

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 969

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 201.

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
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 seventh 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 ~~subsection (11)~~
12 **SUBSECTIONS (11) AND (12)**, all of the following apply to the
13 provision of pupil instruction:

14 (a) Except as otherwise provided in this section, each
15 district shall provide at least 1,098 hours and, beginning in 2010-
16 2011, the required minimum number of days of pupil instruction. For
17 2010-2011 and for 2011-2012, the required minimum number of days of
18 pupil instruction is 165. Beginning in 2012-2013, the required
19 minimum number of days of pupil instruction is 170. However,
20 beginning in 2010-2011, a district shall not provide fewer days of
21 pupil instruction than the district provided for 2009-2010. A
22 district may apply for a waiver under subsection (9) from the
23 requirements of this subdivision.

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

1 the number of hours or days the district was in noncompliance in
2 relation to the required minimum number of hours and days under
3 this subsection. Not later than August 1, the board of each
4 district shall certify to the department the number of hours and,
5 beginning in 2010-2011, days of pupil instruction in the previous
6 school year. If the district did not provide at least the required
7 minimum number of hours and days of pupil instruction under this
8 subsection, the deduction of state aid shall be made in the
9 following fiscal year from the first payment of state school aid. A
10 district is not subject to forfeiture of funds under this
11 subsection for a fiscal year in which a forfeiture was already
12 imposed under subsection (6).

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

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

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

27 (f) At the request of a district that operates a department-

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

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

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

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

19 **(G) ALL OF THE FOLLOWING APPLY TO A WAIVER GRANTED UNDER**
20 **SUBDIVISION (F):**

21 **(i) IF THE WAIVER IS FOR A BLENDED MODEL OF DELIVERY, A WAIVER**
22 **THAT IS GRANTED FOR THE 2011-2012 FISCAL YEAR OR A SUBSEQUENT**
23 **FISCAL YEAR REMAINS IN EFFECT UNLESS IT IS REVOKED BY THE**
24 **SUPERINTENDENT.**

25 **(ii) IF THE WAIVER IS FOR A 100% ONLINE MODEL OF DELIVERY AND**
26 **THE EDUCATIONAL PROGRAM FOR WHICH THE WAIVER IS GRANTED MAKES**
27 **EDUCATIONAL SERVICES AVAILABLE TO PUPILS FOR A MINIMUM OF AT LEAST**

1 1,098 HOURS DURING A SCHOOL YEAR AND ENSURES THAT EACH PUPIL
2 PARTICIPATES IN THE EDUCATIONAL PROGRAM FOR AT LEAST 1,098 HOURS
3 DURING A SCHOOL YEAR, A WAIVER THAT IS GRANTED FOR THE 2011-2012
4 FISCAL YEAR OR A SUBSEQUENT FISCAL YEAR REMAINS IN EFFECT UNLESS IT
5 IS REVOKED BY THE SUPERINTENDENT.

6 (iii) A WAIVER THAT IS NOT A WAIVER DESCRIBED IN SUBPARAGRAPH
7 (i) OR (ii) IS VALID FOR 1 FISCAL YEAR AND MUST BE RENEWED ANNUALLY
8 TO REMAIN IN EFFECT.

9 (H) ~~(g)~~—The superintendent shall promulgate rules for the
10 implementation of this subsection.

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

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

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

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

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

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

27 (a) Except as otherwise provided in this subsection, a pupil

1 must be scheduled for at least the required minimum number of hours
2 of instruction, excluding study halls, or at least the sum of 90
3 hours plus the required minimum number of hours of instruction,
4 including up to 2 study halls.

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

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

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

1 the travel time limitation under this subdivision would create
2 undue costs or hardship to the district, the department may
3 consider more travel time to be pupil instruction time for this
4 purpose.

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

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

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

20 (8) Except as otherwise provided in ~~subsection (11)~~
21 **SUBSECTIONS (11) AND (12)**, the department shall apply the
22 guidelines under subsection (7) in calculating the full-time
23 equivalency of pupils.

24 (9) Upon application by the district for a particular fiscal
25 year, the superintendent may waive for a district the minimum
26 number of hours and days of pupil instruction requirement of
27 subsection (3) for a department-approved alternative education

1 program or another innovative program approved by the department,
2 including a 4-day school week. If a district applies for and
3 receives a waiver under this subsection and complies with the terms
4 of the waiver, ~~for the fiscal year covered by the waiver~~ the
5 district is not subject to forfeiture under this section for the
6 specific program covered by the waiver. If the district does not
7 comply with the terms of the waiver, the amount of the forfeiture
8 shall be calculated based upon a comparison of the number of hours
9 and days of pupil instruction actually provided to the minimum
10 number of hours and days of pupil instruction required under
11 subsection (3). Pupils enrolled in a department-approved
12 alternative education program under this subsection shall be
13 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
24 PARTICIPATES IN THE EDUCATIONAL PROGRAM FOR AT LEAST 1,098 HOURS
25 DURING A SCHOOL YEAR, A WAIVER THAT IS GRANTED FOR THE 2011-2012
26 FISCAL YEAR OR A SUBSEQUENT FISCAL YEAR REMAINS IN EFFECT UNLESS IT
27 IS REVOKED BY THE SUPERINTENDENT.

1 (C) A WAIVER THAT IS NOT A WAIVER DESCRIBED IN SUBDIVISION (A)
2 OR (B) IS VALID FOR 1 FISCAL YEAR AND MUST BE RENEWED ANNUALLY TO
3 REMAIN IN EFFECT.

4 (10) A district may count up to 38 hours of qualifying
5 professional development for teachers as hours of pupil
6 instruction. Professional development provided online is allowable
7 and encouraged, as long as the instruction has been approved by the
8 district. The department shall issue a list of approved online
9 professional development providers, which shall include the
10 Michigan virtual school. As used in this subsection, "qualifying
11 professional development" means professional development that is
12 focused on 1 or more of the following:

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

15 (b) Achieving accreditation or improving a school's
16 accreditation status under section 1280 of the revised school code,
17 MCL 380.1280.

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

20 (d) Integrating technology into classroom instruction.

21 (e) Maintaining teacher certification.

22 (11) Subsections (3) and (8) do not apply to a school of
23 excellence that is a cyber school, as defined in section 551 of the
24 revised school code, MCL 380.551, and is in compliance with section
25 553a of the revised school code, MCL 380.553a.

26 (12) SUBSECTIONS (3) AND (8) DO NOT APPLY TO ELIGIBLE PUPILS
27 ENROLLED IN A DROPOUT RECOVERY PROGRAM THAT MEETS THE REQUIREMENTS

1 OF SECTION 23A. AS USED IN THIS SUBSECTION, "ELIGIBLE PUPIL" MEANS
2 THAT TERM AS DEFINED IN SECTION 23A.

3 (13) BEGINNING IN 2013, AT LEAST EVERY 2 YEARS THE
4 SUPERINTENDENT SHALL REVIEW THE WAIVER STANDARDS SET FORTH IN THE
5 PUPIL ACCOUNTING AND AUDITING MANUALS TO ENSURE THAT THE WAIVER
6 STANDARDS AND WAIVER PROCESS CONTINUE TO BE APPROPRIATE AND
7 RESPONSIVE TO CHANGING TRENDS IN ONLINE LEARNING. THE
8 SUPERINTENDENT SHALL SOLICIT AND CONSIDER INPUT FROM STAKEHOLDERS
9 AS PART OF THIS REVIEW.

10 Enacting section 1. This amendatory act takes effect October
11 1, 2012.

12 Enacting section 2. This amendatory act does not take effect
13 unless House Bill No. 5267 of the 96th Legislature is enacted into
14 law.