

# HOUSE BILL NO. 5911

June 24, 2020, Introduced by Reps. Markkanen and Hornberger and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending section 21f (MCL 388.1621f), as amended by 2018 PA 265.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 21f. (1) ~~A~~**Except as otherwise provided under subsection**  
2 **(15), a** primary district shall enroll an eligible pupil in virtual  
3 courses in accordance with the provisions of this ~~section. A~~  
4 **subsection and subsections (2) to (13). Except as otherwise**  
5 **provided under subsection (15), a** primary district shall not offer  
6 a virtual course to an eligible pupil unless the virtual course is



1 published in the primary district's catalog of board-approved  
 2 courses, **in the catalog of board-approved courses of the**  
 3 **intermediate district in which the primary district is located,** or  
 4 in ~~the~~ a statewide catalog of virtual courses maintained by ~~the~~  
 5 ~~Michigan Virtual University pursuant to section 98.~~ **a qualifying**  
 6 **statewide educational institution.** The primary district shall also  
 7 **ensure that its catalog of board-approved courses described in this**  
 8 **subsection is made available to pupils in the same form and manner**  
 9 **that its catalog of in-person courses is made available to pupils**  
 10 **and** provide on its publicly accessible website a link to the  
 11 statewide ~~catalog~~ **catalogs** of virtual courses maintained by ~~the~~  
 12 ~~Michigan Virtual University.~~ **Unless each qualifying statewide**  
 13 **educational institution. Except as otherwise provided under**  
 14 **subsection (15), unless** the pupil is at least age 18 or is an  
 15 emancipated minor, a pupil ~~shall~~ **must** not be enrolled in a virtual  
 16 course without the consent of the pupil's parent or legal guardian.

17 (2) Subject to subsection (3), **and except as otherwise**  
 18 **provided under subsection (15),** a primary district shall enroll an  
 19 eligible pupil in up to 2 virtual courses as requested by the pupil  
 20 during an academic term, semester, or trimester. **To the extent**  
 21 **practicable, a primary district shall ensure that the enrollment**  
 22 **process for a virtual course is the same as the enrollment process**  
 23 **for an in-person course offered by the primary district.**

24 (3) ~~A~~ **Except as otherwise provided under subsection (15), a**  
 25 pupil may be enrolled in more than 2 virtual courses in a specific  
 26 academic term, semester, or trimester if ~~all~~ **any** of the following  
 27 ~~conditions are met:~~ **apply:**

28 (a) **All of the following conditions are met:**

29 (i) The primary district has determined that it is in the best



1 interest of the pupil.

2 (ii) ~~(b)~~—The pupil agrees with the recommendation of the  
3 primary district.

4 (iii) ~~(e)~~—The primary district, in collaboration with the pupil,  
5 has developed an education development plan, in a form and manner  
6 specified by the department, that is kept on file by the **primary**  
7 district. ~~Beginning October 1, 2016, this~~ **This** subdivision does not  
8 apply to a pupil enrolled as a part-time pupil under section 166b.

9 (b) **The pupil has exhibited an academic deficiency by testing**  
10 **below grade level in 1 or more subjects on the Michigan student**  
11 **test of educational progress (M-STEP) or a successor state**  
12 **assessment or a benchmark assessment administered by the primary**  
13 **district and the virtual course or courses are designed to remedy**  
14 **this deficiency.**

15 (c) **For the 2020-2021 school year only, the pupil's parent or**  
16 **legal guardian requests the pupil's enrollment in more than 2**  
17 **virtual courses as described in this subsection due to health,**  
18 **safety, and welfare concerns related to the COVID-19 pandemic.**  
19 **However, a pupil who enrolls in 1 or more virtual courses under**  
20 **this subdivision must participate in all state-administered and**  
21 **district-administered assessments to the same extent as if the**  
22 **pupil was participating in in-person courses at the primary**  
23 **district.**

24 (4) ~~If~~ **Except as otherwise provided under subsection (15), if**  
25 the number of applicants eligible for acceptance in a virtual  
26 course does not exceed the capacity of the provider to provide the  
27 virtual course, the provider shall accept for enrollment all of the  
28 applicants eligible for acceptance. ~~If~~ **Except as otherwise provided**  
29 **under subsection (15), if** the number of applicants exceeds the



1 provider's capacity to provide the virtual course, the provider  
2 shall use a random draw system, subject to the need to abide by  
3 state and federal antidiscrimination laws and court orders. A  
4 **Except as otherwise provided under subsection (15),** a primary  
5 district that is also a provider shall determine whether or not it  
6 has the capacity to accept applications for enrollment from  
7 nonresident applicants in virtual courses and may use that limit as  
8 the reason for refusal to enroll a nonresident applicant.

9 (5) ~~A-Except as otherwise provided under subsection (15),~~ a  
10 primary district may not establish additional requirements beyond  
11 those specified in this subsection that would prohibit a pupil from  
12 taking a virtual course. ~~A-Except as otherwise provided under~~  
13 **subsection (15),** a pupil's primary district may deny the pupil  
14 enrollment in ~~an online-~~**a virtual** course if any of the following  
15 apply, as determined by the district:

16 (a) The pupil is enrolled in any of grades K to 5 **and the**  
17 **virtual course is not aligned to age-appropriate academic standards**  
18 **for that grade level.**

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

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

23 (d) The virtual course is inconsistent with the **pupil's**  
24 remaining graduation requirements. ~~or career interests of the~~  
25 ~~pupil.~~

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

29 (f) ~~The-Except for a pupil who is enrolling in a virtual~~



1 **course intended to remedy an academic deficiency as described in**  
 2 **subsection (3) (b), the** pupil has failed a previous virtual course  
 3 in the same subject during the 2 most recent academic years.

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

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

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

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

20 **(6) If—Except as otherwise provided under subsection (15), if**  
 21 a pupil is denied enrollment in a virtual course by the pupil's  
 22 primary district, the primary district shall provide written  
 23 notification to the pupil of the denial, the reason or reasons for  
 24 the denial ~~pursuant to—~~**under** subsection (5), and a description of  
 25 the appeal process. The pupil may appeal the denial by submitting a  
 26 letter to the superintendent of the intermediate district in which  
 27 the pupil's primary district is located. The letter of appeal ~~shall~~  
 28 **must** include the reason provided by the primary district for not  
 29 enrolling the pupil and the reason why the pupil is claiming that



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

7 ~~To~~ **Except as otherwise provided under subsection (15), to**  
 8 provide a virtual course to an eligible pupil under this section, a  
 9 provider ~~shall~~ **must** do all of the following:

10 (a) Ensure that the virtual course has been published in the  
 11 pupil's primary district's catalog of board-approved courses,  
 12 **published in the catalog of board-approved courses of the**  
 13 **intermediate district in which the pupil's primary district is**  
 14 **located,** or published in ~~the~~ a statewide catalog of virtual courses  
 15 maintained by ~~the Michigan Virtual University.~~ **a qualifying**  
 16 **statewide educational institution. For the purposes of this**  
 17 **section, a district, intermediate district, or qualifying statewide**  
 18 **educational institution is responsible for ensuring that a virtual**  
 19 **course is of a quality or rigor at least equal to or greater than**  
 20 **that of an in-person course offered by the district, intermediate**  
 21 **district, or qualifying statewide educational institution before**  
 22 **offering the virtual course in its catalog of courses described in**  
 23 **this subsection.**

24 (b) For a virtual course in a core academic subject or for a  
 25 virtual course that would fulfill 1 or more of the credit  
 26 requirements of the Michigan merit standard under section 1278a or  
 27 1278b of the revised school code, MCL 380.1278a or 380.1278b,  
 28 ensure that the virtual course is aligned to the appropriate state  
 29 content standards established by the department.



1           (c) ~~(b)~~ Assign to each pupil a teacher of record and provide  
 2 the primary district with the personnel identification code  
 3 assigned by the center for the teacher of record. If the provider  
 4 is a community college **or state public university**, the virtual  
 5 course must be taught by an instructor employed by or contracted  
 6 through the providing community college **or state public university**.

7           (d) ~~(e)~~ Offer the virtual course on an open entry and exit  
 8 method, or aligned to a semester, trimester, or accelerated  
 9 academic term format.

10           (e) ~~(d)~~ If the virtual course is offered to eligible pupils in  
 11 more than 1 district, the following additional requirements must  
 12 also be met:

13           (i) Provide the Michigan Virtual University **described in**  
 14 **section 98** with a course syllabus that meets the definition under  
 15 subsection ~~(14)(g)~~ **(14)(j)** in a form and manner prescribed by the  
 16 Michigan Virtual University for inclusion in a statewide catalog of  
 17 virtual courses.

18           (ii) Not later than October 1 of each fiscal year, provide the  
 19 Michigan Virtual University **described in section 98** with an  
 20 aggregated count of enrollments for each virtual course the  
 21 provider delivered to pupils ~~pursuant to~~ **under** this section during  
 22 the immediately preceding school year, and the number of  
 23 enrollments in which the pupil earned 60% or more of the total  
 24 course points for each virtual course.

25           (8) ~~To~~ **Except as otherwise provided under subsection (15), to**  
 26 provide ~~an online~~ **a virtual** course under this section, a community  
 27 college ~~shall~~ **or state public university must** ensure that each  
 28 ~~online~~ **virtual** course it provides under this section generates  
 29 postsecondary credit.



1           (9) ~~For~~**Except as otherwise provided under subsection (15),**  
2 **for** any virtual course a pupil enrolls in under this section, the  
3 pupil's primary district must assign to the pupil a mentor and  
4 shall supply the provider with the mentor's contact information.

5           (10) ~~For~~**Except as otherwise provided under subsection (15),**  
6 **for** a pupil enrolled in 1 or more virtual courses, the primary  
7 district shall use foundation allowance or per-pupil funds  
8 calculated under section 20 to pay for the expenses associated with  
9 the virtual course or courses. ~~A~~**Except as otherwise provided in**  
10 **this subsection or subsection (15),** a primary district is not  
11 required to pay toward the cost of a virtual course an amount that  
12 exceeds 6.67% of the minimum foundation allowance for the current  
13 fiscal year as calculated under section 20. **However, for a pupil**  
14 **enrolled in a virtual course that is provided by a community**  
15 **college or state public university, payment for that course must be**  
16 **an amount equal to the lesser of the amount of the eligible charges**  
17 **or the prorated percentage of the statewide pupil-weighted average**  
18 **foundation allowance, as calculated under this subsection and**  
19 **section 20, for all districts for the fiscal year that begins on**  
20 **October 1 of the academic year of enrollment in the virtual course,**  
21 **with the proration based on the proportion of the school year that**  
22 **the pupil is enrolled in the virtual course. In the calculation of**  
23 **the statewide pupil-weighted average foundation allowance for the**  
24 **purposes of this subsection, if a district's foundation allowance**  
25 **is above the target foundation allowance under section 20, then the**  
26 **district's foundation allowance is considered to be the target**  
27 **foundation allowance. As used in this subsection, "eligible**  
28 **charges" means tuition and mandatory course fees, material fees,**  
29 **and registration fees required by the community college or state**





1 public university for the virtual course, and include any late fees  
2 charged by the community college or state public university due to  
3 the primary district's failure to make a required payment. Eligible  
4 charges do not include transportation or parking costs or activity  
5 fees.

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

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

21 (13) The enrollment of a pupil in 1 or more virtual courses  
22 ~~shall does~~ not result in a pupil being counted as more than 1.0  
23 full-time equivalent pupils under this article. ~~The~~ **Except as**  
24 **otherwise provided under subsection (15), the** minimum requirements  
25 to count the pupil in membership are those established by the pupil  
26 accounting manual as it was in effect for the 2015-2016 school year  
27 or as subsequently amended by the department ~~if the department~~  
28 ~~notifies the legislature about the proposed amendment at least 60~~  
29 ~~days before the amendment becomes effective.~~ **immediately upon**



1 amendment if the amendment was recommended by the pupil accounting  
2 and pupil auditing manual oversight committee under section 18.

3 (14) As used in this section:

4 (a) "Community college" means a community college organized  
5 under the community college act of 1966, 1966 PA 331, MCL 389.1 to  
6 389.195.

7 (b) ~~(a)~~—"Instructor" means an individual who is employed by or  
8 contracted through a community college **or an individual who is**  
9 **employed by or contracted through a state public university.**

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

17 (d) ~~(e)~~—"Primary district" means the district that enrolls the  
18 pupil and reports the pupil for pupil membership purposes.

19 (e) ~~(d)~~—"Provider" means ~~the~~ **a district, including a district**  
20 **that operates as a cyber school as that term is defined in section**  
21 **551 of the revised school code, MCL 380.551, an intermediate**  
22 **district, ~~or~~ community college, state public university, or other**  
23 **person or entity** that the primary district pays to provide the  
24 virtual course. ~~or the Michigan Virtual University if it is~~  
25 ~~providing the virtual course.~~

26 (f) "Qualifying statewide educational institution" means the  
27 Michigan Virtual University described in section 98 or a state  
28 public university.

29 (g) "State public university" means a university described in



1 **section 4, 5, or 6 of article VIII of the state constitution of**  
 2 **1963.**

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

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

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

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

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

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

18 **(vi) If the provider is a state public university, is a regular**  
 19 **or adjunct member of the state public university's faculty.**

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

26 (j) ~~(g)~~—"Virtual course syllabus" means a document that  
 27 includes all of the following:

28 (i) An alignment document detailing how the course meets  
 29 applicable ~~state~~ standards **established by the department** or, if the



1 ~~state does not have state~~ **department has not established** standards  
2 **for that course or subject area**, nationally recognized standards.

3 (ii) The virtual course content outline.

4 (iii) The virtual course required assessments.

5 (iv) The virtual course prerequisites.

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

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

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

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

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

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

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

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

26 (k) ~~(h)~~—"Virtual learning pupil" means a pupil enrolled in 1  
27 or more virtual courses.

28 **(15) The requirements under this section concerning virtual**



1 courses do not apply to virtual courses offered as part of a  
2 program or programs for e-learning days adopted or renewed by a  
3 district under section 1851b of the revised school code, MCL  
4 380.1851b.

5 (16) The amendatory act that added subsection (15) must not be  
6 construed as imposing mandates on nonpublic schools.

7 Enacting section 1. This amendatory act does not take effect  
8 unless all of the following bills of the 100th Legislature are  
9 enacted into law:

10 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5910 (request no.  
11 06458'20 \*).

12 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5913 (request no.  
13 06899'20 \*).

