

# HOUSE BILL NO. 6014

April 13, 2022, Introduced by Rep. Hornberger 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  
6 superintendent, in the form and manner prescribed by the center,

1 the number of pupils enrolled and in regular daily attendance,  
2 including identification of tuition-paying pupils, in the district  
3 as of the pupil membership count day and as of the supplemental  
4 count day, as applicable, for the current school year. In addition,  
5 a district maintaining school during the entire year shall submit  
6 and certify to the center and the intermediate superintendent, in  
7 the form and manner prescribed by the center, the number of pupils  
8 enrolled and in regular daily attendance in the district for the  
9 current school year pursuant to rules promulgated by the  
10 superintendent. Not later than the sixth Wednesday after the pupil  
11 membership count day and not later than the sixth Wednesday after  
12 the supplemental count day, the district shall resolve any pupil  
13 membership conflicts with another district, correct any data  
14 issues, and recertify the data in a form and manner prescribed by  
15 the center and file the certified data with the intermediate  
16 superintendent. If a district fails to submit and certify the  
17 attendance data, as required under this subsection, the center  
18 shall notify the department and the department shall withhold state  
19 aid due to be distributed under this article from the defaulting  
20 district immediately, beginning with the next payment after the  
21 failure and continuing with each payment until the district  
22 complies with this subsection. If a district does not comply with  
23 this subsection by the end of the fiscal year, the district  
24 forfeits the amount withheld. A person who willfully falsifies a  
25 figure or statement in the certified and sworn copy of enrollment  
26 is subject to penalty as prescribed by section 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 as described in  
 4 subsection (1) for the pupils of its constituent districts and of  
 5 the intermediate district. If an intermediate district fails to  
 6 submit the audited data as required under this subsection, the  
 7 department shall withhold state aid due to be distributed under  
 8 this article from the defaulting intermediate district immediately,  
 9 beginning with the next payment after the failure and continuing  
 10 with each payment until the intermediate district complies with  
 11 this subsection. If an intermediate district does not comply with  
 12 this subsection by the end of the fiscal year, the intermediate  
 13 district forfeits the 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, **until the**  
 17 **end of the 2021-2022 school year**, each district shall provide at  
 18 least 1,098 hours and 180 days of pupil instruction **each school**  
 19 **year**. ~~If a collective bargaining agreement that provides a complete~~  
 20 ~~school calendar was in effect for employees of a district as of~~  
 21 ~~June 24, 2014, and if that school calendar is not in compliance~~  
 22 ~~with this subdivision, then this subdivision does not apply to that~~  
 23 ~~district until after the expiration of that collective bargaining~~  
 24 ~~agreement.~~ **For the 2022-2023 school year, each district shall**  
 25 **provide at least 1,128.5 hours and 185 days of pupil instruction.**  
 26 **For the 2023-2024 school year, each district shall provide at least**  
 27 **1,159 hours and 190 days of pupil instruction. For the 2024-2025**  
 28 **school year, each district shall provide at least 1,189.5 hours and**  
 29 **195 days of pupil instruction. For the 2025-2026 school year, each**

1 **district shall provide at least 1,220 hours and 200 days of pupil**  
2 **instruction. For the 2026-2027 school year and each school year**  
3 **thereafter, each district shall provide at least 1,250.5 hours and**  
4 **205 days of pupil instruction.** A district may apply for a waiver  
5 under subsection (9) from the requirements of this subdivision.

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

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

27 (d) Except as otherwise provided in subdivisions (e) and (f),  
28 if a district does not have at least 75% of the district's  
29 membership in attendance on any day of pupil instruction, the

1 department shall pay the district state aid in that proportion of  
2 1/180 **until the end of the 2021-2022 school year, but, for 2022-**  
3 **2023, 1/185, for 2023-2024, 1/190, for 2024-2025, 1/195, for 2025-**  
4 **2026, 1/200, and for 2026-2027 and each school year thereafter,**  
5 **1/205,** that the actual percent of attendance bears to 75%.

6 (e) If a district adds 1 or more days of pupil instruction to  
7 the end of its instructional calendar for a school year to comply  
8 with subdivision (a) because the district otherwise would fail to  
9 provide the required minimum number of days of pupil instruction  
10 even after the operation of subsection (4) due to conditions not  
11 within the control of school authorities, then subdivision (d) does  
12 not apply for any day of pupil instruction that is added to the end  
13 of the instructional calendar. Instead, for any of those days, if  
14 the district does not have at least 60% of the district's  
15 membership in attendance on that day, the department shall pay the  
16 district state aid in that proportion of 1/180 **until the end of the**  
17 **2021-2022 school year, but, for 2022-2023, 1/185, for 2023-2024,**  
18 **1/190, for 2024-2025, 1/195, for 2025-2026, 1/200, and for 2026-**  
19 **2027 and each school year thereafter, 1/205,** that the actual  
20 percentage of attendance bears to 60%. For any day of pupil  
21 instruction added to the instructional calendar as described in  
22 this subdivision, the district shall report to the department the  
23 percentage of the district's membership that is in attendance, in  
24 the form and manner prescribed by the department.

25 (f) At the request of a district that operates a department-  
26 approved alternative education program and that does not provide  
27 instruction for pupils in all of grades K to 12, the superintendent  
28 shall grant a waiver from the requirements of subdivision (d). The  
29 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 as required under this section.

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

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

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

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

(ii) If the waiver is for a 100% online model of delivery and the educational program for which the waiver is granted makes educational services available to pupils for a minimum of at least 1,098 hours **until the end of the 2021-2022 school year, but, for 2022-2023, 1,128.5 hours, for 2023-2024, 1,159 hours, for 2024-2025, 1,189.5 hours, for 2025-2026, 1,220 hours, and for 2026-2027 and each school year thereafter, 1,250.5 hours,** during ~~a~~<sup>the</sup> school year and ensures that each pupil participates in the educational program for at least 1,098 hours **until the end of the 2021-2022 school year, but, for 2022-2023, 1,128.5 hours, for 2023-2024,**

1 1,159 hours, for 2024-2025, 1,189.5 hours, for 2025-2026, 1,220  
2 hours, and for 2026-2027 and each school year thereafter, 1,250.5  
3 hours, during ~~a~~<sup>the</sup> school year, a waiver that is granted for the  
4 2011-2012 fiscal year or a subsequent fiscal year remains in effect  
5 unless it is revoked by the superintendent.

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

10 (h) The superintendent shall promulgate rules for the  
11 implementation of this subsection.

12 (4) Except as otherwise provided in this subsection, the first  
13 6 days or the equivalent number of hours for which pupil  
14 instruction is not provided because of conditions not within the  
15 control of school authorities, such as severe storms, fires,  
16 epidemics, utility power unavailability, water or sewer failure, or  
17 health conditions as defined by the city, county, or state health  
18 authorities, are counted as hours and days of pupil instruction.  
19 With the approval of the superintendent of public instruction, the  
20 department shall count as hours and days of pupil instruction for a  
21 fiscal year not more than 3 additional days or the equivalent  
22 number of additional hours for which pupil instruction is not  
23 provided in a district due to unusual and extenuating occurrences  
24 resulting from conditions not within the control of school  
25 authorities such as those conditions described in this subsection.  
26 Subsequent such hours or days are not counted as hours or days of  
27 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 12, instructional time that is part of  
29 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 **until the end of the 2021-2022 school year, but, for**  
14 **2022-2023, 1,128.5 hours, for 2023-2024, 1,159 hours, for 2024-**  
15 **2025, 1,189.5 hours, for 2025-2026, 1,220 hours, and for 2026-2027**  
16 **and each school year thereafter, 1,250.5 hours,** during ~~a~~**the** school  
17 year and ensures that each pupil is on track for course completion  
18 at proficiency level, a waiver that is granted for the 2011-2012  
19 fiscal year or a subsequent fiscal year remains in effect unless it  
20 is revoked by the superintendent.

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

25 (10) A district may count up to 38 hours of professional  
26 development for teachers as hours of pupil instruction. All of the  
27 following apply to the counting of professional development as  
28 pupil instruction under this subsection:

29 (a) If the professional development exceeds 5 hours in a

1 single day, that day may be counted as a day of pupil instruction.

2 (b) At least 8 hours of the professional development counted  
3 as hours of pupil instruction under this subsection must be  
4 recommended by a districtwide professional development advisory  
5 committee appointed by the district board. The advisory committee  
6 must be composed of teachers employed by the district who represent  
7 a variety of grades and subject matter specializations, including  
8 special education; nonteaching staff; parents; and administrators.  
9 The majority membership of the committee must be composed of  
10 teaching staff.

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

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

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

21 (i) Be aligned to the school or district improvement plan for  
22 the school or district in which the professional development is  
23 being provided.

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

27 (iii) Has been approved by the department as counting for state  
28 continuing education clock hours. The number of hours of  
29 professional development counted as hours of pupil instruction

1 under this subsection may not exceed the number of state continuing  
2 education clock hours for which the professional development was  
3 approved.

4 (iv) Not more than a combined total of 10 hours of the  
5 professional development takes place before the first scheduled day  
6 of school for the school year ending in the fiscal year and after  
7 the last scheduled day of school for that school year.

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

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

12 (11) Subsections (3) and (8) do not apply to a school of  
13 excellence that is a cyber school, as that term is defined in  
14 section 551 of the revised school code, MCL 380.551, and is in  
15 compliance with section 553a of the revised school code, MCL  
16 380.553a.

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

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