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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Rep. Oxender

ENROLLED HOUSE BILL No. 4299

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 11, 20, 31a, 99, 104a, and 107 (MCL 388.1611, 388.1620, 388.1631a, 388.1699, 388.1704a, and 388.1707), sections 11, 20, 31a, 99, and 104a as amended and section 107 as added by 1996 PA 300, and by adding sections 6b, 105a, and 105b.

The People of the State of Michigan enact:

Sec. 6b. (1) A district enrolling a nonresident pupil with the approval of the pupil's district of residence may count the pupil in membership in a school year if the approval of the pupil's district of residence is received before the end of that school year.

(2) If the approval described in subsection (1) is received by the educating district at any time before the end of its school year, the department shall adjust the educating district's pupil count for the pupil membership count day or the supplemental count day of that school year, or both as necessary to ensure that the pupil is counted in membership in the educating district for those pupil counts for which the pupil was enrolled and in attendance.

Sec. 11. (1) There is appropriated for the public schools of this state and certain other state purposes relating to education from the state school aid fund established by section 11 of article IX of the state constitution of 1963 the sum of $8,233,547,000.00, and from the general fund the sum of $291,747,800.00, for the fiscal year ending September 30, 1997. Also, there is appropriated an additional $33,000,000.00 from the state school aid fund for the fiscal year ending September 30, 1997. However, if the director of the department of management and budget determines that the federal government has failed to enact comprehensive reforms in the federal cash welfare and medicaid programs by October 1, 1996, and notifies the senate and house appropriations committees of that determination, there is instead appropriated for 1996-97 from the state school aid fund the sum of $8,280,347,000.00, and from the general fund the sum of $277,947,800.00. In addition, there is created in the state school aid fund a separate contingency fund in an amount equal to this $13,800,000.00 adjustment and there is created in the general fund a separate contingency fund in an amount equal to this $13,800,000.00 adjustment. Contingency fund transfers are authorized for 1996-97 in an amount necessary to reverse these adjustments. These transfers shall conform with the provisions of section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393. Transfers may restore all or part of each adjustment. In addition, available federal funds are appropriated for 1996-97.

(2) From the general fund money appropriated in subsection (1) for the fiscal year ending September 30, 1997, there is appropriated from the general fund the sum of $96,638,400.00 to the local government payment fund for the purpose of maintaining the state spending to local units of government as required by section 30 of article IX of the state constitution of 1963 for the fiscal year ending September 30, 1993. For the fiscal year ending September 30, 1997, there is appropriated from the local government payment fund the sum of $96,638,400.00 to the general fund for transfer to the state school aid fund to support the purposes of this act for the 1996-97 fiscal year.

(3) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund, from the reserve for health benefits, and from available federal funds shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall remain in the state school aid fund.

(4) If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under each section of this act shall be prorated on an equal percentage basis as necessary to reflect the amount available for expenditure from the state school aid fund for that fiscal year. However, beginning in 1996-97, if the department of treasury determines that proration will be required under this subsection, the department of treasury shall notify the director of the department of management and budget, and the director of the department of management and budget shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the director of the department of management and budget, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the department of management and budget, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

Sec. 20. (1) For 1996-97, the basic foundation allowance is $5,308.00 per membership pupil.

(2) From the appropriation in section 11, there is allocated for 1996-97 an amount not to exceed $8,004,106,300.00 to guarantee each district a foundation allowance per membership pupil and to make payments under this section to public school academies and university schools. The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance for 1996-97 in the amount specified in subsection (1). If the maximum amount allocated under this section is not sufficient to fully fund payments under this section, and before any proration required under section 11, the amount of the payment to each district, university school, and public school academy shall be prorated by reducing by an equal percentage the total payment under this section to each district, university school, and public school academy. However, if the department determines that proration will be required under this section, the superintendent of public instruction shall notify the department of management and budget, and the department of management and budget shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this section because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the department of management and budget, the department shall not reduce any payments under this section because of proration. The legislature may prevent proration under this section from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to ensure full foundation allowance funding for each district, university school, and public school academy.

(3) Beginning in the 1995-96 state fiscal year, except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) For a district that in the immediately preceding state fiscal year had a foundation allowance at least equal to the sum of $4,200.00 plus the total dollar amount of all adjustments made from 1994-95 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts, but less than the basic foundation allowance in the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the difference between twice the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance and [(the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance minus $50.00) times (the difference between the district's foundation allowance for the immediately preceding state fiscal year and the sum of $4,200.00 plus the total dollar amount of all adjustments made from 1994-95 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts) divided by the difference between the basic foundation allowance for the current state fiscal year and the sum of $4,200.00 plus the total dollar amount of all adjustments made from 1994-95 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts]. However, the foundation allowance for a district that had less than the basic foundation allowance in the immediately preceding state fiscal year shall not exceed the basic foundation allowance for the current state fiscal year.

(b) For a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall

receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance.

(4) To ensure that a district receives the district's foundation allowance, there is allocated to each district a state portion of the district's foundation allowance in an amount calculated under this subsection. The state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, except for a district that was notified of such a millage reduction in 1996 after the last permissible date to schedule an election to override that millage reduction, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. For 1996-97 and each succeeding fiscal year, the $6,500.00 amount prescribed in this subsection shall be adjusted 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.

(5) The allocation under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled pursuant to section 105 in a district other than the pupil's district of residence but within the same intermediate district, the allocation under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence.

(6) Subject to subsection (7) and except as otherwise provided in this subsection, for pupils in membership in a public school academy or a university school, there is allocated under this section for 1996-97 to the authorizing body that is the fiscal agent for a public school academy for forwarding to the public school academy, or to the board of the public university operating the university school, an amount per membership pupil in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or $5,500.00, whichever is less. For 1996-97 and each succeeding fiscal year, the $5,500.00 amount prescribed in this subsection shall be adjusted 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. Notwithstanding section 101(2), for a public school academy that begins operations in 1996-97 after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by 990. The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection. Also, a public school academy that begins operations in 1996-97 after the pupil membership count day shall not receive any funds under this section unless the public school academy provides for the school year a number of hours of pupil instruction that is at least in the same proportion to 990 hours as the number of days of pupil instruction provided by the public school academy for the school year is in proportion to 180 days.

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

(8) If a district does not receive a payment under subsection (9); if the number of mills the district may levy on a homestead and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental payment under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental payment under

this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property.

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

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

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

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

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

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

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

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

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

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

(16) If the pupil membership, excluding intermediate district membership, for the school year ending in the next state fiscal year is estimated at the January revenue estimating conference to be greater than 101% of the pupil membership, excluding intermediate district membership, for the school year ending in the current state fiscal year,

then it is the intent of the legislature that the executive budget proposal for the school aid budget in the subsequent state fiscal year incorporate a general fund/general purpose allocation that is greater than the general fund/general purpose allocation in the current fiscal year, to support the estimated membership in excess of 101% of the membership in the current year.

(17) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

Sec. 31a. (1) From the appropriation in section 11, there is allocated for 1996-97 an amount not to exceed $230,000,000.00 for payments to eligible districts and eligible public school academies under this section. Subject to subsection (11), the amount of the additional allowance under this section shall be based on the number of actual pupils in membership in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined under the national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766b, 1769, 1769b to 1769c, and 1769f to 1769h, and reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year or, for reporting in 1996-97 only, adjusted not later than June 30 of the immediately preceding fiscal year. However, for a public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year, the basis for the additional allowance under this section shall be the number of actual pupils in membership in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the current state fiscal year, as determined under the national school lunch act.

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

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

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

(3) An eligible district or eligible public school academy shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the national school lunch act and as reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year or, for reporting in 1996-97 only, adjusted not later than June 30 of the immediately preceding fiscal year, an amount per pupil equal to 11.5% of the district's foundation allowance, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00, or of the public school academy's per membership pupil allocation under section 20 for the current state fiscal year. However, a public

school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year shall receive under this section for each membership pupil in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the national school lunch act and as reported to the department by October 31 of the current fiscal year and adjusted not later than December 31 of the current fiscal year, an amount per pupil equal to 11.5% of the public school academy's per membership pupil allocation under section 20 for the current state fiscal year. For reporting occurring in 1996-97, if a district or public school academy submits an adjustment to the department after December 31, 1996 in the number of pupils used for determining payments under this section, the district or public school academy shall include with the submission an explanation for the adjustment and documentation satisfactory to the department to justify the adjustment.

(4) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical or counseling services, for at-risk pupils and for the purposes of subsection (5) and shall not use any of that money for administrative costs or to supplant funds, except for funds allocated to the district or public school academy under this section in the immediately preceding year and already being used by the district or public school academy for at-risk pupils. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year and may be conducted using a tutorial method, with paraprofessionals working under the supervision of a certificated teacher. The ratio of pupils to paraprofessionals shall be between 10:1 and 15:1. Only 1 certificated teacher is required to supervise instruction using a tutorial method.

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

(6) In order to provide accountability for the program funded under this section, the superintendent of a district or chief executive of a public school academy shall submit to the department, in a succinct form and manner prescribed by the department, a written assurance of the district's or public school academy's compliance with all provisions of this section by May 20 of the current fiscal year. In addition, each district or public school academy receiving funds under this section shall submit to the department by that date a report, not to exceed 10 pages, on the usage by the district or public school academy of funds under this section, which report shall include at least a brief description of each program conducted by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs, and the number of at-risk pupils served by each of those programs. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the June payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the state fiscal year, the withheld funds shall be forfeited to the school aid fund.

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

(8) Subject to subsection (5), any district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) exceeds the district's aggregate percentage of those pupils. Subject to subsection (5), if a district obtains a waiver from the department, the district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) is at least 60% of the district's aggregate percentage of those pupils and at least 35% of the total number of pupils enrolled in the school building. To obtain a waiver, a district must apply to the department and demonstrate to the satisfaction of the department that the class size reductions would be in the best interests of the district's at-risk pupils.

(9) As a pilot project for a period of 3 fiscal years, a district that is located in a county with a population of more than 350,000 and less than 480,000 and that has more than 10,000 pupils in membership shall expend funds received under this section, other than the amount described in subsection (5), attributable to pupils enrolled in grades K-3 for the purpose of reducing class size in grades K-3 in the district to an average of not more than 17 pupils per class, with not more than 19 pupils in any particular class, in each school building in the district in which pupils described in subsection (1) constitute a specified percentage of the total number of pupils in the building. That specified percentage is as follows:

(a) For the 1994-95 school year, 59%.

(b) For the 1995-96 school year, 50%.

(c) For the 1996-97 school year, 25%.

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

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

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

(13) As used in this section, "at-risk pupil" means a pupil for whom the district has documentation that the pupil meets at least 2 of the following criteria: is a victim of child abuse or neglect; is below grade level in English language and communication skills or mathematics; is a pregnant teenager or teenage parent; is eligible for a federal free or reduced-price lunch subsidy; has atypical behavior or attendance patterns; or has a family history of school failure, incarceration, or substance abuse. For pupils for whom the results of at least the applicable MEAP test have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve at least a score of moderate on the most recent MEAP reading test for which results for the pupil have been received, did not achieve at least a score of moderate on the most recent MEAP mathematics test for which results for the pupil have been received, or achieved less than 50% of the objectives on the most recent MEAP science test for which results for the pupil have been received. For pupils in grades K-3, at-risk pupil also includes a pupil who is at risk of not meeting the district's core academic curricular objectives in English language, communication skills, or mathematics.

Sec. 99. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $7,614,000.00 for 1996-97 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 the 8 satellite extensions that were funded in 1995-96. Each established mathematics and science center that was funded in 1995-96 shall receive an amount equal to the amount it received under this section in 1995-96. The balance of the allocation under this section for 1996-97 shall be distributed by the department to the statewide project "tune in math and science" conducted by Michigan state university.

(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.

Sec. 104a. (1) In order to receive state aid under this act, a district shall comply with this section and shall award a state-endorsed high school diploma to an eligible graduate as provided in this section.

(2) For pupils scheduled to graduate in 1997, if a pupil achieves the outcomes required by the state board, as measured by an assessment developed under subsection (7), for a state-endorsed high school diploma, or meets the requirements described in former subsection (1)(c) for a state-endorsed high school diploma, in 1 or more of the subject areas of communications skills, mathematics, and science, the pupil's district shall award a state endorsement on the pupil's diploma in each of the subject areas in which the pupil demonstrated the required proficiency. Beginning with pupils scheduled to graduate in 1998, if a pupil achieves the objectives required by the state board, as measured by an assessment instrument developed under subsection (7), for a state-endorsed high school diploma in 1 or more of the subject areas of communications skills, mathematics, science, and, beginning with pupils scheduled to graduate in 2000,

social studies, the pupil's district shall award a state endorsement on the pupil's diploma in each of the subject areas in which the pupil demonstrated the required proficiency. A district shall not award a state endorsement to a pupil unless the pupil meets the applicable requirements for the endorsement, as described in this subsection. A school district may award a high school diploma to a pupil who successfully completes local district requirements established in accordance with state law for high school graduation, regardless of whether the pupil is eligible for any state endorsement.

(3) A pupil who does not achieve the requirements of subsection (2) may be reevaluated each school year until the pupil achieves an applicable requirement for a state-endorsed diploma. In addition, the board of the district in which the pupil is enrolled shall provide that there be at least 1 meeting attended by at least the pupil and a member of the district's staff or a local or intermediate district consultant who is proficient in the measurement and evaluation of pupils. The district may provide the meeting as a group meeting for pupils in similar circumstances. If the pupil is a minor, the district shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the meeting and shall mail a notice of the meeting to the pupil's parent, legal guardian, or person in loco parentis. The purpose of this meeting and any subsequent meeting under this subsection shall be to determine an educational program for the pupil designed to have the pupil reach proficiency in each subject or skill area in which he or she was assessed by the testing as not proficient. In addition, a district may provide for subsequent meetings with the pupil conducted by a high school counselor or teacher designated by the pupil's high school principal, and shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the subsequent meetings. The district shall provide special programs for the pupil or develop a program using the educational programs regularly provided by the district unless the board of the district decides otherwise and publishes and explains its decision in a public justification report. A pupil may be reevaluated at any time the district administers an applicable assessment instrument.

(4) For a state-endorsed diploma, a pupil must achieve the requirements of subsection (2) in addition to any other requirements established by law or by the board of a district for a high school diploma. If the board of a district determines that a pupil qualifies for a state-endorsed diploma, the board shall indicate on the pupil's high school diploma and transcript that the pupil achieved the proficiency necessary for receipt of a state-endorsed diploma.

(5) An individual may repeat any of the tests or assessment instruments specified in subsection (2) at any time the district regularly offers the test or assessment. If an individual described in this subsection achieves the requirements of subsection (2) and completes all other applicable requirements for a high school diploma, the individual shall be awarded a state-endorsed diploma as otherwise provided in this section.

(6) A district shall provide accommodations to a pupil with disabilities for the proficiency testing or assessment required under this section, as provided under section 504 of title V of the rehabilitation act of 1973, Public Law 93-112, 29 U.S.C. 794; subtitle A of title II of the Americans with disabilities act of 1990, Public Law 101-336, 42 U.S.C. 12131 to 12134; and the implementing regulations for those statutes.

(7) For the purposes of this section, the state board shall develop or select and approve assessment instruments to determine pupil proficiency in communications skills, mathematics, social studies, and science. The assessment instruments shall be based on the state board model core academic content standards objectives.

(8) Upon written request by the pupil's parent or legal guardian stating that the request is being made for the purpose of providing the pupil with an opportunity to qualify to take 1 or more postsecondary courses as an eligible student under the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, the board of a district shall allow a pupil who is in at least grade 10 to take a test or assessment described in subsection (2) without charge at any time the district regularly administers the test or assessment or administers a retest of the test or assessment. A district is not required to include in an annual education report, or in any other report submitted to the department for accreditation purposes, results of tests or assessments taken under this subsection by a pupil in grade 10 or lower.

(9) All assessment instruments developed or selected and approved by the state under any statute or rule for a purpose related to K to 12 education shall be objective-oriented and consistent with the state board model core academic content standards objectives.

(10) Upon payment of a reasonable fee any person may, after graduation from high school, retake the state-endorsed diploma test and, upon demonstrating the required proficiency in a subject area, have his or her high school diploma state-endorsed for that subject area.

Sec. 105a. Section 105(16) does not apply to a pupil residing in a district that does not operate all of grades K to 12 who is enrolled in a district other than the district of residence in a grade that is not operated by the district of residence.

Sec. 105b. Notwithstanding section 105(21), if an intermediate district is operating under an intermediate district pilot schools of choice program established under former section 91 or as described in section 91a, the intermediate district and its constituent districts are exempt from section 105.

Sec. 107. (1) From the appropriation in section 11, there is allocated for 1996-97 an amount not to exceed $80,000,000.00 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 for a maximum of 1 year of instruction.

(*iv*) Is enrolled in a high school completion program and obtained his or her G.E.D. certificate between October 1, 1993 and October 1, 1996.

(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) From the amount allocated under subsection (1), an amount not to exceed $20,000,000.00 shall be allocated under this subsection through a competitive grant process. A district, intermediate district, consortium of districts, or consortium of an intermediate district and 1 or more districts may apply on a competitive basis for an adult education grant under this subsection and section 108. The application may be to operate a single adult education program described in subsection (6), (7), (8), or (9) or a combination of those adult education programs. To receive funding, a consortium shall designate a single district or intermediate district as fiscal agent for the consortium.

(4) From the amount allocated under subsection (1), an amount not to exceed $60,000,000.00 shall be allocated under this subsection to districts and consortia that received payments for 1995-96 under former section 107f. The amount allocated to each of these districts and consortia for 1996-97 under this subsection shall be an amount equal to 32.43% of the amount the district or consortium received for 1995-96 under former section 107f. A district that operated an adult education program in 1995-96 and does not intend to operate a program in 1996-97 shall notify the department by October 1, 1996 of its intention. The funds intended to be allocated under this section to a district that so notifies the department shall instead be proportionately reallocated to the other districts in this state that are operating an adult education program in 1996-97 under this subsection.

(5) The amount allocated under this section per full-time equated participant is $2,750.00 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.

(c) A participant in an adult basic education program is eligible for reimbursement until the participant's reading or mathematics proficiency, or both, is assessed at or above the ninth grade level or until the participant completes 450 hours of instruction, whichever occurs first.

(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 is assessed as having attained basic English proficiency or until the participant completes 450 hours of instruction, whichever occurs first.

(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 before enrolling an individual to determine the individual's potential for success on the G.E.D. test, and shall periodically administer other tests after enrollment 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 who passes the G.E.D. test and obtains a G.E.D. certificate or for a participant who completes 450 hours of instruction. A participant may be enrolled in the program until he or she passes the G.E.D. test or completes 450 hours of instruction, whichever occurs first.

(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) The funding recipient shall evaluate the participant's transcript to determine if the individual could complete the requirements for a high school diploma within the time limit of 900 hours of instruction. If the funding recipient determines that an applicant would not be able to earn a diploma within the time limits described in subdivision (a), the funding recipient shall inform the individual about the G.E.D. test preparation program described in subsection (7) and about the tuition requirements under subsection (13) for a person who is not eligible to be funded in the program.

(c) A funding recipient shall receive funding according to subsection (10) for a participant in a course offered under this subsection until the participant passes the course and earns a high school diploma or the participant completes 900 hours of instruction, whichever occurs first.

(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 the person achieves the requisite skills as determined by appropriate assessment instruments, or the person completes 450 hours of instruction, whichever occurs first.

(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 eighth 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) Funding allocated under subsection (3) for the 1996-97 fiscal year shall be considered funding for the first year of an approved 3-year program, and a program receiving funding under subsection (3) for 1996-97 shall not be required to apply again for the remainder of the 3-year period, unless the program is substantially revised. Not later than September 1 of each year, the department shall assess the success of each program operating with subsection (3) funding in the prior school fiscal year. Programs operating in the third year of the 3-year program shall be evaluated not later than December 15 of that year to determine whether renewal of the current 3-year program is recommended or revision of the existing program is necessary for the district or intermediate district to be eligible for funding under subsection (3) in the subsequent 3-year period.

(12) As used in this section, "participant" means the average 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).

(13) 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.

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

(15) It is the intent of the legislature that the appropriations under this act for the 1997-98 state fiscal year will include $80,000,000.00 to support adult education programs for that fiscal year, and that, of that $80,000,000.00 allocation, $40,000,000.00 will be allocated for competitive grants as described in subsection (3) and $40,000,000.00 will be allocated for prorated distributions similar to that described in subsection (4). The department shall accept applications for the 1997-98 competitive grants submitted by March 1, 1997, according to the procedures and requirements specified in section 108, and shall identify prospective 1997-98 grant recipients by April 1, 1997. Not later than February 1, 1997, the department shall provide to the senate and house appropriations subcommittees responsible for state school aid appropriations for their approval the department's proposed method of providing regional distribution of 1997-98 adult education competitive grants.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Carol Morey Viventi

Secretary of the Senate.

Approved _____

_____
Governor.