## 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.
- (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.