

SENATE BILL NO. 644

September 15, 2021, Introduced by Senators SCHMIDT and STAMAS 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 section 101 (MCL 388.1701), as amended by 2021 PA 48.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. (1) To be eligible to receive state aid under this
2 article, not later than the fifth Wednesday after the pupil
3 membership count day and not later than the fifth Wednesday after
4 the supplemental count day, each district superintendent shall
5 submit and certify to the center and the intermediate

1 superintendent, in the form and manner prescribed by the center,
2 the number of pupils enrolled and in regular daily attendance,
3 including identification of tuition-paying pupils, in the district
4 as of the pupil membership count day and as of the supplemental
5 count day, as applicable, for the current school year. In addition,
6 a district maintaining school during the entire year shall submit
7 and certify to the center and the intermediate superintendent, in
8 the form and manner prescribed by the center, the number of pupils
9 enrolled and in regular daily attendance in the district for the
10 current school year pursuant to rules promulgated by the
11 superintendent. Not later than the sixth Wednesday after the pupil
12 membership count day and not later than the sixth Wednesday after
13 the supplemental count day, the district shall resolve any pupil
14 membership conflicts with another district, correct any data
15 issues, and recertify the data in a form and manner prescribed by
16 the center and file the certified data with the intermediate
17 superintendent. If a district fails to submit and certify the
18 attendance data, as required under this subsection, the center
19 shall notify the department and the department shall withhold state
20 aid due to be distributed under this article from the defaulting
21 district immediately, beginning with the next payment after the
22 failure and continuing with each payment until the district
23 complies with this subsection. If a district does not comply with
24 this subsection by the end of the fiscal year, the district
25 forfeits the amount withheld. A person who willfully falsifies a
26 figure or statement in the certified and sworn copy of enrollment
27 is subject to penalty as prescribed by section 161.

28 (2) To be eligible to receive state aid under this article,
29 not later than the twenty-fourth Wednesday after the pupil

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

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

17 (a) Except as otherwise provided in this section, each
18 district shall provide at least 1,098 hours and 180 days of pupil
19 instruction. If a collective bargaining agreement that provides a
20 complete school calendar was in effect for employees of a district
21 as of June 24, 2014, and if that school calendar is not in
22 compliance with this subdivision, then this subdivision does not
23 apply to that district until after the expiration of that
24 collective bargaining agreement. A district may apply for a waiver
25 under subsection (9) from the requirements of this subdivision.

26 (b) Except as otherwise provided in this article, a district
27 failing to comply with the required minimum hours and days of pupil
28 instruction under this subsection forfeits from its total state aid
29 allocation an amount determined by applying a ratio of the number

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

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

18 (d) Except as otherwise provided in subdivisions (e) and (f),
19 **and subject to subdivision (i)**, if a district does not have at
20 least 75% of the district's membership in attendance on any day of
21 pupil instruction, the department shall pay the district state aid
22 in that proportion of 1/180 that the actual percent of attendance
23 bears to 75%.

24 (e) If a district adds 1 or more days of pupil instruction to
25 the end of its instructional calendar for a school year to comply
26 with subdivision (a) because the district otherwise would fail to
27 provide the required minimum number of days of pupil instruction
28 even after the operation of subsection (4) due to conditions not
29 within the control of school authorities, then subdivision (d) does

1 not apply for any day of pupil instruction that is added to the end
2 of the instructional calendar. ~~Instead,~~ **Subject to subdivision (i),**
3 **instead,** for any of those days, if the district does not have at
4 least 60% of the district's membership in attendance on that day,
5 the department shall pay the district state aid in that proportion
6 of 1/180 that the actual percentage of attendance bears to 60%. For
7 any day of pupil instruction added to the instructional calendar as
8 described in this subdivision, the district shall report to the
9 department the percentage of the district's membership that is in
10 attendance, in the form and manner prescribed by the department.

11 (f) At the request of a district that operates a department-
12 approved alternative education program and that does not provide
13 instruction for pupils in all of grades K to 12, the superintendent
14 shall grant a waiver from the requirements of subdivision (d). ~~The~~
15 **Subject to subdivision (i), the** waiver must provide that an
16 eligible district is subject to the proration provisions of
17 subdivision (d) only if the district does not have at least 50% of
18 the district's membership in attendance on any day of pupil
19 instruction. In order to be eligible for this waiver, a district
20 must maintain records to substantiate its compliance with the
21 following requirements:

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

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

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

7 (ii) If the waiver is for a 100% online model of delivery and
8 the educational program for which the waiver is granted makes
9 educational services available to pupils for a minimum of at least
10 1,098 hours during a school year and ensures that each pupil
11 participates in the educational program for at least 1,098 hours
12 during a school year, a waiver that is granted for the 2011-2012
13 fiscal year or a subsequent fiscal year remains in effect unless it
14 is revoked by the superintendent.

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

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

21 **(i) If an eligible pupil is participating in virtual learning**
22 **on a school day during the 2021-2022 school year, that eligible**
23 **pupil is considered in attendance for purposes of subdivisions (d),**
24 **(e), and (f), as applicable, for that school day. As used in this**
25 **subdivision:**

26 (i) "Eligible pupil" means a pupil who is required to
27 quarantine pursuant to an order issued by a local health
28 department. As used in this subparagraph, "local health department"
29 means that term as defined in section 1105 of the public health

1 code, 1978 PA 368, MCL 333.1105.

2 (ii) "Virtual learning" includes, but is not limited to,
3 instruction that is provided virtually or in any other form in a
4 synchronous or asynchronous manner.

5 (4) Except as otherwise provided in this subsection, the first
6 6 days or the equivalent number of hours for which pupil
7 instruction is not provided because of conditions not within the
8 control of school authorities, such as severe storms, fires,
9 epidemics, utility power unavailability, water or sewer failure, or
10 health conditions as defined by the city, county, or state health
11 authorities, are counted as hours and days of pupil instruction.
12 With the approval of the superintendent of public instruction, the
13 department shall count as hours and days of pupil instruction for a
14 fiscal year not more than 3 additional days or the equivalent
15 number of additional hours for which pupil instruction is not
16 provided in a district 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 are not counted as hours or days of
20 pupil instruction.

21 (5) A district does 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) In addition to any other penalty or forfeiture under this
28 section, if at any time the department determines that 1 or more of
29 the following have occurred in a district, the district forfeits in

1 the current fiscal year beginning in the next payment to be
2 calculated by the department a proportion of the funds due to the
3 district under this article that is equal to the proportion below
4 the required minimum number of hours and days of pupil instruction
5 under subsection (3), as specified in the following:

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

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

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

18 (a) Except as otherwise provided in this subsection, a pupil
19 must be scheduled for at least the required minimum number of hours
20 of instruction, excluding study halls, or at least the sum of 90
21 hours plus the required minimum number of hours of instruction,
22 including up to 2 study halls.

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

26 (c) Except as otherwise provided in this subdivision, a pupil
27 in grades 9 to 12 for whom a reduced schedule is determined to be
28 in the individual pupil's best educational interest must be
29 scheduled for a number of hours equal to at least 80% of the

1 required minimum number of hours of pupil instruction to be
2 considered a full-time equivalent pupil. A pupil in grades 9 to 12
3 who is scheduled in a 4-block schedule may receive a reduced
4 schedule under this subsection if the pupil is scheduled for a
5 number of hours equal to at least 75% of the required minimum
6 number of hours of pupil instruction to be considered a full-time
7 equivalent pupil.

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

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

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

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

7 **(f) If a district provides virtual learning to eligible pupils**
8 **during the 2021-2022 school year, the virtual learning provided to**
9 **the eligible pupils is considered pupil instruction time. As used**
10 **in this subdivision:**

11 **(i) "Eligible pupil" means a pupil who is required to**
12 **quarantine pursuant to an order issued by a local health**
13 **department. As used in this subparagraph, "local health department"**
14 **means that term as defined in section 1105 of the public health**
15 **code, 1978 PA 368, MCL 333.1105.**

16 **(ii) "Virtual learning" includes, but is not limited to,**
17 **instruction that is provided virtually or in any other form in a**
18 **synchronous or asynchronous manner.**

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

22 (9) Upon application by the district for a particular fiscal
23 year, the superintendent shall waive for a district the minimum
24 number of hours and days of pupil instruction requirement of
25 subsection (3) for a department-approved alternative education
26 program or another innovative program approved by the department,
27 including a 4-day school week. If a district applies for and
28 receives a waiver under this subsection and complies with the terms
29 of the waiver, the district is not subject to forfeiture under this

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

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

15 (b) If the waiver is for a 100% online model of delivery and
16 the educational program for which the waiver is granted makes
17 educational services available to pupils for a minimum of at least
18 1,098 hours during a school year and ensures that each pupil is on
19 track for course completion at proficiency level, a waiver that is
20 granted for the 2011-2012 fiscal year or a subsequent fiscal year
21 remains in effect unless it is revoked by the superintendent.

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

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

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

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

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

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

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

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

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

28 (iii) Has been approved by the department as counting for state
29 continuing education clock hours. The number of hours of

1 professional development counted as hours of pupil instruction
2 under this subsection may not exceed the number of state continuing
3 education clock hours for which the professional development was
4 approved.

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

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

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

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

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

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

28 Enacting section 1. This amendatory act takes effect October
29 1, 2021.