Legislative Analysis

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LEARNER-FIRST DISTRICT

House Bill 5919 (proposed substitute H-1)
Sponsor: Rep. Brad Paquette
Committee: Education and Workforce
Complete to 8-25-26

SUMMARY:

House Bill 5919 would amend the Revised School Code to create a learner-first district as a new type of school district authorized under the code. The bill would add the learner-first district to the definition of a public school. Provisions specifying the powers of the learner-first district would be added in a new Part 6F, consisting of sections 562, 564, 565, 566, 567, 568, and 569. The bill also would add a new section 1701b to Part 29 (Special Education Programs and Services; State Board) of the code.

Section 562

The learner-first district would have the following purposes:

- To provide innovative, flexible, transparent, safe, efficient, and effective public educational services throughout Michigan.
- To provide parents and legal guardians with greater public educational choices and an increased ability to determine and direct the care, teaching, and education of their children.
- To advance new flexible and adaptable educational models, including the expanded use of technology in education, online learning, and the provision of ***mastery-based learning***.
- To stimulate innovation in teaching methods, including the use of computer-adaptive methods of instruction.
- To provide new professional opportunities for teachers within the public education system.
- To create new public-private partnerships for the provision of public educational services.

Mastery-based learning would mean education that includes all the following elements:

- Students are empowered daily to make important decisions about their learning experiences, how they will create and apply knowledge, and how they will demonstrate their learning.
- Assessment is a meaningful, positive, and empowering learning experience for students that yields timely, relevant, and actionable evidence.
- Students receive timely, differentiated support based on their individual learning needs.
- A student's progress is based on evidence of mastery, not seat time.
- Students learn actively using different pathways and varied pacing.
- Strategies to ensure equity for all students are embedded in the culture, structure, and pedagogy.

- Rigorous, common expectations for learning, including knowledge, skills, and dispositions, are explicit, transparent, measurable, and transferable.

All of the following would apply to the learner-first district:

- It would be a school district for the purposes of section 11 of Article IX of the state constitution.
- It would be subject to the leadership and general supervision of the State Board of Education under section 3 of Article VIII of the state constitution.
- It would be a political subdivision and public body corporate separate and distinct from the state and other school districts in the state.
- The district, members of its school board, its superintendent, administrators, officers, employees, and volunteers would have governmental immunity under section 7 of 1964 PA 170.
- Its geographic boundaries would be the state's boundaries.

Section 564

The bill provides that the learner-first district would have all the rights, powers, and duties expressly stated in the Revised School Code. It could also exercise a power implied or incident to a power expressly stated in the code and, except as otherwise provided by law, could exercise a power incidental or appropriate to the performance of a function related to the provision of public education services in the interests of public elementary and secondary education in Michigan, including all of the following:

- Educating students. In addition to educating students in grades K to 12, this function could include providing preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs for other persons. The learner-first district could provide education services for students enrolled in the district through an agreement, contract, or other cooperative agreement with any public or private entity, including another school district, an intermediate school district (ISD), a public school academy (PSA), a community college district, a state public university, or a library.
- Providing for the safety and welfare of students enrolled in the district while engaged in a public educational service or an activity sponsored by the learner-first district or while on the way to or from a public educational service or district-sponsored activity.
- Acquiring, renting, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.
- Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, individuals hired through parent-directed direct-instruction agreements under section 566 of the code, and others, including another school district or an ISD, to carry out learner-first district powers. The learner-first district also could indemnify its employees.
- Receiving, accounting for, investing, or expending public school money; borrowing money and pledging public school funds for repayment; qualifying for state school aid and other public or private money from local, regional, state, or federal sources; and accepting gifts or grants from any public or private source.

The learner-first district could enter into agreements, contracts, concurrent enrollment agreements, or other cooperative arrangements with other entities, public or private, including another school district, an ISD, a PSA, a community college district, a state public university,

or a library. The district also could join organizations as part of performing its functions. An agreement, contract, concurrent enrollment agreement, or other cooperative arrangement entered into under the Revised School Code would not have to comply with the provisions of the Urban Cooperation Act (which allows for interlocal agreements).

Additionally, the bill would provide that a student who is enrolled in the learner-first district on a less than full-time-equated basis could not be excluded from any course or learning pathway offered by the pupil's school district, including core or essential academic coursework required for the Michigan Merit Curriculum.

Section 565

The bill would establish the learner-first district's board. The board would consist of eight members, appointed as follows:

- Four appointed by the governor.
- Two nominated by the Speaker of the House and appointed by the governor.
- Two nominated by the Senate Majority Leader and appointed by the governor.

Members would serve for eight-year terms, but the terms of the members first appointed would be staggered so that two vacancies would occur every two years. Vacancies would be filled in the same manner as the original appointment, and members could be reappointed.

The bill would require members of the board to take the same constitutional oath found in section 1 of Article XI of the state constitution.

Section 566

The bill would require the board to identify and contract with ***educational providers*** across the state to provide programs, courses, and services to students who enroll in the learner-first district.

> ***Educational provider*** would mean any person or entity, including an individual teacher acting as an independent contractor selected and hired directly by a parent or legal guardian, that provides a program, course, or service under a direct contract with the learner-first district or under a parent-directed direct-instruction agreement facilitated and funded by the learner-first district

To become an educational provider, an individual or organization would have to apply to the learner-first district board in the form and manner prescribed by the board. The provider would have to meet all the following requirements to enter into a contract with the district board:

- The program, course, or service proposed to be offered has a demonstrated record of improving student achievement or is a new approach to instruction that the board believes will likely result in improved student achievement.
- The proposed program, course, or service is consistent with the model core academic content standards in section 1278 of the code, the requirements for a high school diploma in sections 1278a and 1278b, and any other applicable provisions of the code.
- The educational provider has sufficient operational capacity to deliver the proposed program, course, or service as described in its contract with the board.
- The proposed program, course, or service does not discriminate in student enrollment based on the student's academic or athletic ability, disability status, race, ethnicity,

religious affiliation, or geographic location or on any other basis that cannot be used to prohibit enrollment in a public school.

- The educational provider is operating in good standing with all applicable state and federal law and meet any other operating standards established by the board.

Except as otherwise provided by law, a program, course, or service offered by an educational provider would have to be provided by a certificated teacher, a faculty member of a community college district or a state public university, or an individual hired to provide direct instruction to a student under an agreement. An approved educational provider could provide instruction in person, virtually, or through a combination of both, and with the assistance of computer-adaptive technology.

The learner-first district board would have to establish and maintain a process through which parents or legal guardians could select and directly hire an individual certificated teacher or a faculty member of a community college or state public university to provide direct, one-to-one, or small-group instruction to their child. The board would have to do all of the following:

- Maintain an open registry of qualified individuals who have applied and been approved by the learner-first district board after a criminal background check, verification of certification or faculty status, and demonstration of compliance with all applicable state and federal laws.
- Facilitate the formation of a parent-directed direct instruction agreement between the individual and the learner-first district. The agreement would have to include the individual's compensation rate, instructional hours, progress-reporting requirements, and any other terms the board considers necessary. The individual's compensation rate could not exceed the per-pupil foundation allowance set in section 20 of the State School Aid Act or the amount established by board policy.
- Disburse public funds directly to the selected individual or, if elected by the student's parent or legal guardian, receive reimbursement for payments already made to the individual in accordance with the agreement. The learner-first district would remain the fiscal agent and retain all accountability and oversight responsibilities.
- Require individuals providing direct instruction to administer or participate in all state assessments required under the code and provide regular progress reports to the learner-first district board, parents, and legal guardians.

The learner-first district board would have to develop a system through which educational providers are evaluated and provide information on educational providers to a parent or legal guardian who wants to enroll their child in the learner-first district. The board would have to seek input from educational providers on the evaluation system developed and changes to the evaluation system that could be implemented (public school educators are currently evaluated in accordance with section 1249 of the code).

The learner-first district board would be required to contract with enough educational providers in core academic subjects to allow a student to complete the core academic curriculum or state graduation requirements, as applicable.

Section 567

The bill would provide for regulations on enrolling a student in the learner-first district. Enrollment in the district would be on an application basis in accordance with the board's

established procedures. A student could not be denied an opportunity to enroll in the district based on their geographic location, academic or athletic ability, disability status, race, ethnicity, or religious affiliation or any other factor that cannot be used to prohibit enrollment in a public school. If the learner-first district board receives more applications than the learner-first district's capacity, the board would have to use a random selection process to select students for enrollment.

Any parent or legal guardian could enroll their child in the learner-first district. If the application is accepted, the parent or legal guardian could select any of the following:

- Programs, courses, or services offered by preapproved educational providers under contract with the learner-first district board.
- An individual teacher for direct instruction. The parent or legal guardian would have the right to negotiate the specific instructional plan with the selected teacher, subject to board approval of the agreement. The learner-first district board would have to provide support services, including a searchable online registry of qualified teachers, to assist parents and legal guardians in making this determination.

The bill also would require the board to ensure that each student enrolled in the district has access to instruction in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar as necessary to provide them with a complete core academic curriculum or allow them to complete the state graduation requirements. The district would have to maintain a transcript for each enrolled student and award credit in a program, course, or service based on objective measures of student achievement as provided for in the contract. A student receiving direct instruction would have to receive credit based on objective measures agreed upon in the direct instruction agreement. The board also would have to make sure that each enrolled student takes all state assessments required under the code.

The learner-first district would award a high school diploma to a student who satisfies the state graduation requirements (as set forth in sections 1278a and 1278b). This provision would not prohibit an enrolled student from satisfying graduation requirements through dual enrollment or enrolling in a public school for any course.

Section 568

The bill would establish requirements for transparency for the learner-first district. The district would be subject to all operational transparency requirements and fiscal controls that exist for other state educational agencies, including at least the following state laws:

- The Open Meetings Act.
- The Freedom of Information Act.
- The Uniform Budgeting and Accounting Act.
- 1947 PA 336 of 1947 (which governs public employee relations)
- Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274 of the Revised School Code.
- Laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

The bill also would require the district to make its operation and management information available to the public in the same manner as is required by state law for school districts.

Section 569

The bill states that the validity of the formation of the learner-first district is conclusively presumed unless questioned in an original action filed in the Court of Appeals no later 60 days after the bill takes effect. The Court of Appeals would have original jurisdiction to hear an action under these provisions and would have to hear the action in an expedited manner.

Section 1701b

The bill would require the learner-first district board to develop and implement a plan for the delivery of special education services to eligible enrolled students, subject to the approval of the State Board of Education. For the purposes of ensuring that a student with a disability enrolled in the learner-first district is provided with special education programs and services, the learner-first district would be considered to be an intermediate school district under Article 29 of the code.

The district could not levy ad valorem property taxes or another tax for the purpose of providing special education programs or services or for any other purpose. The State Board of Education would have to adopt and implement a plan through which ISD funds intended for the provision of special education programs or services for a student residing in that ISD could be transferred to the learner-first district for that student's education.

MCL 380.4 et seq.

FISCAL IMPACT:

The bill would increase costs to the state and reduce revenue for traditional local school districts, public school academies, and intermediate school districts.

The learner-first district would likely attract some homeschooled children and nonpublic school students, resulting in an overall increase in statewide pupil membership, which would increase state School Aid costs. The state would pay an additional $10,300 per pupil for the foundation allowance and, on average, an estimated $2,000 to $4,000 per pupil in additional categorical funding (At-Risk, Special Education, etc.) under the School Aid budget.

The Michigan Department of Education (MDE) would incur indeterminate costs for the State Board of Education to oversee the learner-first district and for MDE to update administrative work to accommodate the learner-first district model.

Traditional districts, PSAs, and ISDs would lose foundation allowances and other funding tied to pupil enrollment for any pupils that transferred into the learner-first district. Because pupil decline tends to happen across grades, it can be difficult for a district, PSA, or ISD to downsize accordingly (for example, by reducing the number of classes offered). Therefore, the decline in revenue would likely not be fully offset by a decline in costs.

Districts, PSAs, and ISDs may also lose teachers that choose to contract with the learner-first district, which could result in additional recruitment and hiring costs.

ISDs would incur a reduction in both special education revenue and costs for students residing in the ISD that transfer to the learner-first district. Since special education costs typically

exceed revenue, any transfer of special education pupils would likely result in a cost savings for the ISD.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.