

PUBLIC SCHOOL CODE OF 1949 - OMNIBUS AMENDMENTS

Act of Dec. 23, 2003, P.L. 304, No. 48

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Session of 2003

No. 2003-48

SB 80

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," adding definitions; further providing for background checks of prospective employees and conviction of employees of certain offenses, for fiscal year, for tax levy and limitations and for per capita taxes; authorizing school districts to reopen their 2003-2004 budgets; imposing limitations on certain unreserved fund balances; repealing provisions relating to professional teacher assessment; further providing for residence and right to free school privileges, for cost of tuition and maintenance of certain exceptional children in approved institutions and for actual cost of tuition and maintenance of certain exceptional children in the four chartered schools for education of the deaf and the blind; providing for firefighter and emergency service training; amending provisions relating to the education support services program; providing for the educational assistance program and the Head Start Supplemental Assistance Program; defining "history of financial distress"; further providing for education empowerment list, for implementation of school district improvement plan by board of school directors, for education empowerment districts, for school improvement grants, for mandate waiver program and for definitions; providing for State System of Higher Education campus police powers and duties; imposing certain limitations on provisions relating to education empowerment; amending provisions relating to educational improvement tax credit; further providing for small district assistance and for temporary special aid to school districts suffering loss of tax revenue due to reduction in assessed valuation of taxable property; providing for basic education funding for 2002-2003 school year and for reimbursement of additional expenses related to basic education; further providing for payments to intermediate units, for special education payments to school districts, for extraordinary special education program expenses and for Commonwealth reimbursements for charter schools and cyber charter schools; providing for Pennsylvania accountability grants and Keystone educational accountability; further providing for powers and duties of the State Board of Education; providing for teacher recruitment assistance; and making a related repeal.

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

Section 1. Section 102 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended January 14, 1970 (1969 P.L.468, No.192), May 11, 1982 (P.L.396, No.115),

December 21, 1998 (P.L.1194, No.154) and June 29, 2002 (P.L.524, No.88), is amended to read:

Section 102. Definitions.--When used in this act the following words and phrases shall have the following meanings:

[(1) "Board of school directors" shall include the board of public education in school districts of the first class, except where specifically limited to school districts of other classes.

(2) "School district" shall include school districts of all classes, except where specifically limited to districts of a particular class or classes.

(3) "School term" shall mean the period of time elapsing between the opening of the public schools in the fall of one year and the closing of the public schools in the spring of the following year.

(4) "School year" shall mean the period of time elapsing in school districts of the first class between the first day of January and the thirty-first day of December of any year, and in school districts of all other classes between the first day of July of one year and the thirtieth day of June of the following year. Effective July 1, 1997, for the 1997-1998 school year and each school year thereafter, school districts with a year-round education program may submit a request to the Secretary of Education for approval or disapproval to extend the school year until August 15 for the purpose of determining average daily memberships for students whose one hundred eighty (180) days of instruction continue into the summer months.

(5) "Official visitor" shall include the Governor, Lieutenant Governor, members of the Senate and the House of Representatives, the Secretary of Education and members of the State Board of Education.

(6) "Pennsylvania System of School Assessment test" or "PSSA test" shall mean a test developed and implemented by the Department of Education to determine only academic achievement relating to objective academic standards in the areas of reading, writing, mathematics and science. The PSSA test shall be developed and implemented as necessary to comply with Federal law.]

"Academic performance target." A percentage of students in a school or school district required to score at a level equal to or above proficient in those subject areas assessed through a PSSA test and required under the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425) in order to achieve adequate yearly progress pursuant to 22 Pa. Code § 403.3 (relating to single accountability system).

"Adequate yearly progress" or "AYP." Adequate yearly progress as defined by section 1111(b)(2)(C) of the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425) and in 22 Pa. Code §§ 403.2 (relating to definitions) and 403.3 (relating to single accountability system).

"Board of school directors." Includes the board of public education in school districts of the first class except where specifically limited to school districts of other classes.

"Corrective action." Classification as provided in 22 Pa. Code § 403.3 (relating to single accountability system) indicating that a school or school district failed to meet adequate yearly progress for four or more consecutive years and requiring development of a corrective action plan.

"No Child Left Behind Act of 2001." The No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425).

"Official visitor." Includes the Governor, Lieutenant Governor, members of the Senate and the House of

Representatives, the Secretary of Education and members of the State Board of Education.

"Pennsylvania System of School Assessment test" or "PSSA test." A test developed and implemented by the Department of Education to determine only academic achievement relating to objective academic standards in the areas of reading, writing, mathematics and science and which test is so developed and implemented as necessary to comply with Federal law.

"Proficient." The attainment of performance levels in those subject areas assessed through the Pennsylvania System of School Assessment test and required under the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425) that have been approved by the State Board of Education to reflect satisfactory academic performance.

"School district." Includes school districts of all classes except where specifically limited to districts of a particular class or classes.

"School improvement." Classification as provided in 22 Pa. Code § 403.3 (relating to single accountability system) indicating a school or school district has failed to make adequate yearly progress for two consecutive years and needs improvement.

"School term." The period of time elapsing between the opening of the public schools in the fall of one year and the closing of the public schools in the spring of the following year.

"School year." The period of time elapsing in school districts of the first class between the first day of January and the 31st day of December of any year and in school districts of all other classes between the first day of July of one year and the 30th day of June of the following year. Effective July 1, 1997, for the 1997-1998 school year and each school year thereafter, school districts with a year-round education program may submit a request to the Secretary of Education for approval or disapproval to extend the school year until August 15 for the purpose of determining average daily memberships for students whose 180 days of instruction continue into the summer months.

"Warning." Classification as provided in 22 Pa. Code § 403.3 (relating to single accountability system) indicating that a school or school district has failed to make its academic performance targets for one year.

Section 2. Section 111(e) of the act, amended June 25, 1997 (P.L.297, No.30), is amended to read:

Section 111. Background Checks of Prospective Employees; Conviction of Employees of Certain Offenses.--* * *

(e) No person subject to this act shall be employed in a public or private school, intermediate unit or area vocational-technical school where the report of criminal history record information indicates the applicant has been convicted, within five (5) years immediately preceding the date of the report, of any of the following offenses:

(1) An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

[Section 2709 (relating to harassment and stalking).]

Former section 2709(b) (relating to stalking).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).
Section 3123 (relating to involuntary deviate sexual intercourse).
Section 3124.1 (relating to sexual assault).
Section 3125 (relating to aggravated indecent assault).
Section 3126 (relating to indecent assault).
Section 3127 (relating to indecent exposure).
Section 4302 (relating to incest).
Section 4303 (relating to concealing death of child).
Section 4304 (relating to endangering welfare of children).
Section 4305 (relating to dealing in infant children).
A felony offense under section 5902(b) (relating to prostitution and related offenses).
Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
Section 6301 (relating to corruption of minors).
Section 6312 (relating to sexual abuse of children).
(2) An offense designated as a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."
(3) An out-of-State or Federal offense similar in nature to those crimes listed in clauses (1) and (2).

* * *

Section 3. Section 220(c) of the act, added December 9, 2002 (P.L.1317, No.153), is amended to read:

Section 220. State Report Card.--* * *

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

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

"Local education agency." A school district, cyber charter school, charter school, area vocational-technical school or intermediate unit.

["No Child Left Behind Act of 2001." The No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425).]

* * *

Section 4. Section 671 of the act of March 10, 1949 (P.L.30, No.14), amended July 31, 1963 (P.L.389, No.206), is amended to read:

Section 671. Fiscal Year.--(a) In all school districts of the second, third, and fourth class, the fiscal year shall begin on the first day of July in each year: Provided, That the board of school directors of any district of the second class may, by resolution adopted by two-thirds vote of the members thereof at a meeting of the board after not less than ten days' notice of the fact that such resolution would be presented for action at such meeting, fix the fiscal year of such school district so as to begin on the first day of January in each year instead of on the first day of July as hereinabove provided.

(b) (1) **For fiscal years beginning after June 30, 2004, a school district of the second, third or fourth class may delay the adoption of its annual budget beyond the last day in June where legislation providing the appropriation for basic education funding to be paid as a reimbursement for the preceding school year is not enacted by June 15.**

(2) **A school district that delays the adoption of its annual budget under paragraph (1) shall adopt an annual budget no later than fifteen days subsequent to the enactment of legislation providing the appropriation for basic education funding to be paid as a reimbursement for the preceding year.**

(3) The provisions of section 687 requiring ten days' public notice prior to final action shall apply in cases when the adoption of a school district's budget is delayed under this subsection.

Section 5. Section 672(a) of the act, amended June 16, 1972 (P.L.449, No.138), is amended to read:

Section 672. Tax Levy; Limitations.--(a) In all school districts of the second, third, and fourth class, all school taxes shall be levied and assessed by the board of school directors therein, during the month of February or March or April or May or June each year, **or no later than twenty days following the enactment of legislation providing the appropriation for basic education funding to be paid as a reimbursement for the preceding school year**, for the ensuing fiscal year, except in districts of the second class where the fiscal year begins on the first day of January, in which the school taxes shall be levied and assessed during the month of October or November of each year. In such school districts the tax rate shall not exceed twenty-five mills on the dollar, on the total amount of the assessed valuation of all property taxable for school purposes therein. Each school district of the second, third or fourth class may also collect a per capita tax on each resident or inhabitant of such district over eighteen years of age, as herein provided.

* * *

Section 6. Section 679 of the act, amended November 26, 1982 (P.L.760, No.215), is amended to read:

Section 679. Per Capita Taxes.--Each resident or inhabitant, over eighteen years of age, in every school district of the second, third, and fourth class, which shall levy such tax, shall annually pay, for the use of the school district in which he or she is a resident or inhabitant, a per capita tax of not less than one dollar nor more than five dollars, as may be assessed by the local school district. The tax collector shall not proceed against a spouse or his employer until he has pursued remedies against the delinquent taxpayer and the taxpayer's employer under this section.

Each school district may exempt any person whose total income from all sources is less than [five thousand dollars] **ten thousand dollars** per annum from its per capita tax or any portion thereof. The school district may adopt and employ regulations for the processing of claims for the exemption.

Section 7. Section 687 of the act is amended by adding a subsection to read:

Section 687. Annual Budget; Additional or Increased Appropriations; Transfer of Funds.--* * *

(j) **Notwithstanding any other provisions of this act, the board of school directors of each school district may reopen its 2003-2004 budget to reflect any State allocations for fiscal year 2003-2004 provided by the General Assembly through this act.**

Section 8. The act is amended by adding a section to read:

Section 688. Limitations on Certain Unreserved Fund Balances.--(a) For the 2005-2006 school year and each school year thereafter, no school district shall approve an increase in real property taxes unless it has adopted a budget that includes an estimated ending unreserved, undesignated fund balance less than the percentages set forth as follows:

School District	Estimated Ending Unreserved, Undesignated
Total Budgeted	Fund Balance as Percentage of
Expenditures	Total Budgeted Expenditures
Less Than or Equal to \$11,999,999	12%

Between \$12,000,000 and \$12,999,999	11.5%
Between \$13,000,000 and \$13,999,999	11%
Between \$14,000,000 and \$14,999,999	10.5%
Between \$15,000,000 and \$15,999,999	10%
Between \$16,000,000 and \$16,999,999	9.5%
Between \$17,000,000 and \$17,999,999	9%
Between \$18,000,000 and \$18,999,999	8.5%
Greater Than or Equal to \$19,000,000	8%

(b) By August 15, 2005, and August 15 of each year thereafter, each school district that approves an increase in real property taxes shall provide the Department of Education with information certifying compliance with this section. Such information shall be provided in a form and manner prescribed by the Department of Education and shall include information on the school district's estimated ending unreserved, undesignated fund balance expressed as a dollar amount and as a percentage of the school district's total budgeted expenditures for that school year.

(c) As used in this section, "estimated ending unreserved, undesignated fund balance" shall mean that portion of the fund balance which is appropriable for expenditure or not legally or otherwise segregated for a specific or tentative future use, projected for the close of the school year for which a school district's budget was adopted and held in the General Fund accounts of the school district.

Section 9. Article XII-A of the act is repealed.

Section 10. Section 1302 of the act, amended June 22, 2001 (P.L.530, No.35), is amended to read:

Section 1302. Residence and Right to Free School Privileges.--(a) A child shall be considered a resident of the school district in which his parents or the guardian of his person resides. Federal installations are considered a part of the school district or districts in which they are situate and the children residing on such installations shall be counted as resident pupils of the school district. When a resident of any school district keeps in his home a child of school age, not his own, supporting the child gratis as if it were his own, such child shall be entitled to all free school privileges accorded to resident school children of the district, including the right to attend the public high school maintained in such district or in other districts in the same manner as though such child were in fact a resident school child of the district, and shall be subject to all the requirements placed upon resident school children of the district. Before such child may be accepted as a pupil, such resident shall file with the secretary of the board:

(1) appropriate legal documentation to show dependency or guardianship; or

(2) a sworn statement that he is a resident of the district, that he is supporting the child gratis, that he will assume all personal obligations for the child relative to school requirements, and that he intends to so keep and support the child continuously and not merely through the school term. The school board, pursuant to guidelines issued by the Department of Education, may require other reasonable information to be submitted by the resident to substantiate the sworn statement. **The form containing the sworn statement shall include notice in large print of the penalty for providing false information in the sworn statement.**

(b) If it is found that information contained in the sworn statement is false, the child must be removed from the school

after notice of an opportunity to appeal the removal pursuant to the appropriate grievance policy of the school district.

(c) Notwithstanding any other provision of law to the contrary, a person who knowingly provides false information in the sworn statement for the purpose of enrolling a child in a school district for which the child is not eligible commits a summary offense and shall, upon conviction for such violation, be sentenced to pay a fine of no more than three hundred dollars (\$300) for the benefit of the school district in which the person resides or to perform up to two hundred forty (240) hours of community service, or both. In addition, the person shall pay all court costs and shall be liable to the school district for an amount equal to the cost of tuition calculated in accordance with section 2561 during the period of enrollment.

Section 11. Section 1376 of the act, amended June 7, 1993 (P.L.49, No.16), June 30, 1995 (P.L.220, No.26) and June 22, 2001 (P.L.530, No.35), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.--(a) When any child between school entry age and twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or has cerebral palsy and/or neurological impairment and/or muscular dystrophy and/or is mentally retarded and/or has a serious emotional disturbance and/or has autism/pervasive developmental disorder and is enrolled, with the approval of the Department of Education, as a pupil in an approved private school approved by the Department of Education, in accordance with standards and regulations promulgated by the State Board of Education, the school district in which such child is resident or, for students placed by a charter school, the charter school in which the student was enrolled shall pay the greater of either twenty per centum (20%) of the actual audited cost of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," as calculated pursuant to section 2561, and the Commonwealth shall pay, out of funds appropriated to the department for special education, the balance due for the costs of such child's tuition and maintenance, as determined by the department. For the school years 1989-1990, 1990-1991 and 1991-1992, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. For the 1992-1993 school year and each school year thereafter, the school district or charter school payment shall be the greater of forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," as calculated pursuant to section 2561, and the Commonwealth shall pay, out of funds appropriated to the department for approved private schools, the balance due for the costs of such child's tuition and maintenance, as determined by the department. The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. [The Department of Education shall be provided with such financial data from approved private schools as may be necessary to determine the reasonableness of

costs for tuition and room and board concerning Pennsylvania resident approved reimbursed students. The Department of Education shall evaluate such data and shall disallow any cost deemed unreasonable. Any costs deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.]

(b) When any person less than school entry age or more than twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or has cerebral palsy and/or has neurological impairment and/or has muscular dystrophy, or has autism/pervasive developmental delay, and is enrolled, with the approval of the Department of Education, as a pupil in an approved private school approved by the Department of Education, the Commonwealth shall pay to such school, out of moneys appropriated to the department for special education, the actual audited cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the State Board of Education **in accordance with subsection (b.1)**, and in addition, in the case of any child less than school entry age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

(b.1) For the 2004-2005 school year and each school year thereafter, an approved private school shall submit to the Department of Education such information as the department may reasonably require to determine its budgeted costs for the upcoming school year. Based upon this information and the most recent settled audit, the Department of Education shall develop an interim reimbursement rate for the approved private school. The Department of Education shall provide the approved private school with monthly payments in advance of the final cost settlement as provided for in subsection (c.2). The Department of Education shall adopt final reimbursement rates based on the final cost settlement. The Department of Education may withhold a portion of such payments not exceeding five percent (5%) of such payments, pending final cost settlement. In no event shall either the payments made in advance of the final cost settlement or final reimbursements based on the final cost settlement made by the Department of Education exceed the appropriation available for approved private schools.

[(c) Each approved private school, prior to the start of the school year, shall submit to the department such information as the department may require in order to establish an estimate of reimbursable costs. Based upon this information, any other data deemed necessary by the department and in accordance with department standards, the department shall develop for each approved private school an estimate of reimbursable costs. Based upon such estimate, the department shall provide each approved private school with monthly payments in advance of department audit. The department may withhold a portion of such payments not exceeding five percent (5%) of such payment, pending final audit. In no event shall either the advance payments or final reimbursement made by the department following audit exceed the appropriation available for approved private schools.]

(c.1) Any funds remaining from the appropriation line items "for special education - approved private schools" or for Pennsylvania Charter Schools for the Deaf and Blind from the general appropriations acts for fiscal years 1978-1979 and each fiscal year thereafter shall be transferred by the State

Treasurer into a restricted account (continuing appropriation) for audit resolution which is hereby established. The Department of Education shall also deposit into this restricted account any funds returned to or recovered by the department from approved private schools or chartered schools for overpayments during fiscal years 1978-1979 and each fiscal year thereafter. The funds in the restricted account are hereby appropriated upon approval of the Governor to the Department of Education for payments to approved private schools for audit resolutions for fiscal years 1978-1979 and each fiscal year thereafter. Funds in this restricted account shall not be subject to the limitations in subsection [(c)] **(b.1)** which prohibit advance payments and final reimbursement from exceeding the appropriation available for approved private schools. During the 1995-1996 fiscal year and during each fiscal year thereafter, the Department of Education shall review the activity in the restricted account and may recommend that the Governor authorize the lapsing into the General Fund of any funds that are estimated not to be needed for audit resolution.

(c.2) Beginning with the 2004-2005 school year and each school year thereafter, the Department of Education shall establish procedures and audit standards to govern the scope of reportable costs and the methods used to examine and determine allowability of costs. Cost reports shall be prepared in accordance with the established procedures and audit standards and submitted by the approved private school to the Department of Education after the conclusion of the school year. The Department of Education shall process these cost reports and settle any outstanding payments due to or from the approved private school within one (1) year of the cost report submission. If the cost reports are subject to any appeals or postsettlement resolution, the Department of Education shall have an additional three (3) months to settle. Audits of cost reports submitted for school years prior to the 2004-2005 school year shall be completed in a manner consistent with prior audit practices. An approved private school may submit an audit prepared by an independent certified public accountant provided the following have occurred:

(1) The Department of Education has failed to process and settle the cost reports within twelve (12) months from submission by the approved private school.

(2) The Department of Education has failed to settle any appeals or postsettlement resolution within fifteen (15) months from submission by the approved private school.

(3) The approved private school has responded to reasonable requests for information and documents by the Department of Education.

Upon receipt of the independent audit, the Department of Education shall have three (3) months to review the audit and settle any outstanding payments due to or from the approved private school.

(d) No private institution receiving payment in accordance with this section shall impose any charge on the student and/or parents who are Pennsylvania approved reimbursable residents for a program of individualized instruction and maintenance appropriate to the child's needs; except that charges for services not part of such program may be made if agreed to by the parents.

[(e) (1) The Education Committees of the Senate and House of Representatives are directed to jointly examine the issues of the funding of approved private schools and special education students' access to approved private schools as part of the

full continuum of special education placements. The committees' examination should address, at a minimum, the following issues:

(i) The funding methodology which supports the school district's responsibility for individualized, appropriate educational services to special education students through access to the most comprehensive continuum of educational options and settings.

(ii) The role of the approved private school in the mandated continuum of special education services available to students in Pennsylvania.

(iii) The relative roles of the Department of Education and school districts to ensure free appropriate public education (FAPE) through adequate funding and appropriate distribution of comprehensive services.

(iv) The provisions of the Individuals with Disabilities Education Act (IDEA) (P.L.101-476), the Cordero Court Orders, this act and 22 Pa. Code Chs. 14 and 342 as they relate to the provision of programs and services to special education students should be carefully reviewed as they pertain to approved private schools, continuum of placement options, funding, FAPE and other pertinent issues.

(2) The committees shall report back to the General Assembly by November 15, 1993, with legislative and/or administrative recommendations. The committees may hold such meetings and hearings as they deem appropriate to accomplish the provisions of this subsection.]

(e) As used in this section, "independent certified public accountant" means a member of the American Institute of Certified Public Accountants that has a minimum of five (5) years' verifiable experience in performing audits of government funds for nonprofit organizations with a comparable or larger annual budget.

Section 12. Section 1376.1 of the act, amended June 7, 1993 (P.L.49, No.16), is amended to read:

Section 1376.1. Actual Cost of Tuition and Maintenance of Certain Exceptional Children in the Four Chartered Schools for Education of the Deaf and the Blind.--(a) The following term, whenever used or referred to in this section, shall have the following meaning. "Chartered school" shall mean any of the four (4) chartered schools for the education of the deaf or the blind: the Pennsylvania School for the Deaf; the Overbrook School for the Blind; the Western Pennsylvania School for Blind Children; and the Western Pennsylvania School for the Deaf.

(b) When any child of school age resident in this Commonwealth, who is blind or deaf, is enrolled with the approval of the Department of Education as a pupil in any of the four (4) chartered schools in accordance with standards and regulations promulgated by the State Board of Education, the school district in which such child is resident shall pay the greater of either twenty percent (20%) of the actual cost of tuition and maintenance of such child in such institution, as determined by the Department of Education; or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," and the Commonwealth shall pay, out of funds appropriated to the department for special education, the balance due for the costs of such child's tuition and maintenance, as determined by the department. For the school years 1989-90, 1990-91 and 1991-92, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. For the 1992-1993 school year and each school year thereafter, the school district payment shall be the greater

of forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," and the Commonwealth shall pay out of funds appropriated to the department for chartered schools the balance due for the costs of such child's tuition and maintenance, as determined by the department. The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. [The Department of Education shall be provided with such financial data from each of the chartered schools as may be necessary to determine the reasonableness of charges for tuition and room and board of each of the chartered schools made on Pennsylvania resident approved students. The Department of Education shall evaluate such data and shall disallow any charges deemed unreasonable. Any charge deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.]

(c) When any person less than school age resident in this Commonwealth who is blind or deaf is enrolled, with the approval of the Department of Education, as a residential pupil in any of the four (4) chartered schools, the Commonwealth shall pay to the school, out of moneys appropriated to the department for special education, the actual cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the State Board of Education **in accordance with subsection (e)**, and in addition, in the case of any child less than school age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

(d) None of the chartered schools receiving payment in accordance with this section shall impose any charge on the student and/or parents who are approved reimbursable residents for a program of instruction and maintenance appropriate to the child's needs; except that charges for programs not part of the normal school year may be made.

(e) For the 2004-2005 school year and each school year thereafter, a chartered school shall submit to the Department of Education such information as the Department of Education may reasonably require to determine its budgeted costs for the upcoming school year. Based upon this information and the most recent settled audit, the Department of Education shall develop an interim reimbursement rate for the chartered school. The Department of Education shall provide the chartered school with monthly payments in advance of the final cost settlement as provided for in subsection (f). The Department of Education shall adopt final reimbursement rates based on the final cost settlement. The Department of Education may withhold a portion of such payments not exceeding five percent (5%) of such payments, pending final cost settlement. In no event shall either the payments made in advance of the final cost settlement or final reimbursements based on the final cost settlement made by the Department of Education exceed the appropriation available for chartered schools.

(f) Beginning with the 2004-2005 school year and each school year thereafter, the Department of Education shall establish procedures and audit standards to govern the scope of reportable costs and the methods used to examine and determine allowability of costs. Cost reports shall be prepared in accordance with established procedures and audit standards and submitted by the chartered school to the Department of Education after the conclusion of the school year. The Department of Education shall process these cost reports and settle any outstanding payments due to or from the chartered school within one (1) year of the cost report submission. If the cost reports are subject to any appeals or postsettlement resolution, the Department of Education shall have an additional three (3) months to settle. Audits of cost reports submitted for school years prior to the 2004-2005 school year shall be completed in a manner consistent with prior audit practices. A chartered school may submit an audit prepared by an independent certified public accountant provided the following have occurred:

(1) The Department of Education has failed to process and settle the cost reports within twelve (12) months from submission by the chartered school.

(2) The Department of Education has failed to settle any appeals or postsettlement resolution within fifteen (15) months from submission by the chartered school.

(3) The chartered school has responded to reasonable requests for information and documents by the Department of Education.

Upon receipt of the independent audit, the Department of Education shall have three (3) months to review the audit and settle any outstanding payments due to or from the chartered school.

(g) As used in this section, "independent certified public accountant" means a member of the American Institute of Certified Public Accountants that has a minimum of five (5) years' verifiable experience in performing audits of government funds for nonprofit organizations with a comparable or larger annual budget.

Section 13. The act is amended by adding a section to read:

Section 1550. Firefighter and Emergency Service Training.--(a) Beginning with the 2003-2004 school year and each school year thereafter, a school district may offer firefighter and emergency service training as credit-earning courses to students of the age of sixteen (16) years or older. Such courses may include:

(1) Training as a Firefighter I from the National Board on Fire Service Professional Qualifications.

(2) Training as an emergency medical technician by the Department of Health under the act of July 3, 1985 (P.L.164, No.45), known as the "Emergency Medical Services Act."

(b) A school district that offers firefighter and emergency service training as credit-earning courses shall provide transportation to and supervision during any firefighter and emergency service training program that takes place off school grounds. Supervision of training shall be conducted as a cooperative education program in accordance with the provisions of 22 Pa. Code § 11.28 (relating to out-of-school programs).

Section 14. The heading of Article XV-C of the act, added May 17, 2001 (P.L.4, No.4), is amended to read:

ARTICLE XV-C.

EDUCATION SUPPORT SERVICES [PROGRAM.] AND EDUCATIONAL ASSISTANCE PROGRAMS.

Section 15. Section 1501-C of the act, amended June 29, 2002 (P.L.524, No.88), is amended to read:

Section 1501-C. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

"Eligible school entity." For the purposes of the Educational Assistance Program operated pursuant to sections 1502-C and 1512-C, a school entity with one or more schools identified by the Department of Education as having failed to meet one or more academic performance targets.

"Eligible student." A resident of this Commonwealth who is enrolled full time in [third, fourth, fifth or sixth] kindergarten through ninth grade in a school entity and is deemed eligible pursuant to section 1502-C(b) or section 1512-C(b).

"Eligibility test." The Pennsylvania System of School Assessment or a commercially prepared, standardized achievement test approved by the Department of Education. A list of approved tests under this article shall be published annually in the Pennsylvania Bulletin.

"Grant." A grant awarded to a grant recipient under this article.

"Grant recipient." A resident of this Commonwealth who is a parent, guardian or person in parental relation to an eligible student.

["Program." The Education Support Services Program established in section 1502-C.]

"Provider." A school entity, an institution of higher education, a nonprofit or for-profit organization or a certified teacher employed by a school entity, that is approved by the Department of Education to provide education support services or tutoring under the Educational Assistance Program.

["School entity." Any of the following located in this Commonwealth: a school district, intermediate unit, joint school district, area vocational-technical school, charter school, independent school, licensed private academic school, accredited school, a school registered under section 1327(b), the Scotland School for Veterans' Children or the Scranton School for the Deaf.]

"School entity." Shall mean:

(1) For purposes of the Educational Support Services Program, any of the following located in this Commonwealth: a school district, intermediate unit, joint school district, area vocational-technical school, charter school, independent school, licensed private academic school, accredited school, a school registered under section 1327(b), the Scotland School for Veterans' Children or the Scranton School for the Deaf.

(2) For purposes of the Educational Assistance Program established in section 1502-C, any of the following located in this Commonwealth: a school district, joint school district, area vocational-technical school or independent school.

Section 16. Sections 1502-C, 1503-C and 1504-C of the act, added May 17, 2001 (P.L.4, No.4), are amended to read:
Section 1502-C. Establishment of [program] **programs.**

(a) Establishment.--The Education Support Services Program [is] **and Educational Assistance Program are** established within

the department to provide individual or small group instruction in [reading and mathematics] **those subject areas assessed through a Pennsylvania System of School Assessment test and required under the No Child Left Behind Act of 2001** to strengthen the skills that an eligible student needs to achieve the standards in 22 Pa. Code Ch. 4 (relating to academic standards and assessment), which shall be provided at a time other than the regularly scheduled school hours.

(b) Eligibility.--The department shall utilize the Pennsylvania System of School Assessment test or other test results to identify eligible students under this article. Scores used to determine eligible students in each grade shall be published annually in the Pennsylvania Bulletin.

(c) Approval.--A provider must be approved by the department in order to provide education support services **or tutoring under the Educational Assistance Program** under this article.

Section 1503-C. [Application] **Education Support Services Grant application** and approval.

(a) Application.--A prospective grant recipient shall apply annually to the department for a grant to purchase education support services for an eligible student from an approved provider in a time and manner prescribed by the department.

(b) Required information.--An application submitted under this section shall include verification of the eligibility test results and such other information as the department may require.

Section 1504-C. Powers and duties of the department.

The department shall:

(1) Establish criteria to annually identify eligible students [in grades three, four, five and six to participate in the program under section 1502-C].

(2) Approve providers [of education support services].

(3) Adopt standards, procedures and guidelines to be used to approve providers [of education support services under this article].

(4) Award grants to a grant recipient in an amount not to exceed \$500 per fiscal year for each eligible student.

(5) Establish minimum qualifications for individuals utilized by providers of education support services.

(6) Establish periods during which applications will be reviewed to accommodate the dates when results of approved eligibility tests become available.

(7) **Assess providers on an annual basis to determine the academic progress of students who receive instruction under this article.**

(8) **Provide educational assistance funding to school entities pursuant to section 1512-C.**

Section 17. Section 1505-C of the act, amended June 29, 2002 (P.L.524, No.88), is amended to read:

Section 1505-C. Providers.

(a) **Application.**--A prospective provider shall submit an application to the department for approval to provide education support services **or tutoring under the Educational Assistance Program** under this article. The application shall include a description of the services to be provided, **a description of the curriculum to be used**, the cost of the services, the qualification of all individuals providing those services, including evidence of compliance with section 111 and with 23 Pa.C.S. § 6355 (relating to requirement), **a description of an assessment mechanism to be used to determine the academic**

progress of students who receive tutoring services, and such other information as may be required by the department.

(b) **Revocation of approval.**--The department shall revoke the approval of any provider for which the annual assessments required under section 1504-C(7) demonstrate that 20% or more of the students for whom the provider has provided education support services under section 1507-C or tutoring services under section 1512-C failed to make academic progress for two consecutive years.

Section 18. Sections 1506-C, 1507-C heading and 1508-C(a) of the act, added May 17, 2001 (P.L.4, No.4), are amended to read:

Section 1506-C. Notification of program.

A school entity in this Commonwealth [with students enrolled in third, fourth, fifth or sixth grade] shall notify parents of the availability of education support services **and tutoring under the educational assistance program** at such time as the parents receive the results of any eligibility test.

Section 1507-C. Payment of **educational support services** grants.

* * *

Section 1508-C. Limitations.

(a) **Amount.**--The amount of **educational support services** grants provided under this article in a fiscal year shall be limited to the funds appropriated for that purpose. No more than 10% of the total funds appropriated for this program in any fiscal year shall be awarded to grant recipients within a specific school district except that, if the department determines that all school entities in the Commonwealth have had an opportunity to participate in the program and that funds remain available, it may waive the 10% limitation under this subsection.

* * *

Section 19. The act is amended by adding a section to read:
Section 1512-C. Educational Assistance Program.

(a) **Purpose.**--The Educational Assistance Program shall provide, for the support of tutoring services to eligible students, funds to eligible school entities in which one or more schools have failed to meet at least one academic performance target.

(b) **Eligibility.**--A student shall be eligible for tutoring services under this section where such student is enrolled full time in an eligible school entity and:

(1) scored below proficient on a Pennsylvania System of School Assessment test in a subject area required under the No Child Left Behind Act of 2001 in the immediate preceding school year; or

(2) is enrolled in kindergarten through third grade and scored below the score approved by the department under section 1502-C(b) on any other eligibility test.

(c) **Approval of providers.**--In order to provide tutoring services through the Educational Assistance Program, a provider must be approved by the department. Such providers may include:

(1) a provider approved under section 1505-C; or

(2) a school entity.

(d) **Duties of eligible school entities.**--An eligible school entity shall have the following duties:

(1) To annually notify the parents or guardian of any student eligible for tutoring services under subsection (b) about the availability of tutoring services under this section.

(2) To annually provide the parents or guardian of any student eligible for tutoring services under subsection (b) with a list of all approved providers operating within the boundaries of or around the eligible school entity.

(3) Upon request, to assist the parents or guardian of any student eligible for tutoring services under subsection (b) in selecting an approved provider.

(4) To enter into a contract or contracts with a provider approved under section 1505-C and operating within the boundaries of or around the eligible school entity or to offer tutoring services directly to any student eligible for tutoring services under subsection (b).

(e) Tutoring services.--Tutoring services provided under this section shall include intensive instruction in those subject areas assessed through a Pennsylvania System of School Assessment test and required under the No Child Left Behind Act of 2001. Such tutoring services may:

(1) Notwithstanding the provisions of section 1502, be provided outside of the normal school day and hours of the school entity, including mornings, evenings, weekends and during the summer months.

(2) Take place on an individual or small group basis, provided that tutoring services may be provided to no more than ten students in a given class at a given time during the school term and no more than 15 students during the summer months.

(f) Duties of department.--The department shall have the following duties:

(1) To provide eligible school entities that provide tutoring services under this section with technical assistance upon request.

(2) To annually assess any provider or school entity that provides tutoring services under this section in order to determine the academic progress of students who receive tutoring services.

(g) Educational assistance funding.--

(1) During the 2003-2004 and 2004-2005 school years, the department shall provide each eligible school entity with educational assistance funding calculated by:

(i) Dividing the number of Pennsylvania System of School Assessment tests administered in the eligible school entity on which students scored below proficient in reading or mathematics by the total number of Pennsylvania System of School Assessment tests administered in the eligible school entity in reading and mathematics during the immediate preceding school year.

(ii) Multiplying the quotient from subparagraph (i) by the average daily membership of the eligible school entity during the immediate preceding school year.

(iii) Multiplying the product from subparagraph (ii) by the dollar value of funds appropriated to the Department of Education for the Educational Assistance Program.

(iv) Dividing the product from subparagraph (iii) by the sum of the products of subparagraph (ii) for all eligible school entities that qualify for grant funds under this subsection.

(2) The amount of educational assistance funding provided under this article shall be limited to funds appropriated for this purpose.

(h) Use of educational assistance funds.--An eligible school entity that receives educational assistance funding under subsection (g) may use such funds to:

(1) Enter into contracts with a provider approved under section 1505-C.

(2) Offer tutoring services directly to any student eligible for tutoring services under subsection (b).

(i) Construction.--Nothing in this section shall be construed to limit the eligibility of a grant recipient to receive a grant under section 1507-C.

Section 20. The act is amended by adding an article to read:

ARTICLE XV-D.

HEAD START SUPPLEMENTAL ASSISTANCE PROGRAM.

Section 1501-D. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

"Extended day services." Head Start and child-care services provided to children eligible for Head Start by a Head Start provider or through a collaborative agreement between a Head Start provider and a licensed child-care center, or a registered family or group day-care home for those hours and days beyond the hours funded through the Federal Head Start Program.

"Head Start." A program funded under the Federal Head Start Act established by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) and carried out by a Head Start agency or delegate agency that provides ongoing comprehensive child development services.

"Program." The Head Start Supplemental Assistance Program established in section 1502-D.

Section 1502-D. Head Start Supplemental Assistance Program.

(a) Establishment.--The Head Start Supplemental Assistance Program is hereby established to provide Head Start services to additional eligible children and to provide extended day services through existing Head Start providers.

(b) Administration.--The department shall administer the program, consistent with Federal Head Start guidelines. During the 2004-2005 fiscal year, the department shall provide supplemental financial assistance to existing providers of Federal Head Start services.

(c) Coordination.--The department, to every extent possible, shall coordinate the administration of the program with the Department of Public Welfare and the Department of Health. The purpose of this coordination shall be to:

(1) Identify educational, child-care or other services under the jurisdiction of the Department of Public Welfare and the Department of Health that can augment or improve the services available through Head Start providers.

(2) Provide technical assistance to Head Start providers establishing child-care services in order to offer extended day services.

(3) Provide technical assistance to Head Start providers, licensed child-care centers or registered family or group day-care homes entering into collaborative agreements in order to offer extended day services.

(d) Criteria for funding.--To implement the program, the department shall request proposals from existing Head Start providers and may award grants or enter into service contracts with existing Head Start providers that meet all of the following criteria:

(1) Demonstrate the need for additional Head Start services in the provider's service area, whether the need is determined by the percentage of eligible children who are not served in the provider's service area or by the demand for extended day services.

(2) Demonstrate the ability to expand staff, space or services either:

(i) within the Head Start program; or

(ii) in cooperation with licensed child-care centers or registered family or group day-care homes to serve additional children or to provide extended day services.

(3) Demonstrate the ability to comply with Federal and State requirements for child-care service providers if the Head Start provider intends to provide extended day services.

(4) Demonstrate the ability to enter into a collaborative agreement with a child-care service provider if the Head Start provider intends to enter into a collaborative agreement with a licensed child-care center or a registered family or group day-care home to offer extended day services.

Section 1503-D. Priority in funding.

The department shall give priority in funding to Head Start providers applying for grants to serve additional eligible children.

Section 1504-D. Annual report.

The department shall compile an annual report on the program for submission to the Governor, the chairmen of the Appropriations Committee and the Education Committee of the Senate and the chairmen of the Appropriations Committee and Education Committee of the House of Representatives. The report shall include:

(1) The number of eligible children served by Head Start as of the effective date of this article.

(2) The number of eligible children served by the program during the school year that begins one year after the effective date of this article and each year thereafter.

(3) The number of extended day programs and the number of eligible children enrolled in extended day programs as of the effective date of this article.

(4) The number of extended day programs and the number of eligible children enrolled in extended day programs during the school year that begins one year after the effective date of this article and each year thereafter.

(5) A summary of the types of activities funded under the program.

Section 1505-D. Head Start expansion.

(a) General rule.--The Department of Public Welfare shall, within 90 days of the effective date of this article, promulgate regulations necessary to assure eligibility for the child care subsidy for children enrolled in Head Start whose parents need extended hours of Head Start services in order to work. During the time period of the child's enrollment in Head Start, the child shall remain eligible for the child care subsidy. Regulations promulgated under this section shall permit the use

of child care subsidy funds to support full-day, full-year opportunities for Head Start participants.

(b) Final-omitted regulations.--The Department of Public Welfare, in adopting such revised regulations, shall follow the procedures set forth in the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, for the promulgation and review of final-omitted regulations.

Section 1506-D. Standards.

The department may promulgate any standards necessary to administer and enforce this article.

Section 21. Section 1702-B of the act, added May 10, 2000 (P.L.44, No.16), is amended by adding a definition to read:

Section 1702-B. Definitions.--For purposes of this article, the following terms shall have the following meanings:

* * *

"History of financial distress." A school district for which: the market value/income aid ratio for the school year of placement on the education empowerment list is equal to or greater than six thousand eight hundred seven ten-thousandths (0.6807); the personal income valuation for the school year of placement on the education empowerment list when divided by the school district's average daily membership for the school year prior to the school year of placement on the education empowerment list is less than or equal to sixty thousand dollars (\$60,000); the basic education funding allocation for the second school year prior to the school year of placement on the education empowerment list when divided by the actual instruction expense for the second school year prior to the school year of placement on the education empowerment list is equal to or greater than sixty-five hundredths (0.65); and the average daily membership for the school year prior to the school year of placement on the education empowerment list is equal to or greater than five thousand (5,000).

* * *

Section 22. Section 1703-B(a) and (e) of the act, amended November 22, 2000 (P.L.672, No.91), are amended and the section is amended by adding a subsection to read:

Section 1703-B. Education Empowerment List.--(a) The department shall place a school district that has a history of low test performance **or a history of financial distress** on an education empowerment list. The department shall immediately notify the school district of its placement on the education empowerment list and shall publish the list in the Pennsylvania Bulletin. A school district may petition the department to exclude from its calculation under this subsection or section 1707-B(a.1) the PSSA test score of any student who was enrolled in the district for less than ninety (90) instructional days of the school year in which the test was administered.

* * *

(e) [The] **Where a school district has been placed on the education empowerment list due to a history of low or extraordinarily low test performance, the school district** improvement plan developed pursuant to subsection (c) shall give priority consideration to improvement of schools identified pursuant to subsection (b) and shall set forth specific methods and goals for improving the educational performance of each district school and the school district that include all of the following:

(1) Identification of districtwide academic standards, which meet or exceed the academic standards under 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

(2) Performance goals, benchmarks and timetables to improve academic performance for the school district and each school in the school district that will enable the school district to be removed from the education empowerment list.

(3) Revisions to the curriculum, instructional practices and programming that will enable students to attain the academic standards under paragraph (1).

(4) A system of assessments to measure the performance of the school district, each school in the school district and students in meeting the academic standards under paragraph (1).

(5) A system of academic accountability that provides for specific consequences for students, each school in the school district and administrators for attaining or failing to attain levels of academic performance set forth in the school district improvement plan.

(6) Specific procedures to inform parents or guardians and the community of the performance of each school in the school district and to increase their participation.

(7) Specific policies and procedures to increase the authority to individual schools and responsibility for performance of individual schools, including granting individual schools greater control of their personnel, budget and educational program.

(8) A system of school selection that to the greatest extent possible allows parents to choose the public school in the district their child can attend.

(9) Professional development activities and programs that will assist teachers and administrators in enabling students to attain academic standards.

(10) Policies and procedures to assure a safe and secure environment in schools in the district.

(e.1) Where a school district has been placed on the education empowerment list due to a history of financial distress, the school district improvement plan developed pursuant to subsection (c) shall give priority consideration to and set forth specific methods and goals for improving the financial stability of the school district.

* * *

Section 23. Section 1704-B of the act, amended or added May 10, 2000 (P.L.44, No.16) and June 22, 2001 (P.L.530, No.35), is amended to read:

Section 1704-B. Board of School Directors.--(a) The board of school directors shall implement the school district improvement plan. Notwithstanding any other provision of law to the contrary, the board of school directors of a school district on the education empowerment list **due to a history of low or extraordinarily low test performance** may do any of the following consistent with the school district improvement plan:

(1) Establish any school as a charter school under section 1708-B.

(2) Designate any school of the district as an independent school operating under an agreement with the board of school directors, granting operational control to the governing body of the independent school. The governing body of the independent school, including its membership and selection process, shall be established by the board of school directors. The governing body shall include representatives of parents and teachers. A school designated as independent under this paragraph shall have the authority to decide all matters related to the

operation of the school, including the exercise of powers provided under this article. The agreement between the board of school directors and the independent school shall do the following, consistent with the school district improvement plan:

(i) Describe the governance structure of the independent school, including the method for the selection of members to the governing body.

(ii) Prescribe the educational goals and mission of the independent school and the curriculum to be offered.

(iii) Describe the academic, fiscal and other goals and objectives for which the independent school will be held accountable and the evaluation criteria and procedures that will be employed to determine whether the school is meeting its goals and objectives.

(iv) Grant the independent school allocation of and control over its funding and budget. The independent school's funding shall be determined by the agreement.

(v) Grant the independent school control of the educational program and curriculum.

(vi) Prescribe the authority of the independent school to establish working conditions, select and assign professional and nonprofessional employees, establish nonteaching duties, extend the length of the school year and schedule of the school day, including holding class after regular hours.

(vii) Define the terms under which the agreement may be terminated, extended or renewed.

(3) Employ professional staff in accordance with section 1724-A as it pertains to certification.

(4) Enter into contracts with an individual or a for-profit or nonprofit organization, which shall be authorized to operate a school and employ its own staff to provide educational services.

(5) Reconstitute a school.

(6) Notwithstanding section 1125.1, reassign, suspend or dismiss a professional employee.

(7) Supervise and direct principals, teachers and administrators.

(8) Rescind without penalty the contract of the superintendent and other administrative personnel entered into after the effective date of this article.

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

(b) The board of school directors of a school district on the education empowerment list shall submit an annual report to the department that includes a list of all contracts entered into by the board and any other information relating to the implementation of this section as required by department guidelines.

Section 24. Section 1705-B(h)(4) of the act, amended December 9, 2002 (P.L.1472, No.187), is amended to read:

Section 1705-B. Education Empowerment Districts.--* * *

(h) * * *

(4) The department may utilize up to \$2,000,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts certified as an education empowerment district under paragraph (3). There is hereby established a restricted account from which payments under this paragraph shall be paid. Funds shall be transferred by the Secretary of the Budget to the restricted account to the extent necessary to make payments under this paragraph. Funds in the restricted

account are hereby appropriated to carry out the purposes of this paragraph. The subsidy payment from this account shall be utilized to supplement the operational budget of the eligible school districts. This paragraph shall apply to fiscal years 2000-2001, 2001-2002 [and], 2002-2003 **and 2003-2004** and shall expire June 30, [2003] **2004**.

Section 25. Sections 1709-B and 1714-B(g) of the act, added May 10, 2000 (P.L.44, No.16), are amended to read:

Section 1709-B. School Improvement Grants.--(a) The department shall establish a program of annual school improvement grants for school districts on the education empowerment list or certified as an education empowerment district to assist in the implementation of their school district improvement plans.

(b) Grants shall be limited to the amount appropriated for that purpose.

(c) [Grants] **Where the school district is on the education empowerment list or is certified as an education empowerment district due to a history of low or extraordinarily low test performance, grants** shall be provided annually to the school district for use as directed by the school district empowerment team or the board of control in implementing the school district improvement plan developed pursuant to sections 1703-B and 1706-B as follows:

(1) To purchase instructional materials, including textbooks, technology and related educational materials and supplies.

(2) To reduce class size in kindergarten through grade three.

(3) To establish after-school, summer and weekend programs.

(4) To establish or expand full-day kindergarten program.

(5) To fund curriculum development.

(6) To fund enhanced staff professional development.

(7) To fund any other program contained in the school district improvement plan.

(c.1) Where the school district is on the education empowerment list due to a history of financial distress, grants shall be provided annually to the school district for use as directed by the school district empowerment team in implementing the school district improvement plan developed pursuant to section 1703-B.

(d) Subject to the requirements of this section, each qualifying school district shall receive a base annual grant of four hundred fifty thousand dollars (\$450,000) and an additional grant of up to seventy-five dollars (\$75) per average daily membership for the prior school year of the school district. The school district or the board of control shall give priority in allocating the grant funding received under this section to the individual schools identified pursuant to sections 1703-B(b) and 1706-B(b).

(e) The department shall set forth the specific allowable uses for grant funds and place conditions, as necessary, on the use of grant funds. The department shall establish accountability procedures and auditing guidelines to ensure that grant funds are utilized in accordance with the allowable uses and conditions.

(f) A school district receiving a grant under this section shall be required to maintain separate accounts in that school district's budget to facilitate monitoring the use of these grant funds. In no case shall a school district use more than five per centum of the grant funds for administrative costs.

(g) The department shall reduce the amount of a State subsidy payment to a school district by the amount of any grant funds provided under this section if the school district does not use the grant funds in accordance with the allowable uses and conditions set forth by the department.

Section 26. The act is amended by adding a section to read:

Section 1714.1-B. Limitation.--Notwithstanding any other provision of this article, no school district shall be placed on the education empowerment list under section 1703-B or certified as an education empowerment district under section 1705-B or 1707-B on or after July 1, 2004.

Section 27. Section 2001-A of the act is amended by adding clauses to read:

Section 2001-A. Definitions.--The following words and phrases when used in this article shall, for the purpose of this article, have the following meanings, respectively, except in those instances where the context clearly indicates a different meaning:

* * *

(20) "Campus police" shall mean all law enforcement personnel employed by the system who have successfully completed a campus police course of training approved under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

(21) "Grounds" shall mean all lands and buildings owned, controlled, leased or managed by the system.

Section 28. The act is amended by adding a section to read:

Section 2019-A. Campus Police Powers and Duties.--(a)

Campus police of an institution shall have the power and their duty shall be:

(1) to enforce good order on the grounds and in the buildings of the institution;

(2) to protect the grounds and buildings of the institution;

(3) to exclude all disorderly persons from the grounds and buildings of the institution;

(4) to adopt means necessary for the performance of their duties;

(5) to exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipalities wherein the institution is located, including, but not limited to, those powers conferred pursuant to 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction);

(6) to prevent crime, investigate criminal acts, apprehend, arrest and charge criminal offenders and issue summary citations for acts committed on the grounds of the institution and carry the criminal offenders before the proper district justice and prefer charges against them under the laws of this Commonwealth. Except when acting pursuant to 42 Pa.C.S. Ch. 89 Subch. D, campus police shall exercise these powers and perform these duties only on the grounds of the institution. For the purposes of applying the provisions of 42 Pa.C.S. Ch. 89 Subch. D, the grounds of the institution shall constitute the primary jurisdiction of the campus police.

(7) to order off the grounds and out of the buildings of the institution all trespassers and persons under the influence of alcohol or controlled substances and, if necessary, remove them by force and, in case of resistance, carry them before a district justice; and

(8) to arrest any person who damages, mutilates or destroys the property of the institution or commits any other offense, including threats or acts of terrorism, on the grounds and in

the buildings of the institution and carry that person before the proper district justice and prefer charges against that person under the laws of this Commonwealth.

(b) An institution is authorized to enter into an agreement with the municipalities overlain by or abutting its campus to exercise concurrently those powers and to perform those duties conferred pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S. § 8953 (relating to Statewide municipal police jurisdiction). When so acting, the campus police of the institution shall have the same powers, immunities and benefits granted to police officers in 42 Pa.C.S. Ch. 89 Subch. D. All such agreements shall be consistent with the mission and purpose of the system.

(c) When acting within the scope of the authority of this section, campus police are at all times employees of the institution and shall be entitled to all of the rights accruing therefrom.

Section 29. Sections 2002-B, 2003-B, 2004-B, 2005-B, 2006-B and 2007-B of the act, added May 17, 2001 (P.L.4, No.4), are amended to read:

Section 2002-B. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article IV, VI, VII, VII-A, VIII, VIII-A, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Contribution." A donation of cash, personal property or services the value of which is the net cost of the donation to the donor or the pro rata hourly wage, including benefits, of the individual performing the services.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Educational improvement organization." A nonprofit entity which:

(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

(2) contributes at least 80% of its annual receipts as grants to a public school for innovative educational programs.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts when it expends or otherwise irrevocably encumbers those funds for expenditure during the then current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

"Eligible pre-kindergarten student." A student who is enrolled in a pre-kindergarten program and is a member of a household with an annual household income of not more than \$50,000. An income allowance of \$10,000 shall be allowed for each eligible student and dependent member of the household.

"Eligible student." A school-age student who is enrolled in a school and is a member of a household with an annual household income of not more than \$50,000. An income allowance of \$10,000 shall be allowed for each eligible student and dependent member of the household.

"Household." An individual living alone or with the following: a spouse, parent and their unemancipated minor children; and other unemancipated minor children who are related by blood or marriage; or other adults or

unemancipated minor children living in the household who are dependent upon the individual.

"Household income." All moneys or property received of whatever nature and from whatever source derived. The term does not include the following:

(1) Periodic payments for sickness and disability other than regular wages received during a period of sickness or disability.

(2) Disability, retirement or other payments arising under workers' compensation acts, occupational disease acts and similar legislation by any government.

(3) Payments commonly recognized as old-age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment.

(4) Payments commonly known as public assistance or unemployment compensation payments by a governmental agency.

(5) Payments to reimburse actual expenses.

(6) Payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, Social Security and retirement.

(7) Compensation received by United States servicemen serving in a combat zone.

"Innovative educational program." An advanced academic or similar program that is not part of the regular academic program of a public school but that enhances the curriculum or academic program of the public school.

"Pre-kindergarten program." A program of instruction for three-year-old or four-year-old students that utilizes a curriculum aligned with the curriculum of the school with which it is affiliated and which provides a minimum of two hours of instructional and developmental activities per day at least 60 days per school year.

"Pre-kindergarten scholarship organization." A nonprofit entity which:

(1) either is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate segregated fund by a scholarship organization that has been qualified under section 2003-B; and

(2) contributes at least 80% of its annual cash receipts to a pre-kindergarten scholarship program by expending or otherwise irrevocably encumbering those funds for distribution during the then current fiscal year of the organization or during the next succeeding fiscal year of the organization.

"Pre-kindergarten scholarship program." A program to provide tuition to eligible pre-kindergarten students to attend a pre-kindergarten program operated by or in conjunction with a school located in this Commonwealth and that includes an application and review process for the purpose of making awards to eligible pre-kindergarten students and awards scholarships to eligible pre-kindergarten students without limiting availability to only students of one school.

"Public school." A public kindergarten, elementary school or secondary school at which the compulsory attendance requirements of this Commonwealth may be met and which meets the applicable requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"Scholarship organization." A nonprofit entity which:
(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and
(2) contributes at least 80% of its annual **cash** receipts to a scholarship program.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts to a scholarship program when it expends or otherwise irrevocably encumbers those funds for distribution during the then current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

"Scholarship program." A program to provide tuition to eligible students to attend a school located in this Commonwealth. A scholarship program must include an application and review process for the purpose of making awards to eligible students. The award of scholarships to eligible students shall be made without limiting availability to only students of one school.

"School." A public or nonpublic kindergarten, elementary school or secondary school at which the compulsory attendance requirements of the Commonwealth may be met and which meets the applicable requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

"School age." Children from the earliest admission age to a school's **pre-kindergarten or** kindergarten program or, when no **pre-kindergarten or** kindergarten program is provided, the school's earliest admission age for beginners, until the end of the school year the student attains 21 years of age or graduation from high school, whichever occurs first.

Section 2003-B. Qualification and application.

(a) Establishment.--In accordance with section 14 of Article III of the Constitution of Pennsylvania, an educational improvement tax credit program is hereby established to enhance the educational opportunities available to all students in this Commonwealth.

(b) Information.--In order to qualify under this article, a scholarship organization, **a pre-kindergarten scholarship organization** or an educational improvement organization must submit information to the department that enables the department to confirm that the organization is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(c) Scholarship [program] **organizations and pre-kindergarten scholarship organizations**.--A scholarship organization or **pre-kindergarten scholarship organization** must certify to the department that the organization is eligible to participate in the program established under this article.

(d) Educational improvement organization.--An application submitted by an educational improvement organization must describe its proposed innovative educational program or programs in a form prescribed by the department. The department shall consult with the Department of Education as necessary. The department shall review and approve or disapprove the application.

(e) Notification.--The department shall notify the scholarship organization, **pre-kindergarten scholarship organization** or educational improvement organization that the organization meets the requirements of this article for that fiscal year no later than 60 days after the organization has submitted the information required under this section.

(f) Publication.--The department shall annually publish a list of each scholarship **organization, pre-kindergarten scholarship organization** or educational improvement organization qualified under this section in the Pennsylvania Bulletin. The list shall also be posted and updated as necessary on the publicly accessible World Wide Web site of the department.
Section 2004-B. Application.

(a) Scholarship organization **or pre-kindergarten scholarship organizations**.--A business firm shall apply to the department for a tax credit under section 2005-B. A business firm shall receive a tax credit under this article if the scholarship organization **or pre-kindergarten scholarship organization** that receives the contribution appears on the list established under section 2003-B(f).

(b) Educational improvement organization.--A business firm must apply to the department for a credit under section 2005-B. A business firm shall receive a tax credit under this article if the department has approved the program provided by the educational improvement organization that receives the contribution.

(c) Availability of tax credits.--Tax credits under this article shall be made available by the department on a first-come, first-served basis within the limitation established under section 2006-B(a).

(d) Contributions.--A contribution by a business firm to a scholarship organization, **pre-kindergarten scholarship organization** or educational improvement organization shall be made no later than 60 days following the approval of an application under subsection (a) or (b).
Section 2005-B. Tax credit.

(a) [General rule] **Scholarship or educational improvement organizations**.--In accordance with section 2006-B(a), the Department of Revenue shall grant a tax credit against any tax due under Article IV, VI, VII, VII-A, VIII, VIII-A, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, to a business firm providing proof of a contribution to a scholarship organization or educational improvement organization in the taxable year in which the contribution is made which shall not exceed 75% of the total amount contributed during the taxable year by the business firm. Such credit shall not exceed [\$100,000] **\$200,000** annually per business firm **for contributions made to scholarship organizations or educational improvement organizations**.

(b) Additional amount.--The Department of Revenue shall grant a tax credit of up to 90% of the total amount contributed during the taxable year if the business firm provides a written commitment to provide the scholarship organization or educational improvement organization with the same amount of contribution for two consecutive tax years. The business firm must provide the written commitment under this subsection to the department at the time of application.

(c) **Pre-kindergarten scholarship organizations**.--In accordance with section 2006-B(a), the Department of Revenue shall grant a tax credit against any tax due under Article IV, VI, VII, VII-A, VIII, VIII-A, IX or XV of the "Tax Reform Code of 1971" to a business firm providing proof of a contribution to a pre-kindergarten scholarship organization in the taxable year in which the contribution is made which shall be equal to 100% of the first \$10,000 contributed during the taxable year by the business firm, and which shall not exceed 90% of the remaining amount contributed during the taxable year by the

business firm. Such credit shall not exceed \$100,000 annually per business firm for contributions made to pre-kindergarten scholarship organizations.

(d) Combination of tax credits.--A business firm may receive a tax credit from the Department of Revenue for a contribution under subsection (a) or (c), or both.

Section 2006-B. Limitations.

(a) Amount.--

(1) The total aggregate amount of all tax credits approved shall not exceed [\$30,000,000] \$40,000,000 in a fiscal year. No less than [\$20,000,000] \$26,666,666 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to scholarship organizations. No less than [\$10,000,000] \$13,333,333 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to educational improvement organizations.

(2) For the fiscal year 2004-2005 and each fiscal year thereafter, the total aggregate amount of all tax credits approved for contributions from business firms to pre-kindergarten scholarship programs shall not exceed \$5,000,000 in a fiscal year.

(b) Activities.--No tax credit shall be approved for activities that are a part of a business firm's normal course of business.

(c) Tax liability.--A tax credit granted for any one taxable year may not exceed the tax liability of a business firm.

(d) Use.--A tax credit not used in the taxable year the contribution was made may not be carried forward or carried back and is not refundable or transferable.

(e) Nontaxable income.--A scholarship received by an eligible student **or eligible pre-kindergarten student** shall not be considered to be taxable income for the purposes of Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 2007-B. Lists.

The Department of Revenue shall provide a list of all scholarship organizations, **pre-kindergarten scholarship organizations** and educational improvement organizations receiving contributions from business firms granted a tax credit under this article to the General Assembly by June 30 of each year.

Section 30. Sections 2502.13 and 2502.30 of the act, amended June 29, 2002 (P.L.524, No.88), are amended to read:

Section 2502.13. Small District Assistance.--For the 1984-1985 and 1985-1986 school years, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to fifty dollars (\$50) multiplied by that district's average daily membership. For the 1985-1986 school year, no school district shall receive less on account of this section than it did for the 1984-1985 school year. For the school year 1986-1987, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1985-1986 school year, an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership. For the school year 1987-1988, the Commonwealth shall pay to

each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1986-1987 school year, an amount equal to eighty-five dollars (\$85) multiplied by that district's average daily membership. For the school year 1988-1989, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 or 1988-1989 school year, an amount equal to one hundred five dollars (\$105). For the school year 1989-1990, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 school year, an amount equal to one hundred fifteen dollars (\$115) multiplied by the district's average daily membership as provided for in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990." For the school year 1990-1991, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the prior school year, an amount equal to one hundred seventy dollars (\$170) multiplied by that district's average daily membership. For the school year 1990-1991, each school district with a population per square mile of less than ninety (90), which otherwise meets the average daily membership and market value/income aid ratio requirements of this section, or received payments under this section for the prior school year, shall instead receive an amount equal to one hundred ninety dollars (\$190) multiplied by that district's average daily membership. For the 1987-1988 school year through the 1990-1991 school year, no school district shall receive less on account of this section than it did for the prior school year. For the school year 1994-1995, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to ninety five dollars (\$95) multiplied by that district's average daily membership. For each of the school years 1997-1998 through 1999-2000, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership. For the school years 2000-2001 [and], 2001-2002 **and 2002-2003**, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership.

Section 2502.30. Temporary Special Aid to School Districts Suffering Loss of Tax Revenue Due to Reduction in Assessed Valuation of Taxable Property.--(a) Temporary special aid shall be paid in fiscal years 1994-1995, 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2001-2002 [and], 2002-2003 **and 2003-2004** to school districts experiencing a severe reduction

in local revenue due to a decline in the assessed value of taxable properties. The allocation to these districts shall be determined by multiplying the reduction in assessed value between 1985-1986 and 1992-1993 by the 1992-1993 real estate millage rate. This aid shall be paid from undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the Department of Education. No other funds shall be used for assistance under this section. These funds shall be sufficient to provide temporary relief to seven school districts in fiscal year 1995-1996 at seventy-five per centum (75%) of the funds received in fiscal year 1994-1995, in fiscal year 1996-1997 at fifty per centum (50%) of the funds received in fiscal year 1994-1995, in fiscal year 1997-1998, 1998-1999 and in fiscal year 1999-2000 at twenty-five per centum (25%) of the funds received in fiscal year 1994-1995. For fiscal years 2001-2002 [and], 2002-2003[,], **and 2003-2004** to the extent funds are available as determined by the Secretary of the Budget, qualifying school districts shall receive twenty-five per centum (25%) of the funds received in fiscal year 1994-1995.

(b) Payments made pursuant to subsection (a) shall be paid from a restricted receipt account, which is hereby established, for such payments. Funds shall be transferred by the Secretary of the Budget to the restricted account only to the extent necessary to make the payments authorized by this section. The money in the restricted account is hereby appropriated from the account for purposes of this section.

(c) This section shall expire [October 1, 2003] **October 1, 2004.**

Section 31. The act is amended by adding sections to read:

Section 2502.41. Basic Education Funding for 2002-2003 School Year.--For the 2002-2003 school year, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:

(1) An amount equal to the basic education funding allocation for the 2001-2002 school year pursuant to sections 2502.13 and 2502.40.

(2) Where the school district received a grant under section 1709-B during the 2002-2003 school year but is not eligible to receive such a grant during the 2003-2004 school year, an amount equal to the grant amount it received during the 2002-2003 school year multiplied by 0.50.

(3) A base supplement calculated as follows:

(i) Multiply the school district's 2003-2004 market value/income aid ratio by its 2002-2003 average daily membership.

(ii) Multiply the product from subparagraph (i) by fifty million dollars (\$50,000,000).

(iii) Divide the product from subparagraph (ii) by the sum of the products of the 2003-2004 market value/income aid ratio multiplied by the 2002-2003 average daily membership for all school districts.

(4) A poverty supplement calculated for qualifying school districts as follows:

(i) To qualify for the poverty supplement, a school district's 2003-2004 market value/income aid ratio shall be equal to or greater than 0.6500 and its personal income valuation when divided by its 2002-2003 average daily membership shall be equal to or less than one hundred three thousand five hundred seventy-one dollars (\$103,571).

(ii) The poverty supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the school district's 2002-2003 average daily membership by thirty million dollars (\$30,000,000).

(B) Divide the product from clause (A) by the sum of the 2002-2003 average daily membership for all qualifying school districts.

(5) A tax effort supplement calculated for qualifying school districts as follows:

(i) To qualify for the tax effort supplement, a school district's 2001 equalized millage must be equal to or greater than 20.6 equalized mills.

(ii) The tax effort supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the school district's 2002-2003 average daily membership by fifteen million dollars (\$15,000,000).

(B) Divide the product from clause (A) by the sum of the 2002-2003 average daily membership for all qualifying school districts.

(6) A growth supplement calculated for qualifying school districts as follows:

(i) To qualify for the growth supplement, a school district's 2002-2003 average daily membership must be greater than its 2001-2002 average daily membership.

(ii) The growth supplement shall be calculated for qualifying school districts as follows:

(A) Subtract the school district's 2001-2002 average daily membership from its 2002-2003 average daily membership and multiply the difference by its 2003-2004 market value/income aid ratio.

(B) Multiply the difference from clause (A) by ten million dollars (\$10,000,000).

(C) Divide the product from clause (B) by the sum of the differences from clause (A) for all qualifying school districts.

(7) Each school district shall receive additional funding as necessary so that the sum of the amounts under section 2502.13 and under paragraphs (3), (4), (5) and (6) and this paragraph will equal at least two per centum (2%) of the amount in paragraph (1).

Section 2502.42. Reimbursement of Additional Expenses Related to Basic Education.--During the 2003-2004 fiscal year, the Commonwealth shall pay to each school district a special supplement calculated as follows:

(1) Multiply the net amount of basic education funding for the 2002-2003 school year pursuant to sections 2502.13 and 2502.41 that would have been paid in August 2003 and in October 2003 times an interest rate as determined by the Secretary of Education. The interest rate established shall be such that the funds allocated under this section shall not exceed the funds appropriated for this purpose.

(2) Multiply the products from paragraph (1) by the number of days respectively that the August and October payments were late.

(3) Divide the products from paragraph (2) by three hundred sixty-five (365) days.

(4) Add the amount calculated in paragraph (3) to determine the total special supplement.

Section 32. Sections 2509.1 and 2509.5 of the act are amended by adding subsections to read:

Section 2509.1. Payments to Intermediate Units.--* * *

(b.11) Up to nine million five hundred thousand dollars (\$9,500,000) may be utilized for programs administered and operated by intermediate units during the 2003-2004 school year

for institutionalized children as established in subsection (b.1).

* * *

Section 2509.5. Special Education Payments to School Districts.--* * *

(ll) During the 2003-2004 school year, each school district shall be paid the amount it received during the 2002-2003 school year under subsection (kk).

(mm) During the 2003-2004 school year, thirty-six million one hundred forty-nine thousand five hundred eighty-seven dollars (\$36,149,587) of the funds appropriated to the Department of Education for special education shall be used to provide supplemental funding for special education to all school districts. The supplemental funding shall be calculated as follows:

(1) multiply each school district's 2003-2004 market value/income aid ratio by sixteen per centum (16%) of its 2002-2003 average daily membership;

(2) multiply the product from paragraph (1) by thirty-six million one hundred forty-nine thousand five hundred eighty-seven dollars (\$36,149,587); and

(3) divide the resultant product from paragraph (2) by the sum of the products of the 2003-2004 market value/income aid ratio multiplied by sixteen per centum (16%) of the 2002-2003 average daily membership for all school districts.

Section 33. Section 2509.8(d) of the act, added May 10, 2000 (P.L.44, No.16), is amended and the section is amended by adding a subsection to read:

Section 2509.8. Extraordinary Special Education Program Expenses.--* * *

(d) For the 2000-2001 school year [and each school year thereafter,] **through the 2002-2003 school year**, the Department of Education shall set aside two percent (2%) of the special education appropriation for extraordinary expenses incurred in providing a special education program or service to one or more students with disabilities as approved by the Secretary of Education.

(e) For the 2003-2004 school year and each school year thereafter, the Department of Education shall set aside one percent (1%) of the special education appropriation for extraordinary expenses incurred in providing a special education program or service to one or more students with disabilities as approved by the Secretary of Education. Such special education program or service shall include, but not be limited to, the transportation of students with disabilities; services related to occupational therapy, physical therapy, speech and language, hearing impairments or visual impairments; or training in orientation and mobility for children who are visually impaired or blind.

Section 34. Section 2591.1 of the act, added June 29, 2002 (P.L.524, No.88), is amended to read:

Section 2591.1. Commonwealth Reimbursements for Charter Schools and Cyber Charter Schools.--(a) For the 2001-2002 school year, the Commonwealth shall pay to each school district with resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined pursuant to Article XVII-A an amount equal to thirty percent (30%) of the total funding required under section 1725-A(a). If insufficient funds are appropriated to make Commonwealth reimbursements under this section, the reimbursements shall be made on a pro rata basis.

(b) For the 2002-2003 school year, the Commonwealth shall pay to each school district that received funding under subsection (a) for the 2001-2002 school year and that had resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined under Article XVII-A during the 2002-2003 school year an amount equal to the lesser of:

- (1) the payment received for the 2001-2002 school year pursuant to subsection (a); or
- (2) thirty percent (30%) of the total funding required under section 1725-A(a).

(c) For the 2002-2003 school year, the Commonwealth shall pay to each school district that did not receive funding under subsection (a) for the 2001-2002 school year and that had resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined under Article XVII-A during the 2002-2003 school year an amount equal to thirty percent (30%) of the total funding required under section 1725-A(a).

(d) For the fiscal year 2003-2004, if insufficient funds are appropriated to make Commonwealth payments pursuant to this section, such payments shall be made on a pro rata basis.

Section 35. The act is amended by adding a section to read:

Section 2599.2. Pennsylvania Accountability Grants.--(a)

Beginning with the 2004-2005 fiscal year, the department shall establish a program of annual accountability grants for the benefit of students enrolled in each of the Commonwealth's school districts.

(b) The grant shall be used by a school district to attain or maintain academic performance targets. Funds obtained under this section may be used for any of the following:

(1) Establishing, maintaining or expanding a quality pre-kindergarten program aligned with the current academic standards contained in 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

(2) Establishing, maintaining or expanding a quality full-day kindergarten program aligned with the current academic standards contained in 22 Pa. Code Ch. 4. Such programs shall be kept open for five hours each day for the full school term as provided in section 1501. The board of school directors of a school district may offer a full-day kindergarten program to children who are between four and six years old.

(3) Establishing, maintaining or expanding a class size reduction program. Such class size reduction program shall appoint and assign a minimum of one teacher for every 17 students or two teachers for every 35 students enrolled in a kindergarten, first, second or third grade classroom. All teachers appointed and assigned to teach kindergarten, first, second or third grade shall be certified in accordance with 22 Pa. Code Ch. 49 (relating to certification of professional personnel) or its successors. The department shall establish guidelines to assure that no school district satisfies the requirements of this paragraph by making a reduction in, and subsequent increase to, current teacher complement. For purposes of this paragraph, the phrase "one teacher for every 17 students or two teachers for every 35 students enrolled in a kindergarten, first, second or third grade classroom" shall refer to the number of teachers conducting a class at any one time in a classroom containing the applicable number of students.

(4) Establishing, expanding or maintaining programs that promote the availability, coordination, integration and utilization of social and health services, associated resources and ancillary resources to meet the needs of children and families in addressing issues that may serve to limit student academic achievement.

(5) Notwithstanding the provisions of Article XV-C, providing tutoring assistance.

(6) Improving the academic performance of subgroups identified under section 1111(b) of the No Child Left Behind Act of 2001.

(7) Establishing, expanding or maintaining programs to assist in the building of strong science and applied-knowledge skills.

(8) Providing additional programs for continuing professional education that may include any of the following: training in mathematics, science and literacy-specific curriculum and instructional strategies; training in school-wide improvement planning; analysis of student achievement data, including student work and the implications for classroom practice; observing and studying exemplary school and classroom practices; implementing school-wide programs and classroom management strategies designed to improve student conduct; using technology to boost student achievement; conducting transition planning and curriculum alignment across schools and grade levels; or implementing secondary strategies to increase student engagement and personalize learning.

(9) Establishing, expanding or maintaining math and literacy coaching programs within schools to improve math and reading instruction.

(10) Providing financial incentives to highly qualified, tenured teachers to work in the most academically challenged schools in a school district or providing financial incentives to aid in the recruitment of certificated teachers in mathematics, science, language arts or English as a second language to work in the most academically challenged schools in a school district.

(11) Providing such other programs or activities that the board of school directors of a school district determines are essential to achieving or maintaining academic performance targets through the year 2014.

(c) (1) No later than April 10, 2004, the department shall notify each school district of the grant amount it will receive under subsection (d).

(2) Within thirty (30) days of receipt of the notification under paragraph (1), the school district shall submit to the department an accountability grant plan. The plan shall include:

(i) Reference to the programs or activities under subsection (b) for which the grant funds will be used.

(ii) Identification of whether the grant funds will be used to establish, maintain or expand the programs or activities referenced under subparagraph (i).

(iii) A brief description of the programs or activities for which the grant funds will be used.

(3) (i) Where the accountability grant plan submitted under paragraph (2) proposes to use the grant funds for a program or activity under subsection (b)(11), the department shall have fifteen (15) days from the receipt of the plan to disapprove the use and notify the school district of the reason for the disapproval. Within thirty (30) days of the receipt of notice of disapproval, the school district shall submit a revised accountability grant plan under paragraph (2).

(ii) Where the accountability grant plan submitted under paragraph (2) proposes to use the grant funds for a program or activity under subsection (b) (11) and the school district fails to receive notification from the secretary within fifteen (15) days of receipt that its request has been disapproved, the school district may proceed to implement the proposed programs or activities.

(4) Where the accountability grant plan submitted under paragraph (2) proposes to use the grant funds for a program or activity under subsection (b) (1), (2), (3), (4), (5), (6), (7), (8), (9) or (10), the department may, within thirty (30) days from the receipt of the plan, make nonbinding recommendations for alternative utilization of the grant funds.

(5) No later than February 1, 2005, and February 1 of each year thereafter, the department shall submit a report to the majority and minority chairs of the Appropriations and Education Committees of the Senate and to the majority and minority chairs of the Appropriations and Education Committees of the House of Representatives summarizing the operation of the program for that fiscal year. The report shall include:

(i) A description of the operation of the program.

(ii) A summary of the total amount of grant funds paid to school districts.

(iii) A summary of the uses of grant funds to school districts.

(iv) An identification of the number of school districts that used grant funds for each of the programs or activities under subsection (b).

(v) A listing of each school district and the program or activity under subsection (b) for which the grant funds were used.

(vi) An identification of the number of school districts that used grant funds to establish, maintain or expand the program or activity for which the grant funds were used.

(vii) A listing of each school district and whether the grant funds were used to establish, maintain or expand the program or activity for which the grant funds were used.

(d) During the 2004-2005 school year, the department shall pay to each school district a Pennsylvania Accountability grant equal to the sum of the amounts calculated under paragraphs (1) and (2) as follows:

(1) Each school district shall receive an amount based on the percentage of its students scoring below proficient on the PSSA tests, calculated as follows:

(i) Divide the number of PSSA tests administered in the school district on which students scored below proficient in reading or mathematics during the 2002-2003 school year by the total number of PSSA tests scored in reading and mathematics in the school district during the 2002-2003 school year.

(ii) Multiply the quotient from subparagraph (i) by the average daily membership of the school district for the 2002-2003 school year.

(iii) Multiply the product from subparagraph (ii) by the market value/income aid ratio of the school district for the 2003-2004 school year.

(iv) Multiply the product from subparagraph (iii) by one hundred thirty-one million two hundred fifty thousand dollars (\$131,250,000).

(v) Divide the product from subparagraph (iv) by the sum of the products of subparagraph (iii) for all school districts.

(2) Each school district shall receive an amount based on the percentage of its students scoring at or above proficient on the PSSA tests, calculated as follows:

(i) Divide the number of PSSA tests administered in the school district on which students scored at or above proficient in reading or mathematics during the 2002-2003 school year by the total number of PSSA tests scored in reading and mathematics in the school district during the 2002-2003 school year.

(ii) Multiply the quotient from subparagraph (i) by the average daily membership of the school district for the 2002-2003 school year.

(iii) Multiply the product from subparagraph (ii) by the market value/income aid ratio of the school district for the 2003-2004 school year.

(iv) Multiply the product from subparagraph (iii) by forty-three million seven hundred fifty thousand dollars (\$43,750,000).

(v) Divide the product from subparagraph (iv) by the sum of the products of subparagraph (iii) for all school districts.

(3) Grants awarded under this section shall be paid to school districts on the last Thursday of July.

(e) (1) The department shall establish reporting procedures and auditing guidelines to ensure that grant funds are utilized in accordance with subsection (b).

(2) A school district shall maintain separate accounts in its budget to facilitate monitoring the use of the grant funds.

(3) In no case shall a school district use grant funds for administrative costs as defined by the department.

(4) The department shall reduce the amount of a State subsidy payment to a school district by the amount of any grant funds provided under this section if the school district does not utilize the grant funds in accordance with subsection (b) and the accountability grant plan submitted pursuant to subsection (d).

(5) No grant funds may be used directly to increase salaries except as provided for in subsection (b)(10).

(6) No school district may place grant funds received under this section in a reserve account.

(f) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Applied knowledge." Information technology, computer equipment, education software and related advanced technologies necessary to increase students' access to worldwide information and their expertise in this regard.

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

"Grant." A Pennsylvania accountability grant awarded under this section.

"Highly qualified." A highly qualified elementary teacher or a highly qualified middle or secondary teacher as defined in 22 Pa. Code § 403.2 (relating to definitions).

"Science." A curricular offering in support of the science and technology content area as defined in 22 Pa. Code § 4.12 (relating to academic standards).

Section 36. The act is amended by adding an article to read:

ARTICLE XXV-A.

KEYSTONE EDUCATIONAL ACCOUNTABILITY.

Section 2501-A. Scope.

This article deals with educational accountability.

Section 2502-A. Purpose.

The purpose of this article is to put in place an assessment system aimed at improving school district management practices

and use of resources, as well as to identify potential cost savings, by providing for the establishment of a series of best practices covering a broad range of school district educational and operational programs and services as standards for a periodic financial management practices review of school districts in this Commonwealth. The reviews are intended to:

(1) Increase public confidence in and support for school districts that demonstrate efficient use of taxpayer resources.

(2) Encourage cost savings.

(3) Link financial planning and budgeting to district priorities, including student performance.

(4) Improve school district management and use of resources.

Section 2503-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

"Review." The best financial management practices review established by this article.

"School board." A board of school directors of a school district.

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

"Standards." The best financial management practices standards established by the Secretary of Education and promulgated by the State Board of Education pursuant to this article.

"State board." The State Board of Education.

"Team." The local financial management advisory team established pursuant to section 2508-A.

Section 2504-A. Establishment.

(a) Review system.--The department, in consultation with stakeholders as set forth in subsection (d), shall develop a system for reviewing the financial management practices of school districts in this Commonwealth based on a series of best financial management practices standards adopted for specific areas of district programs and operations.

(b) Resources.--In developing this system, the department shall draw on information garnered through the existing school evaluation services reports.

(c) Advisory committee.--

(1) There is hereby established in the Department of Education an advisory committee consisting of nine members to assist the secretary in carrying out the secretary's duties under this article.

(2) Membership on the committee shall include:

(i) A representative named by an established recognized association representing school administrators.

(ii) A representative named by an established recognized association representing school business officials.

(iii) One representative named by each of the established recognized organizations representing the State's public school employees.

(iv) A representative named by an established recognized organization representing the State's boards of school directors.

(v) A representative named by an established recognized organization representing the State's colleges and universities.

(vi) Three members named by the secretary to include: one representative from an established recognized organization representing the State's business community, one representative of an established recognized taxpayer organization and one member from the general public.

(3) The committee shall:

(i) Consult with the secretary concerning any matter arising under the administration of this article.

(ii) Assist the secretary in complying with the provisions of section 2504-A(d) to include providing lists of experts in various areas on which standards and indicators are being developed pursuant to section 2505-A.

(d) Consultation.--In arriving at its best practices and their indicators, the department shall consult with a wide variety of educational stakeholders, including school district administrators, school business officials, school board members, professional education organizations, taxpayer organizations, legislators and legislative staff and the Office of the Budget. Additionally, the department is to seek advice from corporate and governmental experts in financial best management practices and other states with similar programs.

(e) Regulations.--No later than one year from the effective date of this article, the secretary shall promulgate the best management practices standards as regulations. Due to the urgent need for an expedited but public regulatory process, the State Board, in adopting these regulations, shall follow the procedures set forth in the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, for the promulgation and review of final-omitted regulations.

Section 2505-A. Best financial management practices standards.

(a) General.--The best financial management practices standards must, at a minimum, instill public confidence by addressing school districts' use of resources, identifying ways that the district may save funds and improving the districts' performance and accountability systems, including public accountability.

(b) Initial development.--To assure these goals are met, best financial management practices standards shall initially be developed for the following areas:

- (1) Management structures.
- (2) Performance accountability.
- (3) Educational service delivery.
- (4) Administrative and instructional technology.
- (5) Personnel systems and benefits.
- (6) Facilities construction.
- (7) Facilities maintenance.
- (8) Transportation.
- (9) Food service operations.
- (10) Cost control systems.

(c) Indicators.--To help assess whether a district is meeting these standards, the department shall also develop specific indicators for each best practice. Indicators will

represent the kinds of activities a district would undertake if the district were using a particular best practice.

Section 2506-A. Review process.

(a) Review cycle.--Every school district shall be subject to a best financial management practices review on a continuing six-year cycle. Once the six-year cycle has been completed, reviews shall continue, beginning again with those districts included in the first year of the cycle unless the district has been deemed entitled to a waiver pursuant to section 2507-A(d).

(b) Strategic plan.--Each district's review shall be scheduled one year prior to the date required for filing of the district's strategic plan under 22 Pa. Code § 4.13 (relating to strategic plans) or its successor regulations, except that all districts placed on the education empowerment list pursuant to section 1703-B or determined to be distressed pursuant to section 691 as of the effective date of this article shall be included in the initial cycle of school districts subject to a review.

(c) Private firms.--The department is authorized to contract with a private firm or firms, selected through a formal request-for-proposal process to perform each review, to the extent that funds are provided for this purpose in the General Appropriation Act each year. Any private firm awarded a contract pursuant to this subsection shall have expertise in school district finance.

(d) Self-assessment.--Districts scheduled for review shall initially complete a self-assessment instrument developed by the department which indicates the school district's own evaluation of its performance on each best practice. The self-assessment shall begin no later than 60 days prior to the commencement of the review, with the completed assessment instrument and supporting documentation submitted to the department no later than the date scheduled for commencement of the review of the district.

(e) Public meetings during review.--During the review, the department and the firm conducting the review shall hold at least one advertised public meeting in order to explain the best financial management practices review process and obtain input from students, parents, the business community and other district residents regarding their observations and recommendations about the operations and management of the district.

(f) Information used in review process.--In completing its review and developing the final report, the review team shall use information available through the existing school evaluation services reports.

(g) Completion of review.--Reviews are to be completed within six months after commencement. A final report of the review team is to be issued to the secretary, the Governor, the district and its school board and the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives, the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives within 60 days of completion of the review.

(h) Public meeting after review.--Within 30 days of receipt of the final report of the review, the school board shall hold a public meeting to share the results with residents of the

district. Such meeting shall comply with the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(i) Publication on World Wide Web.--No later than 15 days after the issuance of the final report by the review team, the department shall publish the district's review on its World Wide Web site. Prior to publication, the department shall issue a press release informing the public of the availability of this information.

(j) Findings in final report.--The final report shall include findings related to compliance with the standards based on their established indicators; potential cost savings; suggested recommendations for improvement; and, for those districts found not to be in compliance with the standards, a three-year action plan for achieving compliance. This action plan is to be developed in conjunction with officials from the school district.

Section 2507-A. State certification as a Keystone District.

(a) General rule.--A district that has been determined by the review to be using the best practices shall be certified by the secretary as a Keystone District. Such designation is effective for six years from the certification date or until the next review is completed, whichever is later.

(b) Publication of status.--A district so designated is authorized to publicize its status as a Keystone District on its buildings and in any publications or correspondence it deems appropriate.

(c) Annual verification.--Except as provided in section 2510-A, a district that has been certified pursuant to this section shall annually verify to the secretary that it has made no changes in any of its practices and continues to conform to the best financial management practices standards.

(d) Waiver.--A school district that has been awarded a certification as a Keystone District and which has made annual reports pursuant to subsection (c) shall be granted a waiver from the requirement of undergoing its next scheduled review. Districts granted a waiver under this subsection are not eligible for waiver of the review to be conducted after the one which was waived.

Section 2508-A. Failure to meet best financial management practices standards.

(a) Action plan.--If the report provided for in section 2506-A finds that the district does not conform to the standards, the report must contain an action plan detailing how the district may meet the standards within three years.

(b) Financial management advisory team.--No less than 60 days following receipt of the report, the school board shall establish a local financial management advisory team. The team shall consist of 11 members as follows:

(1) One member of the school board who may be the president or a designated board member.

(2) The superintendent of the district.

(3) The school business manager or the individual responsible for the fiscal management of the district.

(4) A principal selected by all the principals in the district.

(5) A teacher selected by all the teachers in the district.

(6) Two members of the general public, one of whom shall be a representative of a local taxpayer organization if one exists in the district.

- (7) One parent of a student from the district.
- (8) Two local representatives of business, at least one of whom must have experience in banking or finance.
- (9) A local community leader.

(c) Procedure.--The school board shall establish procedures for selecting the parent, the business and community leaders and members of the general public in order to ensure public awareness of these openings and solicit input from the community.

(d) Chairperson.--The team shall elect a chairperson from among its membership at its first meeting.

(e) Time period.--The team shall be responsible for implementation of the action plan contained in the district's report within a three-year time period.

(f) Technical advisors.--Upon request, the department shall provide, from a list established pursuant to section 2509-A, such technical advisors as may be necessary to assist the team in implementing the action plan.

(g) Second review.--No later than three years after receipt of a report indicating the district is not in compliance with the best financial management practices standards, or earlier upon request of the school board, the department shall conduct a second review to determine if the district is now in compliance. If this second report indicates that the district is now in compliance, it shall be certified as a Keystone District pursuant to section 2507-A and shall fall under all provisions of that section with the next review of the district to take place six years from the date of certification. Section 2509-A. Duties of department.

(a) List of experts.--In order to assist those districts that do not initially meet the best financial management practices standards, the department shall establish a list of experts who possess knowledge and experience in such areas as school or business administration, pupil transportation, food services management, budget development, fiscal management, human resources management, educational technology and labor relations.

(b) Technical advisors.--Upon request from a school board, the department shall send into the district technical advisors, chosen from the list established in subsection (a) with expertise in those areas identified in the report as not meeting best financial management practices standards, to work with the team in implementing the district's action plan. Section 2510-A. Revocation of certification.

(a) General rule.--The secretary may revoke the Keystone District certification if at any time it determines that a district is no longer complying with the Commonwealth's best financial management practices standards.

(b) Immediate revocation.--Any district certified as a Keystone District which, before its next scheduled review, is deemed to be distressed by the secretary under section 691 or is placed on the education empowerment list provided pursuant to section 1703-B shall immediately have its certification revoked.

Section 2511-A. Cost savings.

Cost savings resulting from implementation of the best financial practices must be spent at the school and classroom levels for teacher professional development, improving classroom facilities, student supplies, textbooks, classroom technology,

school safety or any other instructional activity directly affecting student performance and the learning environment.

Section 37. Section 2603-B(d) of the act, amended or added March 30, 1988 (P.L.321, No.43) and June 29, 2002 (P.L.524, No.88), is amended to read:

Section 2603-B. Powers and Duties of the Board.--* * *

(d) The board shall also have the authority and duty to:

(1) approve or disapprove an application for the creation of a new school district, or change in the boundaries of an existing school district;

(2) establish, whenever deemed advisable, committees of professional and technical advisors to assist the councils in performing research studies undertaken by them;

(3) manage and have custody of the State School Fund;

(4) (i) apply for, receive and administer, subject to any applicable regulations or laws of the Federal Government or any agency thereof, any Federal grants, appropriations, allocations and programs for the development of academic facilities on behalf of the Commonwealth, any of its school districts or any institution of higher education, public or private, within this Commonwealth;

(ii) subject to criteria developed by the Secretary of Education and subject to any applicable regulations or laws of the Federal Government or any agency thereof, to develop, alter, amend and submit to the Federal Government State plans for participation in Federal grants, appropriations, allocations and programs for the development of academic facilities and to make regulations, criteria, methods, forms, procedures and to do all other things which may be necessary to make possible the participation of the Commonwealth in such Federal grants, appropriations, allocations and programs for the development of academic facilities;

(iii) hold hearings, issue subpoenas and render decisions as to the priority assigned to any project, or as to any other matter or determination affecting any applicant for Federal grants, appropriations, allocations and programs for the development of academic facilities;

(iv) adopt rules or procedures and prescribe regulations for the submission to it of all matters within its jurisdiction; and

(v) submit, annually, to the Governor, on or before the first Monday of December, a report of its proceedings during that year, together with such recommendations as the board shall deem necessary;

(5) adopt policies under which the Secretary of Education shall approve or disapprove any action of a State-owned university, community college or State-related or State-aided college or university in establishing additional branches or campuses, or in discontinuing branches or campuses;

(6) adopt policies under which the Secretary of Education shall approve or disapprove any action of a State-owned university, community college or State-related or State-aided college or university in establishing new professional schools or upper division programs by two (2) year institutions;

(7) adopt policies under which the Secretary of Education shall approve or disapprove applications by two (2) year institutions to become four (4) year institutions;

(8) adopt policies under which the Secretary of Education shall approve or disapprove the request of any private institution of higher education for admission to State-related or State-aided status, or for eligibility for other State financial support; and

(9) require the submission of long-range plans from all public and private institutions of higher education at the times and in the form requested by the board. Such documents shall be reviewed by the Council of Higher Education and the board in the development of a master plan for higher education as provided in subsection (h) and section 2604-B(c)(1).

(10) (i) Approve or disapprove standards proposed by the department in order to comply with the provisions of the No Child Left Behind Act of 2001 [(Public Law 107-110, 115 Stat. 1425)] to maintain the eligibility of this Commonwealth to receive Federal funding for education programs. The board shall approve or disapprove the standards within 30 days of submission to the board's office or at its next scheduled meeting, whichever is sooner. Failure of the board to approve or disapprove the standards within the time established under this section shall be deemed an approval of the standards.

(ii) Standards promulgated under this section shall be deposited with the Pennsylvania Bulletin for publication.

(iii) These standards shall be exempt from:

(A) Sections 201 through 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

[(B) Section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act."]

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

(D) This subclause shall expire [June 30, 2003.] **June 30, 2004.**

(iv) (A) Prior to its deposit with the Legislative Reference Bureau as required by section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act," the board shall submit any standard under this paragraph to the Attorney General. The Attorney General shall determine whether action on the standard is required to comply with the provisions of the No Child Left Behind Act of 2001 to maintain the eligibility of this Commonwealth to receive Federal funding for education programs and shall transmit such determination to the board.

(B) Where the Attorney General determines that action on the standard is not required to comply with the provisions of the No Child Left Behind Act of 2001 to maintain the eligibility of the Commonwealth to receive Federal funding for education programs, the board may not take action on the standard under this paragraph.

(C) Where the Attorney General fails to make a determination within ten (10) days of the board's submission of the standard under this subclause, action on the standard shall be deemed to be required to comply with the provisions of the No Child Left Behind Act of 2001 to maintain the eligibility of the Commonwealth to receive Federal funding for education programs.

(D) This subclause shall expire June 30, 2004.

* * *

Section 38. The act is amended by adding an article to read:
ARTICLE XXVI-I.

TEACHER RECRUITMENT ASSISTANCE.

Section 2601-I. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency." The Pennsylvania Higher Education Assistance Agency.

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

"Designated Commonwealth rural or academic improvement school district." An eligible rural or academic improvement public school district that the Secretary of Education has certified as having a need for teacher loan forgiveness assistance because of difficulty in attracting qualified teachers.

"Eligible academic school improvement public school district." A public school district that:

(1) has two or more schools identified for improvement or corrective action under section 1116(c)(3) or (10) of the No Child Left Behind Act of 2001;

(2) has been certified as distressed under section 691;

(3) has been certified as an education empowerment district under section 1705-B or 1707-B; or

(4) has been placed on an education empowerment list under section 1703-B.

"Eligible rural public school district." A public school district that has a population of less than 300 per square mile and either:

(1) more than 8% of the pupils in average daily membership are low-income pupils as defined in section 2502.11; or

(2) the market value/income aid ratio as defined in section 2501 is greater than seven-tenths.

"Qualified applicant." A person who meets all of the following criteria:

(1) Is certified by the Department of Education to teach.

(2) Is in the first year of full-time teaching.

(3) Is teaching in a designated Commonwealth rural or academic improvement school district.

(4) Has borrowed through and has a current outstanding balance with the agency-guaranteed Stafford or consolidation loan programs.

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

Section 2602-I. Teacher recruitment assistance program.

(a) Purpose.--The program shall provide assistance to designated Commonwealth rural or academic improvement public school districts in recruiting teachers through a program of teacher loan forgiveness as provided for in this article.

(b) Administration.--The agency shall administer the program and adopt such regulations, policies, procedures and forms as are necessary and not inconsistent with the provisions of this article.

Section 2603-I. Teacher recruitment assistance.

(a) General rule.--A qualified applicant who is selected in accordance with this article shall be eligible for an award by the agency of a portion of the debt incurred by the applicant through the agency-guaranteed Stafford or consolidation loan programs for the education necessary to be certified to teach in this Commonwealth.

(b) Forgiveness of loan.--For each academic year that the eligible applicant is a full-time teacher in a designated Commonwealth rural or academic improvement public school district, the agency may forgive a proportional part of the applicant's loan over four years of full-time teaching. No more than \$2,500 shall be forgiven in any year and no more than \$10,000 shall be forgiven for any eligible applicant.

(c) Payments.--Shall be made in accordance with procedures established by the agency.

Section 2604-I. Loan forgiveness awards.

Recipients of teacher recruitment assistance awards shall be those teachers who are certified by the department and who have received a satisfactory rating by the district for the academic year. Each teacher shall be required to submit such documentation of continued eligibility as the agency may require.

Section 39. Section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed insofar as it is inconsistent with this act.

Section 40. This act shall take effect immediately.

APPROVED--The 23rd day of December, A. D. 2003.

EDWARD G. RENDELL