

**SUBSTITUTE FOR
HOUSE BILL NO. 5939**

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 6 (MCL 388.1606), as amended by 2022 PA 144.

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 serves all constituent districts within an intermediate
3 district or serves 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 1412 of the individuals with disabilities
8 education act, 20 USC 1412, may be considered center program pupils
9 for pupil accounting purposes for the time scheduled in either a
10 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 education
16 participants, in the district for the immediately preceding school
17 year, adjusted for those pupils who have transferred into or out of
18 the district or high school, who leave high school with a diploma
19 or other credential of equal status.

20 (4) "Membership", except as otherwise provided in this
21 article, means for a district, a public school academy, or an
22 intermediate district the sum of the product of .90 times the
23 number of full-time equated pupils in grades K to 12 actually
24 enrolled and in regular daily attendance in the district, public
25 school academy, or intermediate district 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 of
28 full-time equated pupils in grades K to 12 actually enrolled and in
29 regular daily attendance in the district, public school academy, or



1 intermediate district for the immediately preceding school year. A
2 district's, public school academy's, or intermediate district's
3 membership is adjusted as provided under section 25e for pupils who
4 enroll after the pupil membership count day in a strict discipline
5 academy operating under sections 1311b to 1311m of the revised
6 school code, MCL 380.1311b to 380.1311m. All pupil counts used in
7 this subsection are as determined by the department and calculated
8 by adding the number of pupils registered for attendance plus
9 pupils received by transfer and minus pupils lost as defined by
10 rules promulgated by the superintendent, and as corrected by a
11 subsequent department audit. The amount of the foundation allowance
12 for a pupil in membership is determined under section 20. In making
13 the calculation of membership, all of the following, as applicable,
14 apply to determining the membership of a district, a public school
15 academy, or an intermediate district:

16 (a) Except as otherwise provided in this subsection, and
17 pursuant to subsection (6), a pupil is counted in membership in the
18 pupil's educating district or districts. An individual pupil must
19 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
28 of the pupil's district of residence to count the pupil in
29 membership, the pupil is not counted in membership in any district.



1 (c) A special education pupil educated by the intermediate
2 district is counted in membership in the intermediate district.

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

9 (e) A pupil enrolled in the Michigan Schools for the Deaf and
10 Blind is counted in membership in the pupil's intermediate district
11 of residence.

12 (f) A pupil enrolled in a career and technical education
13 program supported by a millage levied over an area larger than a
14 single district or in an area vocational-technical education
15 program established under section 690 of the revised school code,
16 MCL 380.690, is counted in membership only in the pupil's district
17 of residence.

18 (g) A pupil enrolled in a public school academy is counted in
19 membership in the public school academy.

20 (h) For the purposes of this section and section 6a, for a
21 cyber school, as that term is defined in section 551 of the revised
22 school code, MCL 380.551, that is in compliance with section 553a
23 of the revised school code, MCL 380.553a, a pupil's participation
24 in the cyber school's educational program is considered regular
25 daily attendance, and for a district or public school academy, a
26 pupil's participation in a virtual course as that term is defined
27 in section 21f is considered regular daily attendance. Beginning
28 July 1, 2021, this subdivision is subject to section 8c. It is the
29 intent of the legislature that the immediately preceding sentence



1 apply retroactively and is effective July 1, 2021. For the purposes
2 of this subdivision, for a pupil enrolled in a cyber school, all of
3 the following apply with regard to the participation requirement as
4 described in this subdivision:

5 (i) Except as otherwise provided in this subdivision, the pupil
6 shall participate in each scheduled course on pupil membership
7 count day or supplemental count day, as applicable. If the pupil is
8 absent on pupil membership count day or supplemental count day, as
9 applicable, the pupil must attend and participate in class during
10 the next 10 consecutive school days if the absence was unexcused,
11 or during the next 30 calendar days if the absence was excused.

12 (ii) For a pupil who is not learning sequentially, 1 or more of
13 the following must be met on pupil membership count day or
14 supplemental count day, as applicable, for each scheduled course to
15 satisfy the participation requirement under this subdivision:

16 (A) The pupil attended a live lesson from the teacher.

17 (B) The pupil logged into a lesson or lesson activity and the
18 login can be documented.

19 (C) The pupil and teacher engaged in a subject-oriented
20 telephone conversation.

21 (D) There is documentation of an email dialogue between the
22 pupil and teacher.

23 (E) There is documentation of activity or work between the
24 learning coach and pupil.

25 (F) An alternate form of attendance as determined and agreed
26 upon by the cyber school and the pupil membership auditor was met.

27 (iii) For a pupil using sequential learning, the participation
28 requirement under this subdivision is satisfied if either of the
29 following occurs:



(A) Except as otherwise provided in this sub-subparagraph, the pupil and the teacher of record or mentor complete a 2-way interaction for 1 course during the week on which pupil membership count day or supplemental count day, as applicable, occurs, and the 3 consecutive weeks following that week. However, if a school break is scheduled during any of the weeks described in this sub-subparagraph that is 4 or more days in length or instruction has been canceled districtwide during any of the weeks described in this sub-subparagraph for 3 or more school days, the district is not required to ensure that the pupil and the teacher of record or mentor completed a 2-way interaction for that week. As used in this sub-subparagraph:

(I) "2-way interaction" means the communication that occurs between the teacher of record or mentor and pupil, where 1 party initiates communication and a response from the other party follows that communication. Responses as described in this sub-sub-subparagraph must be to the communication initiated by the teacher of record or mentor, and not some other action taken. This interaction may occur through, but is not limited to, means such as email, telephone, instant messaging, or face-to-face conversation. A parent- or legal-guardian-facilitated 2-way interaction is considered a 2-way interaction if the pupil is in any of grades K to 5 and does not yet possess the skills necessary to participate in 2-way interactions unassisted. The interactions described in this sub-sub-subparagraph must relate to a virtual course on the pupil's schedule and pertain to course content or progress.

(II) "Mentor" means a professional employee of the district who monitors the pupil's progress, ensures the pupil has access to needed technology, is available for assistance, and ensures access



1 to the teacher of record. A mentor may also be the teacher of
2 record if the mentor meets the definition of a teacher of record
3 under this sub-subparagraph and the district is the provider for
4 the course.

5 (III) "Teacher of record" means a teacher to whom all of the
6 following apply:

7 (1) He or she is responsible for providing instruction,
8 determining instructional methods for each pupil, diagnosing
9 learning needs, assessing pupil learning, prescribing intervention
10 strategies and modifying lessons, reporting outcomes, and
11 evaluating the effects of instruction and support strategies. The
12 teacher of record may coordinate the distribution and assignment of
13 the responsibilities described in this sub-sub-sub-subparagraph
14 with other teachers participating in the instructional process for
15 a course.

16 (2) He or she is certified for the grade level or is working
17 under a valid substitute permit, authorization, or approval issued
18 by the department.

19 (3) He or she has a personnel identification code provided by
20 the center.

21 (IV) "Week" means a period that starts on Wednesday and ends
22 the following Tuesday.

23 (B) The pupil completes a combination of 1 or more of the
24 following activities for each scheduled course on pupil membership
25 count day or supplemental count day, as applicable:

26 (I) Documented attendance in a virtual course where
27 synchronous, live instruction occurred with the teacher.

28 (II) Documented completion of a course assignment.

29 (III) Documented completion of a course lesson or lesson



1 activity.

2 (IV) Documented pupil access to an ongoing lesson, which does
3 not include a login.

4 (V) Documented physical attendance on pupil membership count
5 day or supplemental count day, as applicable, in each scheduled
6 course, if the pupil will attend at least 50% of the instructional
7 time for each scheduled course on-site, face-to-face with the
8 teacher of record. As used in this sub-sub-subparagraph, "teacher
9 of record" means that term as defined in subparagraph (iii) (A).

10 (iv) For purposes of subparagraph (iii), each scheduled course
11 currently being attempted by the pupil, rather than every course on
12 the pupil's schedule for the entire term, is considered a part of
13 each scheduled course for the pupil.

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

17 (i) If operations begin before the pupil membership count day
18 for the fiscal year, membership is the average number of full-time
19 equated pupils in grades K to 12 actually enrolled and in regular
20 daily attendance on the pupil membership count day for the current
21 school year and on the supplemental count day for the current
22 school year, as determined by the department and calculated by
23 adding the number of pupils registered for attendance on the pupil
24 membership count day plus pupils received by transfer and minus
25 pupils lost as defined by rules promulgated by the superintendent,
26 and as corrected by a subsequent department audit, plus the final
27 audited count from the supplemental count day for the current
28 school year, and dividing that sum by 2.

29 (ii) If operations begin after the pupil membership count day



1 for the fiscal year and not later than the supplemental count day
2 for the fiscal year, membership is the final audited count of the
3 number of full-time equated pupils in grades K to 12 actually
4 enrolled and in regular daily attendance on the supplemental count
5 day for the current school year.

6 (j) If a district is the authorizing body for a public school
7 academy, then, in the first school year in which pupils are counted
8 in membership on the pupil membership count day in the public
9 school academy, the determination of the district's membership
10 excludes from the district's pupil count for the immediately
11 preceding supplemental count day any pupils who are counted in the
12 public school academy on that first pupil membership count day who
13 were also counted in the district on the immediately preceding
14 supplemental count day.

15 (k) For an extended school year program approved by the
16 superintendent, a pupil enrolled, but not scheduled to be in
17 regular daily attendance, on a pupil membership count day, is
18 counted in membership.

19 (l) To be counted in membership, a pupil must meet the minimum
20 age requirement to be eligible to attend school under section 1147
21 of the revised school code, MCL 380.1147, and must be less than 20
22 years of age on September 1 of the school year except as follows:

23 (i) A special education pupil who is enrolled and receiving
24 instruction in a special education program or service approved by
25 the department, who does not have a high school diploma, and who is
26 less than 26 years of age as of September 1 of the current school
27 year is counted in membership.

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



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

5 (B) Had dropped out of school.

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

8 (iii) If a child does not meet the minimum age requirement to be
9 eligible to attend school for that school year under section 1147
10 of the revised school code, MCL 380.1147, but will be 5 years of
11 age not later than December 1 of that school year, the district may
12 count the child in membership for that school year if the parent or
13 legal guardian has notified the district in writing that he or she
14 intends to enroll the child in kindergarten for that school year.

15 (m) An individual who has achieved a high school diploma is
16 not counted in membership. An individual who has achieved a high
17 school equivalency certificate is not counted in membership unless
18 the individual is a student with a disability as that term is
19 defined in R 340.1702 of the Michigan Administrative Code. An
20 individual participating in a job training program funded under
21 former section 107a or a jobs program funded under former section
22 107b, administered by the department of labor and economic
23 opportunity, or participating in any successor of either of those 2
24 programs, is not counted in membership.

25 (n) If a pupil counted in membership in a public school
26 academy is also educated by a district or intermediate district as
27 part of a cooperative education program, the pupil is counted in
28 membership only in the public school academy unless a written
29 agreement signed by all parties designates the party or parties in



1 which the pupil is counted in membership, and the instructional
2 time scheduled for the pupil in the district or intermediate
3 district is included in the full-time equated membership
4 determination under subdivision (q) and section 101. However, for
5 pupils receiving instruction in both a public school academy and in
6 a district or intermediate district but not as a part of a
7 cooperative education program, the following apply:

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

18 (ii) If the public school academy provides instruction for less
19 than 1/2 of the class hours required under section 101, the
20 district or intermediate district providing the remainder of the
21 hours of instruction receives as its prorated share of the full-
22 time equated membership for each of those pupils an amount equal to
23 1 times the product of the hours of instruction the district or
24 intermediate district provides divided by the number of hours
25 required under section 101 for full-time equivalency, and the
26 remainder of the full-time membership for each of those pupils is
27 allocated to the public school academy.

28 (o) An individual less than 16 years of age as of September 1
29 of the current school year who is being educated in an alternative



1 education program is not counted in membership if there are also
2 adult education participants being educated in the same program or
3 classroom.

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

6 (q) The number of class hours used to calculate full-time
7 equated memberships must be consistent with section 101. In
8 determining full-time equated memberships for pupils who are
9 enrolled in a postsecondary institution or for pupils engaged in an
10 internship or work experience under section 1279h of the revised
11 school code, MCL 380.1279h, a pupil is not considered to be less
12 than a full-time equated pupil solely because of the effect of his
13 or her postsecondary enrollment or engagement in the internship or
14 work experience, including necessary travel time, on the number of
15 class hours provided by the district to the pupil.

16 (r) Full-time equated memberships for pupils in kindergarten
17 are determined by dividing the number of instructional hours
18 scheduled and provided per year per kindergarten pupil by the same
19 number used for determining full-time equated memberships for
20 pupils in grades 1 to 12. However, to the extent allowable under
21 federal law, for a district or public school academy that provides
22 evidence satisfactory to the department that it used federal title
23 I money in the 2 immediately preceding school fiscal years to fund
24 full-time kindergarten, full-time equated memberships for pupils in
25 kindergarten are determined by dividing the number of class hours
26 scheduled and provided per year per kindergarten pupil by a number
27 equal to 1/2 the number used for determining full-time equated
28 memberships for pupils in grades 1 to 12. The change in the
29 counting of full-time equated memberships for pupils in



1 kindergarten that took effect for 2012-2013 is not a mandate.

2 (s) For a district or a public school academy that has pupils
3 enrolled in a grade level that was not offered by the district or
4 public school academy in the immediately preceding school year, the
5 number of pupils enrolled in that grade level to be counted in
6 membership is the average of the number of those pupils enrolled
7 and in regular daily attendance on the pupil membership count day
8 and the supplemental count day of the current school year.

9 Membership is calculated by adding the number of pupils registered
10 for attendance in that grade level on the pupil membership count
11 day plus pupils received by transfer and minus pupils lost as
12 defined by rules promulgated by the superintendent, and as
13 corrected by subsequent department audit, plus the final audited
14 count from the supplemental count day for the current school year,
15 and dividing that sum by 2.

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

19 (u) If, as a result of a disciplinary action, a district
20 determines through the district's alternative or disciplinary
21 education program that the best instructional placement for a pupil
22 is in the pupil's home or otherwise apart from the general school
23 population, if that placement is authorized in writing by the
24 district superintendent and district alternative or disciplinary
25 education supervisor, and if the district provides appropriate
26 instruction as described in this subdivision to the pupil at the
27 pupil's home or otherwise apart from the general school population,
28 the district may count the pupil in membership on a pro rata basis,
29 with the proration based on the number of hours of instruction the



1 district actually provides to the pupil divided by the number of
2 hours required under section 101 for full-time equivalency. For the
3 purposes of this subdivision, a district is considered to be
4 providing appropriate instruction if all of the following are met:

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

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

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

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

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

23 (w) For a public school academy that has been in operation for
24 at least 2 years and that suspended operations for at least 1
25 semester and is resuming operations, membership is the sum of the
26 product of .90 times the number of full-time equated pupils in
27 grades K to 12 actually enrolled and in regular daily attendance on
28 the first pupil membership count day or supplemental count day,
29 whichever is first, occurring after operations resume, plus the



1 product of .10 times the final audited count from the most recent
2 pupil membership count day or supplemental count day that occurred
3 before suspending operations, as determined by the superintendent.

4 (x) If a district's membership for a particular fiscal year,
5 as otherwise calculated under this subsection, would be less than
6 1,550 pupils, the district has 4.5 or fewer pupils per square mile,
7 as determined by the department, and the district does not receive
8 funding under section 22d(2), the district's membership is
9 considered to be the membership figure calculated under this
10 subdivision. If a district educates and counts in its membership
11 pupils in grades 9 to 12 who reside in a contiguous district that
12 does not operate grades 9 to 12 and if 1 or both of the affected
13 districts request the department to use the determination allowed
14 under this sentence, the department shall include the square
15 mileage of both districts in determining the number of pupils per
16 square mile for each of the districts for the purposes of this
17 subdivision. If a district has established a community engagement
18 advisory committee in partnership with the department of treasury,
19 is required to submit a deficit elimination plan or an enhanced
20 deficit elimination plan under section 1220 of the revised school
21 code, MCL 380.1220, and is located in a city with a population
22 between 9,000 and 11,000, as determined by the department, that is
23 in a county with a population between 150,000 and 160,000, as
24 determined by the department, the district's membership is
25 considered to be the membership figure calculated under this
26 subdivision. The membership figure calculated under this
27 subdivision is the greater of the following:

28 (i) The average of the district's membership for the 3-fiscal-
29 year period ending with that fiscal year, calculated by adding the



1 district's actual membership for each of those 3 fiscal years, as
2 otherwise calculated under this subsection, and dividing the sum of
3 those 3 membership figures by 3.

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

6 (y) Full-time equated memberships for special education pupils
7 who are not enrolled in kindergarten but are enrolled in a
8 classroom program under R 340.1754 of the Michigan Administrative
9 Code are determined by dividing the number of class hours scheduled
10 and provided per year by 450. Full-time equated memberships for
11 special education pupils who are not enrolled in kindergarten but
12 are receiving early childhood special education services under R
13 340.1755 or R 340.1862 of the Michigan Administrative Code are
14 determined by dividing the number of hours of service scheduled and
15 provided per year per pupil by 180.

16 (z) A pupil of a district that begins its school year after
17 Labor Day who is enrolled in an intermediate district program that
18 begins before Labor Day is not considered to be less than a full-
19 time pupil solely due to instructional time scheduled but not
20 attended by the pupil before Labor Day.

21 (aa) For the first year in which a pupil is counted in
22 membership on the pupil membership count day in a middle college
23 program, the membership is the average of the full-time equated
24 membership on the pupil membership count day and on the
25 supplemental count day for the current school year, as determined
26 by the department. If a pupil described in this subdivision was
27 counted in membership by the operating district on the immediately
28 preceding supplemental count day, the pupil is excluded from the
29 district's immediately preceding supplemental count for the



1 purposes of determining the district's membership.

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

6 (cc) A pupil enrolled in a district other than the pupil's
7 district of residence under section 1148(2) of the revised school
8 code, MCL 380.1148, is counted in the educating district.

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

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

29 (ii) The pupil meets the district's definition under section



1 23a of satisfactory monthly progress for that month or, if the
2 pupil does not meet that definition of satisfactory monthly
3 progress for that month, the pupil did meet that definition of
4 satisfactory monthly progress in the immediately preceding month
5 and appropriate interventions are implemented within 10 school days
6 after it is determined that the pupil does not meet that definition
7 of satisfactory monthly progress.

8 (ee) A pupil participating in a virtual course under section
9 21f is counted in membership in the district enrolling the pupil.

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

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

28 (hh) A pupil enrolled in a community district is counted in
29 membership in the community district.



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

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

10 (i) The pupil would meet the definition of an eligible student
11 under the postsecondary enrollment options act, 1996 PA 160, MCL
12 388.511 to 388.524, if the course were an eligible course under
13 that act.

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

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

25 (iv) The district or public school academy pays for a portion
26 of the pupil's tuition at the college or university in an amount
27 equal to the eligible charges that the district or public school
28 academy would pay to an eligible postsecondary institution under
29 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 for
19 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
28 counted in membership under section 166b in the immediately
29 preceding fiscal year, then the district's or public school



academy's membership for pupils counted under section 166b must not exceed the greater of the following:

(A) Five percent of the district's or public school academy's membership for pupils not counted in membership under section 166b.

(B) Ten percent more than the district's or public school academy's membership for pupils counted under section 166b in the immediately preceding fiscal year.

(iii) If 1 or more districts consolidate or are parties to an annexation, then the calculations under subparagraphs (i) and (ii) must be applied to the combined total membership for pupils counted in those districts for the fiscal year immediately preceding the consolidation or annexation.

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

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

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

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

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

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

(e) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written



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

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

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

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

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



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

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

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

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

8 (h) A pupil enrolled in the Michigan Virtual School, for the
9 pupil's enrollment in the Michigan Virtual School.

10 (i) 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 (j) 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 (k) 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 (l) 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 (m) A pupil enrolled in a district other than the pupil's
28 district of residence under section 1148(2) of the revised school
29 code, MCL 380.1148.



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

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

(o) A pupil who enrolls in a district other than the pupil's district of residence to whom both of the following apply:

(i) The pupil's parent or legal guardian is a member of the Armed Forces of the United States. As used in this subparagraph, "Armed Forces of the United States" means the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard or other military force designated by Congress as part of the Armed Forces of the United States, including the reserve components.

(ii) The pupil's parent or legal guardian described in subparagraph (i) has provided the enrolling district with a document that is dated, that is supplied to the parent or legal guardian by his or her commanding officer who supervises the parent or legal guardian in his or her role as a member of the Armed Forces of the United States, as that term is defined in subparagraph (i), and that shows confirmation of both of the following:

(A) That the pupil is in temporary military housing.

(B) That the pupil will become a resident of the enrolling district by not later than 12 consecutive months immediately



1 following the date of the document described in this subparagraph.

2 (7) "Pupil membership count day" of a district or intermediate
3 district means:

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

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

- 12 (i) Fourth Wednesday in July.
13 (ii) First Wednesday in October.
14 (iii) Second Wednesday in February.
15 (iv) Fourth Wednesday in April.

16 (8) "Pupils in grades K to 12 actually enrolled and in regular
17 daily attendance" means, except as otherwise provided in this
18 section, pupils in grades K to 12 in attendance and receiving
19 instruction in all classes for which they are enrolled on the pupil
20 membership count day or the supplemental count day, as applicable.
21 Except as otherwise provided in this section and subsection, a
22 pupil who is absent from any of the classes in which the pupil is
23 enrolled on the pupil membership count day or supplemental count
24 day and who does not attend each of those classes during the 10
25 consecutive school days immediately following the pupil membership
26 count day or supplemental count day, except for a pupil who has
27 been excused by the district, is not counted as 1.0 full-time
28 equated membership. Except as otherwise provided in this section, a
29 pupil who is excused from attendance on the pupil membership count



1 day or supplemental count day and who fails to attend each of the
2 classes in which the pupil is enrolled within 30 calendar days
3 after the pupil membership count day or supplemental count day is
4 not counted as 1.0 full-time equated membership. Except as
5 otherwise provided in this section, in addition, a pupil who was
6 enrolled and in attendance in a district, intermediate district, or
7 public school academy before the pupil membership count day or
8 supplemental count day of a particular year but was expelled or
9 suspended on the pupil membership count day or supplemental count
10 day is only counted as 1.0 full-time equated membership if the
11 pupil resumed attendance in the district, intermediate district, or
12 public school academy within 45 days after the pupil membership
13 count day or supplemental count day of that particular year. Except
14 as otherwise provided in this section, a pupil not counted as 1.0
15 full-time equated membership due to an absence from a class is
16 counted as a prorated membership for the classes the pupil
17 attended. For purposes of this subsection, "class" means either of
18 the following, as applicable:

19 (a) A period of time in 1 day when pupils and an individual
20 who is appropriately placed under a valid certificate, substitute
21 permit, authorization, or approval issued by the department, are
22 together and instruction is taking place. This subdivision does not
23 apply for the 2020-2021, 2021-2022, and 2022-2023 school years.

24 (b) For the 2020-2021, 2021-2022, and 2022-2023 school years
25 only, a period of time in 1 day when pupils and a certificated
26 teacher, a teacher engaged to teach under section 1233b of the
27 revised school code, MCL 380.1233b, or an individual working under
28 a valid substitute permit, authorization, or approval issued by the
29 department are together and instruction is taking place.



1 (9) "Rule" means a rule promulgated pursuant to the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328.

4 (10) "The revised school code" means the revised school code,
5 1976 PA 451, MCL 380.1 to 380.1852.

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

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

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

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

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

19 (16) "Tuition pupil" means a pupil of school age attending
20 school in a district other than the pupil's district of residence
21 for whom tuition may be charged to the district of residence.
22 Tuition pupil does not include a pupil who is a special education
23 pupil, a pupil described in subsection (6)(d) to (n), or a pupil
24 whose parent or guardian voluntarily enrolls the pupil in a
25 district that is not the pupil's district of residence. A pupil's
26 district of residence shall not require a high school tuition
27 pupil, as provided under section 111, to attend another school
28 district after the pupil has been assigned to a school district.

29 (17) "State school aid fund" means the state school aid fund



1 established in section 11 of article IX of the state constitution
2 of 1963.

3 (18) "Taxable value" means, except as otherwise provided in
4 this article, the taxable value of property as determined under
5 section 27a of the general property tax act, 1893 PA 206, MCL
6 211.27a.

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

14 (20) "Total state aid" or "total state school aid", except as
15 otherwise provided in this article, means the total combined amount
16 of all funds due to a district, intermediate district, or other
17 entity under this article.

