

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 1901

**PRINTER'S NO.** 3885

**AMOUNT**

\$104,500 Implements the Provisions of the 2011 General Appropriations Act

**FUND**

General Fund

**DATE INTRODUCED**

October 18, 2011

**PRIME SPONSOR**

Representative Everett

**HISTORY OF BILL**

Referred to EDUCATION, Oct. 18, 2011  
Reported as committed, Oct. 19, 2011  
First consideration, Oct. 19, 2011  
Laid on the table, Oct. 19, 2011  
Removed from table, Oct. 25, 2011  
Second consideration, Oct. 26, 2011  
Re-committed to APPROPRIATIONS, Oct. 26, 2011  
Re-reported as committed, Oct. 31, 2011  
Third consideration and final passage, Oct. 31, 2011 (196-0)  
(Remarks see House Journal Page 2139-2140), Oct. 31, 2011  
In the Senate  
Referred to EDUCATION, Nov. 1, 2011  
Reported as committed, May 22, 2012  
First consideration, May 22, 2012  
Second consideration, May 23, 2012  
Re-committed to EDUCATION, May 23, 2012  
Re-reported as amended, June 27, 2012  
Re-referred to APPROPRIATIONS, June 27, 2012  
Re-reported as amended, June 29, 2012

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 1901 makes several changes and adds new provisions to the Public School Code of 1949 as follows:

Keystone Exams – Defines “Keystone Exam” and requires the Department of Education, subject to appropriations, to develop and implement exams not later than 2020-2021 in the follow subject areas: algebra I, algebra II, literature; biology; English composition; geometry; U.S. History; chemistry; civics and government; and world history.

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Criminal History of Employees – Clarifies provisions established in Act 24 of 2011 related to criminal history background checks and reporting apply to current and prospective employees. Provides employees who have already completed a self disclosure form need not complete an additional form provided that they have not been convicted or arrested for a reportable offense since completion of the form.

Bid Limit Adjustments and Emergencies – Reenacts existing provisions allowing for bid limit adjustments based on the consumer price index with minor changes to move the effective date to July 1, 2012, so the adjustment for school entities will coincide with adjustments being made to the bid limits for other local government entities. Allows school districts to solicit three competitive bids from responsible bidders in cases when school buildings are rendered unusable as a result of an emergency.

Student Data Collection – Provides the Department of Education may collect information through the Pennsylvania Information Management System (PIMS) and Pennsylvania's Enterprise to Link Information for Children Across Network system (PELICAN), if the information is voluntarily provided by an institution of higher education.

Budget Reopener – Allows school districts to reopen their 2012-2013 budgets to reflect appropriations made for fiscal years 2012-2013 in the General Appropriations Act of 2012 and local revenue as a result of enactment of legislation by the General Assembly during the 2011 regular session.

Intergovernmental Agreements for Safety and Security – Provides for school districts to enter into intergovernmental agreements with other political subdivisions to provide for school safety. Allows school boards to use funds to share costs with municipalities and counties for expenses for school resources officers and probation officers.

PLANCON Limitations and Study – Provides for the 2012-2013 fiscal year, the Department of Education shall not approve new school building construction or reconstruction applications. Completed applications received by the Department of Education by October 1, 2012, are not subject to the limitation. Provides for the department, in consultation with school district officials and the General Assembly, conduct a review of the current process through which public school building projects are approved and reviewed for reimbursement. The study is to incorporate an analysis of impacting local factors including, but not limited to, tax effort, and building requirements and make recommendations by May 1, 2013.

Alternative Superintendent Eligibility – Requires the Department of Education upon request confirm an individual satisfies the eligibility requirements for election or appoint as a superintendent. Requires the department to issue the commission when the individual is hired.

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Allows an individual who hold a juris doctorate degree from an accredited law school with four years relevant experience to be eligible for election or appointment as a superintendent. Provides for the provisions to sunset in three years, but allows those commissioned to retain their commission.

Superintendent Contracts – Requires superintendent contracts be subject to the Right-to-Know Law. Requires the contracts specify the following information: (1) mutual and complete agreement between the parties with respect to the terms and conditions of employment; (2) duties, responsibilities and performance expectations, including standards and assessment; (3) provisions related to compensation; (4) term of the contract, including language stating it will terminate immediately upon expiration unless allowed to renew automatically; (5) provisions related to termination, buyout, severance and post employment; (6) provisions related to the scope of outside work that may be performed; (7) a provision requiring all modifications be made in writing; (8) a provision stating the contract shall be governed by the laws of this Commonwealth; (9) provisions limiting compensation for unused sick leave and the transfer of sick leave from previous employment to not more than 30 days; and, (10) provisions related to post retirement benefits and the period of time they are to be provided. Limits compensation under severance agreements and requires a contract to include objective performance standards which are mutually agreed upon. Provides for the termination of contracts and requires school boards to publically disclose, at the next regularly scheduled meeting, the cause or reason for the termination of the contract.

Teacher Evaluations – Provides for teacher evaluations for classroom teachers, principals and nonteaching professional employees. Beginning fiscal year 2013-2014, requires classroom teachers be evaluated giving consideration to classroom observation and practice models related to student achievement and student performance. Student performance is to comprise 50 percent of the overall rating and be based on multiple measures of achievement as follows:

- 15 percent based on building level data including but not limited to the following: (1) student performance on assessments; (2) value added assessment system data; (3) graduation rate; (4) promotion rate; (5) attendance rate; (6) advanced placement course participation; and, (7) scholastic aptitude test data.
- 15 percent based on teacher specific data including but not limited to the following: (1) student performance on assessments; (2) value added assessment system data; (3) progress of meeting goals of student individualized education plans (IEPs) under Federal IDEA; and, (4) locally developed school district rubrics.
- 20 percent based on elective data locally developed and selected by the school district from a list approved by the department including but not limited to the following: (1) district designed measures and exams; (2) nationally recognized standardized tests; (3) industry certification exams; (4) student projects; and (5) student portfolios.

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Beginning fiscal year 2014-2015, requires principal evaluations which give consideration to planning and preparation, school environment, delivery of service, professional development and student performance. Student performance for classroom teachers supervised by the principal shall comprise 50 percent of the overall rating and be based on multiple measures of achievement as follows:

- 15 percent based on building level data including but not limited to the following: (1) student performance on assessments; (2) value added assessment system data; (3) graduation rate; (4) promotion rate; (5) attendance rate; (6) advance placement course participation; and, (7) scholastic aptitude tests.
- 15 percent based on correlation data based on teacher level measures.
- 20 percent based on elective data locally developed and selected by the school district from a list approved by the department including but not limited to the following: (1) district designed measures and exams; (2) nationally recognized standardized tests; (3) industry certification exams; (4) student projects; and (5) student portfolios.

Beginning in fiscal year 2014-2015, requires nonteaching employee evaluations which give consideration to planning and preparation, educational environment, delivery of service, professional development and student performance. Student performance of all students in the school building in which the nonteaching employee is employed shall constitute 20 percent of the overall rating.

Allows employees to be evaluated using a rating tool developed by a school district, intermediate unit or area vocational technical school that meets or exceeds these provisions and is approved by the department.

Requires all professional employees be evaluated annually and temporary professional employees twice annually. Provides evaluations shall rate performance as follows: (1) distinguished; (2) proficient; (3) needs improvement; or (4) failing. An overall rating of "needs improvement" is considered satisfactory unless a second such rating is issued by the same employer within 10 years and the employee is in the same certification. Requires employees rated as "needs improvement" or "failing" to participate in a performance improvement plan. Provides that no employee shall be rated as "needs improvement" or "failing" based solely upon student test scores. Requires employees dismissed based upon their rating tool be provided a completed rating tool which includes a description of classroom observations of deficiencies in practice supported by records that justify the unsatisfactory rating. Requires all evaluations be provided to the department. Requires any provision contained in a collective bargaining agreement inconsistent with these provisions to be discontinued in a new or renewed contract or during the period of status quo following an expired contract. Provides an employee's individual rating form shall not be subject to disclosure under the Right-to-Know Law.

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Program Curtailment and Alteration – Provides a school district may suspend a professional employee due to the curtailment or alteration of an educational program without the approval of the Department of Education, provided the school district notifies the department. It also requires the department to post all notifications received on its publically accessible Internet website.

Strategic Plans – Removes references to strategic plans which have become obsolete due to regulatory changes.

Liability for Tuition and Enforcement of Payment – Provides when a host school district contracts with a third party to provide education services to a student who is an inmate of an institution, the third party may seek payment directly from the student's school district of residence. Requires notice to be given by the third party to the host school district that payment has been sought. It provides that when payment is made to the third party, the payment shall satisfy and extinguish the contractual obligation of the host school district. Allows the school district charged with paying tuition by the third party to make an appeal to the Secretary of Education.

School Nutrition Incentive Program – Removes provisions which provide additional school lunch and breakfast reimbursements to school districts that adopt and implement the Department of Education's nutritional guidelines.

School Safety – Provides the model memorandum of understanding (MOU) between school entities and local police departments may be revised by the State Board of Education by publishing a complete version of the MOU in the Pennsylvania Bulletin.

Cardiopulmonary Resuscitation – Requires each school entity to have in each school one person certified in the use of Cardiopulmonary Resuscitation (CPR) during regular school hours when school is in session. Provides for civil immunity for persons that render CPR. Defines a "school entity" as any area vocational-technical school, charter school, cyber charter school, intermediate unit, nonpublic school or school district.

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Open Campus Initiative – Authorizes open campus initiatives between school districts. An open campus initiative is a cooperative agreement between school districts which allows students to participate in courses not currently available in their resident school district. Courses offered through an open campus initiative may be delivered outside of a regular school building in whole or in part using technology such as the Internet, video conferencing or other electronic means. Specifies the time during which a student participates in open campus initiative courses shall be consider to be compliant with compulsory education requirements and a student participating in open campus initiative courses must be offered at least 990 hours of instruction at the secondary level and 900 hours of instruction at the elementary level. Requires the Department of Education provide technical assistance as needed to school districts establishing open campus initiatives. Requires the cooperative agreement establishing an open campus initiative to outline the following policies: (1) grading; (2) credit; (3) promotion; (4) participation; (5) participation by students from nonparticipating school entities, including a fee schedule for determining tuition charges for those students; (6) use and distribution of tuition revenue; (7) discipline; (8) attribution of student data; (9) sharing of costs; and, (10) adding or removing courses. Provides students attending a nonparticipating school entity may participate in an open campus initiative. Provides for the purpose of Commonwealth reimbursements, a student participating in an open campus initiative shall be considered to be enrolled in the school district, charter school, cyber charter school, nonpublic school or home education program which determines the student’s eligibility for participation in the open campus initiative.

Attendance in Other School Districts – Removes the cap limiting the number of students from a third class school district operating under a board of control that may be reassigned to a neighboring school district. Provides for the 2012-2013 school year and each year thereafter, the tuition paid for students that are reassigned to be the greater of \$10,000 or the product of the tuition rate established in the prior school year and the greater of the percentage increase in total budget revenues for the distressed school district, or the index established in the Taxpayer Relief Act for the distressed school district. Requires the Commonwealth to pay a \$500 subsidy for each reassigned student entering grades seven, eight and nine in fiscal years 2012-2013 and 2013-2014. This applies to Duquesne School District.

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Disclosure of Interscholastic Athletic Opportunities – Requires public school entities report athletic opportunities afforded male and female students annually on a disclosure form established by the Department of Education. Requires each school entity make its completed disclosure form available for public inspection during regular business hours and on its Internet website. Requires each school entity provide notice to its students and other affected individuals when the form is completed and available for review by posting notice on school bulletin boards, in the school newspaper; or by other electronic means. Requires the Department of Education to provide for the distribution of the disclosure forms through its Internet website, provide technical assistance to school entities; make copies of all submitted disclosure forms available for public inspection on its Internet website, and prepare and submit an annual report to the General Assembly regarding compliance with the disclosure requirements and summarizing the information submitted regarding interscholastic opportunity for the treatment of each gender by race and ethnic group and other information as the department deems relevant. Requires the following information is to be reported on the disclosure form:

- The number of students in the school entity, the number of students by gender; the total number of male students by race/ethnicity and the total number of female students by race/ethnicity.
- A listing by gender of each varsity, junior varsity and freshman athletic team which competes interscholastically.
- For each team: the total number of team participants; the total number of male team participants by race/ethnicity and the total number of female participants by race/ethnicity.
- For the initial year of submitting the disclosure form, the school must identify the year the team was established and for teams the school sponsored in the past, but no longer sponsors, the identity of the team and the year it was eliminated or demoted from interscholastic competition.
- The seasons during which each athletic team competed.
- The value of contributions and purchases made on behalf of each team by booster clubs, alumni, and any other nonschool sources.
- Total expenditures for each team, including a separate listing of expenditures for each team related to the following areas: travel, athletic uniforms; equipment and supplies; compensation of coaches; athletic facilities; and compensation of trainers.
- The number of athletic trainers and the amount of time spent by each trainer by team.
- The total number of coaches by team, by employment status and coaching position.
- The total number of competitions scheduled and played by team.
- The name of the school entity's Federal Title IX compliance office.

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Commonwealth Partnership School Districts – Continues provisions of the Empowerment Act, related to Commonwealth Partnership School Districts, which are scheduled to expire June 30, 2012. Provides Commonwealth Partnership School Districts the following authority: (1) to cancel or renegotiate any contract, other than collective bargaining agreements, for the purpose of making necessary economies in the operation of the schools; (2) to reassign, transfer, or suspend administrators, mainly principals, based on an unsatisfactory review and evaluation without considering seniority or providing for a hearing; and, (3) to dispose of unused and unnecessary lands and buildings in excess of 25 years in age by negotiated sale, provided experts verify the value is equal to or greater than what could be received by sealed bid or by entering into agreements with an urban redevelopment authority. A Commonwealth Partnership School District is defined as a school district that the Secretary of Education determined on or after July 22, 2006, and not later than September 9, 2006 to have met the following criteria: (1) a decline of 15 percent or more in enrollment during the preceding five years; (2) a loss in revenue during the immediately preceding three years due to the statutory removal of one or more sources of revenue; and, (3) a 2004-2005 equalized millage rate greater than 27. The School District of Pittsburgh is the only school district designated a Commonwealth Partnership School District.

Community College Funding – Provides for the distribution of community college funding for the 2012-2013 fiscal year at the same amount for each community college as in the current year.

Library Funding – Provides for each library to receive an equal percentage increase or decrease in funding over the current year depending on the amount of funds provided in the General Appropriations Act and authorizes the State Librarian to distribute any unallocated funds. Allows a library system to distribute the State-aid it receives to member libraries in a manner determined by the library system's board of directors, except in the case of a library system operating in a city of the second class whereby changes are to be made by mutual agreement between the library and library system. Allows for the distribution of funds to new or reconfigured district library centers and provides that the State Librarian may waive standards, if funds appropriated for state-aid are less than the amount appropriated in fiscal year 2002-2003.

Basic Education Funding – Provides for the distribution \$5,403,503,352 in basic education funding to school districts based on present data in the following supplements:

- A Hold Harmless; (\$5,354,503,352);
- An English Language Learner High Incidence Supplement (\$17,450,000);
- A Charter and Cyber Charter School High Incidence Supplement (\$13,499,061);
- A Second Class County School District Supplement (\$1,000,000);
- A Second Class School District Supplement (\$1,000,000);
- An Increasing Aid Ratio Supplement (\$2,000,000);
- A Personal Income Supplement (\$3,500,000);



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- A Small District Increasing Aid Ratio Supplement (\$300,000); and
- A Small District Supplement (\$250,000).

Provides for any undistributed funds to be deposited into the Financial Recovery School District Transitional Loan Account to assist distressed school districts. This amount is estimated to be \$10,000,939.

Requires funds received by a school district with an aid ratio greater than 0.8500 under the English Language Learner High Incidence Supplement to be withheld until such time a spending plan proposed by the school district's board of directors is approved by the Secretary in consultation with the local intermediate unit. This provision applies to Reading School District.

Requires funds received by a school district with more than 30 percent of its students enrolled in charter and cyber charter schools receiving funds under the Charter and Cyber Charter School High Incidence Supplement to utilize the funds to satisfy judgments and past due accounts payable beyond 90 days including health care benefits, payments to charter schools, payments to approved private schools and payments to intermediate units. If all judgments have been satisfied, funds may be used for timely payment of health care benefits, payments to charter schools, payments to approved private schools, payments to intermediate units and other expenses approved by the Secretary to ensure the fiscal stability of the school district. Requires the school district submit a report to the department detailing the use of the funds including specific payment amounts, payment dates and the entities receiving payment. This provision applies to Chester-Upland School District.

Intermediate Unit Funding – Provides for an amount equal to 5.5 percent of the Special Education appropriation be utilized for intermediate unit core services in fiscal year 2012-2013.

Special Education Funding – Provides for the distribution of the special education subsidy to school districts for the 2012-13 fiscal year at the same amount for each school district as in the current year.

Use of Unexpended Funds – Provides the Department of Education may utilize up to \$4,500,000 in funds not expended or encumbered from appropriations to the department to assist school districts certified as an education empowerment district before June 30, 2010.

Modular Classrooms – Provides a school district shall not be prohibited from receiving school construction reimbursement for approved projects if it elects not to remove a relocatable or modular classroom after the completion of a building project.

Pennsylvania Accountability Grants – Provides for the distribution of funds appropriated for the 2012-2013 fiscal year on a pro rata basis.

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Targeted Industry Cluster Scholarship Program – Establishes a new grant program within the Pennsylvania Higher Education Assistance Agency (PHEAA) to defray expenses of resident students in programs that provide training for areas of immediate workforce need. Provides for the Department of Education in consultation with the Department of Labor and Industry to identify programs of study that provide the needed training and provide PHEAA with a list of eligible programs of study. Allows PHEAA to utilize funds appropriated for grants to support the program and make awards based on available resources.

### **FISCAL IMPACT:**

The provisions providing the distribution of funding for Community Colleges, Library Funding, Basic Education Funding, Intermediate Unit Funding, Special Education Funding, and Pennsylvania Accountability Grants implement the provisions contained in the 2012 General Appropriations Act and have no fiscal impact beyond the appropriations contained therein.

The development and administration of the evaluations for classroom teachers, principals and nonteaching professional employees can be accomplished with existing funds provided to the department for Teacher Professional Development (\$900,000) and Federal Race to the Top (\$2,817,000) in the General Appropriations Act and by the Federal government.

The provisions requiring the Commonwealth to pay a \$500 subsidy for each student entering grades seven eight and nine reassigned from a third class school district operating under a board of control to another school district will cost the Commonwealth \$68,500 in fiscal year 2012-2013 and 2013-2014. The Department of Education projects 137 students reassigned from Duquesne School District in grades seven, eight and nine.

Responsibilities delegated to the Department of Education related to alternative certification, studying the process by which school construction projects are approved and reviewed for reimbursement and the open campus initiative are routine and can be accomplished within its existing operating budget.

Provisions related to disclosure of interscholastic athletic opportunities which require the Department of Education to establish and maintain disclosure forms and provide an annual report to the General Assembly will require it to devote 50 percent of the staff time of an Education Associate. Costs related to the salary and benefits for this employee are estimated to be \$36,000 annually.