

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1450 Session of 2012

INTRODUCED BY PICCOLA, PILEGGI, BROWNE, SMUCKER, MENSCH, WAUGH,  
ERICKSON, VANCE, RAFFERTY, EARLL, D. WHITE AND EICHELBERGER,  
MARCH 16, 2012

REFERRED TO EDUCATION, MARCH 16, 2012

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," in duties and powers of boards of  
6 school directors, further providing for elementary schools;  
7 in school finances, further providing for when district  
8 distressed; repealing provisions relating to special board of  
9 control, petition and appointments, to when no appointment is  
10 made, and to compensation of special board of control;  
11 further providing for powers of special board of control;  
12 repealing provisions relating to additional tax and to school  
13 directors to remain in office and elections; and adding  
14 provisions relating to certain school district financial  
15 recovery.

16 The General Assembly of the Commonwealth of Pennsylvania  
17 hereby enacts as follows:

18 Section 1. Section 501 of the act of March 10, 1949 (P.L.30,  
19 No.14), known as the Public School Code of 1949, is amended to  
20 read:

21 Section 501. Elementary Schools.--(a) The board of school  
22 directors in every school district shall establish, equip,  
23 furnish, and maintain a sufficient number of elementary public  
24 schools, in compliance with the provisions of this act, to

1 educate every person, residing in such district, between the  
2 ages of six and twenty-one years, who may attend.

3 (b) A board of school directors may satisfy the requirement  
4 set forth in subsection (a) by any of the following:

5 (1) Operating a school building.

6 (2) Converting a school building to a charter school.

7 (3) Contracting with any individual or entity authorized to  
8 establish a charter school under section 1717-A(a) to operate a  
9 charter school building.

10 (4) Paying tuition for students residing in the school  
11 district to attend school in another school district upon the  
12 agreement of both school districts.

13 Section 2. Section 691(a) of the act, amended April 27, 1998  
14 (P.L.270, No.46), is amended to read:

15 Section 691. When District Distressed.--(a) [A] Except for  
16 a school district of the first class A, second class, third  
17 class or fourth class, a school district shall be deemed to be  
18 distressed when any one of the following circumstances shall  
19 arise and the Secretary of Education, after proper investigation  
20 of the district's financial condition, the administrative  
21 practices of the board and such other matters deemed appropriate  
22 by the Secretary of Education, has issued a certificate  
23 declaring such district in financial distress:

24 (1) The salaries of any teachers or other employes have  
25 remained unpaid for a period of ninety (90) days.

26 (2) The tuition due another school district remains unpaid  
27 on and after January first of the year following the school year  
28 it was due and there is no dispute regarding the validity or  
29 amount of the claim.

30 (3) Any amount due any joint board of school directors under

1 a joint board agreement remains unpaid for a period of ninety  
2 (90) calendar days beyond the due date specified in the joint  
3 board's articles of agreement.

4 (4) The school district has defaulted in payment of its  
5 bonds or interest on such bonds or in payment of rentals due any  
6 authority for a period of ninety (90) calendar days and no  
7 action has been initiated within that period of time to make  
8 payment.

9 (5) The school district has contracted any loan not  
10 authorized by law.

11 (6) The school district has accumulated and has operated  
12 with a deficit equal to two per centum (2%) or more of the  
13 assessed valuation of the taxable real estate within the  
14 district for two successive years.

15 (7) A new, merged or union school district has been formed  
16 and one or more of the former school districts which compose the  
17 merged or union school district was a distressed school district  
18 at the time of the formation of the merged or union school  
19 district.

20 \* \* \*

21 Section 3. Section 692, amended December 9, 2002 (P.L.1472,  
22 No.187), of the act is repealed:

23 [Section 692. Special Board of Control; Petition;  
24 Appointments.--Whenever on the basis of a proper investigation  
25 as herein provided for, the Secretary of Education has declared  
26 a school district of the first class A, second class, third  
27 class or fourth class to be a distressed school district under  
28 section 691(a), he or his designated representative who shall be  
29 a person trained in public school administration, possessing the  
30 certification prerequisites demanded of a district or assistant

1 superintendent, or holding in the Department of Education the  
2 rank of Deputy Secretary, shall petition the court of common  
3 pleas of the county in which such district, or the largest part  
4 in area, is located to appoint two citizens who shall be  
5 qualified electors and taxpayers in the county in which the  
6 school district is located. School directors and employees of any  
7 such school district shall be ineligible for appointment by the  
8 court. The appointees, together with the designated  
9 representative of the Secretary of Education, shall constitute a  
10 special board of control and shall serve for terms of five  
11 years. No member of the board may be removed from office during  
12 a term, except that the Secretary of Education may upon clear  
13 and convincing evidence of malfeasance or misfeasance in office  
14 remove a member prior to the expiration of the term. Before a  
15 member of the board is removed, that member must be provided  
16 with a written statement of the reasons for removal and an  
17 opportunity for a hearing in accordance with 2 Pa.C.S. Ch. 5  
18 Subch. A (relating to practice and procedure of Commonwealth  
19 agencies) and Ch. 7 Subch. A (relating to judicial review of  
20 Commonwealth agency action). Vacancies occurring because of  
21 death, removal or resignation of members of the board shall be  
22 filled within thirty (30) days of the creation of the vacancy in  
23 the manner in which that position was originally filled. A  
24 member of the board shall hold office until a successor is  
25 appointed and qualified. The special board of control shall  
26 assume control of the affairs of the district and operate it in  
27 the place of the school directors during the period necessary to  
28 reestablish a sound financial structure in the district. The  
29 costs of the court proceedings shall be paid by the Department  
30 of Education.]

Section 3.1. Section 692.1 of the act, amended January 14, 1970 (1969 P.L., No.192), is repealed:

[Section 692.1. When No Appointment Is Made.--In the event that the court of common pleas has made no appointment of members to a special board of control within thirty (30) days of the date of the filing of the petition for such appointment, the Superintendent of Public Instruction may designate the executive director of the intermediate unit and a member of the intermediate unit board of directors of the intermediate unit in which the petition is presented to serve until the court makes its appointments. A school director of the distressed school district serving on the intermediate board of directors shall be ineligible for appointment.]

Section 3.2. Section 692.2 of the act, amended June 30, 1995 (P.L.220, No.26), is repealed:

[Section 692.2. Compensation of Special Board of Control.--The members of the special board appointed by the court, or the member other than the executive director of the intermediate unit appointed on a temporary basis by the Superintendent of Public Instruction, shall be paid seventy-five dollars (\$75) for each meeting of the regular board of school directors of the distressed school district which they attend: Provided, however, That the total amount to be paid in any fiscal year to each such member shall not exceed nine hundred dollars (\$900). Such payments shall be made from the funds of the school district and shall be charged to administrative services even though no previous provision has been made in the budget of the school district for such expenses.]

Section 4. Section 693 of the act, added December 15, 1959 (P.L.1842, No.675), is amended to read:

1 Section 693. Powers of Special Board of Control.--[When]

2 (a) Except as otherwise provided in subsection (b), when the

3 special board of control assumes control of a distressed school

4 district, it shall have power and is hereby authorized to

5 exercise all the rights, powers, privileges, prerogatives and

6 duties imposed or conferred by law on the board of school

7 directors of the distressed district, and the board of school

8 directors shall have no power to act without the approval of the

9 special board of control. In addition thereto, the special board

10 of control shall have power to require the board of directors

11 within sixty (60) days to revise the district's budget for the

12 purpose of effecting such economies as it deems necessary to

13 improve the district's financial condition. To this end the

14 special board of control may require the board:

15 (1) To cancel or to renegotiate any contract other than

16 teachers' contracts to which the board or the school district is

17 a party, if such cancellation or renegotiation of contract will

18 effect needed economies in the operation of the district's

19 schools.

20 (2) To increase tax levies in such amounts and at such times

21 as is permitted by the act to which this is an amendment.

22 (3) To appoint a special collector of delinquent taxes for

23 the district who need not be a resident of the school district.

24 Such special tax collector shall exercise all the rights and

25 perform all the duties imposed by law on tax collectors for

26 school districts. The superseded tax collector shall not be

27 entitled to any commissions on the taxes collected by the

28 special collector of delinquent taxes.

29 (4) To direct the special school auditors of the department

30 or to appoint a competent independent public accountant to audit

1 the accounts of the distressed school districts.

2 (5) To dispense with the services of such nonprofessional  
3 employes as in his judgment are not actually needed for the  
4 economical operation of the school system.

5 (6) To suspend, in accordance with the provisions of section  
6 1124 of the act to which this is an amendment, such number of  
7 professional and temporary professional employes as may be  
8 necessary to maintain a pupil-teacher ratio of not less than  
9 twenty-six pupils per teacher for the combined elementary and  
10 secondary school enrollments.

11 (b) The provisions of subsection (a) shall not apply to a  
12 school district of the first class A, second class, third class  
13 or fourth class.

14 Section 5. Section 694 of the act, added December 15, 1959  
15 (P.L.1842, No.675), is repealed:

16 [Section 694. Additional Tax.--When the operation of a  
17 distressed school district has been assumed by the special board  
18 of control, the board of school directors of the district shall,  
19 upon the recommendation and with the approval of the special  
20 board of control, levy an additional tax or taxes sufficient to  
21 liquidate the indebtedness of the district: Provided, That when  
22 such school directors fail to levy such additional taxes within  
23 a reasonable time, the special board of control may petition the  
24 court of common pleas of the county in which such district or  
25 the largest part in area is located to issue a writ of mandamus  
26 requiring the board to levy such additional tax or taxes, or he  
27 may, in his own name, initiate action to have the board removed  
28 from office for neglect of duty subject to the provisions of  
29 section 318 of this act. Notwithstanding present limitations on  
30 tax rates imposed by law, such limitations shall not apply to

1 distressed school districts.]

2 Section 5.1. Section 695 of the act, amended July 31, 1963  
3 (P.L.407, Mo.215), is repealed:

4 [Section 695. School Directors to Remain in Office;  
5 Elections.--The school directors of a distressed district may  
6 not resign their offices, except with the unanimous consent of  
7 the special board of control and shall continue in office,  
8 unless removed from office for neglect of duty under the  
9 provisions of section 318 of this act by the court of common  
10 pleas of the county in which such district or the largest part  
11 in area is located, or unless any of such directors are elected  
12 to another position not compatible with the position of school  
13 director or are appointed to any position for which there is a  
14 requirement that said appointee shall hold no elective office,  
15 for the remainder of their terms during the time the district is  
16 operated by the special board of control and shall perform any  
17 duties delegated to them by it. The assumption of control of a  
18 distressed school district by the special board of control shall  
19 in no way interfere with the regular election or reelection of  
20 school directors for the district.]

21 Section 6. The act is amended by adding an article to read:

22 ARTICLE VI-A

23 SCHOOL DISTRICT FINANCIAL RECOVERY

24 (a) Preliminary Provisions

25 Section 601-A. Scope of article.

26 This article provides for financial recovery in certain  
27 school districts.

28 Section 602-A. Definitions.

29 The following words and phrases when used in this article  
30 shall have the meanings given to them in this section unless the



1 context clearly indicates otherwise:

2 "Advisory committee." The advisory committee established by  
3 a board of school directors under section 661-A.

4 "Chief recovery officer." The chief recovery officer  
5 appointed by the Secretary of Education under section 631-A.

6 "Claim." A right to:

7 (1) payment, whether or not the right is reduced to  
8 judgment, liquidated, unliquidated, fixed, contingent,  
9 matured, unmatured, disputed, undisputed, legal, equitable,  
10 secured or unsecured; or

11 (2) an equitable remedy for breach of performance if the  
12 breach gives rise to a right to payment, whether or not the  
13 right to an equitable remedy is reduced to judgment, fixed,  
14 contingent, matured, unmatured, disputed, undisputed, secured  
15 or unsecured.

16 "Commonwealth agency." The Governor and any department,  
17 board, commission, authority and other officer and agency of the  
18 Commonwealth, whether or not subject to the policy supervision  
19 and control of the Governor.

20 "Creditor." An individual, partnership, corporation,  
21 association, estate, trust or governmental unit that has a claim  
22 against a school district. The term shall include the Public  
23 School Employees' Retirement Board.

24 "Deficit." The excess of expenditures over revenues,  
25 calculated as a percentage of revenue, during an accounting  
26 period, and which calculation includes all governmental fund  
27 types and all proprietary fund types, but excludes all fiduciary  
28 fund types of the school district.

29 "Department." The Department of Education of the  
30 Commonwealth.

1 "Employee organization." A public school employee  
2 organization as defined in section 1101-A.

3 "Expenditures." Reductions in fund equity, including current  
4 operating expenses that require the use of fund equity, debt  
5 service and capital outlays. The term shall not include  
6 interfund transfers.

7 "Financial recovery plan" or "plan." A financial recovery  
8 plan under subarticle (c).

9 "Financial recovery school district." A school district of  
10 the first class A, second class, third class or fourth class  
11 declared by the Secretary of Education to be in financial  
12 recovery status under section 621-A.

13 "Financial recovery school district revolving loan fund."  
14 The fund for loans awarded under subdivision (vi) of subarticle  
15 (c).

16 "Financial recovery team." The team of individuals employed  
17 or contracted to staff the Office of Financial Recovery under  
18 section 611-A(b) (2).

19 "Fund equity." Excess of assets of a fund over its  
20 liabilities.

21 "Matured claim." A claim that has been reduced to judgment  
22 or liquidated in amount by agreement for a period of 90 days  
23 prior to the earlier of a declaration of financial recovery  
24 status under this article or the filing of a petition for a  
25 declaration of financial recovery status under this article.

26 "Office." The Office of Financial Recovery established in  
27 section 611-A(a).

28 "Receiver." The receiver of a financial recovery school  
29 district appointed under subdivision (iv) of subarticle (c).

30 "Revenues." Additions to fund equity other than from

interfund transfers, proceeds of debt and proceeds of disposition of general fixed assets.

"School district." A school district of the first class A, second class, third class and fourth class and a financial recovery school district. The term does not include a school district of the first class.

"Secretary." The Secretary of Education of the Commonwealth.

(b) Administrative Provisions

Section 611-A. Office of Financial Recovery.

(a) Establishment.--The Office of Financial Recovery is established in the department. There shall be a director of the office who shall report directly to the secretary.

(b) Office space and staffing.--

(1) The department shall provide office space and administrative staffing as necessary to carry out the powers and duties of the office.

(2) (i) In addition to the administrative staff provided by the department under paragraph (1), the office shall be staffed by a financial recovery team consisting of individuals who:

(A) possess at least five years' experience in one or more of the following areas: budget and financial management; public school finance; school administration; accounting; academic assessment; or education law; or

(B) hold a graduate degree from an accredited institution of higher education in business or finance and have at least four years' relevant experience in business, finance or management.

(ii) The department may employ personnel or contract

1 for consulting services as may be necessary to form the  
2 financial recovery team.

3 (c) Powers and duties.--The office shall have the following  
4 powers and duties:

5 (1) Compile financial data and maintain accurate and  
6 current information and data on the financial conditions of  
7 school districts. Each school district shall provide its  
8 financial data and information to the office upon request.

9 (2) Regularly analyze and assess school district budget  
10 reports, data and other information directly related to the  
11 financial conditions of school districts and determine if  
12 individual school districts have satisfied the criteria for  
13 financial recovery status under section 621-A(a).

14 (3) Develop an early warning system pursuant to section  
15 613-A to identify financial difficulties in a school district  
16 before the school district satisfies the criteria for  
17 financial recovery status under section 621-A(a).

18 (4) Undertake a review process, including, but not  
19 limited to, consultation, correspondence and visits with a  
20 school district which appears to satisfy the criteria for  
21 financial recovery status under section 621-A(a).

22 (5) Upon an indication that a school district may  
23 satisfy the criteria for financial recovery status under  
24 section 621-A(a), provide each Commonwealth agency with  
25 written notice that the school district may satisfy the  
26 criteria and request that the Commonwealth agency provide the  
27 office with data, reports and information to assist the  
28 office in confirming that the criteria for financial recovery  
29 status under section 621-A(a) have been satisfied. The office  
30 shall furnish all information received from any Commonwealth

1 agency pursuant to section 612-A to the chief recovery  
2 officer appointed under section 631-A for possible inclusion  
3 of such information into the financial recovery plan for the  
4 school district.

5 (6) Assist a school district to correct minor financial  
6 problems in order for the school district not to be declared  
7 in financial recovery status.

8 (7) If the office determines that a school district  
9 satisfies the criteria for financial recovery status under  
10 section 621-A(a), file a petition with the secretary pursuant  
11 to section 622-A(a)(1) requesting that the school district be  
12 declared to be in financial recovery status.

13 (8) Consult with the chief recovery officer appointed  
14 for a financial recovery school district under section 631-A  
15 and provide technical assistance upon the request of the  
16 chief recovery officer.

17 Section 612-A. Commonwealth agencies.

18 (a) Review programs.--Upon notification by the office  
19 pursuant to section 611-A(c)(5) that a school district may  
20 satisfy the criteria for financial recovery status under section  
21 621-A(a), each Commonwealth agency shall review all matters and  
22 programs pending, underway or about to be commenced or possible  
23 programs concerning the school district. The Commonwealth agency  
24 shall report to the office any recommended action which is  
25 within the authority and budget of the Commonwealth agency and,  
26 in the judgment of the head of the agency, will help to improve  
27 the school district's financial situation.

28 (b) Transfer documented information.--Within 30 days of a  
29 request from the office under section 611-A(c)(5), each  
30 Commonwealth agency shall forward to the office all documented

1 reports, data and other information requested by the office.

2 (c) Notify agencies of determination.--When a school  
3 district is declared to be in financial recovery status under  
4 section 621-A, the secretary shall immediately notify the heads  
5 of all Commonwealth agencies of the declaration.

6 Section 613-A. Early warning system.

7 (a) Establishment.--

8 (1) The office shall develop and implement an early  
9 warning system utilizing appropriate fiscal and socioeconomic  
10 variables to:

11 (i) Identify financial difficulties in school  
12 districts before a school district satisfies the criteria  
13 for financial recovery status under section 621-A(a).

14 (ii) Notify an affected school district  
15 appropriately.

16 (iii) Offer technical assistance to school districts  
17 that are experiencing financial difficulties, but do not  
18 satisfy the criteria for a declaration of financial  
19 recovery status under section 621-A(a).

20 (2) (i) The office shall develop the fiscal and  
21 economic variables to be used in identifying school  
22 districts that experience financial difficulties, shall  
23 test the validity and reliability of the variables and  
24 shall continuously monitor the variables to assure their  
25 effectiveness.

26 (ii) The variables developed by the office under  
27 this paragraph shall include, but shall not be limited  
28 to, whether any political subdivision located within the  
29 school district is a financially distressed municipality  
30 under the act of July 10, 1987 (P.L.246, No.47), known as

1       the Municipalities Financial Recovery Act.

2       (3) In developing an early warning system under this  
3       section, the office may employ or contract with fiscal  
4       consultants as deemed necessary to administer the provisions  
5       of this section.

6       (b) Duties.--When a school district is identified through  
7       the early warning system as experiencing financial difficulties,  
8       the office shall:

9           (1) Notify the school district that the office has  
10          identified the school district as experiencing financial  
11          difficulties.

12          (2) Request from the school district all information  
13          necessary to enable the office to conduct a review of the  
14          school district's financial condition. A school district that  
15          receives a request for information under this paragraph shall  
16          provide the office with all information requested within 15  
17          days of the request.

18          (3) Provide notice and a request for information to  
19          Commonwealth agencies pursuant to section 611-A(c)(5).

20          (4) Perform a thorough review of the school district's  
21          financial condition, which shall include a review of the  
22          information provided by the school district under paragraph  
23          (2) and from Commonwealth agencies under section 612-A and  
24          which may include visits and correspondence with school  
25          district officers and employees.

26          (5) Provide the school district with technical  
27          assistance appropriate to remedying the school district's  
28          financial difficulties, which may include, but shall not be  
29          limited to, contracting with financial consultants to assist  
30          the school district.

1       (6) Petition the secretary to declare the school  
2 district in financial recovery status if the review conducted  
3 by the office indicates that the criteria for a declaration  
4 of financial recovery status under section 621-A(a) have been  
5 satisfied.

6       (7) Recommend to the secretary that the school district  
7 receive a loan under subarticle (d) or other financial  
8 assistance.

9       (c) Guidelines.--

10       (1) Within 60 days of the effective date of this  
11 section, the department shall establish guidelines for the  
12 operation of the early warning system established under this  
13 section, including a description of the variables that will  
14 be used by the office to identify school districts that  
15 experience financial difficulties. The guidelines shall be  
16 published as a statement of policy in the Pennsylvania  
17 Bulletin and shall be posted on the department's publicly  
18 accessible Internet website.

19       (2) Notwithstanding any other provision of law to the  
20 contrary, guidelines required under this subsection shall not  
21 be subject to review, regulation or approval by the State  
22 Board of Education.

23       (3) The guidelines established by the department, and  
24 any amendments thereto, shall be exempt from the requirements  
25 of the following:

26               (i) The act of June 25, 1982 (P.L.633, No.181),  
27 known as the Regulatory Review Act.

28               (ii) The act of July 31, 1968 (P.L.769, No.240),  
29 referred to as the Commonwealth Documents Law.

30               (iii) The act of October 15, 1980 (P.L.950, No.164),



1       known as the Commonwealth Attorneys Act.

2       (4) The early warning system may not become operational  
3       until publication of the guidelines as required under  
4       paragraph (1).

5               (c) School District Financial Recovery

6                   (i) Declaration of School District  
7                           Financial Recovery Status

8       Section 621-A. Issuance of declaration.

9       (a) Criteria.--Subject to the provisions of subsections (b)  
10       and (c) and after proper investigation of the school district's  
11       financial condition, the administrative practices of the board  
12       of school directors and such other matters deemed appropriate by  
13       the secretary, the following shall apply:

14               (1) The secretary shall issue a declaration that a  
15       school district is in financial recovery status upon the  
16       occurrence of any one or more of the following circumstances  
17       within the previous three years:

18                   (i) The school district requests an advance of its  
19       basic education funding subsidy at any time.

20                   (ii) The salaries of any teachers or other employees  
21       of the school district are unpaid when due.

22                   (iii) The school district has defaulted in payment  
23       of its bonds or interest on such bonds or in payment of  
24       lease rentals.

25               (2) The secretary may issue a declaration that a school  
26       district is in financial recovery status upon the occurrence  
27       of any of the following circumstances within the previous  
28       three years:

29                   (i) The school district's assigned and unassigned  
30       total fund balance is less than zero in the school

1 district's general fund.

2 (ii) The school district's assigned and unassigned  
3 fund balance in the school district's general fund as a  
4 percentage of total expenditures is less than 3%.

5 (iii) The school district experiences a delinquent  
6 tax rate of more than 10%.

7 (iv) The assessed valuation of taxable real estate  
8 in the school district has not increased over the  
9 previous five years.

10 (v) The tuition due another school district remains  
11 unpaid on and after January 1 of the year following the  
12 school year in which it was due and there is no dispute  
13 regarding the validity or amount of the claim.

14 (vi) Any amount due a joint board of school  
15 directors under a joint board agreement remains unpaid  
16 beyond the due date specified in the joint board's  
17 articles of agreement.

18 (vii) The school district has contracted a loan not  
19 authorized by law.

20 (viii) The school district has accumulated and  
21 operated with a deficit equal to at least 2% of the  
22 assessed valuation of the taxable real estate within the  
23 school district for two successive years.

24 (ix) A new, merged or union school district has been  
25 formed and one or more of the former school districts  
26 which compose the merged or union school district was a  
27 distressed school district under section 691 or a  
28 financial recovery school district under this article at  
29 the time of the formation of the new, merged or union  
30 school district.

1 (b) Failure of Commonwealth to make payment.--No school  
2 district shall be declared in financial recovery status by  
3 reason of any of the circumstances enumerated in subsection (a)  
4 caused by the failure of the Commonwealth to make any payment of  
5 money due the school district at the time the payment is due,  
6 including payment of any Federal funding that is distributed  
7 through the Commonwealth.

8 (c) Declaration by action of secretary or by petition.--  
9 Where a school district satisfies the criteria for a declaration  
10 of financial recovery status under subsection (a), the secretary  
11 may make the declaration by the secretary's own action or  
12 following the receipt of a petition under section 622-A.

13 (d) Appeal.--A declaration of financial recovery status by  
14 the secretary under this section is appealable pursuant to 2  
15 Pa.C.S. (relating to administrative law and procedure).  
16 Section 622-A. Petition.

17 (a) Standing.--Any of the following parties may petition the  
18 secretary to declare a school district in financial recovery  
19 status:

20 (1) The office itself, if, following its review and  
21 analysis under section 611-A(c) or 613-A, it concludes that  
22 the school district satisfies the criteria enumerated in  
23 section 621-A(a) for a declaration of financial recovery  
24 status.

25 (2) The board of school directors, upon adoption of a  
26 resolution by a majority vote at a public meeting duly  
27 advertised as required by law.

28 (3) A creditor with a matured claim to whom the school  
29 district owes at least \$10,000, if the creditor agrees in  
30 writing to suspend pending actions and not to bring an

alternate or additional legal action against the school district to collect the debt or part of it:

(i) for a period of nine months; or

(ii) until the school district adopts a financial recovery plan under this act,  
whichever occurs first.

(4) At least 10% of the number of electors of the school district who voted at the last school district election.

(5) At least 10% of the school district's pension beneficiaries, if the school district has not timely deposited its minimum obligation payment.

(6) The Public School Employees' Retirement Board, if the school district has not timely deposited its minimum obligation payment.

(7) At least 10% of the employees of the school district who have not been paid due to a missed payroll.

(8) A trustee or paying agent of a school district bond or note indenture or resolution.

(9) Any of the appointed independent auditors or controllers of the school district, if they have reason to believe the school district satisfies the criteria in section 621-A(a) for a declaration of financial recovery status.

(10) The superintendent of the school district.

(b) Contents of petition.--The petition shall be signed by the petitioning party and shall:

(1) Allege the petitioning party has standing to petition the secretary for a declaration of financial recovery status under section 622-A(a).

(2) State why the petitioning party believes the school district should be declared to be in financial recovery

1 status under the criteria set forth in section 621-A(a).

2 (3) Include any other material allegation that justifies  
3 a declaration of financial recovery status.

4 (4) Include documentation that supports the allegations  
5 in the petition.

6 Section 623-A. Commitment to ensure delivery of effective  
7 educational services.

8 The Commonwealth shall ensure the delivery of effective  
9 educational services to all students enrolled in a school  
10 district in financial recovery status under subdivision (i) or  
11 in receivership under subdivision (iv).

12 Section 624-A. School directors to remain in office and  
13 elections.

14 (a) Resignation prohibited.--The school directors of a  
15 school district that has been declared in financial recovery  
16 status under this subdivision or is in receivership under  
17 subdivision (iv) may not resign their offices, except with the  
18 consent of the chief recovery officer or receiver, and shall:

19 (1) Remain in office, unless:

20 (i) removed from office for neglect of duty under  
21 the provisions of section 318; or

22 (ii) the directors are elected to another position  
23 incompatible with the position of school director or are  
24 appointed to any position for which there is a  
25 requirement that the appointee must hold no elective  
26 office,

27 for the remainder of their terms during the time the school  
28 district is in financial recovery status or receivership.

29 (2) Perform any duties delegated to them by the chief  
30 recovery officer or the receiver appointed to serve the

1 school district.

2 (3) Comply with any directive issued to them by the  
3 chief recovery officer or the receiver if the directive is  
4 consistent with the financial recovery plan for the school  
5 district.

6 (b) No interference with elections.--A declaration by the  
7 secretary that a school district is in financial recovery status  
8 under section 621-A or the appointment of a receiver under  
9 subdivision (iv) shall in no way interfere with the regular  
10 election or reelection of school directors for the school  
11 district.

12 (ii) Chief Recovery Officer  
13 Section 631-A. Appointment.

14 (a) Appointment.--Not later than five days after a  
15 declaration of financial recovery status under section 621-A,  
16 the secretary shall appoint a chief recovery officer for the  
17 financial recovery school district. The chief recovery officer  
18 shall serve at the pleasure of the secretary.

19 (b) Qualifications and prohibitions.--

20 (1) The chief recovery officer must be:

21 (i) a member of the financial recovery team; or

22 (ii) the current business manager or financial  
23 officer of a school district in this Commonwealth.

24 (2) The chief recovery officer may not be an elected or  
25 an appointed official or employee of the financial recovery  
26 school district for which he is appointed to serve as chief  
27 recovery officer.

28 (3) During the term of appointment as chief recovery  
29 officer and for the following two years, the chief recovery  
30 officer may not seek or hold elected office in the financial

1 recovery school district for which the chief recovery officer  
2 was appointed or in any political subdivision located in the  
3 financial recovery school district.

4 (c) Not subject to contractual competitive bidding  
5 procedures.--Notwithstanding any other provision of law to the  
6 contrary, the appointment of a chief recovery officer shall not  
7 be subject to contractual competitive bidding procedures.

8 Section 632-A. Compensation.

9 The department shall pay a chief recovery officer appointed  
10 by the secretary under section 631-A actual and necessary  
11 expenses incurred in the performance of duties as chief recovery  
12 officer and a reasonable salary determined by the department.

13 Section 633-A. Powers and duties.--

14 The chief recovery officer shall:

15 (1) With the assistance of the office, develop,  
16 implement and administer a financial recovery plan in  
17 accordance with subdivision (iii).

18 (2) Maintain oversight of the financial recovery school  
19 district during the transition period under section 647-A.

20 (3) Attend regular and executive sessions of the board  
21 of school directors.

22 (4) Meet at least twice monthly with the advisory  
23 committee established under section 661-A.

24 (5) When a receiver is appointed to oversee the  
25 management of the financial recovery school district under  
26 subdivision (iv), serve as an advisor to the receiver.

27 Section 634-A. Access to information.

28 (a) School district required to provide records and  
29 information.--The chief recovery officer shall be given full  
30 access to all records of the financial recovery school district.

Employees and elected and appointed officials of the financial recovery school district shall provide the chief recovery officer with all records and information requested by the chief recovery officer.

(b) Enforcement.--

(1) If the chief recovery officer reasonably believes that an employee or an elected or appointed official of the financial recovery school district has failed to answer questions accurately or completely or has failed to furnish information requested, the chief recovery officer shall direct the employee or elected or appointed official in writing to furnish answers to questions or to furnish documents or records, or both.

(2) If the employee or elected or appointed official refuses to furnish answers to questions or to furnish documents or records within 15 days of a written request, the chief recovery officer shall petition the court of common pleas of the county in which the financial recovery school district or the largest part in area of the financial recovery school district is located for a writ of mandamus requiring the employee or elected or appointed official to provide the chief recovery officer with the information, documents or records requested.

Section 635-A. Public and private meetings.

(a) Public meetings authorized.--

(1) The chief recovery officer may hold public meetings as defined in 65 Pa.C.S. Ch. 7 (relating to open meetings), in connection with the preparation and implementation of a financial recovery plan.

(2) Meetings between the chief recovery officer and the



1 advisory committee shall be public meetings as defined in 65  
2 Pa.C.S. Ch. 7.

3 (b) Private meetings authorized.--Notwithstanding the  
4 provisions of 65 Pa.C.S. Ch. 7, the chief recovery officer may  
5 conduct private negotiation sessions between the financial  
6 recovery school district and the individual creditors of the  
7 financial recovery school district in an effort to obtain the  
8 consent of each creditor to the proposed adjustment and handling  
9 of specific claims against the financial recovery school  
10 district.

11 (iii) Financial Recovery Plan  
12 Section 641-A. Contents.

13 A financial recovery plan developed by a chief recovery  
14 officer under section 633-A(1) shall:

15 (1) Provide for the delivery of effective educational  
16 services to all students enrolled in the financial recovery  
17 school district.

18 (2) Provide for the payment of lawful financial  
19 obligations of the financial recovery school district.

20 (3) Provide for the timely deposit of required payments  
21 to the Public School Employees' Retirement Fund.

22 (4) Provide a plan for the financial recovery school  
23 district's return to financial stability, which may include  
24 any of the following, if appropriate to restoring the  
25 financial recovery school district's financial stability:

26 (i) Projections of revenues and expenditures for the  
27 current year and the next two years, both assuming the  
28 continuation of present operations and as impacted by the  
29 measures included in the financial recovery plan.

30 (ii) Recommendations for:

1           (A) Satisfying judgments, past-due accounts  
2           payable and past-due and payable payroll and fringe  
3           benefits.

4           (B) Eliminating deficits and deficit funds.

5           (C) Restoring to special fund accounts money  
6           from those accounts that was used for purposes other  
7           than those specifically authorized.

8           (D) Balancing the budget, avoiding future  
9           deficits in funds and maintaining current payments of  
10          payroll, fringe benefits and accounts through  
11          possible revenue enhancement recommendations,  
12          including tax or fee changes.

13          (E) Avoiding a future declaration of financial  
14          recovery status.

15          (F) Enhancing the ability of the financial  
16          recovery school district to negotiate new general  
17          obligation bonds, lease rental debt, funded debt and  
18          tax and revenue anticipation borrowings.

19          (G) Considering changes in accounting and  
20          automation procedures for the financial benefit of  
21          the financial recovery school district.

22          (H) Proposing a reduction of debt due on  
23          specific claims by an amortized or lump-sum payment  
24          considered to be the most reasonable disposition of  
25          each claim possible for the financial recovery school  
26          district considering the totality of the  
27          circumstances.

28          (iii) Recommendations for:

29               (A) Changes in collective bargaining agreements  
30               and other contracts.

1                   (B) Changes in permanent and temporary staffing  
2                   levels.

3                   (C) Changes in organization.

4                   (D) Changes in school district policy.

5                   (E) Special audits or further studies.

6                   (F) The sale, lease, conveyance, assignment or  
7                   other use or disposition of the financial recovery  
8                   school district's assets.

9                   (G) The application for a loan under the  
10                   Financial Recovery Loan Program established in  
11                   subarticle (d).

12                   (iv) An analysis of whether functional consolidation  
13                   or privatization of existing school district services is  
14                   appropriate and feasible and recommendations for carrying  
15                   out such consolidation or privatization.

16                   (v) A capital budget which addresses infrastructure  
17                   deficiencies.

18                   (vi) Recommendations for greater use of Commonwealth  
19                   programs.

20                   (vii) Recommendations for the use of powers  
21                   permitted to be used under section 642-A.

22                   (5) Require the financial recovery school district to  
23                   use financial data software that is connected directly to the  
24                   department's financial data systems to ensure that both the  
25                   financial recovery school district and the department are  
26                   using accurate data. All costs of the financial data software  
27                   required to be used by the financial recovery school district  
28                   under this paragraph shall be paid by the department.

29                   (6) Establish specific criteria that the financial  
30                   recovery school district must satisfy before the secretary

1 may terminate the financial recovery school district's  
2 financial recovery status. Such criteria shall include, but  
3 shall not be limited to:

4 (i) The financial recovery school district does not  
5 request an advance of its basic education subsidy.

6 (ii) The financial recovery school district's  
7 assigned and unassigned fund balance in the General Fund  
8 as a percentage of total expenditures is at least 3%.

9 (iii) The financial recovery school district reduces  
10 its delinquent tax rate to not more than 10%.

11 (iv) All employee salaries, tuition due other school  
12 districts and amounts payable to a joint board of school  
13 directors under a joint board agreement are paid when  
14 due.

15 (v) The financial recovery school district is not in  
16 default on any bonds, notes or lease rentals.

17 (vi) The financial recovery school district has not  
18 contracted any new loans not authorized by law.

19 (vii) Accrued deficits have been eliminated.

20 (viii) Obligations issued to finance all or part of  
21 the financial recovery school district's deficits have  
22 been retired.

23 (ix) The financial recovery school district has  
24 operated under a positive current operating fund balance  
25 or equity for a period of at least two years.

26 Section 642-A. Powers and duties.

27 (a) General rule.--A school district in financial recovery  
28 status under this subdivision or in receivership under  
29 subdivision (iv) may exercise any of the following powers only  
30 to the extent that the powers are specifically included in the

1 school district's financial recovery plan:

2 (1) Suspend professional employees. The following shall  
3 apply:

4 (i) Notwithstanding sections 1124 and 1125.1, the  
5 board of school directors of the school district may  
6 suspend the necessary number of professional employees  
7 for any of the causes enumerated in section 1124 or for  
8 economic reasons, as part of a plan to reduce or control  
9 school district costs.

10 (ii) Professional employees suspended under the  
11 authority granted by this section shall be suspended  
12 based upon the school district's evaluation of the  
13 following factors:

14 (A) The professional employee's certification.

15 (B) The professional employee's performance,  
16 including, but not limited to, performance under the  
17 Pennsylvania Value Added Assessment System and local  
18 school entity performance criteria.

19 (C) For a professional employee who teaches  
20 subjects or grade levels that are not evaluated under  
21 the Pennsylvania Value Added Assessment System,  
22 whether the professional employee meets  
23 qualifications established by the school district to  
24 teach a particular subject or grade level.

25 (D) Specific qualifications established by the  
26 school district.

27 (iii) A school district that suspends professional  
28 employees under the authority granted by this section may  
29 reinstate suspended professional employees at its  
30 discretion, notwithstanding seniority.

1           (iv) No suspended employee shall be prevented from  
2           engaging in another occupation during the period of  
3           suspension.

4           (2) Convert school buildings to charter schools. The  
5           following shall apply:

6           (i) The school district may convert an existing  
7           public school building or a portion of an existing public  
8           school building to a charter school. There shall be no  
9           limit on the number of public schools in the school  
10           district that can be converted to a charter school.

11           (ii) The board of school directors may designate and  
12           approve by majority vote the existing public school  
13           building or portion of an existing public school building  
14           that it seeks to convert to a charter school.

15           (iii) (A) The board of school directors shall  
16           solicit applications to operate a charter school  
17           established under this paragraph through a  
18           competitive request for proposal process. The content  
19           and dissemination of the request for proposal shall  
20           be consistent with the purpose and the requirements  
21           of Article XVII-A. The board of school directors may  
22           accept applications by an individual or entity  
23           authorized to establish a charter school under  
24           section 1717-A(a) to operate the converted charter  
25           school.

26           (B) The board of school directors shall evaluate  
27           each submitted proposal in a public manner. Once a  
28           proposal has been selected, the board of school  
29           directors shall explain how and why the proposal was  
30           selected and provide evidence, if available, of the

1 provider's success in serving student populations  
2 similar to the targeted population, including  
3 demonstrated academic achievement and successful  
4 management of nonacademic school functions, if  
5 applicable.

6 (C) No member of the board of school directors  
7 may serve on the board of trustees of an existing  
8 school or portion of an existing school which is  
9 converted to a charter school under this subsection.

10 (D) The provisions of Article XVII-A shall apply  
11 to an existing public school building or portion of  
12 an existing public school building converted to a  
13 charter school, provided that any application to  
14 operate a charter school under the provisions of this  
15 section and any charter school established under the  
16 provisions of this section shall not be subject to  
17 sections 1717-A(b), (c), (d), (e), (f), (g), (h) and  
18 (i) and 1724-A, including after the school district's  
19 financial recovery status is terminated under section  
20 646-A or after the school district's receivership  
21 expires under section 655-A.

22 (E) In the case of an existing school or portion  
23 of an existing school being converted to a charter  
24 school, the board of school directors shall establish  
25 the alternative arrangements for current students who  
26 choose not to attend the charter school.

27 (3) Cancel or renegotiate any contract to which the  
28 board of school directors or the school district is a party,  
29 if the cancellation or renegotiation of contract will affect  
30 needed economies in the operation of the district's schools.

1       (4) Increase tax levies in such amounts and at such  
2 times as is recommended by the chief recovery officer.  
3 Notwithstanding the provisions of the act of June 27, 2006  
4 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief  
5 Act, the board of school directors of the school district may  
6 increase the rate of taxes by up to three times the index, as  
7 such term is defined in section 302 of the Taxpayer Relief  
8 Act, without obtaining the approval of the electorate of the  
9 school district in a public referendum.

10       (5) Appoint a special collector of delinquent taxes for  
11 the school district who need not be a resident of the school  
12 district. The special tax collector shall exercise all the  
13 rights and perform all the duties imposed by law on tax  
14 collectors for school districts. The tax collector superseded  
15 by the special tax collector shall not be entitled to any  
16 commissions on the taxes collected by the special tax  
17 collector.

18       (6) Dispense with the services of such nonprofessional  
19 employees as in the judgment of the chief recovery officer  
20 and the board of school directors are not actually needed for  
21 the economical operation of the school district.

22       (7) Appoint such persons and other entities as needed to  
23 conduct fiscal and performance audits and other necessary  
24 analyses.

25       (8) Enter into agreements with persons or for-profit or  
26 nonprofit organizations to operate one or more schools. A  
27 school operated under this paragraph shall be funded in  
28 accordance with the terms of the agreement.

29       (9) Suspend or revoke a charter pursuant to section  
30 1729-A.



1       (10) Suspend the requirements of this act and  
2       regulations of the State Board of Education, except that the  
3       school district shall remain subject to the provisions of  
4       section 1732-A(a), (b) and (c) and regulations promulgated  
5       under those sections.

6       (11) Employ professional and senior management employees  
7       who do not hold State certifications if the secretary has  
8       approved the qualifications of the persons at salaries  
9       established by the board of school directors that are within  
10      the limitations stated in the financial recovery plan.

11      (12) Enter into agreements with persons or for-profit or  
12      nonprofit organizations providing educational or other  
13      services to or for the school district. Services provided  
14      under this paragraph shall be funded in accordance with the  
15      terms of the agreement.

16      (13) Close or reconstitute a school, including the  
17      reassignment, suspension or dismissal of professional  
18      employees.

19      (14) Appoint managers, administrators or for-profit or  
20      nonprofit organizations to oversee the operations of a school  
21      or group of schools within the school district.

22      (15) Reallocate resources, amend school procedures,  
23      develop achievement plans and implement testing or other  
24      evaluation procedures for educational purposes.

25      (16) Supervise and direct principals, teachers and  
26      administrators.

27      (17) Negotiate a new collective bargaining agreement or  
28      memoranda of understanding under the collective bargaining  
29      agreement in existence on the effective date of this section,  
30      provided that:

1           (i) Collective bargaining between employees and the  
2 school district shall be conducted in accordance with  
3 this subsection.

4           (ii) No school district in financial recovery status  
5 under this subdivision or in receivership under  
6 subdivision (iv) shall be required to engage in  
7 collective bargaining negotiations or enter into  
8 memoranda of understanding or other agreements regarding  
9 any of the following issues:

10           (A) Contracts with third parties for the  
11 provision of goods or services, including educational  
12 services or the potential impact of such contracts on  
13 employees.

14           (B) Decisions related to reductions in force.

15           (C) Staffing patterns and assignments, class  
16 schedules, academic calendar, places of instruction,  
17 pupil assessment and teacher preparation time.

18           (D) The use, continuation or expansion of  
19 programs designated by the chief recovery officer or  
20 board of directors as pilot or experimental programs.

21           (E) The approval or designation of a school as a  
22 charter or magnet school.

23           (F) The use of technology to provide  
24 instructional or other services.

25           (iii) A collective bargaining agreement for  
26 professional employees entered into after the expiration  
27 or termination of the collective bargaining agreement in  
28 effect on the date of the declaration of financial  
29 recovery status shall provide for the following:

30           (A) The school day for professional employees

1       shall be equal to or exceed the State average as  
2       determined by the department. An extension of the  
3       school day resulting from this requirement shall be  
4       used exclusively for instructional time for students.

5           (B) The number of instructional days shall be  
6       equal to or exceed the State average number of  
7       instructional days.

8           (C) The board of directors shall not increase  
9       compensation for employees solely to fulfill the  
10       requirements under clauses (A) and (B).

11       (iv) A provision in any contract in effect on the  
12       date of the declaration of financial recovery status  
13       under this article that is in conflict with this section  
14       shall be discontinued in any new or renewed contract.

15       (v) If, upon the termination of a collective  
16       bargaining agreement in effect on the date of the  
17       declaration of financial recovery status under this  
18       article, a new collective bargaining agreement has not  
19       been ratified, the board of school directors shall  
20       establish a personnel salary schedule, subject to the  
21       approval of the chief recovery officer, to be used until  
22       a new agreement is ratified.

23       (vi) During the time the school district is in  
24       financial recovery status or in receivership under  
25       subdivision (iv), all school employees shall be  
26       prohibited from engaging in any strike as defined in  
27       Article XI-A and section 301 of the act of July 23, 1970  
28       (P.L.563, No.195), known as the Public Employee Relations  
29       Act. The secretary may suspend the certificate of an  
30       employee who violates this subparagraph.

1       (18) Delegate to a person, including an employee of the  
2       school district or a for-profit or nonprofit organization,  
3       powers the chief recovery officer and the board of school  
4       directors deem necessary to carry out the purposes of this  
5       article, subject to the supervision and direction of the  
6       board of school directors.

7       (19) Employ, contract with or assign persons or for-  
8       profit or nonprofit organizations to review the financial and  
9       educational programs of school buildings and make  
10       recommendations to the chief recovery officer and the board  
11       of school directors regarding improvements to the financial  
12       or educational programs of school buildings.

13       (b) Definitions.--As used in this section, the following  
14       words and phrases shall have the meanings given to them in this  
15       subsection unless the context clearly indicates otherwise:

16       "Professional employee." The term shall have the meaning as  
17       given in section 1101(1).

18       "Teacher." An individual who holds an instructional  
19       certificate issued by the Department of Education under this act  
20       and is employed full time as a temporary professional or  
21       professional employee by a school entity and provides learning  
22       experiences directly to students during the instructional day.

23       Section 643-A. Development and approval of plan.

24       (a) Submission of plan.--

25       (1) Within 90 days of appointment, the chief recovery  
26       officer shall develop a financial recovery plan that complies  
27       with section 641-A and provide copies of the plan to the  
28       school district business office, each member of the board of  
29       school directors, the superintendent of the school district,  
30       the solicitor of the school district, each member of the

1 advisory committee and all parties who petitioned the  
2 secretary for a declaration of financial recovery status. The  
3 chief recovery officer may comply with this subsection by  
4 providing copies of the plan by electronic mail.

5 (2) (i) The chief recovery officer may request from the  
6 secretary an extension of time to comply with paragraph  
7 (1).

8 (ii) The secretary shall grant the request for an  
9 extension of time, if the secretary determines that the  
10 chief recovery officer needs additional time to develop a  
11 financial recovery plan that complies with section 641-A.

12 (b) Public inspection.--Upon receipt of the plan, the board  
13 of school directors shall immediately place the plan on file for  
14 public inspection in the school district business office and  
15 make the plan available on the school district's publicly  
16 accessible Internet website.

17 (c) Board of school directors' approval.--

18 (1) Within 30 days of the chief recovery officer's  
19 submission of the plan to the board of school directors, the  
20 board of school directors shall approve or disapprove the  
21 plan by majority vote at a public meeting of the board of  
22 school directors.

23 (2) (i) If the board of school directors does not  
24 approve the plan within 30 days, the secretary shall  
25 petition the court of common pleas of the county in which  
26 the school district or the largest part in area of the  
27 school district is located for the appointment of a  
28 receiver under subdivision (iv).

29 (ii) The secretary shall file the petition under  
30 this paragraph not later than five days following the

1 vote by the board of school directors to disapprove the  
2 plan or 35 days after the chief recovery officer's  
3 submission of the plan to the board of school directors,  
4 whichever is earlier.

5 (d) Secretary approval.--

6 (1) If the board of school directors approves the plan  
7 under subsection (c), the chief recovery officer shall  
8 provide a copy of the plan to the secretary.

9 (2) Within ten days of the chief recovery officer's  
10 submission of the plan to the secretary, the secretary shall  
11 approve or disapprove the plan in a written statement.

12 (3) If the secretary disapproves the plan, the following  
13 shall apply:

14 (i) The secretary's written statement shall state  
15 the reasons for the secretary's disapproval of the plan  
16 and recommendations for revisions to the plan.

17 (ii) The chief recovery officer shall develop a  
18 revised plan within 20 days of receipt of the secretary's  
19 written statement disapproving the plan, distribute  
20 copies of the plan as required under subsection (a) and  
21 submit the revised plan to the board of school directors  
22 and the secretary for approval pursuant to subsection (c)  
23 and this subsection.

24 Section 644-A. Implementation of financial recovery plan.

25 (a) Chief recovery officer charged with implementing plan.--  
26 Following the secretary's approval of the financial recovery  
27 plan under section 643-A(d), the chief recovery officer shall  
28 implement the plan and:

29 (1) Give written notice of the plan's adoption to  
30 creditors, the employee organization and other parties who

1 will be directly affected by the plan's implementation. The  
2 notice shall outline the provisions of the plan and specify  
3 how that party's claim or interest will be treated.

4 (2) Oversee the implementation and completion of the  
5 plan by directly controlling the implementation process,  
6 including directing employees and elected or appointed  
7 officials of the school district to take actions that, in the  
8 judgment of the chief recovery officer, are necessary to  
9 implement the plan and to refrain from taking actions that,  
10 in the judgment of the chief recovery officer, would impede  
11 the implementation of the plan.

12 (3) Provide the office and the secretary with monthly  
13 reports that contain the following information:

14 (i) Evidence of payments to creditors as required  
15 under the plan.

16 (ii) Evidence that any loan given to the school  
17 district from the department under subdivision (vi) is  
18 being repaid.

19 (iii) Monthly revenue and expenditure sheets which  
20 indicate the balances of each in relation to the other.

21 (iv) Evidence that the recommendations stated in the  
22 plan are being accomplished by the dates specified in the  
23 plan where applicable.

24 (4) Suggest amendments or revisions to the plan that may  
25 be necessary to implement or complete the plan or adapt to  
26 circumstances that arise or become apparent after approval of  
27 the plan by the secretary. In determining whether to suggest  
28 amendments or revisions to the plan, the chief recovery  
29 officer shall consult with the board of school directors, the  
30 advisory committee and the superintendent of the school

1 district. Amendments or revisions to the plan shall be  
2 submitted to the board of school directors and the secretary  
3 for approval as provided in section 643-A.

4 (5) Upon achievement of the goals and objectives stated  
5 in the plan, recommend to the secretary that financial  
6 recovery status be terminated under section 646-A.

7 (b) Duty to comply.--

8 (1) The board of school directors shall comply with all  
9 directives of the chief recovery officer under subsection (a)  
10 (2) and may take no action that is:

11 (i) inconsistent with the plan;

12 (ii) not specifically identified in the plan; or

13 (iii) not directed by the chief recovery officer as  
14 necessary to implement the plan.

15 (2) If a board of school directors fails to comply with  
16 paragraph (1), the school district shall be subject to the  
17 appointment of a receiver under subdivision (iv).

18 Section 645-A. Financial recovery plan not affected by certain  
19 collective bargaining agreements or settlements.

20 No collective bargaining agreement or arbitration settlement  
21 may in any manner violate, expand or diminish the provisions of  
22 a financial recovery plan in effect on the date of execution of  
23 the collective bargaining agreement or arbitration settlement.

24 Section 646-A. Termination of status.

25 (a) Declaration by secretary.--

26 (1) (i) Following a determination that the school  
27 district has satisfied and is continuing to satisfy the  
28 criteria enumerated in section 641-A(6), the secretary  
29 may issue a declaration terminating the school district's  
30 financial recovery status.



1           (ii) In making the determination under this  
2           paragraph, the secretary shall consider whether the  
3           monthly financial reports submitted by the chief recovery  
4           officer to the secretary and the office concerning the  
5           school district's progress under the financial recovery  
6           plan indicate that termination of financial recovery  
7           status is appropriate.

8           (2) If the secretary determines to terminate a school  
9           district's financial recovery status under this section, the  
10          secretary shall issue a written declaration stating:

11           (i) That the school district's financial recovery  
12           status has been terminated.

13           (ii) The effective date of the termination of  
14           financial recovery status.

15           (iii) A statement of the facts upon which the  
16           secretary relied in making the determination.

17          (b) Determination upon petition by a school district.--A  
18          financial recovery school district may petition the secretary  
19          for a declaration that the school district's financial recovery  
20          status has been terminated. A declaration issued under this  
21          subsection shall comply with subsection (a).

22          Section 647-A. Transition period.

23          (a) Board resumes control and oversight.--Subject to the  
24          provisions of subsections (b) and (c), after the secretary  
25          terminates a school district's financial recovery status under  
26          section 646-A, the following shall apply:

27           (1) The board of school directors shall resume full  
28           control over school district management.

29           (2) The chief recovery officer and the office shall  
30           oversee the board of school directors for six years to ensure

1 financial stability is maintained.

2 (b) Petition for appointment of receiver.--If, during the  
3 transition period after the secretary terminates a school  
4 district's financial recovery status under section 646-A, the  
5 board of school directors fails to maintain the objectives  
6 stated in the financial recovery plan, the secretary shall  
7 petition the court of common pleas in the county in which the  
8 school district or the largest part in area of the school  
9 district is located for the appointment of a receiver under  
10 subdivision (iv).

11 (c) Oversight where municipalities financially distressed.--  
12 Notwithstanding the provisions of subsection (a), the chief  
13 recovery officer and the office shall oversee the board of  
14 school directors of any former financial recovery school  
15 district for so long as any political subdivision located within  
16 the school district is a financially distressed municipality  
17 under the act of July 10, 1987 (P.L.246, No.47), known as the  
18 Municipalities Financial Recovery Act, without regard to whether  
19 the school district continues to maintain the objectives stated  
20 in its financial recovery plan. The oversight shall be subject  
21 to the provisions of subsection (b).

22 (iv) Receivership

23 Section 651-A. Appointment of a receiver.

24 (a) General rule.--The secretary shall petition the court of  
25 common pleas in the county in which a school district or the  
26 largest part in area of the school district is located for the  
27 appointment of the individual named in the petition to serve as  
28 receiver for the school district upon the occurrence of any of  
29 the following conditions:

30 (1) A failure by the board of school directors to

1 approve a financial recovery plan under section 643-A(c).

2 (2) A failure by the board of school directors to comply  
3 with directives issued by the chief recovery officer under  
4 section 644-A(a) (2).

5 (3) A failure by the board of school directors to  
6 satisfy or continue to satisfy the objectives stated in the  
7 financial recovery plan under section 641-A(6) during the  
8 transition period under section 647-A.

9 (b) Financial recovery plan.--The secretary shall attach to  
10 the petition filed under subsection (a) a copy of the financial  
11 recovery plan for the school district. The financial recovery  
12 plan shall be in the form developed by the chief recovery  
13 officer under section 641-A with any modifications deemed  
14 necessary by the secretary.

15 (c) Requirements for individual appointed as receiver.--

16 (1) To be appointed as receiver under this section, an  
17 individual must:

18 (i) possess at least five years' experience in one  
19 or more of the following areas: budget and financial  
20 management, public school finance, school administration,  
21 accounting, academic assessment or education law; or

22 (ii) hold a graduate degree from an accredited  
23 higher education institution in business or finance and  
24 have at least four years' relevant experience in  
25 business, finance or management.

26 (2) The receiver shall not:

27 (i) Seek or hold a position as an employee or as an  
28 elected or appointed official of the school district for  
29 which the individual is appointed to serve as receiver  
30 during the term of the receivership or for a period of

two years after the receivership has ended.

(ii) Seek or hold elected office in a political subdivision within the school district during the term of the receivership or for a period of two years after the receivership has ended.

(iii) Engage in any conduct prohibited by the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(d) Consent.--The occurrence of any of the conditions enumerated in subsection (a) shall be deemed consent by the board of school directors to a petition filed by the secretary for the appointment of a receiver under this subdivision.

(e) Notice.--On the same day the secretary files the petition under subsection (a), the secretary shall:

(1) Serve the petition by electronic mail, first class mail or hand delivery upon all of the following:

(i) Each member of the board of school directors of the school district.

(ii) The chief recovery officer of the school district.

(iii) The superintendent of the school district.

(iv) The solicitor of the school district.

(v) Each member of the advisory committee.

(2) Publish notice of the filing of the petition once in a newspaper of general circulation in the school district.

(f) Hearing.--Within 15 days after the filing of a petition under subsection (a), the court of common pleas shall conduct a hearing on the petition.

(g) Order.--

1       (1) Not later than 30 days following the hearing  
2       conducted under subsection (f), the court shall issue an  
3       order granting or denying the receivership.

4       (2) The court shall grant the receivership if the court  
5       finds by a preponderance of the evidence that any of the  
6       conditions in subsection (a) have occurred.

7       (3) An order issued under this subsection granting the  
8       receivership shall do all of the following:

9           (i) Declare the school district to be in  
10          receivership for a period of two years, subject to  
11          extension under section 655-A(b).

12          (ii) State the criteria upon which the order is  
13          granted.

14          (iii) State findings of fact to support the order.

15          (iv) Appoint the individual named in the petition to  
16          be the receiver if the individual satisfies the  
17          provisions of subsection (c). The court may not appoint  
18          anyone other than the individual named in the petition as  
19          the receiver.

20          (v) Direct the receiver to implement the financial  
21          recovery plan attached to the petition pursuant to  
22          subsection (b).

23       (4) An order issued under this subsection denying the  
24       receivership shall state:

25           (i) The reasons the petition was denied.

26           (ii) Findings of fact to support the order.

27       (h) Compensation.--

28           (1) The receiver's compensation shall be set by the  
29           court of common pleas in the county in which the school  
30           district or the largest part in area of the school district

1 is located and shall be paid by the department.

2 (2) The department shall reimburse the receiver for all  
3 actual and necessary expenses incurred in the performance of  
4 the individual's duties as receiver.

5 (i) Liability and immunity.--The receiver shall not be  
6 personally liable for any obligations of the school district.  
7 The receiver shall be entitled to sovereign and official  
8 immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign  
9 immunity reaffirmed; specific waiver) and shall remain immune  
10 from suit except as provided by and subject to the provisions of  
11 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and  
12 B (relating to actions against Commonwealth parties).

13 Section 652-A. Powers and duties.

14 (a) Assumption of powers and duties of board of school  
15 directors.--

16 (1) When a receiver is appointed under section 651-A,  
17 the receiver shall assume all powers and duties of the board  
18 of school directors, including all powers and duties of the  
19 board of school directors stated in the financial recovery  
20 plan, except the power to establish an advisory committee  
21 under section 661-A(f).

22 (2) Paragraph (1) shall not apply to the power to levy  
23 and raise taxes. Such power shall remain solely with the  
24 board of school directors, provided that the board of school  
25 directors shall levy and raise taxes if directed to do so by  
26 the receiver.

27 (3) The chief recovery officer appointed for the  
28 financial recovery school district under section 631-A shall  
29 remain in place as an advisor to the receiver.

30 (b) Powers and duties of the receiver.--In addition to the

powers assumed under subsection (a), a receiver appointed under section 651-A shall have the following powers and duties, notwithstanding any other provision of law to the contrary:

(1) Implement the financial recovery plan attached to the petition filed under section 651-A(a).

(2) Submit quarterly reports to the secretary, superintendent, board of school directors of the school district and advisory committee concerning the progress of the school district under the financial recovery plan. The reports shall be posted on the school district's publicly accessible Internet website.

(3) Meet at least twice monthly with the advisory committee.

(4) Direct employees and appointed officials of the school district to take actions that, in the judgment of the receiver, are necessary to implement the financial recovery plan and to refrain from taking actions that, in the judgment of the receiver, would impede the implementation of the plan.

(5) Direct the board of school directors to levy and raise taxes.

(6) Modify the financial recovery plan as necessary to restore the school district to financial stability by submitting a petition to the court of common pleas. Within 30 days of the filing of the petition, the court of common pleas shall issue a decision approving or disapproving the petition. The court of common pleas shall approve the modification, unless the court finds clear and convincing evidence that the modification is arbitrary, capricious or wholly inadequate to alleviate the fiscal difficulties in the school district.

1       (7) Employ financial or legal experts the receiver deems  
2       necessary to implement or modify the financial recovery plan.  
3       Notwithstanding any law to the contrary, the employment of  
4       such experts shall not be subject to contractual competitive  
5       bidding procedures.

6       (8) Attend regular and executive sessions of the board  
7       of school directors of the school district.

8       (9) Petition the court of common pleas in the county in  
9       which the school district or the largest part in area of the  
10       school district is located to issue a writ of mandamus upon  
11       any employee or elected or appointed official of the school  
12       district to secure compliance with a directive of the  
13       receiver issued under paragraph (4) or (5). Within 15 days of  
14       the filing of the petition, the court shall grant the relief  
15       requested if the court determines that the order is  
16       consistent with the financial recovery plan.

17       (c) Prohibited activity.--Nothing in this subarticle or the  
18       financial recovery plan shall be construed to authorize the  
19       receiver to do any of the following:

20               (1) Unilaterally levy or raise taxes.

21               (2) Unilaterally abrogate, alter or otherwise interfere  
22       with a lien, charge, covenant or relative priority that is:

23                       (i) Held by a holder of a debt obligation of a  
24       school district.

25                       (ii) Granted by the contract, law, rule or  
26       regulation governing the debt obligation.

27               (3) Unilaterally impair or modify existing bonds, notes,  
28       school district securities or other lawful contractual or  
29       legal obligations of the school district, except as otherwise  
30       ordered by a court of competent jurisdiction.



1 Section 653-A. Effect of appointment of receiver.

2 (a) General rule.--The appointment of a receiver under this  
3 subdivision shall have the effect of:

4 (1) Imposing on the employees and elected and appointed  
5 officials of the school district a duty to comply with  
6 directives of the receiver issued under section 652-A(b) (4)  
7 or (5).

8 (2) Suspending the authority of the elected and  
9 appointed officials of the school district to exercise power  
10 on behalf of the school district pursuant to law, charter,  
11 resolution, ordinance, rule or regulation, except as directed  
12 by the receiver under section 652-A(b) (4) or (5).

13 (b) Form of government.--Appointment of a receiver under  
14 this article shall not be construed to change the form of  
15 government of the school district.

16 (c) Petition by elected or appointed officials.--An elected  
17 or appointed official of a school district that is in  
18 receivership under this subdivision may petition the court of  
19 common pleas in the county in which the school district or the  
20 largest part in area of the school district is located to enjoin  
21 any action of the receiver that is contrary to law.

22 Section 654-A. Vacancy and revocation.

23 (a) General rule.--When a vacancy in the office of the  
24 receiver occurs, the secretary shall file a petition with the  
25 court of common pleas in the county in which the school district  
26 or the largest part in area of the school district is located  
27 requesting that the individual named in the petition be  
28 appointed as receiver.

29 (b) Revocation.--The secretary may, for any reason, file a  
30 petition with the court of common pleas in the county in which

1 the school district or the largest part in area of the school  
2 district is located requesting that the appointment of the  
3 receiver be revoked and that the current receiver be replaced by  
4 the individual named in the petition.

5 (c) Requirements.--

6 (1) The requirements of section 651-A(c) shall apply to  
7 the individual named in a petition filed under subsection (a)  
8 or (b). Within 15 days of the secretary's filing of a  
9 petition under subsection (a) or (b), the court shall grant  
10 the petition to appoint the named individual as receiver if  
11 the individual satisfies the requirements of section  
12 651-A(c).

13 (2) The court may not appoint anyone other than the  
14 individual named in the petition as the receiver.

15 Section 655-A. Termination of receivership.

16 (a) Time.--Except as otherwise provided under subsection  
17 (b), a receivership granted under section 651-A shall expire two  
18 years after the initial appointment of the receiver under  
19 section 651-A.

20 (b) Extension.--

21 (1) The secretary may petition the court of common pleas  
22 in the county in which the school district or the largest  
23 part in area of the school district is located for one or  
24 more extensions of the receivership.

25 (2) The court shall grant each extension for another two  
26 years if the secretary establishes by a preponderance of the  
27 evidence that further implementation of the financial  
28 recovery plan is necessary to restore the school district to  
29 financial stability.

30 Section 656-A. Transition period.

1 (a) Board resumes control.--Subject to the provisions of  
2 subsections (b) and (c), after a receivership granted under  
3 section 651-A expires according to the provisions of section  
4 655-A, the following shall apply:

5 (1) The board of school directors shall resume full  
6 control over school district management.

7 (2) The chief recovery officer and the office shall  
8 oversee the board of school directors for six years to ensure  
9 financial stability is maintained.

10 (b) Declaration of financial recovery status.--If, during  
11 the transition period after the expiration of the receivership,  
12 the board of school directors fails to maintain the objectives  
13 stated in the financial recovery plan, the school district shall  
14 be subject to a declaration of financial recovery status under  
15 subarticle (a).

16 (c) Oversight where municipalities financially distressed.--  
17 Notwithstanding the provisions of subsection (a), the chief  
18 recovery officer and the office shall oversee the board of  
19 school directors of any school district formerly in receivership  
20 under this subarticle for so long as any political subdivision  
21 located within the school district is a financially distressed  
22 municipality under the act of July 10, 1987 (P.L.246, No.47),  
23 known as the Municipalities Financial Recovery Act, without  
24 regard to whether the school district continues to maintain the  
25 objectives stated in its financial recovery plan.

26 (v) Advisory Committee  
27 Section 661-A. Advisory committee.

28 (a) Establishment.--

29 (1) Within ten days after a school district is declared  
30 to be in financial recovery status under section 621-A, the

1 board of school directors shall establish an advisory  
2 committee to meet and consult with the chief recovery officer  
3 or receiver in carrying out the duties of the chief recovery  
4 officer or receiver under this article.

5 (2) The sole function of the advisory committee shall be  
6 to provide recommendations and feedback to the chief recovery  
7 officer or receiver on the development and implementation of  
8 the financial recovery plan.

9 (b) Composition.--The advisory committee established under  
10 subsection (a) shall consist of:

11 (1) The following members appointed by the board of  
12 school directors:

13 (i) Two members of the board of school directors.

14 (ii) One principal employed by the school district.

15 (iii) One business official employed by the school  
16 district.

17 (2) The following members appointed by the intermediate  
18 unit of which the school district is a member:

19 (i) One employee of the intermediate unit.

20 (ii) One representative of a charter school or cyber  
21 charter school in which students residing in the school  
22 district are enrolled.

23 (iii) One special education advocate.

24 (iv) One superintendent, school director or business  
25 official of an adjoining school district.

26 (v) Two residents of the school district.

27 (3) One teacher appointed by the employee organization  
28 that represents teachers employed by the school district.

29 (c) Compensation.--Members of the advisory committee shall  
30 receive no compensation for their services.

1 (d) Meetings.--The advisory committee shall meet with the  
2 chief recovery officer or receiver at least twice monthly to  
3 discuss the development or implementation of the financial  
4 recovery plan. Meetings of the advisory committee shall be in  
5 accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).

6 (e) Termination.--The advisory committee shall terminate  
7 when the school district's financial recovery status terminates  
8 under section 647-A.

9 (f) Establishment of advisory committee following  
10 appointment of receiver.--

11 (1) If a receiver is appointed under section 651-A(a)  
12 (3), the board of school directors shall establish an  
13 advisory committee within ten days of the appointment of the  
14 receiver.

15 (2) The sole function of the advisory committee shall be  
16 to provide recommendations and feedback to the receiver on  
17 the development and implementation of the financial recovery  
18 plan.

19 (3) The provisions of subsections (b), (c) and (d) shall  
20 apply to the advisory committee.

21 (4) The advisory committee shall terminate when the  
22 school district's receivership expires under section 655-A.

23 (vi) Financial Recovery Loan Program  
24 Section 671-A. Program.

25 (a) Establishment.--The Financial Recovery Loan Program is  
26 established in the department to provide loans to school  
27 districts that have approved a financial recovery plan under  
28 section 643-A(c) and are implementing the plan.

29 (b) Nature of loans.--All loans granted by the department  
30 shall be free from interest and shall be repayable according to

1 a covenant that states a schedule for repayment in specified  
2 amounts and dates.

3 (c) Funding of loans.--All loans granted by the department  
4 under this subarticle may be made from moneys in the fund  
5 established under subsection (d).

6 (d) Revolving fund.--

7 (1) The Financial Recovery School District Revolving  
8 Loan Fund is established in the State Treasury.

9 (2) The fund may be funded by any annual appropriation  
10 from the General Assembly for this program, principal  
11 repayments on all loans made under this subdivision and any  
12 interest earned on moneys in the fund.

13 (3) The moneys in the fund may be used to make loans  
14 under this subdivision.

15 (e) Eligibility and suspension of loan.--

16 (1) A school district that fails to approve a financial  
17 recovery plan under section 643-A(c) or implement a financial  
18 recovery plan shall not be eligible for a loan under this  
19 section.

20 (2) Any loan granted under this section to a school  
21 district that, in the judgment of the secretary, fails to  
22 take all actions necessary to implement a financial recovery  
23 plan under section 643-A(c) shall be suspended and  
24 immediately due and payable.

25 (f) Voluntary agreement.--

26 (1) A school district that receives a loan under this  
27 subdivision may enter into a voluntary agreement with one or  
28 more charter schools in which students residing within the  
29 school district are enrolled, which agreement provides that  
30 the charter school may give the school district funds to

1 assist the school district in repayment of the loan.

2 (2) Any amount provided by the charter school under this  
3 subsection shall be in an amount agreed upon by the charter  
4 school and the school district.

5 Section 672-A. Loan procedure.

6 (a) General rule.--Following the approval of a financial  
7 recovery plan by a school district under section 643-A(c), the  
8 chief recovery officer of the school district may apply to the  
9 secretary for a loan. If a receiver has been appointed for the  
10 school district in accordance with section 651-A(a)(3), the  
11 receiver may apply to the secretary for a loan on behalf of the  
12 school district.

13 (b) Immediate emergencies.--Prior to a school district's  
14 approval of a financial recovery plan, the chief recovery  
15 officer may apply to the secretary for an expedited loan to  
16 immediately assist the school district if the chief recovery  
17 officer verifies that upon reasonable belief either of the  
18 following exists:

19 (1) the school district is in imminent danger of  
20 insolvency; or

21 (2) the school district may cease operations within 30  
22 days.

23 (c) Approval.--

24 (1) Upon receipt of an application under this section,  
25 the secretary shall review all data immediately available and  
26 shall determine whether a loan is warranted.

27 (2) If warranted, the secretary shall approve the  
28 application and order the department to distribute moneys  
29 requested.

30 (3) The secretary's determination under this subsection

1 is appealable under 2 Pa.C.S. (relating to administrative law  
2 and procedure).

3 Section 673-A. Limitations.

4 (a) Use.--A loan to a school district under this subdivision  
5 shall be used solely for the payment of current expenses of the  
6 school district.

7 (b) Local Government Unit Debt Act.--A loan to a school  
8 district under this chapter shall not be subject to the  
9 provisions of 53 Pa.C.S. Pt. VII Subpt. B (relating to  
10 indebtedness and borrowing).

11 (c) Amount.--The following provisions shall apply to loans  
12 to school districts under this subdivision:

13 (1) The aggregate amount of the loans shall not at any  
14 time exceed the amount in the Financial Recovery School  
15 District Revolving Loan Fund.

16 (2) The secretary shall not award any one school  
17 district a loan in an amount which will substantially impair  
18 the department's ability to distribute the amount remaining  
19 in the Financial Recovery School District Revolving Loan Fund  
20 fairly and equitably to other school districts.

21 (vii) Miscellaneous Provisions

22 Section 681-A. Applicability.

23 (a) General rule.--Except as otherwise provided in  
24 subsection (b), nothing in this article is intended to limit or  
25 otherwise abrogate the applicability of any other part of this  
26 act.

27 (b) Conflict.--If there is a conflict between a provision of  
28 this article and any other provision of this act or other State  
29 law, the provision of this article shall prevail.

30 Section 682-A. Bankruptcy prohibited.



1 A school district may not file a municipal debt adjustment  
2 action under the Bankruptcy Code (11 U.S.C. § 101 et seq).  
3 Section 683-A. Termination of special board of control.

4 Where a school district is governed by a special board of  
5 control under section 692 as of the effective date of this  
6 section, the special board of control shall terminate  
7 immediately upon the appointment of a chief recovery officer for  
8 the school district as provided under section 631-A.

9 Section 7. The provisions of Article VI-A of the act are  
10 severable. If any provision of that article or its application  
11 to any person or circumstance is held invalid, the invalidity  
12 shall not affect other provisions or applications of that  
13 article which can be given effect without the invalid provision  
14 or application.

15 Section 8. This act shall take effect as follows:

16 (1) The amendment or repeal of sections 691, 692, 692.1,  
17 692.2, 693, 694 and 695 of the act shall take effect in 180  
18 days.

19 (2) The remainder of this act shall take effect  
20 immediately.