

HOUSE BILL No. 5450

March 10, 2016, Introduced by Reps. Tedder, Somerville, Glenn, Webber, Chatfield, Cole, Hooker, Howrylak, Callton, McCready, Yonker, Lyons, Canfield, Inman, Greig, Cochran, Dianda, Clemente, Robinson, Santana, Kesto, Graves, Crawford, Chang and Hoadley 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 2015 PA 85.

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 certify to the department the number of hours and
23 days of pupil instruction in the previous school year. If the
24 district did not provide at least the required minimum number of
25 hours and days of pupil instruction under this subsection, the
26 deduction of state aid shall be made in the following fiscal year
27 from the first payment of state school aid. A district is not

1 subject to forfeiture of funds under this subsection for a fiscal
2 year in which a forfeiture was already imposed under subsection
3 (6).

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

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

13 (f) Except as otherwise provided in subdivisions (g) and (h),
14 a 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 (g) If a district adds 1 or more days of pupil instruction to
19 the end of its instructional calendar for a school year to comply
20 with subdivision (a) because the district otherwise would fail to
21 provide the required minimum number of days of pupil instruction
22 even after the operation of subsection (4) due to conditions not
23 within the control of school authorities, then subdivision (f) does
24 not apply for any day of pupil instruction that is added to the end
25 of the instructional calendar. Instead, for any of those days, if
26 the district does not have at least 60% of the district's
27 membership in attendance on that day, the district shall receive

1 state aid in that proportion of 1/180 that the actual percentage of
2 attendance bears to the specified percentage. For any day of pupil
3 instruction added to the instructional calendar as described in
4 this subdivision, the district shall report to the department the
5 percentage of the district's membership that is in attendance, in
6 the form and manner prescribed by the department.

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

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

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

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

25 (i) All of the following apply to a waiver granted under
26 subdivision (h):

27 (i) 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 (ii) 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
8 participates in the educational program for at least 1,098 hours
9 during a school year, a waiver that is granted for the 2011-2012
10 fiscal year or a subsequent fiscal year remains in effect unless it
11 is revoked by the superintendent.

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

15 (j) The superintendent shall promulgate rules for the
16 implementation of this subsection.

17 (4) Except as otherwise provided in this subsection, the first
18 6 days or the equivalent number of hours for which pupil
19 instruction is not provided because of conditions not within the
20 control of school authorities, such as severe storms, fires,
21 epidemics, utility power unavailability, water or sewer failure, or
22 health conditions as defined by the city, county, or state health
23 authorities, shall be counted as hours and days of pupil
24 instruction. With the approval of the superintendent of public
25 instruction, the department shall count as hours and days of pupil
26 instruction for a fiscal year not more than 3 additional days or
27 the equivalent number of additional hours for which pupil

1 instruction is not provided in a district due to unusual and
2 extenuating occurrences resulting from conditions not within the
3 control of school authorities such as those conditions described in
4 this subsection. Subsequent such hours or days shall not be counted
5 as hours or days of pupil instruction.

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

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

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

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

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

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

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

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

24 (d) If a pupil in grades 9 to 12 who is enrolled in a
25 cooperative education program or a special education pupil cannot
26 receive the required minimum number of hours of pupil instruction
27 solely because of travel time between instructional sites during

1 the school day, that travel time, up to a maximum of 3 hours per
2 school week, shall be considered to be pupil instruction time for
3 the purpose of determining whether the pupil is receiving the
4 required minimum number of hours of pupil instruction. However, if
5 a district demonstrates to the satisfaction of the department that
6 the travel time limitation under this subdivision would create
7 undue costs or hardship to the district, the department may
8 consider more travel time to be pupil instruction time for this
9 purpose.

10 (e) In grades 7 through 12, instructional time that is part of
11 a ~~junior reserve officer training corps~~ **JUNIOR RESERVE OFFICER**
12 **TRAINING CORPS** (JROTC) program shall be considered to be pupil
13 instruction time regardless of whether the instructor is a
14 certificated teacher if all of the following are met:

15 (i) The instructor has met all of the requirements established
16 by the United States Department of Defense and the applicable
17 branch of the armed services for serving as an instructor in the
18 ~~junior reserve officer training corps~~ **JUNIOR RESERVE OFFICER**
19 **TRAINING CORPS** program.

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

26 (8) Except as otherwise provided in subsections (11) and (12),
27 the department shall apply the guidelines under subsection (7) in

1 calculating the full-time equivalency of pupils.

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

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

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

1 track for course completion at proficiency level, a waiver that is
2 granted for the 2011-2012 fiscal year or a subsequent fiscal year
3 remains in effect unless it is revoked by the superintendent.

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

7 (10) Until 2014-2015, a district may count up to 38 hours of
8 qualifying professional development for teachers as hours of pupil
9 instruction. However, if a collective bargaining agreement that
10 provides for the counting of up to 38 hours of qualifying
11 professional development for teachers as pupil instruction is in
12 effect for employees of a district as of July 1, 2013, then until
13 the school year that begins after the expiration of that collective
14 bargaining agreement a district may count up to the contractually
15 specified number of hours of qualifying professional development
16 for teachers as hours of pupil instruction. Professional
17 development provided online is allowable and encouraged, as long as
18 the instruction has been approved by the district. The department
19 shall issue a list of approved online professional development
20 providers, which shall include the Michigan Virtual School. As used
21 in this subsection, "qualifying professional development" means
22 professional development that is focused on 1 or more of the
23 following:

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

26 (b) Achieving accreditation or improving a school's
27 accreditation status under section 1280 of the revised school code,

1 MCL 380.1280.

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

4 (d) Integrating technology into classroom instruction.

5 (e) Maintaining teacher certification.

6 (11) Subsections (3) and (8) do not apply to a school of
7 excellence that is a cyber school, as defined in section 551 of the
8 revised school code, MCL 380.551, and is in compliance with section
9 553a of the revised school code, MCL 380.553a.

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

14 (13) Beginning in 2013, at least every 2 years the
15 superintendent shall review the waiver standards set forth in the
16 pupil accounting and auditing manuals to ensure that the waiver
17 standards and waiver process continue to be appropriate and
18 responsive to changing trends in online learning. The
19 superintendent shall solicit and consider input from stakeholders
20 as part of this review.

21 (14) BEGINNING IN 2016-2017, IF A DISTRICT IS NOT COUNTING
22 HOURS OF QUALIFYING PROFESSIONAL DEVELOPMENT FOR TEACHERS AS HOURS
23 OF PUPIL INSTRUCTION UNDER SUBSECTION (10), A DISTRICT MAY COUNT UP
24 TO 5 DAYS OR UP TO 30 HOURS OF QUALIFYING PROFESSIONAL DEVELOPMENT
25 FOR TEACHERS AS DAYS OR HOURS OF PUPIL INSTRUCTION. FOR THE
26 PURPOSES OF THIS SUBSECTION, PROFESSIONAL DEVELOPMENT IS CONSIDERED
27 TO BE QUALIFYING PROFESSIONAL DEVELOPMENT IF IT IS APPROVED BY THE

1 DISTRICT SUPERINTENDENT OR SCHOOL PRINCIPAL.

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.