

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4471**

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 2012 PA 516.

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 shall submit
5 to the center and the intermediate superintendent, in the form and
6 manner prescribed by the center, the number of pupils enrolled and
7 in regular daily attendance in the district as of the pupil
8 membership count day and as of the supplemental count day, as
9 applicable, for the current school year. In addition, a district

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

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

center, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. If an intermediate district fails to submit the audited data as required under this subsection, state aid due to be distributed under this article shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

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

(a) Except as otherwise provided in this section, each district shall provide at least 1,098 hours and, beginning in 2010-2011, the required minimum number of days of pupil instruction. ~~For 2010-2011 and for 2011-2012, the required minimum number of days of pupil instruction is 165.~~ Beginning in 2012-2013, the required minimum number of days of pupil instruction is 170. However, beginning in 2010-2011, a district shall not provide fewer days of pupil instruction than the district provided for 2009-2010. A district may apply for a waiver under subsection (9) from the requirements of this subdivision. **FOR 2012-2013 ONLY, IF A DISTRICT IS UNABLE TO PROVIDE THE REQUIRED MINIMUM NUMBER OF DAYS OF PUPIL INSTRUCTION BECAUSE OF SCHOOL CLOSURES OCCURRING BEFORE APRIL 20, 2013 DUE TO CONDITIONS NOT WITHIN THE CONTROL OF SCHOOL AUTHORITIES, SUCH AS SEVERE STORMS, FIRES, EPIDEMICS, UTILITY POWER**

1 UNAVAILABILITY, WATER OR SEWER FAILURE, OR HEALTH CONDITIONS AS
2 DEFINED BY THE CITY, COUNTY, OR STATE HEALTH AUTHORITIES, BUT THE
3 DISTRICT DOES PROVIDE AT LEAST THE REQUIRED MINIMUM NUMBER OF HOURS
4 OF PUPIL INSTRUCTION, THE DISTRICT IS NOT SUBJECT TO THE MINIMUM
5 NUMBER OF DAYS OF PUPIL INSTRUCTION REQUIREMENT OF THIS SUBSECTION.
6 A DISTRICT THAT USES THE 2012-2013 EXCEPTION FROM THE MINIMUM
7 NUMBER OF DAYS OF PUPIL INSTRUCTION REQUIREMENT SHALL SUBMIT TO THE
8 DEPARTMENT NOT LATER THAN JULY 1, 2013, IN THE FORM AND MANNER
9 PRESCRIBED BY THE DEPARTMENT, A REPORT THAT DETAILS THE AMOUNT OF
10 INSTRUCTIONAL TIME THAT WAS LOST DUE TO SCHOOL CLOSURES AND THE
11 AMOUNT OF ADDITIONAL INSTRUCTIONAL TIME THAT WAS ADDED TO
12 COMPENSATE; WHEN THE ADDITIONAL INSTRUCTIONAL TIME WAS PROVIDED;
13 THE ACTIVITIES THAT WERE CARRIED OUT AND SUBJECT AREAS ADDRESSED
14 DURING THE ADDITIONAL INSTRUCTIONAL TIME; AND OTHER INFORMATION
15 SPECIFIED BY THE DEPARTMENT TO ASSESS WHETHER APPROPRIATE
16 INSTRUCTION OCCURRED DURING THE ADDITIONAL INSTRUCTIONAL TIME. THE
17 DEPARTMENT SHALL AGGREGATE AND PROVIDE THESE REPORTS TO THE SENATE
18 AND HOUSE STANDING COMMITTEES ON EDUCATION.

19 (b) Except as otherwise provided in this article, a district
20 failing to comply with the required minimum hours and days of pupil
21 instruction under this subsection shall forfeit from its total
22 state aid allocation an amount determined by applying a ratio of
23 the number of hours or days the district was in noncompliance in
24 relation to the required minimum number of hours and days under
25 this subsection. Not later than August 1, the board of each
26 district shall certify to the department the number of hours and ~~7~~
27 ~~beginning in 2010-2011,~~ days of pupil instruction in the previous

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

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

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

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

22 (f) At the request of a district that operates a department-
23 approved alternative education program and that does not provide
24 instruction for pupils in all of grades K to 12, the superintendent
25 may grant a waiver from the requirements of subdivision (e). The
26 waiver shall indicate that an eligible district is subject to the
27 proration provisions of subdivision (e) only if the district does

1 not have at least 50% of the district's membership in attendance on
2 any day of pupil instruction. In order to be eligible for this
3 waiver, a district must maintain records to substantiate its
4 compliance with the following requirements:

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

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

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

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

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

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

27 (iii) A waiver that is not a waiver described in subparagraph

1 (i) or (ii) is valid for 1 fiscal year and must be renewed annually
2 to remain in effect.

3 (h) The superintendent shall promulgate rules for the
4 implementation of this subsection.

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

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

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

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

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

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

21 (a) Except as otherwise provided in this subsection, a pupil
22 must be scheduled for at least the required minimum number of hours
23 of instruction, excluding study halls, or at least the sum of 90
24 hours plus the required minimum number of hours of instruction,
25 including up to 2 study halls.

26 (b) The time a pupil is assigned to any tutorial activity in a
27 block schedule may be considered instructional time, unless that

1 time is determined in an audit to be a study hall period.

2 (c) Except as otherwise provided in this subdivision, a pupil
3 in grades 9 to 12 for whom a reduced schedule is determined to be
4 in the individual pupil's best educational interest must be
5 scheduled for a number of hours equal to at least 80% of the
6 required minimum number of hours of pupil instruction to be
7 considered a full-time equivalent pupil. A pupil in grades 9 to 12
8 who is scheduled in a 4-block schedule may receive a reduced
9 schedule under this subsection if the pupil is scheduled for a
10 number of hours equal to at least 75% of the required minimum
11 number of hours of pupil instruction to be considered a full-time
12 equivalent pupil.

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

26 (e) In grades 7 through 12, instructional time that is part of
27 a junior reserve officer training corps (JROTC) program shall be

1 considered to be pupil instruction time regardless of whether the
2 instructor is a certificated teacher if all of the following are
3 met:

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

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

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

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

1 the number of hours and days of pupil instruction actually provided
2 to the minimum number of hours and days of pupil instruction
3 required under subsection (3). Pupils enrolled in a department-
4 approved alternative education program under this subsection shall
5 be reported to the center in a form and manner determined by the
6 center. All of the following apply to a waiver granted under this
7 subsection:

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

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

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

23 (10) A district may count up to 38 hours of qualifying
24 professional development for teachers as hours of pupil
25 instruction. Professional development provided online is allowable
26 and encouraged, as long as the instruction has been approved by the
27 district. The department shall issue a list of approved online

1 professional development providers, which shall include the
2 Michigan virtual school. As used in this subsection, "qualifying
3 professional development" means professional development that is
4 focused on 1 or more of the following:

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

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

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

12 (d) Integrating technology into classroom instruction.

13 (e) Maintaining teacher certification.

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

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

22 (13) Beginning in 2013, at least every 2 years the
23 superintendent shall review the waiver standards set forth in the
24 pupil accounting and auditing manuals to ensure that the waiver
25 standards and waiver process continue to be appropriate and
26 responsive to changing trends in online learning. The
27 superintendent shall solicit and consider input from stakeholders

1 as part of this review.