

HOUSE BILL No. 4206

February 19, 2019, Introduced by Reps. Frederick, Sabo, Green, Mueller, Guerra, Elder, Cherry, Shannon, Wakeman, Anthony, Griffin, Peterson, Camilleri and Webber 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 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
11 section 1561 of the revised school code, MCL 380.1561, shall submit

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

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

1 aid an amount equal to 5% of the funding the district receives in
2 2014-2015 under sections 22a and 22b.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (i) All of the following apply to a waiver granted under

1 subdivision (h):

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

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

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

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

19 (4) Except as otherwise provided in this subsection, the first
20 6 days or the equivalent number of hours for which pupil
21 instruction is not provided because of conditions not within the
22 control of school authorities, such as severe storms, fires,
23 epidemics, utility power unavailability, water or sewer failure, or
24 health conditions as defined by the city, county, or state health
25 authorities, ~~shall be~~ **ARE** counted as hours and days of pupil
26 instruction. **IN ADDITION TO THESE 6 DAYS, IF PUPIL INSTRUCTION IS**
27 **NOT PROVIDED ON 1 OR MORE DAYS THAT ARE INCLUDED IN A PERIOD FOR**

1 WHICH THE GOVERNOR HAS ISSUED AN EXECUTIVE ORDER DECLARING A STATE
2 OF EMERGENCY, THOSE DAYS AND THE CORRESPONDING NUMBER OF HOURS ARE
3 CONSIDERED TO BE DAYS AND HOURS OF PUPIL INSTRUCTION AND THE
4 DEPARTMENT SHALL COUNT THEM AS DAYS AND HOURS OF PUPIL INSTRUCTION
5 FOR THE PURPOSES OF THIS SECTION. With the approval of the
6 superintendent of public instruction, the department shall count as
7 hours and days of pupil instruction for a fiscal year not more than
8 3 additional days or the equivalent number of additional hours for
9 which pupil instruction is not provided in a district due to
10 unusual and extenuating occurrences resulting from conditions not
11 within the control of school authorities such as those conditions
12 described in this subsection. Subsequent such hours or days shall
13 not be counted as hours or days of pupil instruction.

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

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

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

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

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

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

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

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

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

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

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

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

27 (ii) The board of the district or intermediate district

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

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

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

27 (a) If the waiver is for a blended model of delivery, a waiver

1 that is granted for the 2011-2012 fiscal year or a subsequent
2 fiscal year remains in effect unless it is revoked by the
3 superintendent.

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

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

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

19 (10) Until 2014-2015, a district may count up to 38 hours of
20 qualifying professional development for teachers as hours of pupil
21 instruction. However, if a collective bargaining agreement that
22 provides for the counting of up to 38 hours of qualifying
23 professional development for teachers as pupil instruction is in
24 effect for employees of a district as of July 1, 2013, then until
25 the school year that begins after the expiration of that collective
26 bargaining agreement a district may count up to the contractually
27 specified number of hours of qualifying professional development

1 for teachers as hours of pupil instruction. Professional
2 development provided online is allowable and encouraged, as long as
3 the instruction has been approved by the district. The department
4 shall issue a list of approved online professional development
5 providers, which shall include the Michigan Virtual School. As used
6 in this subsection, "qualifying professional development" means
7 professional development that is focused on 1 or more of the
8 following:

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

11 (b) Achieving accreditation or improving a school's
12 accreditation status under section 1280 of the revised school code,
13 MCL 380.1280.

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

16 (d) Integrating technology into classroom instruction.

17 (e) Maintaining teacher certification.

18 (11) Subsections (3) and (8) do not apply to a school of
19 excellence that is a cyber school, as defined in section 551 of the
20 revised school code, MCL 380.551, and is in compliance with section
21 553a of the revised school code, MCL 380.553a.

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

26 (13) Beginning in 2013, at least every 2 years the
27 superintendent shall review the waiver standards set forth in the

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