

# HOUSE BILL No. 4008

January 22, 2007, Introduced by Rep. Caswell 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 2006 PA 342.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 101. (1) To be eligible to receive state aid under this  
2 act, not later than the fifth Wednesday after the pupil membership  
3 count day and not later than the fifth Wednesday after the  
4 supplemental count day, each district superintendent through the  
5 secretary of the district's board shall file with the intermediate  
6 superintendent a certified and sworn copy of 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 file  
2 with the intermediate superintendent a certified and sworn copy of  
3 the number of pupils enrolled and in regular daily attendance in  
4 the district for the current school year pursuant to rules  
5 promulgated by the superintendent. Not later than the seventh  
6 Wednesday after the pupil membership count day and not later than  
7 the seventh Wednesday after the supplemental count day, the  
8 intermediate district shall transmit to the center revised data, as  
9 applicable, for each of its constituent districts. If a district  
10 fails to file the sworn and certified copy with the intermediate  
11 superintendent in a timely manner, as required under this  
12 subsection, the intermediate district shall notify the department  
13 and state aid due to be distributed under this act shall be  
14 withheld from the defaulting district immediately, beginning with  
15 the next payment after the failure and continuing with each payment  
16 until the district complies with this subsection. If an  
17 intermediate district fails to transmit the data in its possession  
18 in a timely and accurate manner to the center, as required under  
19 this subsection, state aid due to be distributed under this act  
20 shall be withheld from the defaulting intermediate district  
21 immediately, beginning with the next payment after the failure and  
22 continuing with each payment until the intermediate district  
23 complies with this subsection. If a district or intermediate  
24 district does not comply with this subsection by the end of the  
25 fiscal year, the district or intermediate district forfeits the  
26 amount withheld. A person who willfully falsifies a figure or  
27 statement in the certified and sworn copy of enrollment shall be

1 punished in the manner prescribed by section 161.

2 (2) To be eligible to receive state aid under this act, not  
3 later than the twenty-fourth Wednesday after the pupil membership  
4 count day and not later than the twenty-fourth Wednesday after the  
5 supplemental count day, an intermediate district shall submit to  
6 the center, in a form and manner prescribed by the center, the  
7 audited enrollment and attendance data for the pupils of its  
8 constituent districts and of the intermediate district. If an  
9 intermediate district fails to transmit the audited data as  
10 required under this subsection, state aid due to be distributed  
11 under this act shall be withheld from the defaulting intermediate  
12 district immediately, beginning with the next payment after the  
13 failure and continuing with each payment until the intermediate  
14 district complies with this subsection. If an intermediate district  
15 does not comply with this subsection by the end of the fiscal year,  
16 the intermediate district forfeits the amount withheld.

17 (3) All of the following apply to the provision of pupil  
18 instruction:

19 (a) Except as otherwise provided in this section, each  
20 district shall provide at least ~~1,098~~**THE MINIMUM NUMBER OF DAYS**  
21 **AND** hours of pupil instruction **REQUIRED TO BE PROVIDED UNDER**  
22 **SECTION 1284 OF THE REVISED SCHOOL CODE, MCL 380.1284**. Except as  
23 otherwise provided in this act, a district failing to comply with  
24 the required minimum **DAYS AND** hours of pupil instruction under this  
25 subsection shall forfeit from its total state aid allocation an  
26 amount determined by applying a ratio of the number of **DAYS AND**  
27 hours the district was in noncompliance in relation to the required

1 minimum number of **DAYS AND** hours under this subsection. Not later  
2 than August 1, the board of each district shall certify to the  
3 department the number of **DAYS AND** hours of pupil instruction in the  
4 previous school year. If the district did not provide at least the  
5 required minimum number of **DAYS AND** hours of pupil instruction  
6 under this subsection, the deduction of state aid shall be made in  
7 the following fiscal year from the first payment of state school  
8 aid. A district is not subject to forfeiture of funds under this  
9 subsection for a fiscal year in which a forfeiture was already  
10 imposed under subsection (6). ~~Hours—DAYS OR HOURS~~ lost because of  
11 strikes or teachers' conferences shall not be counted as days or  
12 hours of pupil instruction.

13 (b) Except as otherwise provided in subdivision (c), a  
14 district not having at least 75% of the district's membership in  
15 attendance on any day of pupil instruction shall receive state aid  
16 in that proportion of 1/180 that the actual percent of attendance  
17 bears to the specified percentage.

18 (c) Beginning in 2005-2006, at the request of a district that  
19 operates a department-approved alternative education program and  
20 that does not provide instruction for pupils in all of grades K to  
21 12, the superintendent shall grant a waiver for a period of 3  
22 school years from the requirements of subdivision (b) in order to  
23 conduct a pilot study. The waiver shall indicate that an eligible  
24 district is subject to the proration provisions of subdivision (b)  
25 only if the district does not have at least 50% of the district's  
26 membership in attendance on any day of pupil instruction. Not later  
27 than 2008-2009, the department shall report on the impact of this

1 waiver on the academic achievement of pupils in these districts to  
2 the state budget director and the senate and house appropriations  
3 subcommittees on state school aid. In order to be eligible for this  
4 waiver, a district must maintain records to substantiate its  
5 compliance with the following requirements during the pilot study:

6 (i) The district offers the minimum **DAYS AND** hours of pupil  
7 instruction as required under this section.

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

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

14 (d) The superintendent shall promulgate rules for the  
15 implementation of this subsection.

16 (4) Except as otherwise provided in this subsection, the first  
17 ~~30-2~~ **DAYS OR 12** hours for which pupil instruction is not provided  
18 because of conditions not within the control of school authorities,  
19 such as severe storms, fires, epidemics, utility power  
20 unavailability, water or sewer failure, or health conditions as  
21 defined by the city, county, or state health authorities, shall be  
22 counted as **DAYS AND** hours of pupil instruction. ~~Beginning in 2003-~~  
23 ~~2004, with~~ **WITH** the approval of the superintendent of public  
24 instruction, the department shall count as **DAYS AND** hours of pupil  
25 instruction for a fiscal year not more than **5 ADDITIONAL DAYS OR 30**  
26 additional hours for which pupil instruction is not provided in a  
27 district after April 1 of the applicable school year due to unusual

1 and extenuating occurrences resulting from conditions not within  
2 the control of school authorities such as those conditions  
3 described in this subsection. Subsequent such **DAYS OR** hours shall  
4 not be counted as **DAYS OR** hours of pupil instruction.

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

11 (6) Not later than April 15 of each fiscal year, the board of  
12 each district shall certify to the department the planned number of  
13 **DAYS AND** hours of pupil instruction in the district for the school  
14 year ending in the fiscal year. In addition to any other penalty or  
15 forfeiture under this section, if at any time the department  
16 determines that 1 or more of the following has occurred in a  
17 district, the district shall forfeit in the current fiscal year  
18 beginning in the next payment to be calculated by the department a  
19 proportion of the funds due to the district under this act that is  
20 equal to the proportion below the required minimum number of **DAYS**  
21 **AND** hours of pupil instruction under subsection (3), as specified  
22 in the following:

23 (a) The district fails to operate its schools for at least the  
24 required minimum number of **DAYS AND** hours of pupil instruction  
25 under subsection (3) in a school year, including **DAYS AND** hours  
26 counted under subsection (4).

27 (b) The board of the district takes formal action not to

1 operate its schools for at least the required minimum number of  
2 **DAYS AND** hours of pupil instruction under subsection (3) in a  
3 school year, including **DAYS AND** hours counted under subsection (4).

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

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

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

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

27 (d) If a pupil in grades 9 to 12 who is enrolled in a

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

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

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

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



1           (8) The department shall apply the guidelines under subsection  
2           (7) in calculating the full-time equivalency of pupils.

3           (9) Upon application by the district for a particular fiscal  
4           year, the superintendent may waive for a district the minimum  
5           number of **DAYS AND** hours of pupil instruction requirement of  
6           subsection (3) for a department-approved alternative education  
7           program. If a district applies for and receives a waiver under this  
8           subsection and complies with the terms of the waiver, for the  
9           fiscal year covered by the waiver the district is not subject to  
10          forfeiture under this section for the specific program covered by  
11          the waiver. If the district does not comply with the terms of the  
12          waiver, the amount of the forfeiture shall be calculated based upon  
13          a comparison of the number of hours of pupil instruction actually  
14          provided to the minimum number of hours of pupil instruction  
15          required under subsection (3).

16          (10) A district may count up to **6 DAYS OR** 38 hours of  
17          qualifying professional development for teachers, including the 5  
18          hours of online professional development provided by the Michigan  
19          virtual university under section 98, as **DAYS AND** hours of pupil  
20          instruction. However, if a collective bargaining agreement that  
21          provides more than 38 but not more than 51 hours of professional  
22          development for teachers is in effect for employees of a district  
23          as of ~~the effective date of the 2006 amendatory act that amended~~  
24          ~~this subsection~~ **OCTOBER 1, 2006**, then until the fiscal year that  
25          begins after the expiration of that collective bargaining agreement  
26          a district may count up to **8-1/2 DAYS OR** 51 hours of qualifying  
27          professional development for teachers, including the 5 hours of

1 online professional development provided by the Michigan virtual  
2 university under section 98, as **DAYS AND** hours of pupil  
3 instruction. A district that elects to use this exception shall  
4 notify the department of its election. As used in this subsection,  
5 "qualifying professional development" means professional  
6 development that is 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) Maintaining teacher certification.