

HOUSE BILL No. 5316

February 9, 2016, Introduced by Reps. Darany, Yanez, Townsend, Moss, Sarah Roberts, Cochran, Lane, Faris, Plawecki, Liberati, Chirkun, Geiss, Pagan, Potvin, McBroom, Zemke, LaVoy, Hovey-Wright, Santana and Kosowski 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 2015 PA 85.

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
10 maintaining school during the entire year, as provided under

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

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

1 of its constituent districts and of the intermediate district. If
2 an intermediate district fails to submit the audited data as
3 required under this subsection, state aid due to be distributed
4 under this article shall be withheld from the defaulting
5 intermediate district immediately, beginning with the next payment
6 after the failure and continuing with each payment until the
7 intermediate district complies with this subsection. If an
8 intermediate district does not comply with this subsection by the
9 end of the fiscal year, the intermediate district forfeits the
10 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, beginning in 2010-
15 2011, the required minimum number of days of pupil instruction.
16 Beginning in 2014-2015, the required minimum number of days of
17 pupil instruction is 175. However, all of the following apply to
18 these requirements:

19 (i) If a collective bargaining agreement that provides a
20 complete school calendar was in effect for employees of a district
21 as of July 1, 2013, and if that school calendar is not in
22 compliance with this subsection, then this subsection does not
23 apply to that district until after the expiration of that
24 collective bargaining agreement. If a district entered into a
25 collective bargaining agreement on or after July 1, 2013 and if
26 that collective bargaining agreement did not provide for at least
27 175 days of pupil instruction beginning in 2014-2015, then the

1 department shall withhold from the district's total state school
2 aid an amount equal to 5% of the funding the district receives in
3 2014-2015 under sections 22a and 22b.

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

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

16 (c) Except as otherwise provided in this article, a district
17 failing to comply with the required minimum hours and days of pupil
18 instruction under this subsection shall forfeit from its total
19 state aid allocation an amount determined by applying a ratio of
20 the number of hours or days the district was in noncompliance in
21 relation to the required minimum number of hours and days under
22 this subsection. Not later than August 1, the board of each
23 district shall certify to the department the number of hours and
24 days of pupil instruction in the previous school year. If the
25 district did not provide at least the required minimum number of
26 hours and days of pupil instruction under this subsection, the
27 deduction of state aid shall be made in the following fiscal year

1 from the first payment of state school aid. A district is not
2 subject to forfeiture of funds under this subsection for a fiscal
3 year in which a forfeiture was already imposed under subsection
4 (6).

5 (d) Hours or days lost because of strikes or teachers'
6 conferences shall not be counted as hours or days of pupil
7 instruction.

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

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

19 (g) 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 (f) 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

1 membership in attendance on that day, the district shall receive
2 state aid in that proportion of 1/180 that the actual percentage of
3 attendance bears to the specified percentage. For any day of pupil
4 instruction added to the instructional calendar as described in
5 this subdivision, the district shall report to the department the
6 percentage of the district's membership that is in attendance, in
7 the form and manner prescribed by the department.

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

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

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

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

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

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

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

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

16 (J) IF 1 OR MORE OF THE SCHOOLS OPERATED BY A DISTRICT IS USED
17 AS A POLLING PLACE FOR A PRESIDENTIAL ELECTION, AS PERMITTED UNDER
18 SECTION 662 OF THE MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.662,
19 AND IF THIS USE OF 1 OR MORE SCHOOLS WOULD OTHERWISE RESULT IN A
20 PENALTY FOR THE DISTRICT UNDER SUBDIVISION (C) OR (F), THEN THE DAY
21 AND HOURS FOR WHICH THE SCHOOL OR SCHOOLS ARE USED FOR THIS PURPOSE
22 SHALL BE COUNTED BY THE DEPARTMENT AS A DAY AND HOURS OF PUPIL
23 INSTRUCTION.

24 (K) ~~(j)~~—The superintendent shall promulgate rules for the
25 implementation of this subsection.

26 (4) Except as otherwise provided in this subsection, the first
27 6 days or the equivalent number of hours for which pupil

1 instruction is not provided because of conditions not within the
2 control of school authorities, such as severe storms, fires,
3 epidemics, utility power unavailability, water or sewer failure, or
4 health conditions as defined by the city, county, or state health
5 authorities, shall be counted as hours and days of pupil
6 instruction. With the approval of the superintendent of public
7 instruction, the department shall count as hours and days of pupil
8 instruction for a fiscal year not more than 3 additional days or
9 the equivalent number of additional hours for which pupil
10 instruction is not provided in a district due to unusual and
11 extenuating occurrences resulting from conditions not within the
12 control of school authorities such as those conditions described in
13 this subsection. Subsequent such hours or days shall not be counted
14 as hours or days of pupil instruction.

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

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

1 instruction under subsection (3), as specified in the following:

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

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

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

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

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

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

1 who is scheduled in a 4-block schedule may receive a reduced
2 schedule under this subsection if the pupil is scheduled for a
3 number of hours equal to at least 75% of the required minimum
4 number of hours of pupil instruction to be considered a full-time
5 equivalent pupil.

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

19 (e) In grades 7 through 12, instructional time that is part of
20 a junior reserve officer training corps (JROTC) program shall be
21 considered to be pupil instruction time regardless of whether the
22 instructor is a certificated teacher if all of the following are
23 met:

24 (i) The instructor has met all of the requirements established
25 by the United States Department of Defense and the applicable
26 branch of the armed services for serving as an instructor in the
27 junior reserve officer training corps program.

1 (ii) The board of the district or intermediate district
2 employing or assigning the instructor complies with the
3 requirements of sections 1230 and 1230a of the revised school code,
4 MCL 380.1230 and 380.1230a, with respect to the instructor to the
5 same extent as if employing the instructor as a regular classroom
6 teacher.

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

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

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

5 (b) If the waiver is for a 100% online model of delivery and
6 the educational program for which the waiver is granted makes
7 educational services available to pupils for a minimum of at least
8 1,098 hours during a school year and ensures that each pupil is on
9 track for course completion at proficiency level, a waiver that is
10 granted for the 2011-2012 fiscal year or a subsequent fiscal year
11 remains in effect unless it is revoked by the superintendent.

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

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

1 providers, which shall include the Michigan Virtual School. As used
2 in this subsection, "qualifying professional development" means
3 professional development that is focused on 1 or more of the
4 following:

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

7 (b) Achieving accreditation or improving a school's
8 accreditation status under section 1280 of the revised school code,
9 MCL 380.1280.

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

12 (d) Integrating technology into classroom instruction.

13 (e) Maintaining teacher certification.

14 (11) Subsections (3) and (8) do not apply to a school of
15 excellence that is a cyber school, as defined in section 551 of the
16 revised school code, MCL 380.551, and is in compliance with section
17 553a of the revised school code, MCL 380.553a.

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

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

1 as part of this review.