

HOUSE BILL NO. 6100

May 11, 2022, Introduced by Reps. Rogers, Stone, Weiss, Rabhi, Shannon, Morse, Hood, Aiyash, Camilleri, Sneller, Scott, Neeley, Garza, Breen, Steckloff, Koleszar, Brixie, Peterson, Coleman, Hope, Kuppa, Roth, Pepper, Brenda Carter, Cherry, Clemente, Haadsma and Jones 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 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 **this subdivision or**
19 subdivisions (e) and (f), if a district does not have at least 75%
20 of the district's membership in attendance on any day of pupil
21 instruction, the department shall pay the district state aid in
22 that proportion of 1/180 that the actual ~~percent~~ **percentage** of
23 attendance bears to 75%. **However, for 2021-2022 only, for up to 9**
24 **days of pupil instruction during each school year that the district**
25 **experiences staffing shortages caused by COVID-19, if the district**
26 **does not have at least 60% of the district's membership in**
27 **attendance on those days, the department shall pay the district**
28 **state aid in that proportion of 1/180 that the actual percentage of**
29 **attendance bears to 60%. As used in this subdivision, "staffing**

shortages caused by COVID-19" means a shortage in staffing that resulted from the COVID-19 pandemic, as determined by the district.

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

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

(i) The district offers the minimum hours of pupil instruction

1 as required under this section.

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

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

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

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

14 (ii) If the waiver is for a 100% online model of delivery and
15 the educational program for which the waiver is granted makes
16 educational services available to pupils for a minimum of at least
17 1,098 hours during a school year and ensures that each pupil
18 participates in the educational program for at least 1,098 hours
19 during a school year, a waiver that is granted for the 2011-2012
20 fiscal year or a subsequent fiscal year remains in effect unless it
21 is revoked by the superintendent.

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

26 (h) The superintendent shall promulgate rules for the
27 implementation of this subsection.

28 (4) Except as otherwise provided in this subsection, the first
29 6 days or the equivalent number of hours for which pupil

instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, utility power unavailability, water or sewer failure, or health conditions as defined by the city, county, or state health authorities, are counted as hours and days of pupil instruction.

For 2021-2022 only, in addition to these 6 days, if pupil instruction is not provided on 1 or more days due to staffing shortages caused by COVID-19, upon request by a district to the superintendent of public instruction, in a form and manner prescribed by the department, that 1 or more of those days and the equivalent number of hours count as hours and days of pupil instruction, the department shall count up to 5 of those requested days and the equivalent number of hours as hours and days of pupil instruction for the purposes of this section. With the approval of the superintendent of public instruction, the department shall count as hours and days of pupil instruction for a fiscal year not more than 3 additional days or the equivalent number of additional hours for which pupil instruction is not provided in a district due to unusual and extenuating occurrences resulting from conditions not within the control of school authorities such as those conditions described in this subsection. Subsequent such hours or days are not counted as hours or days of pupil instruction. **As used in this subsection, "staffing shortages caused by COVID-19" means a shortage in staffing that resulted from the COVID-19 pandemic, as determined by the district.**

(5) A district does not forfeit part of its state aid appropriation because it adopts or has in existence an alternative scheduling program for pupils in kindergarten if the program 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 of the following are

1 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) and (12),
13 the department shall apply the guidelines under subsection (7) in
14 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) At least every 2 years the superintendent shall review
16 the waiver standards set forth in the pupil accounting and auditing
17 manuals to ensure that the waiver standards and waiver process
18 continue to be appropriate and responsive to changing trends in
19 online learning. The superintendent shall solicit and consider
20 input from stakeholders as part of this review.