

# SENATE BILL NO. 940

March 02, 2022, Introduced by Senators BAYER, THEIS, POLEHANKI, HOLLIER, IRWIN, MCMORROW, BRINKS, WOJNO, HERTEL, MOSS, ALEXANDER, MCCANN and GEISS and referred to the Committee on Education and Career Readiness.

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending sections 6, 101, 104b, and 104c (MCL 388.1606,  
388.1701, 388.1704b, and 388.1704c), sections 6, 101, and 104c as  
amended by 2021 PA 48 and section 104b as amended by 2018 PA 265.

## **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

pupils from several districts in programs for pupils with autism spectrum disorder, pupils with severe cognitive impairment, pupils with moderate cognitive impairment, pupils with severe multiple impairments, pupils with hearing impairment, pupils with visual 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

1 times the number of full-time equated pupils in grades K to 12  
2 actually enrolled and in regular daily attendance in the district,  
3 public school academy, or intermediate district on the pupil  
4 membership count day for the current school year, plus the product  
5 of .10 times the final audited count from the supplemental count  
6 day of full-time equated pupils in grades K to 12 actually enrolled  
7 and in regular daily attendance in the district, public school  
8 academy, or intermediate district for the immediately preceding  
9 school year. A district's, public school academy's, or intermediate  
10 district's membership is adjusted as provided under section 25e for  
11 pupils who enroll after the pupil membership count day in a strict  
12 discipline academy operating under sections 1311b to 1311m of the  
13 revised school code, MCL 380.1311b to 380.1311m. For 2021-2022  
14 only, membership means for a district, a public school academy, or  
15 an intermediate district, the sum of the product of .90 times the  
16 number of full-time equated pupils in grades K to 12 actually  
17 enrolled and in regular daily attendance in the district, public  
18 school academy, or intermediate district on the pupil membership  
19 count day for the current school year and the product of .10 times  
20 the final audited count of the number of full-time equated pupils  
21 engaged in pandemic learning for spring 2021, or, for a public  
22 school academy that operates as a cyber school, as that term is  
23 defined in section 551 of the revised school code, MCL 380.551, the  
24 final audited count from the supplemental count day of full-time  
25 equated pupils in grades K to 12 actually enrolled and in regular  
26 daily attendance in the public school academy for the immediately  
27 preceding school year. **For 2022-2023 only, for an eligible**  
28 **district, as that term is defined in section 101(3)(h), the**  
29 **eligible district's membership is 1.00 times the final audited**

**1 count of full-time equated pupils in grades K to 12 actually**  
**2 enrolled and in regular daily attendance in the eligible district**  
**3 on only the 2021-2022 pupil membership count day.** All pupil counts  
4 used in this subsection are as determined by the department and  
5 calculated by adding the number of pupils registered for attendance  
6 plus pupils received by transfer and minus pupils lost as defined  
7 by rules promulgated by the superintendent, and as corrected by a  
8 subsequent department audit. The amount of the foundation allowance  
9 for a pupil in membership is determined under section 20. In making  
10 the calculation of membership, all of the following, as applicable,  
11 apply to determining the membership of a district, a public school  
12 academy, or an intermediate district:

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

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

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

29 (d) A pupil placed by a court or state agency in an on-grounds

1 program of a juvenile detention facility, a child caring  
2 institution, or a mental health institution, or a pupil funded  
3 under section 53a, is counted in membership in the district or  
4 intermediate district approved by the department to operate the  
5 program.

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

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

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

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

29 (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.

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

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

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

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

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

21 (B) Had dropped out of school.

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

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

1 intends to enroll the child in kindergarten for that school year.

2 (m) An individual who has achieved a high school diploma is  
3 not counted in membership. An individual who has achieved a high  
4 school equivalency certificate is not counted in membership unless  
5 the individual is a student with a disability as that term is  
6 defined in R 340.1702 of the Michigan Administrative Code. An  
7 individual participating in a job training program funded under  
8 former section 107a or a jobs program funded under former section  
9 107b, administered by the department of labor and economic  
10 opportunity, or participating in any successor of either of those 2  
11 programs, is not counted in membership.

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

24 (i) If the public school academy provides instruction for at  
25 least 1/2 of the class hours required under section 101, the public  
26 school academy receives as its prorated share of the full-time  
27 equated membership for each of those pupils an amount equal to 1  
28 times the product of the hours of instruction the public school  
29 academy provides divided by the number of hours required under



1 section 101 for full-time equivalency, and the remainder of the  
2 full-time membership for each of those pupils is allocated to the  
3 district or intermediate district providing the remainder of the  
4 hours of instruction.

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

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

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

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

1 work experience, including necessary travel time, on the number of  
2 class hours provided by the district to the pupil.

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

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

1 count from the supplemental count day for the current school year,  
2 and dividing that sum by 2.

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

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

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

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

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

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

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

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

20 (x) If a district's membership for a particular fiscal year,  
21 as otherwise calculated under this subsection, would be less than  
22 1,550 pupils, the district has 4.5 or fewer pupils per square mile,  
23 as determined by the department, and the district does not receive  
24 funding under section 22d(2), the district's membership is  
25 considered to be the membership figure calculated under this  
26 subdivision. If a district educates and counts in its membership  
27 pupils in grades 9 to 12 who reside in a contiguous district that  
28 does not operate grades 9 to 12 and if 1 or both of the affected  
29 districts request the department to use the determination allowed

1 under this sentence, the department shall include the square  
2 mileage of both districts in determining the number of pupils per  
3 square mile for each of the districts for the purposes of this  
4 subdivision. If a district has established a community engagement  
5 advisory committee in partnership with the department of treasury,  
6 is required to submit a deficit elimination plan or an enhanced  
7 deficit elimination plan under section 1220 of the revised school  
8 code, MCL 380.1220, and is located in a city with a population  
9 between 9,000 and 11,000, as determined by the department, that is  
10 in a county with a population between 150,000 and 160,000, as  
11 determined by the department, the district's membership is  
12 considered to be the membership figure calculated under this  
13 subdivision. The membership figure calculated under this  
14 subdivision is the greater of the following:

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

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

22 (y) Full-time equated memberships for special education pupils  
23 who are not enrolled in kindergarten but are enrolled in a  
24 classroom program under R 340.1754 of the Michigan Administrative  
25 Code are determined by dividing the number of class hours scheduled  
26 and provided per year by 450. Full-time equated memberships for  
27 special education pupils who are not enrolled in kindergarten but  
28 are receiving early childhood special education services under R  
29 340.1755 or R 340.1862 of the Michigan Administrative Code are

1 determined by dividing the number of hours of service scheduled and  
2 provided per year per pupil by 180.

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

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

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

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

25 (dd) For a pupil enrolled in a dropout recovery program that  
26 meets the requirements of section 23a, the pupil is counted as 1/12  
27 of a full-time equated membership for each month that the district  
28 operating the program reports that the pupil was enrolled in the  
29 program and was in full attendance. However, if the special

1 membership counting provisions under this subdivision and the  
2 operation of the other membership counting provisions under this  
3 subsection result in a pupil being counted as more than 1.0 FTE in  
4 a fiscal year, the payment made for the pupil under sections 22a  
5 and 22b must not be based on more than 1.0 FTE for that pupil, and  
6 any portion of an FTE for that pupil that exceeds 1.0 is instead  
7 paid under section 25g. The district operating the program shall  
8 report to the center the number of pupils who were enrolled in the  
9 program and were in full attendance for a month not later than 30  
10 days after the end of the month. A district shall not report a  
11 pupil as being in full attendance for a month unless both of the  
12 following are met:

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

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

24 (ee) A pupil participating in a virtual course under section  
25 21f is counted in membership in the district enrolling the pupil.

26 (ff) If a public school academy that is not in its first or  
27 second year of operation closes at the end of a school year and  
28 does not reopen for the next school year, the department shall  
29 adjust the membership count of the district or other public school

1 academy in which a former pupil of the closed public school academy  
2 enrolls and is in regular daily attendance for the next school year  
3 to ensure that the district or other public school academy receives  
4 the same amount of membership aid for the pupil as if the pupil  
5 were counted in the district or other public school academy on the  
6 supplemental count day of the preceding school year.

7 (gg) If a special education pupil is expelled under section  
8 1311 or 1311a of the revised school code, MCL 380.1311 and  
9 380.1311a, and is not in attendance on the pupil membership count  
10 day because of the expulsion, and if the pupil remains enrolled in  
11 the district and resumes regular daily attendance during that  
12 school year, the district's membership is adjusted to count the  
13 pupil in membership as if he or she had been in attendance on the  
14 pupil membership count day.

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

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

20 (jj) A district that borders another state or a public school  
21 academy that operates at least grades 9 to 12 and is located within  
22 20 miles of a border with another state may count in membership a  
23 pupil who is enrolled in a course at a college or university that  
24 is located in the bordering state and within 20 miles of the border  
25 with this state if all of the following are met:

26 (i) The pupil would meet the definition of an eligible student  
27 under the postsecondary enrollment options act, 1996 PA 160, MCL  
28 388.511 to 388.524, if the course were an eligible course under  
29 that act.



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

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

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

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

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

29           (ll) If a district's or public school academy's membership for

1 a particular fiscal year, as otherwise calculated under this  
2 subsection, includes pupils counted in membership who are enrolled  
3 under section 166b, all of the following apply for the purposes of  
4 this subdivision:

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

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

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

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

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

29 (5) "Public school academy" means that term as defined in

1 section 5 of the revised school code, MCL 380.5.

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

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

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

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

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

15 (e) A pupil who has made an official written complaint or  
16 whose parent or legal guardian has made an official written  
17 complaint to law enforcement officials and to school officials of  
18 the pupil's district of residence that the pupil has been the  
19 victim of a criminal sexual assault or other serious assault, if  
20 the official complaint either indicates that the assault occurred  
21 at school or that the assault was committed by 1 or more other  
22 pupils enrolled in the school the pupil would otherwise attend in  
23 the district of residence or by an employee of the district of  
24 residence. A person who intentionally makes a false report of a  
25 crime to law enforcement officials for the purposes of this  
26 subdivision is subject to section 411a of the Michigan penal code,  
27 1931 PA 328, MCL 750.411a, which provides criminal penalties for  
28 that conduct. As used in this subdivision:

29 (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

1 in this subdivision, "child" includes an adopted child, stepchild,  
2 or legal ward.

3 (j) An expelled pupil who has been denied reinstatement by the  
4 expelling district and is reinstated by another school board under  
5 section 1311 or 1311a of the revised school code, MCL 380.1311 and  
6 380.1311a.

7 (k) A pupil enrolled in a district other than the pupil's  
8 district of residence in a middle college program if the pupil's  
9 district of residence and the enrolling district are both  
10 constituent districts of the same intermediate district.

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

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

17 (n) A pupil who enrolls in a district other than the pupil's  
18 district of residence as a result of the pupil's school not making  
19 adequate yearly progress under the no child left behind act of  
20 2001, Public Law 107-110, or the every student succeeds act, Public  
21 Law 114-95.

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

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

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

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

9 (i) Fourth Wednesday in July.

10 (ii) First Wednesday in October.

11 (iii) Second Wednesday in February.

12 (iv) Fourth Wednesday in April.

13 (8) "Pupils in grades K to 12 actually enrolled and in regular  
14 daily attendance" means pupils in grades K to 12 in attendance and  
15 receiving instruction in all classes for which they are enrolled on  
16 the pupil membership count day or the supplemental count day, as  
17 applicable. Except as otherwise provided in this subsection, a  
18 pupil who is absent from any of the classes in which the pupil is  
19 enrolled on the pupil membership count day or supplemental count  
20 day and who does not attend each of those classes during the 10  
21 consecutive school days immediately following the pupil membership  
22 count day or supplemental count day, except for a pupil who has  
23 been excused by the district, is not counted as 1.0 full-time  
24 equated membership. A pupil who is excused from attendance on the  
25 pupil membership count day or supplemental count day and who fails  
26 to attend each of the classes in which the pupil is enrolled within  
27 30 calendar days after the pupil membership count day or  
28 supplemental count day is not counted as 1.0 full-time equated  
29 membership. In addition, a pupil who was enrolled and in attendance

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

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

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

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

26 (10) "Rule" means a rule promulgated pursuant to the  
27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
28 24.328.

29 (11) "The revised school code" means the revised school code,

1 1976 PA 451, MCL 380.1 to 380.1852.

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

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

8 (14) "State board" means the state board of education.

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

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

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

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

29 (19) "Taxable value" means, except as otherwise provided in



1 this article, the taxable value of property as determined under  
2 section 27a of the general property tax act, 1893 PA 206, MCL  
3 211.27a.

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

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

15 Sec. 101. (1) To be eligible to receive state aid under this  
16 article, not later than the fifth Wednesday after the pupil  
17 membership count day and not later than the fifth Wednesday after  
18 the supplemental count day, each district superintendent shall  
19 submit and certify to the center and the intermediate  
20 superintendent, in the form and manner prescribed by the center,  
21 the number of pupils enrolled and in regular daily attendance,  
22 including identification of tuition-paying pupils, in the district  
23 as of the pupil membership count day and as of the supplemental  
24 count day, as applicable, for the current school year. In addition,  
25 a district maintaining school during the entire year shall submit  
26 and certify to the center and the intermediate superintendent, in  
27 the form and manner prescribed by the center, the number of pupils  
28 enrolled and in regular daily attendance in the district for the  
29 current school year pursuant to rules promulgated by the

1 superintendent. Not later than the sixth Wednesday after the pupil  
2 membership count day and not later than the sixth Wednesday after  
3 the supplemental count day, the district shall resolve any pupil  
4 membership conflicts with another district, correct any data  
5 issues, and recertify the data in a form and manner prescribed by  
6 the center and file the certified data with the intermediate  
7 superintendent. If a district fails to submit and certify the  
8 attendance data, as required under this subsection, the center  
9 shall notify the department and the department shall withhold state  
10 aid due to be distributed under this article from the defaulting  
11 district immediately, beginning with the next payment after the  
12 failure and continuing with each payment until the district  
13 complies with this subsection. If a district does not comply with  
14 this subsection by the end of the fiscal year, the district  
15 forfeits the amount withheld. A person who willfully falsifies a  
16 figure or statement in the certified and sworn copy of enrollment  
17 is subject to penalty as prescribed by section 161.

18 (2) To be eligible to receive state aid under this article,  
19 not later than the twenty-fourth Wednesday after the pupil  
20 membership count day and not later than the twenty-fourth Wednesday  
21 after the supplemental count day, an intermediate district shall  
22 submit to the center, in a form and manner prescribed by the  
23 center, the audited enrollment and attendance data as described in  
24 subsection (1) for the pupils of its constituent districts and of  
25 the intermediate district. If an intermediate district fails to  
26 submit the audited data as required under this subsection, the  
27 department shall withhold state aid due to be distributed under  
28 this article from the defaulting intermediate district immediately,  
29 beginning with the next payment after the failure and continuing

1 with each payment until the intermediate district complies with  
2 this subsection. If an intermediate district does not comply with  
3 this subsection by the end of the fiscal year, the intermediate  
4 district forfeits the amount withheld.

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

7 (a) Except as otherwise provided in this section, each  
8 district shall provide at least 1,098 hours and 180 days of pupil  
9 instruction. If a collective bargaining agreement that provides a  
10 complete school calendar was in effect for employees of a district  
11 as of June 24, 2014, and if that school calendar is not in  
12 compliance with this subdivision, then this subdivision does not  
13 apply to that district until after the expiration of that  
14 collective bargaining agreement. A district may apply for a waiver  
15 under subsection (9) from the requirements of this subdivision. **For**  
16 **2021-2022, the requirements under this subdivision do not apply to**  
17 **an eligible district if, in 2020-2021, the eligible district met**  
18 **the requirements under this subdivision. As used in this**  
19 **subdivision, "eligible district" means an eligible school district**  
20 **as that term is defined in section 1249 of the revised school code,**  
21 **MCL 380.1249.**

22 (b) Except as otherwise provided in this article, a district  
23 failing to comply with the required minimum hours and days of pupil  
24 instruction under this subsection forfeits from its total state aid  
25 allocation an amount determined by applying a ratio of the number  
26 of hours or days the district was in noncompliance in relation to  
27 the required minimum number of hours and days under this  
28 subsection. Not later than the first business day in August, the  
29 board of each district shall either certify to the department that

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

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

14 (d) Except as otherwise provided in subdivisions (e), ~~and (f)~~,  
15 **and (h)**, if a district does not have at least 75% of the district's  
16 membership in attendance on any day of pupil instruction, the  
17 department shall pay the district state aid in that proportion of  
18 1/180 that the actual percent of attendance bears to 75%.

19 (e) If a district adds 1 or more days of pupil instruction to  
20 the end of its instructional calendar for a school year to comply  
21 with subdivision (a) because the district otherwise would fail to  
22 provide the required minimum number of days of pupil instruction  
23 even after the operation of subsection (4) due to conditions not  
24 within the control of school authorities, then subdivision (d) does  
25 not apply for any day of pupil instruction that is added to the end  
26 of the instructional calendar. ~~Instead, Subject to subdivision (h)~~,  
27 **instead**, for any of those days, if the district does not have at  
28 least 60% of the district's membership in attendance on that day,  
29 the department shall pay the district state aid in that proportion

1 of 1/180 that the actual percentage of attendance bears to 60%. For  
2 any day of pupil instruction added to the instructional calendar as  
3 described in this subdivision, the district shall report to the  
4 department the percentage of the district's membership that is in  
5 attendance, in the form and manner prescribed by the department.

6 (f) At the request of a district that operates a department-  
7 approved alternative education program and that does not provide  
8 instruction for pupils in all of grades K to 12, the superintendent  
9 shall grant a waiver from the requirements of subdivision (d). ~~The~~

10 **Subject to subdivision (h), the** waiver must provide that an  
11 eligible district is subject to the proration provisions of  
12 subdivision (d) only if the district does not have at least 50% of  
13 the district's membership in attendance on any day of pupil  
14 instruction. In order to be eligible for this waiver, a district  
15 must maintain records to substantiate its compliance with the  
16 following requirements:

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

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

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

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

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

1 superintendent.

2 (ii) If the waiver is for a 100% online model of delivery and  
 3 the educational program for which the waiver is granted makes  
 4 educational services available to pupils for a minimum of at least  
 5 1,098 hours during a school year and ensures that each pupil  
 6 participates in the educational program for at least 1,098 hours  
 7 during a school year, a waiver that is granted for the 2011-2012  
 8 fiscal year or a subsequent fiscal year remains in effect unless it  
 9 is revoked by the superintendent.

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

14 (h) **The attendance percentage requirements under subdivisions**  
 15 **(d), (e), and (f) do not apply to an eligible district for the**  
 16 **2021-2022 school year. As used in this subdivision, "eligible**  
 17 **district" means an eligible school district as that term is defined**  
 18 **in section 1249 of the revised school code, MCL 380.1249.**

19 (i) ~~(h)~~ The superintendent shall promulgate rules for the  
 20 implementation of this subsection.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

26 (9) Upon application by the district for a particular fiscal  
27 year, the superintendent shall waive for a district the minimum  
28 number of hours and days of pupil instruction requirement of  
29 subsection (3) for a department-approved alternative education

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

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

19 (b) If the waiver is for a 100% online model of delivery and  
20 the educational program for which the waiver is granted makes  
21 educational services available to pupils for a minimum of at least  
22 1,098 hours during a school year and ensures that each pupil is on  
23 track for course completion at proficiency level, a waiver that is  
24 granted for the 2011-2012 fiscal year or a subsequent fiscal year  
25 remains in effect unless it is revoked by the superintendent.

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

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

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

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

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

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

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

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

29           (ii) Be linked to 1 or more criteria in the evaluation tool

1 developed or adopted by the district or intermediate district under  
2 section 1249 of the revised school code, MCL 380.1249.

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

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

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

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

17 (11) Subsections (3) and (8) do not apply to a school of  
18 excellence that is a cyber school, as that term is defined in  
19 section 551 of the revised school code, MCL 380.551, and is in  
20 compliance with section 553a of the revised school code, MCL  
21 380.553a.

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

26 (13) At least every 2 years the superintendent shall review  
27 the waiver standards set forth in the pupil accounting and auditing  
28 manuals to ensure that the waiver standards and waiver process  
29 continue to be appropriate and responsive to changing trends in

1 online learning. The superintendent shall solicit and consider  
2 input from stakeholders as part of this review.

3       Sec. 104b. (1) ~~In~~ **Except as otherwise provided in this**  
4 **subsection, in** order to receive state aid under this article, a  
5 district ~~shall~~ **must** comply with this section and ~~shall~~ **must**  
6 administer the Michigan merit examination to pupils in grade 11,  
7 and to pupils in grade 12 who did not take the complete Michigan  
8 merit examination in grade 11, as provided in this section. The  
9 Michigan merit examination consists of a college entrance test,  
10 work skills test, and the summative assessment known as the  
11 Michigan student test of educational progress (M-STEP). **However, if**  
12 **the department receives a waiver from assessment requirements under**  
13 **federal law from the United States Department of Education, an**  
14 **eligible district is not required to administer the Michigan merit**  
15 **examination as described in this subsection for the 2021-2022**  
16 **school year to receive state aid under this article.**

17       (2) For the purposes of this section, the department of  
18 technology, management, and budget shall contract with 1 or more  
19 providers to develop, supply, and score the Michigan merit  
20 examination. The Michigan merit examination ~~shall~~ **must** consist of  
21 all of the following:

22       (a) Assessment instruments that measure English language arts,  
23 mathematics, reading, and science, and are used by the majority of  
24 colleges and universities in this state for entrance purposes. This  
25 may include 1 or more writing components. In selecting assessment  
26 instruments to fulfill the requirements of this subdivision, the  
27 department may consider the degree to which those assessment  
28 instruments are aligned to this state's content standards.

29       (b) One or more tests from 1 or more test developers that

1 assess a pupil's ability to apply at least reading and mathematics  
2 skills in a manner that is intended to allow employers to use the  
3 results in making employment decisions. The department of  
4 technology, management, and budget and the superintendent shall  
5 ensure that any test or tests selected under this subdivision have  
6 all the components necessary to allow a pupil to be eligible to  
7 receive the results of a nationally recognized evaluation of  
8 workforce readiness if the pupil's test performance is adequate.

9 (c) A social studies component.

10 (d) Any other component that is necessary to obtain the  
11 approval of the United States Department of Education to use the  
12 Michigan merit examination for the purposes of the no child left  
13 behind act of 2001, Public Law 107-110, or the every student  
14 succeeds act, Public Law 114-95.

15 (3) In addition to all other requirements of this section, all  
16 of the following apply to the Michigan merit examination:

17 (a) The department of technology, management, and budget and  
18 the superintendent shall ensure that any contractor used for  
19 scoring the Michigan merit examination supplies an individual  
20 report for each pupil that will identify for the pupil's parents  
21 and teachers whether the pupil met expectations or failed to meet  
22 expectations for each standard, to allow the pupil's parents and  
23 teachers to assess and remedy problems before the pupil moves to  
24 the next grade.

25 (b) The department of technology, management, and budget and  
26 the superintendent shall ensure that any contractor used for  
27 scoring, developing, or processing the Michigan merit examination  
28 meets quality management standards commonly used in the assessment  
29 industry, including at least meeting level 2 of the capability

maturity model developed by the Software Engineering Institute of Carnegie Mellon University for the first year the Michigan merit examination is offered to all grade 11 pupils and at least meeting level 3 of the capability maturity model for subsequent years.

(c) The department of technology, management, and budget and the superintendent shall ensure that any contract for scoring, administering, or developing the Michigan merit examination includes specific deadlines for all steps of the assessment process, including, but not limited to, deadlines for the correct testing materials to be supplied to schools and for the correct results to be returned to schools, and includes penalties for noncompliance with these deadlines.

(d) The superintendent shall ensure that the Michigan merit examination meets all of the following:

(i) Is designed to test pupils on this state's content standards in all subjects tested.

(ii) Complies with requirements of the no child left behind act of 2001, Public Law 107-110 or the every student succeeds act, Public Law 114-95.

(iii) Is consistent with the code of fair testing practices in education prepared by the Joint Committee on Testing Practices of the American Psychological Association.

(iv) Is factually accurate. If the superintendent determines that a question is not factually accurate and should be excluded from scoring, the state board and the superintendent shall ensure that the question is excluded from scoring.

(4) A district shall include on each pupil's high school transcript ~~all~~ **both** of the following:

(a) For each high school graduate who has completed the

1 Michigan merit examination under this section, the pupil's scaled  
2 score on each subject area component of the Michigan merit  
3 examination.

4 (b) The number of school days the pupil was in attendance at  
5 school each school year during high school and the total number of  
6 school days in session for each of those school years.

7 (5) The superintendent shall work with the provider or  
8 providers of the Michigan merit examination to produce Michigan  
9 merit examination subject area scores for each pupil participating  
10 in the Michigan merit examination. To the extent that the  
11 department determines that additional test items beyond those  
12 included in the college entrance component of the Michigan merit  
13 examination are required in a particular subject area, the  
14 department shall ensure that all test items in that subject area  
15 are scaled and merged for the purposes of producing a Michigan  
16 merit examination subject area score. The superintendent shall  
17 design and distribute to districts, intermediate districts, and  
18 nonpublic schools a simple and concise document that describes the  
19 scoring for each subject area and indicates the scaled score ranges  
20 for each subject area.

21 (6) ~~The~~ **Except as otherwise provided in this section, the**  
22 Michigan merit examination ~~shall~~ **must** be administered in each  
23 district during the last 12 weeks of the district's school year.  
24 The superintendent shall ensure that the Michigan merit examination  
25 is scored and the scores are returned to pupils, their parents or  
26 legal guardians, and districts not later than the beginning of the  
27 pupil's first semester of grade 12. The returned scores ~~shall~~ **must**  
28 indicate at least the pupil's scaled score for each subject area  
29 component and the range of scaled scores for each subject area. In



1 reporting the scores to pupils, parents, and schools, the  
 2 superintendent shall provide standards-specific, meaningful, and  
 3 timely feedback on the pupil's performance on the Michigan merit  
 4 examination.

5 (7) A district shall administer the complete Michigan merit  
 6 examination to a pupil only once and shall not administer the  
 7 complete Michigan merit examination to the same pupil more than  
 8 once. ~~If~~ **Except as otherwise provided in this section, if** a pupil  
 9 does not take the complete Michigan merit examination in grade 11,  
 10 the district shall administer the complete Michigan merit  
 11 examination to the pupil in grade 12. If a pupil chooses to retake  
 12 the college entrance examination component of the Michigan merit  
 13 examination, as described in subsection (2)(a), the pupil may do so  
 14 through the provider of the college entrance examination component  
 15 and the cost of the retake is the responsibility of the pupil  
 16 unless all of the following are met:

17 (a) The pupil has taken the complete Michigan merit  
 18 examination.

19 (b) The pupil meets the income eligibility criteria for free  
 20 breakfast, lunch, or milk, as determined under the Richard B.  
 21 Russell national school lunch act, 42 USC 1751 to ~~1769i~~ **1769j**.

22 (c) The pupil has applied to the provider of the college  
 23 entrance examination component for a scholarship or fee waiver to  
 24 cover the cost of the retake and that application has been denied.

25 (d) After taking the complete Michigan merit examination, the  
 26 pupil has not already received a free retake of the college  
 27 entrance examination component paid for either by this state or  
 28 through a scholarship or fee waiver by the provider.

29 (8) The superintendent shall ensure that the length of the

1 Michigan merit examination and the combined total time necessary to  
2 administer all of the components of the Michigan merit examination  
3 are the shortest possible that will still maintain the degree of  
4 reliability and validity of the Michigan merit examination results  
5 determined necessary by the superintendent. The superintendent  
6 shall ensure that the maximum total combined length of time that  
7 schools are required to set aside for pupils to answer all test  
8 questions on the Michigan merit examination does not exceed 8 hours  
9 if the superintendent determines that sufficient alignment to  
10 applicable Michigan merit curriculum content standards can be  
11 achieved within that time limit.

12 (9) A district shall provide accommodations to a pupil with  
13 disabilities for the Michigan merit examination, as provided under  
14 section 504 of title V of the rehabilitation act of 1973, 29 USC  
15 794; ~~subtitle~~ **part** A of ~~title~~ **subchapter** II of the Americans with  
16 disabilities act of 1990, 42 USC 12131 to 12134; the individuals  
17 with disabilities education act amendments of 1997, Public Law 105-  
18 17; and the implementing regulations for those statutes. The  
19 provider or providers of the Michigan merit examination and the  
20 superintendent shall mutually agree upon the accommodations to be  
21 provided under this subsection.

22 (10) To the greatest extent possible, the Michigan merit  
23 examination ~~shall~~ **must** be based on this state's content standards,  
24 as appropriate. Annually, after each administration of the Michigan  
25 merit examination, the department shall provide a report of the  
26 points per standard so that teachers will know what content will be  
27 covered within the Michigan merit examination. The department may  
28 augment the college entrance and work skills components of the  
29 Michigan merit examination to develop the assessment, depending on

1 the alignment of those components to this state's content  
 2 standards. If these components do not align to these standards, the  
 3 department shall produce additional components as required by law,  
 4 while minimizing the amount of time needed for assessments.

5 (11) A child who is a student in a nonpublic school or home  
 6 school may take the Michigan merit examination under this section.  
 7 ~~To~~**Except as otherwise provided in this subsection, to** take the  
 8 Michigan merit examination, a child who is a student in a home  
 9 school shall contact the district in which the child resides, and  
 10 that district shall administer the Michigan merit examination, or  
 11 the child may take the Michigan merit examination at a nonpublic  
 12 school if allowed by the nonpublic school. **If an eligible district**  
 13 **is contacted by a child who is a student in a home school as**  
 14 **described in the immediately preceding sentence, the eligible**  
 15 **district is not required to administer the Michigan merit**  
 16 **examination to the child if the eligible district is not**  
 17 **administering the Michigan merit examination to pupils enrolled in**  
 18 **the eligible district for the 2021-2022 school year.** Upon request  
 19 from a nonpublic school, the superintendent shall direct the  
 20 provider or providers to supply the Michigan merit examination to  
 21 the nonpublic school and the nonpublic school may administer the  
 22 Michigan merit examination. If a district administers the Michigan  
 23 merit examination under this subsection to a child who is not  
 24 enrolled in the district, the scores for that child are not  
 25 considered for any purpose to be scores of a pupil of the district.

26 (12) In contracting under subsection (2), the department of  
 27 technology, management, and budget shall consider a contractor that  
 28 provides ~~electronically-scored~~**electronically scored** essays with  
 29 the ability to score constructed response feedback in multiple

1 languages and provide ongoing instruction and feedback.

2 (13) The purpose of the Michigan merit examination is to  
3 assess pupil performance in mathematics, science, social studies,  
4 and English language arts for the purpose of improving academic  
5 achievement and establishing a statewide standard of competency.  
6 The assessment under this section provides a common measure of data  
7 that will contribute to the improvement of Michigan schools'  
8 curriculum and instruction by encouraging alignment with Michigan's  
9 curriculum framework standards and promotes pupil participation in  
10 higher level mathematics, science, social studies, and English  
11 language arts courses. These standards are based upon the  
12 expectations of what pupils should learn through high school and  
13 are aligned with national standards.

14 (14) For a pupil enrolled in a middle college program, other  
15 than a middle college operated as a shared educational entity or a  
16 specialized shared educational entity, if the pupil receives at  
17 least 50% of his or her instruction at the high school while in  
18 grade 11, the Michigan merit examination ~~shall~~**must** be administered  
19 to the pupil at the high school at which the pupil receives high  
20 school instruction, and the department shall include the pupil's  
21 scores on the Michigan merit examination in the scores for that  
22 high school for all purposes for which a school's or district's  
23 results are reported. The department shall allow the middle college  
24 program to use a 5-year graduation rate for determining adequate  
25 yearly progress. As used in this subsection, "middle college" means  
26 a program consisting of a series of courses and other requirements  
27 and conditions, including an early college or other program created  
28 under a memorandum of understanding, that allows a pupil to  
29 graduate from high school with both a high school diploma and a

1 certificate or degree from a community college or state public  
2 university.

3 (15) As used in this section:

4 (a) **"Eligible district" means that term as defined in section**  
5 **101(3)(h) .**

6 (b) ~~(a)~~ "English language arts" means reading and writing.

7 (c) ~~(b)~~ "Social studies" means United States history, world  
8 history, world geography, economics, and American government.

9 (16) For each report made by the department that includes the  
10 statewide assessment results for a school building, the department  
11 shall include the scores for the statewide assessment and the  
12 graduation rate for consortium pupils with the scores for the  
13 school building in the participating district in which the  
14 consortium pupil is enrolled or would otherwise attend. The  
15 statewide assessment for a consortium pupil may be administered  
16 either at the consortium location or at the school building in the  
17 participating district in which the consortium pupil is enrolled or  
18 would otherwise attend. For the purposes of this subsection, a  
19 consortium pupil is a pupil who is enrolled or participating in a  
20 participating district in a school or program operated as a  
21 consortium or under a cooperative arrangement formed by 2 or more  
22 districts or intermediate districts, including, but not limited to,  
23 a consortium or cooperative arrangement operated as a program, a  
24 shared educational entity, a specialized educational entity, or a  
25 special education center program.

26 Sec. 104c. (1) ~~In~~ **Except as otherwise provided in this**  
27 **subsection, in** order to receive state aid under this article, a  
28 district ~~shall~~ **must** administer the state assessments described in  
29 this section. **However, if the department receives a waiver from**

1    **assessment requirements under federal law from the United States**  
2    **Department of Education, an eligible district is not required to**  
3    **administer the state assessments described in this section for the**  
4    **2021-2022 school year to receive state aid under this article.**

5        (2) For the purposes of this section, the department shall  
6    develop and administer the Michigan student test of educational  
7    progress (M-STEP) assessments in English language arts and  
8    mathematics. These assessments ~~shall~~**must** be aligned to state  
9    standards.

10       (3) For the purposes of this section, the department shall  
11   implement a summative assessment system that is proven to be valid  
12   and reliable for administration to pupils as provided under this  
13   subsection. The summative assessment system must meet all of the  
14   following requirements:

15       (a) The summative assessment system must measure student  
16   proficiency on the current state standards, must measure student  
17   growth for consecutive grade levels in which students are assessed  
18   in the same subject area in both grade levels, and must be capable  
19   of measuring individual student performance.

20       (b) ~~The~~**Except as otherwise provided in this section, the**  
21   summative assessments for English language arts and mathematics  
22   must be administered to all public school pupils in grades 3 to 11,  
23   including those pupils as required by the federal individuals with  
24   disabilities education act, Public Law 108-446, and by title I of  
25   the federal every student succeeds act (ESSA), Public Law 114-95.

26       (c) ~~The~~**Except as otherwise provided in this section, the**  
27   summative assessments for science must be administered to all  
28   public school pupils in at least grades 5 and 8, including those  
29   pupils as required by the federal individuals with disabilities

1 education act, Public Law 108-446, and by title I of the federal  
2 every student succeeds act (ESSA), Public Law 114-95.

3 (d) ~~The~~ **Except as otherwise provided in this section, the**  
4 summative assessments for social studies must be administered to  
5 all public school pupils in at least grades 5 and 8, including  
6 those pupils as required by the ~~federal~~ individuals with  
7 disabilities education act, Public Law 108-446, and by title I of  
8 the ~~federal~~ every student succeeds act (ESSA), Public Law 114-95.

9 (e) The content of the summative assessments must be aligned  
10 to state standards.

11 (f) The pool of questions for the summative assessments must  
12 be subject to a transparent review process for quality, bias, and  
13 sensitive issues involving educator review and comment. The  
14 department shall post samples from tests or retired tests featuring  
15 questions from this pool for review by the public.

16 (g) The summative assessment system must ensure that students,  
17 parents, and teachers are provided with reports that convey  
18 individual student proficiency and growth on the assessment and  
19 that convey individual student domain-level performance in each  
20 subject area, including representative questions, and individual  
21 student performance in meeting state standards.

22 (h) The summative assessment system must be capable of  
23 providing, and the department shall ensure that students, parents,  
24 teachers, administrators, and community members are provided with,  
25 reports that convey aggregate student proficiency and growth data  
26 by teacher, grade, school, and district.

27 (i) The summative assessment system must ensure the capability  
28 of reporting the available data to support educator evaluations.

29 (j) The summative assessment system must ensure that the

1 reports provided to districts containing individual student data  
2 are available within 60 days after completion of the assessments.

3 (k) The summative assessment system must ensure that access to  
4 individually identifiable student data meets all of the following:

5 (i) Is in compliance with 20 USC 1232g, commonly referred to as  
6 the family educational rights and privacy act of 1974.

7 (ii) Except as may be provided for in an agreement with a  
8 vendor to provide assessment services, as necessary to support  
9 educator evaluations ~~pursuant to~~ **under** subdivision (i), or for  
10 research or program evaluation purposes, is available only to the  
11 student; to the student's parent or legal guardian; and to a school  
12 administrator or teacher, to the extent that he or she has a  
13 legitimate educational interest.

14 (l) The summative assessment system must ensure that the  
15 assessments are pilot tested before statewide implementation.

16 (m) The summative assessment system must ensure that  
17 assessments are designed so that the maximum total combined length  
18 of time that schools are required to set aside for a pupil to  
19 answer all test questions on all assessments that are part of the  
20 system for the pupil's grade level does not exceed that maximum  
21 total combined length of time for the previous statewide assessment  
22 system or 9 hours, whichever is less. This subdivision does not  
23 limit the amount of time a district may allow a pupil to complete a  
24 test.

25 (n) The total cost of executing the summative assessment  
26 system statewide each year, including, but not limited to, the cost  
27 of contracts for administration, scoring, and reporting, must not  
28 exceed an amount equal to 2 times the cost of executing the  
29 previous statewide assessment after adjustment for inflation.



1           (o) The summative assessment system must not require more than  
2   3 hours in duration, on average, for an individual pupil to  
3   complete the combined administration of the math and English  
4   language arts portions of the assessment for any 1 grade level.

5           (p) The summative assessments for English language arts and  
6   mathematics for pupils in grades 8 to 10 must be aligned to the  
7   college entrance test portion of the Michigan merit examination  
8   required under section 104b.

9           (4) The department shall offer benchmark assessments in the  
10   fall and spring of each school year to measure English language  
11   arts and mathematics in each of grades K to 2. Full implementation  
12   must occur not later than the 2019-2020 school year. These  
13   assessments are necessary to determine a pupil's proficiency level  
14   before grade 3.

15          (5) This section does not prohibit districts from adopting  
16   interim assessments.

17          (6) As used in this section, "**eligible district**" and "English  
18   language arts" ~~means that term~~ **mean those terms** as defined in  
19   section 104b.

20          Enacting section 1. This amendatory act does not take effect  
21   unless Senate Bill No. 941 of the 101st Legislature is enacted into  
22   law.