

SENATE BILL NO. 380

June 08, 2023, Introduced by Senator BELLINO 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 2022 PA 144.

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,
7 the number of pupils enrolled and in regular daily attendance,

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

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

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

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

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

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

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

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

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

21 (e) If a district adds 1 or more days of pupil instruction to
22 the end of its instructional calendar for a school year to comply
23 with subdivision (a) because the district otherwise would fail to
24 provide the required minimum number of days of pupil instruction
25 even after the operation of subsection (4) due to conditions not
26 within the control of school authorities, then subdivision (d) does
27 not apply for any day of pupil instruction that is added to the end
28 of the instructional calendar. Instead, for any of those days, if
29 the district does not have at least 60% of the district's

1 membership in attendance on that day, the department shall pay the
2 district state aid in that proportion of 1/180 that the actual
3 percentage of attendance bears to 60%. For any day of pupil
4 instruction added to the instructional calendar as described in
5 this subdivision, the district shall report to the department the
6 percentage of the district's membership that is in attendance, in
7 the form and manner prescribed by the department.

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

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

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

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

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

28 (i) If the waiver is for a blended model of delivery, a waiver
29 that is granted for the 2011-2012 fiscal year or a subsequent

1 fiscal year remains in effect unless it is revoked by the
2 superintendent.

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

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

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

17 (4) **All of the following apply to days and hours of pupil**
18 **instruction:**

19 (a) Except as otherwise provided in this subsection, the first
20 6 days ~~or~~ and the equivalent number of hours for which pupil
21 instruction is not provided because of conditions not within the
22 control of school authorities, such as severe storms, fires,
23 epidemics, utility power unavailability, water or sewer failure, or
24 health conditions as defined by the city, county, or state health
25 authorities, are counted as hours and days of pupil instruction.

26 (b) ~~With~~ **In addition to the 6 days and the equivalent number**
27 **of hours under subdivision (a) and in addition to the hours and**
28 **days counted as hours and days of pupil instruction for the**
29 **purposes of this section by the department under subdivision (c),**

1 **with** the approval of the superintendent of public instruction, the
2 department shall count as hours and days of pupil instruction for a
3 fiscal year not more than 3 ~~additional days or~~ **and** the equivalent
4 number of ~~additional hours~~ for which pupil instruction is not
5 provided in a district due to unusual and extenuating occurrences
6 resulting from conditions not within the control of school
7 authorities such as those conditions described in this subsection.

8 **(c) Beginning with the 2022-2023 school year, if a district**
9 **has used the 6 days and the equivalent number of hours under**
10 **subdivision (a) or the 3 additional days and equivalent number of**
11 **hours under subdivision (b), the department shall count as hours**
12 **and days of pupil instruction, in addition to those days described**
13 **in subdivisions (a) and (b), any day in which pupil instruction is**
14 **not provided due to a ransomware attack. As used in this**
15 **subdivision, "ransomware attack" means an incident that causes a**
16 **district to shut down due to the network being disconnected from**
17 **the internet and phones and fire alarm systems not operating. A**
18 **ransomware attack includes, but is not limited to, any of the**
19 **following types of attacks:**

20 **(i) Crypto ransomware or encryptors.**

21 **(ii) Lockers.**

22 **(iii) Scareware.**

23 **(iv) Doxware or leakware.**

24 **(v) Ransomware as a service.**

25 **(d) ~~Subsequent~~ Other than hours and days under this**
26 **subsection, subsequent** such hours or days are not counted as hours
27 or days of pupil instruction.

28 **(5) A district does not forfeit part of its state aid**
29 **appropriation because it adopts or has in existence an alternative**

1 scheduling program for pupils in kindergarten if the program
2 provides at least the number of hours required under subsection (3)
3 for a full-time equated membership for a pupil in kindergarten as
4 provided under section 6(4).

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

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

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

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

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

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

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

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

28 (e) In grades 7 ~~through~~**to** 12, instructional time that is part
29 of a Junior Reserve Officer Training Corps (JROTC) program is

1 considered to be pupil instruction time regardless of whether the
2 instructor is a certificated teacher if all of the following are
3 met:

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

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

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

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

1 under subsection (3). A district shall report pupils enrolled in a
2 department-approved alternative education program under this
3 subsection to the center in a form and manner determined by the
4 center. All of the following apply to a waiver granted under this
5 subsection:

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

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

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

21 (10) A district may count up to 38 hours of professional
22 development for teachers as hours of pupil instruction. All of the
23 following apply to the counting of professional development as
24 pupil instruction under this subsection:

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

27 (b) At least 8 hours of the professional development counted
28 as hours of pupil instruction under this subsection must be
29 recommended by a districtwide professional development advisory

1 committee appointed by the district board. The advisory committee
2 must be composed of teachers employed by the district who represent
3 a variety of grades and subject matter specializations, including
4 special education; nonteaching staff; parents; and administrators.
5 The majority membership of the committee must be composed of
6 teaching staff.

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

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

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

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

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

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

29 (iv) Not more than a combined total of 10 hours of the

1 professional development takes place before the first scheduled day
2 of school for the school year ending in the fiscal year and after
3 the last scheduled day of school for that school year.

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

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

8 (11) Subsections (3) and (8) do not apply to a school of
9 excellence that is a cyber school, as that term is defined in
10 section 551 of the revised school code, MCL 380.551, and is in
11 compliance with section 553a of the revised school code, MCL
12 380.553a. Beginning July 1, 2021, this subsection is subject to
13 section 8c. It is the intent of the legislature that the
14 immediately preceding sentence apply retroactively and is effective
15 July 1, 2021.

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

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

26 Enacting section 1. This amendatory act is retroactive and
27 takes effect June 1, 2023.