

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

(i) Teachers possessing proper training, including, but not limited to, a valid teaching certificate and an early childhood (ZA) endorsement. 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 teaching certificate and may have a child development associate credential (CDA) instead of an early childhood (ZA) endorsement.

(ii) Paraprofessionals possessing proper training in early childhood development or who have completed at least 1 course in an appropriate training program, including, but not limited to, a child development associate credential (CDA) or associate degree in child development or other similar program, as approved by the department.

(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 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.

(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 using criteria approved by the department. At a minimum, the evaluations shall include assessment of the gains in educational readiness and progress through first grade of children participating in the school readiness program.

(g) More than 50% of the children participating in the program meet the income eligibility criteria for free or reduced price lunch, as determined under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, or meet the income

and all other eligibility criteria for the family independence agency unified child day care program.

(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 meet the income eligibility criteria for free or reduced price lunch or the income and all other eligibility criteria for the family independence agency unified child day care program, and who will participate in a school readiness program funded under section 32d.

388.1638 Number of prekindergarten children in need of special readiness assistance; calculation.

Sec. 38. The maximum number of prekindergarten children construed to be in need of special readiness assistance under section 32d shall be calculated for each district in the following manner: one-half of the percentage of the district's pupils in grades 1-5 who are eligible for free lunch, as determined by the district's October count in the immediately preceding school year under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, as reported to the department not later than December 31 of the immediately preceding fiscal year, shall be multiplied by the average kindergarten enrollment of the district on the pupil membership count day of the 2 immediately preceding years.

388.1639 Tentative allocation to eligible district under § 388.1632d; priority in funding; contingency; supplementary day care; district with 315 or more eligible pupils; additional eligible children.

Sec. 39. (1) The tentative allocation for each fiscal year to each eligible district under section 38 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.

(2) A district that has not less than 50 eligible children shall receive priority over other eligible districts other than those districts funded under subsection (3).

(3) 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.

(4) 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 (3).

(5) 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.

(6) 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.

388.1639a Allocation of federal funds; definitions.

Sec. 39a. (1) From the appropriation in section 11, there is allocated for 2002-2003 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at \$634,919,400.00, for the federal programs under the no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425. These funds are allocated as follows:

(a) An amount estimated at \$1,666,300.00 for community service state grants, funded from DED-OESE, community service state grant funds.

(b) An amount estimated at \$15,520,100.00 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.

(c) An amount estimated at \$22,572,000.00 for the purpose of improving teaching and learning through a more effective use of technology, funded from DED-OESE, educational technology state grant funds.

(d) An amount estimated at \$104,568,800.00 for the purpose of preparing, training, and recruiting high-quality teachers and class size reduction, funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at \$4,647,700.00 for programs to teach English to limited English proficient (LEP) children, funded from DED-OESE, language acquisition state grant funds.

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

(g) An amount estimated at \$247,600.00 for Michigan model partnership for character education programs, funded from DED-OESE, title X, fund for improvement of education funds.

(h) An amount estimated at \$1,909,600.00 for rural and low income schools, funded from DED-OESE, rural and low income school funds.

(i) An amount estimated at \$11,123,700.00 to help schools develop and implement comprehensive school reform programs, funded from DED-OESE, title I and title X, comprehensive school reform funds.

(j) An amount estimated at \$401,388,600.00 to provide supplemental programs to enable educationally disadvantaged children to meet challenging academic standards, funded from DED-OESE, title I, disadvantaged children funds.

(k) An amount estimated at \$8,246,600.00 for the purpose of providing unified family literacy programs, funded from DED-OESE, title I, even start funds.

(l) An amount estimated at \$8,953,100.00 for the purpose of identifying and serving migrant children, funded from DED-OESE, title I, migrant education funds.

(m) An amount estimated at \$22,779,000.00 to promote high-quality school reading instruction for grades K-3, funded from DED-OESE, title I, reading first state grant funds.

(n) An amount estimated at \$11,585,100.00 for the purpose of implementing innovative strategies for improving student achievement, funded from DED-OESE, title VI, innovative strategies funds.

(o) An amount estimated at \$11,161,200.00 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.

(2) From the federal funds appropriation in section 11, there is allocated for 2002-2003 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at \$6,495,300.00, 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 \$976,000.00 for at-risk child care, funded from HHS-ACF, at-risk child care funds.

(c) An amount estimated at \$1,553,500.00 for emergency services to immigrants, funded from DED-OBEMLA, emergency immigrant education assistance funds.

(d) An amount estimated at \$1,468,300.00 to provide services to homeless children and youth, funded from DED-OVAE, homeless children and youth funds.

(e) An amount estimated at \$400,000.00 for refugee children school impact grants, funded from HHS-ACF, refugee children school impact funds.

(f) An amount estimated at \$857,500.00 for school-age child care grants, funded from HHS-ACF, dependent care block grant funds.

(g) An amount estimated at \$640,000.00 for serve America grants, funded from the corporation for national and community service funds.

(3) 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, 113 Stat. 41. 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.

(4) As used in this section:

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

(b) “DED-OBEMLA” means the DED office of bilingual education and minority languages affairs.

(c) “DED-OESE” means the DED office of elementary and secondary education.

(d) “DED-OVAE” means the DED office of vocational and adult education.

(e) “HHS” means the United States department of health and human services.

(f) “HHS-ACF” means the HHS administration for children and families.

388.1641 Bilingual instruction for pupils of limited English-speaking ability; allocation; reimbursement; use of funds.

Sec. 41. From the appropriation in section 11, there is allocated an amount not to exceed \$4,212,000.00 each fiscal year for 2001-2002 and for 2002-2003 to applicant districts and intermediate districts offering programs of bilingual 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 bilingual instruction in speaking, reading, writing, or comprehension of pupils of limited English-speaking ability.

388.1651a Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2001-2002 an amount not to exceed \$796,401,900.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1411 to 1419, estimated at \$203,000,000.00, plus any carryover federal funds from previous year appropriations; and there is allocated for 2002-2003 an amount not to exceed \$852,721,900.00 from state sources and all available federal funding, estimated at \$235,000,000.00, 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 2001-2002 may be distributed in accordance with 34 C.F.R. 300.234 and section 613(a)(2)(D) of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1413. 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 for 2001-2002 and for 2002-2003 the amount necessary, estimated at \$139,200,000.00 for 2001-2002, and \$149,500,000.00 for 2002-2003, 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, 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, and that district's per pupil allocation under section 20j(2). However, beginning in 2002-2003, the \$6,500.00 amount prescribed in this subdivision 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.

(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 2001-2002 and for 2002-2003 the amount necessary, estimated at \$2,000,000.00 each fiscal year, 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 between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations shall be made in a manner determined by the department and shall include adjustments for program 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 each fiscal year may be allocated by the department for 2001-2002 and for 2002-2003 to districts or intermediate districts 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 2001-2002 and for 2002-2003 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) Reimbursement for ancillary and other related services, as defined by R 340.1701 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 2001-2002 and for 2002-2003 an amount not to exceed \$15,313,900.00 each fiscal year 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 2001-2002 and for 2002-2003 the amount necessary, estimated at \$7,200,000.00 each fiscal year, 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, 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, and that district's per pupil allocation under section 20j(2). However, beginning in 2002-2003, 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. 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.

388.1651c Reimbursement for percentage of special education and special education transportation costs.

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 for 2001-2002 and for 2002-2003 the amount necessary, estimated at \$576,100,000.00 for 2001-2002 and \$621,900,000.00 for 2002-2003, 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.

388.1651d Federally funded special education programs; distribution; payment schedule; “DED-OSERS” defined.

Sec. 51d. (1) From the federal funds appropriated in section 11, there is allocated for 2002-2003 all available federal funding, estimated at \$59,837,200.00, 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 2002-2003:

(a) An amount estimated at \$16,000,000.00 for handicapped infants and toddlers, funded from DED-OSERS, handicapped infants and toddlers funds.

(b) An amount estimated at \$13,500,000.00 for preschool grants (Public Law 94-142), funded from DED-OSERS, handicapped preschool incentive funds.

(c) An amount estimated at \$30,337,200.00 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.

388.1653a Special education programs and services; reimbursement of total approved costs; limitation; costs of transportation; allocation.

Sec. 53a. (1) For districts, reimbursement for pupils described in subsection (2), reimbursement 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, and the amount calculated for that district under section 20j. However, beginning in 2002-2003, 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.

(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 \$14,800,000.00 each fiscal year for 2001-2002 and 2002-2003, of the allocation in section 51a(1) shall be allocated under this section.

(6) From the allocation in subsection (5), there is allocated each fiscal year for 2001-2002 and for 2002-2003 an amount not to exceed \$150,000.00 to an intermediate district that received at least \$1,000,000.00 for 1999-2000 under subsection (4).

388.1654 Intermediate district to receive amount for pupil attending Michigan schools for the deaf and blind.

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 each fiscal year for 2001-2002 and 2002-2003 of the allocation in section 51a(1) shall be allocated under this section.

388.1655 Allocation to west Michigan center for autism spectrum disorders at Grand Valley state university.

Sec. 55. From the state school aid fund money appropriated in section 11, there is allocated \$500,000.00 for 2002-2003 to the west Michigan center for autism spectrum disorders located at Grand Valley State University for developing cooperative programs with area districts and intermediate districts to provide services to qualifying pupils. This funding is for development costs in 2002-2003 and is intended to continue to fund operational and program costs in succeeding fiscal years.

388.1656 Definitions; reimbursement to intermediate districts levying millages for special education; limitation; distribution plan; computation.

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 \$37,900,000.00 for 2001-2002 and an amount not to exceed \$38,120,000.00 for 2002-2003 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 2000-2001 shall be made in 2001-2002 at an amount per 2000-2001 membership pupil computed by subtracting from \$119,200.00 the 2000-2001 taxable value behind each membership pupil and multiplying the resulting difference by the 2000-2001 millage levied. Reimbursement for those millages levied in 2001-2002 shall be made in 2002-2003 at an amount per 2001-2002 membership pupil computed by subtracting from \$125,900.00 the 2001-2002 taxable value behind each membership pupil and multiplying the resulting difference by the 2001-2002 millage levied.

388.1657 Gifted and talented pupils; support services; summer institutes; development and operation of comprehensive programs.

Sec. 57. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$600,000.00 each fiscal year for 2001-2002 and for 2002-2003 to applicant intermediate districts that provide support services for the education of gifted and talented pupils. An intermediate district is entitled to 75% of the actual salary, but not to exceed \$25,000.00 reimbursement for an individual salary, of a support services teacher approved by the department, and not to exceed \$4,000.00 reimbursement for expenditures to support program costs, excluding in-county travel and salary, as approved by the department.

(2) From the appropriation in section 11, there is allocated an amount not to exceed \$400,000.00 each fiscal year for 2001-2002 and for 2002-2003 to support part of the cost of summer institutes for gifted and talented students. This amount shall be contracted to applicant intermediate districts in cooperation with a local institution of higher education and shall be coordinated by the department.

(3) From the appropriation in section 11, there is allocated an amount not to exceed \$4,000,000.00 each fiscal year for 2001-2002 and for 2002-2003 for the development and operation of comprehensive programs for gifted and talented pupils. An eligible district or consortium of districts shall receive an amount not to exceed \$100.00 per K-12 pupil for up to 5% of the district's or consortium's K-12 membership for the immediately preceding fiscal year with a minimum total grant of \$6,000.00. Funding shall be provided in the following order: the per pupil allotment, and then the minimum total grant of \$6,000.00 to individual districts. An intermediate district may act as the fiscal agent for a consortium of districts. In order to be eligible for funding under this subsection, the district or

consortium of districts shall submit each year a current 3-year plan for operating a comprehensive program for gifted and talented pupils and the district or consortium shall demonstrate to the department that the district or consortium will contribute matching funds of at least \$50.00 per K-12 pupil. The plan or revised plan shall be developed in accordance with criteria established by the department and shall be submitted to the department for approval. Within the criteria, the department shall encourage the development of consortia among districts of less than 5,000 memberships.

388.1661a Vocational-technical programs; added cost; reimbursement for local vocational administration, shared-time vocational administration, and career education planning district vocational-technical administration; allocation.

Sec. 61a. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$31,027,600.00 each fiscal year for 2001-2002 and for 2002-2003 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 each fiscal year 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.

388.1662 Definitions; vocational-technical education programs; limitation.

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 \$9,810,000.00 for 2001-2002 and an amount not to exceed \$9,860,000.00 for 2002-2003 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 2000-2001 shall be made in 2001-2002 at an amount per 2000-2001 membership pupil computed by subtracting from \$122,300.00 the 2000-2001 taxable value behind each membership pupil, and multiplying the resulting difference by the 2000-2001 millage levied. Reimbursement for the millages levied in 2001-2002 shall be made in 2002-2003 at an amount per 2001-2002 membership pupil computed by subtracting from \$130,200.00 the 2001-2002 taxable value behind each membership pupil, and multiplying the resulting difference by the 2001-2002 millage levied.

388.1667 Michigan career preparation system grants; allocations; definitions.

Sec. 67. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$350,000.00 each fiscal year for 2001-2002 and for 2002-2003 for Michigan career preparation system grants under this section.

(2) From the allocation in subsection (1), there is allocated \$150,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department to identify uniform career competency standards and assessments for career clusters, to establish a statewide information system on current and anticipated employment opportunities and the required level of skills and education required for employment.

(3) From the allocation in subsection (1), there is allocated \$100,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department to provide information to parents, pupils, school personnel, employers, and others regarding opportunities to receive integrated academic and technical preparation in the public schools of this state.

(4) From the allocation in subsection (1), there is allocated \$100,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department to provide technical assistance to eligible education agencies and workforce development boards.

(5) As used in this section and in section 68:

(a) “Advanced career academy” means a career-technical education program operated by a district, by an intermediate district, or by a public school academy, that applies for and receives advanced career academy designation from the department. To receive this designation, a career-technical education program shall meet criteria established by the department, which criteria shall include at least all of the following:

(i) Operation of programs for those career clusters identified by the department as being eligible for advanced career academy status.

(ii) Involvement of employers in the design and implementation of career-technical education programs.

(iii) A fully integrated program of academic and technical education available to pupils.

(iv) Demonstration of an established career preparation system resulting in industry-validated career ladders for graduates of the program, including, but not limited to, written articulation agreements with postsecondary institutions to allow pupils to receive advanced college placement and credit or federally registered apprenticeships, as applicable.

(b) “Career cluster” means a grouping of occupations from 1 or more industries that share common skill requirements.

(c) “Career preparation system” is a system of programs and strategies providing pupils with opportunities to prepare for success in careers of their choice.

(d) “Department” means the department of career development.

(e) “Eligible education agency” means a district, intermediate district, or advanced career academy that participates in an approved regional career preparation plan.

(f) “FTE” means full-time equivalent pupil as determined by the department.

(g) “Workforce development board” means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(h) “Strategic plan” means a department-approved comprehensive plan prepared by a workforce development board with input from local representatives, including the education advisory group, that includes career preparation system goals and objectives for the region.

388.1668 Michigan career preparation system; allocations and regional career preparation plan; review by education advisory group.

Sec. 68. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$21,850,000.00 each fiscal year for 2001-2002 and for 2002-2003 to be used to implement the Michigan career preparation system in the corresponding school years as provided under this section. In order to receive funds under this section, an eligible education agency shall be part of an approved regional career preparation plan under subsection (2) and shall agree to expend the funds required under this section in accordance with the regional career preparation plan. Funds awarded under this section that are not expended in accordance with this section may be recovered by the department.

(2) In order to receive funding under this section, an eligible education agency shall be a part of an approved 3-year regional career preparation plan that is consistent with the workforce development board's strategic plan and is as described in this subsection. All of the following apply to a regional career preparation plan:

(a) A 3-year regional career preparation plan shall be developed under subdivisions (b), (c), and (d) for all public education agencies participating as part of a regional career preparation system within the geographical boundaries of a workforce development board, and revised annually. If an intermediate district is located within the geographical boundaries of more than 1 workforce development board, the board of the intermediate district shall choose 1 workforce development board with which to align and shall notify the department of this choice not later than October 31, 1997.

(b) The regional career preparation plan shall be developed by representatives of the education advisory group of each workforce development board in accordance with guidelines developed under former section 67(5), and in accordance with subdivisions (d) and (e). All of the following shall be represented on each education advisory group: workforce development board members, other employers, labor, districts, intermediate districts, postsecondary institutions, career/technical educators, parents of public school pupils, and academic educators. The representatives of districts, intermediate districts, and postsecondary institutions appointed to the education advisory group by the workforce development board shall be individuals designated by the board of the district, intermediate district, or postsecondary institution.

(c) By majority vote, the education advisory group may nominate 1 education representative, who may or may not be a member of the education advisory group, for appointment to the workforce development board. This education representative shall be in addition to existing education representation on the workforce development board. This education representative shall meet all workforce development board membership requirements.

(d) The components of the regional career preparation plan shall include, but are not limited to, all of the following:

(i) The roles of districts, intermediate districts, advanced career academies, postsecondary institutions, employers, labor representatives, and others in the career preparation system.

(ii) Programs to be offered, including at least career exploration activities, for middle school pupils.

(iii) Identification of integrated academic and technical curriculum, including related professional development training for teachers.

(iv) Identification of work-based learning opportunities for pupils and for teachers and other school personnel.

(v) Identification of testing and assessments that will be used to measure pupil achievement.

(vi) Identification of all federal, state, local, and private sources of funding available for career preparation activities in the region.

(e) The education advisory group shall develop a 3-year regional career preparation plan consistent with the workforce development board's strategic plan and submit the plan to the department for final approval. The submission to the department shall also include statements signed by the chair of the education advisory group and the chair of the workforce development board certifying that the plan has been reviewed by each entity. Upon department approval, all eligible education agencies designated in the

regional career preparation plan as part of the career preparation delivery system are eligible for funding under this section.

(3) Funding under this section shall be distributed to eligible education agencies for allowable costs defined in this subsection and identified as necessary costs for implementing a regional career preparation plan, as follows:

(a) The department shall rank all career clusters, including career exploration, guidance, and counseling. Rank determination will be based on median salary data in career clusters and employment opportunity data provided by the council for career preparation standards. In addition, rank determination shall be based on placement data available for prior year graduates of the programs in the career clusters either in related careers or postsecondary education. The procedure for ranking of career clusters shall be determined by the department.

(b) Allowable costs to be funded under this section shall be determined by the department. Budgets submitted by eligible education agencies to the department in order to receive funding shall identify funds and in-kind contributions from the regional career education plan, excluding funds or in-kind contributions available as a result of funding received under section 61a, equal to at least 100% of anticipated funding under this section. Eligible categories of allowable costs are the following:

(i) Career exploration, guidance, and counseling.

(ii) Curriculum development, including integration of academic and technical content, and professional development for teachers directly related to career preparation.

(iii) Technology and equipment determined to be necessary.

(iv) Supplies and materials directly related to career preparation programs.

(v) Work-based learning expenses for pupils, teachers, and counselors.

(vi) Evaluation, including career competency testing and peer review.

(vii) Career placement services.

(viii) Student leadership organizations integral to the career preparation system.

(ix) Up to 10% of the allocation to an eligible education agency may be expended for planning, coordination, direct oversight, and accountability for the career preparation system.

(c) The department shall calculate career preparation costs per FTE for each career cluster, including career exploration, guidance, and counseling, by dividing the allowable costs for each career cluster by the prior year FTE enrollment for each career cluster. Distribution to eligible education agencies shall be the product of 50% of career preparation costs per FTE times the current year FTE enrollment of each career cluster. This allocation shall be distributed to eligible education agencies in decreasing order of the career cluster ranking described in subdivision (a) until the money allocated for grant recipients in this section is distributed. Beginning in 2001-2002, funds shall be distributed to eligible education agencies according to workforce development board geographic area consistent with subsection (2)(a) based upon the proportion of each workforce development board area's K-12 public school membership to the total state K-12 public school membership.

(4) The department shall establish a review procedure for assessing the career preparation system in each region.

(5) An education advisory group is responsible for assuring the quality of the career preparation system. An education advisory group shall review the career preparation system in accordance with evaluation criteria established by the department.

(6) An education advisory group shall report its findings and recommendations for changes to the participating eligible education agencies, the workforce development board, and the department.

(7) The next revision of a regional career preparation plan shall take into account the findings of the education advisory group in accordance with evaluation criteria established by the department in order for the affected education agencies to receive continued funding under this section.

388.1674 School bus driver safety instruction or driver skills road tests; cost of instruction and driver compensation; nonspecial education auxiliary services transportation.

Sec. 74. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed \$1,625,000.00 each fiscal year for 2001-2002 and for 2002-2003 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.

388.1681 Allocations to intermediate districts; amounts; report of adjustment and amount of increase; employment of person trained in pupil counting.

Sec. 81. (1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated each fiscal year for 2001-2002 and for 2002-2003 to the intermediate districts the sum necessary, but not to exceed \$92,170,800.00 for 2001-2002 and not to exceed \$95,028,100.00 for 2002-2003 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 2001-2002 an amount equal to 105% of the amount of funding actually received by the intermediate district under this subsection for 2000-2001. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2002-2003 an amount equal to 103.1% of the amount of funding actually received by the intermediate district under this subsection for 2001-2002. 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) If an intermediate district participated in 1993-94 in a consortium operating a regional educational media center under section 671 of the revised school code, MCL 380.671, and rules promulgated by the superintendent, and if the intermediate district obtains written consent from each of the other intermediate districts that participated in the consortium in 1993-94, the intermediate district may notify the department not later than December 30 of the current fiscal year that it is electing to directly receive its payment attributable to participation in that consortium. An intermediate district making that election, and that has obtained the necessary consent, shall receive each fiscal year for 2001-2002 or for 2002-2003, as applicable, for each pupil in membership in the intermediate district or a constituent district an amount equal to the quotient of the 1993-94 allocation to the fiscal agent for that consortium under former section 83, adjusted as determined by the department to account for that election, divided by the combined total membership for the current fiscal year in all of the intermediate districts that participated in that consortium and their constituent districts. The amount allocated to an intermediate district under this subsection for a fiscal year shall be deducted from the total allocation for that fiscal year under this section to the intermediate district that was the 1993-94 fiscal agent for the consortium.

(4) 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.

(5) 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.

388.1694 Technical assistance to districts for school accreditation purposes.

Sec. 94. From the general fund money appropriated in section 11, there is allocated to the department an amount not to exceed \$3,000,000.00 for 2001-2002 and an amount not to exceed \$2,000,000.00 for 2002-2003 to provide technical assistance to districts for school accreditation purposes as described in section 1280 of the revised school code, MCL 380.1280.

388.1694a Center for educational performance and information.

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) 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 career development 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.

(3) The CEPI advisory committee appointed under subsection (2) 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.

(4) The center may enter into any interlocal agreements necessary to fulfill its functions.

(5) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$2,332,000.00 for 2001-2002 for payments to the center. From the general fund appropriation in section 11, there is allocated an amount not to exceed \$4,500,000.00 for 2002-2003 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 2002-2003, there is allocated the following amounts in order to fulfill federal reporting requirements:

(a) An amount estimated at \$1,000,000.00 funded from DED-OESE, title I, disadvantaged children funds.

(b) An amount estimated at \$284,700.00 funded from DED-OESE, title I, reading first state grant funds.

(c) An amount estimated at \$46,750.00 funded from DED-OESE, title I, migrant education funds.

(d) An amount estimated at \$500,000.00 funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at \$526,100.00 funded from DED-OESE, drug-free schools and communities funds.

(6) 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. From the funds allocated for 1999-2000 that were carried forward under this section and from the general funds appropriated under this section for 2002-2003, the center shall make grants to intermediate districts for the purpose of assisting the intermediate districts and their constituent districts in data collection required by state and federal law or necessary for audits according to generally accepted accounting procedures. Grants to each intermediate district shall be made at the rate of \$2.00 per each full-time equated membership pupil times the total number of 2000-2001 pupils in membership in the intermediate district and its constituent districts. An intermediate district shall develop a plan in cooperation with its constituent districts to distribute the grants between the intermediate district and its constituent districts. These grants shall be paid to intermediate districts no later than the next regularly scheduled school aid payment after the effective date of this section.

(7) If the applicable intermediate district determines that the pupil counts submitted by a district for the February 2002 supplemental pupil count using the single record student database cannot be audited by the intermediate district pursuant to section 101, all of the following apply:

(a) The district may submit its pupil count data for the February 2002 supplemental pupil count using the education data network system.

(b) If the applicable intermediate district determines that the pupil counts submitted by the district for the 2002-2003 pupil membership count day using the single record student database cannot be audited by the intermediate district pursuant to section 101, the district may submit its pupil count data for the 2002-2003 pupil membership count day using the education data network system.

(8) As used in this section:

(a) "Center" means the center for educational performance and information created under this section.

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

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

388.1696 Golden apple awards.

Sec. 96. (1) From the state school aid fund money appropriated in section 11, there is allocated an amount not to exceed \$0.00 for 2001-2002 and \$1,320,000.00 for 2002-2003 for golden apple awards under this section. The awards shall be based on elementary school achievement on the fourth grade and fifth grade Michigan education assessment program (MEAP) tests.

(2) To be eligible for a golden apple award, an elementary school shall meet all of the following:

(a) Has at least 50 pupils in membership.

(b) At least 90% of the fourth and fifth grade pupils enrolled and in regular daily attendance in the school on the pupil membership count day in that school year took the applicable MEAP tests.

(c) Meets 1 or both of the following:

(i) The composite score for the pupils in the school who took the applicable MEAP tests increased by at least 60 points over the 2 consecutive school years immediately preceding the state fiscal year in which the award is given.

(ii) The test scores for the pupils in the school who took the applicable MEAP tests are among the highest elementary school scores statewide, as determined by the department of treasury, for that school year.

(3) A golden apple award under this section shall be allocated to and used by a district exclusively for the purpose of distributing funds to each eligible elementary school. Beginning in 2002-2003, the monetary amount of a golden apple award shall be \$10,000.00 to be allocated to each eligible elementary school. All money allocated under this section shall be used for school improvements, as determined collectively by a majority vote of the full-time employees of the eligible elementary school.

388.1698 Michigan virtual high school; powers and duties of Michigan virtual university.

Sec. 98. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed \$1,500,000.00 for 2001-2002 and an amount not to exceed \$5,000,000.00 for 2002-2003 to the department 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 each fiscal year for 2001-2002 and 2002-2003 the following amounts:

(a) An amount estimated at \$3,251,800.00 from DED-OESE, title II, improving teacher quality funds.

(b) An amount estimated at \$1,188,000.00 from DED-OESE, title II, educational technology grants funds.

(c) An amount estimated at \$2,044,400.00 from DED-OESE, title V, innovative strategies grants funds.

(d) An amount estimated at \$100,500.00 from DED-OESE, title VI, rural and low income schools grants 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 university 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) From the allocation in subsection (1), there is allocated \$3,500,000.00 for 2002-2003 for the purpose of developing innovative strategies to use wireless technology to improve student academic achievement in this state. The Michigan virtual university shall identify not more than 5 pilot project sites for these initiatives. The pilot project sites shall be geographically diverse and at least 1 of the pilot project sites shall be in the Upper Peninsula. The pilot projects shall be funded through public-private partnerships. In addition, the Michigan virtual university shall establish local fund matching requirements for the pilot project sites.

(5) 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. To the extent allowed under federal law, the Michigan virtual university shall address the unique issues of providing educational opportunities in rural communities. 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.

(6) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title II, educational technology grants as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the pilot project sites identified in subsection (4). The memorandum of understanding shall require that the Michigan virtual 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 for students in high-need districts.

(7) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title V, innovative strategies grants as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the pilot project sites identified in subsection (4). The memorandum of understanding shall require the Michigan virtual university to coordinate the following state-level activities related to DED-OESE, title V, innovative strategies grants in accordance with federal law:

(a) Programs for the development or acquisition and use of instructional and educational materials, including computer software and hardware for instructional use, that will be used to improve student academic achievement as part of an overall education reform strategy.

(b) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

(8) The state education agency shall sign a memorandum of understanding with the Michigan virtual university requiring that the Michigan virtual university coordinate the awarding of competitive grants to districts and state-level activities related to DED-OESE, title VI, rural and low income schools grants in accordance with federal law for the following purposes:

(a) Teacher professional development, including programs that train teachers to utilize technology, programs to improve teaching, and programs to train special needs teachers.

(b) Educational technology, including software and hardware, as described in federal law.

(9) 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.

(10) The state education agency and the Michigan virtual university shall complete the memoranda of understanding required under this section within 60 days after the effective date of the amendatory act that added this subsection. 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 shall be for the purposes described in this section.

(11) 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.

388.1699 Mathematics and science centers.

Sec. 99. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed \$9,684,300.00 each fiscal year for 2001-2002 and for 2002-2003, and from the general fund appropriation in section 11 there is allocated an amount not to exceed \$548,000.00 each fiscal year for 2001-2002 and for 2002-2003, for implementing the comprehensive master plan for mathematics and science centers developed by the department and approved by the state board on February 17, 1993.

(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 grant under this section to more than 1 mathematics and science center located in a particular intermediate district unless each of the grants serves a distinct target population or provides a service that does not duplicate another program in the intermediate district.

(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 25 established mathematics and science centers and, subject to subsection (9), the 8 satellite extensions that were funded in 1996-97. Each established mathematics and science center that was funded in 1999-2000 shall receive an amount equal to 105.3% of the amount it received under this section in 1999-2000.

(6) In order to receive 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) From the state school aid fund allocation under subsection (1), there is allocated an amount not to exceed \$611,800.00 each fiscal year for 2001-2002 and for 2002-2003 for additional funding under this subsection for mathematics and science centers that have come into compliance with the comprehensive master plan described in subsection (1). These amounts are in addition to the funding determined under subsection (5) and are as follows for each of those fiscal years:

(a) \$68,000.00 each to the central Michigan science, mathematics, and technology center; the Hillsdale-Lenawee-Monroe mathematics and science center; the St. Clair mathematics, science, and technology network; the Saginaw valley state university regional center; the Genesee area mathematics, science, and technology center; the Grand Traverse

area regional mathematics, science, and technology center; and the Livingston/Washtenaw mathematics and science center.

(b) \$85,000.00 to the Grand valley state university regional mathematics and science center.

(c) \$50,800.00 to the Seaborg center at Northern Michigan university.

(8) Not later than June 30, 2000, the department shall reevaluate and update the comprehensive master plan described in subsection (1), including any recommendations for upgrading satellite extensions to full centers.

(9) During the course of the 2000-2001 and 2001-2002 fiscal years, the department shall facilitate the conversion of the 8 existing satellite extensions to full mathematics and science centers. To this end, in 2000-2001 the department shall provide 4 satellite extensions, as selected by the department, with applications for conversion to full centers, and in 2001-2002 the department shall provide the remaining 4 satellite extensions with applications for conversion. The department shall provide the applications not later than October 15 of the applicable fiscal year; a satellite extension shall submit the application and a detail plan as prescribed by the department not later than November 15 of the applicable fiscal year; and the department shall review the applications and plans and notify the satellite extensions of their status not later than December 1 of the applicable fiscal year. The allocations under this section are sufficient to fund the conversion of the satellite extensions to full centers and to fund them as full centers.

388.1699a School health education curriculum; composition of comprehensive school education steering committee; request by parent or guardian to examine textbooks and materials.

Sec. 99a. (1) From the appropriation in section 11, there is allocated for 2002-2003 an amount not to exceed \$3,180,000.00 for grants to intermediate districts and districts for providing a school health education curriculum. The curriculum provided, such as the Michigan model or another comprehensive school health curriculum, shall be in accordance with the health education goals established by the Michigan model for comprehensive school health education steering committee. This state steering committee shall be comprised of a representative from each of the following offices and departments:

(a) The department.

(b) The department of community health.

(c) The health administration in the department of community health.

(d) The bureau of mental and substance abuse services in the department of community health.

(e) The family independence agency.

(f) The department of state police.

(2) Upon written or oral request by a pupil who is at least 18 years of age or a parent or legal guardian of a pupil less than 18 years of age, school officials shall inform the pupil or parent, within a reasonable period of time after the request is made, of the content of a course in the health education curriculum and shall allow the pupil or parent to examine textbooks and other classroom materials that are provided to the pupil or materials that are presented to the pupil in the classroom. This subsection does not require a district to permit pupil or parental examination of test questions and answers, scoring keys, or other examination instruments or data used to administer an academic examination.

388.1701 Eligibility to receive state aid; filing certified and sworn copy of enrollment; failure to file; withholding state aid; falsification; minimum days and hours of pupil instruction; forfeiture; certification; strikes or teachers' conferences; rules; days not counted as days of pupil instruction; alternative scheduling program for pupils in kindergarten; waiver; certification of planned number of days and hours of pupil instruction; conditions requiring forfeiture; guidelines for providing minimum number of hours of instruction; application; waiver for alternative education program; counting professional development as pupil instruction.

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 department the data filed by 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 department, 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 department, in a form and manner prescribed by the department, 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) Except as otherwise provided in this section, each district shall provide at least 180 days of pupil instruction and a number of hours of pupil instruction at least equal to

the required minimum number of hours of pupil instruction required for 2000-2001 under section 1284 of the revised school code, MCL 380.1284. Except as otherwise provided in this act, a district failing to hold 180 days of pupil instruction shall forfeit from its total state aid allocation for each day of failure an amount equal to 1/180 of its total state aid allocation. 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. A district failing to meet both the 180 days of pupil instruction requirement and the minimum number of hours of pupil instruction requirement under this subsection shall be penalized only the higher of the 2 amounts calculated under the forfeiture provisions of this subsection. Not later than August 1, the board of each district shall certify to the department the number of days and hours of pupil instruction in the previous school year. If the district did not hold at least 180 days and 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 (7). Days or hours lost because of strikes or teachers' conferences shall not be counted as days or hours of pupil instruction. 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. The superintendent shall promulgate rules for the implementation of this subsection.

(4) The first 2 days for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent such days shall not be counted as days 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) Upon application by the district for a particular fiscal year, the superintendent may waive the minimum number of days of pupil instruction requirement of subsection (3) for a district if the district has adopted an experimental school year schedule in 1 or more buildings in the district if the experimental school year schedule provides the required minimum number of hours of pupil instruction under subsection (3) or more and is consistent with all state board policies on school improvement and restructuring. 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 of part of its state aid allocation for the specific building or program covered by the waiver.

(7) Not later than April 15 of each fiscal year, the board of each district shall certify to the department the planned number of days and 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 180 days and

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 180 days and the required minimum number of hours of pupil instruction under subsection (3) in a school year, including days counted under subsection (4).

(b) The board of the district takes formal action not to operate its schools for at least 180 days and the required minimum number of hours of pupil instruction under subsection (3) in a school year, including days counted under subsection (4).

(8) 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) 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.

(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.

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

(10) Upon application by the district for a particular fiscal year, the superintendent may waive for a district the 180 days or 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.

(11) Beginning in 2000-2001, a district may count up to 51 hours of professional development for teachers as hours of pupil instruction. A district that elects to use this exception shall notify the department of its election.

388.1705 Counting nonresident pupils in membership; application and enrollment; procedures.

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 the applicant is, or has been within the preceding 2 years, suspended from another school or if the applicant has ever been expelled from another school.

(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) If the total number of pupils enrolled and counted in membership in a district for 2001-2002 is less than 90% of the total number of pupils residing in the district who are enrolled and counted in membership in either that district or 1 or more other districts for 2001-2002, the total amount of money allocated to that district for 2001-2002 under sections 22a and 22b shall be adjusted so that the district receives a total allocation under those sections equal to the amount the district would receive under those sections if exactly 90% of the pupils residing in the district who are enrolled and counted in either that district or 1 or more other districts were enrolled and counted in membership in that district.

(18) Beginning in 2002-2003, if the total number of pupils enrolled and counted in membership in a district for a fiscal year is less than 90% of the sum of the total number

of pupils residing in the district who are enrolled and counted in membership for the fiscal year in that district plus the total number of pupils residing in that district who are enrolled and counted in membership for the fiscal year in 1 or more other districts under this section or section 105c, the department shall calculate the total amount of money that would be allocated to that district for the fiscal year under sections 22a and 22b if exactly 90% of the sum of the total number of pupils residing in the district who are enrolled and counted in membership for the fiscal year in that district plus the total number of pupils residing in that district who are enrolled and counted in membership for the fiscal year in 1 or more other districts under this section or section 105c were enrolled and counted in membership in that district for the fiscal year. The department shall use this calculation to calculate a payment under subsection (19).

(19) Subject to subsection (20), beginning in 2002-2003, the department shall make a payment to a district described in subsection (18) in an amount equal to a percentage of the difference between the total amount of money the district would receive under sections 22a and 22b for the particular fiscal year as otherwise calculated under this act and the amount calculated under subsection (18). This percentage is as follows:

- (a) For 2002-2003, 75%.
- (b) For 2003-2004, 50%.
- (c) For 2004-2005, 25%.
- (d) For 2005-2006 and succeeding fiscal years, 0%.

(20) A district is not eligible for a payment under subsection (19) if the district receives additional funding for the applicable fiscal year due to the membership calculation under section 6(4)(y).

(21) 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.

(22) 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, 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.

(23) 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.

(24) 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.

388.1707 Allocation for adult education programs.

Sec. 107. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$75,000,000.00 for 2001-2002 and an amount not to exceed \$77,500,000.00 for 2002-2003 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 education 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 education 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, is at least 20 years of age on September 1 of the school year.

(3) The amount allocated under subsection (1) shall be distributed as follows:

(a) For districts and consortia that received payments for 1995-96 under former section 107f and that received payments for 1996-97 under subsection (4) of this section as in effect in 1996-97, the amount allocated to each for 2001-2002 and for 2002-2003 shall be an amount each fiscal year equal to 36.76% of the amount the district or consortium received for 1995-96 under former section 107f.

(b) For districts and consortia that received payments under subsection (3) of this section as in effect for 1996-97, the amount allocated to each for 2001-2002 and for 2002-2003 shall be an amount each fiscal year equal to the product of the number of full-time equated participants actually enrolled and in attendance during the 1996-97 school fiscal year in the program funded under subsection (3) of this section as in effect for 1996-97 as reported to the department of career development, audited, and adjusted according to subsection (10) of this section as in effect for 1996-97, multiplied by \$2,750.00.

(c) For districts and consortia that meet the conditions of both subdivisions (a) and (b), the amount allocated each fiscal year for 2001-2002 and for 2002-2003 shall be the sum of the allocations to the district or consortium under subdivisions (a) and (b).

(d) A district or consortium that received funding in 1996-97 under this section as in effect for 1996-97 may operate independently of a consortium or join or form a consortium for 2001-2002 or for 2002-2003. The allocation for 2001-2002 or for 2002-2003 to the district or the newly formed consortium under this subsection shall be determined by the department of career development and shall be based on the proportion of the amounts specified in subdivision (a) or (b), or both, that are attributable to the district or consortium that received funding in 1996-97. A district or consortium described in this subdivision shall notify the department of career development of its intention with regard to 2001-2002 or 2002-2003 by October 1 of the affected fiscal year.

(4) A district that operated an adult education program in 1996-97 and does not intend to operate a program in 2001-2002 or 2002-2003 shall notify the department of career development by October 1 of the affected fiscal year of its intention. The funds intended to be allocated under this section to a district that does not operate a program in 2001-2002 or 2002-2003 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 2001-2002 or 2002-2003 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 career development.

(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 career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(7) A general education 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 career development 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 career development 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) The department shall work with the department of education to ensure that this section is administered in the same manner as in 1998-99.

388.1708 Adult learning programs.

Sec. 108. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$20,000,000.00 for 2001-2002 and an amount not to exceed \$20,000,000.00 for 2002-2003 for partnership for adult learning programs authorized under this section.

(2) To be eligible to be enrolled as a participant in an adult learning program funded under this section, a person shall be at least 16 years of age as of September 1 of the immediately preceding state fiscal year and shall meet the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual is determined to have English language proficiency, reading, writing, or math skills below workforce readiness standards as determined by tests approved by the department of career development and is not enrolled in a postsecondary institution. An individual who has obtained a high school diploma is not eligible for enrollment in a G.E.D. test preparation program funded under this section.

(b) If the individual has not obtained a high school diploma or a G.E.D. certificate, the individual has not attended a secondary institution for at least 6 months before enrollment in an adult learning program funded under this section and is not enrolled in a postsecondary institution.

(3) From the allocation under subsection (1), an amount not to exceed \$19,800,000.00 is allocated for 2001-2002 and an amount not to exceed \$19,800,000.00 is allocated for 2002-2003 to local workforce development boards for the purpose of providing regional adult learning programs. An application for a grant under this subsection shall be in the form and manner prescribed by the department of career development. Subject to subsections (4), (5), and (6), the amount allocated to each local workforce development board shall be as provided in this subsection, except that an eligible local workforce development board shall not receive an initial allocation under this section that is less than \$70,000.00. The maximum amount of a grant awarded to an eligible local workforce development board shall be the sum of the following components:

(a) Thirty-four percent of the allocation under this subsection multiplied by the proportion of the family independence agency caseload in the local workforce development board region to the statewide family independence agency caseload.

(b) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 who have not received a high school diploma compared to the statewide total of persons over age 17 who have not received a high school diploma.

(c) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 for whom English is not a primary language compared to the statewide total of persons over age 17 for whom English is not a primary language.

(4) The amount of a grant to a local workforce development board under subsection (3) shall not exceed the cost for adult learning programs needed in the local workforce development board region, as documented in a manner approved by the department of career development.

(5) Not more than 9% of a grant awarded to a local workforce development board may be used for program administration, including contracting for the provision of career and educational information, counseling services, and assessment services.

(6) In order to receive funds under this section, a local workforce development board shall comply with the following requirements in a manner approved by the department of career development:

(a) The local workforce development board shall document the need for adult learning programs in the local workforce development region.

(b) The local workforce development board shall report participant outcomes and other measurements of program performance.

(c) The local workforce development board shall develop a strategic plan that incorporates adult learning programs in the region. A local workforce development board is not eligible for state funds under this section without a strategic plan approved by the department of career development.

(d) The local workforce development board shall furnish to the department of career development, in a form and manner determined by the department of career development, the information the department of career development determines is necessary to administer this section.

(e) The local workforce development board shall allow access for the department of career development or its designee to audit all records related to adult learning programs for which it receives funds. The local workforce development board shall reimburse this state for all disallowances found in the audit in a manner determined by the department of career development.

(7) Local workforce development boards shall distribute funds to eligible adult learning providers as follows:

(a) Not less than 85% of a grant award shall be used to support programs that improve reading, writing, and math skills to workforce readiness standards; English as a second language programs; G.E.D. preparation programs; high school completion programs; or workforce readiness programs in the local workforce development board region. These programs may include the provision of career and educational information, counseling services, and assessment services.

(b) Up to 15% of a grant award may be used to support workforce readiness programs for employers in the local workforce development board region as approved by the department of career development. Employers or consortia of employers whose employees participate in these programs must provide matching funds in a ratio of at least \$1.00 of private funds for each \$1.00 of state funds.

(8) Local workforce development boards shall award competitive grants to eligible adult learning providers for the purpose of providing adult learning programs in the local workforce development board region. Applications shall be in a form and manner prescribed by the department of career development. In awarding grants, local workforce development boards shall consider all of the following:

(a) The ability of the provider to assess individuals before enrollment using assessment tools approved by the department of career development and to develop individual adult learner plans from those assessments for each participant.

(b) The ability of the provider to conduct continuing assessments in a manner approved by the department of career development to determine participant progress toward achieving the goals established in individual adult learner plans.

(c) The past effectiveness of an eligible provider in improving adult literacy skills and the success of an eligible provider in meeting or exceeding performance measures approved by the department of career development.

(d) Whether the program is of sufficient intensity and duration for participants to achieve substantial learning gains.

(e) Whether the program uses research-based instructional practices that have proven to be effective in teaching adult learners.

(f) Whether the program uses advances in technology, as appropriate, including computers.

(g) Whether the programs are staffed by well-trained teachers, counselors, and administrators.

(h) Whether the activities coordinate with other available resources in the community, such as schools, postsecondary institutions, job training programs, and social service agencies.

(i) Whether the provider offers flexible schedules and support services, such as child care and transportation, that enable participants, including individuals with disabilities or other special needs, to attend and complete programs.

(j) Whether the provider offers adequate job and postsecondary education counseling services.

(k) Whether the provider can maintain an information management system that has the capacity to report participant outcomes and monitor program performance against performance measures approved by the department of career development.

(l) Whether the provider will allow access for the local workforce development board or its designee to audit all records related to adult learning programs for which it receives funds. The adult learning provider shall reimburse the local workforce development board for all disallowances found in the audit.

(m) The cost per participant contact hour or unit of measurable outcome for each type of adult learning program for which the provider is applying.

(9) Contracts awarded by local workforce development boards to adult learning providers shall comply with the priorities established in a strategic plan approved by the department of career development.

(10) Adult learning providers that do not agree with the decisions of the local workforce development board in issuing or administering competitive grants may use the grievance procedure established by the department of career development.

(11) Local workforce development boards shall reimburse eligible adult learning providers under this section as follows:

(a) For a first-time provider, as follows:

(i) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon enrollment of participants in adult learning programs. "Enrollment" means a participant enrolled in the program who received a preenrollment assessment using assessment tools approved by the department of career development and for whom an individual adult learner plan has been developed.

(ii) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon the following performance standards as measured in a manner approved by the department of career development:

(A) The percentage of participants taking both a pretest and a posttest in English language proficiency, reading, writing, and math.

(B) The percentage of participants showing improvement toward goals identified in their individual adult learner plan.

(C) The percentage of participants achieving their terminal goals as identified in their individual adult learner plan.

(b) Eligible providers that have provided adult learning programs previously under this section shall be reimbursed 100% of the contract amount based upon the performance standards in subdivision (a)(ii) as measured in a manner determined by the department of career development.

(c) A provider is eligible for reimbursement for a participant in an adult learning program until the participant's reading, writing, or math proficiency, as applicable, is

assessed at workforce readiness levels or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(d) A provider is eligible for reimbursement for a participant in an English as a second language program until the participant is assessed as having attained basic English proficiency or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(e) A provider is eligible for reimbursement for a participant in a G.E.D. test preparation program until the participant passes the G.E.D. test or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(f) A provider is eligible for reimbursement for a participant in a high school completion program until the participant earns a high school diploma or the participant fails to show progress as determined by the department of career development.

(12) A person who is not eligible to be a participant funded under this section may receive adult learning services upon the payment of tuition or fees for service. The tuition or fee level shall be determined by the adult learning provider and approved by the local workforce development board.

(13) Adult learning providers may collect refundable deposits from participants for the use of reusable equipment and supplies and may provide incentives for program completion.

(14) A provider shall not be reimbursed under this section for an individual who is an inmate in a state correctional facility.

(15) In order to administer the partnership for adult learning system under this section, the department of career development shall do all of the following:

(a) Develop and provide guidelines to local workforce development boards for the development of strategic plans that incorporate adult learning.

(b) Develop and provide adult learning minimum program performance standards to be implemented by local workforce development boards.

(c) Identify approved assessment tools for assessing a participant's English language proficiency, reading, math, and writing skills.

(d) Approve workforce readiness standards for English language proficiency, reading, math, and writing skills that can be measured by nationally recognized assessment tools approved by the department of career development.

(16) Of the amount allocated in subsection (1), up to \$200,000.00 is allocated to the department of career development for the development and administration of a standardized data collection system. Local workforce development boards and adult learning providers receiving funding under this section shall use the standardized data collection system for enrolling participants in adult learning programs, tracking participant progress, reporting participant outcomes, and reporting other performance measures.

(17) A provider is not required to use certificated teachers or certificated counselors to provide instructional and counseling services in a program funded under this section.

(18) As used in this section:

(a) "Adult education", for the purposes of complying with section 3 of article VIII of the state constitution of 1963, means a high school pupil receiving educational services in a nontraditional setting from a district or intermediate district in order to receive a high school diploma.

(b) "Adult learning program" means a program approved by the department of career development that improves reading, writing, and math skills to workforce readiness

standards; an English as a second language program; a G.E.D. preparation program; a high school completion program; or a workforce readiness program that enhances employment opportunities.

(c) “Eligible adult learning provider” means a district, public school academy, intermediate district, community college, university, community-based organization, or other organization approved by the department of career development that provides adult learning programs under a contract with a local workforce development board.

(d) “Participant” means an individual enrolled in an adult learning program and receiving services from an eligible adult learning provider.

(e) “Strategic plan” means a document approved by the department of career development that incorporates adult learning goals and objectives for the local workforce development board region and is developed jointly by the local workforce development board and the education advisory groups.

(f) “Workforce development board” means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(g) “Workforce readiness standard” means a proficiency level approved by the department of career development in English language, reading, writing, or mathematics, or any and all of these, as determined by results from assessments approved for use by the department of career development.

388.1721a State education tax; costs for changing collection date.

Sec. 121a. From the general fund appropriation in section 11, there is allocated for 2002-2003 only an amount not to exceed \$4,600,000.00 to the department of treasury for payments to local treasurers for the costs of changing the collection date for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. Eligible costs to be reimbursed and the manner of reimbursement shall be determined by the department of treasury.

388.1747 Allocations to public school employees’ retirement system.

Sec. 147. (1) The allocations for 2001-2002 and 2002-2003 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 12.17% for the 2001-2002 state fiscal year and at 12.99% for the 2002-2003 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 35 years for 2001-2002 and 34 years for 2002-2003. 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.

Total state spending; payments to local units of government.

Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2001 PA 121 and 2000 PA 297 from state sources for fiscal year 2001-2002 is estimated at \$11,220,561,700.00 and state appropriations to be paid to local units of government for fiscal year 2001-2002 are estimated at \$11,181,789,800.00; and total state spending in this amendatory act and in 2001 PA 121 and 2000 PA 297 from state sources for fiscal year 2002-2003 is estimated at \$11,472,054,900.00 and state appropriations to be paid to local units of government for fiscal year 2002-2003 are estimated at \$11,420,969,500.00.

Repeal of §§ 388.1632g, 388.1632h, 388.1663, 388.1695, 388.1697, and 388.1766d; repeal of §§ 388.1622c, 388.1632e, and 388.1633; effective date.

Enacting section 2. (1) Sections 32g, 32h, 63, 95, 97, and 166d of the state school aid act of 1979, 1979 PA 94, MCL 388.1632g, 388.1632h, 388.1663, 388.1695, 388.1697, and 388.1766d, are repealed.

(2) Sections 22c, 32e, and 33 of the state school aid act of 1979, 1979 PA 94, MCL 388.1622c, 388.1632e, and 388.1633, are repealed effective October 1, 2002.

Effective date of § 388.1619.

Enacting section 3. Section 19 of the state school aid act of 1979, 1979 PA 94, MCL 388.1619, as amended by this amendatory act, takes effect October 1, 2002.

This act is ordered to take immediate effect.

Approved April 25, 2002.

Filed with Secretary of State April 26, 2002.

[No. 192]

(HB 5763)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the

provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” by amending sections 3, 4, 4a, 10, 19, 20, 27, 29, 32, 44, 48, 54, and 54c (MCL 421.3, 421.4, 421.4a, 421.10, 421.19, 421.20, 421.27, 421.29, 421.32, 421.44, 421.48, 421.54, and 421.54c), section 4 as amended by 1996 PA 498, section 10 as amended by 1989 PA 224, section 19 as amended by 1996 PA 535, sections 20 and 54 as amended by 1994 PA 162, section 27 as amended by 1995 PA 181, section 29 as amended by 1995 PA 25, section 32 as amended by 1996 PA 503, section 44 as amended by 1996 PA 504, section 48 as amended by 1983 PA 164, and section 54c as amended by 1993 PA 277, and by adding sections 5b, 13l, and 32b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

421.3 Bureau of worker’s and unemployment compensation; policies; definitions.

Sec. 3. (1) The bureau of worker’s and unemployment compensation shall establish policies in conformity with this act to do all of the following:

(a) Reduce and prevent unemployment.

(b) Promote the reemployment of unemployed workers throughout this state in every other way that may be feasible.

(c) Carry on and publish the results of investigations and research studies.

(d) Investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and this state, of reserves for public works to be used in times of business depression and unemployment.

(2) As used in this act:

(a) “Bureau”, “commission”, and “unemployment agency” mean the bureau of worker’s and unemployment compensation created in section 5b.

(b) “Director” means the director of the bureau of worker’s and unemployment compensation.

421.4 Rules and regulations; distribution; public hearing; notice; publication; copies furnished; effective date.

Sec. 4. (1) The bureau may promulgate rules and regulations that it determines necessary, and that are not inconsistent with this act, to carry out this act.

(2) The bureau shall cause to be printed for distribution to the public the text of this act, and all rules and regulations of the bureau, and shall make available to the public upon request statements of all informal rules or criteria of decision, administrative policies, or interpretations, which may be utilized by the bureau or any of its agents or employees in any manner.

(3) No rule or regulation shall be made or changed until after public hearing, notice of which shall first be given not less than 20 days before the hearing, by publication in at least 3 newspapers of general circulation in different parts of this state, 1 of which shall be in the Upper Peninsula. Copies of proposed rules or regulations shall be furnished by the bureau upon application by any interested parties. Rules and regulations shall become effective in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

421.4a Parking facility; approval of state administrative board.

Sec. 4a. The bureau may acquire, purchase, erect, or improve land or buildings, within funds available for that purpose, as it considers necessary for use as a parking facility in Detroit for the state administrative office. No land or buildings shall be acquired, purchased, erected, or improved until the approval of the state administrative board is obtained. Title to the land or buildings shall be in the name of this state.

421.5b Bureau of worker's and unemployment compensation; creation within department of consumer and industry services; director; transfer of powers and duties by executive order.

Sec. 5b. (1) The bureau of worker's and unemployment compensation is created within the department of consumer and industry services.

(2) The bureau shall be headed by a director who shall be appointed by the governor.

(3) All of the authority, powers, functions, duties, and responsibilities of the unemployment agency provided under this act are transferred to the bureau as provided in Executive Order No. 2002-1.

(4) All of the powers, functions, duties, and responsibilities of the director of the unemployment agency, defined as the director of employment security in Executive Order No. 1997-12, provided under this act are transferred to the director as provided in Executive Order No. 2002-1.

421.10 Administration fund; contingent fund.

Sec. 10. (1) There is created in the department of treasury a special fund to be known and designated as the administration fund (Michigan employment security act). Any balances in the administration fund at the end of any fiscal year of this state shall be carried over as a part of the administration fund and shall not revert to the general fund of this state. Except as otherwise provided in subsection (3), all money deposited into the administration fund under this act shall be appropriated by the legislature to the unemployment agency to pay the expenses of the administration of this act.

(2) The administration fund shall be credited with all money appropriated to the fund by the legislature, all money received from the United States or any agency of the United States for that purpose, and all money received by this state for the fund. All money in the administration fund that is received from the federal government or any agency of the federal government or that is appropriated by this state for the purposes of this act, except money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 U.S.C. 1103, and with section 17(3)(f), shall be expended solely for the purposes and in the amounts found necessary by the appropriate agency of the United States and the legislature for the proper and efficient administration of this act.

(3) All money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 U.S.C. 1103, and with section 17(3)(f), shall be deposited in the administration fund. Any money that remains unexpended at the close of the 2-year period beginning on the date of enactment of a specific appropriation shall be immediately redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund; or any money that for any reason cannot be expended or is not to be expended for the purpose for which appropriated before the close of this 2-year period shall be redeposited at the earliest practicable date.

(4) If any money received after June 30, 1941, from the appropriate agency of the United States under title III of the social security act, 42 U.S.C. 501 to 504, or any unencumbered balances in the administration fund (Michigan employment security act) as of that date, or any money granted after that date to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, or any money made available by this state or its political subdivisions and matched by money granted to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, is found by the appropriate agency of the United States, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, the money shall be replaced by money appropriated for that purpose from the general funds of this state to the administration fund (Michigan employment security act) for expenditure as provided in this act. Upon receipt of notice of such a finding by the appropriate agency of the United States, the commission shall promptly report the amount required for replacement to the governor and the governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount. This subsection shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of title III of the social security act, 42 U.S.C. 501 to 504.

(5) If any funds expended or disbursed by the commission are found by the appropriate agency of the United States to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, and if these funds are replaced as provided in subsection (4) by money appropriated for that purpose from the general fund of this state, then the director who approved the expenditure or disbursement of those funds for those purposes or in those amounts, shall be liable to this state in an amount equal to the sum of money appropriated to replace those funds. The director shall be required by the governor to post a proper bond in a sum not less than \$25,000.00 to cover his or her liability as prescribed in this section, the cost of the bond to be paid from the general fund of this state.

(6) There is created in the department of treasury a separate fund to be known as the contingent fund (Michigan employment security act) into which shall be deposited all solvency taxes collected under section 19a and all interest on contributions, penalties, and damages collected under this act. Except as otherwise provided in subsections (7) and (8), all amounts in the contingent fund (Michigan employment security act) and all earnings on those amounts are continuously appropriated without regard to fiscal year for the administration of the unemployment agency and for the payment of interest on advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321, to be expended only if authorized by the unemployment agency. Money deposited from the solvency taxes collected pursuant to section 19a shall not be used for the administration of the unemployment agency, except for the repayment of loans from the state treasury and interest on loans made under section 19a(3). However, an authorization or expenditure shall not be made as a substitution for a grant of federal funds or for any portion of a grant that, in the absence of an authorization, would be available to the commission. Immediately upon receipt of administrative grants from the appropriate agency of the United States to cover administrative costs for which the commission has authorized and made expenditures from the contingent fund, those grants shall be transferred to the contingent fund to the extent necessary to reimburse the contingent fund for the amount of those expenditures. Amounts needed to refund interest, damages, and penalties erroneously collected shall be withdrawn and expended for those purposes from the contingent fund upon order of the unemployment agency. Any amount authorized to be expended for administration pursuant to this section may be transferred to the administration fund. An amount not

needed for the purpose for which authorized shall, upon order of the unemployment agency, be returned to the contingent fund. Amounts needed to refund erroneously collected solvency taxes shall be withdrawn and expended for that purpose upon order of the unemployment agency.

(7) On June 30, 2002, the unemployment agency shall authorize the withdrawal of \$79,500,000.00 from the contingent fund (Michigan employment security act) for deposit into the general fund.

(8) At the close of the state fiscal year in 2002 and each year after 2002, all funds in the contingent fund (Michigan employment security act) in excess of \$15,000,000.00 shall lapse to the unemployment trust fund.

421.13/ Indian tribe or tribal unit as employer; requirements.

Sec. 13l. (1) An Indian tribe or tribal unit liable as an employer under section 41 shall pay reimbursements in lieu of contributions under the same terms and conditions as all other reimbursing employers liable under section 41, unless the Indian tribe or tribal unit elects to pay contributions.

(2) An Indian tribe or tribal unit that elects to make contributions shall file with the unemployment agency a written request for that election before January 1 of the calendar year in which the election will be effective or within 30 days of the effective date of the amendatory act that added this section. The Indian tribe or tribal unit shall determine if the election to pay contributions will apply to the tribe as a whole, will apply only to individual tribal units, or will apply to stated combinations of individual tribal units.

(3) An Indian tribe or tribal unit paying reimbursements in lieu of contributions shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit. An Indian tribe or tribal unit shall reimburse the fund annually within 30 calendar days after the mailing of the final billing for the immediately preceding calendar year.

(4) If an Indian tribe or tribal unit fails to make payments in lieu of contributions, including assessments of interest and penalties, within 90 calendar days after the mailing of the notice of delinquency, the Indian tribe will lose the ability to make payments in lieu of contributions immediately unless the payment in full or collection on the security is received by the unemployment agency by December 1 of that calendar year. An Indian tribe that loses the ability to make payments in lieu of contributions shall be made a contributing employer and shall not have the ability to make payments in lieu of contributions until all contributions, payments in lieu of contributions, interest, or penalties have been paid. The ability to make payments in lieu of contributions shall be reinstated effective the January 1 immediately succeeding the year in which the Indian tribe has paid in full all contributions, payments in lieu of contributions, interest, and penalties. If an Indian tribe fails to pay in full all contributions, payments in lieu of contributions, interest, and penalties within 90 calendar days of a notice of delinquency, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury of that delinquency. If that delinquency is satisfied, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury that all contributions, payments in lieu of contributions, interest, and penalties have been paid.

(5) A notice of delinquency to an Indian tribe or tribal unit shall include information that failure to make full payment within 90 days of the date of mailing of the notice of delinquency will result in the Indian tribe losing the ability to make payments in lieu of contributions until the delinquency and all contributions, payments in lieu of contributions, interest, and penalties have been paid in full.

(6) Any Indian tribe or tribal unit that makes reimbursement payments in lieu of contributions shall be required to post a security, subject to all of the following conditions:

(a) A reimbursing tribe or tribal unit must either post the security within 30 days of the effective date of the amendatory act that added this section or by November 30 of the year before the year for which the security is required.

(b) The security shall be in the form of a surety bond, irrevocable letter of credit, or other banking device that is acceptable to the unemployment agency and that provides for payment to the unemployment agency, on demand, of an amount equal to the security that is required to be posted. The required security may be posted by a third-party guarantor.

(c) The requirement for a security does not apply to an Indian tribe or tribal unit that is expected to have less than \$100,000.00 per calendar year in total wage payments, as determined by the unemployment agency. An Indian tribe or tribal unit is required to provide security if the payment of gross wages in a calendar year is equal to or greater than \$100,000.00. The employer shall notify the unemployment agency within 60 days from the date its payroll equals or exceeds \$100,000.00. The security shall be posted within 30 days of notice by the unemployment agency of a requirement to post a security.

(d) The amount of the security required is 4.0% of the employer's estimated total annual wage payments, as determined by the unemployment agency. Indian tribes or tribal units that have a previous wage payment history shall be required to file a security that is equal to 4.0% of the gross wages paid for the 12-month period ending June 30 of the year immediately preceding the year for which the security is required or 4.0% of the employer's estimated total annual wages, whichever is greater.

(7) Any Indian tribe or tribal unit that is liable for reimbursements in lieu of contributions may form a group account with another tribe or tribal unit, in the same manner and with the same restrictions provided in section 13e(3).

(8) Notwithstanding section 41(1), after December 20, 2000, "employer" includes an Indian tribe or tribal unit for which services are performed in employment as defined in subsection (9).

(9) After December 20, 2000, "employment" includes service performed in the employ of an Indian tribe or tribal unit, if the service is excluded from employment as that term is defined in the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, solely by reason of section 3306(e)(7) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, and is not otherwise excluded from the definition of employment under section 43.

(10) As used in this act:

(a) "Indian tribe" means that term as defined in section 3306(u) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3306.

(b) "Tribal unit" includes any subdivision, subsidiary, or business enterprise, wholly owned by an Indian tribe.

421.19 Contribution rate of contributing employer; determination; reserve fund balance of reorganized employer; distressed employer; irrevocability of excess payments to experience account.

Sec. 19. (a) The commission shall determine the contribution rate of each contributing employer for each calendar year after 1977 as follows:

(1) (i) Except as provided in paragraph (ii), an employer's rate shall be calculated as described in table A with respect to wages paid by the employer in each calendar year for employment. If an employer's coverage is terminated under section 24, or at the conclusion of 8 or more consecutive calendar quarters during which the employer has not had

workers in covered employment, and if the employer becomes liable for contributions, the employer shall be considered as newly liable for contributions for the purposes of table A or table B of this subsection.

(ii) To provide against the high risk of net loss to the fund in such cases, an employing unit that becomes newly liable for contributions under this act in a calendar year beginning on or after January 1, 1983 in which it employs in “employment”, not necessarily simultaneously but in any 1 week 2 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar construction projects, shall be liable for contributions to that employer’s account under this act for the first 4 years of operations in this state at a rate equal to the average rate paid by employers engaged in the construction business as determined by contractor type in the manner provided in table B.

(iii) For the calendar years 1983 and 1984, the contribution rate of a construction employer shall not exceed its 1982 contribution rate with respect to wages, paid by that employer, related to the execution of a fixed price construction contract that was entered into prior to January 1, 1983. Furthermore, that contribution rate shall be reduced, by the solvency tax rate assessed against the employer under section 19a, for the year in which the solvency tax rate is applicable. Furthermore, notwithstanding section 44, the taxable wage limit, for calendar years 1983 and 1984, with respect to wages paid under a fixed price contract, shall be the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year.

Table A

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7%
3	1/3 (chargeable benefits component) + 1.8%
4	2/3 (chargeable benefits component) + 1.0%
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission

3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(2) With the exception of employers who are in the first 4 consecutive years of liability, each employer's contribution rate for each calendar year after 1977 shall be the sum of the following components, all of which are determined as of the computation date: a chargeable benefits component determined under subdivision (3), an account building component determined under subdivision (4), and a nonchargeable benefits component determined under subdivision (5). Each employer's contribution rate for calendar years before 1978 shall be determined by the provisions of this act in effect during the years in question.

(3) (i) The chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 60 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%.

(ii) For benefit years established before the conversion date prescribed in section 75, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the statutory ratio of regular benefit payments to credit weeks. In the event of a change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. In the event of an increase in the statutory ratio of regular benefit payments to credit weeks, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the ratio of regular benefit payments to credit weeks. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%. For benefit years established after the conversion date prescribed in section 75, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the percentage factor of base period wages, which defines maximum duration, as provided in section 27(d). If there is a statutory change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. If there is an increase in the statutory percentage factor of base period wages, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the

percentage factor of base period wages. If the resulting increase is not already an exact multiple of $1/10$ of 1%, it shall be adjusted to the next higher multiple of $1/10$ of 1%.

(4) The account building component of an employer's contribution rate is the percentage arrived at by the following calculations: (i) Multiply the amount of the employer's total payroll for the 12 months ending on the computation date, by the cost criterion; (ii) Subtract the amount of the balance in the employer's experience account as of the computation date from the product determined under (i); and (iii) if the remainder is zero or a negative quantity, the account building component of the employer's contribution rate shall be zero; but (iv) if the remainder is a positive quantity, the account building component of the employer's contribution rate shall be determined by dividing that remainder by the employer's total payroll paid within the 12 months ending on the computation date. The account building component shall not exceed the lesser of $1/4$ of the percentage calculated or 2%. However, except as otherwise provided in this subdivision, the account building component shall not exceed the lesser of $1/2$ of the percentage calculated or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, times the cost criterion. For calendar years after 1993 and before 1996, the account building component shall not exceed the lesser of .69 of the percentage calculated, or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), times the cost criterion; selected for the computation date under section 18(e). If the account building component determined under this subdivision is not an exact multiple of $1/10$ of 1%, it shall be adjusted to the next higher multiple of $1/10$ of 1%.

(5) The nonchargeable benefits component of employers' contribution rates is the percentage arrived at by the following calculations: (i) multiply the aggregate amount of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), by the cost criterion selected for the computation date under section 18(e); (ii) subtract the balance of the unemployment fund on the computation date, net of federal advances, from the product determined under (i); and (iii) if the remainder is zero or a negative quantity, the nonchargeable benefits component of employers' contribution rates shall be zero; but (iv) if the remainder is a positive quantity, the nonchargeable benefits component of employers' contribution rates shall be determined by dividing that remainder by the total of wages subject to contributions under this act paid by all contributing employers within the 12 months ending on March 31 and adjusting the quotient, if not an exact multiple of $1/10$ of 1%, to the next higher multiple of $1/10$ of 1%. The maximum nonchargeable benefits component shall be 1%. However, for calendar years after 1993, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date, or for calendar years after 1995, if the employer's chargeable benefits component is less than $2/10$ of 1%, the maximum nonchargeable benefit component shall not exceed $1/2$ of 1%. For calendar years after 1995, if there are no benefit charges against an employer's account for the 72 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed $4/10$ of 1%. For calendar years after 1996, if there are no benefit charges against an employer's account for the 84 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed $3/10$ of 1%. For calendar years after 1997, if there are no benefit charges against an employer's account for the 96 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed $2/10$ of 1%. For calendar years after 1998, if there are no benefit charges against an employer's

account for the 108 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 1/10 of 1%. For calendar years after 2002, the maximum nonchargeable benefits component shall not exceed 1/10 of 1% if there are no benefit charges against an employer's account for the 60 months ending as of the computation date; 9/100 of 1% if there are no benefit charges against an employer's account for the 72 months ending as of the computation date; 8/100 of 1% if there are no benefit charges against an employer's account for the 84 months ending as of the computation date; 7/100 of 1% if there are no benefit charges against an employer's account for the 96 months ending as of the computation date; or 6/100 of 1% if there are no benefit charges against an employer's account for the 108 months ending as of the computation date. For purposes of determining a nonchargeable benefits component under this subsection, an employer account shall not be considered to have had a charge if claim for benefits is denied or determined to be fraudulent pursuant to section 54 or 54c. An employer with a positive balance in its experience account on the June 30 computation date preceding the calendar year shall receive for that calendar year a credit in an amount equal to 1/2 of the extra federal unemployment tax paid in the preceding calendar year under section 3302(c)(2) of the federal unemployment tax act, 26 U.S.C. 3302, because of an outstanding balance of unrepaid advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321. However, the credit for any calendar year shall not exceed an amount determined by multiplying the employer's nonchargeable benefit component for that calendar year times the employer's taxable payroll for that year. Contributions paid by an employer shall be credited to the employer's experience account, in accordance with the provisions of section 17(5), without regard to any credit given under this subsection. The amount credited to an employer's experience account shall be the amount of the employer's tax before deduction of the credit provided in this subsection.

(6) The total of the chargeable benefits and account building components of an employer's contribution rate shall not exceed by more than 1% in the 1983 calendar year, 1.5% in the calendar year 1984, or 2% in the 1985 calendar year the higher of 4% or the total of the chargeable benefits and the account building components that applied to the employer during the preceding calendar year. For calendar years after 1985, the total of the chargeable benefits and account building components of the employer's contribution rate shall be computed without regard to the foregoing limitation provided in this subdivision. During a year in which this subdivision limits an employer's contribution rate, the resulting reduction shall be considered to be entirely in the experience component of the employer's contribution rate, as defined in section 18(d).

(7) Unless an employer's contribution rate is 1/10 of 1% for calendar years beginning after December 31, 1995, the employer's contribution rate shall be reduced by any of the following calculation methods that results in the lowest rate:

(i) The chargeable benefits component, the account building component, and the nonchargeable benefits component of the contribution rate calculated under this section shall each be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%. The 3 components as increased shall then be added together.

(ii) One-tenth of 1% shall be deducted from the contribution rate.

(iii) The contribution rate shall be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%.