

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5142**

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. **FOR THE PURPOSES OF THIS**
16 **SUBDIVISION, FOR A PUPIL ENROLLED IN A CYBER SCHOOL AND UTILIZING**
17 **SEQUENTIAL LEARNING, PARTICIPATION MEANS THAT TERM AS DEFINED IN**
18 **THE PUPIL ACCOUNTING MANUAL, SECTION 5-O-D: REQUIREMENTS FOR**
19 **COUNTING PUPILS IN MEMBERSHIP-SUBSECTION 10.**

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

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

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

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

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

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

1 (l) To be counted in membership, a pupil shall meet the
2 minimum age requirement to be eligible to attend school under
3 section 1147 of the revised school code, MCL 380.1147, or shall be
4 enrolled under subsection (3) of that section, and shall be less
5 than 20 years of age on September 1 of the school year except as
6 follows:

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

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

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

18 (B) Had dropped out of school.

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

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

1 school year.

2 (m) An individual who has achieved a high school diploma shall
3 not be counted in membership. An individual who has achieved a high
4 school equivalency certificate shall not be counted in membership
5 unless the individual is a student with a disability as defined in
6 R 340.1702 of the Michigan Administrative Code. An individual
7 participating in a job training program funded under former section
8 107a or a jobs program funded under former section 107b,
9 administered by the department of talent and economic development,
10 or participating in any successor of either of those 2 programs,
11 shall not be counted in membership.

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

24 (i) If the public school academy provides instruction for at
25 least 1/2 of the class hours required under section 101, the public
26 school academy shall receive as its prorated share of the full-time
27 equated membership for each of those pupils an amount equal to 1

1 times the product of the hours of instruction the public school
2 academy provides divided by the number of hours required under
3 section 101 for full-time equivalency, and the remainder of the
4 full-time membership for each of those pupils shall be allocated to
5 the district or intermediate district providing the remainder of
6 the hours of instruction.

7 (ii) If the public school academy provides instruction for
8 less than 1/2 of the class hours required under section 101, the
9 district or intermediate district providing the remainder of the
10 hours of instruction shall receive as its prorated share of the
11 full-time equated membership for each of those pupils an amount
12 equal to 1 times the product of the hours of instruction the
13 district or intermediate district provides divided by the number of
14 hours required under section 101 for full-time equivalency, and the
15 remainder of the full-time membership for each of those pupils
16 shall be allocated to the public school academy.

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

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

24 (q) The number of class hours used to calculate full-time
25 equated memberships shall be consistent with section 101. In
26 determining full-time equated memberships for pupils who are
27 enrolled in a postsecondary institution **OR FOR PUPILS ENGAGED IN AN**

1 **INTERNSHIP OR WORK EXPERIENCE UNDER SECTION 1279H OF THE REVISED**
2 **SCHOOL CODE, MCL 380.1279H**, a pupil shall not be considered to be
3 less than a full-time equated pupil solely because of the effect of
4 his or her postsecondary enrollment **OR ENGAGEMENT IN THE INTERNSHIP**
5 **OR WORK EXPERIENCE**, including necessary travel time, on the number
6 of class hours provided by the district to the pupil.

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

22 (s) For a district or a public school academy that has pupils
23 enrolled in a grade level that was not offered by the district or
24 public school academy in the immediately preceding school year, the
25 number of pupils enrolled in that grade level to be counted in
26 membership is the average of the number of those pupils enrolled
27 and in regular daily attendance on the pupil membership count day

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

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

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

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

1 instruction per week to the pupil at the pupil's home or otherwise
2 apart from the general school population under the supervision of a
3 certificated teacher.

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

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

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

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

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

1 (x) If a district's membership for a particular fiscal year,
2 as otherwise calculated under this subsection, would be less than
3 1,550 pupils and the district has 4.5 or fewer pupils per square
4 mile, as determined by the department, and if the district does not
5 receive funding under section 22d(2), the district's membership
6 shall be considered to be the membership figure calculated under
7 this subdivision. If a district educates and counts in its
8 membership pupils in grades 9 to 12 who reside in a contiguous
9 district that does not operate grades 9 to 12 and if 1 or both of
10 the affected districts request the department to use the
11 determination allowed under this sentence, the department shall
12 include the square mileage of both districts in determining the
13 number of pupils per square mile for each of the districts for the
14 purposes of this subdivision. The membership figure calculated
15 under this subdivision is the greater of the following:

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

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

23 (y) Full-time equated memberships for special education pupils
24 who are not enrolled in kindergarten but are enrolled in a
25 classroom program under R 340.1754 of the Michigan Administrative
26 Code shall be determined by dividing the number of class hours
27 scheduled and provided per year by 450. Full-time equated

1 memberships for special education pupils who are not enrolled in
2 kindergarten but are receiving early childhood special education
3 services under R 340.1755 or R 340.1862 of the Michigan
4 Administrative Code shall be determined by dividing the number of
5 hours of service scheduled and provided per year per-pupil by 180.

6 (z) A pupil of a district that begins its school year after
7 Labor Day who is enrolled in an intermediate district program that
8 begins before Labor Day shall not be considered to be less than a
9 full-time pupil solely due to instructional time scheduled but not
10 attended by the pupil before Labor Day.

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

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

25 (cc) A pupil enrolled in a district other than the pupil's
26 district of residence pursuant to section 1148(2) of the revised
27 school code, MCL 380.1148, shall be counted in the educating

1 district.

2 (dd) For a pupil enrolled in a dropout recovery program that
3 meets the requirements of section 23a, the pupil shall be counted
4 as 1/12 of a full-time equated membership for each month that the
5 district operating the program reports that the pupil was enrolled
6 in the program and was in full attendance. However, if the special
7 membership counting provisions under this subdivision and the
8 operation of the other membership counting provisions under this
9 subsection result in a pupil being counted as more than 1.0 FTE in
10 a fiscal year, the payment made for the pupil under sections 22a
11 and 22b shall not be based on more than 1.0 FTE for that pupil, and
12 any portion of an FTE for that pupil that exceeds 1.0 shall instead
13 be paid under section 25g. The district operating the program shall
14 report to the center the number of pupils who were enrolled in the
15 program and were in full attendance for a month not later than 30
16 days after the end of the month. A district shall not report a
17 pupil as being in full attendance for a month unless both of the
18 following are met:

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

22 (ii) The pupil meets the district's definition under section
23 23a of satisfactory monthly progress for that month or, if the
24 pupil does not meet that definition of satisfactory monthly
25 progress for that month, the pupil did meet that definition of
26 satisfactory monthly progress in the immediately preceding month
27 and appropriate interventions are implemented within 10 school days

1 after it is determined that the pupil does not meet that definition
2 of satisfactory monthly progress.

3 (ee) A pupil participating in a virtual course under section
4 21f shall be counted in membership in the district enrolling the
5 pupil.

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

16 (gg) If a special education pupil is expelled under section
17 1311 or 1311a of the revised school code, MCL 380.1311 and
18 380.1311a, and is not in attendance on the pupil membership count
19 day because of the expulsion, and if the pupil remains enrolled in
20 the district and resumes regular daily attendance during that
21 school year, the district's membership shall be adjusted to count
22 the pupil in membership as if he or she had been in attendance on
23 the pupil membership count day.

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

26 (ii) A part-time pupil enrolled in a nonpublic school in
27 grades K to 12 in accordance with section 166b shall not be counted

1 as more than 0.75 of a full-time equated membership.

2 (jj) A district that borders another state or a public school
3 academy that operates at least grades 9 to 12 and is located within
4 20 miles of a border with another state may count in membership a
5 pupil who is enrolled in a course at a college or university that
6 is located in the bordering state and within 20 miles of the border
7 with this state if all of the following are met:

8 (i) The pupil would meet the definition of an eligible student
9 under the postsecondary enrollment options act, 1996 PA 160, MCL
10 388.511 to 388.524, if the course were an eligible course under
11 that act.

12 (ii) The course in which the pupil is enrolled would meet the
13 definition of an eligible course under the postsecondary enrollment
14 options act, 1996 PA 160, MCL 388.511 to 388.524, if the course
15 were provided by an eligible postsecondary institution under that
16 act.

17 (iii) The department determines that the college or university
18 is an institution that, in the other state, fulfills a function
19 comparable to a state university or community college, as those
20 terms are defined in section 3 of the postsecondary enrollment
21 options act, 1996 PA 160, MCL 388.513, or is an independent
22 nonprofit degree-granting college or university.

23 (iv) The district or public school academy pays for a portion
24 of the pupil's tuition at the college or university in an amount
25 equal to the eligible charges that the district or public school
26 academy would pay to an eligible postsecondary institution under
27 the postsecondary enrollment options act, 1996 PA 160, MCL 388.511

1 to 388.524, as if the course were an eligible course under that
2 act.

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

6 (kk) A pupil enrolled in a middle college program may be
7 counted for more than a total of 1.0 full-time equated membership
8 if the pupil is enrolled in more than the minimum number of
9 instructional days and hours required under section 101 and the
10 pupil is expected to complete the 5-year program with both a high
11 school diploma and at least 60 transferable college credits or is
12 expected to earn an associate's degree in fewer than 5 years.

13 (ll) IF A DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S MEMBERSHIP FOR
14 A PARTICULAR FISCAL YEAR, AS OTHERWISE CALCULATED UNDER THIS
15 SUBSECTION, INCLUDES PUPILS COUNTED IN MEMBERSHIP WHO ARE ENROLLED
16 UNDER SECTION 166B, ALL OF THE FOLLOWING APPLY FOR THE PURPOSES OF
17 THIS SUBDIVISION:

18 (i) IF THE DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S MEMBERSHIP
19 FOR PUPILS COUNTED UNDER SECTION 166B EQUALS OR EXCEEDS 5% OF THE
20 DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S MEMBERSHIP FOR PUPILS NOT
21 COUNTED IN MEMBERSHIP UNDER SECTION 166B IN THE IMMEDIATELY
22 PRECEDING FISCAL YEAR, THEN THE GROWTH IN THE DISTRICT'S OR PUBLIC
23 SCHOOL ACADEMY'S MEMBERSHIP FOR PUPILS COUNTED UNDER SECTION 166B
24 MUST NOT EXCEED 10%.

25 (ii) IF THE DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S MEMBERSHIP
26 FOR PUPILS COUNTED UNDER SECTION 166B IS LESS THAN 5% OF THE
27 DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S MEMBERSHIP FOR PUPILS NOT

1 COUNTED IN MEMBERSHIP UNDER SECTION 166B IN THE IMMEDIATELY
2 PRECEDING FISCAL YEAR, THEN THE DISTRICT'S OR PUBLIC SCHOOL
3 ACADEMY'S MEMBERSHIP FOR PUPILS COUNTED UNDER SECTION 166B MUST NOT
4 EXCEED THE GREATER OF THE FOLLOWING:

5 (A) 5% OF THE DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S MEMBERSHIP
6 FOR PUPILS NOT COUNTED IN MEMBERSHIP UNDER SECTION 166B.

7 (B) 10% MORE THAN THE DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S
8 MEMBERSHIP FOR PUPILS COUNTED UNDER SECTION 166B IN THE IMMEDIATELY
9 PRECEDING FISCAL YEAR.

10 (iii) IF 1 OR MORE DISTRICTS CONSOLIDATE OR ARE PARTIES TO AN
11 ANNEXATION, THEN THE CALCULATIONS UNDER SUBDIVISIONS (i) AND (ii)
12 MUST BE APPLIED TO THE COMBINED TOTAL MEMBERSHIP FOR PUPILS COUNTED
13 IN THOSE DISTRICTS FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE
14 CONSOLIDATION OR ANNEXATION.

15 (MM) IF A DISTRICT, INTERMEDIATE DISTRICT, OR PUBLIC SCHOOL
16 ACADEMY CHARGES TUITION FOR A PUPIL THAT RESIDED OUT OF STATE IN
17 THE IMMEDIATELY PRECEDING SCHOOL YEAR, THE PUPIL SHALL NOT BE
18 COUNTED IN MEMBERSHIP IN THE DISTRICT, INTERMEDIATE DISTRICT, OR
19 PUBLIC SCHOOL ACADEMY.

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

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

27 (a) A nonpublic part-time pupil enrolled in grades K to 12 in

1 accordance with section 166b.

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

4 (c) A pupil enrolled in a public school academy.

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

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

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

27 (i) "At school" means in a classroom, elsewhere on school

1 premises, on a school bus or other school-related vehicle, or at a
2 school-sponsored activity or event whether or not it is held on
3 school premises.

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

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

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

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

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

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

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

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

26 (j) A pupil who is the child of a person who works at the
27 district or who is the child of a person who worked at the district

1 as of the time the pupil first enrolled in the district but who no
2 longer works at the district due to a workforce reduction. As used
3 in this subdivision, "child" includes an adopted child, stepchild,
4 or legal ward.

5 (k) An expelled pupil who has been denied reinstatement by the
6 expelling district and is reinstated by another school board under
7 section 1311 or 1311a of the revised school code, MCL 380.1311 and
8 380.1311a.

9 (l) A pupil enrolled in a district other than the pupil's
10 district of residence in a middle college program if the pupil's
11 district of residence and the enrolling district are both
12 constituent districts of the same intermediate district.

13 (m) A pupil enrolled in a district other than the pupil's
14 district of residence who attends a United States Olympic Education
15 Center.

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

19 (o) A pupil who enrolls in a district other than the pupil's
20 district of residence as a result of the pupil's school not making
21 adequate yearly progress under the no child left behind act of
22 2001, Public Law 107-110, or the every student succeeds act, Public
23 Law 114-95.

24 However, except for pupils enrolled in the youth challenge
25 program at the site at which the youth challenge program operated
26 for 2015-2016, if a district educates pupils who reside in another
27 district and if the primary instructional site for those pupils is

1 established by the educating district after 2009-2010 and is
2 located within the boundaries of that other district, the educating
3 district must have the approval of that other district to count
4 those pupils in membership.

5 (7) "Pupil membership count day" of a district or intermediate
6 district means:

7 (a) Except as provided in subdivision (b), the first Wednesday
8 in October each school year or, for a district or building in which
9 school is not in session on that Wednesday due to conditions not
10 within the control of school authorities, with the approval of the
11 superintendent, the immediately following day on which school is in
12 session in the district or building.

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

15 (i) Fourth Wednesday in July.

16 (ii) First Wednesday in October.

17 (iii) Second Wednesday in February.

18 (iv) Fourth Wednesday in April.

19 (8) "Pupils in grades K to 12 actually enrolled and in regular
20 daily attendance" means pupils in grades K to 12 in attendance and
21 receiving instruction in all classes for which they are enrolled on
22 the pupil membership count day or the supplemental count day, as
23 applicable. Except as otherwise provided in this subsection, a
24 pupil who is absent from any of the classes in which the pupil is
25 enrolled on the pupil membership count day or supplemental count
26 day and who does not attend each of those classes during the 10
27 consecutive school days immediately following the pupil membership

count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. A pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. In addition, a pupil who was enrolled and in attendance in a district, intermediate district, or public school academy before the pupil membership count day or supplemental count day of a particular year but was expelled or suspended on the pupil membership count day or supplemental count day shall only be counted as 1.0 full-time equated membership if the pupil resumed attendance in the district, intermediate district, or public school academy within 45 days after the pupil membership count day or supplemental count day of that particular year. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated membership for the classes the pupil attended. For purposes of this subsection, "class" means a period of time in 1 day when pupils and a certificated teacher, **A TEACHER ENGAGED TO TEACH UNDER SECTION 1233B OF THE REVISED SCHOOL CODE, MCL 380.1233B**, or ~~legally qualified~~ **AN INDIVIDUAL WORKING UNDER A VALID substitute teacher PERMIT, AUTHORIZATION, OR APPROVAL ISSUED BY THE DEPARTMENT**, are together and instruction is taking place.

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

1 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
2 380.1852.

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

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

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

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

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

16 (16) "Tuition pupil" means a pupil of school age attending
17 school in a district other than the pupil's district of residence
18 for whom tuition may be charged to the district of residence.

19 Tuition pupil does not include a pupil who is a special education
20 pupil, a pupil described in subsection (6)(c) to (o), or a pupil
21 whose parent or guardian voluntarily enrolls the pupil in a
22 district that is not the pupil's district of residence. A pupil's
23 district of residence shall not require a high school tuition
24 pupil, as provided under section 111, to attend another school
25 district after the pupil has been assigned to a school district.

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

1 of 1963.

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

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

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

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

18 (a) ~~A noncertificated educator~~ **EXCEPT FOR AN INDIVIDUAL**
19 **ENGAGED TO TEACH UNDER SECTION 1233B OF THE REVISED SCHOOL CODE,**
20 **MCL 380.1233B, AN INDIVIDUAL WHO DOES NOT HOLD A VALID CERTIFICATE**
21 **OR WHO IS NOT WORKING UNDER A VALID SUBSTITUTE PERMIT,**
22 **AUTHORIZATION, OR APPROVAL ISSUED UNDER RULES PROMULGATED BY THE**
23 **DEPARTMENT** to teach in an elementary or secondary school. ~~or in an~~
24 ~~adult basic education or high school completion program.~~

25 (b) ~~A noncertificated educator~~ **AN INDIVIDUAL WHO DOES NOT**
26 **SATISFY THE REQUIREMENTS OF SECTION 1233 OF THE REVISED SCHOOL**
27 **CODE, MCL 380.1233, AND RULES PROMULGATED BY THE DEPARTMENT** to

1 provide ~~counseling~~ **SCHOOL COUNSELOR** services to pupils in an
 2 elementary or secondary school. ~~or in an adult basic education or~~
 3 ~~high school completion program.~~

4 (c) ~~A noncertificated educator to administer~~ **AN INDIVIDUAL WHO**
 5 **DOES NOT SATISFY THE REQUIREMENTS OF SECTION 1246 OF THE REVISED**
 6 **SCHOOL CODE, MCL 380.1246, OR WHO IS NOT WORKING UNDER A VALID**
 7 **SUBSTITUTE PERMIT ISSUED UNDER RULES PROMULGATED BY THE DEPARTMENT,**
 8 **TO BE EMPLOYED AS A SUPERINTENDENT, PRINCIPAL, OR ASSISTANT**
 9 **PRINCIPAL, OR AS AN INDIVIDUAL WHOSE PRIMARY RESPONSIBILITY IS TO**
 10 **ADMINISTER** instructional programs in an elementary or secondary
 11 school, ~~or in an adult basic education or high school completion~~
 12 ~~program, unless that educator is fulfilling applicable continuing~~
 13 ~~education requirements.~~ **A DISTRICT OR INTERMEDIATE DISTRICT.**

14 (2) Except as provided in the revised school code, a district
 15 or intermediate district employing ~~educators not legally~~
 16 ~~certificated or licensed~~ **INDIVIDUALS IN VIOLATION OF THIS SECTION**
 17 shall have deducted the sum equal to the amount paid the ~~educators~~
 18 **INDIVIDUALS** for the period of ~~noncertificated, unlicensed, or~~
 19 ~~illegal employment.~~ Each intermediate superintendent shall notify
 20 the department of the name of the ~~noncertificated or unlicensed~~
 21 ~~educator,~~ **INDIVIDUAL EMPLOYED IN VIOLATION OF THIS SECTION,** and the
 22 district employing that individual and the amount of salary the
 23 ~~noncertificated or unlicensed educator~~ **INDIVIDUAL** was paid within a
 24 constituent district.

25 (3) If a school official is notified by the department that he
 26 or she is employing a ~~nonapproved, noncertificated, or unlicensed~~
 27 ~~educator~~ **AN INDIVIDUAL** in violation of this section and knowingly

1 continues to employ that ~~educator~~, **INDIVIDUAL**, the school official
2 is guilty of a misdemeanor ~~—~~ punishable by a fine of \$1,500.00 for
3 each incidence. This penalty is in addition to all other financial
4 penalties otherwise specified in this article.

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

7 Enacting section 2. This amendatory act does not take effect
8 unless House Bill No. 5141 of the 99th Legislature is enacted into
9 law.