

# SENATE BILL NO. 873

February 10, 2022, Introduced by Senators BUMSTEAD, OUTMAN, BAYER, ANANICH, BIZON, HUIZENGA, HOLLIER, HORN, GEISS, VANDERWALL and SCHMIDT 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 (h)**, if a district does not have at least 75% of the district's  
20 membership in attendance on any day of pupil instruction, the  
21 department shall pay the district state aid in that proportion of  
22 1/180 that the actual percent of attendance bears to 75%.

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

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

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

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

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

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

29 (g) All of the following apply to a waiver granted under

1 subdivision (f):

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

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

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

18 (h) **If, on a day on which pupil instruction is being provided,**  
19 **a district receives any of the following that is reported to law**  
20 **enforcement by the district, the attendance percentage requirements**  
21 **under subdivisions (d), (e), and (f) do not apply to that day of**  
22 **pupil instruction and the 5 consecutive school days on which pupil**  
23 **instruction is provided to pupils following that day:**

24 (i) **A threat to the safety of the pupils or staff at 1 or more**  
25 **of the school buildings operated by the district.**

26 (ii) **A threat to the safety of individuals attending 1 or more**  
27 **activities sponsored by the district.**

28 (iii) **A threat to the safety of individuals utilizing 1 or more**  
29 **pupil transportation vehicles used by pupils of the district.**

1           (i) ~~(h)~~—The superintendent shall promulgate rules for the  
2 implementation of this subsection.

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

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

25           (6) In addition to any other penalty or forfeiture under this  
26 section, if at any time the department determines that 1 or more of  
27 the following have occurred in a district, the district forfeits in  
28 the current fiscal year beginning in the next payment to be  
29 calculated by the department a proportion of the funds due to the

1 district under this article that is equal to the proportion below  
2 the required minimum number of hours and days of pupil instruction  
3 under subsection (3), as specified in the following:

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

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

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

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

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

24 (c) Except as otherwise provided in this subdivision, a pupil  
25 in grades 9 to 12 for whom a reduced schedule is determined to be  
26 in the individual pupil's best educational interest must be  
27 scheduled for a number of hours equal to at least 80% of the  
28 required minimum number of hours of pupil instruction to be  
29 considered a full-time equivalent pupil. A pupil in grades 9 to 12



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

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

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

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

28 (ii) The board of the district or intermediate district  
29 employing or assigning the instructor complies with the

1 requirements of sections 1230 and 1230a of the revised school code,  
2 MCL 380.1230 and 380.1230a, with respect to the instructor to the  
3 same extent as if employing the instructor as a regular classroom  
4 teacher.

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

8 (9) Upon application by the district for a particular fiscal  
9 year, the superintendent shall waive for a district the minimum  
10 number of hours and days of pupil instruction requirement of  
11 subsection (3) for a department-approved alternative education  
12 program or another innovative program approved by the department,  
13 including a 4-day school week. If a district applies for and  
14 receives a waiver under this subsection and complies with the terms  
15 of the waiver, the district is not subject to forfeiture under this  
16 section for the specific program covered by the waiver. If the  
17 district does not comply with the terms of the waiver, the amount  
18 of the forfeiture is calculated based upon a comparison of the  
19 number of hours and days of pupil instruction actually provided to  
20 the minimum number of hours and days of pupil instruction required  
21 under subsection (3). A district shall report pupils enrolled in a  
22 department-approved alternative education program under this  
23 subsection to the center in a form and manner determined by the  
24 center. All of the following apply to a waiver granted under this  
25 subsection:

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

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

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

12 (10) A district may count up to 38 hours of professional  
13 development for teachers as hours of pupil instruction. All of the  
14 following apply to the counting of professional development as  
15 pupil instruction under this subsection:

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

18 (b) At least 8 hours of the professional development counted  
19 as hours of pupil instruction under this subsection must be  
20 recommended by a districtwide professional development advisory  
21 committee appointed by the district board. The advisory committee  
22 must be composed of teachers employed by the district who represent  
23 a variety of grades and subject matter specializations, including  
24 special education; nonteaching staff; parents; and administrators.  
25 The majority membership of the committee must be composed of  
26 teaching staff.

27 (c) Professional development provided online is allowable and  
28 encouraged, as long as the instruction has been approved by the  
29 district. The department shall issue a list of approved online

1 professional development providers that must include the Michigan  
2 Virtual School.

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

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

8 (i) Be aligned to the school or district improvement plan for  
9 the school or district in which the professional development is  
10 being provided.

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

14 (iii) Has been approved by the department as counting for state  
15 continuing education clock hours. The number of hours of  
16 professional development counted as hours of pupil instruction  
17 under this subsection may not exceed the number of state continuing  
18 education clock hours for which the professional development was  
19 approved.

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

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

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

28 (11) Subsections (3) and (8) do not apply to a school of  
29 excellence that is a cyber school, as that term is defined in

1 section 551 of the revised school code, MCL 380.551, and is in  
2 compliance with section 553a of the revised school code, MCL  
3 380.553a.

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

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