

**SUBSTITUTE FOR  
SENATE BILL NO. 926**

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending sections 3, 6, 29, 94a, and 101 (MCL 388.1603,  
388.1606, 388.1629, 388.1694a, and 388.1701), as amended by 2009 PA  
121, and by adding section 9.

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

1           Sec. 3. (1) "Average daily attendance", for the purposes of  
2           complying with federal law, means 92% of the pupils counted in  
3           membership on the pupil membership count day, as defined in section  
4           6(7).

5           (2) "Board" means the governing body of a district or public  
6           school academy.

7           (3) "Center" means the center for educational performance and

1 information created in section 94a.

2 (4) "Cooperative education program" means a written voluntary  
3 agreement between and among districts to provide certain  
4 educational programs for pupils in certain groups of districts. The  
5 written agreement shall be approved by all affected districts at  
6 least annually and shall specify the educational programs to be  
7 provided and the estimated number of pupils from each district who  
8 will participate in the educational programs.

9 (5) "Department", except in section 107, means the department  
10 of education.

11 (6) "District" means a local school district established under  
12 the revised school code or, except in sections 6(4), 6(6), 13, 20,  
13 22a, 23, 29, 31a, 51a(15), 105, and 105c, a public school academy.  
14 Except in sections 6(4), 6(6), 13, 20, 22a, 29, 51a(15), 105, and  
15 105c, district also includes a university school.

16 (7) "District of residence", except as otherwise provided in  
17 this subsection, means the district in which a pupil's custodial  
18 parent or parents or legal guardian resides. For a pupil described  
19 in section 24b, the pupil's district of residence is the district  
20 in which the pupil enrolls under that section. For a pupil  
21 described in section 6(4)(d), the pupil's district of residence  
22 shall be considered to be the district or intermediate district in  
23 which the pupil is counted in membership under that section. For a  
24 pupil under court jurisdiction who is placed outside the district  
25 in which the pupil's custodial parent or parents or legal guardian  
26 resides, the pupil's district of residence shall be considered to  
27 be the educating district or educating intermediate district.

1           (8) "District superintendent" means the superintendent of a  
2 district, the chief administrator of a public school academy, or  
3 the chief administrator of a university school.

4           Sec. 6. (1) "Center program" means a program operated by a  
5 district or intermediate district for special education pupils from  
6 several districts in programs for pupils with autism spectrum  
7 disorder, pupils with severe cognitive impairment, pupils with  
8 moderate cognitive impairment, pupils with severe multiple  
9 impairments, pupils with hearing impairment, pupils with visual  
10 impairment, and pupils with physical impairment or other health  
11 impairment. Programs for pupils with emotional impairment housed in  
12 buildings that do not serve regular education pupils also qualify.  
13 Unless otherwise approved by the department, a center program  
14 either shall serve all constituent districts within an intermediate  
15 district or shall serve several districts with less than 50% of the  
16 pupils residing in the operating district. In addition, special  
17 education center program pupils placed part-time in noncenter  
18 programs to comply with the least restrictive environment  
19 provisions of section 612 of part B of the individuals with  
20 disabilities education act, 20 USC 1412, may be considered center  
21 program pupils for pupil accounting purposes for the time scheduled  
22 in either a center program or a noncenter program.

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

26           (3) "District and high school graduation report" means a  
27 report of the number of pupils, excluding adult participants, in

1 the district for the immediately preceding school year, adjusted  
2 for those pupils who have transferred into or out of the district  
3 or high school, who leave high school with a diploma or other  
4 credential of equal status.

5 (4) "Membership", except as otherwise provided in this act,  
6 means for a district, public school academy, university school, or  
7 intermediate district the sum of the product of .75 times the  
8 number of full-time equated pupils in grades K to 12 actually  
9 enrolled and in regular daily attendance on the pupil membership  
10 count day for the current school year, plus the product of .25  
11 times the final audited count from the supplemental count day for  
12 the immediately preceding school year. All pupil counts used in  
13 this subsection are as determined by the department and calculated  
14 by adding the number of pupils registered for attendance plus  
15 pupils received by transfer and minus pupils lost as defined by  
16 rules promulgated by the superintendent, and as corrected by a  
17 subsequent department audit. **FOR THE PURPOSES OF THIS SECTION AND**  
18 **SECTION 6A, FOR A SCHOOL OF EXCELLENCE THAT IS A CYBER SCHOOL, AS**  
19 **DEFINED IN SECTION 551 OF THE REVISED SCHOOL CODE, MCL 380.551, AND**  
20 **IS IN COMPLIANCE WITH SECTION 553A OF THE REVISED SCHOOL CODE, MCL**  
21 **380.553A, A PUPIL'S PARTICIPATION IN THE CYBER SCHOOL'S EDUCATIONAL**  
22 **PROGRAM IS CONSIDERED REGULAR DAILY ATTENDANCE.** The amount of the  
23 foundation allowance for a pupil in membership is determined under  
24 section 20. In making the calculation of membership, all of the  
25 following, as applicable, apply to determining the membership of a  
26 district, public school academy, university school, or intermediate  
27 district:

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

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

16 (c) A special education pupil educated by the intermediate  
17 district shall be counted in membership in the intermediate  
18 district.

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

25 (e) A pupil enrolled in the Michigan schools for the deaf and  
26 blind shall be counted in membership in the pupil's intermediate  
27 district of residence.

1 (f) A pupil enrolled in a vocational education program  
2 supported by a millage levied over an area larger than a single  
3 district or in an area vocational-technical education program  
4 established pursuant to section 690 of the revised school code, MCL  
5 380.690, shall be counted only in the pupil's district of  
6 residence.

7 (g) A pupil enrolled in a university school shall be counted  
8 in membership in the university school.

9 (h) A pupil enrolled in a public school academy shall be  
10 counted in membership in the public school academy.

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

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

27 (ii) If operations begin after the pupil membership count day

1 for the fiscal year and not later than the supplemental count day  
2 for the fiscal year, membership is the final audited count of the  
3 number of full-time equated pupils in grades K to 12 actually  
4 enrolled and in regular daily attendance on the supplemental count  
5 day for the current school year.

6 (j) If a district is the authorizing body for a public school  
7 academy, then, in the first school year in which pupils are counted  
8 in membership on the pupil membership count day in the public  
9 school academy, the determination of the district's membership  
10 shall exclude from the district's pupil count for the immediately  
11 preceding supplemental count day any pupils who are counted in the  
12 public school academy on that first pupil membership count day who  
13 were also counted in the district on the immediately preceding  
14 supplemental count day.

15 (k) In a district, public school academy, university school,  
16 or intermediate district operating an extended school year program  
17 approved by the superintendent, a pupil enrolled, but not scheduled  
18 to be in regular daily attendance on a pupil membership count day,  
19 shall be counted.

20 (l) Pupils to be counted in membership shall be not less than 5  
21 years of age on December 1 and less than 20 years of age on  
22 September 1 of the school year except a special education pupil who  
23 is enrolled and receiving instruction in a special education  
24 program or service approved by the department and not having a high  
25 school diploma who is less than 26 years of age as of September 1  
26 of the current school year shall be counted in membership.

27 (m) An individual who has obtained a high school diploma shall

1 not be counted in membership. An individual who has obtained a  
2 general educational development (G.E.D.) certificate shall not be  
3 counted in membership. An individual participating in a job  
4 training program funded under former section 107a or a jobs program  
5 funded under former section 107b, administered by the Michigan  
6 strategic fund or the department of energy, labor, and economic  
7 growth, or participating in any successor of either of those 2  
8 programs, shall not be counted in membership.

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

21 (i) If the public school academy provides instruction for at  
22 least 1/2 of the class hours specified in subdivision (q), the  
23 public school academy shall receive as its prorated share of the  
24 full-time equated membership for each of those pupils an amount  
25 equal to 1 times the product of the hours of instruction the public  
26 school academy provides divided by the number of hours specified in  
27 subdivision (q) for full-time equivalency, and the remainder of the

1 full-time membership for each of those pupils shall be allocated to  
2 the district or intermediate district providing the remainder of  
3 the hours of instruction.

4 (ii) If the public school academy provides instruction for less  
5 than 1/2 of the class hours specified in subdivision (q), the  
6 district or intermediate district providing the remainder of the  
7 hours of instruction shall receive as its prorated share of the  
8 full-time equated membership for each of those pupils an amount  
9 equal to 1 times the product of the hours of instruction the  
10 district or intermediate district provides divided by the number of  
11 hours specified in subdivision (q) for full-time equivalency, and  
12 the remainder of the full-time membership for each of those pupils  
13 shall be allocated to the public school academy.

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

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

21 (q) The number of class hours used to calculate full-time  
22 equated memberships shall be consistent with section 101(3). In  
23 determining full-time equated memberships for pupils who are  
24 enrolled in a postsecondary institution, a pupil shall not be  
25 considered to be less than a full-time equated pupil solely because  
26 of the effect of his or her postsecondary enrollment, including  
27 necessary travel time, on the number of class hours provided by the

1 district to the pupil.

2 (r) Except as otherwise provided in this subdivision, full-  
3 time equated memberships for pupils in kindergarten shall be  
4 determined by dividing the number of class hours scheduled and  
5 provided per year per kindergarten pupil by a number equal to  $1/2$   
6 the number used for determining full-time equated memberships for  
7 pupils in grades 1 to 12.

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

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

26 (u) If, as a result of a disciplinary action, a district  
27 determines through the district's alternative or disciplinary

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

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

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

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

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

26 (v) A pupil enrolled in an alternative or disciplinary  
27 education program described in section 25 shall be counted in

1 membership in the district or public school academy that is  
2 educating the pupil.

3 (w) 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 (x) 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 .75 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 .25 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 (y) 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 and the district has 4.5 or fewer pupils per square  
23 mile, as determined by the department, and, beginning in 2007-2008,  
24 if the district does not receive funding under section 22d(2), the  
25 district's membership shall be considered to be the membership  
26 figure calculated under this subdivision. If a district educates  
27 and counts in its membership pupils in grades 9 to 12 who reside in

1 a contiguous district that does not operate grades 9 to 12 and if 1  
2 or both of the affected districts request the department to use the  
3 determination allowed under this sentence, the department shall  
4 include the square mileage of both districts in determining the  
5 number of pupils per square mile for each of the districts for the  
6 purposes of this subdivision. The membership figure calculated  
7 under this subdivision is the greater of the following:

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

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

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

24 (aa) Full-time equated memberships for preprimary-aged special  
25 education pupils who are not enrolled in kindergarten but are  
26 enrolled in a classroom program under R 340.1754 of the Michigan  
27 administrative code shall be determined by dividing the number of

1 class hours scheduled and provided per year by 450. Full-time  
2 equated memberships for preprimary-aged special education pupils  
3 who are not enrolled in kindergarten but are receiving nonclassroom  
4 services under R 340.1755 of the Michigan administrative code shall  
5 be determined by dividing the number of hours of service scheduled  
6 and provided per year per pupil by 180.

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

12 (cc) For the first year in which a pupil is counted in  
13 membership on the pupil membership count day in a middle college  
14 program described in section 64, the membership is the average of  
15 the full-time equated membership on the pupil membership count day  
16 and on the supplemental count day for the current school year, as  
17 determined by the department. If a pupil was counted by the  
18 operating district on the immediately preceding supplemental count  
19 day, the pupil shall be excluded from the district's immediately  
20 preceding supplemental count for purposes of determining the  
21 district's membership.

22 (dd) A district that educates a pupil who attends a United  
23 States Olympic education center may count the pupil in membership  
24 regardless of whether or not the pupil is a resident of this state.

25 (5) "Public school academy" means a public school academy,  
26 urban high school academy, **SCHOOL OF EXCELLENCE**, or strict  
27 discipline academy operating under the revised school code.

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

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

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

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

12          (d) A pupil enrolled in a district other than the pupil's  
13 district of residence under an intermediate district schools of  
14 choice pilot program as described in section 91a or former section  
15 91 if the intermediate district and its constituent districts have  
16 been exempted from section 105.

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

20          (f) A pupil who has made an official written complaint or  
21 whose parent or legal guardian has made an official written  
22 complaint to law enforcement officials and to school officials of  
23 the pupil's district of residence that the pupil has been the  
24 victim of a criminal sexual assault or other serious assault, if  
25 the official complaint either indicates that the assault occurred  
26 at school or that the assault was committed by 1 or more other  
27 pupils enrolled in the school the pupil would otherwise attend in

1 the district of residence or by an employee of the district of  
2 residence. A person who intentionally makes a false report of a  
3 crime to law enforcement officials for the purposes of this  
4 subdivision is subject to section 411a of the Michigan penal code,  
5 1931 PA 328, MCL 750.411a, which provides criminal penalties for  
6 that conduct. As used in this subdivision:

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

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

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

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

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

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

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

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

4           (v) The pupil is enrolled in an alternative or disciplinary  
5 education program described in section 25.

6           (i) A pupil enrolled in the Michigan virtual high school, for  
7 the pupil's enrollment in the Michigan virtual high school.

8           (j) A pupil who is the child of a person who is employed by  
9 the district. As used in this subdivision, "child" includes an  
10 adopted child, stepchild, or legal ward.

11           (k) An expelled pupil who has been denied reinstatement by the  
12 expelling district and is reinstated by another school board under  
13 section 1311 or 1311a of the revised school code, MCL 380.1311 and  
14 380.1311a.

15           (l) A pupil enrolled in a district other than the pupil's  
16 district of residence in a program described in section 64 if the  
17 pupil's district of residence and the enrolling district are both  
18 constituent districts of the same intermediate district.

19           (m) A pupil enrolled in a district other than the pupil's  
20 district of residence who attends a United States Olympic education  
21 center.

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.

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

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

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

11           (i) Fourth Wednesday in July.

12           (ii) Fourth Wednesday after Labor day.

13           (iii) Second Wednesday in February.

14           (iv) Fourth Wednesday in April.

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

1 to attend each of the classes in which the pupil is enrolled within  
2 30 calendar days after the pupil membership count day or  
3 supplemental count day shall not be counted as 1.0 full-time  
4 equated membership. In addition, a pupil who was enrolled and in  
5 attendance in a district, intermediate district, or public school  
6 academy before the pupil membership count day or supplemental count  
7 day of a particular year but was expelled or suspended on the pupil  
8 membership count day or supplemental count day shall only be  
9 counted as 1.0 full-time equated membership if the pupil resumed  
10 attendance in the district, intermediate district, or public school  
11 academy within 45 days after the pupil membership count day or  
12 supplemental count day of that particular year. Pupils not counted  
13 as 1.0 full-time equated membership due to an absence from a class  
14 shall be counted as a prorated membership for the classes the pupil  
15 attended. For purposes of this subsection, "class" means a period  
16 of time in 1 day when pupils and a certificated teacher or legally  
17 qualified substitute teacher are together and instruction is taking  
18 place.

19 (9) "Rule" means a rule promulgated pursuant to the  
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
21 24.328.

22 (10) "The revised school code" means 1976 PA 451, MCL 380.1 to  
23 380.1852.

24 (11) "School district of the first class", "first class school  
25 district", and "district of the first class", except in subsection  
26 (6), mean a district that had at least 60,000 pupils in membership  
27 for the immediately preceding fiscal year.

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

3           **(13) "SCHOOL OF EXCELLENCE" MEANS A SCHOOL OF EXCELLENCE**  
4 **ESTABLISHED UNDER PART 6E OF THE REVISED SCHOOL CODE.**

5           (14) ~~(13)~~—"State board" means the state board of education.

6           (15) ~~(14)~~—"Superintendent", unless the context clearly refers  
7 to a district or intermediate district superintendent, means the  
8 superintendent of public instruction described in section 3 of  
9 article VIII of the state constitution of 1963.

10          (16) ~~(15)~~—"Supplemental count day" means the day on which the  
11 supplemental pupil count is conducted under section 6a.

12          (17) ~~(16)~~—"Tuition pupil" means a pupil of school age  
13 attending school in a district other than the pupil's district of  
14 residence for whom tuition may be charged. Tuition pupil does not  
15 include a pupil who is a special education pupil or a pupil  
16 described in subsection (6)(c) to (m). A pupil's district of  
17 residence shall not require a high school tuition pupil, as  
18 provided under section 111, to attend another school district after  
19 the pupil has been assigned to a school district.

20          (18) ~~(17)~~—"State school aid fund" means the state school aid  
21 fund established in section 11 of article IX of the state  
22 constitution of 1963.

23          (19) ~~(18)~~—"Taxable value" means the taxable value of property  
24 as determined under section 27a of the general property tax act,  
25 1893 PA 206, MCL 211.27a.

26          (20) ~~(19)~~—"Textbook" means a book that is selected and  
27 approved by the governing board of a district and that contains a

1 presentation of principles of a subject, or that is a literary work  
 2 relevant to the study of a subject required for the use of  
 3 classroom pupils, or another type of course material that forms the  
 4 basis of classroom instruction.

5 (21) ~~(20)~~—"Total state aid" or "total state school aid" means  
 6 the total combined amount of all funds due to a district,  
 7 intermediate district, or other entity under all of the provisions  
 8 of this act.

9 (22) ~~(21)~~—"University school" means an instructional program  
 10 operated by a public university under section 23 that meets the  
 11 requirements of section 23.

12 **SEC. 9. ANY PROVISION OF THIS ACT OR OF A RULE PROMULGATED**  
 13 **UNDER THIS ACT IS SUBJECT TO WAIVER BY THE SUPERINTENDENT UNDER**  
 14 **SECTION 553A OF THE REVISED SCHOOL CODE, MCL 380.553A, FOR A SCHOOL**  
 15 **OF EXCELLENCE THAT IS A CYBER SCHOOL, AS DEFINED IN SECTION 551 OF**  
 16 **THE REVISED SCHOOL CODE, MCL 380.551.**

17 Sec. 29. (1) From the appropriation in section 11, there is  
 18 allocated an amount not to exceed \$20,000,000.00 for 2009-2010 for  
 19 additional payments to eligible districts for declining enrollment  
 20 assistance **AS DESCRIBED IN THIS SECTION.**

21 (2) A district is eligible for a payment under this section if  
 22 ~~all~~ **1 OR MORE** of the following apply:

23 **(A) THE DISTRICT MEETS ALL OF THE FOLLOWING:**

24 **(i)** ~~(a)~~—The district's pupil membership for the current fiscal  
 25 year is less than the district's pupil membership for the  
 26 immediately preceding fiscal year and the district's pupil  
 27 membership for the immediately preceding fiscal year is less than

1 the district's pupil membership for the previously preceding fiscal  
2 year as calculated under section 6 for that fiscal year.

3 (ii) ~~(b)~~—The district's average pupil membership is greater  
4 than the district's pupil membership for the current fiscal year as  
5 calculated under section 6.

6 (iii) ~~(e)~~—The district is not eligible to receive funding under  
7 section 6(4)(y) or 22d(2).

8 (B) ONE OR MORE SCHOOLS OF EXCELLENCE ARE OPERATING AND  
9 EDUCATING PUPILS WITHIN THE DISTRICT AND THE TOTAL NUMBER OF PUPILS  
10 WHO RESIDE WITHIN THE DISTRICT AND WHO ARE COUNTED IN MEMBERSHIP IN  
11 ANY SCHOOL OF EXCELLENCE EXCEEDS 2% OF THE TOTAL MEMBERSHIP OF THAT  
12 DISTRICT.

13 (3) Payments to each eligible district shall be equal to the  
14 SUM OF THE FOLLOWING:

15 (A) FOR A DISTRICT DESCRIBED IN SUBSECTION (2)(A), THE  
16 difference between the district's average pupil membership and the  
17 district's pupil membership as calculated under section 6 for the  
18 current fiscal year multiplied by the district's foundation  
19 allowance as calculated under section 20.

20 (B) FOR A DISTRICT DESCRIBED IN SUBSECTION (2)(B), SUBJECT TO  
21 SUBSECTION (5), THE FOLLOWING AMOUNT, AS APPLICABLE:

22 (i) FOR THE FIRST FULL FISCAL YEAR IN WHICH A SCHOOL OF  
23 EXCELLENCE LOCATED WITHIN THE DISTRICT IS EDUCATING PUPILS, AN  
24 AMOUNT EQUAL TO THE NUMBER OF PUPILS WHO RESIDE WITHIN THE DISTRICT  
25 AND WHO ARE COUNTED IN MEMBERSHIP IN ANY SCHOOL OF EXCELLENCE TIMES  
26 THE PRODUCT OF .8 TIMES THE AMOUNT OF THE PER-PUPIL ALLOCATION FOR  
27 THE SCHOOL OF EXCELLENCE, AS CALCULATED UNDER SECTION 20.

1           (ii) FOR THE SECOND FULL FISCAL YEAR IN WHICH A SCHOOL OF  
2 EXCELLENCE LOCATED WITHIN THE DISTRICT IS EDUCATING PUPILS, AN  
3 AMOUNT EQUAL TO THE NUMBER OF PUPILS WHO RESIDE WITHIN THE DISTRICT  
4 AND WHO ARE COUNTED IN MEMBERSHIP IN ANY SCHOOL OF EXCELLENCE TIMES  
5 THE PRODUCT OF .6 TIMES THE AMOUNT OF THE PER-PUPIL ALLOCATION FOR  
6 THE SCHOOL OF EXCELLENCE, AS CALCULATED UNDER SECTION 20.

7           (iii) FOR THE THIRD FULL FISCAL YEAR IN WHICH A SCHOOL OF  
8 EXCELLENCE LOCATED WITHIN THE DISTRICT IS EDUCATING PUPILS, AN  
9 AMOUNT EQUAL TO THE NUMBER OF PUPILS WHO RESIDE WITHIN THE DISTRICT  
10 AND WHO ARE COUNTED IN MEMBERSHIP IN ANY SCHOOL OF EXCELLENCE TIMES  
11 THE PRODUCT OF .4 TIMES THE AMOUNT OF THE PER-PUPIL ALLOCATION FOR  
12 THE SCHOOL OF EXCELLENCE, AS CALCULATED UNDER SECTION 20.

13           (4) If the total amount of the payments calculated under this  
14 ~~subsection~~ SECTION exceeds the allocation for this section, the  
15 payment to each district shall be prorated on an equal percentage  
16 basis.

17           (5) A DISTRICT IS NOT ELIGIBLE FOR A PAYMENT UNDER SUBSECTION  
18 (3) (B) FOR MORE THAN THE FIRST 3 FISCAL YEARS THAT A SCHOOL OF  
19 EXCELLENCE LOCATED WITHIN THE DISTRICT IS IN OPERATION. HOWEVER, IF  
20 A NEW SCHOOL OF EXCELLENCE LOCATED IN THE DISTRICT BEGINS OPERATING  
21 AND EDUCATING PUPILS WITHIN THE DISTRICT AFTER THIS 3-YEAR PERIOD,  
22 THE DISTRICT IS ELIGIBLE TO BEGIN RECEIVING A NEW PAYMENT UNDER  
23 SUBSECTION (3) (B) BASED ON THE NUMBER OF PUPILS WHO RESIDE WITHIN  
24 THE DISTRICT AND WHO ARE COUNTED IN MEMBERSHIP IN THE NEW SCHOOL OF  
25 EXCELLENCE.

26           (6) IT IS THE INTENT OF THE LEGISLATURE THAT IF THE ADDITION  
27 OF SUBSECTION (3) (B) TO THIS SECTION HAS THE EFFECT IN FUTURE

1 FISCAL YEARS OF REDUCING PAYMENTS TO A DISTRICT UNDER THIS SECTION  
2 BELOW THE LEVEL OF THOSE PAYMENTS FOR 2009-2010, THE LEGISLATURE  
3 WILL INCREASE THE AMOUNT OF MONEY ALLOCATED UNDER THIS SECTION TO  
4 MAKE UP FOR THAT REDUCTION.

5 (7) ~~(4)~~—For the purposes of this section, "average pupil  
6 membership" means the average of the district's membership for the  
7 3-fiscal-year period ending with the current fiscal year,  
8 calculated by adding the district's actual membership for each of  
9 those 3 fiscal years, as otherwise calculated under section 6, and  
10 dividing the sum of those 3 membership figures by 3.

11 Sec. 94a. (1) There is created within the office of the state  
12 budget director in the department of management and budget the  
13 center for educational performance and information. The center  
14 shall do all of the following:

15 (a) Coordinate the collection of all data required by state  
16 and federal law from all entities receiving funds under this act.

17 (b) Collect data in the most efficient manner possible in  
18 order to reduce the administrative burden on reporting entities.

19 (c) Establish procedures to ensure the reasonable validity and  
20 reliability of the data and the collection process.

21 (d) Develop state and model local data collection policies,  
22 including, but not limited to, policies that ensure the privacy of  
23 individual student data. State privacy policies shall ensure that  
24 student social security numbers are not released to the public for  
25 any purpose.

26 (e) Provide data in a useful manner to allow state and local  
27 policymakers to make informed policy decisions.

1 (f) Provide reports to the citizens of this state to allow  
2 them to assess allocation of resources and the return on their  
3 investment in the education system of this state.

4 (g) Assist all entities receiving funds under this act in  
5 complying with audits performed according to generally accepted  
6 accounting procedures.

7 (h) To the extent funding is available, coordinate the  
8 electronic exchange of student records using a unique  
9 identification numbering system among entities receiving funds  
10 under this act and postsecondary institutions for students  
11 participating in public education programs from preschool through  
12 postsecondary education.

13 (I) IN COOPERATION WITH THE DEPARTMENT, CREATE AND IMPLEMENT A  
14 TEACHER IDENTIFIER SYSTEM WITH THE ABILITY TO MATCH AN INDIVIDUAL  
15 TEACHER TO INDIVIDUAL PUPILS THE TEACHER HAS TAUGHT. THE SYSTEM  
16 SHALL DO ALL OF THE FOLLOWING:

17 (i) MAKE ACCESSIBLE ANNUAL STATE ASSESSMENT RECORDS OF  
18 INDIVIDUAL PUPILS.

19 (ii) ENABLE INDIVIDUAL PUPIL ACADEMIC ACHIEVEMENT DATA,  
20 INCLUDING GROWTH IN ACADEMIC ACHIEVEMENT, TO BE CORRELATED TO EACH  
21 TEACHER WHO HAS TAUGHT THE PUPIL.

22 (iii) ENABLE SCHOOL BOARD MEMBERS, TEACHERS, AND SCHOOL  
23 ADMINISTRATORS TO HAVE ACCESS TO THE DATA SO THEY CAN MAKE INFORMED  
24 DECISIONS IN ORDER TO IMPROVE INSTRUCTION AND PUPIL ACHIEVEMENT.

25 (iv) ALLOW ACCESS TO INDIVIDUAL PUPIL DEMOGRAPHIC DATA  
26 INCLUDING ATTENDANCE RATES, TRANSIENCE RATES, ANY AVAILABLE DATA ON  
27 DISCIPLINARY ACTION TAKEN WITH RESPECT TO AN INDIVIDUAL PUPIL, AND

1 ANY AT-RISK FACTORS, AS IDENTIFIED IN SECTION 31A, THAT APPLY TO  
2 THE PUPIL, IN ORDER TO GIVE ADMINISTRATORS A COMPREHENSIVE PROFILE  
3 OF THE PUPIL AND THE CHALLENGES THAT THE PUPIL FACES IN LEARNING  
4 AND THE TEACHER FACES IN INSTRUCTION.

5 (J) ~~(i)~~—Other functions as assigned by the state budget  
6 director.

7 (2) Each state department, officer, or agency that collects  
8 information from districts or intermediate districts as required  
9 under state or federal law shall make arrangements with the center,  
10 and with the districts or intermediate districts, to have the  
11 center collect the information and to provide it to the department,  
12 officer, or agency as necessary. To the extent that it does not  
13 cause financial hardship, the center shall arrange to collect the  
14 information in a manner that allows electronic submission of the  
15 information to the center. Each affected state department, officer,  
16 or agency shall provide the center with any details necessary for  
17 the center to collect information as provided under this  
18 subsection. This subsection does not apply to information collected  
19 by the department of treasury under the uniform budgeting and  
20 accounting act, 1968 PA 2, MCL 141.421 to 141.440a; the revised  
21 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821; the  
22 school bond qualification, approval, and loan act, 2005 PA 92, MCL  
23 388.1921 to 388.1939; or section 1351a of the revised school code,  
24 MCL 380.1351a.

25 (3) The state budget director shall appoint a CEPI advisory  
26 committee, consisting of the following members:

27 (a) One representative from the house fiscal agency.

1 (b) One representative from the senate fiscal agency.

2 (c) One representative from the office of the state budget  
3 director.

4 (d) One representative from the state education agency.

5 (e) One representative each from the department of energy,  
6 labor, and economic growth and the department of treasury.

7 (f) Three representatives from intermediate school districts.

8 (g) One representative from each of the following educational  
9 organizations:

10 (i) Michigan association of school boards.

11 (ii) Michigan association of school administrators.

12 (iii) Michigan school business officials.

13 (h) One representative representing private sector firms  
14 responsible for auditing school records.

15 (i) Other representatives as the state budget director  
16 determines are necessary.

17 (4) The CEPI advisory committee appointed under subsection (3)  
18 shall provide advice to the director of the center regarding the  
19 management of the center's data collection activities, including,  
20 but not limited to:

21 (a) Determining what data is necessary to collect and maintain  
22 in order to perform the center's functions in the most efficient  
23 manner possible.

24 (b) Defining the roles of all stakeholders in the data  
25 collection system.

26 (c) Recommending timelines for the implementation and ongoing  
27 collection of data.

1 (d) Establishing and maintaining data definitions, data  
2 transmission protocols, and system specifications and procedures  
3 for the efficient and accurate transmission and collection of data.

4 (e) Establishing and maintaining a process for ensuring the  
5 reasonable accuracy of the data.

6 (f) Establishing and maintaining state and model local  
7 policies related to data collection, including, but not limited to,  
8 privacy policies related to individual student data.

9 (g) Ensuring the data is made available to state and local  
10 policymakers and citizens of this state in the most useful format  
11 possible.

12 (h) Other matters as determined by the state budget director  
13 or the director of the center.

14 (5) The center may enter into any interlocal agreements  
15 necessary to fulfill its functions.

16 (6) From the general fund appropriation in section 11, there  
17 is allocated an amount not to exceed \$3,486,100.00 for 2009-2010 to  
18 the department of management and budget to support the operations  
19 of the center and the development and implementation of a  
20 comprehensive longitudinal data collection management and reporting  
21 system that includes student-level data. The center shall cooperate  
22 with the state education agency to ensure that this state is in  
23 compliance with federal law and is maximizing opportunities for  
24 increased federal funding to improve education in this state. To  
25 the extent that funding under this section allows, the center shall  
26 collect data necessary to maximize federal funding under the  
27 American recovery and reinvestment act of 2009, Public Law 111-5,

1 and other federal statutes, including data necessary to implement a  
2 P-20 longitudinal data system. In addition, from the federal funds  
3 appropriated in section 11 for 2009-2010, there is allocated the  
4 amount necessary, estimated at \$2,793,200.00, in order to fulfill  
5 federal reporting requirements.

6 (7) From the federal funds allocated in subsection (6), there  
7 is allocated for 2009-2010 an amount not to exceed \$750,000.00  
8 funded from the competitive grants of DED-OESE, title II,  
9 educational technology funds for the purposes of this subsection.  
10 Not later than November 30, 2008, the department shall award a  
11 single grant to an eligible partnership that includes an  
12 intermediate district with at least 1 high-need local school  
13 district and the center.

14 (8) The center and the department shall work cooperatively to  
15 develop a cost allocation plan that pays for center expenses from  
16 the appropriate federal fund revenues.

17 (9) Funds allocated under this section that are not expended  
18 in the fiscal year in which they were allocated may be carried  
19 forward to a subsequent fiscal year.

20 (10) The center may bill departments as necessary in order to  
21 fulfill reporting requirements of state and federal law. The center  
22 may also enter into agreements to supply custom data, analysis, and  
23 reporting to other principal executive departments, state agencies,  
24 local units of government, and other individuals and organizations.  
25 The center may receive and expend funds in addition to those  
26 authorized in subsection (6) to cover the costs associated with  
27 salaries, benefits, supplies, materials, and equipment necessary to

1 provide such data, analysis, and reporting services.

2 (11) As used in this section:

3 (a) "DED-OESE" means the United States department of education  
4 office of elementary and secondary education.

5 (b) "High-need local school district" means a local  
6 educational agency as defined in the enhancing education through  
7 technology part of the no child left behind act of 2001, Public Law  
8 107-110.

9 (c) "State education agency" means the department.

10 Sec. 101. (1) To be eligible to receive state aid under this  
11 act, not later than the fifth Wednesday after the pupil membership  
12 count day and not later than the fifth Wednesday after the  
13 supplemental count day, each district superintendent shall submit  
14 to the center, in the form and manner prescribed by the center, the  
15 number of pupils enrolled and in regular daily attendance in the  
16 district as of the pupil membership count day and as of the  
17 supplemental count day, as applicable, for the current school year.  
18 In addition, a district maintaining school during the entire year,  
19 as provided under section 1561 of the revised school code, MCL  
20 380.1561, shall submit to the center, in the form and manner  
21 prescribed by the center, the number of pupils enrolled and in  
22 regular daily attendance in the district for the current school  
23 year pursuant to rules promulgated by the superintendent. Not later  
24 than the seventh Wednesday after the pupil membership count day and  
25 not later than the seventh Wednesday after the supplemental count  
26 day, the district shall certify the data in a form and manner  
27 prescribed by the center. If a district fails to submit and certify

1 the attendance data, as required under this subsection, the center  
2 shall notify the department and state aid due to be distributed  
3 under this act shall be withheld from the defaulting district  
4 immediately, beginning with the next payment after the failure and  
5 continuing with each payment until the district complies with this  
6 subsection. If a district does not comply with this subsection by  
7 the end of the fiscal year, the district forfeits the amount  
8 withheld. A person who willfully falsifies a figure or statement in  
9 the certified and sworn copy of enrollment shall be punished in the  
10 manner prescribed by section 161.

11 (2) To be eligible to receive state aid under this act, not  
12 later than the twenty-fourth Wednesday after the pupil membership  
13 count day and not later than the twenty-fourth Wednesday after the  
14 supplemental count day, an intermediate district shall submit to  
15 the center, in a form and manner prescribed by the center, the  
16 audited enrollment and attendance data for the pupils of its  
17 constituent districts and of the intermediate district. If an  
18 intermediate district fails to submit the audited data as required  
19 under this subsection, state aid due to be distributed under this  
20 act shall be withheld from the defaulting intermediate district  
21 immediately, beginning with the next payment after the failure and  
22 continuing with each payment until the intermediate district  
23 complies with this subsection. If an intermediate district does not  
24 comply with this subsection by the end of the fiscal year, the  
25 intermediate district forfeits the amount withheld.

26 (3) ~~All~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11), ALL**  
27 of the following apply to the provision of pupil instruction:

1 (a) Except as otherwise provided in this section, each  
2 district shall provide at least 1,098 hours and, beginning in 2010-  
3 2011, the required minimum number of days of pupil instruction. For  
4 2010-2011 and for 2011-2012, the required minimum number of days of  
5 pupil instruction is 165. Beginning in 2012-2013, the required  
6 minimum number of days of pupil instruction is 170. However,  
7 beginning in 2010-2011, a district shall not provide fewer days of  
8 pupil instruction than the district provided for 2009-2010. Except  
9 as otherwise provided in this act, a district failing to comply  
10 with the required minimum hours and days of pupil instruction under  
11 this subsection shall forfeit from its total state aid allocation  
12 an amount determined by applying a ratio of the number of hours or  
13 days the district was in noncompliance in relation to the required  
14 minimum number of hours and days under this subsection. Not later  
15 than August 1, the board of each district shall certify to the  
16 department the number of hours and, beginning in 2010-2011, days of  
17 pupil instruction in the previous school year. If the district did  
18 not provide at least the required minimum number of hours and days  
19 of pupil instruction under this subsection, the deduction of state  
20 aid shall be made in the following fiscal year from the first  
21 payment of state school aid. A district is not subject to  
22 forfeiture of funds under this subsection for a fiscal year in  
23 which a forfeiture was already imposed under subsection (6). Hours  
24 or days lost because of strikes or teachers' conferences shall not  
25 be counted as hours or days of pupil instruction. If a collective  
26 bargaining agreement that provides a complete school calendar is in  
27 effect for employees of a district as of the effective date of the

1 2009 amendatory act that amended this subsection, and if that  
2 school calendar is not in compliance with this subsection, then  
3 this subsection does not apply to that district until after the  
4 expiration of that collective bargaining agreement.

5 (b) Except as otherwise provided in subdivision (c), a  
6 district not having at least 75% of the district's membership in  
7 attendance on any day of pupil instruction shall receive state aid  
8 in that proportion of 1/180 that the actual percent of attendance  
9 bears to the specified percentage.

10 (c) Beginning in 2005-2006, at the request of a district that  
11 operates a department-approved alternative education program and  
12 that does not provide instruction for pupils in all of grades K to  
13 12, the superintendent shall grant a waiver for a period of 3  
14 school years from the requirements of subdivision (b) in order to  
15 conduct a pilot study. The waiver shall indicate that an eligible  
16 district is subject to the proration provisions of subdivision (b)  
17 only if the district does not have at least 50% of the district's  
18 membership in attendance on any day of pupil instruction. In order  
19 to be eligible for this waiver, a district must maintain records to  
20 substantiate its compliance with the following requirements during  
21 the pilot study:

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

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

27 (iii) The district tests each pupil to determine academic

1 progress at regular intervals and records the results of those  
2 tests in that pupil's individual education plan.

3 (d) The superintendent shall promulgate rules for the  
4 implementation of this subsection.

5 (4) Except as otherwise provided in this subsection, the first  
6 30 hours or 6 days for which pupil instruction is not provided  
7 because of conditions not within the control of school authorities,  
8 such as severe storms, fires, epidemics, utility power  
9 unavailability, water or sewer failure, or health conditions as  
10 defined by the city, county, or state health authorities, shall be  
11 counted as hours and days of pupil instruction. With the approval  
12 of the superintendent of public instruction, the department shall  
13 count as hours and days of pupil instruction for a fiscal year not  
14 more than 30 additional hours or 6 additional days for which pupil  
15 instruction is not provided in a district after April 1 of the  
16 applicable school year due to unusual and extenuating occurrences  
17 resulting from conditions not within the control of school  
18 authorities such as those conditions described in this subsection.  
19 Subsequent such hours or days shall not be counted as hours or days  
20 of pupil instruction.

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

27 (6) Not later than April 15 of each fiscal year, the board of

1 each district shall certify to the department the planned number of  
2 hours and days of pupil instruction in the district for the school  
3 year ending in the fiscal year. In addition to any other penalty or  
4 forfeiture under this section, if at any time the department  
5 determines that 1 or more of the following has occurred in a  
6 district, the district shall forfeit in the current fiscal year  
7 beginning in the next payment to be calculated by the department a  
8 proportion of the funds due to the district under this act that is  
9 equal to the proportion below the required minimum number of hours  
10 and days of pupil instruction under subsection (3), as specified in  
11 the following:

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

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

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

24 (a) Except as otherwise provided in this subsection, a pupil  
25 must be scheduled for at least the required minimum number of hours  
26 of instruction, excluding study halls, or at least the sum of 90  
27 hours plus the required minimum number of hours of instruction,

1 including up to 2 study halls.

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

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

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

1 purpose.

2 (e) In grades 7 through 12, instructional time that is part of  
3 a junior reserve officer training corps (JROTC) program shall be  
4 considered to be pupil instruction time regardless of whether the  
5 instructor is a certificated teacher if all of the following are  
6 met:

7 (i) The instructor has met all of the requirements established  
8 by the United States department of defense and the applicable  
9 branch of the armed services for serving as an instructor in the  
10 junior reserve officer training corps program.

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

17 (8) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11), THE**  
18 department shall apply the guidelines under subsection (7) in  
19 calculating the full-time equivalency of pupils.

20 (9) Upon application by the district for a particular fiscal  
21 year, the superintendent may waive for a district the minimum  
22 number of hours and days of pupil instruction requirement of  
23 subsection (3) for a department-approved alternative education  
24 program or another innovative program approved by the department.  
25 If a district applies for and receives a waiver under this  
26 subsection and complies with the terms of the waiver, for the  
27 fiscal year covered by the waiver the district is not subject to

1 forfeiture under this section for the specific program covered by  
2 the waiver. If the district does not comply with the terms of the  
3 waiver, the amount of the forfeiture shall be calculated based upon  
4 a comparison of the number of hours and days of pupil instruction  
5 actually provided to the minimum number of hours and days of pupil  
6 instruction required under subsection (3).

7 (10) If at least 5 of the hours of professional development  
8 are provided online by the Michigan virtual university under  
9 section 98 or by another department-approved intermediate district  
10 provider of online professional development, a district may count  
11 up to 38 hours of qualifying professional development for teachers  
12 as hours of pupil instruction. However, if a collective bargaining  
13 agreement that provides more than 38 but not more than 51 hours of  
14 professional development for teachers is in effect for employees of  
15 a district as of October 1, 2006, then until the fiscal year that  
16 begins after the expiration of that collective bargaining agreement  
17 a district may count up to 51 hours of qualifying professional  
18 development for teachers, including the 5 hours of online  
19 professional development, as hours of pupil instruction. A district  
20 that elects to use this exception shall notify the department of  
21 its election. As used in this subsection, "qualifying professional  
22 development" means professional development that is focused on 1 or  
23 more of the following:

24 (a) Achieving or improving adequate yearly progress as defined  
25 under the no child left behind act of 2001, Public Law 107-110.

26 (b) Achieving accreditation or improving a school's  
27 accreditation status under section 1280 of the revised school code,

1 MCL 380.1280.

2 (c) Achieving highly qualified teacher status as defined under  
3 the no child left behind act of 2001, Public Law 107-110.

4 (d) Maintaining teacher certification.

5 (11) SUBSECTIONS (3) AND (8) DO NOT APPLY TO A SCHOOL OF  
6 EXCELLENCE THAT IS A CYBER SCHOOL, AS DEFINED IN SECTION 551 OF THE  
7 REVISED SCHOOL CODE, MCL 380.551, AND IS IN COMPLIANCE WITH SECTION  
8 553A OF THE REVISED SCHOOL CODE, MCL 380.553A.

9 Enacting section 1. This amendatory act does not take effect  
10 unless all of the following bills of the 95th Legislature are  
11 enacted into law:

12 (a) Senate Bill No. 638.

13 (b) Senate Bill No. 925.

14 (c) Senate Bill No. 965.

15 (d) Senate Bill No. 981.

16 (e) Senate Bill No. 982.

17 (f) Senate Bill No.\_994.

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