

HOUSE BILL NO. 4910

May 25, 2021, Introduced by Rep. Paquette and referred to the Committee on Education.

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 2020 PA 165.

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, or,
3 for 2020-2021 only, the number of pupils engaged in pandemic
4 learning for fall 2020 or the number of pupils engaged in pandemic
5 learning for spring 2021, as applicable, or, for a district that
6 operates as a cyber school, as that term is defined in section 551
7 of the revised school code, MCL 380.551, the number of pupils
8 enrolled and in regular daily attendance, including identification
9 of tuition-paying pupils, in the district as of the pupil
10 membership count day and as of the supplemental count day, as
11 applicable, for the current school year. In addition, a district
12 maintaining school during the entire year shall submit and certify
13 to the center and the intermediate superintendent, in the form and
14 manner prescribed by the center, the number of pupils enrolled and
15 in regular daily attendance in the district or, for 2020-2021 only,
16 the number of pupils engaged in pandemic learning for fall 2020 or
17 the number of pupils engaged in pandemic learning for spring 2021,
18 as applicable, or, for a district that operates as a cyber school,
19 as that term is defined in section 551 of the revised school code,
20 MCL 380.551, the number of pupils enrolled and in regular daily
21 attendance, for the current school year pursuant to rules
22 promulgated by the superintendent. Not later than the sixth
23 Wednesday after the pupil membership count day and not later than
24 the sixth Wednesday after the supplemental count day, the district
25 shall resolve any pupil membership conflicts with another district,
26 correct any data issues, and recertify the data in a form and
27 manner prescribed by the center and file the certified data with
28 the intermediate superintendent. If a district fails to submit and
29 certify the attendance data, as required under this subsection, the

center shall notify the department and the department shall withhold state aid due to be distributed under this article from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If a district does not comply with this subsection by the end of the fiscal year, the district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment is subject to penalty as prescribed by section 161. As used in this subsection, "pupils engaged in pandemic learning for spring 2021" means that term as defined in section 6a.

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

(3) Except as otherwise provided in subsections (11), (12), ~~and (13)~~, **and (14)**, all of the following apply to the provision of

1 pupil instruction:

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

11 (b) Except as otherwise provided in this article, a district
12 failing to comply with the required minimum hours and days of pupil
13 instruction under this subsection forfeits from its total state aid
14 allocation an amount determined by applying a ratio of the number
15 of hours or days the district was in noncompliance in relation to
16 the required minimum number of hours and days under this
17 subsection. Not later than August 1, the board of each district
18 shall either certify to the department that the district was in
19 full compliance with this section regarding the number of hours and
20 days of pupil instruction in the previous school year, or report to
21 the department, in a form and manner prescribed by the center, each
22 instance of noncompliance. If the district did not provide at least
23 the required minimum number of hours and days of pupil instruction
24 under this subsection, the department shall make the deduction of
25 state aid in the following fiscal year from the first payment of
26 state school aid. A district is not subject to forfeiture of funds
27 under this subsection for a fiscal year in which a forfeiture was
28 already imposed under subsection (6).

29 (c) Hours or days lost because of strikes or teachers'

1 conferences are not counted as hours or days of pupil instruction.

2 (d) Except as otherwise provided in subdivisions (e), (f), and
3 (h), if a district does not have at least 75% of the district's
4 membership in attendance on any day of pupil instruction, the
5 department shall pay the district state aid in that proportion of
6 $1/180$ that the actual percent of attendance bears to 75%.

7 (e) If a district adds 1 or more days of pupil instruction to
8 the end of its instructional calendar for a school year to comply
9 with subdivision (a) because the district otherwise would fail to
10 provide the required minimum number of days of pupil instruction
11 even after the operation of subsection (4) due to conditions not
12 within the control of school authorities, then subdivision (d) does
13 not apply for any day of pupil instruction that is added to the end
14 of the instructional calendar. Instead, for any of those days, if
15 the district does not have at least 60% of the district's
16 membership in attendance on that day, the department shall pay the
17 district state aid in that proportion of $1/180$ that the actual
18 percentage of attendance bears to 60%. For any day of pupil
19 instruction added to the instructional calendar as described in
20 this subdivision, the district shall report to the department the
21 percentage of the district's membership that is in attendance, in
22 the form and manner prescribed by the department.

23 (f) At the request of a district that operates a department-
24 approved alternative education program and that does not provide
25 instruction for pupils in all of grades K to 12, the superintendent
26 shall grant a waiver from the requirements of subdivision (d). The
27 waiver must provide that an eligible district is subject to the
28 proration provisions of subdivision (d) only if the district does
29 not have at least 50% of the district's membership in attendance on

1 any day of pupil instruction. In order to be eligible for this
2 waiver, a district must maintain records to substantiate its
3 compliance with the following requirements:

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

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

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

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

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

18 (ii) If the waiver is for a 100% online model of delivery and
19 the educational program for which the waiver is granted makes
20 educational services available to pupils for a minimum of at least
21 1,098 hours during a school year and ensures that each pupil
22 participates in the educational program for at least 1,098 hours
23 during a school year, a waiver that is granted for the 2011-2012
24 fiscal year or a subsequent fiscal year remains in effect unless it
25 is revoked by the superintendent.

26 (iii) A waiver that is not a waiver described in subparagraph
27 (i) or (ii) 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 (h) For the 2020-2021 school year only, subdivision (d) does
2 not apply for any day of pupil instruction. However, for the 2020-
3 2021 school year only, a district shall ensure that 1 2-way
4 interaction occurs between a pupil enrolled in the district and the
5 pupil's teacher or at least 1 of the pupil's teachers or another
6 district employee who has responsibility for the pupil's learning,
7 grade progression, or academic progress during each month of the
8 school year for at least 75% of pupils enrolled in the district. As
9 used in the immediately preceding sentence, "school year" means a
10 period comprising at least 9 calendar months that are chosen by a
11 district and that are designated as part of the district's 2020-
12 2021 school year. If a district does not ensure that the
13 interactions required under this subdivision occur for at least 75%
14 of pupils enrolled in the district as required under this
15 subdivision, the department shall pay the district state aid in
16 that proportion of 1/9 that the actual percentage of interaction
17 during each month bears to 75%. As used in this subdivision, "2-way
18 interaction" means a communication that occurs between a pupil and
19 the pupil's teacher or at least 1 of the pupil's teachers or
20 another district employee who has responsibility for the pupil's
21 learning, grade progression, or academic progress, where 1 party
22 initiates communication and a response from the other party follows
23 that communication, and that is relevant to course progress or
24 course content for at least 1 of the courses in which the pupil is
25 enrolled or relevant to the pupil's overall academic progress or
26 grade progression. Responses, as described in this subdivision,
27 must be to communication initiated by the teacher, by another
28 district employee who has responsibility for the pupil's learning,
29 grade progression, or academic progress, or by the pupil, and not

1 some other action taken. The communication described in this
2 subdivision may occur through, but is not limited to, any of the
3 following means:

4 (i) Electronic mail.

5 (ii) Telephone.

6 (iii) Instant messaging.

7 (iv) Face-to-face conversation.

8 (i) The superintendent shall promulgate rules for the
9 implementation of this subsection.

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

26 (5) A district does not forfeit part of its state aid
27 appropriation because it adopts or has in existence an alternative
28 scheduling program for pupils in kindergarten if the program
29 provides at least the number of hours required under subsection (3)

1 for a full-time equated membership for a pupil in kindergarten as
2 provided under section 6(4).

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

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

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

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

23 (a) Except as otherwise provided in this subsection, a pupil
24 must be scheduled for at least the required minimum number of hours
25 of instruction, excluding study halls, or at least the sum of 90
26 hours plus the required minimum number of hours of instruction,
27 including up to 2 study halls.

28 (b) The time a pupil is assigned to any tutorial activity in a
29 block schedule may be considered instructional time, unless that

1 time is determined in an audit to be a study hall period.

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

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

26 (e) In grades 7 through 12, instructional time that is part of
27 a Junior Reserve Officer Training Corps (JROTC) program is
28 considered to be pupil instruction time regardless of whether the
29 instructor is a certificated teacher if ~~all~~**both** of the following

1 are met:

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

6 (ii) The board of the district or intermediate district
7 employing or assigning the instructor complies with the
8 requirements of sections 1230 and 1230a of the revised school code,
9 MCL 380.1230 and 380.1230a, with respect to the instructor to the
10 same extent as if employing the instructor as a regular classroom
11 teacher.

12 (8) Except as otherwise provided in subsections (11), (12),
13 ~~and (13)~~, **and (14)**, the department shall apply the guidelines under
14 subsection (7) in calculating the full-time equivalency of pupils.

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

1 subsection to the center in a form and manner determined by the
2 center. All of the following apply to a waiver granted under this
3 subsection:

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

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

15 (c) A waiver that is not a waiver described in subdivision (a)
16 or (b) 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 (10) A district may count up to 38 hours of professional
20 development for teachers as hours of pupil instruction. All of the
21 following apply to the counting of professional development as
22 pupil instruction under this subsection:

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

25 (b) At least 8 hours of the professional development counted
26 as hours of pupil instruction under this subsection must be
27 recommended by a districtwide professional development advisory
28 committee appointed by the district board. The advisory committee
29 must be composed of teachers employed by the district who represent

1 a variety of grades and subject matter specializations, including
2 special education; nonteaching staff; parents; and administrators.
3 The majority membership of the committee must be composed of
4 teaching staff.

5 (c) Professional development provided online is allowable and
6 encouraged, as long as the instruction has been approved by the
7 district. The department shall issue a list of approved online
8 professional development providers that must include the Michigan
9 Virtual School.

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

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

15 (i) Be aligned to the school or district improvement plan for
16 the school or district in which the professional development is
17 being provided.

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

21 (iii) Has been approved by the department as counting for state
22 continuing education clock hours. The number of hours of
23 professional development counted as hours of pupil instruction
24 under this subsection may not exceed the number of state continuing
25 education clock hours for which the professional development was
26 approved.

27 (iv) Not more than a combined total of 10 hours of the
28 professional development takes place before the first scheduled day
29 of school for the school year ending in the fiscal year and after

1 the last scheduled day of school for that school year.

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

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

6 (11) Subsections (3) and (8) do not apply to a school of
7 excellence that is a cyber school, as that term is defined in
8 section 551 of the revised school code, MCL 380.551, and is in
9 compliance with section 553a of the revised school code, MCL
10 380.553a.

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

15 (13) For the 2020-2021 school year only, the minimum number of
16 hours and days of pupil instruction requirement under subsection
17 (3) is waived for each district that, at a minimum, provides pupil
18 instruction for the 2020-2021 school year at school, at a different
19 location, in person, online, digitally, by other remote means, in a
20 synchronous or asynchronous format, or through any combination
21 therein that results in an amount of hours and days necessary to
22 deliver the educational or course content that would have been
23 delivered in 180 days and 1,098 hours in a school year in which
24 pandemic learning was not provided and that would have led to
25 course completion. As used in this subsection, "pandemic learning"
26 means a mode of pupil instruction provided as a result of the
27 COVID-19 pandemic.

28 **(14) Subsections (3) and (8) do not apply to a district that**
29 **operates as a public innovative district or a school that operates**

1 as a public innovative school under section 1173 of revised school
2 code, MCL 380.1173.

3 (15) ~~(14)~~At least every 2 years the superintendent shall
4 review the waiver standards set forth in the pupil accounting and
5 auditing manuals to ensure that the waiver standards and waiver
6 process continue to be appropriate and responsive to changing
7 trends in online learning. The superintendent shall solicit and
8 consider input from stakeholders as part of this review.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No.____ or House Bill No. 4911 (request no.
11 01944'21) of the 101st Legislature is enacted into law.