

SENATE BILL NO. 655

September 28, 2021, Introduced by Senators POLEHANKI, GEISS, BULLOCK, HOLLIER, MCMORROW, CHANG and SANTANA 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
6 superintendent, in the form and manner prescribed by the center,

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

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

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

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

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

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

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

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

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

22 (e) If a district adds 1 or more days of pupil instruction to
23 the end of its instructional calendar for a school year to comply
24 with subdivision (a) because the district otherwise would fail to
25 provide the required minimum number of days of pupil instruction
26 even after the operation of ~~subsection~~**subsections** (4) **and (14)** due
27 to conditions not within the control of school authorities, then
28 subdivision (d) does not apply for any day of pupil instruction
29 that is added to the end of the instructional calendar. Instead,

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

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

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

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

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

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

29 (i) If the waiver is for a blended model of delivery, a waiver

1 that is granted for the 2011-2012 fiscal year or a subsequent
 2 fiscal year remains in effect unless it is revoked by the
 3 superintendent.

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

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

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

18 (4) Except as otherwise provided in this subsection **or**
 19 **section**, the first 6 days or the equivalent number of hours for
 20 which pupil instruction is not provided because of conditions not
 21 within the control of school authorities, such as severe storms,
 22 fires, epidemics, ~~utility power unavailability,~~ water or sewer
 23 failure, or health conditions as defined by the city, county, or
 24 state health authorities, are counted as hours and days of pupil
 25 instruction. ~~With~~ **Except as otherwise provided in this section,**
 26 **with** the approval of the superintendent of public instruction, the
 27 department shall count as hours and days of pupil instruction for a
 28 fiscal year not more than 3 additional days or the equivalent
 29 number of additional hours for which pupil instruction is not

1 provided in a district due to unusual and extenuating occurrences
2 resulting from conditions not within the control of school
3 authorities such as those conditions described in this subsection.
4 ~~Subsequent~~ **Except as otherwise provided in this section, subsequent**
5 such hours or days are not counted as hours or days of pupil
6 instruction.

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

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

21 (a) The district fails to operate its schools for at least the
22 required minimum number of hours and days of pupil instruction
23 under subsection (3) in a school year, including hours and days
24 counted under ~~subsection~~ **subsections (4) and (14)**.

25 (b) The board of the district takes formal action not to
26 operate its schools for at least the required minimum number of
27 hours and days of pupil instruction under subsection (3) in a
28 school year, including hours and days counted under ~~subsection~~
29 **subsections (4) and (14)**.

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 **(14) Days or the equivalent number of hours for which pupil**
4 **instruction is not provided because of a utility power**
5 **unavailability are counted as hours and days of pupil instruction.**

6 Enacting section 1. This amendatory act takes effect October
7 1, 2021.