

HOUSE BILL No. 4356

March 1, 2011, Introduced by Reps. Townsend, Irwin, Ananich, Liss, Geiss, Rutledge, Hobbs, Bauer, Tlaib, Hovey-Wright, Darany, Kandrevas, Olumba, Dillon, Brunner, Yonker, Cavanagh, Huuki, Switalski and Brown 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 2010 PA 110.

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

1 maintaining school during the entire year, as provided under
2 section 1561 of the revised school code, MCL 380.1561, shall submit
3 to the center and the intermediate superintendent, in the form and
4 manner prescribed by the center, the number of pupils enrolled and
5 in regular daily attendance in the district for the current school
6 year pursuant to rules promulgated by the superintendent. A

7 **DISTRICT SHALL INCLUDE WITH ITS PUPIL ENROLLMENT AND ATTENDANCE**
8 **DATA, IN A FORM AND MANNER PRESCRIBED BY THE CENTER, A STATEMENT OF**
9 **THE DISTRICT'S AVERAGE CLASS SIZE FOR EACH GRADE LEVEL OPERATED BY**
10 **THE DISTRICT.** Not later than the seventh Wednesday after the pupil
11 membership count day and not later than the seventh Wednesday after
12 the supplemental count day, the district shall certify the data in
13 a form and manner prescribed by the center and file the certified
14 data with the intermediate superintendent. If a district fails to
15 submit and certify the attendance data, as required under this
16 subsection, the center shall notify the department and state aid
17 due to be distributed under this act shall be withheld from the
18 defaulting district immediately, beginning with the next payment
19 after the failure and continuing with each payment until the
20 district complies with this subsection. If a district does not
21 comply with this subsection by the end of the fiscal year, the
22 district forfeits the amount withheld. A person who willfully
23 falsifies a figure or statement in the certified and sworn copy of
24 enrollment shall be punished in the manner prescribed by section
25 161.

26 (2) To be eligible to receive state aid under this act, not
27 later than the twenty-fourth Wednesday after the pupil membership

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

15 (3) Except as otherwise provided in subsection (11), all of
16 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. For
20 2010-2011 and for 2011-2012, the required minimum number of days of
21 pupil instruction is 165. Beginning in 2012-2013, the required
22 minimum number of days of pupil instruction is 170. However,
23 beginning in 2010-2011, a district shall not provide fewer days of
24 pupil instruction than the district provided for 2009-2010. A
25 district may apply for a waiver under subsection (9) from the
26 requirements of this subdivision.

27 (b) Except as otherwise provided in this act, a district

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

16 (c) Hours or days lost because of strikes or teachers'
17 conferences shall not be counted as hours or days of pupil
18 instruction.

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

25 (e) Except as otherwise provided in subdivision (f), a
26 district not having at least 75% of the district's membership in
27 attendance on any day of pupil instruction shall receive state aid

1 in that proportion of 1/180 that the actual percent of attendance
2 bears to the specified percentage.

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

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

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

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

22 (g) The superintendent shall promulgate rules for the
23 implementation of this subsection.

24 (4) Except as otherwise provided in this subsection, the first
25 6 days or the equivalent number of hours for which pupil
26 instruction is not provided because of conditions not within the
27 control of school authorities, such as severe storms, fires,

1 epidemics, utility power unavailability, water or sewer failure, or
2 health conditions as defined by the city, county, or state health
3 authorities, shall be counted as hours and days of pupil
4 instruction. With the approval of the superintendent of public
5 instruction, the department shall count as hours and days of pupil
6 instruction for a fiscal year not more than 6 additional days or
7 the equivalent number of additional hours for which pupil
8 instruction is not provided in a district after April 1 of the
9 applicable school year due to unusual and extenuating occurrences
10 resulting from conditions not within the control of school
11 authorities such as those conditions described in this subsection.
12 Subsequent such hours or days shall not be counted as hours or days
13 of pupil instruction.

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

20 (6) Not later than April 15 of each fiscal year, the board of
21 each district shall certify to the department the planned number of
22 hours and days of pupil instruction in the district for the school
23 year ending in the fiscal year. In addition to any other penalty or
24 forfeiture under this section, if at any time the department
25 determines that 1 or more of the following has occurred in a
26 district, the district shall forfeit in the current fiscal year
27 beginning in the next payment to be calculated by the department a

1 proportion of the funds due to the district under this act that is
2 equal to the proportion below the required minimum number of hours
3 and days of pupil instruction under subsection (3), as specified in
4 the following:

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

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

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

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

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

25 (c) Except as otherwise provided in this subdivision, a pupil
26 in grades 9 to 12 for whom a reduced schedule is determined to be
27 in the individual pupil's best educational interest must be

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

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

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

27 (i) The instructor has met all of the requirements established

1 by the United States department of defense and the applicable
2 branch of the armed services for serving as an instructor in the
3 junior reserve officer training corps program.

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

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

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

1 alternative education program under this subsection shall be
2 reported to the center in a form and manner determined by the
3 center.

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 university. However, if a collective bargaining
11 agreement that provides more than 38 but not more than 51 hours of
12 professional development for teachers is in effect for employees of
13 a district as of October 1, 2006, then until the fiscal year that
14 begins after the expiration of that collective bargaining agreement
15 a district may count up to 51 hours of qualifying professional
16 development for teachers as hours of pupil instruction. A district
17 that elects to use this exception shall notify the department of
18 its election. As used in this subsection, "qualifying professional
19 development" means professional development that is focused on 1 or
20 more of the following:

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

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

26 (c) Achieving highly qualified teacher status as defined under
27 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) The department shall study the actual costs of providing
8 distance learning or other alternative instructional delivery that
9 is being used in this state and shall report on its findings to the
10 house and senate fiscal agencies and the office of the state budget
11 not later than September 10, 2012. Upon request by the department,
12 a school of excellence described in subsection (11), the Michigan
13 virtual university, or a school that receives a seat time waiver
14 from the department under this section shall submit to the
15 department any data requested by the department for the purposes of
16 this study.