

HOUSE BILL No. 5267

January 24, 2012, Introduced by Reps. Genetski, Nesbitt, O'Brien, McMillin, Franz, Daley, Liss, Lyons, Kurtz, Bumstead, Pscholka, Opsommer, Olson, Goike, Hooker, Callton, Johnson, Wayne Schmidt, Damrow, Horn, Hughes, Haugh, Switalski, Lipton, Dillon, Meadows and Rutledge and referred to the Committee on Appropriations.

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 2011 PA 62 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
9 buildings that do not serve regular education pupils also qualify.

1 Unless otherwise approved by the department, a center program
2 either shall serve all constituent districts within an intermediate
3 district or shall serve several districts with less than 50% of the
4 pupils residing in the operating district. In addition, special
5 education center program pupils placed part-time in noncenter
6 programs to comply with the least restrictive environment
7 provisions of section 612 of part B of the individuals with
8 disabilities education act, 20 USC 1412, may be considered center
9 program pupils for pupil accounting purposes for the time scheduled
10 in either a center program or a noncenter program.

11 (2) "District and high school graduation rate" means the
12 annual completion and pupil dropout rate that is calculated by the
13 center pursuant to nationally recognized standards.

14 (3) "District and high school graduation report" means a
15 report of the number of pupils, excluding adult participants, in
16 the district for the immediately preceding school year, adjusted
17 for those pupils who have transferred into or out of the district
18 or high school, who leave high school with a diploma or other
19 credential of equal status.

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

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

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

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

1 of the pupil's district of residence to count the pupil in
2 membership, the pupil shall not be counted in membership in any
3 district.

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

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

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

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

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

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

26 (i) For a new district, university school, or public school
27 academy beginning its operation after December 31, 1994, membership

1 for the first 2 full or partial fiscal years of operation shall be
2 determined as follows:

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

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

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

1 were also counted in the district on the immediately preceding
2 supplemental count day.

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

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

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

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

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

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

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

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

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

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

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

1 full-time membership for each of those pupils shall be allocated to
2 the district or intermediate district providing the remainder of
3 the hours of instruction.

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

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

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

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

1 district to the pupil.

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

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

27 (t) A pupil enrolled in a cooperative education program may be

1 counted in membership in the pupil's district of residence with the
2 written approval of all parties to the cooperative agreement.

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

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

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

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

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

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

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

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

24 (y) If a district's membership for a particular fiscal year,
25 as otherwise calculated under this subsection, would be less than
26 1,550 pupils and the district has 4.5 or fewer pupils per square
27 mile, as determined by the department, and, beginning in 2007-2008,

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

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

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

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

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

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

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

27 (dd) A district that educates a pupil who attends a United

1 States Olympic education center may count the pupil in membership
2 regardless of whether or not the pupil is a resident of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (i) The pupil has been suspended or expelled from his or her
27 district of residence for any reason, including, but not limited

1 to, a suspension or expulsion under section 1310, 1311, or 1311a of
2 the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

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

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

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

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

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

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

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

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

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

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

1 district of residence pursuant to section 1148(2) of the revised
2 school code, MCL 380.1148.

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

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

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

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

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

- 23 (i) Fourth Wednesday in July.
24 (ii) First Wednesday in October.
25 (iii) Second Wednesday in February.
26 (iv) Fourth Wednesday in April.

27 (8) "Pupils in grades K to 12 actually enrolled and in regular

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

1 of time in 1 day when pupils and a certificated teacher or legally
2 qualified substitute teacher are together and instruction is taking
3 place.

4 (9) "Rule" means a rule promulgated pursuant to the
5 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
6 24.328.

7 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to
8 380.1852.

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

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

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

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

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

22 (16) "Tuition pupil" means a pupil of school age attending
23 school in a district other than the pupil's district of residence
24 for whom tuition may be charged. Tuition pupil does not include a
25 pupil who is a special education pupil or a pupil described in
26 subsection (6)(c) to (o). A pupil's district of residence shall not
27 require a high school tuition pupil, as provided under section 111,

1 to attend another school district after the pupil has been assigned
2 to a school district.

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

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

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

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

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

23 **SEC. 23A. (1) A DROPOUT RECOVERY PROGRAM OPERATED BY A**
24 **DISTRICT QUALIFIES FOR THE SPECIAL MEMBERSHIP COUNTING PROVISIONS**
25 **OF SECTION 6(4)(FF) AND THE HOURS AND DAY OF PUPIL INSTRUCTION**
26 **EXEMPTION UNDER SECTION 101(12) IF THE DROPOUT PREVENTION PROGRAM**
27 **MEETS ALL OF THE FOLLOWING:**

1 (A) ENROLLS ONLY ELIGIBLE PUPILS.

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

10 (C) DEVELOPS A WRITTEN LEARNING PLAN.

11 (D) MONITORS THE PUPIL'S PROGRESS AGAINST THE WRITTEN LEARNING
12 PLAN.

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

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

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

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

22 (I) IF THE DISTRICT PARTNERS WITH AN EDUCATION MANAGEMENT
23 ORGANIZATION FOR THE PROGRAM, THE EDUCATION MANAGEMENT ORGANIZATION
24 HAS A DROPOUT RECOVERY PROGRAM PARTNERSHIP RELATIONSHIP WITH AT
25 LEAST 1 OTHER DISTRICT.

26 (2) A DISTRICT OPERATING A DROPOUT RECOVERY PROGRAM UNDER THIS
27 SECTION SHALL ADOPT A DEFINITION OF SATISFACTORY MONTHLY PROGRESS

1 THAT IS CONSISTENT WITH THE DEFINITION OF THAT TERM UNDER
2 SUBSECTION (3).

3 (3) AS USED IN THIS SECTION:

4 (A) "EDUCATION MANAGEMENT ORGANIZATION" MEANS A PRIVATE
5 PROVIDER THAT OPERATES 1 OR MORE OTHER DROPOUT RECOVERY PROGRAMS
6 THAT MEET THE REQUIREMENTS OF THIS SECTION IN PARTNERSHIP WITH 1 OR
7 MORE DISTRICTS.

8 (B) "ELIGIBLE PUPIL" MEANS A PUPIL WHO HAS BEEN EXPELLED FROM
9 SCHOOL UNDER THE MANDATORY EXPULSION PROVISIONS IN SECTION 1311 OR
10 1311A OF THE REVISED SCHOOL CODE, MCL 380.1311 AND 380.1311A, A
11 PUPIL WHO HAS BEEN SUSPENDED OR EXPELLED FROM SCHOOL UNDER A LOCAL
12 POLICY, A PUPIL WHO IS REFERRED BY A COURT, A PUPIL WHO IS PREGNANT
13 OR IS A PARENT, A PUPIL WHO WAS PREVIOUSLY A DROPOUT, OR A PUPIL
14 WHO IS DETERMINED BY THE DISTRICT TO BE AT RISK OF DROPPING OUT.

15 (C) "MENTOR" MEANS AN ADULT AVAILABLE TO MEET IN PERSON WITH
16 ASSIGNED PUPILS, AS NEEDED, TO CONDUCT SOCIAL INTERVENTIONS, TO
17 PROCTOR FINAL EXAMINATIONS, AND TO PROVIDE ACADEMIC AND SOCIAL
18 SUPPORT TO PUPILS ENROLLED IN THE DISTRICT'S DROPOUT RECOVERY
19 PROGRAM.

20 (D) "SATISFACTORY MONTHLY PROGRESS" MEANS AN AMOUNT OF
21 PROGRESS THAT IS MEASURABLE ON A MONTHLY BASIS AND THAT, IF
22 CONTINUED FOR A FULL 12 MONTHS, WOULD RESULT IN THE SAME AMOUNT OF
23 ACADEMIC CREDIT BEING AWARDED TO THE PUPIL AS WOULD BE AWARDED TO A
24 GENERAL EDUCATION PUPIL COMPLETING A FULL SCHOOL YEAR. SATISFACTORY
25 MONTHLY PROGRESS MAY INCLUDE A LESSER REQUIRED AMOUNT OF PROGRESS
26 FOR THE FIRST 2 MONTHS A PUPIL PARTICIPATES IN THE PROGRAM.

27 (E) "WRITTEN LEARNING PLAN" MEANS A WRITTEN PLAN DEVELOPED BY

1 THE MENTOR THAT INCLUDES THE PLAN START AND END DATES, COURSES TO
2 BE TAKEN, CREDIT TO BE EARNED FOR EACH COURSE, TEACHER OF RECORD
3 FOR EACH COURSE, AND MENTOR NAME AND CONTACT INFORMATION.

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

1 failure and continuing with each payment until the district
2 complies with this subsection. If a district does not comply with
3 this subsection by the end of the fiscal year, the district
4 forfeits the amount withheld. A person who willfully falsifies a
5 figure or statement in the certified and sworn copy of enrollment
6 shall be punished in the manner prescribed by section 161.

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

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

25 (a) Except as otherwise provided in this section, each
26 district shall provide at least 1,098 hours and, beginning in 2010-
27 2011, the required minimum number of days of pupil instruction. For

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

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

24 (c) Hours or days lost because of strikes or teachers'
25 conferences shall not be counted as hours or days of pupil
26 instruction.

27 (d) If a collective bargaining agreement that provides a

1 complete school calendar is in effect for employees of a district
2 as of October 19, 2009, and if that school calendar is not in
3 compliance with this subsection, then this subsection does not
4 apply to that district until after the expiration of that
5 collective bargaining agreement.

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

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

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

24 (ii) For each enrolled pupil, the district uses appropriate
25 academic assessments to develop an individual education plan that
26 leads to a high school diploma.

27 (iii) The district tests each pupil to determine academic

1 progress at regular intervals and records the results of those
2 tests in that pupil's individual education plan.

3 (g) The superintendent shall promulgate rules for the
4 implementation of this subsection.

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

22 (5) A district shall not forfeit part of its state aid
23 appropriation because it adopts or has in existence an alternative
24 scheduling program for pupils in kindergarten if the program
25 provides at least the number of hours required under subsection (3)
26 for a full-time equated membership for a pupil in kindergarten as
27 provided under section 6(4).

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

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

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

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

25 (a) Except as otherwise provided in this subsection, a pupil
26 must be scheduled for at least the required minimum number of hours
27 of instruction, excluding study halls, or at least the sum of 90

1 hours plus the required minimum number of hours of instruction,
2 including up to 2 study halls.

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

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

17 (d) If a pupil in grades 9 to 12 who is enrolled in a
18 cooperative education program or a special education pupil cannot
19 receive the required minimum number of hours of pupil instruction
20 solely because of travel time between instructional sites during
21 the school day, that travel time, up to a maximum of 3 hours per
22 school week, shall be considered to be pupil instruction time for
23 the purpose of determining whether the pupil is receiving the
24 required minimum number of hours of pupil instruction. However, if
25 a district demonstrates to the satisfaction of the department that
26 the travel time limitation under this subdivision would create
27 undue costs or hardship to the district, the department may

1 consider more travel time to be pupil instruction time for this
2 purpose.

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

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

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

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

22 (9) Upon application by the district for a particular fiscal
23 year, the superintendent may waive for a district the minimum
24 number of hours and days of pupil instruction requirement of
25 subsection (3) for a department-approved alternative education
26 program or another innovative program approved by the department,
27 including a 4-day school week. If a district applies for and

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

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

1 professional development" means professional development that is
2 focused on 1 or more of the following:

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

5 (b) Achieving accreditation or improving a school's
6 accreditation status under section 1280 of the revised school code,
7 MCL 380.1280.

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

10 (d) Integrating technology into classroom instruction.

11 (e) Maintaining teacher certification.

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

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

20 (13) ~~(12)~~—The department shall study the actual costs of
21 providing distance learning or other alternative instructional
22 delivery that is being used in this state and shall report on its
23 findings to the house and senate fiscal agencies and the office of
24 the state budget not later than September 10, 2012. Upon request by
25 the department, a school of excellence described in subsection
26 (11), **A DROPOUT RECOVERY PROGRAM DESCRIBED IN SUBSECTION (12)**, the
27 Michigan virtual university, or a school that receives a seat time

1 waiver from the department under this section shall submit to the
2 department any data requested by the department for the purposes of
3 this study.