

**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
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,~~ **JUNE 24, 2014**, and if
11 that school calendar is not in compliance with this subdivision,
12 then this subdivision does not apply to that district until after
13 the expiration of that collective bargaining agreement. A district
14 may apply for a waiver under subsection (9) from the requirements
15 of 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

1 provide at least the required minimum number of hours and days of
2 pupil instruction under this subsection, the deduction of state aid
3 shall be made in the following fiscal year from the first payment
4 of state school aid. A district is not subject to forfeiture of
5 funds under this subsection for a fiscal year in which a forfeiture
6 was already imposed under subsection (6).

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

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

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

21 (g) If a district adds 1 or more days of pupil instruction to
22 the end of its instructional calendar for a school year to comply
23 with subdivision (a) because the district otherwise would fail to
24 provide the required minimum number of days of pupil instruction
25 even after the operation of subsection (4) due to conditions not
26 within the control of school authorities, then subdivision (f) does
27 not apply for any day of pupil instruction that is added to the end

1 of the instructional calendar. Instead, for any of those days, if
2 the district does not have at least 60% of the district's
3 membership in attendance on that day, the district shall receive
4 state aid in that proportion of 1/180 that the actual percentage of
5 attendance bears to the specified percentage. For any day of pupil
6 instruction added to the instructional calendar as described in
7 this subdivision, the district shall report to the department the
8 percentage of the district's membership that is in attendance, in
9 the form and manner prescribed by the department.

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

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

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

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

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

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

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

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

18 (j) The superintendent shall promulgate rules for the
19 implementation of this subsection.

20 (4) Except as otherwise provided in this subsection, the first
21 6 days or the equivalent number of hours for which pupil
22 instruction is not provided because of conditions not within the
23 control of school authorities, such as severe storms, fires,
24 epidemics, utility power unavailability, water or sewer failure, or
25 health conditions as defined by the city, county, or state health
26 authorities, ~~shall be~~ **ARE** counted as hours and days of pupil
27 instruction. **FOR 2018-2019 ONLY, IN ADDITION TO THESE 6 DAYS, IF**

House Bill No. 4206 as amended May 1, 2019

1 PUPIL INSTRUCTION IS NOT PROVIDED ON 1 OR MORE DAYS THAT ARE
2 INCLUDED IN A PERIOD FOR WHICH THE GOVERNOR HAS ISSUED AN EXECUTIVE
3 ORDER DECLARING A STATE OF EMERGENCY ACROSS THIS STATE, [UPON REQUEST BY
A DISTRICT TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION, IN A FORM AND
MANNER PRESCRIBED BY THE DEPARTMENT, THAT 1 OR MORE OF THOSE DAYS AND THE
EQUIVALENT NUMBER OF HOURS COUNT AS DAYS AND HOURS OF PUPIL INSTRUCTION,
4] THE DEPARTMENT SHALL COUNT [THOSE
5 REQUESTED DAYS AND THE EQUIVALENT NUMBER OF HOURS] AS DAYS AND HOURS OF
6 PUPIL INSTRUCTION FOR THE PURPOSES OF THIS

7 SECTION. FOR 2018-2019, THE DAYS INCLUDED IN THE EXECUTIVE ORDER
8 ARE JANUARY 29, 2019 TO FEBRUARY 2, 2019. With the approval of the
9 superintendent of public instruction, the department shall count as
10 hours and days of pupil instruction for a fiscal year not more than
11 3 additional days or the equivalent number of additional hours for
12 which pupil instruction is not provided in a district due to
13 unusual and extenuating occurrences resulting from conditions not
14 within the control of school authorities such as those conditions
15 described in this subsection. Subsequent such hours or days shall
16 not be counted as hours or days of pupil instruction.

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

23 (6) In addition to any other penalty or forfeiture under this
24 section, if at any time the department determines that 1 or more of
25 the following have occurred in a district, the district shall
26 forfeit in the current fiscal year beginning in the next payment to
27 be calculated by the department a proportion of the funds due to

1 the district under this article that is equal to the proportion
2 below the required minimum number of hours and days of pupil
3 instruction under subsection (3), as specified in the following:

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

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

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

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

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

24 (c) Except as otherwise provided in this subdivision, a pupil
25 in grades 9 to 12 for whom a reduced schedule is determined to be
26 in the individual pupil's best educational interest must be
27 scheduled for a number of hours equal to at least 80% of the

1 required minimum number of hours of pupil instruction to be
2 considered a full-time equivalent pupil. A pupil in grades 9 to 12
3 who is scheduled in a 4-block schedule may receive a reduced
4 schedule under this subsection if the pupil is scheduled for a
5 number of hours equal to at least 75% of the required minimum
6 number of hours of pupil instruction to be considered a full-time
7 equivalent pupil.

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

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

26 (i) The instructor has met all of the requirements established
27 by the United States Department of Defense and the applicable

1 branch of the armed services for serving as an instructor in the
2 ~~junior reserve officer training corps~~ **JUNIOR RESERVE OFFICER**
3 **TRAINING CORPS** program.

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

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

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

1 be reported to the center in a form and manner determined by the
2 center. All of the following apply to a waiver granted under this
3 subsection:

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

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

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

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

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

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

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

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

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

20 (d) Integrating technology into classroom instruction.

21 (e) Maintaining teacher certification.

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

26 (12) Subsections (3) and (8) do not apply to eligible pupils
27 enrolled in a dropout recovery program that meets the requirements

1 of section 23a. As used in this subsection, "eligible pupil" means
2 that term as defined in section 23a.

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