

HOUSE BILL No. 5285

February 6, 2014, Introduced by Reps. Potvin, Kivela, Brinks, Lamonte, Dillon, Driskell, LaVoy, Bumstead, Schmidt, Daley, Rendon, Kurtz, Victory and Denby 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

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 2012-2013, the required minimum number of days of
17 pupil instruction is 170. Beginning in 2014-2015, the required
18 minimum number of days of pupil instruction is 175. However, a
19 district shall not provide fewer days of pupil instruction than the
20 district provided for 2009-2010. A district may apply for a waiver
21 under subsection (9) from the requirements of this subdivision. For
22 ~~2012-2013-2013-2014~~ only, if a district is unable to provide the
23 required minimum number of days of pupil instruction because of
24 school closures occurring before April 20, ~~2013-2014~~ due to
25 conditions not within the control of school authorities, such as
26 severe storms, fires, epidemics, utility power unavailability,
27 water or sewer failure, or health conditions as defined by the

1 city, county, or state health authorities, but the district does
2 provide at least the required minimum number of hours of pupil
3 instruction, the district is not subject to the minimum number of
4 days of pupil instruction requirement of this subsection. **HOWEVER,**
5 **IF A DISTRICT EXTENDS THE LENGTH OF 1 OR MORE SCHOOL DAYS IN ORDER**
6 **TO PROVIDE THE MINIMUM NUMBER OF HOURS OF PUPIL INSTRUCTION TO**
7 **QUALIFY FOR THIS 2013-2014 EXCEPTION, THE DISTRICT SHALL ENSURE**
8 **THAT EACH EXTENDED SCHOOL DAY IS EXTENDED BY AT LEAST 30 MINUTES OF**
9 **PUPIL INSTRUCTION.** A district that uses the ~~2012-2013-2013-2014~~
10 exception from the minimum number of days of pupil instruction
11 requirement shall submit to the department not later than July 1,
12 ~~2013, 2014~~, in the form and manner prescribed by the department, a
13 report that details the amount of instructional time that was lost
14 due to school closures and the amount of additional instructional
15 time that was added to compensate; when the additional
16 instructional time was provided; the activities that were carried
17 out and subject areas addressed during the additional instructional
18 time; and other information specified by the department to assess
19 whether appropriate instruction occurred during the additional
20 instructional time. The department shall aggregate and provide
21 these reports to the senate and house standing committees on
22 education.

23 (b) Except as otherwise provided in this article, a district
24 failing to comply with the required minimum hours and days of pupil
25 instruction under this subsection shall forfeit from its total
26 state aid allocation an amount determined by applying a ratio of
27 the number of hours or days the district was in noncompliance in

1 relation to the required minimum number of hours and days under
2 this subsection. Not later than August 1, the board of each
3 district shall certify to the department the number of hours and
4 days of pupil instruction in the previous school year. If the
5 district did not provide at least the required minimum number of
6 hours and days of pupil instruction under this subsection, the
7 deduction of state aid shall be made in the following fiscal year
8 from the first payment of state school aid. A district is not
9 subject to forfeiture of funds under this subsection for a fiscal
10 year in which a forfeiture was already imposed under subsection
11 (6).

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

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

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

26 (f) At the request of a district that operates a department-
27 approved alternative education program and that does not provide

1 instruction for pupils in all of grades K to 12, the superintendent
2 may grant a waiver from the requirements of subdivision (e). The
3 waiver shall indicate that an eligible district is subject to the
4 proration provisions of subdivision (e) only if the district does
5 not have at least 50% of the district's membership in attendance on
6 any day of pupil instruction. In order to be eligible for this
7 waiver, a district must maintain records to substantiate its
8 compliance with the following requirements:

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

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

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

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

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

23 (ii) If the waiver is for a 100% online model of delivery and
24 the educational program for which the waiver is granted makes
25 educational services available to pupils for a minimum of at least
26 1,098 hours during a school year and ensures that each pupil
27 participates in the educational program for at least 1,098 hours

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

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

7 (h) The superintendent shall promulgate rules for the
8 implementation of this subsection.

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

26 (5) A district shall not forfeit part of its state aid
27 appropriation because it adopts or has in existence an alternative

1 scheduling program for pupils in kindergarten if the program
2 provides at least the number of hours required under subsection (3)
3 for a full-time equated membership for a pupil in kindergarten as
4 provided under section 6(4).

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

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

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

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

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

1 hours plus the required minimum number of hours of instruction,
2 including up to 2 study halls.

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

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

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

1 consider more travel time to be pupil instruction time for this
2 purpose.

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

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

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

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

21 (9) Upon application by the district for a particular fiscal
22 year, the superintendent may waive for a district the minimum
23 number of hours and days of pupil instruction requirement of
24 subsection (3) for a department-approved alternative education
25 program or another innovative program approved by the department,
26 including a 4-day school week. If a district applies for and
27 receives a waiver under this subsection and complies with the terms

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

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

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

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

27 (10) Until 2014-2015, a district may count up to 38 hours of

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