

HOUSE BILL NO. 4250

February 26, 2019, Introduced by Reps. Hoitenga, Inman and Rendon 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
5 submit to the center and the intermediate superintendent, in the



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

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

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

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

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

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



1 175 days of pupil instruction beginning in 2014-2015, then the
2 department shall withhold from the district's total state school
3 aid an amount equal to 5% of the funding the district receives in
4 2014-2015 under sections 22a and 22b.

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

7 (b) Beginning in 2016-2017, the required minimum number of
8 days of pupil instruction is 180. If a collective bargaining
9 agreement that provides a complete school calendar was in effect
10 for employees of a district as of ~~the effective date of the~~
11 ~~amendatory act that added this subdivision,~~ **June 24, 2014**, and if
12 that school calendar is not in compliance with this subdivision,
13 then this subdivision does not apply to that district until after
14 the expiration of that collective bargaining agreement. A district
15 may apply for a waiver under subsection (9) from the requirements
16 of this subdivision.

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



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

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

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

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

20 (g) If a district adds 1 or more days of pupil instruction to
21 the end of its instructional calendar for a school year to comply
22 with subdivision (a) because the district otherwise would fail to
23 provide the required minimum number of days of pupil instruction
24 even after the operation of subsection (4) due to conditions not
25 within the control of school authorities, then subdivision (f) does
26 not apply for any day of pupil instruction that is added to the end
27 of the instructional calendar. Instead, for any of those days, if
28 the district does not have at least 60% of the district's
29 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
28 that is granted for the 2011-2012 fiscal year or a subsequent
29 fiscal year remains in effect unless it is revoked by the



1 superintendent.

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

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

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

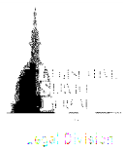
15 (4) Except as otherwise provided in this subsection, the first
16 6 days or the equivalent number of hours for which pupil
17 instruction is not provided because of conditions not within the
18 control of school authorities, such as severe storms, fires,
19 epidemics, utility power unavailability, water or sewer failure, or
20 health conditions as defined by the city, county, or state health
21 authorities, ~~shall be~~ **are** counted as hours and days of pupil
22 instruction. With the approval of the superintendent of public
23 instruction, the department shall count as hours and days of pupil
24 instruction for a fiscal year not more than 3 additional days or
25 the equivalent number of additional hours for which pupil
26 instruction is not provided in a district due to unusual and
27 extenuating occurrences resulting from conditions not within the
28 control of school authorities such as those conditions described in
29 this subsection. ~~Subsequent such hours or days shall not be counted~~



~~as hours or days of pupil instruction.~~Beginning with 2018-2019, if a district is unable to provide the required minimum number of days of pupil instruction because of additional school closures due to conditions not within the control of school authorities, such as those conditions described in this subsection but the district does provide at least the required minimum number of hours of pupil instruction, the district is not subject to the minimum number of days of pupil instruction requirement of this section. A district that uses the exception in the immediately preceding sentence from the minimum number of days of pupil instruction requirement shall submit to the department not later than July 1, 2019, and every July 1 thereafter, in the form and manner prescribed by the department, a report that details the amount of instructional time that was lost due to the additional school closures and the amount of additional instructional time that was added to compensate; when the additional instructional time was provided; the activities that were carried out and subject areas addressed during the additional instructional time; and other information specified by the department to assess whether appropriate instruction occurred during the additional instructional time. The department shall aggregate and provide these reports to the senate and house standing committees on education.

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

(6) In addition to any other penalty or forfeiture under this



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

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

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

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

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

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

28 (c) Except as otherwise provided in this subdivision, a pupil
29 in grades 9 to 12 for whom a reduced schedule is determined to be



1 in the individual pupil's best educational interest must be
2 scheduled for a number of hours equal to at least 80% of the
3 required minimum number of hours of pupil instruction to be
4 considered a full-time equivalent pupil. A pupil in grades 9 to 12
5 who is scheduled in a 4-block schedule may receive a reduced
6 schedule under this subsection if the pupil is scheduled for a
7 number of hours equal to at least 75% of the required minimum
8 number of hours of pupil instruction to be considered a full-time
9 equivalent pupil.

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

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

28 (i) The instructor has met all of the requirements established
29 by the United States Department of Defense and the applicable



1 branch of the armed services for serving as an instructor in the
2 junior reserve officer training corps program.

3 (ii) The board of the district or intermediate district
4 employing or assigning the instructor complies with the
5 requirements of sections 1230 and 1230a of the revised school code,
6 MCL 380.1230 and 380.1230a, with respect to the instructor to the
7 same extent as if employing the instructor as a regular classroom
8 teacher.

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

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



1 (a) If the waiver is for a blended model of delivery, a waiver
2 that is granted for the 2011-2012 fiscal year or a subsequent
3 fiscal year remains in effect unless it is revoked by the
4 superintendent.

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

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

15 (d) For 2018-2019 only, the department shall grant a waiver to
16 a district that applies for a waiver for a blended model of
17 delivery after the department's application deadline if the
18 district meets the other requirements for a waiver under this
19 subsection.

20 (10) Until 2014-2015, a district may count up to 38 hours of
21 qualifying professional development for teachers as hours of pupil
22 instruction. However, if a collective bargaining agreement that
23 provides for the counting of up to 38 hours of qualifying
24 professional development for teachers as pupil instruction is in
25 effect for employees of a district as of July 1, 2013, then until
26 the school year that begins after the expiration of that collective
27 bargaining agreement a district may count up to the contractually
28 specified number of hours of qualifying professional development
29 for teachers as hours of pupil instruction. Professional



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

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

10 (b) Achieving accreditation or improving a school's
11 accreditation status under section 1280 of the revised school code,
12 MCL 380.1280.

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

15 (d) Integrating technology into classroom instruction.

16 (e) Maintaining teacher certification.

17 (11) Subsections (3) and (8) do not apply to a school of
18 excellence that is a cyber school, as defined in section 551 of the
19 revised school code, MCL 380.551, and is in compliance with section
20 553a of the revised school code, MCL 380.553a.

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

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



- 1 superintendent shall solicit and consider input from stakeholders
- 2 as part of this review.

