

HOUSE BILL NO. 5082

October 03, 2023, Introduced by Reps. Breen, Filler, Hope, Bezotte, Steckloff, Price, Brabec, Shannon, Tsernoglou, Byrnes, Arbit, Morse, Wilson, Rheingans, Weiss and McFall 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

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

1 of the number of hours or days the district was in noncompliance in
2 relation to the required minimum number of hours and days under
3 this subsection. Not later than the first business day in August,
4 the board of each district shall either certify to the department
5 that the district was in full compliance with this section
6 regarding the number of hours and days of pupil instruction in the
7 previous school year, or report to the department, in a form and
8 manner prescribed by the center, each instance of noncompliance. If
9 the district did not provide at least the required minimum number
10 of 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 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~~ **because of**
28 conditions not within the control of school authorities, ~~then~~
29 subdivision (d) does not apply for any day of pupil instruction

1 that is added to the end of the instructional calendar. Instead,
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 waiver must provide that an eligible district is subject to the
15 proration provisions of subdivision (d) only if the district does
16 not have at least 50% of the district's membership in attendance on
17 any day of pupil instruction. ~~In order to~~ **To** be eligible for this
18 waiver, a district must maintain records to substantiate its
19 compliance with the following requirements:

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

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

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

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

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

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

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

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

19 (4) Except as otherwise provided in this subsection, the first
20 6 days or 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 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~~**because of** unusual and extenuating
2 occurrences resulting from conditions not within the control of
3 school authorities such as those conditions described in this
4 subsection. Subsequent such hours or days are not counted as hours
5 or days of pupil instruction.

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

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

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

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

28 (7) In providing the minimum number of hours and days of pupil
29 instruction required under subsection (3), a district shall use the

1 following guidelines, and a district shall maintain records to
2 substantiate its compliance with the following guidelines:

3 (a) Except as otherwise provided in this subsection, a pupil
4 must be scheduled for at least the required minimum number of hours
5 of instruction, excluding study halls, or at least ~~the sum of 90~~
6 hours plus the required minimum number of hours of instruction,
7 including up to 2 study halls.

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

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

22 (d) If a pupil in grades 9 to 12 who is enrolled in a
23 cooperative education program or a special education pupil cannot
24 receive the required minimum number of hours of pupil instruction
25 solely because of travel time between instructional sites during
26 the school day, that travel time, up to a maximum of 3 hours per
27 school week, is considered to be pupil instruction time for the
28 purpose of determining whether the pupil is receiving the required
29 minimum number of hours of pupil instruction. However, if a

1 district demonstrates to the satisfaction of the department that
2 the travel time limitation under this subdivision would create
3 undue costs or hardship to the district, the department may
4 consider more travel time to be pupil instruction time for this
5 purpose.

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

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

15 (ii) The board of the district or intermediate district
16 employing or assigning the instructor complies with the
17 requirements of sections 1230 and 1230a of the revised school code,
18 MCL 380.1230 and 380.1230a, with respect to the instructor to the
19 same extent as if employing the instructor as a regular classroom
20 teacher.

21 **(f) Recess that meets the requirements for recess under**
22 **section 101a is considered to be pupil instruction time.**

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~~ **if** 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. Beginning July 1, 2021, this subsection is subject to
22 section 8c. It is the intent of the legislature that the
23 immediately preceding sentence apply retroactively and is effective
24 July 1, 2021.

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

29 (13) At least every 2 years the superintendent shall review

1 the waiver standards set forth in the pupil accounting and auditing
2 manuals to ensure that the waiver standards and waiver process
3 continue to be appropriate and responsive to changing trends in
4 online learning. The superintendent shall solicit and consider
5 input from stakeholders as part of this review.

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No. _____ or House Bill No. 5081 (request no.
8 03019'23) of the 102nd Legislature is enacted into law.