

SUBSTITUTE FOR
HOUSE BILL NO. 4345

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 2023 PA 103.

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,
7 the number of pupils enrolled and in regular daily attendance,
8 including identification of tuition-paying pupils, in the district
9 as of the pupil membership count day and as of the supplemental

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

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

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

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

13 (a) Except as otherwise provided in this section, each
14 district shall provide at least 1,098 hours and 180 days of pupil
15 instruction. If a collective bargaining agreement that provides a
16 complete school calendar was in effect for employees of a district
17 as of June 24, 2014, and if that school calendar is not in
18 compliance with this subdivision, then this subdivision does not
19 apply to that district until after the expiration of that
20 collective bargaining agreement. A district may apply for a waiver
21 under subsection (9) from the requirements of this subdivision.

22 (b) Except as otherwise provided in this article, a district
23 failing to comply with the required minimum hours and days of pupil
24 instruction under this subsection forfeits from its total state aid
25 allocation an amount determined by applying a ratio of the number
26 of hours or days the district was in noncompliance in relation to
27 the required minimum number of hours and days under this
28 subsection. Not later than the first business day in August, the
29 board of each district shall either certify to the department that

1 the district was in full compliance with this section regarding the
2 number of hours and days of pupil instruction in the previous
3 school year, or report to the department, in a form and manner
4 prescribed by the center, each instance of noncompliance. If the
5 district did not provide at least the required minimum number of
6 hours and days of pupil instruction under this subsection, the
7 department shall make the deduction of state aid in the following
8 fiscal year from the first payment of state school aid. A district
9 is not subject to forfeiture of funds under this subsection for a
10 fiscal year in which a forfeiture was already imposed under
11 subsection (6).

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

14 (d) Except as otherwise provided in subdivisions (e) and (f),
15 if a district does not have at least 75% of the district's
16 membership in attendance on any day of pupil instruction, the
17 department shall pay the district state aid in that proportion of
18 1/180 that the actual percent of attendance bears to 75%.

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

1 percentage of attendance bears to 60%. For any day of pupil
2 instruction added to the instructional calendar as described in
3 this subdivision, the district shall report to the department the
4 percentage of the district's membership that is in attendance, in
5 the form and manner prescribed by the department.

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

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

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

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

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

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

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

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

13 **(h) For the 2024-2025 school year only, a district does not**
14 **need to meet the minimum number of hours and days of pupil**
15 **instruction requirement under subdivision (a) if that district**
16 **meets all of the following requirements:**

17 **(i) The district is located wholly or partially in a county**
18 **that is covered by a state of emergency declared by the governor.**

19 **(ii) A majority of the district board votes to exempt the**
20 **district from the minimum number of hours and days of pupil**
21 **instruction required under subdivision (a).**

22 **(iii) The vote by the district board under subparagraph (ii)**
23 **exempts the district from providing only the hours and days of**
24 **pupil instruction actually missed due to the state of emergency.**

25 **(iv) The vote by the district board under subparagraph (ii)**
26 **exempts the district from not more than 15 days of pupil**
27 **instruction required under subdivision (a). The amount that may be**
28 **exempted under this subdivision is in addition to any days counted**
29 **as pupil instruction under subsection (4).**

1 **(i)** ~~(h)~~—The superintendent shall promulgate rules for the
2 implementation of this subsection.

3 (4) All of the following apply to the counting of days and
4 hours of pupil instruction under this section:

5 (a) Except as otherwise provided in this subsection, the first
6 6 days or the equivalent number of hours for which pupil
7 instruction is not provided because of conditions not within the
8 control of school authorities, such as severe storms, fires,
9 epidemics, utility power unavailability, water or sewer failure, or
10 health conditions as defined by the city, county, or state health
11 authorities, are counted as hours and days of pupil instruction.

12 (b) With the approval of the superintendent of public
13 instruction, the department shall count as hours and days of pupil
14 instruction for a fiscal year not more than 3 additional days or
15 the equivalent number of additional hours for which pupil
16 instruction is not provided in a district due to unusual and
17 extenuating occurrences resulting from conditions not within the
18 control of school authorities such as those conditions described in
19 this subsection.

20 (c) A district that counts hours or days of professional
21 development for teachers as hours or days of pupil instruction, as
22 provided under subsection (10), is eligible to have additional
23 hours or days counted as hours and days of pupil instruction as
24 provided under subdivision (b) to the same extent as a district
25 that does not count hours or days of professional development for
26 teachers as hours or days of pupil instruction.

27 (d) In deciding whether ~~or not~~ to approve the counting of
28 additional hours or days of pupil instruction under subdivision (b)
29 for a district, the superintendent of public instruction shall not

1 take into account whether ~~or not~~ the district counts hours or days
2 of professional development for teachers as hours or days of pupil
3 instruction, as provided under subsection (10).

4 (e) Subsequent hours or days beyond those described in
5 subdivisions (a) and (b) are not counted as hours or days of pupil
6 instruction.

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

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

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

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

29 (7) In providing the minimum number of hours and days of pupil

1 instruction required under subsection (3), a district shall use the
2 following guidelines, and a district shall maintain records to
3 substantiate its compliance with the following guidelines:

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

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

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

23 (d) If a pupil in grades 9 to 12 who is enrolled in a
24 cooperative education program or a special education pupil cannot
25 receive the required minimum number of hours of pupil instruction
26 solely because of travel time between instructional sites during
27 the school day, that travel time, up to a maximum of 3 hours per
28 school week, is considered to be pupil instruction time for the
29 purpose of determining whether the pupil is receiving the required

1 minimum number of hours of pupil instruction. However, if a
2 district demonstrates to the satisfaction of the department that
3 the travel time limitation under this subdivision would create
4 undue costs or hardship to the district, the department may
5 consider more travel time to be pupil instruction time for this
6 purpose.

7 (e) In grades 7 through 12, instructional time that is part of
8 a Junior Reserve Officer Training Corps (JROTC) program is
9 considered to be pupil instruction time regardless of whether the
10 instructor is a certificated teacher if all of the following are
11 met:

12 (i) The instructor has met all of the requirements established
13 by the United States Department of Defense and the applicable
14 branch of the armed services for serving as an instructor in the
15 Junior Reserve Officer 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 is calculated based upon a comparison of the
7 number of hours and days of pupil instruction actually provided to
8 the minimum number of hours and days of pupil instruction required
9 under subsection (3). A district shall report pupils enrolled in a
10 department-approved alternative education program under this
11 subsection 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 3 fiscal years, unless it is revoked by the
27 superintendent, and must be renewed at the end of the 3-year period
28 to remain in effect.

29 (10) A district may count up to 38 hours of professional

1 development for teachers as hours of pupil instruction. All of the
2 following apply to the counting of professional development as
3 pupil instruction under this subsection:

4 (a) If the professional development exceeds 5 hours in a
5 single day, that day may be counted as a day of pupil instruction.

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

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

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

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

25 (i) Be aligned to the school or district improvement plan for
26 the school or district in which the professional development is
27 being provided.

28 (ii) Be linked to 1 or more criteria in the evaluation tool
29 developed or adopted by the district or intermediate district under

1 section 1249 of the revised school code, MCL 380.1249.

2 (iii) Has been approved by the department as counting for state
3 continuing education clock hours. The number of hours of
4 professional development counted as hours of pupil instruction
5 under this subsection may not exceed the number of state continuing
6 education clock hours for which the professional development was
7 approved.

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

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

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

16 (11) Subsections (3) and (8) do not apply to a school of
17 excellence that is a cyber school, as that term is defined in
18 section 551 of the revised school code, MCL 380.551, and is in
19 compliance with section 553a of the revised school code, MCL
20 380.553a. Beginning July 1, 2021, this subsection is subject to
21 section 8c. It is the intent of the legislature that the
22 immediately preceding sentence apply retroactively and is effective
23 July 1, 2021.

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

28 (13) At least every 2 years the superintendent shall review
29 the waiver standards set forth in the pupil accounting and auditing

1 manuals to ensure that the waiver standards and waiver process
2 continue to be appropriate and responsive to changing trends in
3 online learning. The superintendent shall solicit and consider
4 input from stakeholders as part of this review.