

SENATE BILL NO. 664

September 30, 2021, Introduced by Senator SCHMIDT and referred to the Committee on Education and Career Readiness.

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending sections 6, 21f, 101, and 163 (MCL 388.1606, 388.1621f, 388.1701, and 388.1763), sections 6, 21f, and 101 as amended by 2021 PA 48 and section 163 as amended by 2021 PA 15.

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

1 spectrum disorder, pupils with severe cognitive impairment, pupils
2 with moderate cognitive impairment, pupils with severe multiple
3 impairments, pupils with hearing impairment, pupils with visual
4 impairment, and pupils with physical impairment or other health
5 impairment. Programs for pupils with emotional impairment housed in
6 buildings that do not serve regular education pupils also qualify.
7 Unless otherwise approved by the department, a center program
8 either serves all constituent districts within an intermediate
9 district or serves several districts with less than 50% of the
10 pupils residing in the operating district. In addition, special
11 education center program pupils placed part-time in noncenter
12 programs to comply with the least restrictive environment
13 provisions of section 1412 of the individuals with disabilities
14 education act, 20 USC 1412, may be considered center program pupils
15 for pupil accounting purposes for the time scheduled in either a
16 center program or a noncenter program.

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

20 (3) "District and high school graduation report" means a
21 report of the number of pupils, excluding adult education
22 participants, in the district for the immediately preceding school
23 year, adjusted for those pupils who have transferred into or out of
24 the district or high school, who leave high school with a diploma
25 or other credential of equal status.

26 (4) "Membership", except as otherwise provided in this
27 subsection or this article, means for a district, a public school
28 academy, or an intermediate district the sum of the product of .90
29 times the number of full-time equated pupils in grades K to 12

1 actually enrolled and in regular daily attendance in the district,
2 public school academy, or intermediate district on the pupil
3 membership count day for the current school year, plus the product
4 of .10 times the final audited count from the supplemental count
5 day of full-time equated pupils in grades K to 12 actually enrolled
6 and in regular daily attendance in the district, public school
7 academy, or intermediate district for the immediately preceding
8 school year. A district's, public school academy's, or intermediate
9 district's membership is adjusted as provided under section 25e for
10 pupils who enroll after the pupil membership count day in a strict
11 discipline academy operating under sections 1311b to 1311m of the
12 revised school code, MCL 380.1311b to 380.1311m. For 2021-2022
13 only, membership means for a district, a public school academy, or
14 an intermediate district, the sum of the product of .90 times the
15 number of full-time equated pupils in grades K to 12 actually
16 enrolled and in regular daily attendance in the district, public
17 school academy, or intermediate district on the pupil membership
18 count day for the current school year and the product of .10 times
19 the final audited count of the number of full-time equated pupils
20 engaged in pandemic learning for spring 2021, or, for a public
21 school academy that operates as a cyber school, as that term is
22 defined in section 551 of the revised school code, MCL 380.551, the
23 final audited count from the supplemental count day of full-time
24 equated pupils in grades K to 12 actually enrolled and in regular
25 daily attendance in the public school academy for the immediately
26 preceding school year. All pupil counts used in this subsection are
27 as determined by the department and calculated by adding the number
28 of pupils registered for attendance plus pupils received by
29 transfer and minus pupils lost as defined by rules promulgated by

1 the superintendent, and as corrected by a subsequent department
2 audit. The amount of the foundation allowance for a pupil in
3 membership is determined under section 20. In making the
4 calculation of membership, all of the following, as applicable,
5 apply to determining the membership of a district, a public school
6 academy, or an intermediate district:

7 (a) Except as otherwise provided in this subsection, and
8 pursuant to subsection (6), a pupil is counted in membership in the
9 pupil's educating district or districts. An individual pupil must
10 not be counted for more than a total of 1.0 full-time equated
11 membership.

12 (b) If a pupil is educated in a district other than the
13 pupil's district of residence, if the pupil is not being educated
14 as part of a cooperative education program, if the pupil's district
15 of residence does not give the educating district its approval to
16 count the pupil in membership in the educating district, and if the
17 pupil is not covered by an exception specified in subsection (6) to
18 the requirement that the educating district must have the approval
19 of the pupil's district of residence to count the pupil in
20 membership, the pupil is not counted in membership in any district.

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

23 (d) A pupil placed by a court or state agency in an on-grounds
24 program of a juvenile detention facility, a child caring
25 institution, or a mental health institution, or a pupil funded
26 under section 53a, is counted in membership in the district or
27 intermediate district approved by the department to operate the
28 program.

29 (e) A pupil enrolled in the Michigan Schools for the Deaf and

1 Blind is counted in membership in the pupil's intermediate district
2 of residence.

3 (f) A pupil enrolled in a career and technical education
4 program supported by a millage levied over an area larger than a
5 single district or in an area vocational-technical education
6 program established under section 690 of the revised school code,
7 MCL 380.690, is counted in membership only in the pupil's district
8 of residence.

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

11 (h) For the purposes of this section and section 6a, for a
12 cyber school, as that term is defined in section 551 of the revised
13 school code, MCL 380.551, that is in compliance with section 553a
14 of the revised school code, MCL 380.553a, a pupil's participation
15 in the cyber school's educational program is considered regular
16 daily attendance, and for a district or public school academy, a
17 pupil's participation in a virtual course as that term is defined
18 in section 21f is considered regular daily attendance. For the
19 purposes of this subdivision, for a pupil enrolled in a cyber
20 school and utilizing sequential learning, participation means that
21 term as defined in the pupil accounting manual, section 5-O-D:
22 requirements for counting pupils in membership-subsection 10.

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

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

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

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

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

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

28 (l) To be counted in membership, a pupil must meet the minimum
29 age requirement to be eligible to attend school under section 1147

1 of the revised school code, MCL 380.1147, or must be enrolled under
2 subsection (3) of that section, and must be less than 20 years of
3 age on September 1 of the school year except as follows:

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

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

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

15 (B) Had dropped out of school.

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

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

25 (m) An individual who has achieved a high school diploma is
26 not counted in membership. An individual who has achieved a high
27 school equivalency certificate is not counted in membership unless
28 the individual is a student with a disability as that term is
29 defined in R 340.1702 of the Michigan Administrative Code. An

1 individual participating in a job training program funded under
2 former section 107a or a jobs program funded under former section
3 107b, administered by the department of labor and economic
4 opportunity, or participating in any successor of either of those 2
5 programs, is not counted in membership.

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

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

28 (ii) If the public school academy provides instruction for less
29 than 1/2 of the class hours required under section 101, the

1 district or intermediate district providing the remainder of the
2 hours of instruction receives as its prorated share of the full-
3 time equated membership for each of those pupils an amount equal to
4 1 times the product of the hours of instruction the district or
5 intermediate district provides divided by the number of hours
6 required under section 101 for full-time equivalency, and the
7 remainder of the full-time membership for each of those pupils is
8 allocated to the public school academy.

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

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

16 (q) The number of class hours used to calculate full-time
17 equated memberships must be consistent with section 101. In
18 determining full-time equated memberships for pupils who are
19 enrolled in a postsecondary institution or for pupils engaged in an
20 internship or work experience under section 1279h of the revised
21 school code, MCL 380.1279h, a pupil is not considered to be less
22 than a full-time equated pupil solely because of the effect of his
23 or her postsecondary enrollment or engagement in the internship or
24 work experience, including necessary travel time, on the number of
25 class hours provided by the district to the pupil.

26 (r) Full-time equated memberships for pupils in kindergarten
27 are determined by dividing the number of instructional hours
28 scheduled and provided per year per kindergarten pupil by the same
29 number used for determining full-time equated memberships for

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

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

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

29 (u) If, as a result of a disciplinary action, a district

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

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

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

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

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

26 (v) If a pupil was enrolled in a public school academy on the
27 pupil membership count day, if the public school academy's contract
28 with its authorizing body is revoked or the public school academy
29 otherwise ceases to operate, and if the pupil enrolls in a district

1 within 45 days after the pupil membership count day, the department
2 shall adjust the district's pupil count for the pupil membership
3 count day to include the pupil in the count.

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

14 (x) If a district's membership for a particular fiscal year,
15 as otherwise calculated under this subsection, would be less than
16 1,550 pupils, the district has 4.5 or fewer pupils per square mile,
17 as determined by the department, and the district does not receive
18 funding under section 22d(2), the district's membership is
19 considered to be the membership figure calculated under this
20 subdivision. If a district educates and counts in its membership
21 pupils in grades 9 to 12 who reside in a contiguous district that
22 does not operate grades 9 to 12 and if 1 or both of the affected
23 districts request the department to use the determination allowed
24 under this sentence, the department shall include the square
25 mileage of both districts in determining the number of pupils per
26 square mile for each of the districts for the purposes of this
27 subdivision. If a district has established a community engagement
28 advisory committee in partnership with the department of treasury,
29 is required to submit a deficit elimination plan or an enhanced

1 deficit elimination plan under section 1220 of the revised school
2 code, MCL 380.1220, and is located in a city with a population
3 between 9,000 and 11,000, as determined by the department, that is
4 in a county with a population between 150,000 and 160,000, as
5 determined by the department, the district's membership is
6 considered to be the membership figure calculated under this
7 subdivision. The membership figure calculated under this
8 subdivision is the greater of the following:

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

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

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

26 (z) A pupil of a district that begins its school year after
27 Labor Day who is enrolled in an intermediate district program that
28 begins before Labor Day is not considered to be less than a full-
29 time pupil solely due to instructional time scheduled but not

1 attended by the pupil before Labor Day.

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

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

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

19 (dd) For a pupil enrolled in a dropout recovery program that
20 meets the requirements of section 23a, the pupil is counted as 1/12
21 of a full-time equated membership for each month that the district
22 operating the program reports that the pupil was enrolled in the
23 program and was in full attendance. However, if the special
24 membership counting provisions under this subdivision and the
25 operation of the other membership counting provisions under this
26 subsection result in a pupil being counted as more than 1.0 FTE in
27 a fiscal year, the payment made for the pupil under sections 22a
28 and 22b must not be based on more than 1.0 FTE for that pupil, and
29 any portion of an FTE for that pupil that exceeds 1.0 is instead

1 paid under section 25g. The district operating the program shall
2 report to the center the number of pupils who were enrolled in the
3 program and were in full attendance for a month not later than 30
4 days after the end of the month. A district shall not report a
5 pupil as being in full attendance for a month unless both of the
6 following are met:

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

10 (ii) The pupil meets the district's definition under section
11 23a of satisfactory monthly progress for that month or, if the
12 pupil does not meet that definition of satisfactory monthly
13 progress for that month, the pupil did meet that definition of
14 satisfactory monthly progress in the immediately preceding month
15 and appropriate interventions are implemented within 10 school days
16 after it is determined that the pupil does not meet that definition
17 of satisfactory monthly progress.

18 (ee) A pupil participating in a virtual course under section
19 21f is counted in membership in the district enrolling the pupil.

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

1 (gg) If a special education pupil is expelled under section
2 1311 or 1311a of the revised school code, MCL 380.1311 and
3 380.1311a, and is not in attendance on the pupil membership count
4 day because of the expulsion, and if the pupil remains enrolled in
5 the district and resumes regular daily attendance during that
6 school year, the district's membership is adjusted to count the
7 pupil in membership as if he or she had been in attendance on the
8 pupil membership count day.

9 (hh) A pupil enrolled in a community district is counted in
10 membership in the community district.

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

14 (jj) A district that borders another state or a public school
15 academy that operates at least grades 9 to 12 and is located within
16 20 miles of a border with another state may count in membership a
17 pupil who is enrolled in a course at a college or university that
18 is located in the bordering state and within 20 miles of the border
19 with this state if all of the following are met:

20 (i) The pupil would meet the definition of an eligible student
21 under the postsecondary enrollment options act, 1996 PA 160, MCL
22 388.511 to 388.524, if the course were an eligible course under
23 that act.

24 (ii) The course in which the pupil is enrolled would meet the
25 definition of an eligible course under the postsecondary enrollment
26 options act, 1996 PA 160, MCL 388.511 to 388.524, if the course
27 were provided by an eligible postsecondary institution under that
28 act.

29 (iii) The department determines that the college or university

1 is an institution that, in the other state, fulfills a function
2 comparable to a state university or community college, as those
3 terms are defined in section 3 of the postsecondary enrollment
4 options act, 1996 PA 160, MCL 388.513, or is an independent
5 nonprofit degree-granting college or university.

6 (iv) The district or public school academy pays for a portion
7 of the pupil's tuition at the college or university in an amount
8 equal to the eligible charges that the district or public school
9 academy would pay to an eligible postsecondary institution under
10 the postsecondary enrollment options act, 1996 PA 160, MCL 388.511
11 to 388.524, as if the course were an eligible course under that
12 act.

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

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

23 (ll) If a district's or public school academy's membership for
24 a particular fiscal year, as otherwise calculated under this
25 subsection, includes pupils counted in membership who are enrolled
26 under section 166b, all of the following apply for the purposes of
27 this subdivision:

28 (i) If the district's or public school academy's membership for
29 pupils counted under section 166b equals or exceeds 5% of the

1 district's or public school academy's membership for pupils not
2 counted in membership under section 166b in the immediately
3 preceding fiscal year, then the growth in the district's or public
4 school academy's membership for pupils counted under section 166b
5 must not exceed 10%.

6 (ii) If the district's or public school academy's membership
7 for pupils counted under section 166b is less than 5% of the
8 district's or public school academy's membership for pupils not
9 counted in membership under section 166b in the immediately
10 preceding fiscal year, then the district's or public school
11 academy's membership for pupils counted under section 166b must not
12 exceed the greater of the following:

13 (A) 5% of the district's or public school academy's membership
14 for pupils not counted in membership under section 166b.

15 (B) 10% more than the district's or public school academy's
16 membership for pupils counted under section 166b in the immediately
17 preceding fiscal year.

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

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

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

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

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

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

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

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

23 (i) "At school" means in a classroom, elsewhere on school
24 premises, on a school bus or other school-related vehicle, or at a
25 school-sponsored activity or event whether or not it is held on
26 school premises.

27 (ii) "Serious assault" means an act that constitutes a felony
28 violation of chapter XI of the Michigan penal code, 1931 PA 328,
29 MCL 750.81 to 750.90h, or that constitutes an assault and

1 infliction of serious or aggravated injury under section 81a of the
2 Michigan penal code, 1931 PA 328, MCL 750.81a.

3 (f) A pupil whose district of residence changed after the
4 pupil membership count day and before the supplemental count day
5 and who continues to be enrolled on the supplemental count day as a
6 nonresident in the district in which he or she was enrolled as a
7 resident on the pupil membership count day of the same school year.

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

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

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

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

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

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

20 (i) A pupil who is the child of a person who works at the
21 district or who is the child of a person who worked at the district
22 as of the time the pupil first enrolled in the district but who no
23 longer works at the district due to a workforce reduction. As used
24 in this subdivision, "child" includes an adopted child, stepchild,
25 or legal ward.

26 (j) An expelled pupil who has been denied reinstatement by the
27 expelling district and is reinstated by another school board under
28 section 1311 or 1311a of the revised school code, MCL 380.1311 and
29 380.1311a.

1 (k) A pupil enrolled in a district other than the pupil's
2 district of residence in a middle college program if the pupil's
3 district of residence and the enrolling district are both
4 constituent districts of the same intermediate district.

5 (l) A pupil enrolled in a district other than the pupil's
6 district of residence who attends a United States Olympic Education
7 Center.

8 (m) A pupil enrolled in a district other than the pupil's
9 district of residence under section 1148(2) of the revised school
10 code, MCL 380.1148.

11 (n) A pupil who enrolls in a district other than the pupil's
12 district of residence as a result of the pupil's school not making
13 adequate yearly progress under the no child left behind act of
14 2001, Public Law 107-110, or the every student succeeds act, Public
15 Law 114-95.

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

22 (7) "Pupil membership count day" of a district or intermediate
23 district means:

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

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

- 3 (i) Fourth Wednesday in July.
4 (ii) First Wednesday in October.
5 (iii) Second Wednesday in February.
6 (iv) Fourth Wednesday in April.

7 (8) "Pupils in grades K to 12 actually enrolled and in regular
8 daily attendance" means pupils in grades K to 12 in attendance and
9 receiving instruction in all classes for which they are enrolled on
10 the pupil membership count day or the supplemental count day, as
11 applicable, **and, for 2021-2022, in addition, pupils in quarantine**
12 **who are being educated through physical educational materials.**

13 Except as otherwise provided in this subsection, a pupil who is
14 absent from any of the classes in which the pupil is enrolled on
15 the pupil membership count day or supplemental count day and who
16 does not attend each of those classes during the 10 consecutive
17 school days immediately following the pupil membership count day or
18 supplemental count day, except for a pupil who has been excused by
19 the district, is not counted as 1.0 full-time equated membership. A
20 pupil who is excused from attendance on the pupil membership count
21 day or supplemental count day and who fails to attend each of the
22 classes in which the pupil is enrolled within 30 calendar days
23 after the pupil membership count day or supplemental count day is
24 not counted as 1.0 full-time equated membership. In addition, a
25 pupil who was enrolled and in attendance in a district,
26 intermediate district, or public school academy before the pupil
27 membership count day or supplemental count day of a particular year
28 but was expelled or suspended on the pupil membership count day or
29 supplemental count day is only counted as 1.0 full-time equated

1 membership if the pupil resumed attendance in the district,
 2 intermediate district, or public school academy within 45 days
 3 after the pupil membership count day or supplemental count day of
 4 that particular year. A pupil not counted as 1.0 full-time equated
 5 membership due to an absence from a class is counted as a prorated
 6 membership for the classes the pupil attended. ~~For purposes of~~ **As**
 7 **used in** this subsection, "class" means either of the following, as
 8 applicable:

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

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

20 (9) "Pupils engaged in pandemic learning for spring 2021"
 21 means that term as defined in section 6a.

22 (10) **"Pupils in quarantine who are being educated through**
 23 **physical educational materials"** means, except as otherwise provided
 24 in section 101, pupils to whom all of the following apply:

25 (a) **They are receiving instruction in a location other than a**
 26 **school building operated by the district in which they are**
 27 **enrolled, in a synchronous or asynchronous manner, through physical**
 28 **educational materials provided by the district that may be provided**
 29 **and utilized in a nonvirtual manner on the 2021-2022 pupil**

1 membership count day or the 2021-2022 supplemental count day, as
2 applicable.

3 (b) For whom, at a minimum, 1 2-way interaction has occurred
4 between the pupil and the pupil's teacher or at least 1 of the
5 pupil's teachers or another district employee who has
6 responsibility for the pupil's learning, grade progression, or
7 academic progress during the week on which the 2021-2022 pupil
8 membership count day or 2021-2022 supplemental count day, as
9 applicable, falls and during each week for the 3 consecutive weeks
10 after the week on which the 2021-2022 pupil membership count day or
11 2021-2022 supplemental count day, as applicable, falls. As used in
12 this subdivision:

13 (i) "2-way interaction" means a communication that occurs
14 between a pupil and the pupil's teacher or at least 1 of the
15 pupil's teachers or another district employee who has
16 responsibility for the pupil's learning, grade progression, or
17 academic progress, where 1 party initiates communication and a
18 response from the other party follows that communication, and that
19 is relevant to course progress or course content for at least 1 of
20 the courses in which the pupil is enrolled or relevant to the
21 pupil's overall academic progress or grade progression. Responses,
22 as described in this subparagraph, must be to communication
23 initiated by the teacher, by another district employee who has
24 responsibility for the pupil's learning, grade progression, or
25 academic progress, or by the pupil, and not some other action
26 taken. The communication described in this subparagraph may occur
27 through, but is not limited to, telephone.

28 (ii) "Week" means a period beginning on Wednesday and ending on
29 the following Tuesday.

1 (c) The pupil is in quarantine pursuant to an order issued by
2 the local health department, as that term is defined in section
3 1105 of the public health code, 1978 PA 368, MCL 333.1105, or
4 pursuant to a notice issued by the local health department, as that
5 term is defined in section 1105 of the public health code, 1978 PA
6 368, MCL 333.1105, and any of the following apply to the pupil:

7 (i) The pupil has tested positive for COVID-19.

8 (ii) The pupil is displaying symptoms of COVID-19.

9 (iii) The pupil has been in close proximity to an identified
10 cluster within a classroom. As used in this subparagraph, "cluster"
11 means 3 or more pupils, teachers, or school employees or workers
12 who have been infected with COVID-19 in the same classroom over a
13 14-day period.

14 (11) ~~(10)~~—"Rule" means a rule promulgated pursuant to the
15 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
16 24.328.

17 (12) ~~(11)~~—"The revised school code" means the revised school
18 code, 1976 PA 451, MCL 380.1 to 380.1852.

19 (13) ~~(12)~~—"School district of the first class", "first class
20 school district", and "district of the first class" mean, for the
21 purposes of this article only, a district that had at least 40,000
22 pupils in membership for the immediately preceding fiscal year.

23 (14) ~~(13)~~—"School fiscal year" means a fiscal year that
24 commences July 1 and continues through June 30.

25 (15) ~~(14)~~—"State board" means the state board of education.

26 (16) ~~(15)~~—"Superintendent", unless the context clearly refers
27 to a district or intermediate district superintendent, means the
28 superintendent of public instruction described in section 3 of
29 article VIII of the state constitution of 1963.

1 **(17)** ~~(16)~~—"Supplemental count day" means the day on which the
2 supplemental pupil count is conducted under section 6a or the day
3 specified as supplemental count day under section 6a.

4 **(18)** ~~(17)~~—"Tuition pupil" means a pupil of school age
5 attending school in a district other than the pupil's district of
6 residence for whom tuition may be charged to the district of
7 residence. Tuition pupil does not include a pupil who is a special
8 education pupil, a pupil described in subsection (6) (d) to (n), or
9 a pupil whose parent or guardian voluntarily enrolls the pupil in a
10 district that is not the pupil's district of residence. A pupil's
11 district of residence shall not require a high school tuition
12 pupil, as provided under section 111, to attend another school
13 district after the pupil has been assigned to a school district.

14 **(19)** ~~(18)~~—"State school aid fund" means the state school aid
15 fund established in section 11 of article IX of the state
16 constitution of 1963.

17 **(20)** ~~(19)~~—"Taxable value" means, except as otherwise provided
18 in this article, the taxable value of property as determined under
19 section 27a of the general property tax act, 1893 PA 206, MCL
20 211.27a.

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

28 **(22)** ~~(21)~~—"Total state aid" or "total state school aid",
29 except as otherwise provided in this article, means the total

1 combined amount of all funds due to a district, intermediate
2 district, or other entity under this article.

3 Sec. 21f. (1) A primary district shall enroll an eligible
4 pupil in virtual courses in accordance with the provisions of this
5 section. A primary district shall not offer a virtual course to an
6 eligible pupil unless the virtual course is published in the
7 primary district's catalog of board-approved courses or in the
8 statewide catalog of virtual courses maintained by the Michigan
9 Virtual University pursuant to section 98. The primary district
10 shall also provide on its publicly accessible website a link to the
11 statewide catalog of virtual courses maintained by the Michigan
12 Virtual University. ~~Unless~~**Except for enrollment in a virtual**
13 **course for a pupil described in subsection (14), unless** the pupil
14 is at least age 18 or is an emancipated minor, a pupil must not be
15 enrolled in a virtual course without the consent of the pupil's
16 parent or legal guardian.

17 (2) Subject to subsection (3), a primary district shall enroll
18 an eligible pupil in up to 2 virtual courses as requested by the
19 pupil during an academic term, semester, or trimester.

20 (3) A pupil may be enrolled in more than 2 virtual courses in
21 a specific academic term, semester, or trimester if all of the
22 following conditions are met:

23 (a) The primary district has determined that it is in the best
24 interest of the pupil.

25 (b) The pupil agrees with the recommendation of the primary
26 district.

27 (c) ~~The~~**Except as otherwise provided in this subdivision and**
28 **section, the** primary district, in collaboration with the pupil, has
29 developed an education development plan, in a form and manner

1 specified by the department, that is kept on file by the district.
2 This subdivision does not apply to ~~a~~**both of the following, as**
3 **applicable:**

4 (i) A pupil enrolled as a part-time pupil under section 166b.

5 (ii) A pupil described in subsection (14).

6 (4) If the number of applicants eligible for acceptance in a
7 virtual course does not exceed the capacity of the provider to
8 provide the virtual course, the provider shall accept for
9 enrollment all of the applicants eligible for acceptance. If the
10 number of applicants exceeds the provider's capacity to provide the
11 virtual course, the provider shall use a random draw system,
12 subject to the need to abide by state and federal
13 antidiscrimination laws and court orders. A primary district that
14 is also a provider shall determine whether or not it has the
15 capacity to accept applications for enrollment from nonresident
16 applicants in virtual courses and may use that limit as the reason
17 for refusal to enroll a nonresident applicant.

18 (5) A primary district may not establish additional
19 requirements beyond those specified in this subsection that would
20 prohibit a pupil from taking a virtual course. A pupil's primary
21 district may deny the pupil enrollment in a virtual course if any
22 of the following apply, as determined by the district:

23 (a) The pupil is enrolled in any of grades K to 5.

24 (b) The pupil has previously gained the credits that would be
25 provided from the completion of the virtual course.

26 (c) The virtual course is not capable of generating academic
27 credit.

28 (d) The virtual course is inconsistent with the remaining
29 graduation requirements or career interests of the pupil.

1 (e) The pupil has not completed the prerequisite coursework
2 for the requested virtual course or has not demonstrated
3 proficiency in the prerequisite course content.

4 (f) The pupil has failed a previous virtual course in the same
5 subject during the 2 most recent academic years.

6 (g) The virtual course is of insufficient quality or rigor. A
7 primary district that denies a pupil enrollment request for this
8 reason shall enroll the pupil in a virtual course in the same or a
9 similar subject that the primary district determines is of
10 acceptable rigor and quality.

11 (h) The cost of the virtual course exceeds the amount
12 identified in subsection (10), unless the pupil or the pupil's
13 parent or legal guardian agrees to pay the cost that exceeds this
14 amount.

15 (i) The request for a virtual course enrollment did not occur
16 within the same timelines established by the primary district for
17 enrollment and schedule changes for regular courses.

18 (j) The request for a virtual course enrollment was not made
19 in the academic term, semester, trimester, or summer preceding the
20 enrollment. This subdivision does not apply to a request made by a
21 pupil who is newly enrolled in the primary district.

22 (6) If a pupil is denied enrollment in a virtual course by the
23 pupil's primary district, the primary district shall provide
24 written notification to the pupil of the denial, the reason or
25 reasons for the denial under subsection (5), and a description of
26 the appeal process. The pupil may appeal the denial by submitting a
27 letter to the superintendent of the intermediate district in which
28 the pupil's primary district is located. The letter of appeal must
29 include the reason provided by the primary district for not

1 enrolling the pupil and the reason why the pupil is claiming that
2 the enrollment should be approved. The intermediate district
3 superintendent or designee shall respond to the appeal within 5
4 days after it is received. If the intermediate district
5 superintendent or designee determines that the denial of enrollment
6 does not meet 1 or more of the reasons specified in subsection (5),
7 the primary district shall enroll the pupil in the virtual course.

8 (7) To provide a virtual course to an eligible pupil under
9 this section, a provider must do all of the following:

10 (a) Ensure that the virtual course has been published in the
11 pupil's primary district's catalog of board-approved courses or
12 published in the statewide catalog of virtual courses maintained by
13 the Michigan Virtual University.

14 (b) Assign to each pupil a teacher of record and provide the
15 primary district with the personnel identification code assigned by
16 the center for the teacher of record. If the provider is a
17 community college, the virtual course must be taught by an
18 instructor employed by or contracted through the providing
19 community college.

20 (c) Offer the virtual course on an open entry and exit method,
21 or aligned to a semester, trimester, or accelerated academic term
22 format.

23 (d) If the virtual course is offered to eligible pupils in
24 more than 1 district, the following additional requirements must
25 also be met:

26 (i) Provide the Michigan Virtual University with a course
27 syllabus that meets the definition under subsection (14)(g) in a
28 form and manner prescribed by the Michigan Virtual University for
29 inclusion in a statewide catalog of virtual courses.

1 (ii) Not later than October 1 of each fiscal year, provide the
2 Michigan Virtual University with an aggregated count of enrollments
3 for each virtual course the provider delivered to pupils under this
4 section during the immediately preceding school year, and the
5 number of enrollments in which the pupil earned 60% or more of the
6 total course points for each virtual course.

7 (8) To provide a virtual course under this section, a
8 community college shall ensure that each virtual course it provides
9 under this section generates postsecondary credit.

10 (9) For any virtual course a pupil enrolls in under this
11 section, the pupil's primary district must assign to the pupil a
12 mentor and shall supply the provider with the mentor's contact
13 information.

14 (10) For a pupil enrolled in 1 or more virtual courses, the
15 primary district shall use foundation allowance or per-pupil funds
16 calculated under section 20 to pay for the expenses associated with
17 the virtual course or courses. A primary district is not required
18 to pay toward the cost of a virtual course an amount that exceeds
19 6.67% of the minimum foundation allowance for the current fiscal
20 year as calculated under section 20.

21 (11) A virtual learning pupil has the same rights and access
22 to technology in his or her primary district's school facilities as
23 all other pupils enrolled in the pupil's primary district. The
24 department shall establish standards for hardware, software, and
25 internet access for pupils who are enrolled in more than 2 virtual
26 courses under this section in an academic term, semester, or
27 trimester taken at a location other than a school facility.

28 (12) If a pupil successfully completes a virtual course, as
29 determined by the pupil's primary district, the pupil's primary

1 district shall grant appropriate academic credit for completion of
2 the course and shall count that credit toward completion of
3 graduation and subject area requirements. A pupil's school record
4 and transcript must identify the virtual course title as it appears
5 in the virtual course syllabus.

6 (13) The enrollment of a pupil in 1 or more virtual courses
7 must not result in a pupil being counted as more than 1.0 full-time
8 equivalent pupils under this article. The minimum requirements to
9 count the pupil in membership are those established by the pupil
10 accounting manual as it was in effect for the 2015-2016 school year
11 or as subsequently amended by the department if the department
12 notifies the legislature about the proposed amendment at least 60
13 days before the amendment becomes effective.

14 (14) **Subject to subsection (15), for the 2021-2022 school year**
15 **only, the consent of the pupil's parent or legal guardian as**
16 **described in subsection (1) and the development of an education**
17 **development plan for the pupil as described in subsection (3) are**
18 **not required for the enrollment of a pupil in a virtual course**
19 **under this section if the pupil is in quarantine pursuant to an**
20 **order issued by the local health department, as that term is**
21 **defined in section 1105 of the public health code, 1978 PA 368, MCL**
22 **333.1105, or pursuant to a notice issued by the local health**
23 **department, as that term is defined in section 1105 of the public**
24 **health code, 1978 PA 368, MCL 333.1105, and any of the following**
25 **apply to the pupil:**

26 (a) The pupil has tested positive for COVID-19.

27 (b) The pupil is displaying symptoms of COVID-19.

28 (c) The pupil has been in close proximity to an identified
29 cluster within a classroom. As used in this subdivision, "cluster"

1 means 3 or more pupils, teachers, or school employees or workers
2 who have been infected with COVID-19 in the same classroom over a
3 14-day period.

4 (15) The exemptions in subsection (14) apply to a pupil only
5 for the duration during which the pupil meets the description of a
6 pupil described in subsection (14). Once a pupil no longer meets
7 the description of a pupil described in subsection (14), the
8 consent of the pupil's parent or legal guardian as described in
9 subsection (1) and the development of an education development plan
10 for the pupil as described in subsection (3) are required for the
11 pupil's enrollment in a virtual course or continued enrollment in a
12 virtual course under this section.

13 (16) ~~(14)~~As used in this section:

14 (a) "Instructor" means an individual who is employed by or
15 contracted through a community college.

16 (b) "Mentor" means a professional employee of the primary
17 district who monitors the pupil's progress, ensures the pupil has
18 access to needed technology, is available for assistance, and
19 ensures access to the teacher of record. A mentor may also serve as
20 the teacher of record if the primary district is the provider for
21 the virtual course and the mentor meets the requirements under
22 subdivision (e).

23 (c) "Primary district" means the district that enrolls the
24 pupil and reports the pupil for pupil membership purposes.

25 (d) "Provider" means the district, intermediate district, or
26 community college that the primary district pays to provide the
27 virtual course or the Michigan Virtual University if it is
28 providing the virtual course. Beginning on the first day of the
29 2020-2021 school year through August 31, ~~2021~~, 2022, "provider"

1 also includes any other institution or individual that the primary
2 district pays to provide the virtual course.

3 (e) "Teacher of record" means a teacher who meets all of the
4 following:

5 (i) Holds a valid Michigan teaching certificate or a teaching
6 permit recognized by the department.

7 (ii) If applicable, is endorsed in the subject area and grade
8 of the virtual course.

9 (iii) Is responsible for providing instruction, determining
10 instructional methods for each pupil, diagnosing learning needs,
11 assessing pupil learning, prescribing intervention strategies and
12 modifying lessons, reporting outcomes, and evaluating the effects
13 of instruction and support strategies.

14 (iv) Has a personnel identification code provided by the
15 center.

16 (v) If the provider is a community college, is an instructor
17 employed by or contracted through the providing community college.

18 (f) "Virtual course" means a course of study that is capable
19 of generating a credit or a grade and that is provided in an
20 interactive learning environment where the majority of the
21 curriculum is delivered using the internet and in which pupils may
22 be separated from their instructor or teacher of record by time or
23 location, or both.

24 (g) "Virtual course syllabus" means a document that includes
25 all of the following:

26 (i) An alignment document detailing how the course meets
27 applicable state standards or, if the state does not have state
28 standards, nationally recognized standards.

29 (ii) The virtual course content outline.

1 (iii) The virtual course required assessments.

2 (iv) The virtual course prerequisites.

3 (v) Expectations for actual instructor or teacher of record
4 contact time with the virtual learning pupil and other
5 communications between a pupil and the instructor or teacher of
6 record.

7 (vi) Academic support available to the virtual learning pupil.

8 (vii) The virtual course learning outcomes and objectives.

9 (viii) The name of the institution or organization providing the
10 virtual content.

11 (ix) The name of the institution or organization providing the
12 instructor or teacher of record.

13 (x) The course titles assigned by the provider and the course
14 titles and course codes from the National Center for Education
15 Statistics (NCES) school codes for the exchange of data (SCED).

16 (xi) The number of eligible pupils that will be accepted by the
17 provider in the virtual course. A primary district that is also the
18 provider may limit the enrollment to those pupils enrolled in the
19 primary district.

20 (xii) The results of the virtual course quality review using
21 the guidelines and model review process published by the Michigan
22 Virtual University.

23 (h) "Virtual learning pupil" means a pupil enrolled in 1 or
24 more virtual courses.

25 Sec. 101. (1) To be eligible to receive state aid under this
26 article, not later than the fifth Wednesday after the pupil
27 membership count day and not later than the fifth Wednesday after
28 the supplemental count day, each district superintendent shall
29 submit and certify to the center and the intermediate

1 superintendent, in the form and manner prescribed by the center,
2 the number of pupils enrolled and in regular daily attendance,
3 including identification of tuition-paying pupils, in the district
4 as of the pupil membership count day and as of the supplemental
5 count day, as applicable, for the current school year. In addition,
6 a district maintaining school during the entire year shall submit
7 and certify to the center and the intermediate superintendent, in
8 the form and manner prescribed by the center, the number of pupils
9 enrolled and in regular daily attendance in the district for the
10 current school year pursuant to rules promulgated by the
11 superintendent. Not later than the sixth Wednesday after the pupil
12 membership count day and not later than the sixth Wednesday after
13 the supplemental count day, the district shall resolve any pupil
14 membership conflicts with another district, correct any data
15 issues, and recertify the data in a form and manner prescribed by
16 the center and file the certified data with the intermediate
17 superintendent. If a district fails to submit and certify the
18 attendance data, as required under this subsection, the center
19 shall notify the department and the department shall withhold state
20 aid due to be distributed under this article from the defaulting
21 district immediately, beginning with the next payment after the
22 failure and continuing with each payment until the district
23 complies with this subsection. If a district does not comply with
24 this subsection by the end of the fiscal year, the district
25 forfeits the amount withheld. A person who willfully falsifies a
26 figure or statement in the certified and sworn copy of enrollment
27 is subject to penalty as prescribed by section 161.

28 (2) To be eligible to receive state aid under this article,
29 not later than the twenty-fourth Wednesday after the pupil

1 membership count day and not later than the twenty-fourth Wednesday
2 after the supplemental count day, an intermediate district shall
3 submit to the center, in a form and manner prescribed by the
4 center, the audited enrollment and attendance data as described in
5 subsection (1) for the pupils of its constituent districts and of
6 the intermediate district. If an intermediate district fails to
7 submit the audited data as required under this subsection, the
8 department shall withhold state aid due to be distributed under
9 this article from the defaulting intermediate district immediately,
10 beginning with the next payment after the failure and continuing
11 with each payment until the intermediate district complies with
12 this subsection. If an intermediate district does not comply with
13 this subsection by the end of the fiscal year, the intermediate
14 district forfeits the amount withheld.

15 (3) Except as otherwise provided in subsections (11) and (12)
16 all of the following apply to the provision of pupil instruction:

17 (a) Except as otherwise provided in this section, each
18 district shall provide at least 1,098 hours and 180 days of pupil
19 instruction. If a collective bargaining agreement that provides a
20 complete school calendar was in effect for employees of a district
21 as of June 24, 2014, and if that school calendar is not in
22 compliance with this subdivision, then this subdivision does not
23 apply to that district until after the expiration of that
24 collective bargaining agreement. A district may apply for a waiver
25 under subsection (9) from the requirements of this subdivision.

26 (b) Except as otherwise provided in this article, a district
27 failing to comply with the required minimum hours and days of pupil
28 instruction under this subsection forfeits from its total state aid
29 allocation an amount determined by applying a ratio of the number

1 of hours or days the district was in noncompliance in relation to
2 the required minimum number of hours and days under this
3 subsection. Not later than the first business day in August, the
4 board of each district shall either certify to the department that
5 the district was in full compliance with this section regarding the
6 number of hours and days of pupil instruction in the previous
7 school year, or report to the department, in a form and manner
8 prescribed by the center, each instance of noncompliance. If the
9 district did not provide at least the required minimum number of
10 hours and days of pupil instruction under this subsection, the
11 department shall make the deduction of state aid in the following
12 fiscal year from the first payment of state school aid. A district
13 is not subject to forfeiture of funds under this subsection for a
14 fiscal year in which a forfeiture was already imposed under
15 subsection (6).

16 (c) Hours or days lost because of strikes or teachers'
17 conferences are not counted as hours or days of pupil instruction.

18 (d) Except as otherwise provided in subdivisions (e) and (f),
19 **and subject to subdivisions (i) and (j)**, if a district does not
20 have at least 75% of the district's membership in attendance,
21 **including pupils who are enrolled in a virtual course under section**
22 **21f and utilizing the exemptions under section 21f(14)**, on any day
23 of pupil instruction, the department shall pay the district state
24 aid in that proportion of 1/180 that the actual percent of
25 attendance bears to 75%.

26 (e) If a district adds 1 or more days of pupil instruction to
27 the end of its instructional calendar for a school year to comply
28 with subdivision (a) because the district otherwise would fail to
29 provide the required minimum number of days of pupil instruction

1 even after the operation of subsection (4) due to conditions not
2 within the control of school authorities, then subdivision (d) does
3 not apply for any day of pupil instruction that is added to the end
4 of the instructional calendar. ~~Instead,~~ **Subject to subdivisions (i)**
5 **and (j), instead,** for any of those days, if the district does not
6 have at least 60% of the district's membership in attendance,
7 **including pupils who are enrolled in a virtual course under section**
8 **21f and utilizing the exemptions under section 21f(14),** on that
9 day, the department shall pay the district state aid in that
10 proportion of 1/180 that the actual percentage of attendance bears
11 to 60%. For any day of pupil instruction added to the instructional
12 calendar as described in this subdivision, the district shall
13 report to the department the percentage of the district's
14 membership that is in attendance, in the form and manner prescribed
15 by the department.

16 (f) At the request of a district that operates a department-
17 approved alternative education program and that does not provide
18 instruction for pupils in all of grades K to 12, the superintendent
19 shall grant a waiver from the requirements of subdivision (d). ~~The~~
20 **Subject to subdivisions (i) and (j), the** waiver must provide that
21 an eligible district is subject to the proration provisions of
22 subdivision (d) only if the district does not have at least 50% of
23 the district's membership in attendance, **including pupils who are**
24 **enrolled in a virtual course under section 21f and utilizing the**
25 **exemptions under section 21f(14),** on any day of pupil instruction.
26 In order to be eligible for this waiver, a district must maintain
27 records to substantiate its compliance with the following
28 requirements:

29 (i) The district offers the minimum hours of pupil instruction

1 as required under this section.

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

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

8 (g) All of the following apply to a waiver granted under
9 subdivision (f):

10 (i) If the waiver is for a blended model of delivery, a waiver
11 that is granted for the 2011-2012 fiscal year or a subsequent
12 fiscal year remains in effect unless it is revoked by the
13 superintendent.

14 (ii) If the waiver is for a 100% online model of delivery and
15 the educational program for which the waiver is granted makes
16 educational services available to pupils for a minimum of at least
17 1,098 hours during a school year and ensures that each pupil
18 participates in the educational program for at least 1,098 hours
19 during a school year, a waiver that is granted for the 2011-2012
20 fiscal year or a subsequent fiscal year remains in effect unless it
21 is revoked by the superintendent.

22 (iii) A waiver that is not a waiver described in subparagraph
23 (i) or (ii) is valid for 3 fiscal years, unless it is revoked by the
24 superintendent, and must be renewed at the end of the 3-year period
25 to remain in effect.

26 (h) The superintendent shall promulgate rules for the
27 implementation of this subsection.

28 (i) **For 2021-2022, a pupil who is enrolled in a virtual course**
29 **under section 21f and utilizing the exemptions under section**

1 21f(14) is only considered in attendance for purposes of
2 subdivisions (d), (e), and (f) if 1 2-way interaction occurs
3 between the pupil and the pupil's teacher or at least 1 of the
4 pupil's teachers or another district employee who has
5 responsibility for the pupil's learning, grade progression, or
6 academic progress for each school day during which the pupil is
7 utilizing the exemptions under section 21f(14). As used in this
8 subdivision, "2-way interaction" means that term as defined in
9 section 6(10) (b) (i) .

10 (j) For 2021-2022, a pupil who meets the definition of pupils
11 in quarantine who are being educated through physical educational
12 materials is considered in attendance for purposes of subdivisions
13 (d), (e), and (f) only if 1 2-way interaction occurs between the
14 pupil and the pupil's teacher or at least 1 of the pupil's teachers
15 or another district employee who has responsibility for the pupil's
16 learning, grade progression, or academic progress for each school
17 day during which the pupil meets the definition of pupils in
18 quarantine who are being educated through physical educational
19 materials. As used in this subdivision, "2-way interaction" means
20 that term as defined in section 6(10) (b) (i) .

21 (4) Except as otherwise provided in this subsection, the first
22 6 days or the equivalent number of hours for which pupil
23 instruction is not provided because of conditions not within the
24 control of school authorities, such as severe storms, fires,
25 epidemics, utility power unavailability, water or sewer failure, or
26 health conditions as defined by the city, county, or state health
27 authorities, are counted as hours and days of pupil instruction.
28 With the approval of the superintendent of public instruction, the
29 department shall count as hours and days of pupil instruction for a

1 fiscal year not more than 3 additional days or the equivalent
2 number of additional hours for which pupil instruction is not
3 provided in a district due to unusual and extenuating occurrences
4 resulting from conditions not within the control of school
5 authorities such as those conditions described in this subsection.
6 Subsequent such hours or days are not counted as hours or days of
7 pupil instruction.

8 (5) A district does not forfeit part of its state aid
9 appropriation because it adopts or has in existence an alternative
10 scheduling program for pupils in kindergarten if the program
11 provides at least the number of hours required under subsection (3)
12 for a full-time equated membership for a pupil in kindergarten as
13 provided under section 6(4).

14 (6) In addition to any other penalty or forfeiture under this
15 section, if at any time the department determines that 1 or more of
16 the following have occurred in a district, the district forfeits in
17 the current fiscal year beginning in the next payment to be
18 calculated by the department a proportion of the funds due to the
19 district under this article that is equal to the proportion below
20 the required minimum number of hours and days of pupil instruction
21 under subsection (3), as specified in the following:

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

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

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

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

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

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

24 (d) If a pupil in grades 9 to 12 who is enrolled in a
25 cooperative education program or a special education pupil cannot
26 receive the required minimum number of hours of pupil instruction
27 solely because of travel time between instructional sites during
28 the school day, that travel time, up to a maximum of 3 hours per
29 school week, is considered to be pupil instruction time for the

1 purpose of determining whether the pupil is receiving the required
2 minimum number of hours of pupil instruction. However, if a
3 district demonstrates to the satisfaction of the department that
4 the travel time limitation under this subdivision would create
5 undue costs or hardship to the district, the department may
6 consider more travel time to be pupil instruction time for this
7 purpose.

8 (e) In grades 7 through 12, instructional time that is part of
9 a Junior Reserve Officer Training Corps (JROTC) program is
10 considered to be pupil instruction time regardless of whether the
11 instructor is a certificated teacher if all of the following are
12 met:

13 (i) The instructor has met all of the requirements established
14 by the United States Department of Defense and the applicable
15 branch of the armed services for serving as an instructor in the
16 Junior Reserve Officer Training Corps program.

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

23 (f) **For 2021-2022, if a district provides instruction to**
24 **pupils in quarantine who are being educated through physical**
25 **educational materials, the district may count as hours and days of**
26 **pupil instruction the amount of instruction provided in the**
27 **educational materials, including, but not limited to, instruction**
28 **taught by the pupil's teacher through the educational materials,**
29 **equivalent to the hours and days of pupil instruction for which**

1 those educational materials would have been discussed, completed,
2 provided, or otherwise instructed on to pupils in person at a
3 school building operated by the district.

4 (8) Except as otherwise provided in subsections (11) and (12),
5 the department shall apply the guidelines under subsection (7) in
6 calculating the full-time equivalency of pupils.

7 (9) Upon application by the district for a particular fiscal
8 year, the superintendent shall waive for a district the minimum
9 number of hours and days of pupil instruction requirement of
10 subsection (3) for a department-approved alternative education
11 program or another innovative program approved by the department,
12 including a 4-day school week. If a district applies for and
13 receives a waiver under this subsection and complies with the terms
14 of the waiver, the district is not subject to forfeiture under this
15 section for the specific program covered by the waiver. If the
16 district does not comply with the terms of the waiver, the amount
17 of the forfeiture is calculated based upon a comparison of the
18 number of hours and days of pupil instruction actually provided to
19 the minimum number of hours and days of pupil instruction required
20 under subsection (3). A district shall report pupils enrolled in a
21 department-approved alternative education program under this
22 subsection to the center in a form and manner determined by the
23 center. All of the following apply to a waiver granted under this
24 subsection:

25 (a) If the waiver is for a blended model of delivery, a waiver
26 that is granted for the 2011-2012 fiscal year or a subsequent
27 fiscal year remains in effect unless it is revoked by the
28 superintendent.

29 (b) If the waiver is for a 100% online model of delivery and

1 the educational program for which the waiver is granted makes
2 educational services available to pupils for a minimum of at least
3 1,098 hours during a school year and ensures that each pupil is on
4 track for course completion at proficiency level, a waiver that is
5 granted for the 2011-2012 fiscal year or a subsequent fiscal year
6 remains in effect unless it is revoked by the superintendent.

7 (c) A waiver that is not a waiver described in subdivision (a)
8 or (b) is valid for 3 fiscal years, unless it is revoked by the
9 superintendent, and must be renewed at the end of the 3-year period
10 to remain in effect.

11 (10) A district may count up to 38 hours of professional
12 development for teachers as hours of pupil instruction. All of the
13 following apply to the counting of professional development as
14 pupil instruction under this subsection:

15 (a) If the professional development exceeds 5 hours in a
16 single day, that day may be counted as a day of pupil instruction.

17 (b) At least 8 hours of the professional development counted
18 as hours of pupil instruction under this subsection must be
19 recommended by a districtwide professional development advisory
20 committee appointed by the district board. The advisory committee
21 must be composed of teachers employed by the district who represent
22 a variety of grades and subject matter specializations, including
23 special education; nonteaching staff; parents; and administrators.
24 The majority membership of the committee must be composed of
25 teaching staff.

26 (c) Professional development provided online is allowable and
27 encouraged, as long as the instruction has been approved by the
28 district. The department shall issue a list of approved online
29 professional development providers that must include the Michigan

1 Virtual School.

2 (d) Professional development may only be counted as hours of
3 pupil instruction under this subsection for the pupils of those
4 teachers scheduled to participate in the professional development.

5 (e) The professional development must meet all of the
6 following to be counted as pupil instruction under this subsection:

7 (i) Be aligned to the school or district improvement plan for
8 the school or district in which the professional development is
9 being provided.

10 (ii) Be linked to 1 or more criteria in the evaluation tool
11 developed or adopted by the district or intermediate district under
12 section 1249 of the revised school code, MCL 380.1249.

13 (iii) Has been approved by the department as counting for state
14 continuing education clock hours. The number of hours of
15 professional development counted as hours of pupil instruction
16 under this subsection may not exceed the number of state continuing
17 education clock hours for which the professional development was
18 approved.

19 (iv) Not more than a combined total of 10 hours of the
20 professional development takes place before the first scheduled day
21 of school for the school year ending in the fiscal year and after
22 the last scheduled day of school for that school year.

23 (v) Not more than 10 hours of the professional development
24 takes place in a single month.

25 (vi) At least 75% of teachers scheduled to participate in the
26 professional development are in attendance.

27 (11) Subsections (3) and (8) do not apply to a school of
28 excellence that is a cyber school, as that term is defined in
29 section 551 of the revised school code, MCL 380.551, and is in

1 compliance with section 553a of the revised school code, MCL
2 380.553a.

3 (12) Subsections (3) and (8) do not apply to eligible pupils
4 enrolled in a dropout recovery program that meets the requirements
5 of section 23a. As used in this subsection, "eligible pupil" means
6 that term as defined in section 23a.

7 (13) At least every 2 years the superintendent shall review
8 the waiver standards set forth in the pupil accounting and auditing
9 manuals to ensure that the waiver standards and waiver process
10 continue to be appropriate and responsive to changing trends in
11 online learning. The superintendent shall solicit and consider
12 input from stakeholders as part of this review.

13 (14) **As used in this section, "pupils in quarantine who are
14 being educated through physical educational materials" means pupils
15 to whom both of the following apply:**

16 (a) **They are receiving instruction in a location other than a
17 school building operated by the district in which they are
18 enrolled, in a synchronous or asynchronous manner, through physical
19 educational materials provided by the district that may be provided
20 and utilized in a nonvirtual manner.**

21 (b) **The pupil is in quarantine pursuant to an order issued by
22 the local health department, as that term is defined in section
23 1105 of the public health code, 1978 PA 368, MCL 333.1105, or
24 pursuant to a notice issued by the local health department, as that
25 term is defined in section 1105 of the public health code, 1978 PA
26 368, MCL 333.1105, and any of the following apply to the pupil:**

27 (i) **The pupil has tested positive for COVID-19.**

28 (ii) **The pupil is displaying symptoms of COVID-19.**

29 (iii) **The pupil has been in close proximity to an identified**

1 cluster within a classroom. As used in this subparagraph, "cluster"
2 means 3 or more pupils, teachers, or school employees or workers
3 who have been infected with COVID-19 in the same classroom over a
4 14-day period.

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

8 (a) An individual who is not appropriately placed under a
9 valid certificate, valid substitute permit, authorization, or
10 approval issued under rules promulgated by the department to teach
11 in an elementary or secondary school.

12 (b) An individual who does not satisfy the requirements of
13 section 1233 of the revised school code, MCL 380.1233, and rules
14 promulgated by the department to provide school counselor services
15 to pupils in an elementary or secondary school.

16 (c) An individual who does not satisfy the requirements of
17 section 1246 of the revised school code, MCL 380.1246, or who is
18 not working under a valid substitute permit issued under rules
19 promulgated by the department, to be employed as a superintendent,
20 principal, or assistant principal, or as an individual whose
21 primary responsibility is to administer instructional programs in
22 an elementary or secondary school or in a district or intermediate
23 district.

24 (2) Except as otherwise provided in the revised school code ~~7~~
25 ~~or this subsection, or subsection (4) or (7),~~ **section**, a district
26 or intermediate district employing an individual in violation of
27 this section before July 1, 2021 must have deducted an amount equal
28 to the amount paid to the individual for the period of employment
29 that is in violation of this section. Except as otherwise provided

1 ~~under subsection (4) or (7),~~ **in this section,** a district or
2 intermediate district employing an individual in violation of this
3 section on or after July 1, 2021 must have deducted an amount equal
4 to 50% of the amount paid to the individual for the period of
5 employment that is in violation of this section. Except as
6 otherwise provided ~~under subsection (4),~~ **in this section,** beginning
7 July 1, 2021, if a district or intermediate district is notified by
8 the department that it is employing an individual in violation of
9 this section and it continues to employ the individual in violation
10 of this section 10 business days after receiving the notification,
11 both of the following apply:

12 (a) The district or intermediate district must have deducted
13 an amount equal to 50% of the amount paid to the individual for the
14 period of employment that is in violation of this section that
15 occurs before the expiration of the 10-day period described in this
16 subsection.

17 (b) The district or intermediate district must have deducted
18 an amount equal to 100% of the amount paid to the individual for
19 the period of employment that is in violation of this section that
20 occurs after the 10-day period described in this subsection.

21 (3) For purposes of subsection (2), if a district or
22 intermediate district on behalf of an individual or an individual
23 successfully completes the credential application process through
24 the department, including the submission of an appropriate
25 application, required fees, and all required supporting
26 documentation, the individual's employment with the district or
27 intermediate district after this completion is not considered a
28 period of employment that is in violation of this section.

29 (4) A deduction under subsection (2) for employment in

1 violation of this section that occurs on or after July 1, 2021, may
2 be less than the amount required under that subsection if the
3 superintendent of public instruction finds that the district or
4 intermediate district was hindered in its ability to obtain a
5 substitute credential to enable the district or intermediate
6 district to employ the individual in compliance with this section
7 due to unusual and extenuating circumstances resulting from
8 conditions not within the control of school authorities, including,
9 but not limited to, a natural disaster, death or serious illness of
10 the individual or another employee, an emergency school closure,
11 fraud or other intentional wrongdoing of the individual or another
12 employee, or an emergency health condition as defined by city,
13 county, or state health authorities.

14 (5) For employment of an individual in violation of this
15 section that occurs on or after July 1, 2021, upon request by a
16 district or intermediate district, the department shall credit the
17 amount of an adjustment in payments under section 15 that is based
18 on the employment of the individual that gave rise to the deduction
19 under subsection (2) or (4) against the amount of the deduction
20 under subsection (2) or (4). The amount of the credit under this
21 subsection must not be in an amount that is greater than the
22 deduction assessed under subsection (2) or (4).

23 (6) ~~If~~ **Except as otherwise provided in this section, if** a
24 school official is notified by the department that he or she is
25 employing an individual in violation of this section and knowingly
26 continues to employ that individual, the school official is guilty
27 of a misdemeanor punishable by a fine of \$1,500.00 for each
28 incidence. This penalty is in addition to all other financial
29 penalties otherwise specified in this article.

1 (7) There must be no deduction under subsection (2) for a
2 period of employment in violation of this section that occurs
3 between July 1, 2020 and June 30, 2021.

4 **(8) There must be no deduction under subsection (2) for a**
5 **period of employment in violation of this section that occurs**
6 **during the 2021-2022 school year.**

7 **(9) Subsection (6) does not apply for a school official who**
8 **employs an individual in violation of this section during the 2021-**
9 **2022 school year.**

10 Enacting section 1. This amendatory act is intended to apply
11 retroactively to the beginning of the 2021-2022 school year.