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Public Acts of 2009  
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**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

Introduced by Senator Kuipers

# **ENROLLED SENATE BILL No. 981**

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 5, 6, 502, 503, 504, 507, 522, 523, 524, 1246, 1250, 1278a, 1311e, 1536, and 1701a (MCL 380.5, 380.6, 380.502, 380.503, 380.504, 380.507, 380.522, 380.523, 380.524, 380.1246, 380.1250, 380.1278a, 380.1311e, 380.1536, and 380.1701a), section 5 as amended by 2005 PA 61, sections 6, 504, and 1701a as amended by 2008 PA 1, sections 502 and 507 as amended and section 1250 as added by 1995 PA 289, section 503 as amended by 2003 PA 299, sections 522, 523, and 524 as added by 2003 PA 179, section 1246 as amended by 2004 PA 148, section 1278a as amended by 2008 PA 316, section 1311e as added by 1999 PA 23, and section 1536 as added by 2006 PA 335, and by adding sections 502a and 1249 and part 6e.

*The People of the State of Michigan enact:*

Sec. 5. (1) “Local act school district” or “special act school district” means a district governed by a special or local act or chapter of a local act. “Local school district” and “local school district board” as used in article 3 include a local act school district and a local act school district board.

(2) “Membership” means the number of full-time equivalent pupils in a public school as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board.

(3) “Michigan election law” means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(4) “Nonpublic school” means a private, denominational, or parochial school.

(5) “Objectives” means measurable pupil academic skills and knowledge.

(6) “Public school” means a public elementary or secondary educational entity or agency that is established under this act, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, school of excellence, public school academy corporation, strict discipline academy corporation, urban high school academy corporation, or by the department or state board. Public school also includes a laboratory school or other elementary or

secondary school that is controlled and operated by a state public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(7) "Public school academy" means a public school academy established under part 6a and, except as used in part 6a, also includes an urban high school academy established under part 6c, a school of excellence established under part 6e, and a strict discipline academy established under sections 1311b to 1311l.

(8) "Pupil membership count day" of a school district means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(9) "Regular school election" or "regular election" means the election held in a school district, local act school district, or intermediate school district to elect a school board member in the regular course of the terms of that office and held on the school district's regular election date as determined under section 642 or 642a of the Michigan election law, MCL 168.642 and 168.642a.

(10) "Reorganized intermediate school district" means an intermediate school district formed by consolidation or annexation of 2 or more intermediate school districts under sections 701 and 702.

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

Sec. 6. (1) "School district" or "local school district" means a general powers school district organized under this act, regardless of previous classification, or a school district of the first class.

(2) "School district filing official" means the school district election coordinator as defined in section 4 of the Michigan election law, MCL 168.4, or an authorized agent of the school district election coordinator.

(3) "School elector" means a person qualified as an elector under section 492 of the Michigan election law, MCL 168.492, and resident of the school district or intermediate school district on or before the thirtieth day before the next ensuing regular or special school election.

(4) "School month" means a 4-week period of 5 days each unless otherwise specified in the teacher's contract.

(5) "School of excellence" means a school of excellence established under part 6e.

(6) "Special education building and equipment" means a structure or portion of a structure or personal property accepted, leased, purchased, or otherwise acquired, prepared, or used for special education programs and services.

(7) "Special education personnel" means persons engaged in and having professional responsibility for students with a disability in special education programs and services including, but not limited to, teachers, aides, school social workers, diagnostic personnel, physical therapists, occupational therapists, audiologists, teachers of speech and language, instructional media-curriculum specialists, mobility specialists, teacher consultants, supervisors, and directors.

(8) "Special education programs and services" means educational and training services designed for students with a disability and operated by local school districts, local act school districts, intermediate school districts, the Michigan schools for the deaf and blind, the department of community health, the department of human services, or a combination of these, and ancillary professional services for students with a disability rendered by agencies approved by the state board. The programs shall include vocational training, but need not include academic programs of college or university level.

(9) "Special school election" or "special election" means a school district election to fill a vacancy on the school board or submit a ballot question to the school electors that is held on a regular election date established under section 641 of the Michigan election law, MCL 168.641.

(10) "State approved nonpublic school" means a nonpublic school that complies with 1921 PA 302, MCL 388.551 to 388.558.

(11) "State board" means the state board of education unless clearly otherwise stated.

(12) "Student with a disability" means that term as defined in R 340.1702 of the Michigan administrative code.

(13) "Department" means the department of education created and operating under sections 300 to 305 of the executive organization act of 1965, 1965 PA 380, MCL 16.400 to 16.405.

(14) "State school aid" means allotments from the general appropriating act for the purpose of aiding in the support of the public schools of the state.

(15) "The state school aid act of 1979" means the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

Sec. 502. (1) A public school academy shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A public school academy corporation shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a public school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a public school academy shall not be organized by a

church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) Any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more public school academies under this part:

(a) The board of a school district that operates grades K to 12. However, the board of a school district shall not issue a contract for a public school academy to operate outside the school district's boundaries, and a public school academy authorized by the board of a school district shall not operate outside that school district's boundaries.

(b) An intermediate school board. However, the board of an intermediate school district shall not issue a contract for a public school academy to operate outside the intermediate school district's boundaries, and a public school academy authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries.

(c) The board of a community college. However, except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a public school academy to operate in a school district organized as a school district of the first class, a public school academy authorized by the board of a community college shall not operate in a school district organized as a school district of the first class, the board of a community college shall not issue a contract for a public school academy to operate outside the boundaries of the community college district, and a public school academy authorized by the board of a community college shall not operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 public school academy to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a public school academy itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university. However, the combined total number of contracts for public school academies issued by all state public universities shall not exceed 150. Further, the total number of contracts issued by any 1 state public university shall not exceed 50% of the maximum combined total number that may be issued under this subdivision.

(3) To obtain a contract to organize and operate 1 or more public school academies, 1 or more persons or an entity may apply to an authorizing body described in subsection (2). The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 503(4), a list of the proposed members of the board of directors of the public school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(i) The name of the proposed public school academy.

(ii) The purposes for the public school academy corporation. This language shall provide that the public school academy is incorporated pursuant to this part and that the public school academy corporation is a governmental entity.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the public school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the public school academy.

(ii) A copy of the educational goals of the public school academy and the curricula to be offered and methods of pupil assessment to be used by the public school academy. To the extent applicable, the progress of the pupils in the public school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination, as applicable.

(iii) The admission policy and criteria to be maintained by the public school academy. The admission policy and criteria shall comply with section 504. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that a public school academy is being created and adequate information on the admission policy, criteria, and process.

(iv) The school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the public school academy's governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the local and intermediate school districts in which the public school academy will be located.

(h) An agreement that the public school academy will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) For a public school academy authorized by a school district, an assurance that employees of the public school academy will be covered by the collective bargaining agreements that apply to other employees of the school district employed in similar classifications in schools that are not public school academies.

(j) A description of and address for the proposed physical plant in which the public school academy will be located.

(4) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each public school academy operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the authorizing body can certify that the public school academy is in compliance with statute, rules, and the terms of the contract.

(5) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more public school academies operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate public school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(6) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a public school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the public school academy in the school year in which the fees or expenses are charged. An authorizing body may provide other services for a public school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the public school academy.

(7) A public school academy shall be presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

Sec. 502a. If a public school academy operating under this part meets the requirements of part 6e, with the approval of its authorizing body, the board of directors of the public school academy may adopt a resolution choosing to convert the public school academy to a school of excellence under part 6e. If a board of directors of a public school academy that meets the requirements of part 6e is issued a contract to operate as a school of excellence under part 6e, all of the following apply:

(a) The public school academy shall cease to operate as a public school academy under this part and shall operate as a school of excellence under part 6e upon the issuance of the contract under part 6e or at another time as determined by the authorizing body.

(b) The public school academy shall be considered to be a school of excellence for all purposes upon the issuance of the contract under part 6e or at another time as determined by the authorizing body, but shall retain its corporate identity.

(c) The conversion of a public school academy to a school of excellence operating under part 6e shall not impair any agreement, mortgage, loan, bond, note or other instrument of indebtedness, or any other agreement entered into by a public school academy while it was operating under this part.

(d) The contract issued to the public school academy under this part shall automatically terminate upon the issuance of a contract under part 6e or at another time as determined by the authorizing body.

(e) If the authorizing body of the public school academy is the governing board of a state university, then all of the following apply to issuance of a new contract for a public school academy under this part after the conversion:

(i) For a period of 12 months after the contract is issued under part 6e, that authorizing body is the only authorizing body that may issue a new contract for a new public school academy to fill the availability under section 502(d) that is created by the conversion of the public school academy to a school of excellence.

(ii) If the board of directors of the public school academy that is issued a contract to fill the availability under section 502(d) that is created by the conversion chooses to enter into an agreement with an educational management organization to manage or operate the public school academy, the board of directors may give preference to an educational management organization that has previously operated a school that met the criteria described in section 552(4).

(iii) At the time the contract is issued, the public school academy shall not be located in a school district that has a graduation rate of over 75.5%, on average, for the most recent 3 school years for which the data are available, as determined by the department.

Sec. 503. (1) An authorizing body is not required to issue a contract to any person or entity. Public school academy contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, the educational goals to be achieved by the proposed public school academy, and the applicant's track record, if any, in operating public school academies or other public schools. However, an authorizing body may give priority to a public school academy that is intended to replace a public school academy that has been closed pursuant to section 507(2), that will operate all of the same grade levels as the public school academy that has been closed, and that will work toward operating all of grades 9 to 12 within 6 years after it begins operations unless a matriculation agreement has been entered into with another public school that provides grades 9 to 12.

(2) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more public school academies within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 502 and shall be signed by a number of school electors of the school district equal to at least 15% of the total number of school electors of that school district. The petition shall be filed with the school district filing official. If the board receives a petition meeting the requirements of this subsection, the board shall have the question of issuing the contract placed on the ballot at its next regular school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(3) Within 10 days after issuing a contract for a public school academy, the authorizing body shall submit to the superintendent of public instruction a copy of the contract and of the application under section 502.

(4) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each public school academy subject to its jurisdiction.

(5) A contract issued to organize and administer a public school academy shall contain at least all of the following:

(a) The educational goals the public school academy is to achieve and the methods by which it will be held accountable. To the extent applicable, the pupil performance of a public school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination, as applicable.

(b) A description of the method to be used to monitor the public school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract.

(d) All of the matters set forth in the application for the contract.

(e) For a public school academy authorized by a school district, an agreement that employees of the public school academy will be covered by the collective bargaining agreements that apply to employees of the school district employed in similar classifications in schools that are not public school academies.

(f) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 507.

(g) A description of and address for the proposed physical plant in which the public school academy will be located. At the time the contract is issued for a public school academy under section 502a, the public school academy shall not be located in a school district that has a graduation rate of over 75.5%, on average, for the most recent 3 school years for which the data are available, as determined by the department.

(h) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(i) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal shall include student growth as measured by assessments and other objective criteria as a significant factor in the decision of whether or not to renew the contract.

(6) A public school academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(7) A public school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a public school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(8) A public school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a public school academy are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A public school academy may not levy ad valorem property taxes or another tax for any purpose. However, operation of 1 or more public school academies by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or another tax.

(9) A public school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a public school academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

Sec. 504. (1) A public school academy may be located in all or part of an existing public school building. A public school academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 502 and in the contract.

(2) A public school academy shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a public school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a resident of this state. Enrollment in the public school academy may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 502(2)(a) to (c) who meet the admission policy, except that admission to a public school academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 502(2)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a public school academy authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to enroll using a random selection process. A public school academy shall allow any pupil who was enrolled in the public school academy in the immediately preceding school year to enroll in the public school academy in the appropriate grade unless the appropriate grade is not offered at that public school academy.

(4) A public school academy may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the public school academy.

(b) A pupil who transfers to the public school academy from another public school academy pursuant to a matriculation agreement between the public school academies that provides for this enrollment priority, if all of the following requirements are met:

(i) Each public school academy that enters into the matriculation agreement remains a separate and independent public school academy.

(ii) The public school academy that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(iii) The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a public school academy that is party to the matriculation agreement and who was not expelled from the public school academy to enroll in the public school academy giving enrollment priority under the matriculation agreement.

(5) A public school academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a public school academy may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

Sec. 507. (1) The authorizing body for a public school academy is the fiscal agent for the public school academy. A state school aid payment for a public school academy shall be paid to the authorizing body that is the fiscal agent for that public school academy, which shall then forward the payment to the public school academy. An authorizing body has the responsibility to oversee a public school academy's compliance with the contract and all applicable law. A contract issued under this part may be revoked by the authorizing body that issued the contract if the authorizing body determines that 1 or more of the following has occurred:

(a) Failure of the public school academy to abide by and meet the educational goals set forth in the contract.

- (b) Failure of the public school academy to comply with all applicable law.
- (c) Failure of the public school academy to meet generally accepted public sector accounting principles.
- (d) The existence of 1 or more other grounds for revocation as specified in the contract.

(2) Except for a public school academy that is an alternative school serving a special student population, if the superintendent of public instruction determines that a public school academy that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American recovery and reinvestment act of 2009, Public Law 111-5, and is in year 2 of restructuring sanctions under the no child left behind act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, the superintendent of public instruction shall notify the public school academy's authorizing body. If an authorizing body receives notice from the superintendent of public instruction under this subsection, the authorizing body shall revoke the public school academy's contract and the public school academy shall be closed, effective at the end of the current school year.

(3) Except for a contract issued by a school district pursuant to a vote by the school electors on a ballot question under section 503(2), the decision of an authorizing body to revoke a contract under this section is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any state agency.

(4) An authorizing body that revokes a contract under this section is not liable for that action to the public school academy, public school academy corporation, a pupil of the public school academy, the parent or guardian of a pupil of the public school academy, or any other person.

Sec. 522. (1) An urban high school academy shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. An urban high school academy corporation shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that an urban high school academy corporation is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, an urban high school academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(2) The governing board of a state public university may act as an authorizing body to issue a contract for the organization and operation of an urban high school academy under this part. Subject to section 524(1), not more than 15 contracts may be issued under this part. A contract issued under this part shall be for an urban high school academy that will be located in a county with a population of at least 1,000,000. An urban high school academy authorized under this part shall not operate outside the boundaries of a county with a population of at least 1,000,000.

(3) A contract issued under this part shall be issued for an initial term of 10 years. If the urban high school academy meets the educational goals set forth in the contract and operates in substantial compliance with this part, the authorizing body shall automatically renew the contract for subsequent 10-year terms.

(4) To obtain a contract to organize and operate 1 or more urban high school academies, an entity may apply to an authorizing body described in subsection (2). The contract shall be issued to an urban high school academy corporation designated by the entity applying for the contract. The application shall include at least all of the following:

(a) Name of the entity applying for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 528, a list of the proposed members of the board of directors of the urban high school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(i) The name of the proposed urban high school academy to which the contract will be issued.

(ii) The purposes for the urban high school academy corporation. This language shall provide that the urban high school academy is incorporated pursuant to this part and that the urban high school academy corporation is a governmental entity and political subdivision of this state.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the urban high school academy.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the urban high school academy.

(ii) A copy of the educational goals of the urban high school academy and the curricula to be offered and methods of pupil assessment to be used by the urban high school academy. To the extent applicable, the progress of the pupils in

the urban high school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or an assessment instrument developed under section 1279.

(iii) The admission policy and criteria to be maintained by the urban high school academy. The admission policy and criteria shall comply with section 524. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that an urban high school academy is being created and adequate information on the admission policy, criteria, and process.

(iv) The school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the urban high school academy's governance structure.

(g) A description of and address for the proposed building or buildings in which the urban high school academy will be located, and a financial commitment by the entity applying for the contract to construct or renovate the building or buildings that will be occupied by the urban high school academy that is issued the contract.

(5) If a particular state public university issues a contract that allows an urban high school academy to operate the same configuration of grades at more than 1 site, as provided in section 524(1), each of those sites shall be under the direction of the board of directors that is a party to the contract.

(6) If the state board finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more urban high school academies operating under a contract issued by the authorizing body, the state board by unanimous vote may suspend the power of the authorizing body to issue new contracts to organize and operate urban high school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(7) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for an urban high school academy in an amount that exceeds a combined total of 3% of the total state school aid received by the urban high school academy in the school year in which the fees or expenses are charged. All of the following apply to this fee:

(a) An authorizing body may use this fee only for the following purposes:

(i) Considering applications and issuing or administering contracts.

(ii) Compliance monitoring and oversight of urban high school academies.

(iii) Training for urban high school academy applicants, administrators, and boards of directors.

(iv) Technical assistance to urban high school academies.

(v) Academic support to urban high school academies or to pupils or graduates of urban high school academies.

(vi) Evaluation of urban high school academy performance.

(vii) Training of teachers, including supervision of teacher interns.

(viii) Other purposes that assist the urban high school academies or traditional public schools in achieving improved academic performance.

(b) An authorizing body may provide other services for an urban high school academy and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the urban high school academy.

(8) An urban high school academy shall be presumed to be legally organized if it has exercised the franchises and privileges of an urban high school academy for at least 2 years.

Sec. 523. (1) An authorizing body is not required to issue a contract to any entity. Urban high school academy contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed urban high school academy, the population to be served by the proposed urban high school academy, and the educational goals to be achieved by the proposed urban high school academy. In evaluating if an applicant is qualified, the authorizing body shall examine the proposed performance standards, proposed academic program, financial viability of the applicant, and the ability of the proposed board of directors to meet the contract goals and objectives. An authorizing body shall give priority to applicants that demonstrate all of the following:

(a) The proposed school will operate at least all of grades 9 through 12 within 3 years after beginning operation.

(b) The proposed school will occupy a building or buildings that are newly constructed or renovated after January 1, 2003.

(c) The proposed school has a stated goal of increasing high school graduation rates.

(d) The proposed school has received commitments for financial and educational support from the entity applying for the contract.

(e) The entity that submits the application for a contract has net assets of at least \$50,000,000.00.



(2) A contract issued to organize and administer an urban high school academy shall contain at least all of the following:

(a) The educational goals the urban high school academy is to achieve and the methods by which it will be held accountable. To the extent applicable, the pupil performance of an urban high school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination developed under section 1279g, as applicable.

(b) A description of the method to be used to monitor the urban high school academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract. An authorizing body may approve amendment of the contract with respect to any provision contained in the contract.

(d) A certification, signed by an authorized member of the urban high school academy board of directors, that the urban high school academy will comply with the contract and all applicable law.

(e) Procedures for revoking the contract and grounds for revoking the contract.

(f) A description of and address for the proposed building or buildings in which the urban high school academy will be located.

(g) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by an independent certified public accountant in accordance with generally accepted governmental auditing principles.

(h) A requirement that the board of directors shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(i) A requirement that the board of directors shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management company involved in the operation of the urban high school academy, and employees of the urban high school academy. The contract shall identify the specific prohibited relationships consistent with applicable law.

(j) A requirement that the board of directors of the urban high school academy shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(k) A requirement that the board of directors of the urban high school academy shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the urban high school academy:

(i) A copy of the contract issued by the authorizing body for the urban high school academy.

(ii) A list of currently serving members of the board of directors of the urban high school academy, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of \$10,000.00 or more as they were submitted to the board of directors.

(iii) Quarterly financial reports submitted to the authorizing body.

(iv) A current list of teachers working at the urban high school academy that includes their individual salaries; copies of the teaching certificates or permits of current teaching staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the urban high school academy.

(v) Curriculum documents and materials given to the authorizing body.

(vi) Proof of insurance as required by the contract.

(vii) Copies of facility leases or deeds, or both, and of any equipment leases.

(viii) Copies of any management contracts or services contracts approved by the board of directors.

(ix) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(x) Any management letters issued as part of the annual financial audit under subdivision (g).

(xi) Any other information specifically required under this act.

(l) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors and an educational management company before the agreement is final and valid. An authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to the contract or applicable law.

(m) A requirement that the board of directors shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(i) That the urban high school academy has made a reasonable effort to advertise its enrollment openings in a newspaper of general circulation in the intermediate school district in which the urban high school academy is located.

(ii) That the urban high school academy has made the following additional efforts to recruit pupils who are eligible for special education programs and services to apply for admission:

(A) Reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities within the boundaries of the intermediate school district in which the urban high school academy is located.

(B) Inclusion in all pupil recruitment materials of a statement that appropriate special education services will be made available to pupils attending the school as required by law.

(iii) That the open enrollment period for the urban high school academy is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(n) A requirement that the board of directors shall prohibit any individual from being employed by the urban high school academy in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(o) A requirement that, if requested, the board of directors shall report to the authorizing body the total compensation for each individual working at the urban high school academy.

(p) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal shall include student growth as measured by assessments and other objective criteria as a significant factor in the decision of whether or not to renew the contract.

(3) An urban high school academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) 1978 PA 566, MCL 15.181 to 15.185.

(f) 1968 PA 317, MCL 15.321 to 15.330.

(g) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(h) The revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(i) The federal no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425.

(j) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, 1274, and 1280.

(4) An urban high school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing or oversight of an urban high school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(5) An urban high school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from an urban high school academy are exempt from all taxation, including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. An urban high school academy may not levy ad valorem property taxes or any other tax for any purpose.

(6) An urban high school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or any other means, hold, and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, an urban high school academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

Sec. 524. (1) An urban high school academy may be located in all or part of an existing public school building. Except as otherwise provided in this subsection, an urban high school academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the contract. However, an authorizing body may include a provision in the contract allowing an urban high school academy to operate the same configuration of grades at more than 1 site. If an urban high school academy operates the same configuration of grades at more than 1 site, each of those sites shall be considered to be operated under a separate contract, and the operation shall be equivalent to the issuance of a contract, for the purposes of the limitation in section 522(2) on the number of contracts that may be issued under this part. For the purposes of this subsection, if an urban high school academy operates classes at more than 1 location, the urban high school academy shall be considered to be operating at a single site if all

of the locations are within a 1-mile radius of the urban high school academy's central administrative office and if the total number of pupils enrolled in any particular grade at all of the locations does not exceed 135.

(2) An urban high school academy shall not charge tuition. Except as otherwise provided in this section, an urban high school academy shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, an urban high school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, an urban high school academy shall not enroll a pupil who is not a resident of this state. Enrollment in an urban high school academy shall be open to all pupils who reside in this state who meet the admission policy. Subject to subsection (4), if there are more applications to enroll in the urban high school academy than there are spaces available, pupils shall be selected to attend using a random selection process. An urban high school academy shall allow any pupil who was enrolled in the urban high school academy in the immediately preceding school year to enroll in the urban high school academy in the appropriate grade unless the appropriate grade is not offered at that urban high school academy.

(4) An urban high school academy may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the urban high school academy.

(b) A child of a person who is employed by or at the urban high school academy or who is on the board of directors of the urban high school academy. As used in this subdivision, "child" includes an adopted child or a legal ward.

(5) Subject to the terms of the contract authorizing the urban high school academy, an urban high school academy shall include at least grades 9 through 12 within 5 years after beginning operations and may include other grades or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, an urban high school academy may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program.

## PART 6E SCHOOLS OF EXCELLENCE

Sec. 551. (1) A school of excellence is a public school under section 2 of article VIII of the state constitution of 1963, is a school district for the purposes of section 11 of article IX of the state constitution of 1963 and for the purposes of section 1225 and section 1351a, and is subject to the leadership and general supervision of the state board over all public education under section 3 of article VIII of the state constitution of 1963. A school of excellence is a body corporate and is a governmental agency. The powers granted to a school of excellence under this part constitute the performance of essential public purposes and governmental functions of this state.

(2) As used in this part:

(a) "Authorizing body" means any of the following that issues a contract as provided in this part:

(i) The board of a school district that operates grades K to 12.

(ii) An intermediate school board.

(iii) The board of a community college.

(iv) The governing board of a state public university.

(b) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the superintendent of public instruction under section 1531.

(c) "Community college" means a community college organized under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or a federal tribally controlled community college that is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(d) "Contract" means the executive act taken by an authorizing body that evidences the authorization of a school of excellence and that establishes, subject to the constitutional powers of the state board and applicable law, the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations on a school of excellence, as provided by this part, and confirming the status of a school of excellence as a public school in this state.

(e) "Cyber school" means a school of excellence established under this part that has been issued a contract to be organized and operated as a cyber school under section 552(2) and that provides full-time instruction to pupils through online learning or otherwise on a computer or other technology, which instruction and learning may be remote from a school facility.

(f) “Educational management organization” means an entity that enters into an agreement with the governing board of a public school to provide comprehensive educational, administrative, management, or instructional services or staff to the public school.

(g) “Entity” means a partnership, nonprofit or business corporation, labor organization, or any other association, corporation, trust, or other legal entity.

(h) “State public university” means a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

Sec. 552. (1) Except as otherwise provided in subsections (2) and (3), not more than a combined total of 10 contracts to organize and operate a school of excellence may be issued by all authorizing bodies under this subsection. All of the following apply to a contract issued under this subsection:

(a) The issuance of the contract must be approved by the superintendent of public instruction. The superintendent of public instruction shall approve issuance of a contract if he or she determines that the proposed school of excellence is modeled after a high-performing school or program.

(b) A contract may not be issued under this subsection after January 1, 2015.

(c) The first 5 contracts issued by all authorizing bodies under this subsection shall be for schools of excellence that offer 1 or more of high school grades 9 to 12, or any combination of those grades, as specified in the contract.

(d) A school of excellence authorized under this subsection shall not be located in a school district that has a graduation rate of over 75%, on average, for the most recent 3 school years for which the data are available, as determined by the department.

(2) A combined total of 2 contracts may be issued by all authorizing bodies under this subsection for schools of excellence that are cyber schools and that meet all of the following additional requirements:

(a) Are available for enrollment to all pupils in this state who were previously enrolled in a public school.

(b) Offer all of grades K to 12.

(c) The entity applying for the school of excellence that is a cyber school demonstrates experience in serving urban and at-risk student populations through an educational model involving a significant cyber component.

(d) Has an initial enrollment in the school of excellence that is a cyber school that does not exceed 400 pupils.

(e) In the second and subsequent years of operation under the contract, a school of excellence that is a cyber school may expand enrollment to exceed 400 pupils by adding 1 pupil for each pupil who becomes enrolled in the school of excellence who is identified as a dropout in the Michigan student data system maintained by the center for educational performance and information. The school of excellence that is a cyber school shall annually account for the number of pupils it enrolls who are identified as a dropout in the Michigan student data system and report that information to the department, in a form and manner determined by the superintendent of public instruction. The school of excellence shall maintain its ratio of pupils who are identified as a dropout. Maximum enrollment at a school of excellence that is a cyber school shall not exceed 1,000 pupils.

(3) For a public school academy operating under part 6a that meets the requirements of subsection (4), with the approval of its authorizing body, the board of directors of the public school academy may adopt a resolution choosing to convert the public school academy to a school of excellence under this part. If the board of directors of a public school academy that meets the requirements of subsection (4) is issued a contract as a school of excellence under this subsection, all the following apply:

(a) The public school academy shall cease to operate as a public school academy under part 6a and shall operate as a school of excellence upon the issuance of a contract or at another time as determined by the authorizing body.

(b) The public school academy shall be considered to be a school of excellence for all purposes upon the issuance of a contract or at another time as determined by the authorizing body, but shall retain its corporate identity.

(c) The conversion of a public school academy under part 6a to a school of excellence operating under this part shall not impair any agreement, mortgage, loan, bond, note or other instrument of indebtedness, or any other agreement entered into by a public school academy while it was operating under part 6a.

(d) The contract issued to the public school academy under part 6a shall automatically terminate upon the issuance of a contract or at another time as determined by the authorizing body.

(4) Subsection (3) applies to a public school academy that is determined by the department to meet all of the following, as applicable:

(a) If the public school academy operates only some or all of grades K to 8, meets at least 1 of the following:

(i) On average over a 3-year period, at least 90% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program.

(ii) On average over a 3-year period, at least 70% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program and at least 50% of the pupils enrolled in the public school academy met the income eligibility criteria for the federal free or reduced-price lunch program, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769i, and reported to the department.

(b) If the public school academy operates grades 9 to 12, at least 80% of the school's pupils graduate from high school or are determined by the department to be on track to graduate from high school, the school has at least 80% average attendance, and the school has at least an 80% postsecondary enrollment rate.

(5) A school of excellence shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A school of excellence shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a school of excellence is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a school of excellence shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(6) Any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more schools of excellence under this part:

(a) The board of a school district that operates grades K to 12. However, the board of a school district shall not issue a contract for a school of excellence to operate outside the school district's boundaries, and a school of excellence authorized by the board of a school district shall not operate outside that school district's boundaries.

(b) An intermediate school board. However, the board of an intermediate school district shall not issue a contract for a school of excellence to operate outside the intermediate school district's boundaries, and a school of excellence authorized by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries.

(c) The board of a community college. The board of a community college shall not issue a contract for a school of excellence to operate outside the boundaries of the community college district, and a school of excellence authorized by the board of a community college shall not operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 school of excellence to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a school of excellence itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university.

(7) To obtain a contract to organize and operate 1 or more schools of excellence, 1 or more persons or an entity may apply to an authorizing body described in this section. The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 553(4), a list of the proposed members of the board of directors of the school of excellence and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(i) The name of the proposed school of excellence.

(ii) The purposes for the school of excellence corporation. This language shall provide that the school of excellence is incorporated pursuant to this part and that the school of excellence is a governmental entity.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the school of excellence.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the school of excellence.

(ii) A copy of the educational goals of the school of excellence and the curricula to be offered and methods of pupil assessment to be used by the school of excellence. To the extent applicable, the progress of the pupils in the school of excellence shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination under section 1279g.

(iii) The admission policy and criteria to be maintained by the school of excellence. The admission policy and criteria shall comply with section 556. This part of the application also shall include a description of how the applicant will

provide to the general public adequate notice that a school of excellence is being created and adequate information on the admission policy, criteria, and process.

(iv) Except for a school of excellence that is a cyber school, the school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the school of excellence governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the school district and intermediate school district in which the school of excellence will be located.

(h) An agreement that the school of excellence will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) For a school of excellence authorized by a school district, an assurance that employees of the school of excellence will be covered by the collective bargaining agreements that apply to other employees of the school district employed in similar classifications in schools that are not schools of excellence.

(j) A description of and address for the proposed physical plant in which the school of excellence will be located.

(8) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each school of excellence operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the authorizing body can certify that the school of excellence is in compliance with statute, rules, and the terms of the contract.

(9) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more schools of excellence operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate schools of excellence. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

(10) An authorizing body shall not charge a fee, or require reimbursement of expenses, for considering an application for a contract, for issuing a contract, or for providing oversight of a contract for a school of excellence in an amount that exceeds a combined total of 3% of the total state school aid received by the school of excellence in the school year in which the fees or expenses are charged. All of the following apply to this fee:

(a) The authorizing body may use this fee only for the following purposes:

(i) Considering applications and issuing or administering contracts.

(ii) Compliance monitoring and oversight of schools of excellence.

(iii) Training for school of excellence applicants, administrators, and boards of directors.

(iv) Technical assistance to schools of excellence.

(v) Academic support to schools of excellence or to pupils of schools of excellence.

(vi) Evaluation of school of excellence performance.

(vii) Training of teachers.

(viii) Other purposes that assist the school of excellence or traditional public schools in achieving improved academic performance.

(b) The authorizing body may provide other services for a school of excellence and charge a fee for those services, but shall not require such an arrangement as a condition to issuing the contract authorizing the school of excellence.

(11) A school of excellence shall be presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

Sec. 553. (1) An authorizing body is not required to issue a contract to any person or entity. Schools of excellence contracts shall be issued on a competitive basis taking into consideration the resources available for the proposed school of excellence, the population to be served by the proposed school of excellence, the educational goals to be achieved by the proposed school of excellence, and the applicant's track record, if any, in operating public school academies or other public schools.

(2) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more schools of excellence within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 552 and shall be signed by a number of school electors of the school district equal to at least 15% of the total number of school electors of that school district. The petition shall be filed with the school district filing official. If the board receives a petition meeting the requirements of this subsection, the board shall have the question of issuing the contract placed on the ballot at its next regular school election held at least 60 days after receiving the petition. If

a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(3) Within 10 days after issuing a contract for a school of excellence, the authorizing body shall submit to the superintendent of public instruction a copy of the contract and of the application under section 552.

(4) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each school of excellence subject to its jurisdiction.

(5) A contract issued to organize and administer a school of excellence shall contain at least all of the following:

(a) The educational goals the school of excellence is to achieve and the methods by which it will be held accountable. To the extent applicable, the pupil performance of a school of excellence shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination under section 1279g.

(b) A description of the method to be used to monitor the school of excellence's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract.

(d) All of the matters set forth in the application for the contract.

(e) For a school of excellence authorized by a school district, an agreement that employees of the school of excellence will be covered by the collective bargaining agreements that apply to employees of the school district employed in similar classifications in schools that are not schools of excellence.

(f) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 561.

(g) A description of and address for the proposed physical plant in which the school of excellence will be located.

(h) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(i) A certification, signed by an authorized member of the school of excellence board of directors, that the school of excellence will comply with the contract and all applicable law.

(j) A requirement that the board of directors shall ensure compliance with the requirements of 1968 PA 317, MCL 15.321 to 15.330.

(k) A requirement that the board of directors shall prohibit specifically identified family relationships between members of the board of directors, individuals who have an ownership interest in or who are officers or employees of an educational management organization involved in the operation of the school of excellence, and employees of the school of excellence. The contract shall identify the specific prohibited relationships consistent with applicable law.

(l) A requirement that the board of directors of the school of excellence shall make information concerning its operation and management available to the public and to the authorizing body in the same manner as is required by state law for school districts.

(m) A requirement that the board of directors of the school of excellence shall collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information concerning the operation and management of the school of excellence:

(i) A copy of the contract issued by the authorizing body for the school of excellence.

(ii) A list of currently serving members of the board of directors of the school of excellence, including name, address, and term of office; copies of policies approved by the board of directors; board meeting agendas and minutes; copy of the budget approved by the board of directors and of any amendments to the budget; and copies of bills paid for amounts of \$10,000.00 or more as they were submitted to the board of directors.

(iii) Quarterly financial reports submitted to the authorizing body.

(iv) A current list of teachers and school administrators working at the school of excellence that includes their individual salaries; copies of the teaching or school administrator's certificates or permits of current teaching and administrative staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under sections 1230, 1230a, and 1230b for all teachers and administrators working at the school of excellence.

(v) Curriculum documents and materials given to the authorizing body.

(vi) Proof of insurance as required by the contract.

(vii) Copies of facility leases or deeds, or both, and of any equipment leases.

(viii) Copies of any management contracts or services contracts approved by the board of directors.

(ix) All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.

(x) Any management letters issued as part of the annual financial audit under subdivision (h).

(xi) Any other information specifically required under this act.

(n) A requirement that the authorizing body must review and may disapprove any agreement between the board of directors and an educational management organization before the agreement is final and valid. An authorizing body may disapprove an agreement described in this subdivision only if the agreement is contrary to contract or applicable law.

(o) A requirement that the board of directors shall demonstrate all of the following to the satisfaction of the authorizing body with regard to its pupil admission process:

(i) That the school of excellence has made a reasonable effort to advertise its enrollment openings.

(ii) That the school of excellence has made the following additional efforts to recruit pupils who are eligible for special education programs and services or English as a second language services to apply for admission:

(A) Reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities or children with limited English-speaking ability within the boundaries of the intermediate school district in which the school of excellence is located.

(B) Inclusion in all pupil recruitment materials of a statement that appropriate special education services and English as a second language services will be made available to pupils attending the school as required by law.

(iii) That the open enrollment period for the school of excellence is for a duration of at least 2 weeks and that the enrollment times include some evening and weekend times.

(p) A requirement that the board of directors shall prohibit any individual from being employed by the school of excellence in more than 1 full-time position and simultaneously being compensated at a full-time rate for each of those positions.

(q) A requirement that, if requested, the board of directors shall report to the authorizing body the total compensation for each individual working at the school of excellence.

(6) A school of excellence shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(7) A school of excellence and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a school of excellence if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(8) A school of excellence is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a school of excellence are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A school of excellence may not levy ad valorem property taxes or another tax for any purpose. However, operation of 1 or more schools of excellence by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or another tax.

(9) A school of excellence may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold, and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a school of excellence may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

Sec. 553a. (1) An authorizing body may issue a contract to establish a school of excellence that is a cyber school. A cyber school shall provide full-time instruction to pupils through online learning or otherwise on a computer or other technology, and this instruction and learning may occur remote from a school facility.

(2) A contract for a school of excellence that is a cyber school shall include all of the provisions required under section 553 and all of the following:

(a) A requirement that a teacher who holds appropriate certification according to state board rule will be responsible for all of the following for each course in which a pupil is enrolled:

(i) Improving learning by planned instruction.

(ii) Diagnosing the pupil's learning needs.



(iii) Assessing learning, assigning grades, and determining advancement.

(iv) Reporting outcomes to administrators and parents or legal guardians.

(b) A requirement that the cyber school will make educational services available to pupils for a minimum of at least 1,098 hours during a school year and will ensure that each pupil participates in the educational program for at least 1,098 hours during a school year.

(3) Notwithstanding any other provision of this act or any rule, if a school of excellence that is a cyber school is in compliance with the requirements of subsection (2)(a) regarding a certificated teacher, any other adult assisting with the oversight of a pupil during the pupil's participation in the cyber school's education program is not required to be a certificated teacher or an employee of the school.

(4) Notwithstanding any rule to the contrary, a cyber school is not required to comply with any rule that would require a pupil's physical presence or attendance in a classroom.

(5) At the end of a cyber school's second full school year of operations, the authorizing body of a school of excellence that is a cyber school shall submit to the superintendent of public instruction and the legislature, in the form and manner prescribed by the superintendent of public instruction, a report detailing the operation of the cyber school, providing statistics of pupil participation and academic performance, and making recommendations for any further statutory or rule change related to cyber schools and online learning in this state.

Sec. 554. If a school district or intermediate school district applies for and obtains a contract to operate 1 or more schools of excellence under this part, the power of the school district or intermediate school district to levy taxes for any purpose under this act is not affected by the operation of a school of excellence by the school district or intermediate school district. Revenue from taxes levied by a school district or intermediate school district under this act or bonds issued by a school district or intermediate school district under this act may be used to support the operation or facilities of a school of excellence operated by the school district or intermediate school district in the same manner as that revenue may be used under this act by the school district or intermediate school district to support school district or intermediate school district operations and facilities. This section does not authorize a school district or intermediate school district to levy taxes or to issue bonds for any purpose that is not otherwise authorized under this act.

Sec. 555. (1) An agreement, mortgage, loan, or other instrument of indebtedness entered into by a school of excellence and a third party does not constitute an obligation, either general, special, or moral, of this state or an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, may not be pledged for the payment of any school of excellence bond, note, agreement, mortgage, loan, or other instrument of indebtedness.

(2) This part does not impose any liability on this state or on an authorizing body for any debt incurred by a school of excellence.

Sec. 556. (1) A school of excellence may be located in all or part of an existing public school building. A school of excellence, other than a cyber school operated under section 553a, shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 552 and in the contract.

(2) A school of excellence shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district. However, a school of excellence may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district and may give enrollment priority as provided in subsection (4).

(3) Except for a foreign exchange student who is not a United States citizen, a school of excellence shall not enroll a pupil who is not a resident of this state. Enrollment in the school of excellence may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 552(6)(a) to (c) who meet the admission policy, except that admission to a school of excellence authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 552(6)(c), shall be open to all pupils who reside in the county in which the federal military installation is located. For a school of excellence authorized by a state public university, enrollment shall be open to all pupils who reside in this state who meet the admission policy. If there are more applications to enroll in the school of excellence than there are spaces available, pupils shall be selected to attend using a random selection process. A school of excellence shall allow any pupil who was enrolled in the school of excellence in the immediately preceding school year to enroll in the school of excellence in the appropriate grade unless the appropriate grade is not offered at that school of excellence.

(4) A school of excellence may give enrollment priority to 1 or more of the following:

(a) A sibling of a pupil enrolled in the public school.

(b) A pupil who transfers to the school of excellence from another public school pursuant to a matriculation agreement between the school of excellence and another public school that provides for this enrollment priority, if all of the following requirements are met:

(i) Each school of excellence or other public school that enters into the matriculation agreement remains a separate and independent public school.

(ii) The public school that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.

(iii) The matriculation agreement allows any pupil who was enrolled at any time during elementary school in a school of excellence that is party to the matriculation agreement and who was not expelled from the school of excellence to enroll in the public school giving enrollment priority under the matriculation agreement.

(5) Subject to subsection (6), a school of excellence may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, a school of excellence may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

(6) In addition to any other grade levels it operates, a school of excellence shall work toward operating all of grades 9 to 12 within 6 years after it begins operations, unless a matriculation agreement has been reached with another public school that provides grades 9 to 12.

(7) If a school of excellence is a cyber school and its authorizing body is a school district or intermediate school district, the school of excellence shall give enrollment priority to pupils who reside in the school district or intermediate school district that is the authorizing body.

Sec. 557. In addition to other powers set forth in this part, a school of excellence may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

(a) To sue and be sued in its name.

(b) Subject to section 555, to acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, grant, devise, bequest, lease, sublease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interests of the school of excellence require.

(c) To receive, disburse, and pledge funds for lawful purposes.

(d) To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the school of excellence.

(e) To incur temporary debt in accordance with section 1225.

(f) To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf 1 or more nonprofit corporations the purpose of which is to assist the school of excellence in the furtherance of its public purposes.

(g) To borrow money and issue bonds in accordance with section 1351a and in accordance with part VI of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the borrowing of money and issuance of bonds by a school of excellence is not subject to section 1351a(4) or section 1351(2) to (4). Bonds issued under this section shall be full faith and credit obligations of the school of excellence, pledging the general funds or any other money available for such a purpose. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 558. If a school of excellence is operated by a school district that is subject to a court desegregation order, pupil selection at the school of excellence is subject to that order.

Sec. 559. (1) Except as otherwise provided by law, and except as otherwise provided under section 553a for a cyber school, a school of excellence shall use certificated teachers according to state board rule.

(2) A school of excellence operated by a state public university or community college may use noncertificated individuals to teach as follows:

(a) If the school of excellence is operated by a state public university, the school of excellence may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university and who has been granted institutional tenure, or has been designated as being on tenure track, by the state public university.

(b) For a school of excellence operated by a community college, the school of excellence may use as a classroom teacher a full-time member of the community college faculty who has at least 5 years' experience at that community college in teaching the subject matter that he or she is teaching at the school of excellence.

(c) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(3) A school of excellence may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods, and shall report those to the authorizing body and state board to be made available to the public. A school of excellence may use any instructional technique or delivery method that may be used by a school district.

Sec. 560. A school of excellence, with the approval of the authorizing body, may employ or contract with personnel as necessary for the operation of the school of excellence, prescribe their duties, and fix their compensation. A school of excellence may implement and maintain a method of compensation for its employees that is based on job performance, job accomplishments, and job assignment in a subject area or school that is difficult to find employees to staff.

Sec. 560a. If the board of directors of a school of excellence provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act, 2007 PA 106, MCL 124.71 to 124.85, and shall comply with that act.

Sec. 561. (1) If an authorizing body issues a contract for a school of excellence under this part, the authorizing body shall do all of the following:

(a) Ensure that the contract and the application for the contract comply with the requirements of this part.

(b) Within 10 days after issuing the contract, submit to the department a copy of the contract.

(c) Establish the method of selection, length of term, and number of members of the board of directors of each school of excellence that it authorizes. The authorizing body shall ensure that the board of directors includes representation from the local community.

(d) Oversee the operations of each school of excellence operating under a contract issued by the authorizing body. The oversight shall be sufficient to ensure that the school of excellence is in compliance with the terms of the contract and with applicable law.

(e) Develop and implement a process for holding a school of excellence board of directors accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for a school of excellence that does not meet those standards.

(f) Take necessary measures to ensure that a school of excellence board of directors operates independently of any educational management organization involved in the operations of the school of excellence.

(g) Oversee and ensure that the pupil admission process used by the school of excellence is operated in a fair and open manner and is in compliance with the contract and this part.

(h) Ensure that the board of directors of the school of excellence maintains and releases information as necessary to comply with applicable law.

(2) The authorizing body may enter into an agreement with 1 or more authorizing bodies, as defined under part 6a, to carry out any function of the authorizing body under subsection (1)(a) to (h).

(3) The authorizing body for a school of excellence is the fiscal agent for the school of excellence. A state school aid payment for a school of excellence shall be paid to the authorizing body as the fiscal agent for that school of excellence, and the authorizing body shall then forward the payment to the school of excellence. Within 30 days after a contract is submitted to the department by the authorizing body under subsection (1), the department shall issue a district code to the school of excellence for which the contract was issued. If the department does not issue a district code within 30 days after a contract is filed, the state treasurer shall assign a temporary district code in order for the school of excellence to receive funding under the state school aid act of 1979.

(4) A contract issued under this part may be revoked by the authorizing body if the authorizing body determines that 1 or more of the following have occurred:

(a) Failure of the school of excellence to abide by and meet the educational goals set forth in the contract.

(b) Failure of the school of excellence to comply with all applicable law.

(c) Failure of the school of excellence to meet generally accepted public sector accounting principles.

(d) The existence of 1 or more other grounds for revocation as specified in the contract.

(5) Except for a school of excellence that is an alternative school serving a special student population, if the superintendent of public instruction determines that a school of excellence that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American recovery and reinvestment act of 2009, Public Law 111-5, and is in year 2 of restructuring sanctions under the no child left behind act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, the superintendent of public instruction shall notify the school of excellence's authorizing body. If an authorizing body receives notice from the superintendent of public instruction under this subsection, the authorizing body shall revoke the school of excellence's contract and the school of excellence shall be closed, effective at the end of the current school year.

(6) Except for a contract issued by a school district pursuant to a vote by the school electors on a ballot question under section 553(2), the decision of the authorizing body to issue, reissue, or reconstitute a contract under this part, or to revoke a contract under this section, is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any other state agency. If the authorizing body does not issue, reissue, or reconstitute a contract under this part, or revokes a contract under this section, the authorizing body is not liable for that action to the school of excellence, the school of excellence corporation, a pupil of the school of excellence, the parent or guardian of a pupil of the school of excellence, or any other person.

(7) Except as otherwise provided in subsection (5), before the authorizing body revokes a contract, the authorizing body shall consider and take corrective measures to avoid revocation. The authorizing body may reconstitute the school of excellence in a final attempt to improve student educational performance or to avoid interruption of the educational process. The authorizing body shall include a reconstituting provision in the contract that identifies these corrective measures, including, but not limited to, canceling a contract with an educational management organization, if any, withdrawing approval to contract under section 557, or appointing a new board of directors or a trustee to take over operation of the school of excellence.

(8) If the authorizing body revokes a contract, the authorizing body shall work with a school district or another public school, or with a combination of these entities, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as the fiscal agent for the school of excellence under this part, shall return any school aid funds received by the authorizing body that are attributable to the affected pupils to the state treasurer for deposit into the state school aid fund. The state treasurer shall distribute funds to the public school in which the pupils enroll after the revocation pursuant to a methodology established by the department and the center for educational performance and information.

(9) Not more than 10 days after a school of excellence's contract terminates or is revoked, the authorizing body shall notify the superintendent of public instruction in writing of the name of the school of excellence whose contract has terminated or been revoked and the date of contract termination or revocation.

(10) If a school of excellence's contract terminates or is revoked, title to all real and personal property, interest in real or personal property, and other assets owned by the school of excellence shall revert to the state. This property shall be distributed in accordance with the following:

(a) Within 30 days following the termination or revocation, the board of directors of a school of excellence shall hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the school of excellence corporation, all in accordance with chapter 8 of the nonprofit corporation act, 1982 PA 162, MCL 450.2801 to 450.2864.

(b) The school of excellence shall file a certificate of dissolution with the department of energy, labor, and economic growth within 10 business days following board approval.

(c) Simultaneously with the filing of the certificate of dissolution under subdivision (b), the school of excellence board of directors shall provide a copy of the board of directors' plan of distribution of assets to the state treasurer for approval. Within 30 days, the state treasurer, or his or her designee, shall review and approve the board of directors' plan of distribution of assets. If the proposed plan of distribution of assets is not approved within 30 days, the state treasurer, or his or her designee, shall provide the board of directors with an acceptable plan of distribution of assets.

(d) The state treasurer, or his or her designee, shall monitor the school of excellence's winding up of the dissolved corporation in accordance with the plan of distribution of assets approved or provided under subdivision (c).

(e) As part of the plan of distribution of assets, the school of excellence board of directors shall designate the director of the department of management and budget, or his or her designee, to dispose of all real property of the school of excellence corporation in accordance with the directives developed for disposition of surplus land and facilities under section 251 of the management and budget act, 1984 PA 431, MCL 18.1251.

(f) If the board of directors of a school of excellence fails to take any necessary action under this section, the state treasurer, or his or her designee, may suspend the school of excellence board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee shall have all the rights, powers, and privileges under law that the school of excellence board of directors had before being suspended.

(g) Following the sale of the real or personal property or interests in the real or personal property, and after payment of any school of excellence debt secured by the property or interest in property, whether real or personal, the school of excellence board of directors, or a trustee appointed under this section, shall forward any remaining money to the state treasurer. Following receipt, the state treasurer, or his or her designee, shall deposit this remaining money in the state school aid fund.

Sec. 1246. (1) A school district, public school academy, or intermediate school district shall not continue to employ a person as a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs or as a chief business official unless the person meets 1 or more of the following requirements, as applicable:

(a) For a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs, or a chief business official, who was employed as a school administrator in this state on or before

the effective date of the amendatory act that added this subdivision, has completed the continuing education requirements prescribed by rule under subsection (2).

(b) Subject to subsection (3), for a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs and who is initially employed as a school administrator in this state after the effective date of the amendatory act that added this subdivision, possesses a valid Michigan school administrator's certificate issued under section 1536.

(2) The superintendent of public instruction shall promulgate rules establishing continuing education requirements as a condition for continued employment for persons described in subsection (1)(a). The rules shall prescribe a minimum amount of continuing education that shall be completed within 5 years after initial employment and shall be completed each subsequent 5-year period to meet the requirements of subsection (1)(a) for continued employment.

(3) A school district, public school academy, or intermediate school district may employ as a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs a person who is enrolled in a program leading to certification as a school administrator under section 1536 not later than 6 months after he or she begins the employment. A person employed as a school administrator pursuant to this subsection has 3 years to meet the certification requirements of section 1536, or the school district, public school academy, or intermediate school district shall not continue to employ the person as a school administrator described in this subsection.

Sec. 1249. With the involvement of teachers and school administrators, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system that does all of the following:

(a) Evaluates the teacher's or school administrator's job performance at least annually while providing timely and constructive feedback.

(b) Establishes clear approaches to measuring student growth and provides teachers and school administrators with relevant data on student growth.

(c) Evaluates a teacher's or school administrator's job performance, using multiple rating categories that take into account data on student growth as a significant factor. For these purposes, student growth shall be measured by national, state, or local assessments and other objective criteria.

(d) Uses the evaluations, at a minimum, to inform decisions regarding all of the following:

(i) The effectiveness of teachers and school administrators, ensuring that they are given ample opportunities for improvement.

(ii) Promotion, retention, and development of teachers and school administrators, including providing relevant coaching, instruction support, or professional development.

(iii) Whether to grant tenure or full certification, or both, to teachers and school administrators using rigorous standards and streamlined, transparent, and fair procedures.

(iv) Removing ineffective tenured and untenured teachers and school administrators after they have had ample opportunities to improve, and ensuring that these decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

Sec. 1250. (1) A school district, public school academy, or intermediate school district shall implement and maintain a method of compensation for its teachers and school administrators that includes job performance and job accomplishments as a significant factor in determining compensation and additional compensation. The assessment of job performance shall incorporate a rigorous, transparent, and fair evaluation system that evaluates a teacher's or school administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria.

(2) If a collective bargaining agreement is in effect for teachers or school administrators of a school district, public school academy, or intermediate school district as of the effective date of the amendatory act that added this subsection, and if that collective bargaining agreement prevents compliance with subsection (1), then subsection (1) does not apply to that school district, public school academy, or intermediate school district until after the expiration of that collective bargaining agreement.

Sec. 1278a. (1) Except as otherwise provided in this section or section 1278b, beginning with pupils entering grade 8 in 2006, the board of a school district or board of directors of a public school academy shall not award a high school diploma to a pupil unless the pupil meets all of the following:

(a) Has successfully completed all of the following credit requirements of the Michigan merit standard before graduating from high school:

(i) At least 4 credits in mathematics that are aligned with subject area content expectations developed by the department and approved by the state board under section 1278b, including completion of at least algebra I, geometry, and algebra II, or an integrated sequence of this course content that consists of 3 credits, and an additional mathematics

credit, such as trigonometry, statistics, precalculus, calculus, applied math, accounting, business math, a retake of algebra II, a course in financial literacy as described in section 1165. A pupil may complete algebra II over 2 years with 2 credits awarded or over 1.5 years with 1.5 credits awarded for the purposes of this section and section 1278b. A pupil also may partially or fully fulfill the algebra II requirement by completing a department-approved formal career and technical education program or curriculum that has appropriate embedded mathematics content, such as a program or curriculum in electronics, machining, construction, welding, engineering, or renewable energy. Not later than 30 days after the effective date of the amendatory act that added the immediately preceding sentence, the department shall post on its website and submit to the senate and house standing committees on education guidelines for implementation of the immediately preceding sentence. Each pupil must successfully complete at least 1 mathematics course during his or her final year of high school enrollment. This subparagraph does not require completion of mathematics courses in any particular sequence.

(ii) At least 3 credits in social science that are aligned with subject area content expectations developed by the department and approved by the state board under section 1278b, including completion of at least 1 credit in United States history and geography, 1 credit in world history and geography, 1/2 credit in economics, and the civics course described in section 1166(2).

(iii) At least 1 credit in subject matter that includes both health and physical education aligned with guidelines developed by the department and approved by the state board under section 1278b.

(iv) At least 1 credit in visual arts, performing arts, or applied arts, as defined by the department, that is aligned with guidelines developed by the department and approved by the state board under section 1278b.

(v) The credit requirements specified in section 1278b(1).

(b) Meets the online course or learning experience requirement of this subsection. A school district or public school academy shall provide the basic level of technology and internet access required by the state board to complete the online course or learning experience. For a pupil to meet this requirement, the pupil shall meet either of the following, as determined by the school district or public school academy:

(i) Has successfully completed at least 1 course or learning experience that is presented online, as defined by the department.

(ii) The pupil's school district or public school academy has integrated an online experience throughout the high school curriculum by ensuring that each teacher of each course that provides the required credits of the Michigan merit curriculum has integrated an online experience into the course.

(2) In addition to the requirements under subsection (1), beginning with pupils entering grade 3 in 2006, the board of a school district or board of directors of a public school academy shall not award a high school diploma to a pupil unless the pupil has successfully completed during grades 9 to 12 at least 2 credits, as determined by the department, in a language other than English, or the pupil has successfully completed at any time during grades K to 12 course work or other learning experiences that are substantially equivalent to 2 credits in a language other than English, based on guidelines developed by the department. For the purposes of this subsection, all of the following apply:

(a) American sign language is considered to be a language other than English.

(b) The pupil may meet all or part of this requirement with online course work.

(3) The requirements under this section and section 1278b for a high school diploma are in addition to any local requirements imposed by the board of a school district or board of directors of a public school academy. The board of a school district or board of directors of a public school academy, as a local requirement for a high school diploma, may require a pupil to complete the Michigan merit examination under section 1279g or may require a pupil to participate in the MIAccess assessments if appropriate for the pupil.

(4) For the purposes of this section and section 1278b, all of the following apply:

(a) A pupil is considered to have completed a credit if the pupil successfully completes the subject area content expectations or guidelines developed by the department that apply to the credit.

(b) A school district or public school academy shall base its determination of whether a pupil has successfully completed the subject area content expectations or guidelines developed by the department that apply to a credit at least in part on the pupil's performance on the assessments developed or selected by the department under section 1278b or on 1 or more assessments developed or selected by the school district or public school academy that measure a pupil's understanding of the subject area content expectations or guidelines that apply to the credit.

(c) A school district or public school academy shall also grant a pupil a credit if the pupil earns a qualifying score, as determined by the department, on the assessments developed or selected for the subject area by the department under section 1278b or the pupil earns a qualifying score, as determined by the school district or public school academy, on 1 or more assessments developed or selected by the school district or public school academy that measure a pupil's understanding of the subject area content expectations or guidelines that apply to the credit.

(5) If a high school is designated by the superintendent of public instruction as a specialty school and the high school meets the requirements of subsection (6), then the pupils of the high school are not required to successfully complete

the 4 credits in English language arts required under section 1278b(1)(a) or the 3 credits in social science required under subsection (1)(a)(ii) and the school district or public school academy is not required to ensure that each pupil is offered the curriculum necessary for meeting those English language arts or social science credit requirements. The superintendent of public instruction may designate up to 15 high schools that meet the requirements of this subsection as specialty schools. Subject to this maximum number, the superintendent of public instruction shall designate a high school as a specialty school if the superintendent of public instruction finds that the high school meets all of the following criteria:

(a) The high school incorporates a significant reading and writing component throughout its curriculum.

(b) The high school uses a specialized, innovative, and rigorous curriculum in such areas as performing arts, foreign language, extensive use of internships, or other learning innovations that conform to pioneering innovations among other leading national or international high schools.

(6) A high school that is designated by the superintendent of public instruction as a specialty school under subsection (5) is only exempt from requirements as described under subsection (5) as long as the superintendent of public instruction finds that the high school continues to meet all of the following requirements:

(a) The high school clearly states to prospective pupils and their parents that it does not meet the requirements of the Michigan merit standard under this section and section 1278b but is a designated specialty school that is exempt from some of those requirements and that a pupil who enrolls in the high school and subsequently transfers to a high school that is not a specialty school meeting the requirements of this subsection will be required to comply with the requirements of the Michigan merit standard under this section and section 1278b.

(b) For the most recent year for which the data are available, the mean scores on both the mathematics and science portions of the ACT examination for the pupils of the high school exceed by at least 10% the mean scores on the mathematics and science portions of the ACT examination for the pupils of the school district in which the greatest number of the pupils of the high school reside.

(c) For the most recent year for which the data are available, the high school had a graduation rate of at least 85%, as determined by the department.

(d) For the most recent year for which the data are available, at least 75% of the pupils who graduated from the high school the preceding year are enrolled in a postsecondary institution.

(e) All pupils of the high school are required to meet the mathematics credit requirements of subsection (1)(a)(i), with no modification of these requirements under section 1278b(5), and each pupil is offered the curriculum necessary to meet this requirement.

(f) All pupils of the high school are required to meet the science credit requirements of section 1278b(1)(b) and are also required to successfully complete at least 1 additional science credit, for a total of at least 4 science credits, with no modification of these requirements under section 1278b(5), and each pupil is offered the curriculum necessary to meet this requirement.

Sec. 1311e. (1) An authorizing body is not required to issue a contract to any person or entity. Contracts for strict discipline academies shall be issued on a competitive basis taking into consideration the resources available for the proposed strict discipline academy, the population to be served by the proposed strict discipline academy, and the educational goals to be achieved by the proposed strict discipline academy.

(2) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more strict discipline academies within the boundaries of the school district and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 1311d and shall be signed by a number of school electors of the school district equal to at least 15% of the total number of school electors of that school district. The petition shall be filed with the secretary of the board. If the board receives a petition meeting the requirements of this subsection, the board shall place the question of issuing the contract on the ballot at its next annual school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to issue the contract, the board shall issue the contract.

(3) Within 10 days after issuing a contract for a strict discipline academy, the board of the authorizing body shall submit to the state board a copy of the contract and of the application under section 1311d.

(4) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each strict discipline academy subject to its jurisdiction.

(5) A contract issued to organize and administer a strict discipline academy shall contain at least all of the following:

(a) The educational goals the strict discipline academy is to achieve and the methods by which it will be held accountable. To the extent applicable, the pupil performance of a strict discipline academy shall be assessed using at

least a Michigan education assessment program (MEAP) test or the Michigan merit examination developed under section 1279g, as applicable.

(b) A description of the method to be used to monitor the strict discipline academy's compliance with applicable law and its performance in meeting its targeted educational objectives.

(c) A description of the process for amending the contract during the term of the contract.

(d) All of the matters set forth in the application for the contract.

(e) For a strict discipline academy authorized by a school district, an agreement that employees of the strict discipline academy will be covered by the collective bargaining agreements that apply to employees of the school district employed in similar classifications in schools that are not strict discipline academies.

(f) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 1311l.

(g) A description of and address for the proposed physical plant in which the strict discipline academy will be located.

(h) Requirements and procedures for financial audits. The financial audits shall be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

(i) The term of the contract and a description of the process and standards for renewal of the contract at the end of the term. The standards for renewal shall include student growth as measured by assessments and other objective criteria as a significant factor in the decision of whether or not to renew the contract.

(6) A strict discipline academy shall comply with all applicable law, including all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

(d) 1965 PA 166, MCL 408.551 to 408.558.

(e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(f) Except for part 6a, all provisions of this act that explicitly apply to public school academies established under part 6a.

(7) A strict discipline academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing a strict discipline academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(8) A strict discipline academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a strict discipline academy are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A strict discipline academy may not levy ad valorem property taxes or any other tax for any purpose. However, operation of 1 or more strict discipline academies by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or any other tax.

(9) A strict discipline academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a strict discipline academy may proceed under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that act, MCL 213.56 to 213.59, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

Sec. 1536. (1) The state board shall develop a school administrator's certificate that shall be issued to all school district and intermediate school district superintendents, school principals, assistant principals, and other administrators whose primary responsibility is administering instructional programs and who meet the requirements established under subsection (3). An individual described in section 1246(1)(a) is not required by this section to have a school administrator's certificate under this section or an endorsement under subsection (2) to be employed as a school administrator by a school district, public school academy, intermediate school district, or nonpublic school.

(2) The state board also shall develop appropriate certificate endorsements for school administrators, by elementary, secondary, and central office level.

(3) The state board shall develop standards, and the superintendent of public instruction shall develop procedures, to implement this section. The standards and procedures shall address at least all of the following:

(a) The educational and professional experience requirements for a certificate or endorsement under this section.



(b) Continuing education requirements for periodic recertification. These requirements shall be consistent with the continuing education requirements under section 1246.

(c) Procedures for application for and issuance of certificates and endorsements under this section.

(d) Standards and procedures for suspension and revocation of a certificate. These standards and procedures shall be based on the standards and procedures for taking action against a person's teaching certificate under section 1535a.

(4) The department shall consult and work with appropriate professional organizations, primarily organizations representing superintendents and building-level administrators, in developing the standards required under this section.

(5) For the purposes of adding 1 or more enhancement or specialty endorsements for a school administrator's certificate, the department may recognize performance-based professional learning programs offered by established state professional organizations that represent school administrators described in subsection (1). These programs must be approved by the department based on alignment with state board-approved school administrator program preparation standards.

(6) A school administrator's certificate issued under this section is valid for 5 years and shall be renewed upon completion of renewal units as determined by the superintendent of public instruction.

(7) The department shall recognize alternative pathways to earning the basic school administrator's certificate based on experience or alternative preparation, or both, if the alternative certification program is submitted by an established state professional organization and meets criteria set forth by state board approved school administrator program preparation standards.

(8) As used in this section, "established state professional organization" means an association that has served members on a statewide basis for at least 10 years.

Sec. 1701a. For the purposes of ensuring that a student with a disability enrolled in a public school academy is provided with special education programs and services, the public school academy is considered to be a local school district under this article.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) Senate Bill No. 926.
- (b) House Bill No. 4787.
- (c) House Bill No. 4788.
- (d) House Bill No. 5596.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

.....  
Governor

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 926 was filed with the Secretary of State January 4, 2010, and became 2009 PA 203, Imd. Eff. Jan. 4. 2010.

House Bill No. 4787 was filed with the Secretary of State January 4, 2010, and became 2009 PA 204, Imd. Eff. Jan. 4. 2010.

House Bill No. 4788 was filed with the Secretary of State January 4, 2010, and became 2009 PA 201, Imd. Eff. Jan. 4. 2010.

House Bill No. 5596 was filed with the Secretary of State January 4, 2010, and became 2009 PA 202, Imd. Eff. Jan. 4. 2010.