

# SENATE BILL NO. 113

February 13, 2019, Introduced by Senator ANANICH and referred to the Committee on Education and Career Readiness.

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 2018 PA 586.

**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 to the center and the intermediate superintendent, in the

1 form and manner prescribed by the center, the number of pupils  
2 enrolled and in regular daily attendance in the district as of the  
3 pupil membership count day and as of the supplemental count day, as  
4 applicable, for the current school year. In addition, a district  
5 maintaining school during the entire year, as provided under  
6 section 1561 of the revised school code, MCL 380.1561, shall submit  
7 to the center and the intermediate superintendent, in the form and  
8 manner prescribed by the center, the number of pupils enrolled and  
9 in regular daily attendance in the district for the current school  
10 year pursuant to rules promulgated by the superintendent. Not later  
11 than the sixth Wednesday after the pupil membership count day and  
12 not later than the sixth Wednesday after the supplemental count  
13 day, the district shall certify the data in a form and manner  
14 prescribed by the center and file the certified data with the  
15 intermediate superintendent. If a district fails to submit and  
16 certify the attendance data, as required under this subsection, the  
17 center shall notify the department and state aid due to be  
18 distributed under this article shall be withheld from the  
19 defaulting district immediately, beginning with the next payment  
20 after the failure and continuing with each payment until the  
21 district complies with this subsection. If a district does not  
22 comply with this subsection by the end of the fiscal year, the  
23 district forfeits the amount withheld. A person who willfully  
24 falsifies a figure or statement in the certified and sworn copy of  
25 enrollment shall be punished in the manner prescribed by section  
26 161.

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

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

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

16 (a) Except as otherwise provided in this section, each  
17 district shall provide at least 1,098 hours and, beginning in 2010-  
18 2011, the required minimum number of days of pupil instruction.  
19 Beginning in 2014-2015, the required minimum number of days of  
20 pupil instruction is 175. However, all of the following apply to  
21 these requirements:

22 (i) If a collective bargaining agreement that provides a  
23 complete school calendar was in effect for employees of a district  
24 as of July 1, 2013, and if that school calendar is not in  
25 compliance with this subsection, then this subsection does not  
26 apply to that district until after the expiration of that  
27 collective bargaining agreement. If a district entered into a  
28 collective bargaining agreement on or after July 1, 2013 and if  
29 that collective bargaining agreement did not provide for at least

1 175 days of pupil instruction beginning in 2014-2015, then the  
2 department shall withhold from the district's total state school  
3 aid an amount equal to 5% of the funding the district receives in  
4 2014-2015 under sections 22a and 22b.

5 (ii) A district may apply for a waiver under subsection (9)  
6 from the requirements of this subdivision.

7 (b) Beginning in 2016-2017, the required minimum number of  
8 days of pupil instruction is 180. If a collective bargaining  
9 agreement that provides a complete school calendar was in effect  
10 for employees of a district as of the effective date of the  
11 amendatory act that added this subdivision, and if that school  
12 calendar is not in compliance with this subdivision, then this  
13 subdivision does not apply to that district until after the  
14 expiration of that collective bargaining agreement. A district may  
15 apply for a waiver under subsection (9) from the requirements of  
16 this subdivision.

17 (c) Except as otherwise provided in this article, a district  
18 failing to comply with the required minimum hours and days of pupil  
19 instruction under this subsection shall forfeit from its total  
20 state aid allocation an amount determined by applying a ratio of  
21 the number of hours or days the district was in noncompliance in  
22 relation to the required minimum number of hours and days under  
23 this subsection. Not later than August 1, the board of each  
24 district shall either certify to the department that the district  
25 was in full compliance with this section regarding the number of  
26 hours and days of pupil instruction in the previous school year, or  
27 report to the department, in a form and manner prescribed by the  
28 center, each instance of noncompliance. If the district did not  
29 provide at least the required minimum number of hours and days of

1 pupil instruction under this subsection, the deduction of state aid  
2 shall be made in the following fiscal year from the first payment  
3 of state school aid. A district is not subject to forfeiture of  
4 funds under this subsection for a fiscal year in which a forfeiture  
5 was already imposed under subsection (6).

6 (d) Hours or days lost because of strikes or teachers'  
7 conferences shall not be counted as hours or days of pupil  
8 instruction.

9 (e) If a collective bargaining agreement that provides a  
10 complete school calendar is in effect for employees of a district  
11 as of October 19, 2009, and if that school calendar is not in  
12 compliance with this subsection, then this subsection does not  
13 apply to that district until after the expiration of that  
14 collective bargaining agreement.

15 (f) Except as otherwise provided in subdivisions (g) and (h),  
16 a district not having at least 75% of the district's membership in  
17 attendance on any day of pupil instruction shall receive state aid  
18 in that proportion of 1/180 that the actual percent of attendance  
19 bears to the specified percentage.

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

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

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

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

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

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

25 (i) All of the following apply to a waiver granted under  
26 subdivision (h):

27 (i) If the waiver is for a blended model of delivery, a waiver  
28 that is granted for the 2011-2012 fiscal year or a subsequent  
29 fiscal year remains in effect unless it is revoked by the

1 superintendent.

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

10 (iii) A waiver that is not a waiver described in subparagraph  
11 (i) or (ii) is valid for 1 fiscal year and must be renewed annually  
12 to remain in effect.

13 (j) The superintendent shall promulgate rules for the  
14 implementation of this subsection.

15 (4) Except as otherwise provided in this subsection, the first  
16 6 days or the equivalent number of hours for which pupil  
17 instruction is not provided because of conditions not within the  
18 control of school authorities, such as severe storms, fires,  
19 epidemics, utility power unavailability, water or sewer failure, or  
20 health conditions as defined by the city, county, or state health  
21 authorities, ~~shall be~~ **are** counted as hours and days of pupil  
22 instruction. **In addition to these 6 days, if pupil instruction is**  
23 **not provided on 1 or more days that are included in a period for**  
24 **which the governor has issued an executive order declaring a state**  
25 **of emergency across this state, those days and the corresponding**  
26 **number of hours are considered to be days and hours of pupil**  
27 **instruction and the department shall count them as days and hours**  
28 **of pupil instruction for the purposes of this section. For 2019-**  
29 **2020, the days included in the executive order are January 29, 2019**

1 **to February 2, 2019.** With the approval of the superintendent of  
2 public instruction, the department shall count as hours and days of  
3 pupil instruction for a fiscal year not more than 3 additional days  
4 or the equivalent number of additional hours for which pupil  
5 instruction is not provided in a district due to unusual and  
6 extenuating occurrences resulting from conditions not within the  
7 control of school authorities such as those conditions described in  
8 this subsection. Subsequent such hours or days shall not be counted  
9 as hours or days of pupil instruction.

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

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

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

28 (b) The board of the district takes formal action not to  
29 operate its schools for at least the required minimum number of



1 hours and days of pupil instruction under subsection (3) in a  
2 school year, including hours and days counted under subsection (4).

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

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

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

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

26 (d) If a pupil in grades 9 to 12 who is enrolled in a  
27 cooperative education program or a special education pupil cannot  
28 receive the required minimum number of hours of pupil instruction  
29 solely because of travel time between instructional sites during

1 the school day, that travel time, up to a maximum of 3 hours per  
2 school week, shall be considered to be pupil instruction time for  
3 the purpose of determining whether the pupil is receiving the  
4 required minimum number of hours of pupil instruction. However, if  
5 a district demonstrates to the satisfaction of the department that  
6 the travel time limitation under this subdivision would create  
7 undue costs or hardship to the district, the department may  
8 consider more travel time to be pupil instruction time for this  
9 purpose.

10 (e) In grades 7 through 12, instructional time that is part of  
11 a junior reserve officer training corps (JROTC) program shall be  
12 considered to be pupil instruction time regardless of whether the  
13 instructor is a certificated teacher if all of the following are  
14 met:

15 (i) The instructor has met all of the requirements established  
16 by the United States Department of Defense and the applicable  
17 branch of the armed services for serving as an instructor in the  
18 junior reserve officer training corps program.

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

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

28 (9) Upon application by the district for a particular fiscal  
29 year, the superintendent shall waive for a district the minimum

1 number of hours and days of pupil instruction requirement of  
2 subsection (3) for a department-approved alternative education  
3 program or another innovative program approved by the department,  
4 including a 4-day school week. If a district applies for and  
5 receives a waiver under this subsection and complies with the terms  
6 of the waiver, the district is not subject to forfeiture under this  
7 section for the specific program covered by the waiver. If the  
8 district does not comply with the terms of the waiver, the amount  
9 of the forfeiture shall be calculated based upon a comparison of  
10 the number of hours and days of pupil instruction actually provided  
11 to the minimum number of hours and days of pupil instruction  
12 required under subsection (3). Pupils enrolled in a department-  
13 approved alternative education program under this subsection shall  
14 be reported to the center in a form and manner determined by the  
15 center. All of the following apply to a waiver granted under this  
16 subsection:

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

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

28 (c) A waiver that is not a waiver described in subdivision (a)  
29 or (b) is valid for 1 fiscal year and must be renewed annually to

1 remain in effect.

2 (d) For 2018-2019 only, the department shall grant a waiver to  
3 a district that applies for a waiver for a blended model of  
4 delivery after the department's application deadline if the  
5 district meets the other requirements for a waiver under this  
6 subsection.

7 (10) Until 2014-2015, a district may count up to 38 hours of  
8 qualifying professional development for teachers as hours of pupil  
9 instruction. However, if a collective bargaining agreement that  
10 provides for the counting of up to 38 hours of qualifying  
11 professional development for teachers as pupil instruction is in  
12 effect for employees of a district as of July 1, 2013, then until  
13 the school year that begins after the expiration of that collective  
14 bargaining agreement a district may count up to the contractually  
15 specified number of hours of qualifying professional development  
16 for teachers as hours of pupil instruction. Professional  
17 development provided online is allowable and encouraged, as long as  
18 the instruction has been approved by the district. The department  
19 shall issue a list of approved online professional development  
20 providers, which shall include the Michigan Virtual School. As used  
21 in this subsection, "qualifying professional development" means  
22 professional development that is focused on 1 or more of the  
23 following:

24 (a) Achieving or improving adequate yearly progress as defined  
25 under the no child left behind act of 2001, Public Law 107-110.

26 (b) Achieving accreditation or improving a school's  
27 accreditation status under section 1280 of the revised school code,  
28 MCL 380.1280.

29 (c) Achieving highly qualified teacher status as defined under

1 the no child left behind act of 2001, Public Law 107-110.

2 (d) Integrating technology into classroom instruction.

3 (e) Maintaining teacher certification.

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

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

12 (13) Beginning in 2013, at least every 2 years the  
13 superintendent shall review the waiver standards set forth in the  
14 pupil accounting and auditing manuals to ensure that the waiver  
15 standards and waiver process continue to be appropriate and  
16 responsive to changing trends in online learning. The  
17 superintendent shall solicit and consider input from stakeholders  
18 as part of this review.