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

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

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

(4) "Membership", except as otherwise provided in this
subsection or this article, means for a district, a public school
academy, or an intermediate district the sum of the product of .90
times the number of full-time equated pupils in grades K to 12
actually enrolled and in regular daily attendance in the district,
public school academy, or intermediate district on the pupil
membership count day for the current school year, plus the product
of .10 times the final audited count from the supplemental count
day of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance in the district, public school academy, or intermediate district for the immediately preceding school year. A district's, public school academy's, or intermediate district's membership is adjusted as provided under section 25e for pupils who enroll after the pupil membership count day in a strict discipline academy operating under sections 1311b to 1311m of the revised school code, MCL 380.1311b to 380.1311m. For 2021-2022 only, membership means for a district, a public school academy, or an intermediate district, the sum of the product of .90 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance in the district, public school academy, or intermediate district on the pupil membership count day for the current school year and the product of .10 times the final audited count of the number of full-time equated pupils engaged in pandemic learning for spring 2021, or, for a public school academy that operates as a cyber school, as that term is defined in section 551 of the revised school code, MCL 380.551, the final audited count from the supplemental count day of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance in the public school academy for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable,
apply to determining the membership of a district, a public school
academy, or an intermediate district:

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

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

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

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

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

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

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

(h) For the purposes of this section and section 6a, for a cyber school, as that term is defined in section 551 of the revised school code, MCL 380.551, that is in compliance with section 553a of the revised school code, MCL 380.553a, a pupil's participation in the cyber school's educational program is considered regular daily attendance, and for a district or public school academy, a pupil's participation in a virtual course as that term is defined in section 21f is considered regular daily attendance. For the purposes of this subdivision, for a pupil enrolled in a cyber school and utilizing sequential learning, participation means that term as defined in the pupil accounting manual, section 5-O-D:

requirements for counting pupils in membership-subsection 10.

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

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

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

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

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

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

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

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

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

(B) Had dropped out of school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ll) If a district's or public school academy's membership for pupils counted under section 166b equals or exceeds 5% of the district's or public school academy's membership for pupils not counted in membership under section 166b in the immediately preceding fiscal year, then the growth in the district's or public school academy's membership for pupils counted under section 166b...
must not exceed 10%.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) A pupil enrolled in a district other than the pupil's district of residence in a middle college program if the pupil's district of residence and the enrolling district are both constituent districts of the same intermediate district.
(l) A pupil enrolled in a district other than the pupil's
district of residence who attends a United States Olympic Education
Center.

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

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

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

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

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

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

(i) Fourth Wednesday in July.

(ii) First Wednesday in October.
(iii) Second Wednesday in February.
(iv) Fourth Wednesday in April.

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

Except as otherwise provided in this subsection, a pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, is not counted as 1.0 full-time equated membership. A pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day is not counted as 1.0 full-time equated membership. In addition, a pupil who was enrolled and in attendance in a district, intermediate district, or public school academy before the pupil membership count day or supplemental count day of a particular year but was expelled or suspended on the pupil membership count day or supplemental count day is only counted as 1.0 full-time equated membership if the pupil resumed attendance in the district, intermediate district, or public school academy within 45 days after the pupil membership count day or supplemental count day of that particular year. A pupil not counted as 1.0 full-time equated
membership due to an absence from a class is counted as a prorated membership for the classes the pupil attended. For purposes of As used in this subsection, "class" means either of the following, as applicable:

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

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

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

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

(a) They are receiving instruction in a location other than a school building operated by the district in which they are enrolled, in a synchronous or asynchronous manner, through hard-copy materials provided by the district that may be provided and utilized in a nonvirtual manner on the 2021-2022 pupil membership count day or the 2021-2022 supplemental count day, as applicable.

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

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

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

(c) The pupil is in quarantine pursuant to an order, notice, recommendation, instruction, or directive issued by the local health department, as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105, and any of the following apply to the pupil:
(i) The pupil has tested positive for COVID-19.

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

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

(iv) An individual who resides in the same household as the pupil is positive for COVID-19.


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The primary district, in collaboration with the pupil, has
developed an education development plan, in a form and manner
specified by the department, that is kept on file by the district.
This subdivision does not apply to a pupil enrolled as a part-time pupil under section 166b.
(ii) A pupil described in subsection (14).

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

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

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

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

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

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

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

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

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

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

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

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

(k) If a pupil is denied enrollment in a virtual course by the pupil's primary district, the primary district shall provide written notification to the pupil of the denial, the reason or reasons for the denial under subsection (5), and a description of the appeal process. The pupil may appeal the denial by submitting a letter to the superintendent of the intermediate district in which the pupil's primary district is located. The letter of appeal must include the reason provided by the primary district for not enrolling the pupil and the reason why the pupil is claiming that the enrollment should be approved. The intermediate district superintendent or designee shall respond to the appeal within 5 days after it is received. If the intermediate district
superintendent or designee determines that the denial of enrollment
does not meet 1 or more of the reasons specified in subsection (5),
the primary district shall enroll the pupil in the virtual course.

(7) To provide a virtual course to an eligible pupil under
this section, a provider must do all of the following:
(a) Ensure that the virtual course has been published in the
pupil's primary district’s catalog of board-approved courses or
published in the statewide catalog of virtual courses maintained by
the Michigan Virtual University.
(b) Assign to each pupil a teacher of record and provide the
primary district with the personnel identification code assigned by
the center for the teacher of record. If the provider is a
community college, the virtual course must be taught by an
instructor employed by or contracted through the providing
community college.
(c) Offer the virtual course on an open entry and exit method,
or aligned to a semester, trimester, or accelerated academic term
format.
(d) If the virtual course is offered to eligible pupils in
more than 1 district, the following additional requirements must
also be met:
(i) Provide the Michigan Virtual University with a course
syllabus that meets the definition under subsection (14)(g) in a
form and manner prescribed by the Michigan Virtual University for
inclusion in a statewide catalog of virtual courses.
(ii) Not later than October 1 of each fiscal year, provide the
Michigan Virtual University with an aggregated count of enrollments
for each virtual course the provider delivered to pupils under this
section during the immediately preceding school year, and the
number of enrollments in which the pupil earned 60% or more of the
total course points for each virtual course.

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

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

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

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

(12) If a pupil successfully completes a virtual course, as
determined by the pupil's primary district, the pupil's primary
district shall grant appropriate academic credit for completion of
the course and shall count that credit toward completion of
graduation and subject area requirements. A pupil's school record
and transcript must identify the virtual course title as it appears
in the virtual course syllabus.

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

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

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

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

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

(d) An individual who resides in the same household as the
pupil is positive for COVID-19.

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

As used in this section:

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

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

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

(d) "Provider" means the district, intermediate district, or
community college that the primary district pays to provide the
virtual course or the Michigan Virtual University if it is
providing the virtual course. Beginning on the first day of the
2020-2021 school year through August 31, 2021, 2022, "provider"
also includes any other institution or individual that the primary
district pays to provide the virtual course.

(e) "Teacher of record" means a teacher who meets all of the
following:
(i) Holds a valid Michigan teaching certificate or a teaching permit recognized by the department.

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

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

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

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

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

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

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

(ii) The virtual course content outline.

(iii) The virtual course required assessments.

(iv) The virtual course prerequisites.

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

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

(vii) The virtual course learning outcomes and objectives.

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

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

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

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

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

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

Sec. 101. (1) To be eligible to receive state aid under this article, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent shall submit and certify to the center and the intermediate superintendent, in the form and manner prescribed by the center, the number of pupils enrolled and in regular daily attendance, including identification of tuition-paying pupils, in the district as of the pupil membership count day and as of the supplemental...
count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year shall submit and certify to the center and the intermediate superintendent, in the form and manner prescribed by the center, the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the sixth Wednesday after the pupil membership count day and not later than the sixth Wednesday after the supplemental count day, the district shall resolve any pupil membership conflicts with another district, correct any data issues, and recertify the data in a form and manner prescribed by the center and file the certified data with the intermediate superintendent. If a district fails to submit and certify the attendance data, as required under this subsection, the center shall notify the department and the department shall withhold state aid due to be distributed under this article from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If a district does not comply with this subsection by the end of the fiscal year, the district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment is subject to penalty as prescribed by section 161.

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

(3) Except as otherwise provided in subsections (11) and (12)
all of the following apply to the provision of pupil instruction:
(a) Except as otherwise provided in this section, each
district shall provide at least 1,098 hours and 180 days of pupil
instruction. If a collective bargaining agreement that provides a
complete school calendar was in effect for employees of a district
as of June 24, 2014, and if that school calendar is not in
compliance with this subdivision, then this subdivision does not
apply to that district until after the expiration of that
collective bargaining agreement. A district may apply for a waiver
under subsection (9) from the requirements of this subdivision.
(b) Except as otherwise provided in this article, a district
failing to comply with the required minimum hours and days of pupil
instruction under this subsection forfeits from its total state aid
allocation an amount determined by applying a ratio of the number
of hours or days the district was in noncompliance in relation to
the required minimum number of hours and days under this
subsection. Not later than the first business day in August, the
board of each district shall either certify to the department that
the district was in full compliance with this section regarding the number of hours and days of pupil instruction in the previous school year, or report to the department, in a form and manner prescribed by the center, each instance of noncompliance. If the district did not provide at least the required minimum number of hours and days of pupil instruction under this subsection, the department shall make the deduction of state aid in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (6).

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

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

(e) If a district adds 1 or more days of pupil instruction to the end of its instructional calendar for a school year to comply with subdivision (a) because the district otherwise would fail to provide the required minimum number of days of pupil instruction even after the operation of subsection (4) due to conditions not within the control of school authorities, then subdivision (d) does not apply for any day of pupil instruction that is added to the end of the instructional calendar. Instead, Subject to subdivisions (i)
and (j), instead, for any of those days, if the district does not have at least 60% of the district's membership in attendance, including pupils who are enrolled in a virtual course under section 21f and utilizing the exemptions under section 21f(14), on that day, the department shall pay the district state aid in that proportion of 1/180 that the actual percentage of attendance bears to 60%. For any day of pupil instruction added to the instructional calendar as described in this subdivision, the district shall report to the department the percentage of the district's membership that is in attendance, in the form and manner prescribed by the department.

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

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

(ii) For each enrolled pupil, the district uses appropriate academic assessments to develop an individual education plan that leads to a high school diploma.
(iii) The district tests each pupil to determine academic progress at regular intervals and records the results of those tests in that pupil's individual education plan.

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

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

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

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

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

(i) For 2021-2022, a pupil who is enrolled in a virtual course under section 21f and utilizing the exemptions under section 21f(14) is only considered in attendance for purposes of subdivisions (d), (e), and (f) if 1 2-way interaction occurs between the pupil and the pupil's teacher or at least 1 of the pupil's teachers or another district employee who has
responsibility for the pupil's learning, grade progression, or academic progress for each school day during which the pupil is utilizing the exemptions under section 21f(14). As used in this subdivision, "2-way interaction" means that term as defined in section 6(10)(b)(i).

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

(4) Except as otherwise provided in this subsection, the first 6 days or the equivalent number of hours for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, utility power unavailability, water or sewer failure, or health conditions as defined by the city, county, or state health authorities, are counted as hours and days of pupil instruction. With the approval of the superintendent of public instruction, the department shall count as hours and days of pupil instruction for a fiscal year not more than 3 additional days or the equivalent number of additional hours for which pupil instruction is not provided in a district due to unusual and extenuating occurrences resulting from conditions not within the control of school
authorities such as those conditions described in this subsection. Subsequent such hours or days are not counted as hours or days of pupil instruction.

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

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

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

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

(7) In providing the minimum number of hours and days of pupil instruction required under subsection (3), a district shall use the following guidelines, and a district shall maintain records to substantiate its compliance with the following guidelines:
(a) Except as otherwise provided in this subsection, a pupil must be scheduled for at least the required minimum number of hours of instruction, excluding study halls, or at least the sum of 90 hours plus the required minimum number of hours of instruction, including up to 2 study halls.

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

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

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

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

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

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

(f) For 2021-2022, if a district provides instruction to pupils in quarantine who are being educated through physical educational materials, the district may count as hours and days of pupil instruction the amount of instruction provided in the educational materials, including, but not limited to, instruction taught by the pupil's teacher through the educational materials, equivalent to the hours and days of pupil instruction for which those educational materials would have been discussed, completed, provided, or otherwise instructed in person at a school building operated by the district.

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

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

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

(b) If the waiver is for a 100% online model of delivery and the educational program for which the waiver is granted makes educational services available to pupils for a minimum of at least 1,098 hours during a school year and ensures that each pupil is on track for course completion at proficiency level, a waiver that is
granted for the 2011-2012 fiscal year or a subsequent fiscal year remains in effect unless it is revoked by the superintendent.

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

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

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

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

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

(d) Professional development may only be counted as hours of pupil instruction under this subsection for the pupils of those teachers scheduled to participate in the professional development.
(e) The professional development must meet all of the following to be counted as pupil instruction under this subsection:

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

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

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

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

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

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

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

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

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

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

(a) They are receiving instruction in a location other than a school building operated by the district in which they are enrolled, in a synchronous or asynchronous manner, through hard-copy materials provided by the district that may be provided and utilized in a nonvirtual manner.

(b) The pupil is in quarantine pursuant to an order, notice, recommendation, instruction, or directive issued by the local health department, as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105, and any of the following apply to the pupil:

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

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

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

(iv) An individual who resides in the same household as the
Sec. 163. (1) Except as otherwise provided in the revised school code, the board of a district or intermediate district shall not permit any of the following:

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

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

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

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

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

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

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

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

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

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

(7) There must be no deduction under subsection (2) for a period of employment in violation of this section that occurs between July 1, 2020 and June 30, 2021.
(8) There must be no deduction under subsection (2) for a period of employment in violation of subsection (1)(a) that occurs during the 2021-2022 school year.

(9) Subsection (6) does not apply for a school official who employs an individual in violation of subsection (1)(a) during the 2021-2022 school year.

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