

# HOUSE BILL NO. 4206

February 19, 2019, Introduced by Reps. Frederick, Sabo, Green, Mueller, Guerra, Elder, Cherry, Shannon, Wakeman, Anthony, Griffin, Peterson, Camilleri and Webber 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 2018 PA 586.

## **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



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1 submit to the center and the intermediate superintendent, in the  
2 form and manner prescribed by the center, the number of pupils  
3 enrolled and in regular daily attendance in the district as of the  
4 pupil membership count day and as of the supplemental count day, as  
5 applicable, for the current school year. In addition, a district  
6 maintaining school during the entire year, as provided under  
7 section 1561 of the revised school code, MCL 380.1561, shall submit  
8 to the center and the intermediate superintendent, in the form and  
9 manner prescribed by the center, the number of pupils enrolled and  
10 in regular daily attendance in the district for the current school  
11 year pursuant to rules promulgated by the superintendent. Not later  
12 than the sixth Wednesday after the pupil membership count day and  
13 not later than the sixth Wednesday after the supplemental count  
14 day, the district shall certify the data in a form and manner  
15 prescribed by the center and file the certified data with the  
16 intermediate superintendent. If a district fails to submit and  
17 certify the attendance data, as required under this subsection, the  
18 center shall notify the department and state aid due to be  
19 distributed under this article shall be withheld from the  
20 defaulting district immediately, beginning with the next payment  
21 after the failure and continuing with each payment until the  
22 district complies with this subsection. If a district does not  
23 comply with this subsection by the end of the fiscal year, the  
24 district forfeits the amount withheld. A person who willfully  
25 falsifies a figure or statement in the certified and sworn copy of  
26 enrollment shall be punished in the manner prescribed by section  
27 161.

28 (2) To be eligible to receive state aid under this article,  
29 not later than the twenty-fourth Wednesday after the pupil



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

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

17 (a) Except as otherwise provided in this section, each  
18 district shall provide at least 1,098 hours and, beginning in 2010-  
19 2011, the required minimum number of days of pupil instruction.  
20 Beginning in 2014-2015, the required minimum number of days of  
21 pupil instruction is 175. However, all of the following apply to  
22 these requirements:

23 (i) If a collective bargaining agreement that provides a  
24 complete school calendar was in effect for employees of a district  
25 as of July 1, 2013, and if that school calendar is not in  
26 compliance with this subsection, then this subsection does not  
27 apply to that district until after the expiration of that  
28 collective bargaining agreement. If a district entered into a  
29 collective bargaining agreement on or after July 1, 2013 and if



1 that collective bargaining agreement did not provide for at least  
2 175 days of pupil instruction beginning in 2014-2015, then the  
3 department shall withhold from the district's total state school  
4 aid an amount equal to 5% of the funding the district receives in  
5 2014-2015 under sections 22a and 22b.

6 (ii) A district may apply for a waiver under subsection (9)  
7 from the requirements of this subdivision.

8 (b) Beginning in 2016-2017, the required minimum number of  
9 days of pupil instruction is 180. If a collective bargaining  
10 agreement that provides a complete school calendar was in effect  
11 for employees of a district as of the effective date of the  
12 amendatory act that added this subdivision, and if that school  
13 calendar is not in compliance with this subdivision, then this  
14 subdivision does not apply to that district until after the  
15 expiration of that collective bargaining agreement. A district may  
16 apply for a waiver under subsection (9) from the requirements of  
17 this subdivision.

18 (c) Except as otherwise provided in this article, a district  
19 failing to comply with the required minimum hours and days of pupil  
20 instruction under this subsection shall forfeit from its total  
21 state aid allocation an amount determined by applying a ratio of  
22 the number of hours or days the district was in noncompliance in  
23 relation to the required minimum number of hours and days under  
24 this subsection. Not later than August 1, the board of each  
25 district shall either certify to the department that the district  
26 was in full compliance with this section regarding the number of  
27 hours and days of pupil instruction in the previous school year, or  
28 report to the department, in a form and manner prescribed by the  
29 center, each instance of noncompliance. If the district did not



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

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

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

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

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



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

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

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

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

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

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

28 (i) If the waiver is for a blended model of delivery, a waiver  
29 that is granted for the 2011-2012 fiscal year or a subsequent



1 fiscal year remains in effect unless it is revoked by the  
2 superintendent.

3 (ii) If the waiver is for a 100% online model of delivery and  
4 the educational program for which the waiver is granted makes  
5 educational services available to pupils for a minimum of at least  
6 1,098 hours during a school year and ensures that each pupil  
7 participates in the educational program for at least 1,098 hours  
8 during a school year, a waiver that is granted for the 2011-2012  
9 fiscal year or a subsequent fiscal year remains in effect unless it  
10 is revoked by the superintendent.

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

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

16 (4) Except as otherwise provided in this subsection, the first  
17 6 days or the equivalent number of hours for which pupil  
18 instruction is not provided because of conditions not within the  
19 control of school authorities, such as severe storms, fires,  
20 epidemics, utility power unavailability, water or sewer failure, or  
21 health conditions as defined by the city, county, or state health  
22 authorities, ~~shall be~~ **are** counted as hours and days of pupil  
23 instruction. **In addition to these 6 days, if pupil instruction is**  
24 **not provided on 1 or more days that are included in a period for**  
25 **which the governor has issued an executive order declaring a state**  
26 **of emergency, those days and the corresponding number of hours are**  
27 **considered to be days and hours of pupil instruction and the**  
28 **department shall count them as days and hours of pupil instruction**  
29 **for the purposes of this section.** With the approval of the



1 superintendent of public instruction, the department shall count as  
2 hours and days of pupil instruction for a fiscal year not more than  
3 3 additional days or the equivalent number of additional hours for  
4 which pupil instruction is not provided in a district due to  
5 unusual and extenuating occurrences resulting from conditions not  
6 within the control of school authorities such as those conditions  
7 described in this subsection. Subsequent such hours or days shall  
8 not be counted as hours or days of pupil instruction.

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

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

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

27 (b) The board of the district takes formal action not to  
28 operate its schools for at least the required minimum number of  
29 hours and days of pupil instruction under subsection (3) in a





1 school year, including hours and days counted under subsection (4).

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

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

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

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

25 (d) If a pupil in grades 9 to 12 who is enrolled in a  
26 cooperative education program or a special education pupil cannot  
27 receive the required minimum number of hours of pupil instruction  
28 solely because of travel time between instructional sites during  
29 the school day, that travel time, up to a maximum of 3 hours per

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

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

14 (i) The instructor has met all of the requirements established  
15 by the United States Department of Defense and the applicable  
16 branch of the armed services for serving as an instructor in the  
17 junior reserve officer training corps program.

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

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

27 (9) Upon application by the district for a particular fiscal  
28 year, the superintendent shall waive for a district the minimum  
29 number of hours and days of pupil instruction requirement of



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

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

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

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



1 (d) For 2018-2019 only, the department shall grant a waiver to  
2 a district that applies for a waiver for a blended model of  
3 delivery after the department's application deadline if the  
4 district meets the other requirements for a waiver under this  
5 subsection.

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

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

25 (b) Achieving accreditation or improving a school's  
26 accreditation status under section 1280 of the revised school code,  
27 MCL 380.1280.

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



1 (d) Integrating technology into classroom instruction.

2 (e) Maintaining teacher certification.

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

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

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

