

Act No. 155
Public Acts of 2005
Approved by the Governor*
September 30, 2005
Filed with the Secretary of State
September 30, 2005
EFFECTIVE DATE: September 30, 2005

*Item Vetoes

Sec. 98b. (1)

The words: "In addition, from the state school aid fund money appropriated in section 11, there is allocated for 2005-2006 an amount not to exceed \$250,000.00 for the purposes of this section." (Page 40)

Sec. 98b. (16)

Entire Subsection. (Page 41)

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Rep. Moolenaar

ENROLLED HOUSE BILL No. 4887

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 3, 4, 6, 11, 11a, 11f, 11g, 11j, 15, 18, 19, 20, 20j, 22a, 22b, 22d, 24, 25, 26a, 31a, 31d, 32c, 32d, 32j, 37, 39, 39a, 41, 41a, 51a, 51c, 51d, 53a, 54, 56, 57, 61a, 62, 74, 81, 94a, 98, 98b, 99, 101, 105, 105c, 107, 147, 158b, 164c, and 167 (MCL 388.1603, 388.1604, 388.1606, 388.1611, 388.1611a, 388.1611f, 388.1611g, 388.1611j, 388.1615, 388.1618, 388.1619, 388.1620, 388.1620j, 388.1622a, 388.1622b, 388.1622d, 388.1624, 388.1625, 388.1626a, 388.1631a, 388.1631d, 388.1632c, 388.1632d, 388.1632j, 388.1637, 388.1639, 388.1639a, 388.1641, 388.1641a, 388.1651a, 388.1651c, 388.1651d, 388.1653a, 388.1654, 388.1656, 388.1657, 388.1661a, 388.1662, 388.1674, 388.1681, 388.1694a, 388.1698, 388.1698b, 388.1699, 388.1701, 388.1705, 388.1705c, 388.1707, 388.1747, 388.1758b, 388.1764c, and 388.1767), sections 3, 4, 6, 11f, 11g, 15, 19, 20, 20j, 24, 26a, 31d, 32c, 32d, 32j, 37, 39a, 41, 41a, 51d, 53a, 54, 56, 57, 61a, 62, 74, 81, 94a, 98, 99, 107, 147, and 158b as amended and section 22d as added by 2004 PA 351, sections 11, 11a, 11j, 22a, 22b, 51a, and 51c as amended by 2005 PA 98, section 18 as amended by 2004 PA 414, sections 25 and 105c as amended by 2000 PA 297, sections 31a and 98b as amended by 2004 PA 593, section 39 as amended by 2002 PA 191, section 101 as amended by 2005 PA 41, section 105 as amended by 2003 PA 158, section 164c as added by 1995 PA 130, and section 167 as amended by 2000 PA 89, and by adding sections 11k, 26b, 31b, 31f, 32l, 33, 54a, and 99b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 3. (1) "Average daily attendance", for the purposes of complying with federal law and except as used in section 6(4)(cc), means 92% of the membership as defined in section 6(4).

(2) "Board" means the governing body of a district or public school academy.

(3) "Center" means the center for educational performance and information created in section 94a.

(4) "Cooperative education program" means a written voluntary agreement between and among districts to provide certain educational programs for pupils in certain groups of districts. The written agreement shall be approved by all affected districts at least annually and shall specify the educational programs to be provided and the estimated number of pupils from each district who will participate in the educational programs.

(5) "Department", except in sections 107 and 107b, means the department of education.

(6) "District" means a local school district established under the revised school code, a local act school district, or, except in sections 6(4), 6(6), 13, 20, 22a, 23, 31a, 105, and 105c, a public school academy. Except in sections 6(4), 6(6), 13, 20, 22a, 105, and 105c, district also includes a university school.

(7) “District of residence”, except as otherwise provided in this subsection, means the district in which a pupil’s custodial parent or parents or legal guardian resides. For a pupil described in section 24b, the pupil’s district of residence is the district in which the pupil enrolls under that section. For a pupil described in section 6(4)(d), the pupil’s district of residence shall be considered to be the district or intermediate district in which the pupil is counted in membership under that section. For a pupil under court jurisdiction who is placed outside the district in which the pupil’s custodial parent or parents or legal guardian resides, the pupil’s district of residence shall be considered to be the educating district or educating intermediate district.

(8) “District superintendent” means the superintendent of a district, the chief administrator of a public school academy, or the chief administrator of a university school.

Sec. 4. (1) “Elementary pupil” means a pupil in membership in grades K to 8 in a district not maintaining classes above the eighth grade or in grades K to 6 in a district maintaining classes above the eighth grade.

(2) “Extended school year” means an educational program conducted by a district in which pupils must be enrolled but not necessarily in attendance on the pupil membership count day in an extended year program. The mandatory clock hours shall be completed by each pupil not more than 365 calendar days after the pupil’s first day of classes for the school year prescribed. The department shall prescribe pupil, personnel, and other reporting requirements for the educational program.

(3) “Fiscal year” means the state fiscal year that commences October 1 and continues through September 30.

(4) “General educational development testing preparation program” means a program that has high school level courses in English language arts, social studies, science, and mathematics and that prepares a person to successfully complete the general educational development (GED) test.

(5) “High school pupil” means a pupil in membership in grades 7 to 12, except in a district not maintaining grades above the eighth grade.

Sec. 6. (1) “Center program” means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, 20 USC 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) “District and high school graduation rate” means the annual completion and pupil dropout rate that is calculated by the center pursuant to nationally recognized standards.

(3) “District and high school graduation report” means a report of the number of pupils, excluding adult participants, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into or out of the district or high school, who leave high school with a diploma or other credential of equal status.

(4) “Membership”, except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .75 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .25 times the final audited count from the supplemental count day for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, and pursuant to subsection (6), a pupil shall be counted in membership in the pupil’s educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil’s district of residence, if the pupil is not being educated as part of a cooperative education program, if the pupil’s district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the approval of the pupil’s district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil funded under section 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil's intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

(g) A pupil enrolled in a university school shall be counted in membership in the university school.

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(i) If operations begin before the pupil membership count day for the fiscal year, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(ii) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(j) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(k) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the superintendent, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(l) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education program or service approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(m) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general educational development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, administered by the Michigan strategic fund or the department of labor and economic growth, or participating in any successor of either of those 2 programs, shall not be counted in membership.

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy unless a written agreement signed by all parties designates the party or parties in which the pupil shall be counted in membership, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

(i) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(ii) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours

of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(p) The department shall give a uniform interpretation of full-time and part-time memberships.

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 101(3). In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(r) Full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12. However, beginning in 2006-2007, if a pupil is eligible to enroll in kindergarten but is enrolled in a prekindergarten, developmental kindergarten, or similar class, the pupil shall not be counted as a pupil in membership, and the costs associated with educating the pupil shall instead be reported and reimbursed under section 31b.

(s) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department. Membership shall be calculated by adding the number of pupils registered for attendance in that grade level on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(t) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(u) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

(i) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.

(ii) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.

(iii) Course content is comparable to that in the district's alternative education program.

(iv) Credit earned is awarded to the pupil and placed on the pupil's transcript.

(v) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.

(w) If a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked or the public school academy otherwise ceases to operate, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(x) For a public school academy that has been in operation for at least 2 years and that suspended operations for at least 1 semester and is resuming operations, membership is the sum of the product of .75 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the first pupil membership count day or supplemental count day, whichever is first, occurring after operations resume, plus the product of .25 times the final audited count from the most recent pupil membership count day or supplemental count day that occurred before suspending operations, as determined by the superintendent.

(y) If a district's membership for a particular fiscal year, as otherwise calculated under this subsection, would be less than 1,550 pupils and the district has 4.5 or fewer pupils per square mile, as determined by the department, and if the district does not receive funding under section 22d, the district's membership shall be considered to be the membership

figure calculated under this subdivision. If a district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous district that does not operate grades 9 to 12 and if 1 or both of the affected districts request the department to use the determination allowed under this sentence, the department shall include the square mileage of both districts in determining the number of pupils per square mile for each of the districts for the purposes of this subdivision. The membership figure calculated under this subdivision is the greater of the following:

(i) The average of the district's membership for the 3-fiscal-year period ending with that fiscal year, calculated by adding the district's actual membership for each of those 3 fiscal years, as otherwise calculated under this subsection, and dividing the sum of those 3 membership figures by 3.

(ii) The district's actual membership for that fiscal year as otherwise calculated under this subsection.

(z) If a public school academy that is not in its first or second year of operation closes at the end of a school year and does not reopen for the next school year, the department shall adjust the membership count of the district in which a former pupil of the public school academy enrolls and is in regular daily attendance for the next school year to ensure that the district receives the same amount of membership aid for the pupil as if the pupil were counted in the district on the supplemental count day of the preceding school year.

(aa) For 2005-2006 only, if a pupil who has been evacuated from another state and has relocated in this state due to a natural disaster enrolls in a district within 60 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(bb) Full-time equated memberships for preprimary-aged special education pupils who are not enrolled in kindergarten but are enrolled in a classroom program under R 340.1754 of the Michigan administrative code shall be determined by dividing the number of class hours scheduled and provided per year by 450. Full-time equated memberships for preprimary-aged special education pupils who are not enrolled in kindergarten but are receiving nonclassroom services under R 340.1755 of the Michigan administrative code shall be determined by dividing the number of hours of service scheduled and provided per year per pupil by 180.

(cc) Full-time equated memberships for pupils enrolled in a public school academy that is wholly contained within a county juvenile detention facility shall be considered to be the average daily attendance of pupils enrolled in the public school academy for the immediately preceding fiscal year, as reported by the public school academy and audited by the intermediate district in which the public school academy is located. However, if a public school academy described in this subdivision does not provide definitive information to the auditing intermediate district to support the pupil memberships generated by average daily attendance, then full-time equated memberships for pupils enrolled in that public school academy shall be calculated as otherwise provided under this subsection.

(5) "Public school academy" means a public school academy, urban high school academy, or strict discipline academy operating under the revised school code.

(6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence is not required for any of the following:

(a) A nonpublic part-time pupil enrolled in grades 1 to 12 in accordance with section 166b.

(b) A pupil receiving 1/2 or less of his or her instruction in a district other than the pupil's district of residence.

(c) A pupil enrolled in a public school academy or university school.

(d) A pupil enrolled in a district other than the pupil's district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91 if the intermediate district and its constituent districts have been exempted from section 105.

(e) A pupil enrolled in a district other than the pupil's district of residence if the pupil is enrolled in accordance with section 105 or 105c.

(f) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either indicates that the assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

(i) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(ii) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

(g) A pupil whose district of residence changed after the pupil membership count day and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year.

(h) A pupil enrolled in an alternative education program operated by a district other than his or her district of residence who meets 1 or more of the following:

(i) The pupil has been suspended or expelled from his or her district of residence for any reason, including, but not limited to, a suspension or expulsion under section 1310, 1311, or 1311a of the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

(ii) The pupil had previously dropped out of school.

(iii) The pupil is pregnant or is a parent.

(iv) The pupil has been referred to the program by a court.

(i) A pupil enrolled in the Michigan virtual high school, for the pupil's enrollment in the Michigan virtual high school.

(j) A pupil who is the child of a person who is employed by the district. As used in this subdivision, "child" includes an adopted child or legal ward.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(i) Fourth Wednesday in July.

(ii) Fourth Wednesday in September.

(iii) Second Wednesday in February.

(iv) Fourth Wednesday in April.

(8) "Pupils in grades K to 12 actually enrolled and in regular daily attendance" means pupils in grades K to 12 in attendance and receiving instruction in all classes for which they are enrolled on the pupil membership count day or the supplemental count day, as applicable. Except as otherwise provided in this subsection, a pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. A pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. In addition, a pupil who was enrolled and in attendance in a district, intermediate district, or public school academy before the pupil membership count day or supplemental count day of a particular year but was expelled on the pupil membership count day or supplemental count day shall only be counted as 1.0 full-time equated membership if the pupil resumed attendance in the district, intermediate district, or public school academy within 45 days after the pupil membership count day or supplemental count day. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated membership for the classes the pupil attended. For purposes of this subsection, "class" means a period of time in 1 day when pupils and a certificated teacher or legally qualified substitute teacher are together and instruction is taking place.

(9) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) "The revised school code" means 1976 PA 451, MCL 380.1 to 380.1852.

(11) "School fiscal year" means a fiscal year that commences July 1 and continues through June 30.

(12) "State board" means the state board of education.

(13) "Superintendent", unless the context clearly refers to a district or intermediate district superintendent, means the superintendent of public instruction described in section 3 of article VIII of the state constitution of 1963.

(14) "Supplemental count day" means the day on which the supplemental pupil count is conducted under section 6a.

(15) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil or a pupil described in subsection (6)(d) to (j). A pupil's district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

(16) "State school aid fund" means the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(17) "Taxable value" means the taxable value of property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(18) "Textbook" means a book that is selected and approved by the governing board of a district and that contains a presentation of principles of a subject, or that is a literary work relevant to the study of a subject required for the use of classroom pupils, or another type of course material that forms the basis of classroom instruction.

(19) "Total state aid" or "total state school aid" means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.

(20) "University school" means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

Sec. 11. (1) For the fiscal year ending September 30, 2005, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$10,907,222,200.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963, the sum of \$41,100,000.00 from the proceeds of capitalization of the school bond loan fund revolving fund, and the sum of \$165,200,000.00 from the general fund. For the fiscal year ending September 30, 2006, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$11,257,600,000.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963, the sum of \$44,500,000.00 from the proceeds of capitalization of the school bond loan fund revolving fund, and the sum of \$62,714,000.00 from the general fund. In addition, available federal funds are appropriated for each fiscal year.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall be deposited into the school aid stabilization fund created in section 11a.

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 51a(2), 51a(12), 51c, 53a, and 56 shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive the lesser of an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located or \$5,500.00. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection and subsection (4). If proration is necessary after 2002-2003, state payments under each of the other sections of this act from all state funding sources shall be prorated in the manner prescribed in subsection (4) as necessary to reflect the amount available for expenditure from the state school aid fund for the affected fiscal year. However, if the department of treasury determines that proration will be required under this subsection, or if the department of treasury determines that further proration is required under this subsection after an initial proration has already been made for a fiscal year, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) If proration is necessary, the department shall calculate the proration in district and intermediate district payments that is required under subsection (3) as follows:

(a) The department shall calculate the percentage of total state school aid allocated under this act for the affected fiscal year for each of the following:

(i) Districts.

(ii) Intermediate districts.

(iii) Entities other than districts or intermediate districts.

(b) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(i) for districts by reducing payments to districts. This reduction shall be made by calculating an equal dollar amount per pupil as necessary to recover this percentage of the proration amount

and reducing each district's total state school aid from state sources, other than payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 51a(2), 51a(12), 51c, and 53a, by that amount.

(c) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(ii) for intermediate districts by reducing payments to intermediate districts. This reduction shall be made by reducing the payments to each intermediate district, other than payments under sections 11f, 11g, 26a, 26b, 51a(2), 51a(12), 53a, and 56, on an equal percentage basis.

(d) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(iii) for entities other than districts and intermediate districts by reducing payments to these entities. This reduction shall be made by reducing the payments to each of these entities, other than payments under sections 11j, 26a, and 26b, on an equal percentage basis.

(5) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a.

Sec. 11a. (1) The school aid stabilization fund is created as a separate account within the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(2) The state treasurer may receive money or other assets from any source for deposit into the school aid stabilization fund. The state treasurer shall deposit into the school aid stabilization fund all of the following:

(a) Unexpended and unencumbered state school aid fund revenue for a fiscal year that remains in the state school aid fund as of the bookclosing for that fiscal year.

(b) Money statutorily dedicated to the school aid stabilization fund.

(c) Money appropriated to the school aid stabilization fund.

(3) Money available in the school aid stabilization fund may not be expended without a specific appropriation from the school aid stabilization fund. Money in the school aid stabilization fund shall be expended only for purposes for which state school aid fund money may be expended.

(4) The state treasurer shall direct the investment of the school aid stabilization fund. The state treasurer shall credit to the school aid stabilization fund interest and earnings from fund investments.

(5) Money in the school aid stabilization fund at the close of a fiscal year shall remain in the school aid stabilization fund and shall not lapse to the unreserved school aid fund balance or the general fund.

(6) If the maximum amount appropriated under section 11 from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, there is appropriated from the school aid stabilization fund to the state school aid fund an amount equal to the projected shortfall as determined by the department of treasury, but not to exceed available money in the school aid stabilization fund. If the money in the school aid stabilization fund is insufficient to fully fund an amount equal to the projected shortfall, the state budget director shall notify the legislature as required under section 11(3) and state payments in an amount equal to the remainder of the projected shortfall shall be prorated in the manner provided under section 11(4).

(7) Each school fiscal year for 2004-2005 and for 2005-2006, there is transferred from the school aid stabilization fund to the state school aid fund the amount necessary to fully fund the allocations under this act.

Sec. 11f. (1) From the appropriations under section 11, there is allocated for the purposes of this section an amount not to exceed \$32,000,000.00 for the fiscal year ending September 30, 2006 and for each succeeding fiscal year through the fiscal year ending September 30, 2008. Payments under this section will cease after September 30, 2008. These allocations are for paying the amounts described in subsection (4) to districts and intermediate districts, other than those receiving a lump sum payment under subsection (2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district has or may have in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. The waiver resolution shall be in form and substance as required under subsection (7). The state treasurer is authorized to accept such a waiver resolution on behalf of this state. The amounts described in this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(2) In addition to any other money appropriated under this act, there was appropriated from the state school aid fund an amount not to exceed \$1,700,000.00 for the fiscal year ending September 30, 1999. This appropriation was for paying the amounts described in this subsection to districts and intermediate districts that were not plaintiffs in the consolidated cases known as Durant v State of Michigan; that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district had or may have had in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan; and for

which the total amount listed in section 11h and paid under this section was less than \$75,000.00. For a district or intermediate district qualifying for a payment under this subsection, the entire amount listed for the district or intermediate district in section 11h was paid in a lump sum on November 15, 1998 or on the next business day following that date. The amounts paid under this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(3) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in this section. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(4) The amount paid each fiscal year to each district or intermediate district under subsection (1) shall be 1/20 of the total amount listed in section 11h for each listed district or intermediate district that qualifies for a payment under subsection (1). The amounts listed in section 11h and paid in part under this subsection and in a lump sum under subsection (2) are offers of settlement and compromise to each of these districts or intermediate districts to resolve, in their entirety, any claim or claims that these districts or intermediate districts may have asserted for violations of section 29 of article IX of the state constitution of 1963 through September 30, 1997, which claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute an admission of liability to the districts or intermediate districts listed in section 11h or a waiver of any defense that is or would have been available to the state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(5) The entire amount of each payment under subsection (1) each fiscal year shall be paid on November 15 of the applicable fiscal year or on the next business day following that date.

(6) Funds paid to a district or intermediate district under this section shall be used only for textbooks, electronic instructional material, software, technology, infrastructure or infrastructure improvements, school buses, school security, training for technology, or to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section. For intermediate districts only, funds paid under this section may also be used for other nonrecurring instructional expenditures including, but not limited to, nonrecurring instructional expenditures for vocational education, or for debt service for acquisition of technology for academic support services. Funds received by an intermediate district under this section may be used for projects conducted for the benefit of its constituent districts at the discretion of the intermediate board. To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for that debt service.

(7) The resolution to be adopted and submitted by a district or intermediate district under this section and section 11g shall read as follows:

“Whereas, the board of _____ (name of district or intermediate district) desires to settle and compromise, in their entirety, any claim or claims that the district (or intermediate district) has or had for violations of section 29 of article IX of the state constitution of 1963, which claim or claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

Whereas, the district (or intermediate district) agrees to settle and compromise these claims for the consideration described in sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g, and in the amount specified for the district (or intermediate district) in section 11h of the state school aid act of 1979, 1979 PA 94, MCL 388.1611h.

Whereas, the board of _____ (name of district or intermediate district) is authorized to adopt this resolution.

Now, therefore, be it resolved as follows:

1. The board of _____ (name of district or intermediate district) waives any right or interest it may have in any claim or potential claim through September 30, 1997 relating to the amount of funding the district or intermediate district is, or may have been, entitled to receive under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, or any other source of state funding, by reason of the application of section 29 of article IX of the state constitution of 1963, which claims or potential claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

2. The board of _____ (name of district or intermediate district) directs its secretary to submit a certified copy of this resolution to the state treasurer no later than 5 p.m. eastern standard time on March 2, 1998, and agrees that it will not take any action to amend or rescind this resolution.

3. The board of _____ (name of district or intermediate district) expressly agrees and understands that, if it takes any action to amend or rescind this resolution, the state, its agencies, employees, and agents shall have available to them any privilege, immunity, and/or defense that would otherwise have been available had the claims or potential claims been actually litigated in any forum.

4. This resolution is contingent on continued payments by the state each fiscal year as determined under sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g. However, this resolution shall be an irrevocable waiver of any claim to amounts actually received by the school district or intermediate school district under sections 11f and 11g of the state school aid act of 1979.”.

Sec. 11g. (1) From the general fund appropriation in section 11, there is allocated for this section an amount not to exceed \$34,961,000.00 for the fiscal year ending September 30, 2006. There is allocated for this section an amount not to exceed \$35,000,000.00 for each succeeding fiscal year through the fiscal year ending September 30, 2013. Payments under this section will cease after September 30, 2013. These allocations are for paying the amounts described in subsection (3) to districts and intermediate districts, other than those receiving a lump sum payment under section 11f(2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a waiver resolution described in section 11f. The amounts paid under this section represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this section.

(2) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in section 11f. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district regarding these claims or potential claims.

(3) The amount paid each fiscal year to each district or intermediate district under this section shall be the sum of the following:

(a) 1/30 of the total amount listed in section 11h for the district or intermediate district.

(b) If the district or intermediate district borrows money and issues bonds under section 11i, an additional amount in each fiscal year calculated by the department of treasury that, when added to the amount described in subdivision (a), will cause the net present value as of November 15, 1998 of the total of the 15 annual payments made to the district or intermediate district under this section, discounted at a rate as determined by the state treasurer, to equal the amount of the bonds issued by that district or intermediate district under section 11i and that will result in the total payments made to all districts and intermediate districts in each fiscal year under this section being no more than the amount appropriated under this section in each fiscal year.

(4) The entire amount of each payment under this section each fiscal year shall be paid on May 15 of the applicable fiscal year or on the next business day following that date. If a district or intermediate district borrows money and issues bonds under section 11i, the district or intermediate district shall use funds received under this section to pay debt service on bonds issued under section 11i. If a district or intermediate district does not borrow money and issue bonds under section 11i, the district or intermediate district shall use funds received under this section only for the following purposes, in the following order of priority:

(a) First, to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section.

(b) Second, to pay debt service on other limited tax obligations.

(c) Third, for deposit into a sinking fund established by the district or intermediate district under the revised school code.

(5) To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for debt service.

(6) A district or intermediate district may pledge or assign payments under this section as security for bonds issued under section 11i, but shall not otherwise pledge or assign payments under this section.

Sec. 11j. From the appropriation in section 11 from the proceeds of capitalization of the school bond loan fund revolving fund, there is allocated an amount not to exceed \$41,100,000.00 for 2004-2005, and there is allocated an amount not to exceed \$44,500,000.00 for 2005-2006, for payments to the school loan bond redemption fund in the department of treasury on behalf of districts and intermediate districts. Notwithstanding section 11 or any other provision of this act, funds allocated under this section are not subject to proration and shall be paid in full.

Sec. 11k. For 2004-2005 and 2005-2006, there is appropriated from the general fund to the school loan revolving fund an amount equal to the amount of school bond loans assigned to the Michigan municipal bond authority, not to exceed the total amount of school bond loans held in reserve as long-term assets. As used in this section, "school loan revolving fund" means that fund created in section 16c of the shared credit rating act, 1985 PA 227, MCL 141.1066c.

Sec. 15. (1) If a district or intermediate district fails to receive its proper apportionment, the department, upon satisfactory proof that the district or intermediate district was entitled justly, shall apportion the deficiency in the next apportionment. Subject to subsections (2) and (3), if a district or intermediate district has received more than its proper apportionment, the department, upon satisfactory proof, shall deduct the excess in the next apportionment. Notwithstanding any other provision in this act, state aid overpayments to a district, other than overpayments in payments for special education or special education transportation, may be recovered from any payment made under this act other than a special education or special education transportation payment. State aid overpayments made in special education or special education transportation payments may be recovered from subsequent special education or special education transportation payments.

(2) If the result of an audit conducted by or for the department affects the current fiscal year membership, affected payments shall be adjusted in the current fiscal year. A deduction due to an adjustment made as a result of an audit conducted by or for the department, or as a result of information obtained by the department from the district, an intermediate district, the department of treasury, or the office of auditor general, shall be deducted from the district's apportionments within the next fiscal year after the fiscal year in which the adjustment is finalized. At the request of the district and upon the district presenting evidence satisfactory to the department of the hardship, the department may grant up to an additional 4 years for the adjustment if the district would otherwise experience a significant hardship.

(3) If, because of the receipt of new or updated data, the department determines during a fiscal year that the amount paid to a district or intermediate district under this act for a prior fiscal year was incorrect under the law in effect for that year, the department may make the appropriate deduction or payment in the district's or intermediate district's allocation for the fiscal year in which the determination is made. The deduction or payment shall be calculated according to the law in effect in the fiscal year in which the improper amount was paid.

(4) Expenditures made by the department under this act that are caused by the write-off of prior year accruals may be funded by revenue from the write-off of prior year accruals.

(5) In addition to funds appropriated in section 11 for all programs and services, there is appropriated each fiscal year for 2004-2005 and 2005-2006 for prior year obligations in excess of applicable prior year appropriations, an amount equal to the collection of prior year overpayments, but not to exceed amounts available from prior year overpayments.

Sec. 18. (1) Except as provided in another section of this act, each district or other entity shall apply the money received by the district or entity under this act to salaries and other compensation of teachers and other employees, tuition, transportation, lighting, heating, ventilation, water service, the purchase of textbooks which are designated by the board to be used in the schools under the board's charge, other supplies, and any other school operating expenditures defined in section 7. However, not more than 20% of the total amount received by a district under article 2 or intermediate district under article 8 may be transferred by the board to either the capital projects fund or to the debt retirement fund for debt service. The money shall not be applied or taken for a purpose other than as provided in this section. The department shall determine the reasonableness of expenditures and may withhold from a recipient of funds under this act the apportionment otherwise due for the fiscal year following the discovery by the department of a violation by the recipient.

(2) For the purpose of determining the reasonableness of expenditures and whether a violation of this act has occurred, the department shall require that each district and intermediate district have an audit of the district's or intermediate district's financial and pupil accounting records conducted at least annually at the expense of the district or intermediate district, as applicable, by a certified public accountant or by the intermediate district superintendent, as may be required by the department, or in the case of a district of the first class by a certified public accountant, the intermediate superintendent, or the auditor general of the city. An intermediate district's annual financial audit shall be accompanied by the intermediate district's pupil accounting procedures report. A district's or intermediate district's annual financial audit shall include an analysis of the financial and pupil accounting data used as the basis for distribution of state school aid. The pupil accounting records and reports, audits, and management letters are subject to requirements established in the auditing and accounting manuals approved and published by the department. Except as otherwise provided in this subsection, a district shall file the annual financial audit reports with the intermediate district not later than 120 days after the end of each school fiscal year and the intermediate district shall forward the annual financial audit reports for its constituent districts and for the intermediate district, and the pupil accounting procedures report for the pupil membership count day and supplemental count day, to the department not later than November 15 of each year. The annual financial audit reports and pupil accounting procedures reports shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Not later than December 1 of each year, the department shall notify the state budget director and the legislative appropriations

subcommittees responsible for review of the school aid budget of districts and intermediate districts that have not filed an annual financial audit and pupil accounting procedures report required under this section for the school year ending in the immediately preceding fiscal year.

(3) By November 15 of each year, each district and intermediate district shall submit to the center, in a manner prescribed by the center, annual comprehensive financial data consistent with accounting manuals and charts of accounts approved and published by the department. Effective with the report due on November 15, 2006, for an intermediate district, the report shall also contain the website address where the department can access the report required under section 620 of the revised school code, MCL 380.620.

(4) By September 30 of each year, each district and intermediate district shall file with the department the special education actual cost report, known as "SE-4096", on a form and in the manner prescribed by the department.

(5) By October 7 of each year, each district and intermediate district shall file with the department the transportation expenditure report, known as "SE-4094", on a form and in the manner prescribed by the department.

(6) Not later than July 1, 1999, the department shall approve and publish pupil accounting and pupil auditing manuals. The department shall review those manuals at least annually and shall periodically update those manuals to reflect changes in this act. The pupil accounting manuals in effect for the 1996-97 school year, including subsequent revisions issued by the superintendent, shall be the interim manuals in effect until new manuals are approved and published. However, the clarification of class-by-class accounting provided in the department's April 15, 1998 memorandum on pupil accounting procedures shall be excluded from the interim manuals.

(7) If a district that is a public school academy purchases property using money received under this act, the public school academy shall retain ownership of the property unless the public school academy sells the property at fair market value.

(8) If a district or intermediate district does not comply with subsection (2), (3), (4), or (5), the department shall withhold all state school aid due to the district or intermediate district under this act, beginning with the next payment due to the district or intermediate district, until the district or intermediate district complies with subsections (2), (3), (4), and (5). If the district or intermediate district does not comply with subsections (2), (3), (4), and (5) by the end of the fiscal year, the district or intermediate district forfeits the amount withheld.

Sec. 19. (1) A district shall comply with any requirements of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990" that are not also required by the no child left behind act of 2001, Public Law 107-110, as determined by the department.

(2) Each district and intermediate district shall provide to the department, in a form and manner prescribed by the department, information necessary for the development of an annual progress report on the required implementation of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990".

(3) A district or intermediate district shall comply with all applicable reporting requirements specified in state and federal law. Data provided to the center, in a form and manner prescribed by the center, shall be aggregated and disaggregated as required by state and federal law.

(4) Each district shall furnish to the center not later than 7 weeks after the pupil membership count day, in a manner prescribed by the center, the information necessary for the preparation of the district and high school graduation report. The center shall calculate an annual graduation and pupil dropout rate for each high school, each district, and this state, in compliance with nationally recognized standards for these calculations. The center shall report all graduation and dropout rates to the senate and house education committees and appropriations committees, the state budget director, and the department not later than 30 days after the publication of the list described in subsection (8).

(5) By the first business day in December and by June 30 of each year, a district shall furnish to the center, in a manner prescribed by the center, information related to educational personnel as necessary for reporting required by state and federal law.

(6) By June 30 of each year, a district shall furnish to the center, in a manner prescribed by the center, information related to safety practices and criminal incidents as necessary for reporting required by state and federal law.

(7) If a district or intermediate district fails to meet the requirements of subsection (2), (3), (4), (5), or (6), the department shall withhold 5% of the total funds for which the district or intermediate district qualifies under this act until the district or intermediate district complies with all of those subsections. If the district or intermediate district does not comply with all of those subsections by the end of the fiscal year, the department shall place the amount withheld in an escrow account until the district or intermediate district complies with all of those subsections.

(8) Before publishing a list of schools or districts determined to have failed to make adequate yearly progress as required by the federal no child left behind act of 2001, Public Law 107-110, the department shall allow a school or district to appeal that determination. The department shall consider and act upon the appeal within 30 days after it is submitted and shall not publish the list until after all appeals have been considered and decided.

Sec. 20. (1) For 2003-2004 and for 2004-2005, the basic foundation allowance is \$6,700.00 per membership pupil. For 2005-2006, the basic foundation allowance is \$6,875.00.

(2) The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) Except as otherwise provided in this subsection, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance. However, for 2002-2003, the foundation allowance for a district under this subdivision is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus \$200.00.

(b) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of \$200.00 or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(c) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(d) For a district that received a payment under former section 22c for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under former section 22c.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district described in subsection (3)(b), the state portion of the district's foundation allowance is an amount equal to \$6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. The \$6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled in a district other than the pupil's district of residence, if the foundation allowance of the pupil's district of residence has been adjusted pursuant to subsection (19), the allocation calculated under this section shall not include the adjustment described in subsection (19). For a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section

shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) Subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the sum of the basic foundation allowance under subsection (1) plus \$300.00, whichever is less. Notwithstanding section 101(2), for a public school academy that begins operations after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a principal residence and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a principal residence and qualified agricultural property are exempt and not to levy school operating taxes on a principal residence and qualified agricultural property as provided in section 1211(1) of the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a principal residence and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) Subject to subsection (4), for a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership

in the resulting district who reside in the geographic area of each of the original or affected districts. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. However, for 2005-2006, the index shall be 1.00. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be \$67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed \$6,500.00 as adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00, plus a room and board stipend not to exceed \$10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's

foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or \$700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus \$250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 and each succeeding fiscal year shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of 100% of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the number of pupils in the district's membership for 2001-2002 who were residents of and enrolled in the district. Except as otherwise provided in this subsection, a district qualifying for a foundation allowance adjustment under this subsection shall use the funds resulting from this adjustment for at least 1 of grades K to 3 for purposes allowable under former section 32e as in effect for 2001-2002. For an individual school or schools operated by a district qualifying for a foundation allowance under this subsection that have been determined by the department to meet the adequate yearly progress standards of the federal no child left behind act of 2001, Public Law 107-110, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district may submit to the department an application for flexibility in using the funds resulting from this adjustment that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to reduce class size, but that may be different from the purposes otherwise allowable under this subsection. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to reduce class size. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(20) For a district that is a qualifying school district with a school reform board in place under part 5a of the revised school code, MCL 380.371 to 380.376, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of \$15,000,000.00 divided by the district's membership for 2002-2003. If a district ceases to meet the requirements of this subsection, the department shall adjust the district's foundation allowance in effect at that time based on a 2002-2003 foundation allowance for the district that does not include the 2002-2003 adjustment under this subsection. This subsection only applies for 2002-2003, 2003-2004, and 2004-2005. Beginning in 2005-2006, the foundation allowance of a district that received an adjustment under this subsection for those fiscal years shall be calculated as if those adjustments did not occur.

(21) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(22) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(23) As used in this section:

(a) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(b) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

(c) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(d) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(e) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(f) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

(g) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(h) "Principal residence" and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(i) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

Sec. 20j. (1) Foundation allowance supplemental payments for 2005-2006 to districts that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00 shall be calculated under this section.

(2) The per pupil allocation to each district under this section shall be the difference between the dollar amount of the adjustment from the 1998-99 state fiscal year to the current state fiscal year in the basic foundation allowance minus the dollar amount of the adjustment from the 1998-99 state fiscal year to the current state fiscal year in the district's foundation allowance.

(3) If a district's local revenue per pupil does not exceed the sum of its foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the per pupil allocation under subsection (2) multiplied by the district's membership excluding special education pupils. If a district's local revenue per pupil exceeds the foundation allowance under section 20 but does not exceed the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the difference between the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2) minus the local revenue per pupil multiplied by the district's membership excluding special education pupils. If a district's local revenue per pupil exceeds the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), there is no payment calculated under this section for the district.

(4) Payments to districts shall not be made under this section. Rather, the calculations under this section shall be made and used to determine the amount of state payments under section 22b.

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$6,615,000,000.00 for 2004-2005 and an amount not to exceed \$6,459,000,000.00 for 2005-2006 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963, this guarantee does not apply to a district in a year in which the district levies a millage rate for school district operating purposes less than it levied in 1994. However, subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) To ensure that a district receives an amount equal to the district's 1994-95 total state and local per pupil revenue for school operating purposes, there is allocated to each district a state portion of the district's 1994-95 foundation allowance in an amount calculated as follows:

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(b) For a district that had a 1994-95 foundation allowance greater than \$6,500.00, the state payment under this subsection shall be the sum of the amount calculated under subdivision (a) plus the amount calculated under this subdivision. The amount calculated under this subdivision shall be equal to the difference between the district's 1994-95 foundation allowance minus \$6,500.00 and the current year hold harmless school operating taxes per pupil. If the result of the calculation under subdivision (a) is negative, the negative amount shall be an offset against any state payment calculated under this subdivision. If the result of a calculation under this subdivision is negative, there shall not be a state payment or a deduction under this subdivision. The taxable values per membership pupil used in the calculations under this subdivision are as adjusted by ad valorem property tax revenue captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development

financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership.

(3) Beginning in 2003-2004, for pupils in membership in a qualifying public school academy or qualifying university school, there is allocated under this section to the authorizing body that is the fiscal agent for the qualifying public school academy for forwarding to the qualifying public school academy, or to the board of the public university operating the qualifying university school, an amount equal to the 1994-95 per pupil payment to the qualifying public school academy or qualifying university school under section 20.

(4) A district, qualifying university school, or qualifying public school academy may use funds allocated under this section in conjunction with any federal funds for which the district, qualifying university school, or qualifying public school academy otherwise would be eligible.

(5) For a district that is formed or reconfigured after June 1, 2000 by consolidation of 2 or more districts or by annexation, the resulting district's 1994-95 foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the 1994-95 foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district in the state fiscal year in which the consolidation takes place who reside in the geographic area of each of the original districts. If an affected district's 1994-95 foundation allowance is less than the 1994-95 basic foundation allowance, the amount of that district's 1994-95 foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the 1994-95 basic foundation allowance.

(6) As used in this section:

(a) "1994-95 foundation allowance" means a district's 1994-95 foundation allowance calculated and certified by the department of treasury or the superintendent under former section 20a as enacted in 1993 PA 336 and as amended by 1994 PA 283.

(b) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(c) "Current year hold harmless school operating taxes per pupil" means the per pupil revenue generated by multiplying a district's 1994-95 hold harmless millage by the district's current year taxable value per membership pupil.

(d) "Hold harmless millage" means, for a district with a 1994-95 foundation allowance greater than \$6,500.00, the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property could be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, and the number of mills of school operating taxes that could be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, as certified by the department of treasury for the 1994 tax year.

(e) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(f) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(g) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(h) "Qualifying public school academy" means a public school academy that was in operation in the 1994-95 school year and is in operation in the current state fiscal year.

(i) "Qualifying university school" means a university school that was in operation in the 1994-95 school year and is in operation in the current fiscal year.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means each of the following divided by the district's membership:

(i) For the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property may be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, the taxable value of homestead and qualified agricultural property for the calendar year ending in the current state fiscal year.

(ii) For the number of mills of school operating taxes that may be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, the taxable value of all property for the calendar year ending in the current state fiscal year.

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$2,923,200,000.00 for 2004-2005 and an amount not to exceed \$3,197,736,800.00 for 2005-2006 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under this section, each district shall administer in each grade level that it operates in grades 1 to 5 a standardized assessment approved by the department of grade-appropriate basic educational skills. A district may use the Michigan literacy progress profile to satisfy this requirement for grades 1 to 3. Also, if the revised school code is amended to require annual assessments at additional grade levels, in order to receive an allocation under this section each district shall comply with that requirement.

(4) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(5) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, and 51c. If a claim is made by an entity receiving funds under this act that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(6) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (5) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(7) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds \$10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(8) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(9) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state during 2001-2002, 2002-2003, or 2003-2004, 50% of the amount allocated in subsection (1) not previously paid out for 2002-2003, 2003-2004, and each succeeding fiscal year is a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396v.

Sec. 22d. (1) From the amount allocated under section 22b, an amount not to exceed \$750,000.00 is allocated for 2005-2006 for additional payments to small, geographically isolated districts under this section.

(2) To be eligible for a payment under this section, a district shall meet all of the following:

(a) Operates grades K to 12.

(b) Has fewer than 250 pupils in membership.

(c) Each school building operated by the district meets at least 1 of the following:

(i) Is located in the Upper Peninsula at least 30 miles from any other public school building.

(ii) Is located on an island that is not accessible by bridge.

(3) The amount of the additional funding to each eligible district under this section shall be determined under a spending plan developed as provided in this subsection and approved by the superintendent of public instruction. The spending plan shall be developed cooperatively by the intermediate superintendents of each intermediate district in which an eligible district is located. The intermediate superintendents shall review the financial situation of each eligible district, determine the minimum essential financial needs of each eligible district, and develop and agree on a spending plan that distributes the available funding under this section to the eligible districts based on those financial needs. The intermediate superintendents shall submit the spending plan to the superintendent of public instruction for approval.

Upon approval by the superintendent of public instruction, the amounts specified for each eligible district under the spending plan are allocated under this section and shall be paid to the eligible districts in the same manner as payments under section 22b.

Sec. 24. (1) From the appropriation in section 11, there is allocated for 2005-2006 an amount not to exceed \$8,000,000.00 for payments to the educating district or intermediate district for educating pupils assigned by a court or the department of human services to reside in or to attend a juvenile detention facility or child caring institution licensed by the department of human services and approved by the department to provide an on-grounds education program. The amount of the payment under this section to a district or intermediate district shall be calculated as prescribed under subsection (2).

(2) For 2005-2006, 70% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the lesser of the district's or intermediate district's added cost or the department's approved per pupil allocation for the district or intermediate district, and 30% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the district's or intermediate district's added cost. For 2006-2007, 80% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the lesser of the district's or intermediate district's added cost or the department's approved per pupil allocation for the district or intermediate district, and 20% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the district's or intermediate district's added cost. For 2007-2008, 90% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the lesser of the district's or intermediate district's added cost or the department's approved per pupil allocation for the district or intermediate district, and 10% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the district's or intermediate district's added cost. Beginning with allocations for 2008-2009, 100% of the total amount allocated under this section shall be allocated by paying to the educating district or intermediate district an amount equal to the lesser of the district's or intermediate district's added cost or the department's approved per pupil allocation for the district or intermediate district. For the purposes of this subsection:

(a) "Added cost" means 100% of the added cost each fiscal year for educating all pupils assigned by a court or the department of human services to reside in or to attend a juvenile detention facility or child caring institution licensed by the department of human services or the department of labor and economic growth and approved by the department to provide an on-grounds education program. Added cost shall be computed by deducting all other revenue received under this act for pupils described in this section from total costs, as approved by the department, in whole or in part, for educating those pupils in the on-grounds education program or in a program approved by the department that is located on property adjacent to a juvenile detention facility or child caring institution. Costs reimbursed by federal funds are not included.

(b) "Department's approved per pupil allocation" for a district or intermediate district shall be determined by dividing the total amount allocated under this section for a fiscal year by the full-time equated membership total for all pupils approved by the department to be funded under this section for that fiscal year for the district or intermediate district.

(3) A district or intermediate district educating pupils described in this section at a residential child caring institution may operate, and receive funding under this section for, a department-approved on-grounds educational program for those pupils that is longer than 181 days, but not longer than 233 days, if the child caring institution was licensed as a child caring institution and offered in 1991-92 an on-grounds educational program that was longer than 181 days but not longer than 233 days and that was operated by a district or intermediate district.

(4) Special education pupils funded under section 53a shall not be funded under this section.

Sec. 25. If a pupil is enrolled in an alternative education program operated by an intermediate district or district for the purpose of educating pupils who have been expelled from school or referred from the court, or is enrolled in a strict discipline academy for pupils who have been expelled or suspended from school as described in section 1311g of the revised school code, MCL 380.1311g, and if the pupil is counted in membership in another intermediate district or district, the intermediate district or district operating the program or the strict discipline academy shall report the enrollment information to the department and to the district in which the pupil is counted in membership, and the district in which the pupil is counted in membership shall pay to the intermediate district or district operating the program or to the strict discipline academy an amount equal to the amount of the foundation allowance or per pupil payment as calculated under section 20 for the district in which the pupil is counted in membership, prorated according to the number of days of the school year ending in the fiscal year the pupil is educated in the alternative education program or strict discipline academy compared to the number of days of the school year ending in the fiscal year the pupil was actually enrolled in the district in which the pupil is counted in membership. The foundation allowance or per pupil payment shall be adjusted by the pupil's full-time equated status as affected by the membership definition under section 6(4). If a district does not make the payment required under this section within 30 days after receipt of the

report, the department shall calculate the amount owed, shall deduct that amount from the remaining state school aid payments to the district for that fiscal year under this act, and shall pay that amount to the intermediate district or district operating the alternative education program or to the strict discipline academy. The district in which the pupil is counted in membership and the intermediate district or district operating the alternative education program or strict discipline academy shall provide to the department all information the department requires to enforce this section.

Sec. 26a. From the appropriation in section 11, there is allocated an amount not to exceed \$45,000,000.00 for 2005-2006 to reimburse districts, intermediate districts, and the state school aid fund pursuant to section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for taxes levied in 2005 or for payments to districts as reimbursement for interest paid as a result of property tax refunds. The allocations shall be made not later than 60 days after the department of treasury certifies to the department and to the state budget director that the department of treasury has received all necessary information to properly determine the amounts due to each eligible recipient.

Sec. 26b. (1) Beginning in 2005-2006, there is allocated from the general fund appropriation in section 11 an amount not to exceed \$2,400,000.00 for payments to districts, intermediate districts, and community college districts for the portion of the payment in lieu of taxes obligation that is attributable to districts, intermediate districts, and community college districts pursuant to section 2154 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2154.

(2) If the amount appropriated under this section is not sufficient to fully pay obligations under this section, payments shall be prorated on an equal basis among all eligible districts, intermediate districts, and community college districts.

Sec. 31a. (1) From the money appropriated in section 11, there is allocated for 2005-2006 an amount not to exceed \$314,200,000.00 for payments to eligible districts and eligible public school academies under this section. Subject to subsection (12), the amount of the additional allowance under this section shall be based on the number of actual pupils in membership in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769h, and reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year. However, for a public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year, the basis for the additional allowance under this section shall be the number of actual pupils in membership in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the current state fiscal year, as determined under the Richard B. Russell national school lunch act.

(2) To be eligible to receive funding under this section, other than funding under subsection (6), a district or public school academy that has not been previously determined to be eligible shall apply to the department, in a form and manner prescribed by the department, and a district or public school academy must meet all of the following:

(a) The sum of the district's or public school academy's combined state and local revenue per membership pupil in the current state fiscal year, as calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), is less than or equal to \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, minus \$200.00.

(b) The district or public school academy agrees to use the funding only for purposes allowed under this section and to comply with the program and accountability requirements under this section.

(3) Except as otherwise provided in this subsection, an eligible district or eligible public school academy shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year, an amount per pupil equal to 11.5% of the sum of the district's foundation allowance or public school academy's per pupil amount calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, minus \$200.00, or of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year. A public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year shall receive under this section for each membership pupil in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the current fiscal year and adjusted not later than December 31 of the current fiscal year, an amount per pupil equal to 11.5% of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year.

(4) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical or counseling services, for at-risk pupils; for school health clinics; and for the purposes of

subsection (5) or (6). In addition, a district that is organized as a school district of the first class under the revised school code or a district or public school academy in which at least 50% of the pupils in membership met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1), may use not more than 15% of the funds it receives under this section for school security. A district or public school academy shall not use any of that money for administrative costs or to supplant another program or other funds, except for funds allocated to the district or public school academy under this section in the immediately preceding year and already being used by the district or public school academy for at-risk pupils. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year and may include, but are not limited to, tutorial services, early childhood programs to serve children age 0 to 5, and reading programs as described in former section 32f as in effect for 2001-2002. A tutorial method may be conducted with paraprofessionals working under the supervision of a certificated teacher. The ratio of pupils to paraprofessionals shall be between 10:1 and 15:1. Only 1 certificated teacher is required to supervise instruction using a tutorial method. As used in this subsection, "to supplant another program" means to take the place of a previously existing instructional program or direct noninstructional services funded from a funding source other than funding under this section.

(5) Except as otherwise provided in subsection (11), a district or public school academy that receives funds under this section and that operates a school breakfast program under section 1272a of the revised school code, MCL 380.1272a, shall use from the funds received under this section an amount, not to exceed \$10.00 per pupil for whom the district or public school academy receives funds under this section, necessary to operate the school breakfast program.

(6) From the funds allocated under subsection (1), there is allocated for 2005-2006 an amount not to exceed \$3,743,000.00 to support teen health centers. These grants shall be awarded for 3 consecutive years beginning with 2003-2004 in a form and manner approved jointly by the department and the department of community health. Each grant recipient shall remain in compliance with the terms of the grant award or shall forfeit the grant award for the duration of the 3-year period after the noncompliance. Beginning in 2004-2005, to continue to receive funding for a teen health center under this section a grant recipient shall ensure that the teen health center has an advisory committee and that at least one-third of the members of the advisory committee are parents or legal guardians of school-aged children. A teen health center program shall recognize the role of a child's parents or legal guardian in the physical and emotional well-being of the child. If any funds allocated under this subsection are not used for the purposes of this subsection for the fiscal year in which they are allocated, those unused funds shall be used that fiscal year to avoid or minimize any proration that would otherwise be required under subsection (12) for that fiscal year.

(7) Each district or public school academy receiving funds under this section shall submit to the department by July 15 of each fiscal year a report, not to exceed 10 pages, on the usage by the district or public school academy of funds under this section, which report shall include at least a brief description of each program conducted by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs, the number of at-risk pupils eligible for free or reduced price school lunch who were served by each of those programs, and the total number of at-risk pupils served by each of those programs. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the August payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the state fiscal year, the withheld funds shall be forfeited to the school aid fund.

(8) In order to receive funds under this section, a district or public school academy shall allow access for the department or the department's designee to audit all records related to the program for which it receives those funds. The district or public school academy shall reimburse the state for all disallowances found in the audit.

(9) Subject to subsections (5), (6), and (11), any district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) exceeds the district's aggregate percentage of those pupils. Subject to subsections (5), (6), and (11), if a district obtains a waiver from the department, the district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) is at least 60% of the district's aggregate percentage of those pupils and at least 30% of the total number of pupils enrolled in the school building. To obtain a waiver, a district must apply to the department and demonstrate to the satisfaction of the department that the class size reductions would be in the best interests of the district's at-risk pupils.

(10) A district or public school academy may use funds received under this section for adult high school completion, general educational development (G.E.D.) test preparation, adult English as a second language, or adult basic education programs described in section 107.

(11) For an individual school or schools operated by a district or public school academy receiving funds under this section that have been determined by the department to meet the adequate yearly progress standards of the federal no child left behind act of 2001, Public Law 107-110, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district or public school academy may submit to the department an application

for flexibility in using the funds received under this section that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to benefit at-risk pupils in the school, but that may be different from the purposes otherwise allowable under this section. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to benefit at-risk pupils in the school. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(12) If necessary, and before any proration required under section 11, the department shall prorate payments under this section by reducing the amount of the per pupil payment under this section by a dollar amount calculated by determining the amount by which the amount necessary to fully fund the requirements of this section exceeds the maximum amount allocated under this section and then dividing that amount by the total statewide number of pupils who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as described in subsection (1).

(13) If a district is formed by consolidation after June 1, 1995, and if 1 or more of the original districts was not eligible before the consolidation for an additional allowance under this section, the amount of the additional allowance under this section for the consolidated district shall be based on the number of pupils described in subsection (1) enrolled in the consolidated district who reside in the territory of an original district that was eligible before the consolidation for an additional allowance under this section.

(14) A district or public school academy that does not meet the eligibility requirement under subsection (2)(a) is eligible for funding under this section if at least 1/4 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1), and at least 4,500 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1). A district or public school academy that is eligible for funding under this section because the district meets the requirements of this subsection shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as determined and reported as described in subsection (1), an amount per pupil equal to 11.5% of the sum of the district's foundation allowance or public school academy's per pupil allocation under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, minus \$200.00.

(15) As used in this section, "at-risk pupil" means a pupil for whom the district has documentation that the pupil meets at least 2 of the following criteria: is a victim of child abuse or neglect; is below grade level in English language and communication skills or mathematics; is a pregnant teenager or teenage parent; is eligible for a federal free or reduced-price lunch subsidy; has atypical behavior or attendance patterns; or has a family history of school failure, incarceration, or substance abuse. For pupils for whom the results of at least the applicable Michigan education assessment program (MEAP) test have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve at least a score of level 2 on the most recent MEAP English language arts, mathematics, or science test for which results for the pupil have been received. For pupils for whom the results of the Michigan merit examination have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve proficiency on the reading component of the most recent Michigan merit examination for which results for the pupil have been received, did not achieve proficiency on the mathematics component of the most recent Michigan merit examination for which results for the pupil have been received, or did not achieve basic competency on the science component of the most recent Michigan merit examination for which results for the pupil have been received. For pupils in grades K-3, at-risk pupil also includes a pupil who is at risk of not meeting the district's core academic curricular objectives in English language arts or mathematics.

Sec. 31b. Beginning in 2006-2007 it is the intent of the legislature to appropriate an amount to reimburse districts and intermediate districts the actual costs of educating pupils who are eligible to enroll in kindergarten but are instead enrolled in a prekindergarten, development kindergarten, or similar class.

Sec. 31d. (1) From the appropriations in section 11, there is allocated an amount not to exceed \$22,495,100.00 for 2005-2006 for the purpose of making payments to districts and other eligible entities under this section.

(2) The amounts allocated from state sources under this section shall be used to pay the amount necessary to reimburse districts for 6.0127% of the necessary costs of the state mandated portion of the school lunch programs provided by those districts. The amount due to each district under this section shall be computed by the department using the methods of calculation adopted by the Michigan supreme court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

(3) The payments made under this section include all state payments made to districts so that each district receives at least 6.0127% of the necessary costs of operating the state mandated portion of the school lunch program in a fiscal year.

(4) The payments made under this section to districts and other eligible entities that are not required under section 1272a of the revised school code, MCL 380.1272a, to provide a school lunch program shall be in an amount not to exceed \$10.00 per eligible pupil plus 5 cents for each free lunch and 2 cents for each reduced price lunch provided, as determined by the department.

(5) From the federal funds appropriated in section 11, there is allocated for 2005-2006 all available federal funding, estimated at \$303,684,000.00, for the national school lunch program and all available federal funding, estimated at \$2,506,000.00, for the emergency food assistance program.

(6) Notwithstanding section 17b, payments to eligible entities other than districts under this section shall be paid on a schedule determined by the department.

Sec. 31f. From the appropriations in section 11, there is allocated an amount not to exceed \$0.00 for 2004-2005 for the purpose of making payments to districts to reimburse for the cost of providing breakfast. The funds appropriated under this section shall be made available to all eligible applicant districts as determined under section 702 of 2004 PA 346.

Sec. 32c. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$250,000.00 for 2005-2006 to the department for grants for community-based collaborative prevention services designed to promote marriage and foster positive parenting skills; improve parent/child interaction, especially for children 0-3 years of age; promote access to needed community services; increase local capacity to serve families at risk; improve school readiness; and support healthy family environments that discourage alcohol, tobacco, and other drug use. The allocation under this section is to fund secondary prevention programs as defined by the children's trust fund for the prevention of child abuse and neglect.

(2) The funds allocated under subsection (1) shall be distributed through a joint request for proposals process established by the department in conjunction with the children's trust fund and the state's interagency systems reform workgroup. Projects funded with grants awarded under this section shall meet all of the following:

(a) Be secondary prevention initiatives and voluntary to consumers. This appropriation is not intended to serve the needs of children for whom and families in which neglect or abuse has been substantiated.

(b) Demonstrate that the planned services are part of a community's integrated comprehensive family support strategy endorsed by the local multi-purpose collaborative body.

(c) Provide a 25% local match, of which not more than 10% may be in-kind services, unless this requirement is waived by the interagency systems reform workgroup.

(3) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

(4) Not later than January 30 of the next fiscal year, the department shall prepare and submit to the governor and the legislature an annual report of outcomes achieved by the providers of the community-based collaborative prevention services funded under this section for a fiscal year.

Sec. 32d. (1) From the state school aid fund money appropriated under section 11, there is allocated an amount not to exceed \$72,600,000.00 for 2005-2006 for school readiness or preschool and parenting program grants to enable eligible districts, as determined under section 37, to develop or expand, in conjunction with whatever federal funds may be available, including, but not limited to, federal funds under title I of the elementary and secondary education act of 1965, 20 USC 6301 to 6578, chapter 1 of title I of the Hawkins-Stafford elementary and secondary school improvement amendments of 1988, Public Law 100-297, and the head start act, 42 USC 9831 to 9852a, comprehensive compensatory programs designed to do 1 or both of the following:

(a) Improve the readiness and subsequent achievement of educationally disadvantaged children as defined by the department who will be at least 4, but less than 5 years of age, as of December 1 of the school year in which the programs are offered, and who show evidence of 2 or more risk factors as defined in the state board report entitled "children at risk" that was adopted by the state board on April 5, 1988.

(b) Provide preschool and parenting education programs similar to those under former section 32b as in effect for 2001-2002.

(2) A comprehensive compensatory program funded under this section may include an age-appropriate educational curriculum, nutritional services, health screening for participating children, a plan for parent and legal guardian involvement, and provision of referral services for families eligible for community social services.

(3) In addition to the allocation under subsection (1), from the general fund money allocated under section 11, there is allocated an amount not to exceed \$200,000.00 for 2005-2006 for a competitive grant to continue a longitudinal evaluation of children who have participated in the Michigan school readiness program.

(4) A district receiving a grant under this section may contract for the provision of the comprehensive compensatory program and retain for administrative services an amount equal to not more than 5% of the grant amount. A district may expend not more than 10% of the total grant amount for administration of the program.

(5) A grant recipient receiving funds under this section shall report to the department on the midyear report the number of children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g) and the total number of children participating in the program. For children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g), grant recipients shall also report whether or not a parent is available to provide care based on employment status. For the purposes of this subsection, "employment status" shall be defined by the department of human services in a manner consistent with maximizing the amount of spending that may be claimed for temporary assistance for needy families maintenance of effort purposes.

Sec. 32j. (1) From the appropriations in section 11, there is allocated an amount not to exceed \$3,326,000.00 for 2005-2006 for great parents, great start grants to intermediate districts to provide programs for parents with preschool children. The purpose of these programs is to encourage early literacy, improve school readiness, reduce the need for special education services, and foster the maintenance of stable families by encouraging positive parenting skills.

(2) To qualify for funding under this section, a program shall provide services to all families with children age 5 or younger residing within the intermediate district who choose to participate, including at least all of the following services:

(a) Providing parents with information on child development from birth to age 5.

(b) Providing parents with methods to enhance parent-child interaction; including, but not limited to, encouraging parents to read to their preschool children at least 1/2 hour per day.

(c) Providing parents with examples of learning opportunities to promote intellectual, physical, and social growth of preschoolers.

(d) Promoting access to needed community services through a community-school-home partnership.

(e) Promoting marriage.

(3) To receive a grant under this section, an intermediate district shall submit a plan to the department not later than October 1, 2005 in the form and manner prescribed by the department. The plan shall do all of the following in a manner prescribed by the department:

(a) Provide a plan for the delivery of the program components described in subsection (2) that provides for educators trained in child development to help parents understand their role in their child's developmental process, thereby promoting school readiness and mitigating the need for special education services.

(b) Demonstrate an adequate collaboration of local entities involved in providing programs and services for preschool children and their parents.

(c) Provide a projected budget for the program to be funded. The intermediate district shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(4) Each intermediate district receiving a grant under this section shall agree to include a data collection system approved by the department. The data collection system shall provide a report by October 15 of each year on the number of children in families with income below 200% of the federal poverty level that received services under this program and the total number of children who received services under this program.

(5) The department or superintendent, as applicable, shall do all of the following:

(a) The superintendent shall approve or disapprove the plans and notify the intermediate district of that decision not later than November 15, 2005. The amount allocated by each intermediate district shall be at least an amount equal to 3.5% of the intermediate district's 2002-2003 payment under section 81.

(b) The department shall ensure that all programs funded under this section utilize the most current validated research-based methods and curriculum for providing the program components described in subsection (2).

(c) The department shall submit a report to the state budget director and the senate and house fiscal agencies summarizing the data collection reports described in subsection (4) by December 1 of each year.

(6) An intermediate district receiving funds under this section shall use the funds only for the program funded under this section. An intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years.

Sec. 32l. (1) From the general fund money appropriated in section 11, there is allocated for 2005-2006 an amount not to exceed \$12,250,000.00 for competitive school readiness program grants. These grants shall be made available through a competitive application process as follows:

(a) Any public or private nonprofit legal entity or agency may apply for a grant under this section. However, a district or intermediate district may not apply for a grant under this section unless the district or intermediate district is acting as a fiscal agent for a child caring organization regulated under 1973 PA 116, MCL 722.111 to 722.128.

(b) An applicant shall submit an application in the form and manner prescribed by the department.

(c) The department shall establish a diverse interagency committee to review the applications. The committee shall be composed of representatives of the department, appropriate community, volunteer, and social service agencies and organizations, and parents.

(d) The superintendent shall award the grants and shall give priority for awarding the grants based upon the following criteria:

(i) Compliance with the state board-approved early childhood standards of quality for prekindergarten.

(ii) Active and continuous involvement of the parents or guardians of the children participating in the program.

(iii) Employment of teachers possessing proper training, including a valid Michigan teaching certificate with an early childhood (ZA) endorsement, a valid Michigan teaching certificate with a child development associate credential, or a bachelor's degree in child development with a specialization in preschool teaching, and employment of paraprofessionals possessing proper training in early childhood development, including an associate's degree in early childhood education or child development or the equivalent, or a child development associate (CDA) credential, or the equivalent, as approved by the state board. A paraprofessional who does not meet these requirements may be employed for not more than 2 years while obtaining proper credentials if he or she has completed at least 1 course in an appropriate training program.

(iv) Evidence of collaboration with the community of providers in early childhood development programs including documentation of the total number of children in the community who would meet the criteria established in subparagraph (vi), and who are being served by other providers, and the number of children who will remain unserved by other community early childhood programs if this program is funded.

(v) The extent to which these funds will supplement other federal, state, local, or private funds.

(vi) The extent to which these funds will be targeted to children who will be at least 4, but less than 5, years of age as of December 1 of the year in which the programs are offered and who show evidence of 2 or more "at-risk" factors as defined in the state board report entitled "children at risk" that was adopted by the state board on April 5, 1988.

(vii) The program offers supplementary day care and thereby offers full-day programs as part of its early childhood development program.

(viii) The application contains a plan approved by the department to conduct and report annual school readiness program evaluations and continuous improvement plans using criteria approved by the department. At a minimum, the evaluations shall include a self-assessment of program quality and assessment of the gains in educational readiness and progress of the children participating in the program.

(e) An application shall demonstrate that the program has established or has joined a multidistrict, multiagency school readiness advisory committee that is involved in the planning and evaluation of the program and that provides for the involvement of parents and appropriate community, volunteer, and social service agencies and organizations. The advisory committee shall include at least 1 parent or guardian of a program participant for every 18 children enrolled in the program, with a minimum of 2 parent or guardian representatives. The advisory committee shall do all of the following:

(i) Review the mechanisms and criteria used to determine referrals for participation in the school readiness program.

(ii) Review the health screening program for all participants.

(iii) Review the nutritional services provided to all participants.

(iv) Review the mechanisms in place for the referral of families to community social service agencies, as appropriate.

(v) Review the collaboration with and the involvement of appropriate community, volunteer, and social service agencies and organizations in addressing all aspects of education disadvantage.

(vi) Review, evaluate, and make recommendations for changes in the school readiness program.

(2) To be eligible for a grant under this section, a program shall demonstrate that more than 50% of the children participating in the program live with families with a household income that is less than or equal to 250% of the federal poverty level.

(3) The superintendent may award grants under this section at whatever level the superintendent determines appropriate. However, the amount of a grant under this section, when combined with other sources of state revenue for this program, shall not exceed \$3,300.00 per participating child or the cost of the program, whichever is less.

(4) Except as otherwise provided in this subsection, an applicant that receives a grant under this section for 2005-2006 shall also receive priority for funding under this section for 2006-2007 and 2007-2008. However, after 3 fiscal years of continuous funding, an applicant is required to compete openly with new programs and other programs completing their third year. All grant awards under this section are contingent on the availability of funds and documented evidence of grantee compliance with early childhood standards of quality for prekindergarten, as approved by the state board, and with all operational, fiscal, administrative, and other program requirements.

Sec. 33. For 2005-2006 only, from the appropriations in section 11, there is allocated the sum of \$7,000,000.00 to a district that has been a qualifying district under part 5a of the revised school code, MCL 380.371 to 380.376, and that will cease to be a qualifying district in January 2006. This allocation is a 1-time allocation to assist in the transition from governance by a school reform board to governance by an elected school board.

Sec. 37. (1) A district is eligible for an allocation under section 32d if the district meets all of the requirements in subsections (2), (3), and (4).

(2) The district shall submit a preapplication, in a manner and on forms prescribed by the department, by a date specified by the department in the immediately preceding state fiscal year. The preapplication shall include a comprehensive needs assessment and community collaboration plan, and shall identify all of the following:

(a) The estimated total number of children in the community who meet the criteria of section 32d and how that calculation was made.

(b) The estimated number of children in the community who meet the criteria of section 32d and are being served by other early childhood development programs operating in the community, and how that calculation was made.

(c) The number of children the district will be able to serve who meet the criteria of section 32d including a verification of physical facility and staff resources capacity.

(d) The estimated number of children who meet the criteria of section 32d who will remain unserved after the district and community early childhood programs have met their funded enrollments. The school district shall maintain a waiting list of identified unserved eligible children who would be served when openings are available.

(3) The district shall submit a final application for approval, in a manner and on forms prescribed by the department, by a date specified by the department. The final application shall indicate all of the following that apply:

(a) The district complies with the state board approved early childhood standards of quality for prekindergarten.

(b) The district provides for the active and continuous participation of parents or guardians of the children in the program, and describes the district's participation plan as part of the application.

(c) The district only employs for this program the following:

(i) Teachers possessing proper training. For programs the district manages itself, a valid teaching certificate and an early childhood (ZA) endorsement are required. This provision does not apply to a district that subcontracts with an eligible child development program. In that situation a teacher must have a valid Michigan teaching certificate with an early childhood (ZA) endorsement, a valid Michigan teaching certificate with a child development associate credential, or a bachelor's degree in child development with specialization in preschool teaching.

(ii) Paraprofessionals possessing proper training in early childhood development, including an associate's degree in early childhood education or child development or the equivalent, or a child development associate (CDA) credential, or the equivalent as approved by the state board. A paraprofessional who does not meet these requirements may be employed for not more than 2 years while obtaining proper credentials if he or she has completed at least 1 course in an appropriate training program.

(d) The district has submitted for approval a program budget that includes only those costs not reimbursed or reimbursable by federal funding, that are clearly and directly attributable to the early childhood readiness program, and that would not be incurred if the program were not being offered. If children other than those determined to be educationally disadvantaged participate in the program, state reimbursement under section 32d shall be limited to the portion of approved costs attributable to educationally disadvantaged children.

(e) The district has established a, or has joined a multidistrict, multiagency, school readiness advisory committee consisting of, at a minimum, classroom teachers for prekindergarten, kindergarten, and first grade; parents or guardians of program participants; representatives from appropriate community agencies and organizations; the district curriculum director or equivalent administrator; and, if feasible, a school psychologist, school social worker, or school counselor. In addition, there shall be on the committee at least 1 parent or guardian of a program participant for every 18 children enrolled in the program, with a minimum of 2 parent or guardian representatives. The committee shall do all of the following:

(i) Ensure the ongoing articulation of the early childhood, kindergarten, and first grade programs offered by the district or districts.

(ii) Review the mechanisms and criteria used to determine participation in the early childhood program.

- (iii) Review the health screening program for all participants.
 - (iv) Review the nutritional services provided to program participants.
 - (v) Review the mechanisms in place for the referral of families to community social service agencies, as appropriate.
 - (vi) Review the collaboration with and the involvement of appropriate community, volunteer, and social service agencies and organizations in addressing all aspects of educational disadvantage.
 - (vii) Review, evaluate, and make recommendations to a local school readiness program or programs for changes to the school readiness program.
- (f) The district has submitted for departmental approval a plan to conduct and report annual school readiness program evaluations and continuous improvement plans using criteria approved by the department. At a minimum, the evaluations shall include a self-assessment of program quality and assessment of the gains in educational readiness and progress of the children participating in the program.
- (g) More than 50% of the children participating in the program live with families with a household income that is equal to or less than 250% of the federal poverty level.
- (4) A consortium of 2 or more districts shall be eligible for an allocation under section 32d if the districts designate a single fiscal agent for the allocation. A district or intermediate district may administer a consortium described in this subsection. A consortium shall submit a single preapplication and application for the children to be served, regardless of the number of districts participating in the consortium.
- (5) With the final application, an applicant district shall submit to the department a resolution adopted by its board certifying the number of 4-year-old children who show evidence of risk factors as described in section 32d who live with families with a household income that is less than or equal to 250% of the federal poverty level.

Sec. 39. (1) The tentative allocation for each fiscal year to each eligible district under section 32d shall be determined by multiplying the number of children determined in section 38 or the number of children the district indicates it will be able to serve under section 37(2)(c), whichever is less, by \$3,300.00 and shall be distributed among districts in decreasing order of concentration of eligible children as determined by section 38 until the money allocated in section 32d is distributed. If the number of children a district indicates it will be able to serve under section 37(2)(c) includes children able to be served in a full-day program, then the number able to be served in a full-day program shall be doubled for the purposes of making this calculation of the lesser of the number of children determined in section 38 and the number of children the district indicates it will be able to serve under section 37(2)(c) and determining the amount of the tentative allocation to the district under section 32d.

(2) A district that received funds under this section in at least 1 of the 2 immediately preceding fiscal years shall receive priority in funding over other eligible districts. However, funding beyond 3 state fiscal years is contingent upon the availability of funds and documented evidence satisfactory to the department of compliance with all operational, fiscal, administrative, and other program requirements.

(3) A district that offers supplementary day care funded by funds other than those received under this section and therefore offers full-day programs as part of its early childhood development program shall receive priority in the allocation of funds under this section over other eligible districts other than those districts funded under subsection (2).

(4) For any district with 315 or more eligible pupils, the number of eligible pupils shall be 65% of the number calculated under section 38. However, none of these districts may have less than 315 pupils for purposes of calculating the tentative allocation under section 32d.

(5) If, taking into account the total amount to be allocated to the district as calculated under this section, a district determines that it is able to include additional eligible children in the school readiness program without additional funds under this section, the district may include additional eligible children but shall not receive additional funding under this section for those children.

(6) For a district that enrolls pupils in a full-day program under section 32d, each child enrolled in the full-day program shall be counted as 2 children served by the program for purposes of determining the number of children to be served and for determining the allocation under section 32d. A district's allocation shall not be increased solely on the basis of providing a full-day program.

(7) As used in this section, "full-day program" means a program that operates for at least the same length of day as the district's first grade program for a minimum of 4 days per week, 30 weeks per year. A classroom that offers a full-day program must enroll all children for the full day to be considered a full-day program.

Sec. 39a. (1) From the federal funds appropriated in section 11, there is allocated for 2005-2006 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at \$652,919,600.00, for the federal programs under the no child left behind act of 2001, Public Law 107-110. These funds are allocated as follows:

(a) An amount estimated at \$12,050,500.00 to provide students with drug- and violence-prevention programs and to implement strategies to improve school safety, funded from DED-OESE, drug-free schools and communities funds.

(b) An amount estimated at \$9,401,400.00 for the purpose of improving teaching and learning through a more effective use of technology, funded from DED-OESE, educational technology state grant funds.

(c) An amount estimated at \$106,249,200.00 for the purpose of preparing, training, and recruiting high-quality teachers and class size reduction, funded from DED-OESE, improving teacher quality funds.

(d) An amount estimated at \$7,627,400.00 for programs to teach English to limited English proficient (LEP) children, funded from DED-OESE, language acquisition state grant funds.

(e) An amount estimated at \$8,550,000.00 for the Michigan charter school subgrant program, funded from DED-OESE, charter school funds.

(f) An amount estimated at \$58,000.00 for Michigan model partnership for character education programs, funded from DED-OESE, title X, fund for improvement of education funds.

(g) An amount estimated at \$468,700.00 for rural and low income schools, funded from DED-OESE, rural and low income school funds.

(h) An amount estimated at \$6,231,800.00 to help schools develop and implement comprehensive school reform programs, funded from DED-OESE, title I and title X, comprehensive school reform funds.

(i) An amount estimated at \$428,860,300.00 to provide supplemental programs to enable educationally disadvantaged children to meet challenging academic standards, funded from DED-OESE, title I, disadvantaged children funds.

(j) An amount estimated at \$6,314,100.00 for the purpose of providing unified family literacy programs, funded from DED-OESE, title I, even start funds.

(k) An amount estimated at \$8,186,200.00 for the purpose of identifying and serving migrant children, funded from DED-OESE, title I, migrant education funds.

(l) An amount estimated at \$22,928,000.00 to promote high-quality school reading instruction for grades K-3, funded from DED-OESE, title I, reading first state grant funds.

(m) An amount estimated at \$5,698,000.00 for the purpose of implementing innovative strategies for improving student achievement, funded from DED-OESE, title VI, innovative strategies funds.

(n) An amount estimated at \$29,296,000.00 for the purpose of providing high-quality extended learning opportunities, after school and during the summer, for children in low-performing schools, funded from DED-OESE, twenty-first century community learning center funds. Of these funds, \$25,000.00 may be used to support the Michigan after-school partnership. All of the following apply to the Michigan after-school partnership:

(i) The department shall collaborate with the department of human services to extend the duration of the Michigan after-school initiative, to be renamed the Michigan after-school partnership and oversee its efforts to implement the policy recommendations and strategic next steps identified in the Michigan after-school initiative's report of December 15, 2003.

(ii) Funds shall be used to leverage other private and public funding to engage the public and private sectors in building and sustaining high-quality out-of-school-time programs and resources. The co-chairs, representing the department and the department of human services, shall name a fiduciary agent and may authorize the fiduciary to expend funds and hire people to accomplish the work of the Michigan after-school partnership.

(iii) Participation in the Michigan after-school partnership shall be expanded beyond the membership of the initial Michigan after-school initiative to increase the representation of parents, youth, foundations, employers, and others with experience in education, child care, after-school and youth development services, and crime and violence prevention, and to include representation from the Michigan department of community health. Each year, on or before December 31, the Michigan after-school partnership shall report its progress in reaching the recommendations set forth in the Michigan after-school initiative's report to the legislature and the governor.

(o) An amount estimated at \$1,000,000.00 for community service state grants, funded from DED-OESE, community service state grant funds.

(2) From the federal funds appropriated in section 11, there is allocated for 2005-2006 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at \$4,646,400.00, for the following programs that are funded by federal grants:

(a) An amount estimated at \$600,000.00 for acquired immunodeficiency syndrome education grants, funded from HHS-center for disease control, AIDS funding.

(b) An amount estimated at \$1,500,100.00 to provide services to homeless children and youth, funded from DED-OVAE, homeless children and youth funds.

(c) An amount estimated at \$1,000,000.00 for refugee children school impact grants, funded from HHS-ACF, refugee children school impact funds.

(d) An amount estimated at \$1,445,600.00 for serve America grants, funded from the corporation for national and community service funds.

(e) An amount estimated at \$100,700.00 to encourage interstate and intrastate coordination of migrant education, funded from DED-OESE, title I, migrant education program funds.

(3) To the extent allowed under federal law, the funds allocated under subsection (1)(i), (j), and (l) may be used for 1 or more reading improvement programs that meet at least 1 of the following:

(a) A research-based, validated, structured reading program that aligns learning resources to state standards and includes continuous assessment of pupils and individualized education plans for pupils.

(b) A mentoring program that is a research-based, validated program or a statewide 1-to-1 mentoring program and is designed to enhance the independence and life quality of pupils who are mentally impaired by providing opportunities for mentoring and integrated employment.

(c) A cognitive development program that is a research-based, validated educational service program focused on assessing and building essential cognitive and perceptual learning abilities to strengthen pupil concentration and learning.

(d) A structured mentoring-tutorial reading program for pupils in preschool to grade 4 that is a research-based, validated program that develops individualized educational plans based on each pupil's age, assessed needs, reading level, interests, and learning style.

(4) All federal funds allocated under this section shall be distributed in accordance with federal law and with flexibility provisions outlined in Public Law 107-116, and in the education flexibility partnership act of 1999, Public Law 106-25. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(5) As used in this section:

(a) "DED" means the United States department of education.

(b) "DED-OESE" means the DED office of elementary and secondary education.

(c) "DED-OVAE" means the DED office of vocational and adult education.

(d) "HHS" means the United States department of health and human services.

(e) "HHS-ACF" means the HHS administration for children and families.

Sec. 41. From the appropriation in section 11, there is allocated an amount not to exceed \$2,800,000.00 for 2005-2006 to applicant districts and intermediate districts offering programs of instruction for pupils of limited English-speaking ability under section 1153 of the revised school code, MCL 380.1153. Reimbursement shall be on a per pupil basis and shall be based on the number of pupils of limited English-speaking ability in membership on the pupil membership count day. Funds allocated under this section shall be used solely for instruction in speaking, reading, writing, or comprehension of English. A pupil shall not be counted under this section or instructed in a program under this section for more than 3 years.

Sec. 41a. From the federal funds appropriated in section 11, there is allocated an amount estimated at \$1,232,100.00 for 2005-2006 from the United States department of education - office of elementary and secondary education, language acquisition state grant funds, to districts and intermediate districts offering programs of instruction for pupils of limited English-speaking ability.

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2004-2005 an amount not to exceed \$896,383,000.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, 20 USC 1411 to 1419, estimated at \$329,850,000.00 plus any carryover federal funds from previous year appropriations. From the appropriation in section 11, there is allocated for 2005-2006 an amount not to exceed \$955,883,000.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, 20 USC 1411 to 1419, estimated at \$345,850,000.00, plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. All federal funds allocated under this section in excess of those allocated under this section for 2002-2003 may be distributed in accordance with the flexible funding provisions of the individuals with disabilities education act, title VI of Public Law 91-230, including, but not limited to, 34 CFR 300.234 and 300.235. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated each fiscal year for 2004-2005 and for 2005-2006 the amount necessary, estimated at \$175,500,000.00 for 2004-2005 and \$187,700,000.00 for 2005-2006, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (12), times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (12), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, and that district's per pupil allocation under section 20j(2).

(b) After the allocations under subdivision (a), districts and intermediate districts for which the payments under subdivision (a) do not fulfill the specified percentages shall be paid the amount necessary to achieve the specified percentages for the district or intermediate district.

(3) From the funds allocated under subsection (1), there is allocated each fiscal year for 2004-2005 and for 2005-2006 the amount necessary, estimated at \$3,000,000.00 for 2004-2005 and \$2,500,000.00 for 2005-2006, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for a fiscal year under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for the fiscal year an amount equal to that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for the fiscal year. This adjustment is to reflect reductions in special education program operations or services between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations or services shall be made in a manner determined by the department and shall include adjustments for program or service shifts.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed \$3,500,000.00 may be allocated by the department each fiscal year for 2004-2005 and for 2005-2006 to districts, intermediate districts, or other eligible entities on a competitive grant basis for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed \$2,200,000.00 each fiscal year for 2004-2005 and for 2005-2006 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

(7) For purposes of this article, all of the following apply:

(a) "Total approved costs of special education" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53a programs. The total approved costs include salary and other compensation for all approved special education personnel for the program, including payments for social security and medicare and public school employee retirement system contributions. The total approved costs do not include salaries or other compensation paid to administrative personnel

who are not special education personnel as defined in section 6 of the revised school code, MCL 380.6. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, are not included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in child caring institutions or juvenile detention programs approved by the department to provide an on-grounds education program.

(b) Except as otherwise provided in subdivision (c), beginning with the 2004-2005 fiscal year, a district or intermediate district that employed special education support services staff to provide special education support services in 2003-2004 or in a subsequent fiscal year and that in a fiscal year after 2003-2004 receives the same type of support services from another district or intermediate district shall report the cost of those support services for special education reimbursement purposes under this act. This subdivision does not prohibit the transfer of special education classroom teachers and special education classroom aides if the pupils counted in membership associated with those special education classroom teachers and special education classroom aides are transferred and counted in membership in the other district or intermediate district in conjunction with the transfer of those teachers and aides.

(c) If the department determines before bookclosing for 2004-2005 that the amounts allocated under this section for 2004-2005 will exceed expenditures under this section for 2004-2005, then for 2004-2005 only, for a district or intermediate district whose reimbursement for 2004-2005 would otherwise be affected by subdivision (b), subdivision (b) does not apply to the calculation of the reimbursement for that district or intermediate district and reimbursement for that district or intermediate district shall be calculated in the same manner as it was for 2003-2004. If the amount of the excess allocations under this section is not sufficient to fully fund the calculation of reimbursement to those districts and intermediate districts under this subdivision, then the calculations and resulting reimbursement under this subdivision shall be prorated on an equal percentage basis.

(d) Reimbursement for ancillary and other related services, as defined by R 340.1701c of the Michigan administrative code, shall not be provided when those services are covered by and available through private group health insurance carriers or federal reimbursed program sources unless the department and district or intermediate district agree otherwise and that agreement is approved by the state budget director. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A district or intermediate district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(8) From the allocation in subsection (1), there is allocated each fiscal year for 2004-2005 and for 2005-2006 an amount not to exceed \$15,313,900.00 to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under subsection (6) of this section as in effect for 1996-97.

(9) A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Special education personnel transferred from 1 district to another to implement the revised school code shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(11) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the department may require the district or intermediate district to refund the amount of money received. Money that is refunded shall be deposited in the state treasury to the credit of the state school aid fund.

(12) From the funds allocated in subsection (1), there is allocated each fiscal year for 2004-2005 and for 2005-2006 the amount necessary, estimated at \$7,000,000.00 for 2004-2005 and \$6,600,000.00 for 2005-2006, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, and that district's per pupil allocation under section 20j(2). This subsection applies to all of the following pupils:

(a) Pupils described in section 53a.

(b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.

(c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.

(13) After payments under subsections (2) and (12) and section 51c, the remaining expenditures from the allocation in subsection (1) shall be made in the following order:

(a) 100% of the reimbursement required under section 53a.

(b) 100% of the reimbursement required under subsection (6).

(c) 100% of the payment required under section 54.

(d) 100% of the payment required under subsection (3).

(e) 100% of the payment required under subsection (8).

(f) 100% of the payments under section 56.

(14) The allocations under subsection (2), subsection (3), and subsection (12) shall be allocations to intermediate districts only and shall not be allocations to districts, but instead shall be calculations used only to determine the state payments under section 22b.

Sec. 51c. As required by the court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492, from the allocation under section 51a(1), there is allocated each fiscal year for 2004-2005 and for 2005-2006 the amount necessary, estimated at \$642,000,000.00 for 2004-2005 and \$690,200,000.00 for 2005-2006, for payments to reimburse districts for 28.6138% of total approved costs of special education excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 22b in order to fully fund those calculated allocations for the same fiscal year.

Sec. 51d. (1) From the federal funds appropriated in section 11, there is allocated for 2005-2006 all available federal funding, estimated at \$65,000,000.00, for special education programs that are funded by federal grants. All federal funds allocated under this section shall be distributed in accordance with federal law. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the federal funds allocated under subsection (1), the following amounts are allocated for 2005-2006:

(a) An amount estimated at \$15,000,000.00 for handicapped infants and toddlers, funded from DED-OSERS, handicapped infants and toddlers funds.

(b) An amount estimated at \$14,000,000.00 for preschool grants (Public Law 94-142), funded from DED-OSERS, handicapped preschool incentive funds.

(c) An amount estimated at \$36,000,000.00 for special education programs funded by DED-OSERS, handicapped program, individuals with disabilities act funds.

(3) As used in this section, "DED-OSERS" means the United States department of education office of special education and rehabilitative services.

Sec. 53a. (1) For districts, reimbursement for pupils described in subsection (2) shall be 100% of the total approved costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766, minus the district's foundation allowance calculated under section 20, and minus the amount calculated for the district under section 20j. For intermediate districts, reimbursement for pupils described in section (2) shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00, minus \$200.00, and under section 20j.

(2) Reimbursement under subsection (1) is for the following special education pupils:

(a) Pupils assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency.

(b) Pupils who are residents of institutions operated by the department of community health.

(c) Pupils who are former residents of department of community health institutions for the developmentally disabled who are placed in community settings other than the pupil's home.

(d) Pupils enrolled in a department-approved on-grounds educational program longer than 180 days, but not longer than 233 days, at a residential child care institution, if the child care institution offered in 1991-92 an on-grounds educational program longer than 180 days but not longer than 233 days.

(e) Pupils placed in a district by a parent for the purpose of seeking a suitable home, if the parent does not reside in the same intermediate district as the district in which the pupil is placed.

(3) Only those costs that are clearly and directly attributable to educational programs for pupils described in subsection (2), and that would not have been incurred if the pupils were not being educated in a district or intermediate district, are reimbursable under this section.

(4) The costs of transportation shall be funded under this section and shall not be reimbursed under section 58.

(5) Not more than \$12,800,000.00 of the allocation for 2005-2006 in section 51a(1) shall be allocated under this section.

Sec. 54. In addition to the aid received under section 52, each intermediate district shall receive an amount per pupil for each pupil in attendance at the Michigan schools for the deaf and blind. The amount shall be proportionate to the total instructional cost at each school. Not more than \$1,688,000.00 of the allocation for 2005-2006 in section 51a(1) shall be allocated under this section.

Sec. 54a. From the state school aid fund money appropriated in section 11, there is allocated an amount not to exceed \$250,000.00 for 2005-2006 to the lending library located at central Michigan university from which districts and intermediate districts can borrow assessment materials designed specifically for children with severe loss of vision or hearing, severe cognitive or motor disabilities, or multiple disabilities and for children who require the most specialized types of psychological and educational assessment. The lending library shall make test assessment materials available through borrowing to districts and intermediate districts. The lending library shall also provide information about the lending library at meetings and conferences for school personnel and shall develop a website to describe the services offered by the lending library. The lending library also should mail information about the services offered by the lending library to all districts and intermediate districts.

Sec. 56. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district.

(b) "Millage levied" means the millage levied for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743, including a levy for debt service obligations.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district, except that if a district has elected not to come under part 30 of the revised school code, MCL 380.1711 to 380.1743, membership and taxable value of the district shall not be included in the membership and taxable value of the intermediate district.

(2) From the allocation under section 51a(1), there is allocated an amount not to exceed \$36,881,100.00 for 2005-2006 to reimburse intermediate districts levying millages for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by these millages and governed by the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. As a condition of receiving funds under this section, an intermediate district distributing any portion of special education millage funds to its constituent districts shall submit for departmental approval and implement a distribution plan.

(3) Reimbursement for those millages levied in 2004-2005 shall be made in 2005-2006 at an amount per 2004-2005 membership pupil computed by subtracting from \$142,100.00 the 2004-2005 taxable value behind each membership pupil and multiplying the resulting difference by the 2004-2005 millage levied.

Sec. 57. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$285,000.00 for 2005-2006 for grants to intermediate districts for advanced and accelerated students.

(2) To qualify for funding under this section, a grant recipient shall support part of the cost of summer institutes for advanced and accelerated students and, to the extent the funding allows, provide comprehensive programs for advanced and accelerated pupils.

(3) Except as otherwise provided in this subsection, the amount of a single grant award under this section shall not exceed \$5,000.00. Intermediate districts may form a consortium, and that consortium may receive a maximum grant amount of \$5,000.00 for each participant intermediate district. Each intermediate district or consortium must apply for grant funding by April 1, 2006 and demonstrate compliance with subsection (2).

(4) A district, intermediate district, or consortium that receives a grant under this section shall provide at least a 25% match for grant money received under this section from local public or private resources.

(5) Any unallocated grant funds may be allocated to intermediate districts and consortia receiving grants under this section in an equal amount per intermediate district.

Sec. 61a. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$30,000,000.00 for 2005-2006 to reimburse on an added cost basis districts, except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, and secondary area vocational-technical education centers for secondary-level vocational-technical education programs, including parenthood education programs, according to rules approved by the superintendent. Applications for participation in the programs shall be submitted in the form prescribed by the department. The department shall determine the added cost for each vocational-technical program area. The allocation of added cost funds shall be based on the type of vocational-technical programs provided, the number of pupils enrolled, and the length of the training period provided, and shall not exceed 75% of the added cost of any program. With the approval of the department, the board of a district maintaining a secondary vocational-technical education program may offer the program for the period from the close of the school year until September 1. The program shall use existing facilities and shall be operated as prescribed by rules promulgated by the superintendent.

(2) Except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, districts and intermediate districts shall be reimbursed for local vocational administration, shared time vocational administration, and career education planning district vocational-technical administration. The definition of what constitutes administration and reimbursement shall be pursuant to guidelines adopted by the superintendent. Not more than \$800,000.00 of the allocation in subsection (1) shall be distributed under this subsection.

(3) From the allocation in subsection (1), there is allocated an amount not to exceed \$388,700.00 for 2005-2006 to intermediate districts with constituent districts that had combined state and local revenue per membership pupil in the 1994-95 state fiscal year of \$6,500.00 or more, served as a fiscal agent for a state board designated area vocational education center in the 1993-94 school year, and had an adjustment made to their 1994-95 combined state and local revenue per membership pupil pursuant to section 20d. The payment under this subsection to the intermediate district shall equal the amount of the allocation to the intermediate district for 1996-97 under this subsection.

Sec. 62. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district or the total membership for the immediately preceding fiscal year of the area vocational-technical program.

(b) "Millage levied" means the millage levied for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, including a levy for debt service obligations incurred as the result of borrowing for capital outlay projects and in meeting capital projects fund requirements of area vocational-technical education.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district or area vocational-technical education program, except that if a district has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, the membership and taxable value of that district shall not be included in the membership and taxable value of the intermediate district. However, the membership and taxable value of a district that has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, shall be included in the membership and taxable value of the intermediate district if the district meets both of the following:

(i) The district operates the area vocational-technical education program pursuant to a contract with the intermediate district.

(ii) The district contributes an annual amount to the operation of the program that is commensurate with the revenue that would have been raised for operation of the program if millage were levied in the district for the program under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690.

(2) From the appropriation in section 11, there is allocated an amount not to exceed \$9,000,000.00 for 2005-2006 to reimburse intermediate districts and area vocational-technical education programs established under section 690(3) of the revised school code, MCL 380.690, levying millages for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by those millages.

(3) Reimbursement for the millages levied in 2004-2005 shall be made in 2005-2006 at an amount per 2004-2005 membership pupil computed by subtracting from \$151,200.00 the 2004-2005 taxable value behind each membership pupil and multiplying the resulting difference by the 2004-2005 millage levied.

Sec. 74. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed \$1,625,000.00 for 2005-2006 for the purposes of subsections (2) and (3).

(2) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary for payments to state supported colleges or universities and intermediate districts providing school bus driver safety instruction or driver skills road tests pursuant to sections 51 and 52 of the pupil transportation act, 1990 PA 187, MCL 257.1851 and 257.1852. The payments shall be in an amount determined by the department not to exceed 75% of the actual cost of instruction and driver compensation for each public or nonpublic school bus driver attending a course of instruction. For the purpose of computing compensation, the hourly rate allowed each school bus driver shall not exceed the hourly rate

received for driving a school bus. Reimbursement compensating the driver during the course of instruction or driver skills road tests shall be made by the department to the college or university or intermediate district providing the course of instruction.

(3) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary to pay the reasonable costs of nonspecial education auxiliary services transportation provided pursuant to section 1323 of the revised school code, MCL 380.1323. Districts funded under this subsection shall not receive funding under any other section of this act for nonspecial education auxiliary services transportation.

Sec. 81. (1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated for 2005-2006 to the intermediate districts the sum necessary, but not to exceed \$77,702,100.00, to provide state aid to intermediate districts under this section. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2005-2006 an amount equal to 100.0% of the amount appropriated under this subsection for 2004-2005, excluding the portion that was allocated for the purposes of section 32j. Funding provided under this section shall be used to comply with requirements of this act and the revised school code that are applicable to intermediate districts, and for which funding is not provided elsewhere in this act, and to provide technical assistance to districts as authorized by the intermediate school board.

(2) From the allocation in subsection (1), there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of \$3,500.00 each fiscal year for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

(3) During a fiscal year, the department shall not increase an intermediate district's allocation under subsection (1) because of an adjustment made by the department during the fiscal year in the intermediate district's taxable value for a prior year. Instead, the department shall report the adjustment and the estimated amount of the increase to the house and senate fiscal agencies and the state budget director not later than June 1 of the fiscal year, and the legislature shall appropriate money for the adjustment in the next succeeding fiscal year.

(4) In order to receive funding under this section, an intermediate district shall demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in pupil counting procedures, rules, and regulations.

Sec. 94a. (1) There is created within the office of the state budget director in the department of management and budget the center for educational performance and information. The center shall do all of the following:

(a) Coordinate the collection of all data required by state and federal law from all entities receiving funds under this act.

(b) Collect data in the most efficient manner possible in order to reduce the administrative burden on reporting entities.

(c) Establish procedures to ensure the validity and reliability of the data and the collection process.

(d) Develop state and model local data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. State privacy policies shall ensure that student social security numbers are not released to the public for any purpose.

(e) Provide data in a useful manner to allow state and local policymakers to make informed policy decisions.

(f) Provide reports to the citizens of this state to allow them to assess allocation of resources and the return on their investment in the education system of this state.

(g) Assist all entities receiving funds under this act in complying with audits performed according to generally accepted accounting procedures.

(h) Other functions as assigned by the state budget director.

(2) Each state department, officer, or agency that collects information from districts or intermediate districts as required under state or federal law shall make arrangements with the center, and with the districts or intermediate districts, to have the center collect the information and to provide it to the department, officer, or agency as necessary. To the extent that it does not cause financial hardship, the center shall arrange to collect the information in a manner that allows electronic submission of the information to the center. Each affected state department, officer, or agency shall provide the center with any details necessary for the center to collect information as provided under this subsection. This subsection does not apply to information collected by the department of treasury under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a; the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821; 1961 PA 108, MCL 388.951 to 388.963; or section 1351a of the revised school code, MCL 380.1351a.

(3) The state budget director shall appoint a CEPI advisory committee, consisting of the following members:

- (a) One representative from the house fiscal agency.
- (b) One representative from the senate fiscal agency.
- (c) One representative from the office of the state budget director.
- (d) One representative from the state education agency.
- (e) One representative each from the department of labor and economic growth and the department of treasury.
- (f) Three representatives from intermediate school districts.
- (g) One representative from each of the following educational organizations:
 - (i) Michigan association of school boards.
 - (ii) Michigan association of school administrators.
 - (iii) Michigan school business officials.
- (h) One representative representing private sector firms responsible for auditing school records.
- (i) Other representatives as the state budget director determines are necessary.

(4) The CEPI advisory committee appointed under subsection (3) shall provide advice to the director of the center regarding the management of the center's data collection activities, including, but not limited to:

- (a) Determining what data is necessary to collect and maintain in order to perform the center's functions in the most efficient manner possible.
 - (b) Defining the roles of all stakeholders in the data collection system.
 - (c) Recommending timelines for the implementation and ongoing collection of data.
 - (d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.
 - (e) Establishing and maintaining a process for ensuring the accuracy of the data.
 - (f) Establishing and maintaining state and model local policies related to data collection, including, but not limited to, privacy policies related to individual student data.
 - (g) Ensuring the data is made available to state and local policymakers and citizens of this state in the most useful format possible.
 - (h) Other matters as determined by the state budget director or the director of the center.
- (5) The center may enter into any interlocal agreements necessary to fulfill its functions.

(6) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$2,000,000.00 for 2005-2006 to the department of management and budget to support the operations of the center. The center shall cooperate with the state education agency to ensure that this state is in compliance with federal law and is maximizing opportunities for increased federal funding to improve education in this state. In addition, from the federal funds appropriated in section 11 for 2005-2006, there is allocated the amount necessary, estimated at \$3,543,200.00 in order to fulfill federal reporting requirements:

- (a) An amount not to exceed \$839,000.00 funded from DED-OESE, title I, disadvantaged children funds.
- (b) An amount not to exceed \$55,700.00 funded from DED-OESE, title I, reading first state grant funds.
- (c) An amount not to exceed \$47,000.00 funded from DED-OESE, title I, migrant education funds.
- (d) An amount not to exceed \$285,000.00 funded from DED-OESE, improving teacher quality funds.
- (e) An amount not to exceed \$73,000.00 funded from DED-OESE, drug-free schools and communities funds.
- (f) An amount not to exceed \$150,000.00 funded under sections 611 to 619 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 USC 1411 to 1419.
- (g) An amount not to exceed \$13,500.00 for data collection systems, funded from DED-NCES, common core data funds.
- (h) An amount not to exceed \$400,000.00 for the collection and dissemination of state assessment data, funded from DED-OESE, title VI, state assessments funds.
- (i) An amount not to exceed \$80,000.00 for data collection systems, funded from DED-NCES, task award funds.
- (j) An amount not to exceed \$100,000.00 for data collection systems development funded from DED-NCES, performance based data management initiative.
- (k) An amount not to exceed \$1,500,000.00 to support the development and implementation of a comprehensive K-12 data management and student tracking system, funded from the competitive grants of DED-OESE, title II, educational technology funds. Not later than November 30, 2005, the department shall award a single grant to an eligible partnership that includes an intermediate district with at least 1 high-need local school district and the center.

(7) If the center, in partnership with the department, receives a federal grant appropriated in the department's budget to support the development and implementation of a comprehensive data management and pupil tracking system, the center shall first expend those funds before expending funds allocated under this section.

(8) The center and the department shall work cooperatively to develop a cost allocation plan that pays for center expenses from the appropriate federal fund revenues.

(9) Funds allocated under this section that are not expended in the fiscal year in which they were allocated may be carried forward to a subsequent fiscal year.

(10) The center may bill departments as necessary in order to fulfill reporting requirements of state and federal law. The center may also enter into agreements to supply custom data, analysis, and reporting to other principal executive departments, state agencies, local units of government, and other individuals and organizations. The center may receive and expend funds in addition to those authorized in subsection (6) to cover the costs associated with salaries, benefits, supplies, materials, and equipment necessary to provide such data, analysis, and reporting services.

(11) As used in this section:

(a) "DED-NCES" means the United States department of education national center for education statistics.

(b) "DED-OESE" means the United States department of education office of elementary and secondary education.

(c) "High-need local school district" means a local educational agency as defined in the enhancing education through technology part of the no child left behind act of 2001, Public Law 107-110.

(d) "State education agency" means the department.

Sec. 98. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed \$1,750,000.00 for 2005-2006 to provide a grant to the Michigan virtual university for the development, implementation, and operation of the Michigan virtual high school and to fund other purposes described in this section. In addition, from the federal funds appropriated in section 11, there is allocated for 2005-2006 an amount estimated at \$2,250,000.00 from DED-OESE, title II, improving teacher quality funds.

(2) The Michigan virtual high school shall have the following goals:

(a) Significantly expand curricular offerings for high schools across this state through agreements with districts or licenses from other recognized providers. The Michigan virtual high school shall explore options for providing rigorous civics curricula online.

(b) Create statewide instructional models using interactive multimedia tools delivered by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network, for distributed learning at the high school level.

(c) Provide pupils with opportunities to develop skills and competencies through on-line learning.

(d) Offer teachers opportunities to learn new skills and strategies for developing and delivering instructional services.

(e) Accelerate this state's ability to respond to current and emerging educational demands.

(f) Grant high school diplomas through a dual enrollment method with districts.

(g) Act as a broker for college level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471, and dual enrollment courses from postsecondary education institutions.

(3) The Michigan virtual high school course offerings shall include, but are not limited to, all of the following:

(a) Information technology courses.

(b) College level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471.

(c) Courses and dual enrollment opportunities.

(d) Programs and services for at-risk pupils.

(e) General education development test preparation courses for adjudicated youth.

(f) Special interest courses.

(g) Professional development programs and services for teachers.

(4) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding the DED-OESE, title II, improving teacher quality funds as provided under this subsection. The memorandum of understanding under this subsection shall require that the Michigan virtual university coordinate the following activities related to DED-OESE, title II, improving teacher quality funds in accordance with federal law:

(a) Develop, and assist districts in the development and use of, proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(b) Encourage and support the training of teachers and administrators to effectively integrate technology into curricula and instruction.

(c) Coordinate the activities of eligible partnerships that include higher education institutions for the purposes of providing professional development activities for teachers, paraprofessionals, and principals as defined in federal law.

(5) If a home-schooled or nonpublic school student is a resident of a district that subscribes to services provided by the Michigan virtual high school, the student may use the services provided by the Michigan virtual high school to the district without charge to the student beyond what is charged to a district pupil using the same services.

(6) From the allocations in subsection (1), the amount necessary, not to exceed \$1,250,000.00, shall be used to provide online professional development for classroom teachers. This allocation is intended to be for the last of 3 years. These funds may be used for designing and building courses, marketing and outreach, workshops and evaluation, content acquisition, technical assistance, project management, and customer support. The Michigan virtual university shall offer at least 5 hours of online professional development for classroom teachers under this section each fiscal year beginning in 2004-2005 without charge to the teachers or to districts or intermediate districts.

(7) A district or intermediate district may require a full-time teacher to participate in at least 5 hours of online professional development provided by the Michigan virtual university under subsection (6). Five hours of this professional development shall be considered to be part of the 51 hours allowed to be counted as hours of pupil instruction under section 101(10).

(8) In addition to the other funds allocated under this section, from the federal funds appropriated in section 11, there is allocated for 2005-2006 an amount estimated at \$1,000,000.00 from the DED-OESE, title II, educational technology grant funds to support e-learning and virtual school initiatives consistent with the goals contained in the United States national educational technology plan issued in January 2005. The Michigan virtual university, which operates the Michigan virtual high school, shall perform the following tasks related to this funding:

(a) Examine the curricular and specific course content needs of middle and high school students in the areas of mathematics and science.

(b) Design, develop, and acquire online courses and related supplemental resources aligned to state standards to create a comprehensive and rigorous statewide catalog of online courses and instructional services.

(c) Conduct a demonstration pilot to promote new and innovative online courses and instructional services.

(d) Evaluate existing online teaching and learning practices and develop continuous improvement strategies to enhance student achievement.

(e) Develop, support, and maintain the technology infrastructure and related software required to deliver online courses and instructional services to students statewide.

(f) Begin to develop a web-based practice assessment and classroom remediation program that includes reading, mathematics, social science, and science for pupils in grades 3 to 8. The Michigan virtual high school may contract with an outside provider to provide the services under this subdivision. The program must meet all of the following:

(i) Have the ability to register pupils online.

(ii) Be accessible on the Internet.

(iii) Provide test results immediately upon completion of the test.

(iv) Provide remedial services by linking to textbooks in the classroom.

(v) Provide results that are reported to the district superintendent, the school principal, and the department and are made available to parents, and that are tracked by pupil, classroom, school, and district.

(9) Not later than November 30, 2005, from the funds allocated in subsection (8), the department shall award a single grant of \$1,000,000.00 to a consortium or partnership established by the Michigan virtual university that meets the requirements of this section. To be eligible for this funding, a consortium or partnership established by the Michigan virtual university shall include at least 1 intermediate district and at least 1 high-need local district. An eligible consortium or partnership must demonstrate the following:

(a) Prior success in delivering online courses and instructional services to K-12 students throughout this state.

(b) Expertise in designing, developing, and evaluating online K-12 course content.

(c) Experience in maintaining a statewide help desk service for students, online teachers, and other school personnel.

(d) Knowledge and experience in providing technical assistance and support to K-12 schools in the area of online education.

(e) Experience in training and supporting K-12 educators in this state to teach online courses.

(f) Demonstrated technical expertise and capacity in managing complex technology systems.

(g) Experience promoting twenty-first century learning skills through the innovative use of online technologies.

(10) As used in this section:

(a) “DED-OESE” means the United States department of education office of elementary and secondary education.

(b) “High-need local district” means a local educational agency as defined in the enhancing education through technology part of the no child left behind act of 2001, Public Law 107-110.

(c) “State education agency” means the department.

Sec. 98b. (1) From the federal funds appropriated in section 11 there is allocated for 2005-2006 an amount not to exceed \$2,500,000.00 from the competitive grants of DED-OESE, title II, educational technology grants funds, and an amount not to exceed \$3,000,000.00 from funds carried forward from 2003-2004 from unexpended DED-OESE, title II, educational technology grants funds, for the freedom to learn program described in this section. In addition, from the state school aid fund money appropriated in section 11, there is allocated for 2005-2006 an amount not to exceed \$250,000.00 for the purposes of this section.

(2) The allocations in subsection (1) shall be used to develop, implement, and operate the freedom to learn program and make program grants. The goal of the program is to achieve one-to-one access to wireless technology for K-12 pupils through statewide and local public-private partnerships. To implement the program, the state education agency shall sign a memorandum of understanding with Ferris state university that provides for joint administration of program grants under this subsection and authorizes the creation of an independent institute. If sufficient private funds are obtained for this purpose, Ferris state university shall create an independent institute to assume responsibility for the freedom to learn program and to use the allocations in subsection (1) and any funds from alternative sources to do all of the following:

(a) Carry out all goals and activities of the freedom to learn program described in this section.

(b) Establish itself as a national leadership organization in 1-to-1 research, development, and mentoring.

(c) Garner new public and private resources for school participation in the freedom to learn program and other 1-to-1 learning programs.

(3) Ferris state university and the state education agency shall make grants to districts as described in this section. In awarding the grants, Ferris state university and the state education agency shall give priority to applications that demonstrate that the district’s program will meet all of the following:

(a) Will be ready for immediate implementation and will have begun professional development on technology integration in the classroom.

(b) Will utilize state structure and resources for professional development, as coordinated by Ferris state university.

(c) Will opt to participate in the statewide partnership described in subsection (10) or will participate in an approved alternative 1-to-1 deployment described in subsection (11).

(d) Will agree to participate in the program and its professional development and evaluation components for 4 years.

(4) The amount of program grants to districts is estimated at \$250.00 per pupil in membership in grade 6 in 2005-2006, or in another grade allowed in this section, or per grade 6 teacher if the funding is awarded in a ratio of at least 20 pupils funded for each teacher funded. The state education agency and Ferris state university shall establish grant criteria that maximize the distribution of federal funds to achieve the \$250.00 per pupil or teacher in districts that qualify for federal funds. To qualify for a grant under this section, a district shall submit an application to the state education agency and Ferris state university and complete the application process established by the state education agency and Ferris state university. The application shall include at least all of the following:

(a) If the district is applying for federal funds, how the district will meet the requirements of the competitive grants under DED-OESE, title II, part D.

(b) How the district will provide the opportunity for each pupil in membership in grade 6 to receive a wireless computing device. If the district has already achieved one-to-one wireless access in grade 6 or if the district’s school building grade configuration makes implementation of the program for grade 6 impractical, the district may apply for a grant for the next highest grade. If the district does not have a grade 6 or higher, the district may apply for funding for the next lowest grade level. If the district operates 1 or more schools that are not meeting adequate yearly progress, as determined by the department, and that contain grade 6, the district may apply for funding for a school building-wide program for 1 or more of those schools. A public school academy that does not offer a grade higher than grade 5 may apply to receive a grant under this section for pupils in the highest grade offered by the public school academy.

(c) The district shall submit a plan describing the uses of the grant funds. The plan shall describe a plan for professional development on technology integration, content and curriculum, and local partnerships with the other districts and representatives from businesses, industry, and higher education. The plan shall include at least the following:

(i) The academic achievement goals, which may include, but are not limited to, goals related to mathematics, science, and language arts.

(ii) The engagement goals, which may include, but are not limited to, goals related to retention rates, dropout rates, detentions, and suspensions.

(iii) The professional development goals, which may include, but are not limited to, goals related to staff and teacher development and performance indicators.

(d) A 3- to 5-year plan or funding model for increasing the share that is borne locally of the expenditures for one-to-one wireless access. Ferris state university shall provide districts with sample local plans and funding models for the purposes of this subdivision and with information on available federal and private resources.

(e) How the district will amend its local technology plan as required under state and federal law to reflect the program under this section.

(5) A district that receives a grant under this section shall provide at least a \$25.00 per pupil match for grant money received under this section from local public or private resources.

(6) The amount of a grant under this section to a single district for a fiscal year shall not exceed 25% of the total amount available for grants under this section for that fiscal year.

(7) A district that received money under section 98 in 2002-2003 for a wireless technology grant is eligible to receive a grant under this section.

(8) The federal funding under subsection (1) shall be used first to provide the grants under this subsection. A district described in this subsection shall apply to Ferris state university and the state education agency for a grant in the form and manner prescribed by the department. An application under this section is not subject to the requirements of subsection (3) if the application demonstrates that the program will meet all of the following:

(a) Will continue as a demonstration program.

(b) Will provide regional assistance to schools that are not meeting adequate yearly progress, as determined by the department, and to new grant recipients, as directed by the state education agency and Ferris state university.

(c) Will seek to expand its existing wireless technology initiatives.

(9) Not more than 25% of the DED-OESE, title II, educational technology grants funds under subsection (1) that are allocated for grants to districts that participate in the statewide public-private partnership under subsection (10) may be used to provide statewide professional development that will be coordinated by Ferris state university.

(10) The department of management and budget shall maintain a statewide public-private partnership to implement the program.

(11) A district may elect to purchase or lease wireless computing devices from a vendor other than the statewide partnership described in subsection (10) if Ferris state university determines that the vendor meets or exceeds minimum requirements and the vendor is identified in the district's grant application. Districts may apply to receive additional grants of \$250.00 per pupil for use in professional development activities specific to the alternative deployment solution instead of the statewide professional development as described under subsection (9).

(12) The state education agency shall sign a memorandum of understanding with Ferris state university regarding DED-OESE, title II, educational technology grants, as provided under this subsection not later than October 1, 2005. Ferris state university shall coordinate activities described in this subsection with the freedom to learn grants described under this section. The memorandum of understanding shall require that Ferris state university coordinate the following state activities related to DED-OESE, title II, educational technology grants in accordance with federal law:

(a) Assist in the development of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies.

(b) Establish and support public-private initiatives for the acquisition of educational technology.

(13) Funds allocated under this section that are not expended in the state fiscal year for which they were allocated may be carried forward to a subsequent state fiscal year.

(14) It is the intent of the legislature that all plans or applications submitted by the state education agency to the United States department of education relating to the distribution of federal funds under this section are for the purposes described in this section.

(15) The state education agency shall ensure that the program goals and plans for the freedom to learn program are contained in the state technology plan required by federal law.

(16) From the funds allocated under this section from the state school aid fund, an amount not to exceed \$250,000.00 is allocated to Ferris state university to be used for statewide administration of the freedom to learn program.

(17) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

(18) It is the intent of the legislature that this state will seek to raise private funds for the current and future funding of the freedom to learn program under this section and all of the program components.

(19) As used in this section:

(a) "DED-OESE" means the United States department of education office of elementary and secondary education.

(b) "State education agency" means the department.

Sec. 99. (1) From the state school aid fund money appropriated in section 11, there is allocated an amount not to exceed \$2,416,000.00 for 2005-2006 and from the general fund appropriation in section 11, there is allocated an amount not to exceed \$84,000.00 for 2005-2006 for implementing the comprehensive master plan for mathematics and science centers developed by the department and approved by the state board on August 8, 2002. In addition, from the federal funds appropriated in section 11, there is allocated for 2005-2006 an amount estimated at \$4,456,000.00 from DED-OESE, title II, mathematics and science partnership grants.

(2) Within a service area designated locally, approved by the department, and consistent with the master plan described in subsection (1), an established mathematics and science center shall address 2 or more of the following 6 basic services, as described in the master plan, to constituent districts and communities: leadership, pupil services, curriculum support, community involvement, professional development, and resource clearinghouse services.

(3) The department shall not award a state grant under this section to more than 1 mathematics and science center located in a designated region as prescribed in the 2002 master plan unless each of the grants serves a distinct target population or provides a service that does not duplicate another program in the designated region.

(4) As part of the technical assistance process, the department shall provide minimum standard guidelines that may be used by the mathematics and science center for providing fair access for qualified pupils and professional staff as prescribed in this section.

(5) Allocations under this section to support the activities and programs of mathematics and science centers shall be continuing support grants to all 33 established mathematics and science centers. Each established mathematics and science center that was funded in 2003-2004 shall receive state funding in an amount equal to the amount it received under this section for 2003-2004. If a center declines state funding or a center closes, the remaining money available under this section shall be distributed on a pro rata basis to the remaining centers, as determined by the department.

(6) In order to receive state funds under this section, a grant recipient shall allow access for the department or the department's designee to audit all records related to the program for which it receives such funds. The grant recipient shall reimburse the state for all disallowances found in the audit.

(7) Not later than September 30, 2007, the department shall reevaluate and update the comprehensive master plan described in subsection (1).

(8) The department shall give preference in awarding the federal grants allocated in subsection (1) to eligible existing mathematics and science centers.

(9) In order to receive state funds under this section, a grant recipient shall provide at least a 10% local match from local public or private resources for the funds received under this section.

(10) As used in this section:

(a) "DED" means the United States department of education.

(b) "DED-OESE" means the DED office of elementary and secondary education.

Sec. 99b. (1) From the state school aid fund money appropriated in section 11, there is allocated an amount not to exceed \$3,850,000.00 for 2005-2006 for payments to intermediate districts under this section for the middle school mathematics initiative to achieve the middle school mathematics standards and benchmarks adopted by the state board.

(2) The amount of the payment to each intermediate district for 2005-2006 shall be an equal amount per pupil for each pupil actually enrolled and attending school in a district located within the intermediate district in grades 6 to 8. The amount of the payment to an intermediate district under this section for subsequent fiscal years will be calculated as described in subsection (4).

(3) An intermediate district shall use funds received under this section only for activities and efforts designed to improve pupil performance on the Michigan education assessment program mathematics assessments administered during grades 6 to 8 and to help the districts within the intermediate district meet adequate yearly progress requirements for mathematics under the no child left behind act of 2001, Public Law 107-110.

(4) It is the intent of the legislature to continue to allocate funds under this section for subsequent fiscal years. However, beginning in 2006-2007, only eligible intermediate districts will receive funding under this section and the amount of funding shall be an equal amount per pupil enrolled and attending school in grades 6 to 8 in districts located within eligible intermediate districts only. An intermediate district shall be eligible to receive funding under this section only for the districts located within the intermediate district that meet either or both of the following during the fiscal year for which the funds are allocated:

(a) Achieve the passage rate on the Michigan education assessment program mathematics assessments administered during grades 6 to 8 necessary for the district to meet adequate yearly progress requirements for those grades for mathematics under the no child left behind act of 2001, Public Law 107-110.

(b) Achieve an increase in the passage rate on the Michigan education assessment program mathematics assessments administered during grades 6 to 8 of at least 10 percentage points, as compared to that passage rate for the immediately preceding year.

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent through the secretary of the district's board shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district as of the pupil membership count day and as of the supplemental count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the revised school code, MCL 380.1561, shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the seventh Wednesday after the pupil membership count day and not later than the seventh Wednesday after the supplemental count day, the intermediate district shall transmit to the center revised data, as applicable, for each of its constituent districts. If a district fails to file the sworn and certified copy with the intermediate superintendent in a timely manner, as required under this subsection, the intermediate district shall notify the department and state aid due to be distributed under this act shall be withheld from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If an intermediate district fails to transmit the data in its possession in a timely and accurate manner to the center, as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If a district or intermediate district does not comply with this subsection by the end of the fiscal year, the district or intermediate district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by section 161.

(2) To be eligible to receive state aid under this act, not later than the twenty-fourth Wednesday after the pupil membership count day and not later than the twenty-fourth Wednesday after the supplemental count day, an intermediate district shall submit to the center, in a form and manner prescribed by the center, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. If an intermediate district fails to transmit the audited data as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) All of the following apply to the provision of pupil instruction:

(a) Except as otherwise provided in this section, each district shall provide at least 1,098 hours of pupil instruction. Except as otherwise provided in this act, a district failing to comply with the required minimum hours of pupil instruction under this subsection shall forfeit from its total state aid allocation an amount determined by applying a ratio of the number of hours the district was in noncompliance in relation to the required minimum number of hours under this subsection. Not later than August 1, the board of each district shall certify to the department the number of hours of pupil instruction in the previous school year. If the district did not provide at least the required minimum number of hours of pupil instruction under this subsection, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (6). Hours lost because of strikes or teachers' conferences shall not be counted as days or hours of pupil instruction.

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

(c) Beginning in 2005-2006, at the request of a district that operates a department-approved alternative education program and that does not provide instruction for pupils in all of grades K to 12, the superintendent shall grant a waiver for a period of 3 school years from the requirements of subdivision (b) in order to conduct a pilot study. The waiver shall indicate that an eligible district is subject to the proration provisions of subdivision (b) only if the district does not have at least 50% of the district's membership in attendance on any day of pupil instruction. Not later than 2008-2009, the department shall report on the impact of this waiver on the academic achievement of pupils in these districts to the state budget director and the senate and house appropriations subcommittees on state school aid. In order to be eligible for this waiver, a district must maintain records to substantiate its compliance with the following requirements during the pilot study:

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

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

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

(d) The superintendent shall promulgate rules for the implementation of this subsection.

(4) Except as otherwise provided in this subsection, the first 30 hours for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, utility power unavailability, water or sewer failure, or health conditions as defined by the city, county, or state health authorities, shall be counted as hours of pupil instruction. Beginning in 2003-2004, with the approval of the superintendent of public instruction, the department shall count as hours of pupil instruction for a fiscal year not more than 30 additional hours for which pupil instruction is not provided in a district after April 1 of the applicable school year due to unusual and extenuating occurrences resulting from conditions not within the control of school authorities such as those conditions described in this subsection. Subsequent such hours shall not be counted as hours of pupil instruction.

(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) Not later than April 15 of each fiscal year, the board of each district shall certify to the department the planned number of hours of pupil instruction in the district for the school year ending in the fiscal year. In addition to any other penalty or forfeiture under this section, if at any time the department determines that 1 or more of the following has occurred in a district, the district shall forfeit in the current fiscal year beginning in the next payment to be calculated by the department a proportion of the funds due to the district under this act that is equal to the proportion below the required minimum number of hours of pupil instruction under subsection (3), as specified in the following:

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

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

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

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

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

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

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

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

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

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

(8) The department shall apply the guidelines under subsection (7) in calculating the full-time equivalency of pupils.

(9) Upon application by the district for a particular fiscal year, the superintendent may waive for a district the minimum number of hours of pupil instruction requirement of subsection (3) for a department-approved alternative education program. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section for the specific program covered by the waiver.

(10) A district may count up to 51 hours of qualifying professional development for teachers, including the 5 hours of online professional development provided by the Michigan virtual university under section 98, as hours of pupil instruction. A district that elects to use this exception shall notify the department of its election. As used in this subsection, “qualifying professional development” means professional development that is focused on 1 or more of the following:

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

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

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

(d) Maintaining teacher certification.

Sec. 105. (1) In order to avoid a penalty under this section, and in order to count a nonresident pupil residing within the same intermediate district in membership without the approval of the pupil’s district of residence, a district shall comply with this section.

(2) Except as otherwise provided in this section, a district shall determine whether or not it will accept applications for enrollment by nonresident applicants residing within the same intermediate district for the next school year. If the district determines to accept applications for enrollment of a number of nonresidents, beyond those entitled to preference under this section, the district shall use the following procedures for accepting applications from and enrolling nonresidents:

(a) The district shall publish the grades, schools, and special programs, if any, for which enrollment may be available to, and for which applications will be accepted from, nonresident applicants residing within the same intermediate district.

(b) If the district has a limited number of positions available for nonresidents residing within the same intermediate district in a grade, school, or program, all of the following apply to accepting applications for and enrollment of nonresidents in that grade, school, or program:

(i) The district shall do all of the following not later than the second Friday in August:

(A) Provide notice to the general public that applications will be taken for a 15-day period from nonresidents residing within the same intermediate district for enrollment in that grade, school, or program. The notice shall identify the 15-day period and the place and manner for submitting applications.

(B) During the application period under sub-subparagraph (A), accept applications from nonresidents residing within the same intermediate district for enrollment in that grade, school, or program.

(C) Within 15 days after the end of the application period under sub-subparagraph (A), using the procedures and preferences required under this section, determine which nonresident applicants will be allowed to enroll in that grade, school, or program, using the random draw system required under subsection (13) as necessary, and notify the parent or legal guardian of each nonresident applicant of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(ii) Beginning on the third Monday in August and not later than the end of the first week of school, if any positions become available in a grade, school, or program due to accepted applicants failing to enroll or to more positions being added, the district may enroll nonresident applicants from the waiting list maintained under subsection (13), offering enrollment in the order that applicants appear on the waiting list. If there are still positions available after enrolling all applicants from the waiting list who desire to enroll, the district may not fill those positions until the second semester enrollment under subsection (3), as provided under that subsection, or until the next school year.

(c) For a grade, school, or program that has an unlimited number of positions available for nonresidents residing within the same intermediate district, all of the following apply to enrollment of nonresidents in that grade, school, or program:

(i) The district may accept applications for enrollment in that grade, school, or program, and may enroll nonresidents residing within the same intermediate district in that grade, school, or program, until the end of the first week of school. The district shall provide notice to the general public of the place and manner for submitting applications and, if the district has a limited application period, the notice shall include the dates of the application period. The application period shall be at least a 15-day period.

(ii) Not later than the end of the first week of school, the district shall notify the parent or legal guardian of each nonresident applicant who is accepted for enrollment that the applicant has been accepted for enrollment in the grade, school, or program and of the date by which the applicant must enroll in the district and the procedures for enrollment.

(3) If a district determines during the first semester of a school year that it has positions available for enrollment of a number of nonresidents residing within the same intermediate district, beyond those entitled to preference under this section, for the second semester of the school year, the district may accept applications from and enroll nonresidents residing within the same intermediate district for the second semester using the following procedures:

(a) Not later than 2 weeks before the end of the first semester, the district shall publish the grades, schools, and special programs, if any, for which enrollment for the second semester may be available to, and for which applications will be accepted from, nonresident applicants residing within the same intermediate district.

(b) During the last 2 weeks of the first semester, the district shall accept applications from nonresidents residing within the same intermediate district for enrollment for the second semester in the available grades, schools, and programs.

(c) By the beginning of the second semester, using the procedures and preferences required under this section, the district shall determine which nonresident applicants will be allowed to enroll in the district for the second semester and notify the parent or legal guardian of each nonresident applicant residing within the same intermediate district of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(4) If deadlines similar to those described in subsection (2) or (3) have been established in an intermediate district, and if those deadlines are not later than the deadlines under subsection (2) or (3), the districts within the intermediate district may use those deadlines.

(5) A district offering to enroll nonresident applicants residing within the same intermediate district may limit the number of nonresident pupils it accepts in a grade, school, or program, at its discretion, and may use that limit as the reason for refusal to enroll an applicant.

(6) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof, or based on a mental or physical disability, except that a district may refuse to admit a nonresident applicant if the applicant does not meet the same criteria, other than residence, that an applicant who is a resident of the district must meet to be accepted for enrollment in a grade or a specialized, magnet, or intra-district choice school or program to which the applicant applies.

(7) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on age, except that a district may refuse to admit a nonresident applicant applying for a program that is not appropriate for the age of the applicant.

(8) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based upon religion, race, color, national origin, sex, height, weight, marital status, or athletic ability, or, generally, in violation of any state or federal law prohibiting discrimination.

(9) A district may refuse to enroll a nonresident applicant if any of the following are met:

(a) The applicant is, or has been within the preceding 2 years, suspended from another school.

(b) The applicant has at any time been expelled from another school.

(c) The applicant has at any time been convicted of a felony.

(10) A district shall continue to allow a pupil who was enrolled in and attended the district under this section in the school year or semester immediately preceding the school year or semester in question to enroll in the district until the pupil graduates from high school. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(11) A district shall give preference for enrollment under this section over all other nonresident applicants residing within the same intermediate district to other school-age children who reside in the same household as a pupil described in subsection (10).

(12) If a nonresident pupil was enrolled in and attending school in a district as a nonresident pupil in the 1995-96 school year and continues to be enrolled continuously each school year in that district, the district shall allow that nonresident pupil to continue to enroll in and attend school in the district until high school graduation, without requiring the nonresident pupil to apply for enrollment under this section. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(13) If the number of qualified nonresident applicants eligible for acceptance in a school, grade, or program does not exceed the positions available for nonresident pupils in the school, grade, or program, the school district shall accept for enrollment all of the qualified nonresident applicants eligible for acceptance. If the number of qualified nonresident applicants residing within the same intermediate district eligible for acceptance exceeds the positions available in a grade, school, or program in a district for nonresident pupils, the district shall use a random draw system, subject to

the need to abide by state and federal antidiscrimination laws and court orders and subject to preferences allowed by this section. The district shall develop and maintain a waiting list based on the order in which nonresident applicants were drawn under this random draw system.

(14) If a district, or the nonresident applicant, requests the district in which a nonresident applicant resides to supply information needed by the district for evaluating the applicant's application for enrollment or for enrolling the applicant, the district of residence shall provide that information on a timely basis.

(15) If a district is subject to a court-ordered desegregation plan, and if the court issues an order prohibiting pupils residing in that district from enrolling in another district or prohibiting pupils residing in another district from enrolling in that district, this section is subject to the court order.

(16) This section does not require a district to provide transportation for a nonresident pupil enrolled in the district under this section or for a resident pupil enrolled in another district under this section. However, at the time a nonresident pupil enrolls in the district, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

(17) A district may participate in a cooperative education program with 1 or more other districts or intermediate districts whether or not the district enrolls any nonresidents pursuant to this section.

(18) A district that, pursuant to this section, enrolls a nonresident pupil who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, title VI of Public Law 91-230, 20 USC 1400 to 1420, 1431 to 1461, and 1471 to 1487, shall be considered to be the resident district of the pupil for the purpose of providing the pupil with a free appropriate public education. Consistent with state and federal law, that district is responsible for developing and implementing an individualized education plan annually for a nonresident pupil described in this subsection.

(19) If a district does not comply with this section, the district forfeits 5% of the total state school aid allocation to the district under this act.

(20) Upon application by a district, the superintendent may grant a waiver for the district from a specific requirement under this section for not more than 1 year.

Sec. 105c. (1) In order to avoid a penalty under this section, and in order to count a nonresident pupil residing in a district located in a contiguous intermediate district in membership without the approval of the pupil's district of residence, a district shall comply with this section.

(2) Except as otherwise provided in this section, a district shall determine whether or not it will accept applications for enrollment by nonresident applicants residing in a district located in a contiguous intermediate district for the next school year. If the district determines to accept applications for enrollment of a number of nonresidents under this section, beyond those entitled to preference under this section, the district shall use the following procedures for accepting applications from and enrolling nonresidents under this section:

(a) The district shall publish the grades, schools, and special programs, if any, for which enrollment may be available to, and for which applications will be accepted from, nonresident applicants residing in a district located in a contiguous intermediate district.

(b) If the district has a limited number of positions available for nonresidents residing in a district located in a contiguous intermediate district in a grade, school, or program, all of the following apply to accepting applications for and enrollment of nonresidents under this section in that grade, school, or program:

(i) The district shall do all of the following not later than the second Friday in August:

(A) Provide notice to the general public that applications will be taken for a 15-day period from nonresidents residing in a district located in a contiguous intermediate district for enrollment in that grade, school, or program. The notice shall identify the 15-day period and the place and manner for submitting applications.

(B) During the application period under sub-subparagraph (A), accept applications from nonresidents residing in a district located in a contiguous intermediate district for enrollment in that grade, school, or program.

(C) Within 15 days after the end of the application period under sub-subparagraph (A), using the procedures and preferences required under this section, determine which nonresident applicants will be allowed to enroll under this section in that grade, school, or program, using the random draw system required under subsection (13) as necessary, and notify the parent or legal guardian of each nonresident applicant of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment under this section shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(ii) Beginning on the third Monday in August and not later than the end of the first week of school, if any positions become available in a grade, school, or program due to accepted applicants failing to enroll or to more positions being added, the district may enroll nonresident applicants from the waiting list maintained under subsection (13), offering enrollment in the order that applicants appear on the waiting list. If there are still positions available after enrolling all

applicants from the waiting list who desire to enroll, the district may not fill those positions until the second semester enrollment under subsection (3), as provided under that subsection, or until the next school year.

(c) For a grade, school, or program that has an unlimited number of positions available for nonresidents residing in a district located in a contiguous intermediate district, all of the following apply to enrollment of nonresidents in that grade, school, or program under this section:

(i) The district may accept applications for enrollment in that grade, school, or program, and may enroll nonresidents residing in a district located in a contiguous intermediate district in that grade, school, or program, until the end of the first week of school. The district shall provide notice to the general public of the place and manner for submitting applications and, if the district has a limited application period, the notice shall include the dates of the application period. The application period shall be at least a 15-day period.

(ii) Not later than the end of the first week of school, the district shall notify the parent or legal guardian of each nonresident applicant who is accepted for enrollment under this section that the applicant has been accepted for enrollment in the grade, school, or program and of the date by which the applicant must enroll in the district and the procedures for enrollment.

(3) If a district determines during the first semester of a school year that it has positions available for enrollment of a number of nonresidents residing in a district located in a contiguous intermediate district, beyond those entitled to preference under this section, for the second semester of the school year, the district may accept applications from and enroll nonresidents residing in a district located in a contiguous intermediate district for the second semester using the following procedures:

(a) Not later than 2 weeks before the end of the first semester, the district shall publish the grades, schools, and special programs, if any, for which enrollment for the second semester may be available to, and for which applications will be accepted from, nonresident applicants residing in a district located in a contiguous intermediate district.

(b) During the last 2 weeks of the first semester, the district shall accept applications from nonresidents residing in a district located in a contiguous intermediate district for enrollment for the second semester in the available grades, schools, and programs.

(c) By the beginning of the second semester, using the procedures and preferences required under this section, the district shall determine which nonresident applicants will be allowed to enroll under this section in the district for the second semester and notify the parent or legal guardian of each nonresident applicant residing in a district located in a contiguous intermediate district of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(4) If deadlines similar to those described in subsection (2) or (3) have been established in an intermediate district, and if those deadlines are not later than the deadlines under subsection (2) or (3), the districts within the intermediate district may use those deadlines.

(5) A district offering to enroll nonresident applicants residing in a district located in a contiguous intermediate district may limit the number of those nonresident pupils it accepts in a grade, school, or program, at its discretion, and may use that limit as the reason for refusal to enroll an applicant under this section.

(6) A nonresident applicant residing in a district located in a contiguous intermediate district shall not be granted or refused enrollment based on intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof, or based on a mental or physical disability, except that a district may refuse to admit a nonresident applicant under this section if the applicant does not meet the same criteria, other than residence, that an applicant who is a resident of the district must meet to be accepted for enrollment in a grade or a specialized, magnet, or intra-district choice school or program to which the applicant applies.

(7) A nonresident applicant residing in a district located in a contiguous intermediate district shall not be granted or refused enrollment under this section based on age, except that a district may refuse to admit a nonresident applicant applying for a program that is not appropriate for the age of the applicant.

(8) A nonresident applicant residing in a district located in a contiguous intermediate district shall not be granted or refused enrollment under this section based upon religion, race, color, national origin, sex, height, weight, marital status, or athletic ability, or, generally, in violation of any state or federal law prohibiting discrimination.

(9) A district may refuse to enroll a nonresident applicant under this section if any of the following are met:

(a) The applicant is, or has been within the preceding 2 years, suspended from another school.

(b) The applicant has at any time been expelled from another school.

(c) The applicant has at any time been convicted of a felony.

(10) A district shall continue to allow a pupil who was enrolled in and attended the district under this section in the school year or semester immediately preceding the school year or semester in question to enroll in the district until the pupil graduates from high school. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(11) A district shall give preference for enrollment under this section over all other nonresident applicants residing in a district located in a contiguous intermediate district to other school-age children who reside in the same household as a pupil described in subsection (10).

(12) If a nonresident pupil was enrolled in and attending school in a district as a nonresident pupil in the 1995-96 school year and continues to be enrolled continuously each school year in that district, the district shall allow that nonresident pupil to continue to enroll in and attend school in the district until high school graduation, without requiring the nonresident pupil to apply for enrollment under this section. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(13) If the number of qualified nonresident applicants eligible for acceptance under this section in a school, grade, or program does not exceed the positions available for nonresident pupils under this section in the school, grade, or program, the school district shall accept for enrollment all of the qualified nonresident applicants eligible for acceptance. If the number of qualified nonresident applicants residing in a district located in a contiguous intermediate district eligible for acceptance under this section exceeds the positions available in a grade, school, or program in a district for nonresident pupils, the district shall use a random draw system, subject to the need to abide by state and federal antidiscrimination laws and court orders and subject to preferences allowed by this section. The district shall develop and maintain a waiting list based on the order in which nonresident applicants were drawn under this random draw system.

(14) If a district, or the nonresident applicant, requests the district in which a nonresident applicant resides to supply information needed by the district for evaluating the applicant's application for enrollment or for enrolling the applicant under this section, the district of residence shall provide that information on a timely basis.

(15) If a district is subject to a court-ordered desegregation plan, and if the court issues an order prohibiting pupils residing in that district from enrolling in another district or prohibiting pupils residing in another district from enrolling in that district, this section is subject to the court order.

(16) This section does not require a district to provide transportation for a nonresident pupil enrolled in the district under this section or for a resident pupil enrolled in another district under this section. However, at the time a nonresident pupil enrolls in the district, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

(17) A district may participate in a cooperative education program with 1 or more other districts or intermediate districts whether or not the district enrolls any nonresidents pursuant to this section.

(18) In order for a district or intermediate district to enroll pursuant to this section a nonresident pupil who resides in a district located in a contiguous intermediate district and who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, title VI of Public Law 91-230, the enrolling district shall have a written agreement with the resident district of the pupil for the purpose of providing the pupil with a free appropriate public education. The written agreement shall include, but is not limited to, an agreement on the responsibility for the payment of the added costs of special education programs and services for the pupil.

(19) If a district does not comply with this section, the district forfeits 5% of the total state school aid allocation to the district under this act.

(20) Upon application by a district, the superintendent may grant a waiver for the district from a specific requirement under this section for not more than 1 year.

(21) This section is repealed if the final decision of a court of competent jurisdiction holds that any portion of this section is unconstitutional, ineffective, invalid, or in violation of federal law.

(22) As used in this section, "district located in a contiguous intermediate district" means a district located in an intermediate district that is contiguous to the intermediate district in which a pupil's district of residence is located.

Sec. 107. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$21,000,000.00 for 2005-2006 for adult education programs authorized under this section.

(2) To be eligible to be a participant funded under this section, a person shall be enrolled in an adult basic education program, an adult English as a second language program, a general educational development (G.E.D.) test preparation program, a job or employment related program, or a high school completion program, that meets the requirements of this section, and shall meet either of the following, as applicable:

(a) If the individual has obtained a high school diploma or a general educational development (G.E.D.) certificate, the individual meets 1 of the following:

(i) Is less than 20 years of age on September 1 of the school year and is enrolled in the state technical institute and rehabilitation center.

(ii) Is less than 20 years of age on September 1 of the school year, is not attending an institution of higher education, and is enrolled in a job or employment-related program through a referral by an employer.

(iii) Is enrolled in an English as a second language program.

(iv) Is enrolled in a high school completion program.

(b) If the individual has not obtained a high school diploma or G.E.D. certificate, the individual meets 1 of the following:

(i) Is at least 20 years of age on September 1 of the school year.

(ii) Is at least 16 years of age on September 1 of the school year, has been permanently expelled from school under section 1311(2) or 1311a of the revised school code, MCL 380.1311 and 380.1311a, and has no appropriate alternative education program available through his or her district of residence.

(3) Except as otherwise provided in subsection (4), the amount allocated under subsection (1) shall be distributed as follows:

(a) For districts and consortia that received payments for 2003-2004 under this section, the amount allocated to each for 2005-2006 shall be based on the number of participants served by the district or consortium for 2005-2006, using the amount allocated per full-time equated participant under subsection (5), up to a maximum total allocation under this section in an amount equal to the amount the district or consortium received for 2003-2004 under this section before any reallocations made for 2003-2004 under subsection (4).

(b) A district or consortium that received funding in 2003-2004 under this section may operate independently of a consortium or join or form a consortium for 2005-2006. In addition, a district that had a declaration of financial emergency in place under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, and for which that declaration was revoked during 2005 may operate a program under this section independently of a consortium or may join or form a consortium to operate a program under this section. The allocation for 2005-2006 to the district or the newly formed consortium under this subsection shall be determined by the department of labor and economic growth and shall be based on the proportion of the amounts that are attributable to the district or consortium that received funding in 2003-2004 or, for a district for which a declaration of financial emergency was revoked during 2005, based on the amount the district received under this section using a 3-year average of the 3 most recent fiscal years the district received funding under this section. A district or consortium described in this subdivision shall notify the department of labor and economic growth of its intention with regard to 2005-2006 by October 1, 2005.

(4) A district that operated an adult education program in 2004-2005 and does not intend to operate a program in 2005-2006 shall notify the department of labor and economic growth by October 1, 2005 of its intention. The funds intended to be allocated under this section to a district that does not operate a program in 2005-2006 and the unspent funds originally allocated under this section to a district or consortium that subsequently operates a program at less than the level of funding allocated under subsection (3) shall instead be proportionately reallocated to the other districts described in subsection (3)(a) that are operating an adult education program in 2005-2006 under this section.

(5) The amount allocated under this section per full-time equated participant is \$2,850.00 for a 450-hour program. The amount shall be proportionately reduced for a program offering less than 450 hours of instruction.

(6) An adult basic education program or an adult English as a second language program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who are determined by an appropriate assessment to be below ninth grade level in reading or mathematics, or both, or to lack basic English proficiency.

(b) The program tests individuals for eligibility under subdivision (a) before enrollment and tests participants to determine progress after every 90 hours of attendance, using assessment instruments approved by the department of labor and economic growth.

(c) A participant in an adult basic education program is eligible for reimbursement until 1 of the following occurs:

(i) The participant's reading and mathematics proficiency are assessed at or above the ninth grade level.

(ii) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction.

(d) A funding recipient enrolling a participant in an English as a second language program is eligible for funding according to subsection (10) until the participant meets 1 of the following:

(i) The participant is assessed as having attained basic English proficiency.

(ii) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of labor and economic growth shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(7) A general educational development (G.E.D.) test preparation program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) The program shall administer a G.E.D. pre-test approved by the department of labor and economic growth before enrolling an individual to determine the individual's potential for success on the G.E.D. test, and shall administer other tests after every 90 hours of attendance to determine a participant's readiness to take the G.E.D. test.

(c) A funding recipient shall receive funding according to subsection (10) for a participant, and a participant may be enrolled in the program until 1 of the following occurs:

(i) The participant passes the G.E.D. test.

(ii) The participant fails to show progress on 2 successive tests used to determine readiness to take the G.E.D. test after having completed at least 450 hours of instruction.

(8) A high school completion program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) A funding recipient shall receive funding according to subsection (10) for a participant in a course offered under this subsection until 1 of the following occurs:

(i) The participant passes the course and earns a high school diploma.

(ii) The participant fails to earn credit in 2 successive semesters or terms in which the participant is enrolled after having completed at least 900 hours of instruction.

(9) A job or employment-related adult education program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults referred by their employer who are less than 20 years of age, have a high school diploma, are determined to be in need of remedial mathematics or communication arts skills and are not attending an institution of higher education.

(b) An individual may be enrolled in this program and the grant recipient shall receive funding according to subsection (10) until 1 of the following occurs:

(i) The individual achieves the requisite skills as determined by appropriate assessment instruments administered at least after every 90 hours of attendance.

(ii) The individual fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of labor and economic growth shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(10) A funding recipient shall receive payments under this section in accordance with the following:

(a) Ninety percent for enrollment of eligible participants.

(b) Ten percent for completion of the adult basic education objectives by achieving an increase of at least 1 grade level of proficiency in reading or mathematics; for achieving basic English proficiency; for passage of the G.E.D. test; for passage of a course required for a participant to attain a high school diploma; or for completion of the course and demonstrated proficiency in the academic skills to be learned in the course, as applicable.

(11) As used in this section, "participant" means the sum of the number of full-time equated individuals enrolled in and attending a department-approved adult education program under this section, using quarterly participant count days on the schedule described in section 6(7)(b).

(12) A person who is not eligible to be a participant funded under this section may receive adult education services upon the payment of tuition. In addition, a person who is not eligible to be served in a program under this section due to the program limitations specified in subsection (6), (7), (8), or (9) may continue to receive adult education services in that program upon the payment of tuition. The tuition level shall be determined by the local or intermediate district conducting the program.

(13) An individual who is an inmate in a state correctional facility shall not be counted as a participant under this section.

(14) A district shall not commingle money received under this section or from another source for adult education purposes with any other funds of the district. A district receiving adult education funds shall establish a separate ledger account for those funds. This subsection does not prohibit a district from using general funds of the district to support an adult education or community education program.

(15) A district or intermediate district receiving funds under this section may establish a sliding scale of tuition rates based upon a participant's family income. A district or intermediate district may charge a participant tuition to receive adult education services under this section from that sliding scale of tuition rates on a uniform basis. The amount of tuition charged per participant shall not exceed the actual operating cost per participant minus any funds received under this section per participant. A district or intermediate district may not charge a participant tuition under this section if the participant's income is at or below 200% of the federal poverty guidelines published by the United States department of health and human services.

Sec. 147. (1) The allocation for 2005-2006 for the public school employees' retirement system pursuant to the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, shall be made using the entry age normal cost actuarial method and risk assumptions adopted by the public school employees retirement board and the department of management and budget. The annual level percentage of payroll contribution rate is estimated at 16.34% for the 2005-2006 state fiscal year. The portion of the contribution rate assigned to districts and intermediate districts for each fiscal year is all of the total percentage points. This contribution rate reflects an amortization period of 31 years for 2005-2006. The public school employees' retirement system board shall notify each district and intermediate district by February 28 of each fiscal year of the estimated contribution rate for the next fiscal year.

(2) It is the intent of the legislature that the amortization period described in section 41(2) of the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1341, be reduced to 30 years by the end of the 2005-2006 state fiscal year by reducing the amortization period by not more than 1 year each fiscal year.

Sec. 158b. Each district that receives federal impact aid annually shall report to the center, in the form and manner prescribed by the center, the amount of that aid the district received.

Sec. 164c. A district or intermediate district shall not use funds appropriated under this act to purchase foreign goods or services, or both, if American goods or services, or both, are available and are competitively priced and of comparable quality. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable quality.

Sec. 167. (1) The department in cooperation with the department of community health shall develop plans to assist districts and intermediate districts and local county health departments to comply with section 1177 of the revised school code, MCL 380.1177, and section 9209 of the public health code, 1978 PA 368, MCL 333.9209, for each school year.

(2) Each district or intermediate district shall report to the local health department in which it is located by November 1 of each fiscal year, in a manner prescribed by the department of community health, the immunization status of each pupil in grades K through 12 who enrolled in the district or intermediate district for the first time or, beginning in 2002-2003, who enrolled in grade 6 in the district or intermediate district for the first time, between January 1 and September 30 of the immediately preceding fiscal year. Not later than December 31 of each fiscal year, the department of community health shall notify the department by district or intermediate district of the percentage of entering pupils and, beginning in 2002-2003, of pupils who enrolled in grade 6 for the first time who do not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177. If a district or intermediate district does not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177, for at least 90% of the district's or intermediate district's entering pupils, as recorded in the November 1 reports required under this subsection, the district or intermediate district is subject to subsection (4) until the district or intermediate district has such an immunization record for at least 90% of its pupils who enrolled in the district or intermediate district for the first time.

(3) Each district or intermediate district shall again report to the local health department in which it is located by February 1 of each fiscal year, in a manner prescribed by the department of community health, the immunization status of each pupil in grades K through 12 who enrolled in the district or intermediate district for the first time or, beginning in 2002-2003, who enrolled in grade 6 in the district or intermediate district for the first time, between January 1 of the immediately preceding fiscal year and December 31 of the current fiscal year. Not later than March 31 of each fiscal year, the department of community health shall notify the department by district or intermediate district of the percentage of entering pupils and, beginning in 2002-2003, of pupils who enrolled in grade 6 for the first time who do not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177. If a district or intermediate district does not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177, for at least 95% of the district's or intermediate district's entering pupils, as recorded in the February 1 reports required under this subsection, the district or intermediate district is subject to subsection (4) until the district or intermediate district has such an immunization record for at least 95% of its pupils who enrolled in the district or intermediate district for the first time. If the department of community health is not able to report to the department by March 31 because a district or intermediate district fails to submit a report as required in this subsection, or submits an incomplete, inaccurate, or late report, the district or intermediate district is subject to subsection (4) until the report is submitted in a complete and accurate form.

(4) If a district or intermediate district does not comply with this section, the department shall withhold 5% of the total funds due to the district or intermediate district under this act after the date the department of community health reports a district's or intermediate district's noncompliance with this section to the department until the district or intermediate district complies with this section. If the district or intermediate district does not comply with this section by the end of the fiscal year, the district or intermediate district forfeits the total amount withheld.

(5) For 2005-2006 only, if a pupil has been evacuated from another state and relocated in this state due to a natural disaster and is being educated in a district, if the pupil's immunization record has not yet been received or confirmed, and if the district is making a good faith effort to obtain immunization information concerning the pupil, the district may exclude the pupil from the calculation of the specified percentages in subsections (2) and (3).

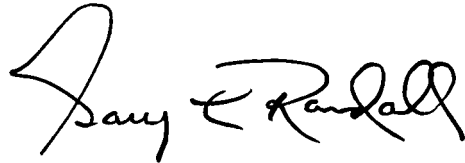
Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act and in House Bill No. 4831 of the 93rd Legislature from state sources for fiscal year 2005-2006 is estimated at \$11,364,814,000.00 and state appropriations to be paid to local units of government for fiscal year 2005-2006 are estimated at \$11,341,913,100.00.

Enacting section 2. Sections 11b, 32f, and 107b of the state school aid act of 1979, 1979 PA 94, MCL 388.1611b, 388.1632f, and 388.1707b, are repealed effective October 1, 2005.

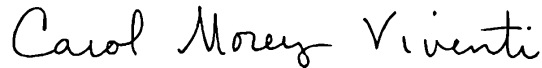
Enacting section 3. (1) Except as otherwise specified in subsection (2), this amendatory act takes effect October 1, 2005.

(2) Sections 6, 15, and 101 of the state school aid act of 1979, 1979 PA 94, MCL 388.1606, 388.1615, and 388.1701, as amended by this amendatory act, and sections 11k and 31f as added by this amendatory act, take effect upon enactment of this amendatory act.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives



.....
Secretary of the Senate

Approved

.....
Governor