

**SENATE 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 a district not having at least 75% of the district's membership in
13 attendance on any day of pupil instruction shall receive state aid
14 in that proportion of 1/180 that the actual percent of attendance
15 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

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

(h) 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 (f). The waiver shall indicate that an eligible district is subject to the proration provisions of subdivision (f) 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.

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

(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 1,098 hours during a school year and ensures that each pupil
2 participates in the educational program for at least 1,098 hours
3 during a school year, a waiver that is granted for the 2011-2012
4 fiscal year or a subsequent fiscal year remains in effect unless it
5 is revoked by the superintendent.

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

9 (j) The superintendent shall promulgate rules for the
10 implementation of this subsection.

11 (4) Except as otherwise provided in this subsection, the first
12 6 days or the equivalent number of hours for which pupil
13 instruction is not provided because of conditions not within the
14 control of school authorities, such as severe storms, fires,
15 epidemics, utility power unavailability, water or sewer failure, or
16 health conditions as defined by the city, county, or state health
17 authorities, ~~shall be~~**are** counted as hours and days of pupil
18 instruction. **For 2018-2019 only, in addition to these 6 days, if**
19 **pupil instruction is not provided on 1 or more days that are**
20 **included in a period for which the governor has issued an executive**
21 **order declaring a state of emergency across this state, those days**
22 **and the equivalent number of hours are considered to be days and**
23 **hours of pupil instruction and the department shall count them as**
24 **days and hours of pupil instruction for the purposes of this**
25 **section. For 2018-2019, the days included in the executive order**
26 **are January 29, 2019 to February 2, 2019.** With the approval of the
27 superintendent of public instruction, the department shall count as
28 hours and days of pupil instruction for a fiscal year not more than
29 3 additional days or the equivalent number of additional hours for

1 which pupil instruction is not provided in a district due to
2 unusual and extenuating occurrences resulting from conditions not
3 within the control of school authorities such as those conditions
4 described in this subsection. Subsequent such hours or days shall
5 not be counted as hours or days of pupil instruction.

6 (5) A district shall 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 shall
15 forfeit in the current fiscal year beginning in the next payment to
16 be calculated by the department a proportion of the funds due to
17 the district under this article that is equal to the proportion
18 below the required minimum number of hours and days of pupil
19 instruction 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, shall be considered to be pupil instruction time for
28 the purpose of determining whether the pupil is receiving the
29 required minimum number of hours of pupil instruction. However, if

1 a 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 12, instructional time that is part of
7 a ~~junior reserve officer training corps~~ **Junior Reserve Officer**
8 **Training Corps** (JROTC) program shall be considered to be pupil
9 instruction time regardless of whether the instructor is a
10 certificated teacher if all of the following are 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~~ **Junior Reserve Officer**
15 **Training Corps** program.

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

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

25 (9) Upon application by the district for a particular fiscal
26 year, the superintendent shall waive for a district the minimum
27 number of hours and days of pupil instruction requirement of
28 subsection (3) for a department-approved alternative education
29 program or another innovative program approved by the department,

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

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

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

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

28 (d) For 2018-2019 only, the department shall grant a waiver to
29 a district that applies for a waiver for a blended model of

1 delivery after the department's application deadline if the
2 district meets the other requirements for a waiver under this
3 subsection.

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

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

23 (b) Achieving accreditation or improving a school's
24 accreditation status under section 1280 of the revised school code,
25 MCL 380.1280.

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

28 (d) Integrating technology into classroom instruction.

29 (e) Maintaining teacher certification.

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

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

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