

HOUSE BILL NO. 4627

May 21, 2019, Introduced by Reps. Crawford, Paquette and Hornberger 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 2019 PA 11.

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



1 enrolled and in regular daily attendance in the district as of the
2 pupil membership count day and as of the supplemental count day, as
3 applicable, for the current school year. In addition, a district
4 maintaining school during the entire year, as provided under
5 section 1561 of the revised school code, MCL 380.1561, shall submit
6 to the center and the intermediate superintendent, in the form and
7 manner prescribed by the center, the number of pupils enrolled and
8 in regular daily attendance in the district for the current school
9 year pursuant to rules promulgated by the superintendent. Not later
10 than the sixth Wednesday after the pupil membership count day and
11 not later than the sixth Wednesday after the supplemental count
12 day, the district shall certify the data in a form and manner
13 prescribed by the center and file the certified data with the
14 intermediate superintendent. If a district fails to submit and
15 certify the attendance data, as required under this subsection, the
16 center shall notify the department and state aid due to be
17 distributed under this article shall be withheld from the
18 defaulting district immediately, beginning with the next payment
19 after the failure and continuing with each payment until the
20 district complies with this subsection. If a district does not
21 comply with this subsection by the end of the fiscal year, the
22 district forfeits the amount withheld. A person who willfully
23 falsifies a figure or statement in the certified and sworn copy of
24 enrollment shall be punished in the manner prescribed by section
25 161.

26 (2) To be eligible to receive state aid under this article,
27 not later than the twenty-fourth Wednesday after the pupil
28 membership count day and not later than the twenty-fourth Wednesday
29 after the supplemental count day, an intermediate district shall



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

13 (3) Except as otherwise provided in subsections (11), ~~and~~
 14 (12), **and (13)**, all of the following apply to the provision of
 15 pupil instruction:

16 (a) Except as otherwise provided in this section, each
 17 district shall provide at least 1,098 hours and, beginning in 2010-
 18 2011, the required minimum number of days of pupil instruction.
 19 Beginning in 2014-2015, the required minimum number of days of
 20 pupil instruction is 175. However, all of the following apply to
 21 these requirements:

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



1 175 days of pupil instruction beginning in 2014-2015, then the
2 department shall withhold from the district's total state school
3 aid an amount equal to 5% of the funding the district receives in
4 2014-2015 under sections 22a and 22b.

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

7 (b) Beginning in 2016-2017, the required minimum number of
8 days of pupil instruction is 180. If a collective bargaining
9 agreement that provides a complete school calendar was in effect
10 for employees of a district as of June 24, 2014, 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 either certify to the department that the district
24 was in full compliance with this section regarding the number of
25 hours and days of pupil instruction in the previous school year, or
26 report to the department, in a form and manner prescribed by the
27 center, each instance of noncompliance. If the district did not
28 provide at least the required minimum number of hours and days of
29 pupil instruction under this subsection, the deduction of state aid



1 shall be made in the following fiscal year from the first payment
2 of state school aid. A district is not subject to forfeiture of
3 funds under this subsection for a fiscal year in which a forfeiture
4 was already imposed under subsection (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 a district not having at least 75% of the district's membership in
16 attendance on any day of pupil instruction shall receive state aid
17 in that proportion of 1/180 that the actual percent of attendance
18 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
28 membership in attendance on that day, the district shall receive
29 state aid in that proportion of 1/180 that the actual percentage of



1 attendance bears to the specified percentage. 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 (h) 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 (f). The
10 waiver shall indicate that an eligible district is subject to the
11 proration provisions of subdivision (f) 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 (i) All of the following apply to a waiver granted under
25 subdivision (h):

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 1 fiscal year and must be renewed annually
11 to remain in effect.

12 (j) The superintendent shall promulgate rules for the
13 implementation of this subsection.

14 (4) Except as otherwise provided in this subsection, the first
15 6 days or the equivalent number of hours for which pupil
16 instruction is not provided because of conditions not within the
17 control of school authorities, such as severe storms, fires,
18 epidemics, utility power unavailability, water or sewer failure, or
19 health conditions as defined by the city, county, or state health
20 authorities, are counted as hours and days of pupil instruction.
21 For 2018-2019 only, in addition to these 6 days, if pupil
22 instruction is not provided on 1 or more days that are included in
23 a period for which the governor has issued an executive order
24 declaring a state of emergency across this state, upon request by a
25 district to the superintendent of public instruction, in a form and
26 manner prescribed by the department, that 1 or more of those days
27 and the equivalent number of hours count as days and hours of pupil
28 instruction, the department shall count those requested days and
29 the equivalent number of hours as days and hours of pupil



1 instruction for the purposes of this section. For 2018-2019, the
2 days included in the executive order are January 29, 2019 to
3 February 2, 2019. With the approval of the superintendent of public
4 instruction, the department shall count as hours and days of pupil
5 instruction for a fiscal year not more than 3 additional days or
6 the equivalent number of additional hours for which pupil
7 instruction is not provided in a district due to unusual and
8 extenuating occurrences resulting from conditions not within the
9 control of school authorities such as those conditions described in
10 this subsection. Subsequent such hours or days shall not be counted
11 as hours or days of pupil instruction.

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

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

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



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

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

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

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

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

28 (d) If a pupil in grades 9 to 12 who is enrolled in a
29 cooperative education program or a special education pupil cannot



1 receive the required minimum number of hours of pupil instruction
2 solely because of travel time between instructional sites during
3 the school day, that travel time, up to a maximum of 3 hours per
4 school week, shall be considered to be pupil instruction time for
5 the purpose of determining whether the pupil is receiving the
6 required minimum number of hours of pupil instruction. However, if
7 a district demonstrates to the satisfaction of the department that
8 the travel time limitation under this subdivision would create
9 undue costs or hardship to the district, the department may
10 consider more travel time to be pupil instruction time for this
11 purpose.

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

17 (i) The instructor has met all of the requirements established
18 by the United States Department of Defense and the applicable
19 branch of the armed services for serving as an instructor in the
20 Junior Reserve Officer Training Corps program.

21 (ii) The board of the district or intermediate district
22 employing or assigning the instructor complies with the
23 requirements of sections 1230 and 1230a of the revised school code,
24 MCL 380.1230 and 380.1230a, with respect to the instructor to the
25 same extent as if employing the instructor as a regular classroom
26 teacher.

27 (8) Except as otherwise provided in subsections (11), ~~and~~
28 (12), **and (13)**, the department shall apply the guidelines under
29 subsection (7) in calculating the full-time equivalency of pupils.



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

19 (a) If the waiver is for a blended model of delivery, a waiver
20 that is granted for the 2011-2012 fiscal year or a subsequent
21 fiscal year remains in effect unless it is revoked by the
22 superintendent.

23 (b) If the waiver is for a 100% online model of delivery and
24 the educational program for which the waiver is granted makes
25 educational services available to pupils for a minimum of at least
26 1,098 hours during a school year and ensures that each pupil is on
27 track for course completion at proficiency level, a waiver that is
28 granted for the 2011-2012 fiscal year or a subsequent fiscal year
29 remains in effect unless it is revoked by the superintendent.



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

4 (d) For 2018-2019 only, the department shall grant a waiver to
5 a district that applies for a waiver for a blended model of
6 delivery after the department's application deadline if the
7 district meets the other requirements for a waiver under this
8 subsection.

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

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

28 (b) Achieving accreditation or improving a school's
29 accreditation status under section 1280 of the revised school code,



1 MCL 380.1280.

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

4 (d) Integrating technology into classroom instruction.

5 (e) Maintaining teacher certification.

6 (11) Subsections (3) and (8) do not apply to a school of
7 excellence that is a cyber school, as defined in section 551 of the
8 revised school code, MCL 380.551, and is in compliance with section
9 553a of the revised school code, MCL 380.553a.

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

14 **(13) Subsections (3) and (8) do not apply to a district that**
15 **operates as a public innovative district or a school that operates**
16 **as a public innovative school under section 1173 of the revised**
17 **school code, MCL 380.1173.**

18 **(14)** ~~(13)~~ Beginning in 2013, at least every 2 years the
19 superintendent shall review the waiver standards set forth in the
20 pupil accounting and auditing manuals to ensure that the waiver
21 standards and waiver process continue to be appropriate and
22 responsive to changing trends in online learning. The
23 superintendent shall solicit and consider input from stakeholders
24 as part of this review.

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.

27 Enacting section 2. This amendatory act does not take effect
28 unless Senate Bill No. ____ or House Bill No. 4626 (request no.
29 01622'19) of the 100th Legislature is enacted into law.

