursuant to section 690 of the revised school
21 code, MCL 380.690, shall be counted only in the pupil's district of
22 residence.

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

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

27 (i) For a new district, university school, or public school

1 academy beginning its operation after December 31, 1994, membership
2 for the first 2 full or partial fiscal years of operation shall be
3 determined as follows:

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

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

22 (j) If a district is the authorizing body for a public school
23 academy, then, in the first school year in which pupils are counted
24 in membership on the pupil membership count day in the public
25 school academy, the determination of the district's membership
26 shall exclude from the district's pupil count for the immediately
27 preceding supplemental count day any pupils who are counted in the

1 public school academy on that first pupil membership count day who
2 were also counted in the district on the immediately preceding
3 supplemental count day.

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

9 (l) Pupils to be counted in membership shall be not less than 5
10 years of age on December 1 and less than 20 years of age on
11 September 1 of the school year except as follows:

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

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

19 (A) Is enrolled in a public school academy or an alternative
20 education high school diploma program, that is primarily focused on
21 educating homeless pupils and that is located in a city with a
22 population of more than 500,000.

23 (B) Had dropped out of school for more than 1 year and has re-
24 entered school.

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

27 (m) An individual who has obtained a high school diploma shall

1 not be counted in membership. An individual who has obtained a
2 general educational development (G.E.D.) certificate shall not be
3 counted in membership unless the individual is a student with a
4 disability as defined in R 340.1702 of the Michigan administrative
5 code. An individual participating in a job training program funded
6 under former section 107a or a jobs program funded under former
7 section 107b, administered by the Michigan strategic fund or the
8 workforce development agency, or participating in any successor of
9 either of those 2 programs, shall not be counted in membership.

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

22 (i) If the public school academy provides instruction for at
23 least 1/2 of the class hours specified in subdivision (q), the
24 public school academy shall receive as its prorated share of the
25 full-time equated membership for each of those pupils an amount
26 equal to 1 times the product of the hours of instruction the public
27 school academy provides divided by the number of hours specified in

1 subdivision (q) for full-time equivalency, and the remainder of the
2 full-time membership for each of those pupils shall be allocated to
3 the district or intermediate district providing the remainder of
4 the hours of instruction.

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

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

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

22 (q) The number of class hours used to calculate full-time
23 equated memberships shall be consistent with section 101(3). In
24 determining full-time equated memberships for pupils who are
25 enrolled in a postsecondary institution, a pupil shall not be
26 considered to be less than a full-time equated pupil solely because
27 of the effect of his or her postsecondary enrollment, including

1 necessary travel time, on the number of class hours provided by the
2 district to the pupil.

3 (r) Full-time equated memberships for pupils in kindergarten
4 shall be determined by dividing the number of class hours scheduled
5 and provided per year per kindergarten pupil by a number equal to
6 $1/2$ the number used for determining full-time equated memberships
7 for pupils in grades 1 to 12. However, beginning in 2012-2013,
8 full-time equated memberships for pupils in kindergarten shall be
9 determined by dividing the number of class hours scheduled and
10 provided per year per kindergarten pupil by the same number used
11 for determining full-time equated memberships for pupils in grades
12 1 to 12.

13 (s) For a district, university school, or public school
14 academy that has pupils enrolled in a grade level that was not
15 offered by the district, university school, or public school
16 academy in the immediately preceding school year, the number of
17 pupils enrolled in that grade level to be counted in membership is
18 the average of the number of those pupils enrolled and in regular
19 daily attendance on the pupil membership count day and the
20 supplemental count day of the current school year, as determined by
21 the department. Membership shall be calculated by adding the number
22 of pupils registered for attendance in that grade level on the
23 pupil membership count day plus pupils received by transfer and
24 minus pupils lost as defined by rules promulgated by the
25 superintendent, and as corrected by subsequent department audit,
26 plus the final audited count from the supplemental count day for
27 the current school year, and dividing that sum by 2.

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

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

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

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

27 (iii) Course content is comparable to that in the district's

1 alternative education program.

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

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

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

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

25 (y) If a district's membership for a particular fiscal year,
26 as otherwise calculated under this subsection, would be less than
27 1,550 pupils and the district has 4.5 or fewer pupils per square

1 mile, as determined by the department, and, beginning in 2007-2008,
2 if the district does not receive funding under section 22d(2), the
3 district's membership shall be considered to be the membership
4 figure calculated under this subdivision. If a district educates
5 and counts in its membership pupils in grades 9 to 12 who reside in
6 a contiguous district that does not operate grades 9 to 12 and if 1
7 or both of the affected districts request the department to use the
8 determination allowed under this sentence, the department shall
9 include the square mileage of both districts in determining the
10 number of pupils per square mile for each of the districts for the
11 purposes of this subdivision. The membership figure calculated
12 under this subdivision is the greater of the following:

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

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

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

1 the preceding school year.

2 (aa) Full-time equated memberships for preprimary-aged special
3 education pupils who are not enrolled in kindergarten but are
4 enrolled in a classroom program under R 340.1754 of the Michigan
5 administrative code shall be determined by dividing the number of
6 class hours scheduled and provided per year by 450. Full-time
7 equated memberships for preprimary-aged special education pupils
8 who are not enrolled in kindergarten but are receiving early
9 childhood special education services under R 340.1755 of the
10 Michigan administrative code shall be determined by dividing the
11 number of hours of service scheduled and provided per year per
12 pupil by 180.

13 (bb) A pupil of a district that begins its school year after
14 Labor day who is enrolled in an intermediate district program that
15 begins before Labor day shall not be considered to be less than a
16 full-time pupil solely due to instructional time scheduled but not
17 attended by the pupil before Labor day.

18 (cc) For the first year in which a pupil is counted in
19 membership on the pupil membership count day in a middle college
20 program, the membership is the average of the full-time equated
21 membership on the pupil membership count day and on the
22 supplemental count day for the current school year, as determined
23 by the department. If a pupil was counted by the operating district
24 on the immediately preceding supplemental count day, the pupil
25 shall be excluded from the district's immediately preceding
26 supplemental count for purposes of determining the district's
27 membership.

1 (dd) A district that educates a pupil who attends a United
2 States Olympic education center may count the pupil in membership
3 regardless of whether or not the pupil is a resident of this state.

4 (ee) A pupil enrolled in a district other than the pupil's
5 district of residence pursuant to section 1148(2) of the revised
6 school code, MCL 380.1148, shall be counted in the educating
7 district.

8 (FF) FOR A PUPIL ENROLLED IN A DROPOUT RECOVERY PROGRAM THAT
9 MEETS THE REQUIREMENTS OF SECTION 23A, THE PUPIL SHALL BE COUNTED
10 AS 1/12 OF A FULL-TIME EQUATED MEMBERSHIP FOR EACH MONTH THAT THE
11 DISTRICT OPERATING THE PROGRAM REPORTS THAT THE PUPIL WAS ENROLLED
12 IN THE PROGRAM AND WAS IN FULL ATTENDANCE. THE DISTRICT OPERATING
13 THE PROGRAM SHALL REPORT TO THE DEPARTMENT THE NUMBER OF PUPILS WHO
14 WERE ENROLLED IN THE PROGRAM AND WERE IN FULL ATTENDANCE FOR A
15 MONTH NOT LATER THAN THE TENTH DAY OF THE NEXT MONTH. A DISTRICT
16 SHALL NOT REPORT A PUPIL AS BEING IN FULL ATTENDANCE FOR A MONTH
17 UNLESS BOTH OF THE FOLLOWING ARE MET:

18 (i) A PERSONALIZED LEARNING PLAN IS IN PLACE BEFORE THE FIRST
19 SCHOOL DAY OF THE MONTH FOR THE FIRST MONTH THE PUPIL PARTICIPATES
20 IN THE PROGRAM.

21 (ii) THE PUPIL MEETS THE DISTRICT'S DEFINITION UNDER SECTION
22 23A OF SATISFACTORY MONTHLY PROGRESS FOR THAT MONTH OR, IF THE
23 PUPIL DOES NOT MEET THAT DEFINITION OF SATISFACTORY MONTHLY
24 PROGRESS FOR THAT MONTH, THE PUPIL DID MEET THAT DEFINITION OF
25 SATISFACTORY MONTHLY PROGRESS IN THE IMMEDIATELY PRECEDING MONTH
26 AND APPROPRIATE INTERVENTIONS ARE IMPLEMENTED WITHIN 10 SCHOOL DAYS
27 AFTER IT IS DETERMINED THAT THE PUPIL DOES NOT MEET THAT DEFINITION

1 **OF SATISFACTORY MONTHLY PROGRESS.**

2 (5) "Public school academy" means that term as defined in the
3 revised school code.

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

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

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

13 (c) A pupil enrolled in a public school academy or university
14 school.

15 (d) A pupil enrolled in a district other than the pupil's
16 district of residence under an intermediate district schools of
17 choice pilot program as described in section 91a or former section
18 91 if the intermediate district and its constituent districts have
19 been exempted from section 105.

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

23 (f) A pupil who has made an official written complaint or
24 whose parent or legal guardian has made an official written
25 complaint to law enforcement officials and to school officials of
26 the pupil's district of residence that the pupil has been the
27 victim of a criminal sexual assault or other serious assault, if

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

10 (i) "At school" means in a classroom, elsewhere on school
11 premises, on a school bus or other school-related vehicle, or at a
12 school-sponsored activity or event whether or not it is held on
13 school premises.

14 (ii) "Serious assault" means an act that constitutes a felony
15 violation of chapter XI of the Michigan penal code, 1931 PA 328,
16 MCL 750.81 to ~~750.90g~~ **750.90H**, or that constitutes an assault and
17 infliction of serious or aggravated injury under section 81a of the
18 Michigan penal code, 1931 PA 328, MCL 750.81a.

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

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

27 (i) The pupil has been suspended or expelled from his or her

1 district of residence for any reason, including, but not limited
2 to, a suspension or expulsion under section 1310, 1311, or 1311a of
3 the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

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

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

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

7 (v) The pupil is enrolled in an alternative or disciplinary
8 education program described in section 25.

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

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

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

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

25 (m) A pupil enrolled in a district other than the pupil's
26 district of residence who attends a United States Olympic education
27 center.

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

4 (o) A pupil who enrolls in a district other than the pupil's
5 district of residence as a result of the pupil's school not making
6 adequate yearly progress under the no child left behind act of
7 2001, Public Law 107-110.

8 (p) A pupil enrolled in a district other than the pupil's
9 district of residence as a qualifying pupil under section 22h(2).

10 However, if a district educates pupils who reside in another
11 district and if the primary instructional site for those pupils is
12 established by the educating district after 2009-2010 and is
13 located within the boundaries of that other district, the educating
14 district must have the approval of that other district to count
15 those pupils in membership.

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

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

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

26 (i) Fourth Wednesday in July.

27 (ii) First Wednesday in October.

1 (iii) Second Wednesday in February.

2 (iv) Fourth Wednesday in April.

3 (8) "Pupils in grades K to 12 actually enrolled and in regular
4 daily attendance" means pupils in grades K to 12 in attendance and
5 receiving instruction in all classes for which they are enrolled on
6 the pupil membership count day or the supplemental count day, as
7 applicable. Except as otherwise provided in this subsection, a
8 pupil who is absent from any of the classes in which the pupil is
9 enrolled on the pupil membership count day or supplemental count
10 day and who does not attend each of those classes during the 10
11 consecutive school days immediately following the pupil membership
12 count day or supplemental count day, except for a pupil who has
13 been excused by the district, shall not be counted as 1.0 full-time
14 equated membership. A pupil who is excused from attendance on the
15 pupil membership count day or supplemental count day and who fails
16 to attend each of the classes in which the pupil is enrolled within
17 30 calendar days after the pupil membership count day or
18 supplemental count day shall not be counted as 1.0 full-time
19 equated membership. In addition, a pupil who was enrolled and in
20 attendance in a district, intermediate district, or public school
21 academy before the pupil membership count day or supplemental count
22 day of a particular year but was expelled or suspended on the pupil
23 membership count day or supplemental count day shall only be
24 counted as 1.0 full-time equated membership if the pupil resumed
25 attendance in the district, intermediate district, or public school
26 academy within 45 days after the pupil membership count day or
27 supplemental count day of that particular year. Pupils not counted

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

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

10 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
11 380.1852.

12 (11) "School district of the first class", "first class school
13 district", and "district of the first class" mean a district that
14 had at least 60,000 pupils in membership for the immediately
15 preceding fiscal year.

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

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

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

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

25 (16) "Tuition pupil" means a pupil of school age attending
26 school in a district other than the pupil's district of residence
27 for whom tuition may be charged. Tuition pupil does not include a

1 pupil who is a special education pupil or a pupil described in
2 subsection (6)(c) to (o). A pupil's district of residence shall not
3 require a high school tuition pupil, as provided under section 111,
4 to attend another school district after the pupil has been assigned
5 to a school district.

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

9 (18) "Taxable value" means the taxable value of property as
10 determined under section 27a of the general property tax act, 1893
11 PA 206, MCL 211.27a.

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

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

23 (21) "University school" means an instructional program
24 operated by a public university under section 23 that meets the
25 requirements of section 23.

26 **SEC. 23A. (1) A DROPOUT RECOVERY PROGRAM OPERATED BY A**
27 **DISTRICT QUALIFIES FOR THE SPECIAL MEMBERSHIP COUNTING PROVISIONS**

1 OF SECTION 6(4)(FF) AND THE HOURS AND DAY OF PUPIL INSTRUCTION
2 EXEMPTION UNDER SECTION 101(12) IF THE DROPOUT PREVENTION PROGRAM
3 MEETS ALL OF THE FOLLOWING:

4 (A) ENROLLS ONLY ELIGIBLE PUPILS.

5 (B) PROVIDES AN ADVOCATE. AN ADVOCATE MAY SERVE IN THAT ROLE
6 FOR MORE THAN 1 PUPIL BUT NO MORE THAN 50 PUPILS. AN ADVOCATE MAY
7 BE EMPLOYED BY THE DISTRICT OR MAY BE PROVIDED BY AN EDUCATION
8 MANAGEMENT ORGANIZATION THAT IS PARTNERING WITH THE DISTRICT.
9 BEFORE AN INDIVIDUAL IS ASSIGNED TO BE AN ADVOCATE FOR A PUPIL IN
10 THE DROPOUT RECOVERY PROGRAM, THE DISTRICT SHALL COMPLY WITH
11 SECTIONS 1230 AND 1230A OF THE REVISED SCHOOL CODE, MCL 380.1230
12 AND 380.1230A, WITH RESPECT TO THAT INDIVIDUAL.

13 (C) DEVELOPS A WRITTEN LEARNING PLAN.

14 (D) MONITORS THE PUPIL'S PROGRESS AGAINST THE WRITTEN LEARNING
15 PLAN.

16 (E) REQUIRES EACH PUPIL TO MAKE SATISFACTORY MONTHLY PROGRESS,
17 AS DEFINED BY THE DISTRICT UNDER SUBSECTION (2).

18 (F) REPORTS THE PUPIL'S PROGRESS RESULTS TO THE PARTNER
19 DISTRICT AT LEAST MONTHLY.

20 (G) THE PROGRAM MAY BE OPERATED ON OR OFF A DISTRICT SCHOOL
21 CAMPUS, BUT MAY BE OPERATED USING DISTANCE LEARNING ONLINE ONLY IF
22 THE PROGRAM PROVIDES A COMPUTER AND INTERNET ACCESS FOR EACH
23 ELIGIBLE PUPIL PARTICIPATING IN THE PROGRAM.

24 (H) IS OPERATED THROUGHOUT THE ENTIRE CALENDAR YEAR.

25 (I) IF THE DISTRICT PARTNERS WITH AN EDUCATION MANAGEMENT
26 ORGANIZATION FOR THE PROGRAM, THE EDUCATION MANAGEMENT ORGANIZATION
27 HAS A DROPOUT RECOVERY PROGRAM PARTNERSHIP RELATIONSHIP WITH AT

1 LEAST 1 OTHER DISTRICT.

2 (2) A DISTRICT OPERATING A DROPOUT RECOVERY PROGRAM UNDER THIS
3 SECTION SHALL ADOPT A DEFINITION OF SATISFACTORY MONTHLY PROGRESS
4 THAT IS CONSISTENT WITH THE DEFINITION OF THAT TERM UNDER
5 SUBSECTION (3).

6 (3) AS USED IN THIS SECTION:

7 (A) "ADVOCATE" MEANS AN ADULT AVAILABLE TO MEET IN PERSON WITH
8 ASSIGNED PUPILS, AS NEEDED, TO CONDUCT SOCIAL INTERVENTIONS, TO
9 PROCTOR FINAL EXAMINATIONS, AND TO PROVIDE ACADEMIC AND SOCIAL
10 SUPPORT TO PUPILS ENROLLED IN THE DISTRICT'S DROPOUT RECOVERY
11 PROGRAM.

12 (B) "EDUCATION MANAGEMENT ORGANIZATION" MEANS A PRIVATE
13 PROVIDER THAT OPERATES 1 OR MORE OTHER DROPOUT RECOVERY PROGRAMS
14 THAT MEET THE REQUIREMENTS OF THIS SECTION IN PARTNERSHIP WITH 1 OR
15 MORE DISTRICTS.

16 (C) "ELIGIBLE PUPIL" MEANS A PUPIL WHO HAS BEEN EXPELLED FROM
17 SCHOOL UNDER THE MANDATORY EXPULSION PROVISIONS IN SECTION 1311 OR
18 1311A OF THE REVISED SCHOOL CODE, MCL 380.1311 AND 380.1311A, A
19 PUPIL WHO HAS BEEN SUSPENDED OR EXPELLED FROM SCHOOL UNDER A LOCAL
20 POLICY, A PUPIL WHO IS REFERRED BY A COURT, A PUPIL WHO IS PREGNANT
21 OR IS A PARENT, A PUPIL WHO WAS PREVIOUSLY A DROPOUT, OR A PUPIL
22 WHO IS DETERMINED BY THE DISTRICT TO BE AT RISK OF DROPPING OUT.

23 (D) "SATISFACTORY MONTHLY PROGRESS" MEANS AN AMOUNT OF
24 PROGRESS THAT IS MEASURABLE ON A MONTHLY BASIS AND THAT, IF
25 CONTINUED FOR A FULL 12 MONTHS, WOULD RESULT IN THE SAME AMOUNT OF
26 ACADEMIC CREDIT BEING AWARDED TO THE PUPIL AS WOULD BE AWARDED TO A
27 GENERAL EDUCATION PUPIL COMPLETING A FULL SCHOOL YEAR. SATISFACTORY

1 MONTHLY PROGRESS MAY INCLUDE A LESSER REQUIRED AMOUNT OF PROGRESS
2 FOR THE FIRST 2 MONTHS A PUPIL PARTICIPATES IN THE PROGRAM.

3 (E) "WRITTEN LEARNING PLAN" MEANS A WRITTEN PLAN DEVELOPED BY
4 THE ADVOCATE THAT INCLUDES THE PLAN START AND END DATES, COURSES TO
5 BE TAKEN, CREDIT TO BE EARNED FOR EACH COURSE, TEACHER OF RECORD
6 FOR EACH COURSE, AND ADVOCATE NAME AND CONTACT INFORMATION.

7 Sec. 101. (1) To be eligible to receive state aid under this
8 act, not later than the fifth Wednesday after the pupil membership
9 count day and not later than the fifth Wednesday after the
10 supplemental count day, each district superintendent shall submit
11 to the center and the intermediate superintendent, in the form and
12 manner prescribed by the center, the number of pupils enrolled and
13 in regular daily attendance in the district as of the pupil
14 membership count day and as of the supplemental count day, as
15 applicable, for the current school year. In addition, a district
16 maintaining school during the entire year, as provided under
17 section 1561 of the revised school code, MCL 380.1561, shall submit
18 to the center and the intermediate superintendent, in the form and
19 manner prescribed by the center, the number of pupils enrolled and
20 in regular daily attendance in the district for the current school
21 year pursuant to rules promulgated by the superintendent. Not later
22 than the seventh Wednesday after the pupil membership count day and
23 not later than the seventh Wednesday after the supplemental count
24 day, the district shall certify the data in a form and manner
25 prescribed by the center and file the certified data with the
26 intermediate superintendent. If a district fails to submit and
27 certify the attendance data, as required under this subsection, the

1 center shall notify the department and state aid due to be
2 distributed under this act shall be withheld from the defaulting
3 district immediately, beginning with the next payment after the
4 failure and continuing with each payment until the district
5 complies with this subsection. If a district does not comply with
6 this subsection by the end of the fiscal year, the district
7 forfeits the amount withheld. A person who willfully falsifies a
8 figure or statement in the certified and sworn copy of enrollment
9 shall be punished in the manner prescribed by section 161.

10 (2) To be eligible to receive state aid under this act, not
11 later than the twenty-fourth Wednesday after the pupil membership
12 count day and not later than the twenty-fourth Wednesday after the
13 supplemental count day, an intermediate district shall submit to
14 the center, in a form and manner prescribed by the center, the
15 audited enrollment and attendance data for the pupils of its
16 constituent districts and of the intermediate district. If an
17 intermediate district fails to submit the audited data as required
18 under this subsection, state aid due to be distributed under this
19 act shall be withheld from the defaulting intermediate district
20 immediately, beginning with the next payment after the failure and
21 continuing with each payment until the intermediate district
22 complies with this subsection. If an intermediate district does not
23 comply with this subsection by the end of the fiscal year, the
24 intermediate district forfeits the amount withheld.

25 (3) Except as otherwise provided in ~~subsection (11),~~
26 **SUBSECTIONS (11) AND (12),** all of the following apply to the
27 provision of pupil instruction:

1 (a) Except as otherwise provided in this section, each
2 district shall provide at least 1,098 hours and, beginning in 2010-
3 2011, the required minimum number of days of pupil instruction. For
4 2010-2011 and for 2011-2012, the required minimum number of days of
5 pupil instruction is 165. Beginning in 2012-2013, the required
6 minimum number of days of pupil instruction is 170. However,
7 beginning in 2010-2011, a district shall not provide fewer days of
8 pupil instruction than the district provided for 2009-2010. A
9 district may apply for a waiver under subsection (9) from the
10 requirements of this subdivision.

11 (b) Except as otherwise provided in this act, a district
12 failing to comply with the required minimum hours and days of pupil
13 instruction under this subsection shall forfeit from its total
14 state aid allocation an amount determined by applying a ratio of
15 the number of hours or days the district was in noncompliance in
16 relation to the required minimum number of hours and days under
17 this subsection. Not later than August 1, the board of each
18 district shall certify to the department the number of hours and,
19 beginning in 2010-2011, days of pupil instruction in the previous
20 school year. If the district did not provide at least the required
21 minimum number of hours and days of pupil instruction under this
22 subsection, the deduction of state aid shall be made in the
23 following fiscal year from the first payment of state school aid. A
24 district is not subject to forfeiture of funds under this
25 subsection for a fiscal year in which a forfeiture was already
26 imposed under subsection (6).

27 (c) Hours or days lost because of strikes or teachers'

1 conferences shall not be counted as hours or days of pupil
2 instruction.

3 (d) If a collective bargaining agreement that provides a
4 complete school calendar is in effect for employees of a district
5 as of October 19, 2009, and if that school calendar is not in
6 compliance with this subsection, then this subsection does not
7 apply to that district until after the expiration of that
8 collective bargaining agreement.

9 (e) Except as otherwise provided in subdivision (f), a
10 district not having at least 75% of the district's membership in
11 attendance on any day of pupil instruction shall receive state aid
12 in that proportion of 1/180 that the actual percent of attendance
13 bears to the specified percentage.

14 (f) At the request of a district that operates a department-
15 approved alternative education program and that does not provide
16 instruction for pupils in all of grades K to 12, the superintendent
17 may grant a waiver from the requirements of subdivision (e) in
18 order to conduct a pilot study. The waiver shall indicate that an
19 eligible district is subject to the proration provisions of
20 subdivision (e) only if the district does not have at least 50% of
21 the district's membership in attendance on any day of pupil
22 instruction. In order to be eligible for this waiver, a district
23 must maintain records to substantiate its compliance with the
24 following requirements during the pilot study:

25 (i) The district offers the minimum hours of pupil instruction
26 as required under this section.

27 (ii) For each enrolled pupil, the district uses appropriate

1 academic assessments to develop an individual education plan that
2 leads to a high school diploma.

3 (iii) The district tests each pupil to determine academic
4 progress at regular intervals and records the results of those
5 tests in that pupil's individual education plan.

6 (g) The superintendent shall promulgate rules for the
7 implementation of this subsection.

8 (4) Except as otherwise provided in this subsection, the first
9 6 days or the equivalent number of hours for which pupil
10 instruction is not provided because of conditions not within the
11 control of school authorities, such as severe storms, fires,
12 epidemics, utility power unavailability, water or sewer failure, or
13 health conditions as defined by the city, county, or state health
14 authorities, shall be counted as hours and days of pupil
15 instruction. With the approval of the superintendent of public
16 instruction, the department shall count as hours and days of pupil
17 instruction for a fiscal year not more than 6 additional days or
18 the equivalent number of additional hours for which pupil
19 instruction is not provided in a district after April 1 of the
20 applicable school year due to unusual and extenuating occurrences
21 resulting from conditions not within the control of school
22 authorities such as those conditions described in this subsection.
23 Subsequent such hours or days shall not be counted as hours or days
24 of pupil instruction.

25 (5) A district shall not forfeit part of its state aid
26 appropriation because it adopts or has in existence an alternative
27 scheduling program for pupils in kindergarten if the program

1 provides at least the number of hours required under subsection (3)
2 for a full-time equated membership for a pupil in kindergarten as
3 provided under section 6(4).

4 (6) Not later than April 15 of each fiscal year, the board of
5 each district shall certify to the department the planned number of
6 hours and days of pupil instruction in the district for the school
7 year ending in the fiscal year. In addition to any other penalty or
8 forfeiture under this section, if at any time the department
9 determines that 1 or more of the following has occurred in a
10 district, the district shall forfeit in the current fiscal year
11 beginning in the next payment to be calculated by the department a
12 proportion of the funds due to the district under this act that is
13 equal to the proportion below the required minimum number of hours
14 and days of pupil instruction under subsection (3), as specified in
15 the following:

16 (a) The district fails to operate its schools for at least the
17 required minimum number of hours and days of pupil instruction
18 under subsection (3) in a school year, including hours and days
19 counted under subsection (4).

20 (b) The board of the district takes formal action not to
21 operate its schools for at least the required minimum number of
22 hours and days of pupil instruction under subsection (3) in a
23 school year, including hours and days counted under subsection (4).

24 (7) In providing the minimum number of hours and days of pupil
25 instruction required under subsection (3), a district shall use the
26 following guidelines, and a district shall maintain records to
27 substantiate its compliance with the following guidelines:

1 (a) Except as otherwise provided in this subsection, a pupil
2 must be scheduled for at least the required minimum number of hours
3 of instruction, excluding study halls, or at least the sum of 90
4 hours plus the required minimum number of hours of instruction,
5 including up to 2 study halls.

6 (b) The time a pupil is assigned to any tutorial activity in a
7 block schedule may be considered instructional time, unless that
8 time is determined in an audit to be a study hall period.

9 (c) Except as otherwise provided in this subdivision, a pupil
10 in grades 9 to 12 for whom a reduced schedule is determined to be
11 in the individual pupil's best educational interest must be
12 scheduled for a number of hours equal to at least 80% of the
13 required minimum number of hours of pupil instruction to be
14 considered a full-time equivalent pupil. A pupil in grades 9 to 12
15 who is scheduled in a 4-block schedule may receive a reduced
16 schedule under this subsection if the pupil is scheduled for a
17 number of hours equal to at least 75% of the required minimum
18 number of hours of pupil instruction to be considered a full-time
19 equivalent pupil.

20 (d) If a pupil in grades 9 to 12 who is enrolled in a
21 cooperative education program or a special education pupil cannot
22 receive the required minimum number of hours of pupil instruction
23 solely because of travel time between instructional sites during
24 the school day, that travel time, up to a maximum of 3 hours per
25 school week, shall be considered to be pupil instruction time for
26 the purpose of determining whether the pupil is receiving the
27 required minimum number of hours of pupil instruction. However, if

1 a district demonstrates to the satisfaction of the department that
2 the travel time limitation under this subdivision would create
3 undue costs or hardship to the district, the department may
4 consider more travel time to be pupil instruction time for this
5 purpose.

6 (e) In grades 7 through 12, instructional time that is part of
7 a junior reserve officer training corps (JROTC) program shall be
8 considered to be pupil instruction time regardless of whether the
9 instructor is a certificated teacher if all of the following are
10 met:

11 (i) The instructor has met all of the requirements established
12 by the United States department of defense and the applicable
13 branch of the armed services for serving as an instructor in the
14 junior reserve officer training corps program.

15 (ii) The board of the district or intermediate district
16 employing or assigning the instructor complies with the
17 requirements of sections 1230 and 1230a of the revised school code,
18 MCL 380.1230 and 380.1230a, with respect to the instructor to the
19 same extent as if employing the instructor as a regular classroom
20 teacher.

21 (8) Except as otherwise provided in ~~subsection (11)~~,
22 **SUBSECTIONS (11) AND (12)**, the department shall apply the
23 guidelines under subsection (7) in calculating the full-time
24 equivalency of pupils.

25 (9) Upon application by the district for a particular fiscal
26 year, the superintendent may waive for a district the minimum
27 number of hours and days of pupil instruction requirement of

1 subsection (3) for a department-approved alternative education
2 program or another innovative program approved by the department,
3 including a 4-day school week. If a district applies for and
4 receives a waiver under this subsection and complies with the terms
5 of the waiver, for the fiscal year covered by the waiver the
6 district is not subject to forfeiture under this section for the
7 specific program covered by the waiver. If the district does not
8 comply with the terms of the waiver, the amount of the forfeiture
9 shall be calculated based upon a comparison of the number of hours
10 and days of pupil instruction actually provided to the minimum
11 number of hours and days of pupil instruction required under
12 subsection (3). Pupils enrolled in a department-approved
13 alternative education program under this subsection shall be
14 reported to the center in a form and manner determined by the
15 center.

16 (10) A district may count up to 38 hours of qualifying
17 professional development for teachers as hours of pupil
18 instruction. Professional development provided online is allowable
19 and encouraged, as long as the instruction has been approved by the
20 district. The department shall issue a list of approved online
21 professional development providers, which shall include the
22 Michigan virtual university. ~~However, if a collective bargaining~~
23 ~~agreement that provides more than 38 but not more than 51 hours of~~
24 ~~professional development for teachers is in effect for employees of~~
25 ~~a district as of October 1, 2006, then until the fiscal year that~~
26 ~~begins after the expiration of that collective bargaining agreement~~
27 ~~a district may count up to 51 hours of qualifying professional~~

1 ~~development for teachers as hours of pupil instruction.~~ A district
2 that elects to use this ~~exception~~ **SUBSECTION** shall notify the
3 department of its election. As used in this subsection, "qualifying
4 professional development" means professional development that is
5 focused on 1 or more of the following:

6 (a) Achieving or improving adequate yearly progress as defined
7 under the no child left behind act of 2001, Public Law 107-110.

8 (b) Achieving accreditation or improving a school's
9 accreditation status under section 1280 of the revised school code,
10 MCL 380.1280.

11 (c) Achieving highly qualified teacher status as defined under
12 the no child left behind act of 2001, Public Law 107-110.

13 (d) Integrating technology into classroom instruction.

14 (e) Maintaining teacher certification.

15 (11) Subsections (3) and (8) do not apply to a school of
16 excellence that is a cyber school, as defined in section 551 of the
17 revised school code, MCL 380.551, and is in compliance with section
18 553a of the revised school code, MCL 380.553a.

19 **(12) SUBSECTIONS (3) AND (8) DO NOT APPLY TO ELIGIBLE PUPILS**
20 **ENROLLED IN A DROPOUT RECOVERY PROGRAM THAT MEETS THE REQUIREMENTS**
21 **OF SECTION 23A. AS USED IN THIS SUBSECTION, "ELIGIBLE PUPIL" MEANS**
22 **THAT TERM AS DEFINED IN SECTION 23A.**

23 (13) ~~(12)~~ The department shall study the actual costs of
24 providing distance learning or other alternative instructional
25 delivery that is being used in this state and shall report on its
26 findings to the house and senate fiscal agencies and the office of
27 the state budget not later than September 10, 2012. Upon request by

1 the department, a school of excellence described in subsection
2 (11), **A DROPOUT RECOVERY PROGRAM DESCRIBED IN SUBSECTION (12)**, the
3 Michigan virtual university, or a school that receives a seat time
4 waiver from the department under this section shall submit to the
5 department any data requested by the department for the purposes of
6 this study.