

**SUBSTITUTE FOR
HOUSE BILL NO. 4206**

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
6 form and manner prescribed by the center, the number of pupils
7 enrolled and in regular daily attendance in the district as of the
8 pupil membership count day and as of the supplemental count day, as
9 applicable, for the current school year. In addition, a district



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

23 (2) To be eligible to receive state aid under this article,
24 not later than the twenty-fourth Wednesday after the pupil
25 membership count day and not later than the twenty-fourth Wednesday
26 after the supplemental count day, an intermediate district shall
27 submit to the center, in a form and manner prescribed by the
28 center, the audited enrollment and attendance data for the pupils
29 of its constituent districts and of the intermediate district. If



1 an intermediate district fails to submit the audited data as
 2 required under this subsection, state aid due to be distributed
 3 under this article shall be withheld from the defaulting
 4 intermediate district immediately, beginning with the next payment
 5 after the failure and continuing with each payment until the
 6 intermediate district complies with this subsection. If an
 7 intermediate district does not comply with this subsection by the
 8 end of the fiscal year, the intermediate district forfeits the
 9 amount withheld.

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

12 (a) Except as otherwise provided in this section, each
 13 district shall provide at least 1,098 hours and, beginning in 2010-
 14 2011, the required minimum number of days of pupil instruction.
 15 Beginning in 2014-2015, the required minimum number of days of
 16 pupil instruction is 175. However, all of the following apply to
 17 these requirements:

18 (i) If a collective bargaining agreement that provides a
 19 complete school calendar was in effect for employees of a district
 20 as of July 1, 2013, and if that school calendar is not in
 21 compliance with this subsection, then this subsection does not
 22 apply to that district until after the expiration of that
 23 collective bargaining agreement. If a district entered into a
 24 collective bargaining agreement on or after July 1, 2013 and if
 25 that collective bargaining agreement did not provide for at least
 26 175 days of pupil instruction beginning in 2014-2015, then the
 27 department shall withhold from the district's total state school
 28 aid an amount equal to 5% of the funding the district receives in
 29 2014-2015 under sections 22a and 22b.



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

3 (b) Beginning in 2016-2017, the required minimum number of
4 days of pupil instruction is 180. If a collective bargaining
5 agreement that provides a complete school calendar was in effect
6 for employees of a district as of ~~the effective date of the~~
7 ~~amendatory act that added this subdivision,~~ **June 24, 2014**, and if
8 that school calendar is not in compliance with this subdivision,
9 then this subdivision does not apply to that district until after
10 the expiration of that collective bargaining agreement. A district
11 may apply for a waiver under subsection (9) from the requirements
12 of this subdivision.

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



1 was already imposed under subsection (6).

2 (d) Hours or days lost because of strikes or teachers'
3 conferences shall not be counted as hours or days of pupil
4 instruction.

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

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

16 (g) If a district adds 1 or more days of pupil instruction to
17 the end of its instructional calendar for a school year to comply
18 with subdivision (a) because the district otherwise would fail to
19 provide the required minimum number of days of pupil instruction
20 even after the operation of subsection (4) due to conditions not
21 within the control of school authorities, then subdivision (f) does
22 not apply for any day of pupil instruction that is added to the end
23 of the instructional calendar. Instead, for any of those days, if
24 the district does not have at least 60% of the district's
25 membership in attendance on that day, the district shall receive
26 state aid in that proportion of 1/180 that the actual percentage of
27 attendance bears to the specified percentage. For any day of pupil
28 instruction added to the instructional calendar as described in
29 this subdivision, the district shall report to the department the



1 percentage of the district's membership that is in attendance, in
2 the form and manner prescribed by the department.

3 (h) If a district does not have at least 75% of the district's
4 membership in attendance as required under subdivision (f) because
5 of documented conditions not within the control of school
6 authorities, such as those conditions described under subsection
7 (4), then subdivision (f) does not apply for any of those days.
8 Instead, for any of those days, if the district does not have at
9 least 60% of the district's membership in attendance on that day,
10 the district shall receive state aid in that proportion of 1/180
11 that the actual percentage of attendance bears to the specified
12 percentage. For any day of pupil instruction described under this
13 subdivision, the district shall report to the department the
14 percentage of the district's membership that is in attendance, in
15 the form and manner prescribed by the department.

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

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

28 (ii) For each enrolled pupil, the district uses appropriate
29 academic assessments to develop an individual education plan that



1 leads to a high school diploma.

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

5 (j) ~~(i)~~—All of the following apply to a waiver granted under
6 subdivision ~~(h)~~: (i) :

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

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

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

22 (k) ~~(j)~~—The superintendent shall promulgate rules for the
23 implementation of this subsection.

24 (4) Except as otherwise provided in this subsection, the first
25 6 days or the equivalent number of hours for which pupil
26 instruction is not provided because of conditions not within the
27 control of school authorities, such as severe storms, fires,
28 epidemics, utility power unavailability, water or sewer failure, or
29 health conditions as defined by the city, county, or state health



1 authorities, ~~shall be~~ **are** counted as hours and days of pupil
2 instruction. **In addition to these 6 days, with the approval of the**
3 **superintendent of public instruction, the department shall count as**
4 **hours and days of pupil instruction the days and the corresponding**
5 **number of hours for which pupil instruction is not provided that**
6 **are included in a period for which the governor has issued an**
7 **executive order declaring a state of emergency.** With the approval
8 of the superintendent of public instruction, the department shall
9 count as hours and days of pupil instruction for a fiscal year not
10 more than 3 additional days or the equivalent number of additional
11 hours for which pupil instruction is not provided in a district due
12 to unusual and extenuating occurrences resulting from conditions
13 not within the control of school authorities such as those
14 conditions described in this subsection. Subsequent such hours or
15 days shall not be counted as hours or days of pupil instruction.

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

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



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

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

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

13 (a) Except as otherwise provided in this subsection, a pupil
14 must be scheduled for at least the required minimum number of hours
15 of instruction, excluding study halls, or at least the sum of 90
16 hours plus the required minimum number of hours of instruction,
17 including up to 2 study halls.

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

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



1 number of hours of pupil instruction to be considered a full-time
2 equivalent pupil.

3 (d) If a pupil in grades 9 to 12 who is enrolled in a
4 cooperative education program or a special education pupil cannot
5 receive the required minimum number of hours of pupil instruction
6 solely because of travel time between instructional sites during
7 the school day, that travel time, up to a maximum of 3 hours per
8 school week, shall be considered to be pupil instruction time for
9 the purpose of determining whether the pupil is receiving the
10 required minimum number of hours of pupil instruction. However, if
11 a district demonstrates to the satisfaction of the department that
12 the travel time limitation under this subdivision would create
13 undue costs or hardship to the district, the department may
14 consider more travel time to be pupil instruction time for this
15 purpose.

16 (e) In grades 7 through 12, instructional time that is part of
17 a ~~junior reserve officer training corps~~ **Junior Reserve Officer**
18 **Training Corps** (JROTC) program shall be considered to be pupil
19 instruction time regardless of whether the instructor is a
20 certificated teacher if all of the following are met:

21 (i) The instructor has met all of the requirements established
22 by the United States Department of Defense and the applicable
23 branch of the armed services for serving as an instructor in the
24 ~~junior reserve officer training corps~~ **Junior Reserve Officer**
25 **Training Corps** program.

26 (ii) The board of the district or intermediate district
27 employing or assigning the instructor complies with the
28 requirements of sections 1230 and 1230a of the revised school code,
29 MCL 380.1230 and 380.1230a, with respect to the instructor to the



1 same extent as if employing the instructor as a regular classroom
2 teacher.

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

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

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

28 (b) If the waiver is for a 100% online model of delivery and
29 the educational program for which the waiver is granted makes



1 educational services available to pupils for a minimum of at least
2 1,098 hours during a school year and ensures that each pupil is on
3 track for course completion at proficiency level, a waiver that is
4 granted for the 2011-2012 fiscal year or a subsequent fiscal year
5 remains in effect unless it is revoked by the superintendent.

6 (c) A waiver that is not a waiver described in subdivision (a)
7 or (b) is valid for 1 fiscal year and must be renewed annually to
8 remain in effect.

9 (d) For 2018-2019 only, the department shall grant a waiver to
10 a district that applies for a waiver for a blended model of
11 delivery after the department's application deadline if the
12 district meets the other requirements for a waiver under this
13 subsection.

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



1 following:

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

4 (b) Achieving accreditation or improving a school's
5 accreditation status under section 1280 of the revised school code,
6 MCL 380.1280.

7 (c) Achieving highly qualified teacher status as defined under
8 the no child left behind act of 2001, Public Law 107-110.

9 (d) Integrating technology into classroom instruction.

10 (e) Maintaining teacher certification.

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

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

19 (13) Beginning in 2013, at least every 2 years the
20 superintendent shall review the waiver standards set forth in the
21 pupil accounting and auditing manuals to ensure that the waiver
22 standards and waiver process continue to be appropriate and
23 responsive to changing trends in online learning. The
24 superintendent shall solicit and consider input from stakeholders
25 as part of this review.

