

**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. **For 2018-2019 only, if a**
15 **district does not provide pupil instruction for greater than 14**
16 **days due to conditions described under this subsection, including**
17 **those days counted as days of pupil instruction under this**
18 **subsection, but the district does provide at least the required**
19 **minimum number of hours of pupil instruction, the district is not**
20 **subject to the minimum number of days of pupil instruction**
21 **requirement of this section. In providing the minimum number of**
22 **hours of pupil instruction required under this section, a district**
23 **that uses the exception in the immediately preceding sentence from**
24 **the minimum number of days of pupil instruction requirement shall**
25 **add pupil instruction time to a scheduled day in at least 30-minute**
26 **increments.** Subsequent such hours or days shall not be counted as
27 hours or days of pupil instruction.

28 (5) A district shall 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 shall
8 forfeit in the current fiscal year beginning in the next payment to
9 be calculated by the department a proportion of the funds due to
10 the district under this article that is equal to the proportion
11 below the required minimum number of hours and days of pupil
12 instruction 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, shall be considered to be pupil instruction time for
 21 the purpose of determining whether the pupil is receiving the
 22 required minimum number of hours of pupil instruction. However, if
 23 a 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~~ **Junior Reserve Officer**



1 **Training Corps** (JROTC) program shall be considered to be pupil
2 instruction time regardless of whether the instructor is a
3 certificated teacher if all of the following are 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~~ **Junior Reserve Officer**
8 **Training Corps** program.

9 (ii) The board of the district or intermediate district
10 employing or assigning the instructor complies with the
11 requirements of sections 1230 and 1230a of the revised school code,
12 MCL 380.1230 and 380.1230a, with respect to the instructor to the
13 same extent as if employing the instructor as a regular classroom
14 teacher.

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

18 (9) Upon application by the district for a particular fiscal
19 year, the superintendent shall waive for a district the minimum
20 number of hours and days of pupil instruction requirement of
21 subsection (3) for a department-approved alternative education
22 program or another innovative program approved by the department,
23 including a 4-day school week. If a district applies for and
24 receives a waiver under this subsection and complies with the terms
25 of the waiver, the district is not subject to forfeiture under this
26 section for the specific program covered by the waiver. If the
27 district does not comply with the terms of the waiver, the amount
28 of the forfeiture shall be calculated based upon a comparison of
29 the number of hours and days of pupil instruction actually provided



1 to the minimum number of hours and days of pupil instruction
2 required under subsection (3). Pupils enrolled in a department-
3 approved alternative education program under this subsection shall
4 be reported to the center in a form and manner determined by the
5 center. All of the following apply to a waiver granted under this
6 subsection:

7 (a) 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 (b) 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 is on
15 track for course completion at proficiency level, a waiver that is
16 granted for the 2011-2012 fiscal year or a subsequent fiscal year
17 remains in effect unless it is revoked by the superintendent.

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

21 (d) For 2018-2019 only, the department shall grant a waiver to
22 a district that applies for a waiver for a blended model of
23 delivery after the department's application deadline if the
24 district meets the other requirements for a waiver under this
25 subsection.

26 (10) Until 2014-2015, a district may count up to 38 hours of
27 qualifying professional development for teachers as hours of pupil
28 instruction. However, if a collective bargaining agreement that
29 provides for the counting of up to 38 hours of qualifying



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

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

16 (b) Achieving accreditation or improving a school's
17 accreditation status under section 1280 of the revised school code,
18 MCL 380.1280.

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

21 (d) Integrating technology into classroom instruction.

22 (e) Maintaining teacher certification.

23 (11) Subsections (3) and (8) do not apply to a school of
24 excellence that is a cyber school, as defined in section 551 of the
25 revised school code, MCL 380.551, and is in compliance with section
26 553a of the revised school code, MCL 380.553a.

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



1 that term as defined in section 23a.

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

