

# HOUSE BILL No. 5129

November 5, 2013, Introduced by Reps. Townsend and Yonker 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 2013 PA 60.

## 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. A

5 **DISTRICT SHALL INCLUDE WITH ITS PUPIL ENROLLMENT AND ATTENDANCE**

6 **DATA, IN A FORM AND MANNER PRESCRIBED BY THE CENTER, THE STAFFING**

7 **DATA REQUIRED UNDER SUBSECTION (14).** Not later than the sixth

8 Wednesday after the pupil membership count day and not later than

9 the sixth Wednesday after the supplemental count day, the district

10 shall certify the **ENROLLMENT, ATTENDANCE, AND STAFFING** data in a

11 form and manner prescribed by the center and file the certified

12 data with the intermediate superintendent. If a district fails to

13 submit and certify the **ENROLLMENT, attendance, AND STAFFING** data,

14 as required under this subsection, the center shall notify the

15 department and state aid due to be distributed under this article

16 shall be withheld from the defaulting district immediately,

17 beginning with the next payment after the failure and continuing

18 with each payment until the district complies with this subsection.

19 If a district does not comply with this subsection by the end of

20 the fiscal year, the district forfeits the amount withheld. A

21 person who willfully falsifies a figure or statement in the

22 certified and sworn copy of enrollment shall be punished in the

23 manner prescribed by section 161.

24 (2) To be eligible to receive state aid under this article,

25 not later than the twenty-fourth Wednesday after the pupil

26 membership count day and not later than the twenty-fourth Wednesday

27 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~~**CERTIFIED** enrollment and attendance data for  
3 the pupils of its constituent districts and of the intermediate  
4 district **AND THE STAFFING DATA SUBMITTED UNDER SUBSECTIONS (1) AND**  
5 **(14)**. If an intermediate district fails to submit the ~~audited~~-data  
6 as required under this subsection, state aid due to be distributed  
7 under this article shall be withheld from the defaulting  
8 intermediate district immediately, beginning with the next payment  
9 after the failure and continuing with each payment until the  
10 intermediate district complies with this subsection. If an  
11 intermediate district does not comply with this subsection by the  
12 end of the fiscal year, the intermediate district forfeits the  
13 amount withheld.

14 (3) Except as otherwise provided in subsections (11) and (12),  
15 all of the following apply to the provision of 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 2012-2013, the required minimum number of days of  
20 pupil instruction is 170. Beginning in 2014-2015, the required  
21 minimum number of days of pupil instruction is 175. However, a  
22 district shall not provide fewer days of pupil instruction than the  
23 district provided for 2009-2010. A district may apply for a waiver  
24 under subsection (9) from the requirements of this subdivision. For  
25 2012-2013 only, if a district is unable to provide the required  
26 minimum number of days of pupil instruction because of school  
27 closures occurring before April 20, 2013 due to conditions not

1 within the control of school authorities, such as severe storms,  
2 fires, epidemics, utility power unavailability, water or sewer  
3 failure, or health conditions as defined by the city, county, or  
4 state health authorities, but the district does provide at least  
5 the required minimum number of hours of pupil instruction, the  
6 district is not subject to the minimum number of days of pupil  
7 instruction requirement of this subsection. A district that uses  
8 the 2012-2013 exception from the minimum number of days of pupil  
9 instruction requirement shall submit to the department not later  
10 than July 1, 2013, in the form and manner prescribed by the  
11 department, a report that details the amount of instructional time  
12 that was lost due to school closures and the amount of additional  
13 instructional time that was added to compensate; when the  
14 additional instructional time was provided; the activities that  
15 were carried out and subject areas addressed during the additional  
16 instructional time; and other information specified by the  
17 department to assess whether appropriate instruction occurred  
18 during the additional instructional time. The department shall  
19 aggregate and provide these reports to the senate and house  
20 standing committees on education.

21 (b) Except as otherwise provided in this article, a district  
22 failing to comply with the required minimum hours and days of pupil  
23 instruction under this subsection shall forfeit from its total  
24 state aid allocation an amount determined by applying a ratio of  
25 the number of hours or days the district was in noncompliance in  
26 relation to the required minimum number of hours and days under  
27 this subsection. Not later than August 1, the board of each

1 district shall certify to the department the number of hours and  
2 days of pupil instruction in the previous school year. If the  
3 district did not provide at least the required minimum number of  
4 hours and days of pupil instruction under this subsection, the  
5 deduction of state aid shall be made in the following fiscal year  
6 from the first payment of state school aid. A district is not  
7 subject to forfeiture of funds under this subsection for a fiscal  
8 year in which a forfeiture was already imposed under subsection  
9 (6).

10 (c) Hours or days lost because of strikes or teachers'  
11 conferences shall not be counted as hours or days of pupil  
12 instruction.

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

19 (e) Except as otherwise provided in subdivision (f), a  
20 district not having at least 75% of the district's membership in  
21 attendance on any day of pupil instruction shall receive state aid  
22 in that proportion of 1/180 that the actual percent of attendance  
23 bears to the specified percentage.

24 (f) At the request of a district that operates a department-  
25 approved alternative education program and that does not provide  
26 instruction for pupils in all of grades K to 12, the superintendent  
27 may grant a waiver from the requirements of subdivision (e). The

1 waiver shall indicate that an eligible district is subject to the  
2 proration provisions of subdivision (e) only if the district does  
3 not have at least 50% of the district's membership in attendance on  
4 any day of pupil instruction. In order to be eligible for this  
5 waiver, a district must maintain records to substantiate its  
6 compliance with the following requirements:

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

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

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

15 (g) All of the following apply to a waiver granted under  
16 subdivision (f):

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

21 (ii) If the waiver is for a 100% online model of delivery and  
22 the educational program for which the waiver is granted makes  
23 educational services available to pupils for a minimum of at least  
24 1,098 hours during a school year and ensures that each pupil  
25 participates in the educational program for at least 1,098 hours  
26 during a school year, a waiver that is granted for the 2011-2012  
27 fiscal year or a subsequent fiscal year remains in effect unless it

1 is revoked by the superintendent.

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

5 (h) The superintendent shall promulgate rules for the  
6 implementation of this subsection.

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

24 (5) A district shall not forfeit part of its state aid  
25 appropriation because it adopts or has in existence an alternative  
26 scheduling program for pupils in kindergarten if the program  
27 provides at least the number of hours required under subsection (3)

1 for a full-time equated membership for a pupil in kindergarten as  
2 provided under section 6(4).

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

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

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

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

23 (a) Except as otherwise provided in this subsection, a pupil  
24 must be scheduled for at least the required minimum number of hours  
25 of instruction, excluding study halls, or at least the sum of 90  
26 hours plus the required minimum number of hours of instruction,  
27 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.

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

6 (i) The instructor has met all of the requirements established  
7 by the United States department of defense and the applicable  
8 branch of the armed services for serving as an instructor in the  
9 junior reserve officer training corps program.

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

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

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

1 district does not comply with the terms of the waiver, the amount  
2 of the forfeiture shall be calculated based upon a comparison of  
3 the number of hours and days of pupil instruction actually provided  
4 to the minimum number of hours and days of pupil instruction  
5 required under subsection (3). Pupils enrolled in a department-  
6 approved alternative education program under this subsection shall  
7 be reported to the center in a form and manner determined by the  
8 center. All of the following apply to a waiver granted under this  
9 subsection:

10 (a) If the waiver is for a blended model of delivery, a waiver  
11 that is granted for the 2011-2012 fiscal year or a subsequent  
12 fiscal year remains in effect unless it is revoked by the  
13 superintendent.

14 (b) If the waiver is for a 100% online model of delivery and  
15 the educational program for which the waiver is granted makes  
16 educational services available to pupils for a minimum of at least  
17 1,098 hours during a school year and ensures that each pupil  
18 participates in the educational program for at least 1,098 hours  
19 during a school year, a waiver that is granted for the 2011-2012  
20 fiscal year or a subsequent fiscal year remains in effect unless it  
21 is revoked by the superintendent.

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

25 (10) Until 2014-2015, a district may count up to 38 hours of  
26 qualifying professional development for teachers as hours of pupil  
27 instruction. Professional development provided online is allowable

1 and encouraged, as long as the instruction has been approved by the  
2 district. The department shall issue a list of approved online  
3 professional development providers, which shall include the  
4 Michigan virtual school. As used in this subsection, "qualifying  
5 professional development" means professional development that is  
6 focused on 1 or more of the following:

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

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

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

14 (d) Integrating technology into classroom instruction.

15 (e) Maintaining teacher certification.

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

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

24 (13) Beginning in 2013, at least every 2 years the  
25 superintendent shall review the waiver standards set forth in the  
26 pupil accounting and auditing manuals to ensure that the waiver  
27 standards and waiver process continue to be appropriate and

1 responsive to changing trends in online learning. The  
2 superintendent shall solicit and consider input from stakeholders  
3 as part of this review.

4 (14) BEGINNING IN 2013, A DISTRICT SHALL INCLUDE WITH ITS  
5 PUPIL ENROLLMENT AND ATTENDANCE DATA SUBMITTED TO THE CENTER UNDER  
6 SUBSECTION (1), IN A FORM AND MANNER PRESCRIBED BY THE CENTER, ALL  
7 OF THE FOLLOWING STAFFING DATA FOR EACH SCHOOL AND GRADE LEVEL:

8 (A) THE RATIO OF TEACHERS TO MEMBERSHIP PUPILS. AS USED IN  
9 THIS SUBDIVISION, "TEACHER" MEANS AN INDIVIDUAL HOLDING A VALID  
10 MICHIGAN TEACHING CERTIFICATE WHO IS ACTUALLY ENGAGED IN CLASSROOM  
11 TEACHING IN A GRADE AND SUBJECT THAT HE OR SHE IS AUTHORIZED TO  
12 TEACH ACCORDING TO HIS OR HER CERTIFICATION.

13 (B) THE RATIO OF SCHOOL NURSES TO MEMBERSHIP PUPILS. AS USED  
14 IN THIS SUBDIVISION, "SCHOOL NURSE" MEANS A REGISTERED NURSE  
15 HOLDING VALID CERTIFICATION UNDER SECTION 1252 OF THE REVISED  
16 SCHOOL CODE, MCL 380.1252, OR AN INDIVIDUAL PROVIDING NURSING  
17 SERVICES AT A SCHOOL ON BEHALF OF A COUNTY OR DISTRICT HEALTH  
18 DEPARTMENT, WHO IS READILY AVAILABLE TO PUPILS AT SCHOOL DURING  
19 SCHOOL HOURS.

20 (C) THE RATIO OF SCHOOL COUNSELORS TO MEMBERSHIP PUPILS. AS  
21 USED IN THIS SUBDIVISION, "SCHOOL COUNSELOR" MEANS AN INDIVIDUAL  
22 SERVING IN A COUNSELING ROLE IN A SCHOOL WHO MEETS THE REQUIREMENTS  
23 TO SERVE IN THAT ROLE UNDER SECTION 1233 OF THE REVISED SCHOOL  
24 CODE, MCL 380.1233, AND WHO IS READILY AVAILABLE TO PUPILS AT  
25 SCHOOL DURING SCHOOL HOURS.

26 (D) THE RATIO OF SCHOOL PSYCHOLOGISTS TO MEMBERSHIP PUPILS. AS  
27 USED IN THIS SUBDIVISION, "SCHOOL PSYCHOLOGIST" MEANS AN INDIVIDUAL

1 SERVING IN A SCHOOL PSYCHOLOGICAL SERVICE IN A SCHOOL WHO MEETS THE  
2 REQUIREMENTS TO SERVE IN THAT ROLE UNDER RULES PROMULGATED UNDER  
3 SECTION 1251 OF THE REVISED SCHOOL CODE, MCL 380.1251, AND WHO IS  
4 READILY AVAILABLE TO PUPILS AT SCHOOL DURING SCHOOL HOURS.

5 (E) THE RATIO OF SCHOOL SOCIAL WORKERS TO MEMBERSHIP PUPILS.  
6 AS USED IN THIS SUBDIVISION, "SCHOOL SOCIAL WORKER" MEANS AN  
7 INDIVIDUAL SERVING IN THE CAPACITY OF A SCHOOL SOCIAL WORKER IN A  
8 SCHOOL WHO MEETS THE REQUIREMENTS TO SERVE IN THAT CAPACITY UNDER  
9 RULES PROMULGATED UNDER THE REVISED SCHOOL CODE AND WHO IS READILY  
10 AVAILABLE TO PUPILS AT SCHOOL DURING SCHOOL HOURS.