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**STATE OF MICHIGAN  
102ND LEGISLATURE  
REGULAR SESSION OF 2023**

Introduced by Reps. Koleszar, O'Neal, Neeley, Scott, Morgan, Coffia and Weiss

# ENROLLED HOUSE BILL No. 4166

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to make appropriations for certain purposes; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 392, 502, 503, 507, 522, 528, 552, and 561 (MCL 380.392, 380.502, 380.503, 380.507, 380.522, 380.528, 380.552, and 380.561), as amended by 2018 PA 601; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 392. The board of a community district shall not open a new school if both of the following circumstances exist:

(a) The proposed school would operate at the same location as a public school that currently is on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state or has been on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, during the immediately preceding 3-year period of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state.

(b) The proposed school would have substantially the same leadership and substantially the same curriculum offerings as the school that previously operated at that location.

Sec. 502. (1) A public school academy must be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A public school academy corporation must be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a public school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a public school academy must not be organized by a church or other religious organization and must not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) Subject to subsection (9), any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more public school academies under this part:

(a) The board of a school district. However, the board of a school district shall not issue a contract for a public school academy to operate outside the school district's boundaries, and a public school academy authorized by the board of a school district shall not operate outside that school district's boundaries.

(b) An intermediate school board. However, the board of an intermediate school district shall not issue a contract for a public school academy to operate outside the intermediate school district's boundaries, and a public school academy authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries.

(c) The board of a community college. However, except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a public school academy to operate in a school district organized as a school district of the first class, a public school academy authorized by the board of a community college shall not operate in a school district organized as a school district of the first class, the board of a community college shall not issue a contract for a public school academy to operate outside the boundaries of the community college district, and a public school academy authorized by the board of a community college shall not operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 public school academy to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a public school academy itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university. There is no limit on the combined total number of contracts for public school academies that may be issued by all state public universities.

(e) Two or more of the public agencies described in subdivisions (a) to (d) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(3) To obtain a contract to organize and operate 1 or more public school academies, 1 or more persons or an entity may apply to an authorizing body described in subsection (2). The application must include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 503(5), a list of the proposed members of the board of directors of the public school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which must include at least all of the following:

(i) The name of the proposed public school academy.

(ii) The purposes for the public school academy corporation. This language must provide that the public school academy is incorporated under this part and that the public school academy corporation is a governmental entity.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the public school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the public school academy.

(ii) A copy of the educational goals of the public school academy and the curricula to be offered and methods of pupil assessment to be used by the public school academy. The educational goals must include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the public school academy must be assessed using both the mathematics and reading portions of the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(iii) The admission policy and criteria to be maintained by the public school academy. The admission policy and criteria must comply with section 504. This part of the application also must include a description of how the applicant will provide to the general public adequate notice that a public school academy is being created and adequate information on the admission policy, criteria, and process.

(iv) The school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the public school academy's governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the local and intermediate school districts in which the public school academy will be located.

(h) An agreement that the public school academy will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) A description of and address for the proposed physical plant in which the public school academy will be located. An applicant may request the authorizing body to issue a contract allowing the public school academy board of directors to operate the same configuration of age or grade levels at more than 1 site.

(4) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each public school academy operating under a contract issued by the authorizing body. The authorizing body is responsible for overseeing compliance by the board of directors with the contract and all applicable law. This subsection does not relieve any other government entity of its enforcement or supervisory responsibility.

(5) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more public school academies operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate public school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(6) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a public school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the public school academy in the school year in which the fees or expenses are charged. An authorizing body may provide other services for a public school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the public school academy.

(7) A public school academy is presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

(8) An authorizing body may enter into an intergovernmental agreement with another authorizing body to issue public school academy contracts. At a minimum, the agreement must further the purposes set forth in section 501, describe which authorizing body shall issue the contract, and set forth which authorizing body will be responsible for monitoring compliance by the board of directors of the public school academy with the contract and all applicable law.

(9) Both of the following apply to the issuance of a contract for a public school academy to be located within a community district:

(a) An authorizing body shall not issue a contract to organize and operate a new public school academy to be located in a community district unless, before issuing the contract, the governing board of the authorizing body has certified to the department that the authorizing body has been accredited as an authorizing body by a nationally recognized accreditation body. For an authorizing body described in subsection (2)(e), the authorizing body shall not issue a contract to organize and operate a new public school academy to be located in a community district unless, before issuing the contract, the governing board of each of the public agencies that is party to the interlocal agreement has certified to the department that the public agency has been accredited as an authorizing body by a nationally recognized accreditation body.

(b) An authorizing body shall not issue a contract for a new public school academy to be located in a community district if both of the following circumstances exist:

(i) Either of the following:

(A) The proposed public school academy would operate at the same location as a public school that currently is on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state or has been on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state during the immediately preceding 3-year period.

(B) The proposed public school academy would operate at the same location as a public school academy, urban high school academy, school of excellence, or strict discipline academy that has had its contract revoked or terminated by an authorizing body under the applicable part or section.

(ii) The proposed public school academy would have substantially the same board of directors, substantially the same leadership, and substantially the same curriculum offerings as the public school that previously operated at that location.

Sec. 503. (1) An authorizing body is not required to issue a contract to any person or entity. Subject to subsection (2), public school academy contracts must be issued on a competitive basis. In deciding whether to issue a contract for a proposed public school academy, an authorizing body shall consider all of the following:

- (a) The resources available for the proposed public school academy.
- (b) The population to be served by the proposed public school academy.
- (c) The educational goals to be achieved by the proposed public school academy.
- (d) The applicant's track record, if any, in organizing public school academies or other public schools.
- (e) The graduation rate of a school district in which the proposed public school academy is proposed to be located.
- (f) The population of a county in which the proposed public school academy is proposed to be located.
- (g) The number of schools in the proximity of a proposed location of the proposed public school academy that are on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state.
- (h) The number of pupils on waiting lists of public school academies in the proximity of a proposed location of the proposed public school academy.

(2) An authorizing body may give priority to a proposed public school academy that is intended to replace a public school academy that has been closed pursuant to section 507(5), that will operate all of the same grade levels as the public school academy that has been closed, and that will work toward operating all of grades 9 to 12 within 6 years after it begins operations unless a matriculation agreement has been entered into with another public school that provides grades 9 to 12.

(3) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more public school academies within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition must contain all of the information required to be in the contract application under section 502 and must be signed by a number of school electors of the school district equal to at least 5% of the total number of school electors of that school district. The petition must be filed with the school district filing official. If the board receives a petition meeting the requirements of this subsection, the board shall have the question of issuing the contract placed on the ballot at its next regular school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(4) Within 10 days after issuing a contract for a public school academy, the authorizing body shall submit to the superintendent of public instruction a copy of the contract.

(5) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each public school academy subject to its jurisdiction. The resolution must be written or amended as necessary to include a requirement that each member of the board of directors must be a citizen of the United States.

(6) A contract issued to organize and administer a public school academy must contain at least all of the following:

- (a) The educational goals the public school academy is to achieve and the methods by which it will be held accountable. The educational goals must include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the pupil performance of a public school academy must be assessed using at least the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.
- (b) A description of the method to be used to monitor the public school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.
- (c) A description of the process for amending the contract during the term of the contract.
- (d) All of the matters set forth in the application for the contract.
- (e) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 507.

(f) A description of and address for the proposed physical plant in which the public school academy will be located. An authorizing body may include a provision in the contract allowing the board of directors of the public school academy to operate the same configuration of age or grade levels at more than 1 site if each configuration of age or grade levels and each site identified in the contract are under the direction and control of the board of directors.

(g) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(h) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal must include increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria as the most important factor in the decision of whether or not to renew the contract.

(i) A certification, signed by an authorized member of the board of directors of the public school academy, that the public school academy will comply with the contract and all applicable law.

(j) A requirement that the board of directors of the public school academy shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(k) A requirement that the board of directors of the public school academy shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management organization involved in the operation of the public school academy, and employees of the public school academy. The contract must identify the specific prohibited relationships consistent with applicable law.

(l) A requirement that the board of directors of the public school academy shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(m) A requirement that the board of directors of the public school academy shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the public school academy:

(i) A copy of the contract issued by the authorizing body for the public school academy.

(ii) A list of currently serving members of the board of directors of the public school academy, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; a copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of \$10,000.00 or more as they were submitted to the board of directors.

(iii) Quarterly financial reports submitted to the authorizing body.

(iv) A current list of teachers and school administrators working at the public school academy that includes their individual salaries as submitted to the registry of educational personnel; copies of the teaching or school administrator's certificates or permits of current teaching and administrative staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the public school academy.

(v) Curriculum documents and materials given to the authorizing body.

(vi) Proof of insurance as required by the contract.

(vii) Copies of facility leases or deeds, or both, and of any equipment leases.

(viii) Copies of any management contracts or services contracts approved by the board of directors.

(ix) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(x) Any management letters issued as part of the annual financial audit under subdivision (g).

(xi) Any other information specifically required under this act.

(n) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors of the public school academy and an educational management organization before the agreement is final and valid. An authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to the contract or applicable law.

(o) A requirement that the board of directors of the public school academy shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(i) That the public school academy has made a reasonable effort to advertise its enrollment openings.

(ii) That the open enrollment period for the public school academy is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(p) A requirement that the board of directors of the public school academy shall prohibit any individual from being employed by the public school academy in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(7) A public school academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(e) Laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

(8) A public school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a public school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(9) A public school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a public school academy are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. Unless the property is already fully exempt from real and personal property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, property occupied by a public school academy and used exclusively for educational purposes is exempt from real and personal property taxes levied for school operating purposes under section 1211, to the extent exempted under that section, and from real and personal property taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. A public school academy may not levy ad valorem property taxes or another tax for any purpose. However, operation of 1 or more public school academies by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or another tax.

(10) A public school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a public school academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

(11) A member of the board of directors of a public school academy is a public officer and shall, before entering upon the duties of the office, take the constitutional oath of office for public officers under section 1 of article XI of the state constitution of 1963.

Sec. 507. (1) An authorizing body that issues a contract for a public school academy under this part shall do all of the following:

(a) Ensure that the contract and the application for the contract comply with the requirements of this part.

(b) Within 10 days after issuing the contract, submit to the department a copy of the contract.

(c) Establish the method of selection, length of term, and number of members of the board of directors of each public school academy that it authorizes. The authorizing body shall ensure that the board of directors includes representation from the local community.

(d) Oversee each public school academy operating under a contract issued by the authorizing body. The oversight must be sufficient to ensure that the board of directors is in compliance with the terms of the contract and with applicable law.

(e) Develop and implement a process for holding a public school academy accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for a public school academy that does not meet those standards.

(f) Take necessary measures to ensure that the board of directors of a public school academy operates independently of any educational management company involved in the operations of the public school academy.

(g) Oversee and ensure that the pupil admission process used by the public school academy is operated in a fair and open manner and is in compliance with the contract and this part.

(h) Ensure that the board of directors of the public school academy maintains and releases information as necessary to comply with applicable law.

(2) An authorizing body may enter into an agreement with 1 or more other authorizing bodies to carry out any function of an authorizing body under this act.

(3) The authorizing body for a public school academy is the fiscal agent for the public school academy. A state school aid payment for a public school academy must be paid to the authorizing body that is the fiscal agent for that public school academy, and the authorizing body shall then forward the payment to the public school academy. Within 30 days after a contract is submitted to the department by an authorizing body under subsection (1), the department shall issue a district code to the public school academy for which the contract was issued. If the department does not issue a district code within 30 days after a contract is filed, the state treasurer shall assign a temporary district code in order for the public school academy to receive funding under the state school aid act of 1979.

(4) A contract issued under this part may be revoked by the authorizing body if the authorizing body determines that 1 or more of the following have occurred:

(a) Failure of the public school academy to demonstrate improved pupil academic achievement for all groups of pupils or meet the educational goals set forth in the contract.

(b) Failure of the public school academy to comply with all applicable law.

(c) Failure of the public school academy to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship.

(d) The existence of 1 or more other grounds for revocation as specified in the contract.

(5) Except for a public school academy that is an alternative school serving a special student population, if the department determines that a public school academy site that has been operating for at least 4 years is among the lowest achieving 5% of public schools in this state for the immediately preceding 3 school years, as determined under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, not to include any individualized education plan subgroup, the department shall notify the public school academy's authorizing body. Subject to subsection (6), if an authorizing body receives notice from the department under this subsection, the authorizing body shall notify the public school academy and amend the public school academy's contract to eliminate the public school academy's authority to operate the existing age and grade levels at the site and the public school academy shall cease operating the existing age and grade levels at the site, effective at the end of the current school year. Subject to subsection (6), if the public school academy operates at only 1 site, and the authorizing body receives notice from the department under this subsection, the authorizing body shall notify the public school academy and revoke the public school academy's contract, effective at the end of the current school year.

(6) For a public school academy or site that is subject to a notice to its authorizing body under subsection (5), the department shall consider other public school options available to pupils in the grade levels offered by the public school academy or site who reside in the geographic area served by the public school academy or site. If the department determines that closure of the public school academy or site would result in an unreasonable hardship to these pupils because there are insufficient other public school options reasonably available for these pupils, the department may rescind the notice. If the department rescinds a notice subjecting a public school academy or site to closure, the department shall do so before the end of the school year. If the department rescinds a notice subjecting a public school academy or site to closure, the department shall require the public school academy or site to implement a school improvement plan that includes measures to increase pupil growth and improve pupil proficiency, with growth and proficiency measured by performance on state assessments.

(7) Except as otherwise provided in section 502 or 503, the decision of an authorizing body to issue, not issue, or reconstitute a contract under this part, or to terminate or revoke a contract under this section, is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any state agency. An authorizing body that issues, does not issue, or reconstitutes a contract under this part, or that terminates or revokes a contract under this section, is not liable for that action to the public school academy, the public school academy corporation, a pupil of the public school academy, the parent or guardian of a pupil of the public school academy, or any other person.

(8) Except as otherwise provided in this section, before an authorizing body revokes a contract, the authorizing body may consider and take corrective measures to avoid revocation. An authorizing body may reconstitute the public school academy in a final attempt to improve student educational performance or to avoid interruption of the educational process. An authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, canceling a contract with an educational management organization, if any, withdrawing approval of a contract under section 506, or appointing a new board of directors or a trustee to take over operation of the public school academy.

(9) If an authorizing body revokes a contract, the authorizing body shall work with a school district or another public school, or with a combination of these entities, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as the fiscal agent for the public school academy under this part, shall return any school aid funds held by the authorizing body that are attributable to the affected pupils to the state treasurer for deposit into the state school aid fund. The state treasurer shall distribute funds to the public school in which the pupils enroll after the revocation pursuant to a methodology established by the department and the center for educational performance and information created under section 94a of the state school aid act of 1979, MCL 388.1694a.

(10) Not more than 10 days after a public school academy's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the public school academy whose contract has terminated or been revoked and the date of contract termination or revocation.

Sec. 522. (1) An urban high school academy must be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. An urban high school academy corporation must be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that an urban high school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, an urban high school academy must not be organized by a church or other religious organization and must not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) Subject to subsection (9), the governing board of a state public university may act as an authorizing body to issue a contract for the organization and operation of an urban high school academy under this part.

(3) A contract issued under this part must be issued for an initial term of 10 years. If the urban high school academy meets the educational goals set forth in the contract and operates in substantial compliance with this part, the authorizing body shall automatically renew the contract for a subsequent 10-year term.

(4) To obtain a contract to organize and operate 1 or more urban high school academies, an entity may apply to an authorizing body described in subsection (2). The contract must be issued to an urban high school academy corporation designated by the entity applying for the contract. The application must include at least all of the following:

(a) Name of the entity applying for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 528, a list of the proposed members of the board of directors of the urban high school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation that must include at least all of the following:

(i) The name of the proposed urban high school academy to which the contract will be issued.

(ii) The purposes for the urban high school academy corporation. This language must provide that the urban high school academy is incorporated under this part and that the urban high school academy corporation is a governmental entity and political subdivision of this state.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the urban high school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the urban high school academy.

(ii) A copy of the educational goals of the urban high school academy and the curricula to be offered and methods of pupil assessment to be used by the urban high school academy. The educational goals must include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the urban high school academy must be assessed using both the mathematics and reading portions of the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(iii) The admission policy and criteria to be maintained by the urban high school academy. The admission policy and criteria must comply with section 524. This part of the application also must include a description of how the applicant will provide to the general public adequate notice that an urban high school academy is being created and adequate information on the admission policy, criteria, and process.

(iv) The school calendar and school day schedule.



(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the urban high school academy's governance structure.

(g) A description of and address for the proposed building or buildings in which the urban high school academy will be located, and a financial commitment by the entity applying for the contract to construct or renovate the building or buildings that will be occupied by the urban high school academy that is issued the contract.

(5) If a particular state public university issues a contract that allows an urban high school academy to operate the same configuration of grades at more than 1 site, as provided in section 524(1), each of those sites must be under the direction of the board of directors that is a party to the contract.

(6) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more urban high school academies operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate urban high school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(7) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for an urban high school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the urban high school academy in the school year in which the fees or expenses are charged. All of the following apply to this fee:

(a) An authorizing body may use this fee only for the following purposes:

(i) Considering applications and issuing or administering contracts.

(ii) Compliance monitoring and oversight of urban high school academies.

(iii) Training for urban high school academy applicants, administrators, and boards of directors.

(iv) Technical assistance to urban high school academies.

(v) Academic support to urban high school academies or to pupils or graduates of urban high school academies.

(vi) Evaluation of urban high school academy performance.

(vii) Training of teachers, including supervision of teacher interns.

(viii) Other purposes that assist the urban high school academies or traditional public schools in achieving improved academic performance.

(b) An authorizing body may provide other services for an urban high school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the urban high school academy.

(8) An urban high school academy is presumed to be legally organized if it has exercised the franchises and privileges of an urban high school academy for at least 2 years.

(9) Both of the following apply to the issuance of a contract for an urban high school academy to be located within a community district:

(a) An authorizing body shall not issue a contract to organize and operate a new urban high school academy to be located in a community district unless, before issuing the contract, the governing board of the authorizing body has certified to the department that the authorizing body has been accredited as an authorizing body by a nationally recognized accreditation body.

(b) An authorizing body shall not issue a contract for a new urban high school academy to be located in a community district if both of the following circumstances exist:

(i) Either of the following:

(A) The proposed urban high school academy would operate at the same location as a public school that currently is on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state or has been on that list during the immediately preceding 3-year period.

(B) The proposed urban high school academy would operate at the same location as a public school academy, urban high school academy, school of excellence, or strict discipline academy that has had its contract revoked or terminated by an authorizing body under the applicable part or section.

(ii) The proposed urban high school academy would have substantially the same board of directors, substantially the same leadership, and substantially the same curriculum offerings as the public school that previously operated at that location.

Sec. 528. (1) An authorizing body that issues a contract for an urban high school academy under this part shall do all of the following:

(a) Ensure that the contract and the application for the contract comply with the requirements of this part.

(b) Within 10 days after issuing the contract, submit to the department a copy of the contract.

(c) Adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each urban high school academy that it authorizes. The resolution must be written or amended as necessary to include a requirement that each member of the board of directors must be a citizen of the United States.

(d) Oversee the operations of each urban high school academy operating under a contract issued by the authorizing body. The oversight must be sufficient to ensure that the urban high school academy is in compliance with the terms of the contract and with applicable law. An authorizing body may enter into an agreement with 1 or more other authorizing bodies to oversee an urban high school academy operating under a contract issued by the authorizing body.

(e) Develop and implement a process for holding an urban high school academy board of directors accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for an urban high school academy that does not meet those standards.

(f) Take necessary measures to ensure that an urban high school academy board of directors operates independently of any educational management company involved in the operations of the urban high school academy.

(g) Oversee and ensure that the pupil admission process used by the urban high school academy is operated in a fair and open manner and is in compliance with the contract and this part.

(h) Ensure that the board of directors of the urban high school academy maintains and releases information as necessary to comply with applicable law.

(2) An authorizing body may enter into an agreement with 1 or more other authorizing bodies to carry out any function of an authorizing body under this act.

(3) The authorizing body for an urban high school academy is the fiscal agent for the urban high school academy. A state school aid payment for an urban high school academy must be paid to the authorizing body that is the fiscal agent for that urban high school academy that must then forward the payment to the urban high school academy. Within 30 days after a contract is submitted to the department by an authorizing body under subsection (1), the department shall issue a district code to the urban high school academy for which the contract was issued. If the department does not issue a district code within 30 days after a contract is filed, the state treasurer shall assign a temporary district code in order for the urban high school academy to receive funding under the state school aid act of 1979.

(4) A contract issued under this part may be revoked by the authorizing body that issued the contract if the authorizing body determines that 1 or more of the following have occurred:

(a) Failure of the urban high school academy to demonstrate improved pupil academic achievement for all groups of pupils or meet the educational goals set forth in the contract.

(b) Failure of the urban high school academy to comply with all applicable law.

(c) Failure of the urban high school academy to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship.

(d) The existence of 1 or more other grounds for revocation as specified in the contract.

(5) Except for an urban high school academy that is an alternative school serving a special student population, if the department determines that an urban high school academy site that has been operating for at least 4 years is among the lowest achieving 5% of public schools in this state for the immediately preceding 3 school years, as determined under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, not to include any individualized education plan subgroup, the department shall notify the urban high school academy's authorizing body. Subject to subsection (6), if an authorizing body receives notice from the department under this subsection, the authorizing body shall notify the urban high school academy and amend the urban high school academy's contract to eliminate the urban high school academy's authority to operate the existing age and grade levels at the site and the urban high school academy shall cease operating the existing age and grade levels at the site, effective at the end of the current school year. Subject to subsection (6), if the urban high school academy operates at only 1 site, and the authorizing body receives notice from the department under this subsection, the authorizing body shall notify the urban high school academy and revoke the urban high school academy's contract, effective at the end of the current school year.

(6) For an urban high school academy or site that is subject to a notice to its authorizing body under subsection (5), the department shall consider other public school options available to pupils in the grade levels offered by the urban high school academy or site who reside in the geographic area served by the urban high school academy or site. If the department determines that closure of the urban high school academy or site would result in an unreasonable hardship to these pupils because there are insufficient other public school options reasonably available for these pupils, the department may rescind the notice. If the department rescinds a notice subjecting an urban high school academy or site to closure, the department shall do so before the end of the school year. If the department rescinds a notice subjecting an urban high school academy or site to closure, the department shall require the urban high school academy or site to implement a school improvement plan that includes measures to increase pupil growth and improve pupil proficiency, with growth and proficiency measured by performance on state assessments.

(7) Except as otherwise provided in section 522, the decision of an authorizing body to issue, not issue, or reconstitute a contract under this part, or to terminate or revoke a contract under this section, is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any state agency. An authorizing body that issues, does not issue, or reconstitutes a contract under this part, or that terminates or revokes a contract under this section, is not liable for that action to the urban high school academy, the urban high school academy corporation, a pupil of the urban high school academy, the parent or guardian of a pupil of the urban high school academy, or any other person.

(8) Except as otherwise provided in this section, before an authorizing body revokes a contract, the authorizing body may consider and take corrective measures to avoid revocation. An authorizing body may reconstitute the urban high school academy in a final attempt to improve student educational performance or to avoid interruption of the educational process. An authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, removing 1 or more members of the board of directors, withdrawing approval to contract under section 527, or appointing a new board of directors or a trustee to take over operation of the urban high school academy.

(9) If an authorizing body revokes a contract, the authorizing body shall work with a school district or another public school, or with a combination of these entities, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as the fiscal agent for the urban high school academy under this part, shall return any school aid funds held by the authorizing body that are attributable to the affected pupils to the state treasurer for deposit into the state school aid fund. The state treasurer shall distribute funds to the public school in which the pupils enroll after the revocation pursuant to a methodology established by the department and the center for educational performance and information.

(10) Not more than 10 days after an urban high school academy's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the urban high school academy whose contract has terminated or been revoked and the date of contract termination or revocation.

(11) If an urban high school academy's contract terminates or is revoked, title to all real and personal property, interest in real or personal property, and other assets owned by the urban high school academy shall revert to the state. This property must be distributed in accordance with the following:

(a) Within 30 days following the termination or revocation, the board of directors of an urban high school academy shall hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the urban high school academy corporation, all in accordance with chapter 8 of the nonprofit corporation act, 1982 PA 162, MCL 450.2801 to 450.2864.

(b) The urban high school academy shall file a certificate of dissolution with the department of licensing and regulatory affairs within 10 business days following board approval.

(c) Simultaneously with the filing of the certificate of dissolution under subdivision (b), the urban high school academy board of directors shall provide a copy of the board of directors' plan of distribution of assets to the state treasurer for approval. Within 30 days, the state treasurer, or the state treasurer's designee, shall review and approve the board of directors' plan of distribution of assets. If the proposed plan of distribution of assets is not approved within 30 days, the state treasurer, or the state treasurer's designee, shall provide the board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or the state treasurer's designee, shall monitor the urban high school academy's winding up of the dissolved corporation in accordance with the plan of distribution of assets approved or provided under subdivision (c).

(e) As part of the plan of distribution of assets, the urban high school academy board of directors shall designate the director of the department of technology, management, and budget, or the director's designee, to dispose of all real property of the urban high school academy corporation in accordance with the directives developed for disposition of surplus land and facilities under section 251 of the management and budget act, 1984 PA 431, MCL 18.1251.

(f) If the board of directors of an urban high school academy fails to take any necessary action under this section, the state treasurer, or the state treasurer's designee, may suspend the urban high school academy board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee has all the rights, powers, and privileges under law that the urban high school academy board of directors had before being suspended.

(g) Following the sale of the real or personal property or interests in the real or personal property, and after payment of any urban high school academy debt secured by the property or interest in property, whether real or personal, the urban high school academy board of directors, or a trustee appointed under this section, shall forward any remaining money to the state treasurer. Following receipt, the state treasurer, or the state treasurer's designee, shall deposit this remaining money in the state school aid fund.

Sec. 552. (1) An authorizing body may issue contracts under this subsection to organize and operate a school of excellence. All of the following apply to the issuance of a contract by an authorizing body under this subsection:

(a) The issuance of the contract must be approved by the superintendent of public instruction. The superintendent of public instruction shall approve issuance of a contract if he or she determines that the proposed school of excellence is modeled after a high-performing school or program.

(b) The first 5 contracts issued by all authorizing bodies under this subsection must be for schools of excellence that offer 1 or more of high school grades 9 to 12, or any combination of those grades, as specified in the contract.

(c) A school of excellence authorized under this subsection must not be located in a school district that has a graduation rate of over 75%, on average, for the most recent 3 school years for which the data are available, as determined by the department.

(2) Subject to the limitations in this subsection and subsections (14) and (15), an authorizing body may issue contracts under this subsection for 1 or more schools of excellence that are cyber schools. The combined total number of contracts issued by all statewide authorizing bodies under this subsection for schools of excellence that are cyber schools shall not exceed 15. The board of a school district, an intermediate school board, the board of a community college that is not a statewide authorizing body, or 2 or more public agencies acting jointly as described in subsection (6)(e) may not act as the authorizing body for more than 1 school of excellence that is a cyber school. An authorizing body shall not issue a contract for a school of excellence that is a cyber school unless the school of excellence that is a cyber school meets all of the following requirements:

(a) Is available for enrollment to all pupils in this state.

(b) Offers some configuration of or all of grades K to 12.

(c) The entity applying for the school of excellence that is a cyber school demonstrates experience in delivering a quality education program that improves pupil academic achievement. In determining whether this requirement is met, an authorizing body shall refer to the standards for quality online learning established by the national association of charter school authorizers or other similar nationally recognized standards for quality online learning.

(d) The enrollment in the school of excellence that is a cyber school is limited to not more than 2,500 pupils in membership for the first school year of operation of the school of excellence that is a cyber school, not more than 5,000 pupils in membership for the second school year of operation of the school of excellence that is a cyber school, and not more than 10,000 pupils in membership for the third and subsequent school years of operation of the school of excellence that is a cyber school. As used in this subdivision, "membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(e) The school of excellence that is a cyber school offers each pupil's family a computer and subsidizes the cost of internet access.

(3) For a public school academy operating under part 6a that meets the requirements of subsection (4), with the approval of its authorizing body, the board of directors of the public school academy may adopt a resolution choosing to convert the public school academy to a school of excellence under this part. If the board of directors of a public school academy that meets the requirements of subsection (4) is issued a contract as a school of excellence under this subsection, all the following apply:

(a) The public school academy shall cease to operate as a public school academy under part 6a and shall operate as a school of excellence upon the issuance of a contract or at another time as determined by the authorizing body.

(b) The public school academy is considered to be a school of excellence for all purposes upon the issuance of a contract or at another time as determined by the authorizing body, but retains its corporate identity.

(c) The conversion of a public school academy under part 6a to a school of excellence operating under this part does not impair any agreement, mortgage, loan, bond, note or other instrument of indebtedness, or any other agreement entered into by a public school academy while it was operating under part 6a.

(d) The contract issued to the public school academy under part 6a must automatically terminate upon the issuance of a contract or at another time as determined by the authorizing body.

(4) Subsection (3) applies to a public school academy that is determined by the department to meet all of the following, as applicable:

(a) If the public school academy operates only some or all of grades K to 8, meets at least 1 of the following:

(i) On average over a 3-year period, at least 90% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program.

(ii) On average over a 3-year period, at least 70% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program and at least 50% of the pupils enrolled in the public school academy met the income eligibility criteria for the federal free or reduced-price lunch program, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769j, and reported to the department.

(b) If the public school academy operates grades 9 to 12, at least 80% of the school's pupils graduate from high school or are determined by the department to be on track to graduate from high school, the school has at least 80% average attendance, and the school has at least an 80% postsecondary enrollment rate.

(5) A school of excellence must be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A school of excellence must be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a school of excellence is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a school of excellence must not be organized by a church or other religious organization and must not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(6) Any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more schools of excellence under this part:

(a) The board of a school district. However, except as otherwise provided in this subdivision, the board of a school district shall not issue a contract for a school of excellence to operate outside the school district's boundaries, and a school of excellence authorized by the board of a school district shall not operate outside that school district's boundaries. If the board of a school district issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside that school district's boundaries.

(b) An intermediate school board. However, except as otherwise provided in this subdivision, the board of an intermediate school district shall not issue a contract for a school of excellence to operate outside the intermediate school district's boundaries, and a school of excellence authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries. If the board of an intermediate school district issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside that intermediate school district's boundaries.

(c) The board of a community college. Except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a school of excellence to operate outside the boundaries of the community college district, and a school of excellence authorized by the board of a community college shall not operate outside the boundaries of the community college district. If the board of a community college issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 school of excellence to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a school of excellence itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university.

(e) Two or more of the public agencies described in subdivisions (a) to (d) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(7) To obtain a contract to organize and operate 1 or more schools of excellence, 1 or more persons or an entity may apply to an authorizing body described in this section. The application must include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 553(4), a list of the proposed members of the board of directors of the school of excellence and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation that must include at least all of the following:

(i) The name of the proposed school of excellence.

(ii) The purposes for the school of excellence corporation. This language must provide that the school of excellence is incorporated pursuant to this part and that the school of excellence is a governmental entity.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the school of excellence.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the school of excellence.

(ii) A copy of the educational goals of the school of excellence and the curricula to be offered and methods of pupil assessment to be used by the school of excellence. The educational goals must include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the school of excellence must be assessed using both the mathematics and reading portions of the Michigan student test of educational progress (M-STEP) or the Michigan merit examination under section 1279g, as applicable.

(iii) The admission policy and criteria to be maintained by the school of excellence. The admission policy and criteria must comply with section 556. This part of the application also must include a description of how the applicant will provide to the general public adequate notice that a school of excellence is being created and adequate information on the admission policy, criteria, and process.

(iv) Except for a school of excellence that is a cyber school, the school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the school of excellence governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the school district and intermediate school district in which the school of excellence will be located.

(h) An agreement that the school of excellence will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) A description of and address for the proposed physical plant in which the school of excellence will be located. An applicant may request the authorizing body to issue a contract allowing the board of directors of the school of excellence to operate the same configuration of age or grade levels at more than 1 site.

(8) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each school of excellence operating under a contract issued by the authorizing body. The authorizing body is responsible for overseeing compliance by the board of directors with the contract and all applicable law. This subsection does not relieve any other government entity of its enforcement or supervisory responsibility.

(9) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more schools of excellence operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate schools of excellence. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(10) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a school of excellence in an amount that exceeds a combined total of 3% of the total state school aid received by the school of excellence in the school year in which the fees or expenses are charged. The authorizing body may provide other services for a school of excellence and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the school of excellence.

(11) A school of excellence is presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

(12) A member of the board of directors of a school of excellence is a public officer and shall, before entering upon the duties of the office, take the constitutional oath of office for public officers under section 1 of article XI of the state constitution of 1963.

(13) A school of excellence that is a cyber school may make available to other public schools for purchase any of the course offerings that the cyber school offers to its own pupils.

(14) If the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for the 2012-2013 state fiscal year exceeds a number equal to 1% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then all of the following apply:

(a) An authorizing body may not issue a new contract for a new school of excellence that is a cyber school to begin operations in the 2013-2014 school year.

(b) A school of excellence that is a cyber school may not enroll any new pupils in the school of excellence that is a cyber school in the 2013-2014 school year.

(15) Beginning July 1, 2013, if the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for a state fiscal year exceeds a number equal to 2% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then all of the following apply:

(a) Subject to subdivision (c), an authorizing body may not issue a new contract for a new school of excellence that is a cyber school to begin operations in a school year that begins after that determination is made.

(b) Subject to subdivision (c), a school of excellence that is a cyber school may not enroll any new pupils in the school of excellence that is a cyber school in a school year that begins after that determination is made.

(c) If the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for a state fiscal year does not exceed a number equal to 2% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then subdivisions (a) and (b) do not apply for a school year that begins after that determination is made unless the department makes a new determination that the membership limits under this subsection have been exceeded.

(16) For the purposes of subsections (14) and (15), not later than July 1 of each year, the department shall determine the percentage of the combined total statewide final audited membership for all pupils in membership in public schools that are pupils in membership in schools of excellence that are cyber schools for the state fiscal year that includes that July 1.

(17) As used in this section:

(a) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(b) "Statewide authorizing body" means the governing board of a state public university or the board of a federal tribally controlled community college that is recognized under the tribally controlled colleges and universities assistance act of 1978, 25 USC 1801 to 1864, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(18) Not later than October 1, 2012, if a district, an intermediate school district, a public school academy, or the education achievement system offers online learning, the board or board of directors of the district, intermediate school district, or public school academy, or the education achievement system, shall submit to the department a report that details the per-pupil costs of operating the online learning. The report shall include, on a per-pupil basis, at least all of the following costs:

(a) Textbooks, instructional materials, and supplies, including electronic instructional material.

(b) Computer and other electronic equipment, including internet and telephone access.

(c) Salaries and benefits for the online learning employees.

(d) Purchased courses and curricula.

(e) Fees associated with oversight and regulation.

(f) Travel costs associated with school activities and testing.

(g) Facilities costs.

(h) Costs associated with special education.

(19) Not later than December 31, 2012, the department shall issue a report to the legislature including the following:

(a) A review of the data submitted under subsection (14).

(b) A comparison with costs of substantially similar programs in other states and relevant national research on the costs of online learning.

(c) Any conclusions concerning factors or characteristics of online learning programs that make a difference in the costs of operating the programs.

(20) The board of directors of a school of excellence that is a cyber school, or the board of a school district, intermediate school district, or public school academy that operates an online or other distance learning program, shall submit a monthly report to the department, in the form and manner prescribed by the department, that reports the number of pupils enrolled in the school of excellence that is a cyber school, or in the online or other distance learning program, during the immediately preceding month.

(21) The board of directors of a school of excellence that is a cyber school shall ensure that, when a pupil enrolls in the school of excellence that is a cyber school, the pupil and the pupil's parent or legal guardian are provided with a parent-student orientation. If the pupil is at least 18 years of age or is an emancipated minor, the orientation may be provided to just the pupil.

(22) Both of the following apply to the issuance of a contract for a school of excellence to be located within a community district:

(a) An authorizing body shall not issue a contract to organize and operate a new school of excellence to be located in a community district unless, before issuing the contract, the governing board of the authorizing body has certified to the department that the authorizing body has been accredited as an authorizing body by a nationally recognized accreditation body. For an authorizing body described in subsection (6)(e), the authorizing body shall not issue a contract to organize and operate a new school of excellence to be located in a community district unless, before issuing the contract, the governing board of each of the public agencies that is party to the interlocal agreement has certified to the department that the public agency has been accredited as an authorizing body by a nationally recognized accreditation body.

(b) An authorizing body shall not issue a contract for a new school of excellence to be located in a community district if both of the following circumstances exist:

(i) Either of the following:

(A) The proposed school of excellence would operate at the same location as a public school that currently is on the list under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, of the public schools in this state determined to be among the lowest achieving 5% of public schools in this state or has been on that list during the immediately preceding 3-year period.

(B) The proposed school of excellence would operate at the same location as a public school academy, urban high school academy, school of excellence, or strict discipline academy that has had its contract revoked or terminated by an authorizing body under the applicable part or section.

(ii) The proposed school of excellence would have substantially the same board of directors, substantially the same leadership, and substantially the same curriculum offerings as the public school that previously operated at that location.

Sec. 561. (1) If an authorizing body issues a contract for a school of excellence under this part, the authorizing body shall do all of the following:

(a) Ensure that the contract and the application for the contract comply with the requirements of this part.

(b) Within 10 days after issuing the contract, submit to the department a copy of the contract.

(c) Establish the method of selection, length of term, and number of members of the board of directors of each school of excellence that it authorizes. The authorizing body shall ensure that the board of directors includes representation from the local community.

(d) Oversee the operations of each school of excellence operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the school of excellence is in compliance with the terms of the contract and with applicable law. This subdivision does not relieve any other governmental entity of its enforcement or supervisory responsibility.

(e) Develop and implement a process for holding a school of excellence board of directors accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for a school of excellence that does not meet those standards.

(f) Take necessary measures to ensure that a school of excellence board of directors operates independently of any educational management organization involved in the operations of the school of excellence.

(g) Oversee and ensure that the pupil admission process used by the school of excellence is operated in a fair and open manner and is in compliance with the contract and this part.

(h) Ensure that the board of directors of the school of excellence maintains and releases information as necessary to comply with applicable law.

(2) The authorizing body may enter into an agreement with 1 or more authorizing bodies, as defined under part 6a, to carry out any function of the authorizing body under subsection (1)(a) to (h).



(3) The authorizing body for a school of excellence is the fiscal agent for the school of excellence. A state school aid payment for a school of excellence must be paid to the authorizing body as the fiscal agent for that school of excellence, and the authorizing body shall then forward the payment to the school of excellence. Within 30 days after a contract is submitted to the department by the authorizing body under subsection (1), the department shall issue a district code to the school of excellence for which the contract was issued. If the department does not issue a district code within 30 days after a contract is filed, the state treasurer shall assign a temporary district code in order for the school of excellence to receive funding under the state school aid act of 1979.

(4) A contract issued under this part may be revoked by the authorizing body if the authorizing body determines that 1 or more of the following have occurred:

(a) Failure of the school of excellence to demonstrate improved pupil academic achievement for all groups of pupils or meet the educational goals set forth in the contract.

(b) Failure of the school of excellence to comply with all applicable law.

(c) Failure of the school of excellence to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship.

(d) The existence of 1 or more other grounds for revocation as specified in the contract.

(5) Except for a school of excellence that is an alternative school serving a special student population, if the department determines that a school of excellence site that has been operating for at least 4 years is among the lowest achieving 5% of public schools in this state for the immediately preceding 3 school years, as determined under federal accountability requirements as provided under the every student succeeds act, Public Law 114-95, not to include any individualized education plan subgroup, the department shall notify the school of excellence's authorizing body. Subject to subsection (6), if an authorizing body receives notice from the department under this subsection, the authorizing body shall notify the school of excellence and amend the school of excellence's contract to eliminate the school of excellence's authority to operate the existing age and grade levels at the site and the school of excellence shall cease operating the existing age and grade levels at the site, effective at the end of the current school year. Subject to subsection (6), if the school of excellence operates at only 1 site or is a cyber school, and the authorizing body receives notice from the department under this subsection, the authorizing body shall notify the school of excellence and revoke the school of excellence's contract, effective at the end of the current school year.

(6) For a school of excellence or site that is subject to a notice to its authorizing body under subsection (5), the department shall consider other public school options available to pupils in the grade levels offered by the school of excellence or site who reside in the geographic area served by the school of excellence or site. If the department determines that closure of the school of excellence or site would result in an unreasonable hardship to these pupils because there are insufficient other public school options reasonably available for these pupils, the department may rescind the notice. If the department rescinds a notice subjecting a school of excellence or site to closure, the department shall do so before the end of the school year. If the department rescinds a notice subjecting a school of excellence or site to closure, the department shall require the school of excellence or site to implement a school improvement plan that includes measures to increase pupil growth and improve pupil proficiency, with growth and proficiency measured by performance on state assessments.

(7) Except for a contract issued by a school district pursuant to a vote by the school electors on a ballot question under section 553(2), and except as otherwise provided in section 552, the decision of the authorizing body to issue, not issue, or reconstitute a contract under this part, or to terminate or revoke a contract under this section, is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any other state agency. If the authorizing body issues, does not issue, or reconstitutes a contract under this part, or terminates or revokes a contract under this section, the authorizing body is not liable for that action to the school of excellence, the school of excellence corporation, a pupil of the school of excellence, the parent or guardian of a pupil of the school of excellence, or any other person.

(8) Except as otherwise provided in this section, before the authorizing body revokes a contract, the authorizing body may consider and take corrective measures to avoid revocation. The authorizing body may reconstitute the school of excellence in a final attempt to improve student educational performance or to avoid interruption of the educational process. The authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, canceling a contract with an educational management organization, if any, withdrawing approval to contract under section 560, or appointing a new board of directors or a trustee to take over operation of the school of excellence.

(9) If the authorizing body revokes a contract, the authorizing body shall work with a school district or another public school, or with a combination of these entities, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as the fiscal agent for the school of excellence under this part, shall return any school aid funds held by the authorizing body that are attributable to the affected pupils to the state treasurer for deposit into the state school aid fund. The state treasurer shall distribute funds to the public school in which the pupils enroll after the revocation pursuant to a methodology established by the department and the center for educational performance and information.

(10) Not more than 10 days after a school of excellence's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the school of excellence whose contract has terminated or been revoked and the date of contract termination or revocation.

(11) If a school of excellence's contract terminates or is revoked, title to all real and personal property, interest in real or personal property, and other assets owned by the school of excellence reverts to the state. This property must be distributed in accordance with the following:

(a) Within 30 days following the termination or revocation, the board of directors of a school of excellence shall hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the school of excellence corporation, all in accordance with chapter 8 of the nonprofit corporation act, 1982 PA 162, MCL 450.2801 to 450.2864.

(b) The school of excellence shall file a certificate of dissolution with the department of licensing and regulatory affairs within 10 business days following board approval.

(c) Simultaneously with the filing of the certificate of dissolution under subdivision (b), the school of excellence board of directors shall provide a copy of the board of directors' plan of distribution of assets to the state treasurer for approval. Within 30 days, the state treasurer, or the state treasurer's designee, shall review and approve the board of directors' plan of distribution of assets. If the proposed plan of distribution of assets is not approved within 30 days, the state treasurer, or the state treasurer's designee, shall provide the board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or the state treasurer's designee, shall monitor the school of excellence's winding up of the dissolved corporation in accordance with the plan of distribution of assets approved or provided under subdivision (c).

(e) As part of the plan of distribution of assets, the school of excellence board of directors shall designate the director of the department of technology, management, and budget, or the director's designee, to dispose of all real property of the school of excellence corporation in accordance with the directives developed for disposition of surplus land and facilities under section 251 of the management and budget act, 1984 PA 431, MCL 18.1251.

(f) If the board of directors of a school of excellence fails to take any necessary action under this section, the state treasurer, or the state treasurer's designee, may suspend the school of excellence board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee shall have all the rights, powers, and privileges under law that the school of excellence board of directors had before being suspended.

(g) Following the sale of the real or personal property or interests in the real or personal property, and after payment of any school of excellence debt secured by the property or interest in property, whether real or personal, the school of excellence board of directors, or a trustee appointed under this section, shall forward any remaining money to the state treasurer. Following receipt, the state treasurer, or the state treasurer's designee, shall deposit this remaining money in the state school aid fund.

Enacting section 1. Section 1280g of the revised school code, 1976 PA 451, MCL 380.1280g, is repealed.



Clerk of the House of Representatives



Secretary of the Senate

Approved \_\_\_\_\_

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Governor