

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1443 Session of 1991

INTRODUCED BY PETERSON, DAWIDA, JONES, WILLIAMS, HART, MADIGAN, SCHWARTZ, STAPLETON, RHOADES, REIBMAN, ANDREZESKI, GREENWOOD, BELL, JUBELIRER AND AFFLERBACH, NOVEMBER 22, 1991

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 16, 1992

AN ACT

1 ~~Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An~~ <—
2 ~~act relating to the public school system, including certain~~
3 ~~provisions applicable as well to private and parochial~~
4 ~~schools; amending, revising, consolidating and changing the~~
5 ~~laws relating thereto," providing for a nonprofit school~~
6 ~~breakfast program.~~

7 AMENDING THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), ENTITLED "AN <—
8 ACT RELATING TO THE PUBLIC SCHOOL SYSTEM, INCLUDING CERTAIN
9 PROVISIONS APPLICABLE AS WELL TO PRIVATE AND PAROCHIAL
10 SCHOOLS; AMENDING, REVISING, CONSOLIDATING AND CHANGING THE
11 LAWS RELATING THERETO," PROVIDING FOR KINDERGARTEN CLASSES
12 FOR CHILDREN THREE YEARS OF AGE, FOR FINANCIAL INCENTIVES FOR
13 PARTICIPATION IN THE NATIONAL SCHOOL BREAKFAST PROGRAM, FOR
14 BUDGETING AND AUDITING PROCEDURES FOR APPROVED PRIVATE
15 SCHOOLS AND FOR THE REIMBURSEMENT OR PAYMENTS TO COMMUNITY
16 COLLEGES; AND FURTHER PROVIDING FOR THE COST OF TUITION AND
17 MAINTENANCE OF CERTAIN EXCEPTIONAL CHILDREN.

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

20 ~~Section 1. The act of March 10, 1949 (P.L.30, No.14), known~~ <—
21 ~~as the Public School Code of 1949, is amended by adding a~~
22 ~~section to read:~~

23 ~~Section 1337.1. Nonprofit School Breakfast Program. (a)~~
24 ~~Each school district in this Commonwealth shall make the~~

1 ~~benefits of the national school breakfast program provided by~~
2 ~~the Child Nutrition Act of 1966 (Public Law 89 642, 42 U.S.C. §~~
3 ~~1771 et seq.) available to all students at all grade levels.~~

4 ~~(b) An individual school may apply to the Department of~~
5 ~~Education for a one time waiver from the requirements of~~
6 ~~subsection (a). The Secretary of Education shall give notice and~~
7 ~~an opportunity to be heard to the parents and the school. The~~
8 ~~Secretary of Education shall not grant a waiver unless the~~
9 ~~school demonstrates special and extreme circumstances that would~~
10 ~~prevent implementation of a school breakfast program.~~

11 ~~(c) The requirements of subsection (a) shall not apply when~~
12 ~~Federal financial appropriations for school breakfast programs~~
13 ~~are terminated. Nothing in this section shall prohibit a school~~
14 ~~district from initiating or continuing school breakfast programs~~
15 ~~at its own expense.~~

16 ~~(d) As used in this section, the term "school breakfast~~
17 ~~program" means a program under which breakfast food is served by~~
18 ~~a school on a nonprofit basis to children in attendance,~~
19 ~~including any such program under which a school receives~~
20 ~~assistance out of funds appropriated by the Congress of the~~
21 ~~United States.~~

22 ~~Section 2. On or before October 15 of each year, the~~
23 ~~Department of Education shall submit a report on the previous~~
24 ~~school year's school breakfast program to the General Assembly.~~
25 ~~The report shall include the department's findings and~~
26 ~~recommendations.~~

27 ~~Section 3. The provisions of this act shall be implemented~~
28 ~~within six months of the effective date of this act.~~

29 ~~Section 4. This act shall take effect immediately.~~

30 SECTION 1. SECTION 503 OF THE ACT OF MARCH 10, 1949 (P.L.30, <—

1 NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, AMENDED
2 SEPTEMBER 21, 1959 (P.L.925, NO.373) AND OCTOBER 21, 1965
3 (P.L.601, NO.312), IS AMENDED TO READ:

4 SECTION 503. KINDERGARTENS.--(A) THE BOARD OF SCHOOL
5 DIRECTORS IN ANY SCHOOL DISTRICT MAY ESTABLISH AND MAINTAIN
6 KINDERGARTENS FOR CHILDREN BETWEEN THE AGES OF [FOUR] THREE AND
7 SIX YEARS. WHEN ESTABLISHED, THE KINDERGARTENS SHALL BE AN
8 INTEGRAL PART OF THE ELEMENTARY SCHOOL SYSTEM OF THE DISTRICT,
9 AND BE KEPT OPEN FOR NOT LESS THAN TWO AND ONE-HALF HOURS EACH
10 DAY FOR THE FULL SCHOOL TERM AS PROVIDED IN SECTION 1501.

11 (B) THE NUMBER OF KINDERGARTENS IN ANY ONE DISTRICT SHALL BE
12 FIXED BY THE BOARD OF SCHOOL DIRECTORS, AND SHALL BE OPEN DURING
13 THE SCHOOL YEAR.

14 [IF THE AVERAGE ATTENDANCE IN ANY ONE KINDERGARTEN IN ANY
15 DISTRICT IS TEN OR LESS FOR THE SCHOOL YEAR, THE SCHOOL
16 DIRECTORS SHALL, AT THE CLOSE OF THE SCHOOL YEAR, DISCONTINUE
17 THE SAME.]

18 (C) THE BOARD OF SCHOOL DIRECTORS SHALL APPOINT AND ASSIGN A
19 SUFFICIENT NUMBER OF TEACHERS TO SUCH KINDERGARTENS, WHO SHALL
20 BE CERTIFIED IN ACCORDANCE WITH THE RULES AND REGULATIONS
21 PRESCRIBED BY THE [COUNCIL OF BASIC EDUCATION] STATE BOARD OF
22 EDUCATION.

23 (D) KINDERGARTEN PUPILS LESS THAN FIVE YEARS OF AGE SHALL BE
24 EXEMPT FROM PARTICIPATING IN STANDARDIZED ACHIEVEMENT TESTING
25 PROGRAMS THAT MAY BE ADMINISTERED BY THE DISTRICT.

26 (E) THE STATE BOARD OF EDUCATION SHALL ADOPT CURRICULUM
27 GUIDELINES THAT ARE DEVELOPMENTALLY APPROPRIATE FOR CHILDREN
28 BEING INSTRUCTED BETWEEN THE AGES OF THREE AND SIX.

29 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
30 SECTION 1337.1. NATIONAL SCHOOL BREAKFAST PROGRAM.--(A)

1 EACH SCHOOL DISTRICT IN THIS COMMONWEALTH IS ENCOURAGED TO MAKE
2 THE BENEFITS OF THE NATIONAL SCHOOL BREAKFAST PROGRAM PROVIDED
3 BY THE CHILD NUTRITION ACT OF 1966 (PUBLIC LAW 89-642, 42 U.S.C.
4 § 1771 ET SEQ.) AVAILABLE TO ALL STUDENTS AT ALL GRADE LEVELS.

5 (B) BEGINNING WITH SCHOOL YEAR 1992-1993, EACH SCHOOL FOOD
6 AUTHORITY WHICH PARTICIPATES IN THE NATIONAL SCHOOL LUNCH
7 PROGRAM MAY RECEIVE A FINANCIAL INCENTIVE FROM THE COMMONWEALTH
8 TO START OR EXPAND THE DAILY PARTICIPATION RATE OF ITS STUDENTS
9 IN THE NATIONAL SCHOOL BREAKFAST PROGRAM.

10 (C) FINANCIAL INCENTIVES SHALL BE MADE FROM FUNDS ANNUALLY
11 APPROPRIATED BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF
12 EDUCATION FOR SCHOOL FOOD SERVICES.

13 (D) FINANCIAL INCENTIVES FOR SCHOOL YEAR 1992-1993 SHALL BE
14 IN THE FOLLOWING AMOUNTS:

15 (1) EACH SCHOOL BUILDING WHICH OFFERS LUNCH AND BREAKFAST
16 PROGRAMS WITH DAILY STUDENT PARTICIPATION RATES IN THE BREAKFAST
17 PROGRAM OF LESS THAN TWENTY PERCENT (20%) OF ENROLLMENT SHALL
18 RECEIVE REIMBURSEMENTS OF EIGHT CENTS (8¢) PER LUNCH SERVED AND
19 TEN CENTS (10¢) PER BREAKFAST SERVED.

20 (2) EACH SCHOOL BUILDING WHICH OFFERS LUNCH AND BREAKFAST
21 PROGRAMS WITH DAILY STUDENT PARTICIPATION RATES IN THE BREAKFAST
22 PROGRAM OF TWENTY PERCENT (20%) OR MORE OF ENROLLMENT SHALL
23 RECEIVE REIMBURSEMENTS OF TEN CENTS (10¢) PER LUNCH SERVED AND
24 TEN CENTS (10¢) PER BREAKFAST SERVED.

25 (3) EACH SCHOOL BUILDING WHICH OFFERS ONLY THE LUNCH PROGRAM
26 SHALL RECEIVE A REIMBURSEMENT OF SIX CENTS (6¢) PER LUNCH
27 SERVED.

28 (E) FOR THE 1993-1994 SCHOOL YEAR AND EACH SCHOOL YEAR
29 THEREAFTER, FINANCIAL INCENTIVES SHALL BE DETERMINED BY THE
30 SECRETARY OF EDUCATION AND UPON APPROVAL OF THE GOVERNOR, EXCEPT

1 THAT SUCH FINANCIAL INCENTIVES SHALL BE NO LESS THAN THE AMOUNTS
2 ESTABLISHED IN THIS SECTION FOR THE 1992-1993 SCHOOL YEAR.

3 (F) FINANCIAL INCENTIVES SHALL BE PAID TO SCHOOL FOOD
4 AUTHORITIES DURING THE SCHOOL YEAR IN WHICH THEY ARE EARNED
5 BASED ON REPORTS SUBMITTED TO THE DEPARTMENT OF EDUCATION.

6 (G) FOR THE PURPOSES OF THIS SECTION, "SCHOOL FOOD
7 AUTHORITY" SHALL MEAN THE GOVERNING BODY WHICH IS RESPONSIBLE
8 FOR THE ADMINISTRATION OF ONE OR MORE SCHOOLS; AND HAS THE LEGAL
9 AUTHORITY TO OPERATE THE PROGRAM THEREIN OR BE OTHERWISE
10 APPROVED BY THE FOOD AND NUTRITION SERVICE OF THE UNITED STATES
11 DEPARTMENT OF AGRICULTURE TO OPERATE THE PROGRAM.

12 SECTION 3. SECTIONS 1376 AND 1376.1 OF THE ACT OF MARCH 10,
13 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949,
14 AMENDED JULY 8, 1989 (P.L.253, NO.43), ARE AMENDED TO READ:

15 SECTION 1376. COST OF TUITION AND MAINTENANCE OF CERTAIN
16 EXCEPTIONAL CHILDREN IN APPROVED INSTITUTIONS.--(A) WHEN ANY
17 CHILD BETWEEN SCHOOL ENTRY AGE AND TWENTY-ONE (21) YEARS OF AGE
18 AND RESIDENT IN THIS COMMONWEALTH, WHO IS BLIND OR DEAF, OR
19 [AFFLICTED WITH] WHO HAS CEREBRAL PALSY AND/OR [BRAIN DAMAGE]
20 NEUROLOGICAL IMPAIRMENT AND/OR MUSCULAR DYSTROPHY AND/OR IS
21 MENTALLY RETARDED AND/OR [SOCIALLY AND EMOTIONALLY DISTURBED,]
22 WHO HAS A SERIOUS EMOTIONAL DISTURBANCE, AND/OR HAS
23 AUTISM/PERVASIVE DEVELOPMENTAL DISORDER, AND IS ENROLLED, WITH
24 THE APPROVAL OF THE DEPARTMENT OF EDUCATION, AS A PUPIL IN AN
25 APPROVED PRIVATE SCHOOL [FOR THE BLIND OR DEAF, OR CEREBRAL
26 PALSIED AND/OR BRAIN DAMAGED AND/OR MUSCULAR DYSTROPHIED AND/OR
27 MENTALLY RETARDED, AND/OR SOCIALLY AND EMOTIONALLY DISTURBED,]
28 APPROVED BY THE DEPARTMENT OF EDUCATION, IN ACCORDANCE WITH
29 STANDARDS AND REGULATIONS PROMULGATED BY THE STATE BOARD OF
30 EDUCATION, THE SCHOOL DISTRICT IN WHICH SUCH CHILD IS RESIDENT

1 SHALL PAY THE GREATER OF EITHER TWENTY PER CENTUM (20%) OF THE
2 ACTUAL AUDITED COST OF TUITION AND MAINTENANCE OF SUCH CHILD IN
3 SUCH SCHOOL, AS DETERMINED BY THE DEPARTMENT OF EDUCATION, OR
4 ITS "TUITION CHARGE PER ELEMENTARY PUPIL" OR ITS "TUITION CHARGE
5 PER HIGH SCHOOL PUPIL," AND THE COMMONWEALTH SHALL PAY, OUT OF
6 FUNDS APPROPRIATED TO THE DEPARTMENT FOR SPECIAL EDUCATION, THE
7 BALANCE DUE FOR THE COSTS OF SUCH CHILD'S TUITION AND
8 MAINTENANCE, AS DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH
9 SUBSECTION (C). FOR THE SCHOOL YEARS 1989-1990, 1990-1991 AND
10 1991-1992, THE SCHOOL DISTRICT PAYMENT SHALL BE NO GREATER THAN
11 FORTY PERCENT (40%) OF THE ACTUAL AUDITED COSTS OF TUITION AND
12 MAINTENANCE OF SUCH CHILD IN SUCH SCHOOL. THE DEPARTMENT WILL
13 CREDIT THE DISTRICT OF RESIDENCE WITH AVERAGE DAILY MEMBERSHIP
14 FOR SUCH CHILD CONSISTENT WITH THE RULES OF PROCEDURE DEVELOPED
15 IN ACCORDANCE WITH SECTION 2501. IF THE RESIDENCE OF SUCH CHILD
16 IN A PARTICULAR SCHOOL DISTRICT CANNOT BE DETERMINED, THE
17 COMMONWEALTH SHALL PAY, OUT OF MONEYS APPROPRIATED TO THE
18 DEPARTMENT FOR SPECIAL EDUCATION, THE WHOLE COST OF TUITION AND
19 MAINTENANCE OF SUCH CHILD[. THE DEPARTMENT OF EDUCATION SHALL BE
20 PROVIDED WITH SUCH FINANCIAL DATA FROM APPROVED PRIVATE SCHOOLS
21 AS MAY BE NECESSARY TO DETERMINE THE REASONABLENESS OF COSTS FOR
22 TUITION AND ROOM AND BOARD CONCERNING PENNSYLVANIA RESIDENT
23 APPROVED REIMBURSED STUDENTS. THE DEPARTMENT OF EDUCATION SHALL
24 EVALUATE SUCH DATA AND SHALL DISALLOW ANY COST DEEMED
25 UNREASONABLE. ANY COSTS DEEMED UNREASONABLE BY THE DEPARTMENT OF
26 EDUCATION FOR DISALLOWANCE SHALL BE CONSIDERED AN ADJUDICATION
27 WITHIN THE MEANING OF TITLE 2 OF THE PA.C.S. (RELATING TO
28 ADMINISTRATIVE LAW AND PROCEDURE) AND REGULATIONS PROMULGATED
29 THEREUNDER.] IN ACCORDANCE WITH SUBSECTION (C).

30 (B) WHEN ANY PERSON LESS THAN SCHOOL ENTRY AGE OR MORE THAN

1 TWENTY-ONE (21) YEARS OF AGE AND RESIDENT IN THIS COMMONWEALTH,
2 WHO IS BLIND OR DEAF, OR [AFFLICTED WITH] HAS CEREBRAL PALSY
3 AND/OR [BRAIN DAMAGE] HAS NEUROLOGICAL IMPAIRMENT AND/OR HAS
4 MUSCULAR DYSTROPHY, OR HAS AUTISM/PERVASIVE DEVELOPMENTAL DELAY,
5 AND IS ENROLLED, WITH THE APPROVAL OF THE DEPARTMENT OF
6 EDUCATION, AS A PUPIL IN AN APPROVED PRIVATE SCHOOL [FOR THE
7 BLIND OR DEAF, OR CEREBRAL PALSIED AND/OR BRAIN DAMAGED AND/OR
8 MUSCULAR DYSTROPHIED,] APPROVED BY THE DEPARTMENT OF EDUCATION,
9 THE COMMONWEALTH SHALL PAY TO SUCH SCHOOL, OUT OF MONEYS
10 APPROPRIATED TO THE DEPARTMENT FOR SPECIAL EDUCATION[, THE
11 ACTUAL AUDITED COST OF TUITION AND MAINTENANCE OF SUCH PERSON,
12 AS DETERMINED BY THE DEPARTMENT OF EDUCATION, SUBJECT TO REVIEW
13 AND APPROVAL IN ACCORDANCE WITH STANDARDS AND REGULATIONS
14 PROMULGATED BY THE STATE BOARD OF EDUCATION, AND IN ADDITION,]
15 IN ACCORDANCE WITH SUBSECTION (C), INCLUDING, IN THE CASE OF ANY
16 CHILD LESS THAN SCHOOL ENTRY AGE, WHO IS BLIND, THE COST, AS
17 DETERMINED BY THE DEPARTMENT OF EDUCATION OF INSTRUCTING THE
18 PARENT OF SUCH BLIND CHILD IN CARING FOR SUCH CHILD.

19 [(C) EACH APPROVED PRIVATE SCHOOL, PRIOR TO THE START OF THE
20 SCHOOL YEAR, SHALL SUBMIT TO THE DEPARTMENT SUCH INFORMATION AS
21 THE DEPARTMENT MAY REQUIRE IN ORDER TO ESTABLISH AN ESTIMATE OF
22 REIMBURSABLE COSTS. BASED UPON THIS INFORMATION, ANY OTHER DATA
23 DEEMED NECESSARY BY THE DEPARTMENT AND IN ACCORDANCE WITH
24 DEPARTMENT STANDARDS, THE DEPARTMENT SHALL DEVELOP FOR EACH
25 APPROVED PRIVATE SCHOOL AN ESTIMATE OF REIMBURSABLE COSTS. BASED
26 UPON SUCH ESTIMATE, THE DEPARTMENT SHALL PROVIDE EACH APPROVED
27 PRIVATE SCHOOL WITH QUARTERLY PAYMENTS IN ADVANCE OF DEPARTMENT
28 AUDIT. THE DEPARTMENT MAY WITHHOLD A PORTION OF SUCH PAYMENTS
29 NOT EXCEEDING FIVE PERCENT (5%) OF SUCH PAYMENT, PENDING FINAL
30 AUDIT. IN NO EVENT SHALL EITHER THE ADVANCE PAYMENTS OR FINAL

1 REIMBURSEMENT MADE BY THE DEPARTMENT FOLLOWING AUDIT EXCEED THE
2 APPROPRIATION AVAILABLE FOR APPROVED PRIVATE SCHOOLS.]

3 (C) THE PROCEDURES FOR THE DEVELOPMENT OF PRE-APPROVED
4 BUDGETS FOR APPROVED PRIVATE SCHOOLS SHALL BE AS FOLLOWS:

5 (1) ON OR BEFORE AUGUST 30 OF THE SCHOOL YEAR PREVIOUS TO
6 THE SCHOOL YEAR OF OPERATION, EACH APPROVED PRIVATE SCHOOL SHALL
7 SUBMIT TO THE DEPARTMENT OF EDUCATION A PROGRAM PLAN AND BUDGET
8 WHICH SPECIFIES IN DETAIL THE SPECIAL EDUCATION SERVICES TO BE
9 PROVIDED TO APPROVED RESIDENTS OF THIS COMMONWEALTH. THESE
10 ESTIMATES SHALL FORM THE PRELIMINARY ESTIMATE OF THE APPROVED
11 PRIVATE SCHOOL'S LINE ITEM IN THE DEPARTMENT'S BUDGET.

12 (2) ON OR BEFORE NOVEMBER 15 OF THE SCHOOL YEAR PREVIOUS TO
13 THE SCHOOL YEAR OF OPERATION, EACH APPROVED PRIVATE SCHOOL SHALL
14 SUBMIT ANY REVISIONS TO THEIR AUGUST ESTIMATED PROGRAM PLAN AND
15 BUDGET.

16 (3) BY FEBRUARY 1 OF THE SCHOOL YEAR PREVIOUS TO THE SCHOOL
17 YEAR OF OPERATION, THE DEPARTMENT SHALL REVIEW THE DETAILED
18 PROGRAM PLANS AND BUDGETS AND DISCUSS MODIFICATIONS WITH EACH
19 APPROVED SCHOOL.

20 (4) BETWEEN FEBRUARY 1 AND APRIL 15 OF THE SCHOOL YEAR
21 PREVIOUS TO THE SCHOOL YEAR OF OPERATION, THE DEPARTMENT SHALL
22 MEET WITH EACH APPROVED PRIVATE SCHOOL TO NEGOTIATE A PRE-
23 APPROVED BUDGET FOR THE FOLLOWING SCHOOL YEAR. THESE PRE-
24 APPROVED BUDGETS SHALL FORM THE BASIS FOR ADJUSTMENTS TO THE
25 APPROVED PRIVATE SCHOOL'S LINE ITEM IN THE GENERAL
26 APPROPRIATIONS ACT FOR THE NEXT FISCAL YEAR.

27 (5) ON OR BEFORE JANUARY 31 OF THE SCHOOL YEAR OF OPERATION,
28 EACH APPROVED PRIVATE SCHOOL MAY SUBMIT A REQUEST FOR PROGRAM
29 PLAN AND/OR BUDGET MODIFICATIONS TO THE DEPARTMENT. THE
30 DEPARTMENT SHALL RESPOND IN WRITING TO THE REQUEST FOR

1 MODIFICATION WITHIN THIRTY (30) DAYS OF THE RECEIPT OF SUCH
2 REQUEST. THE DEPARTMENT MAY APPROVE, REJECT OR APPROVE IN PART
3 THE REQUESTED MODIFICATIONS.

4 (6) BASED UPON THE APPROVED BUDGET, THE DEPARTMENT SHALL
5 PROVIDE EACH APPROVED PRIVATE SCHOOL WITH QUARTERLY PAYMENTS
6 DURING THE YEAR OF OPERATION OF THE PROGRAM. THE DEPARTMENT MAY
7 WITHHOLD A PORTION OF SUCH PAYMENTS NOT EXCEEDING FIVE PER
8 CENTUM (5%) OF SUCH PAYMENT PENDING FINAL AUDIT. UNDER NO
9 CIRCUMSTANCES SHALL EITHER THE ADVANCE PAYMENTS OR FINAL
10 REIMBURSEMENT MADE BY THE DEPARTMENT FOLLOWING AUDIT EXCEED THE
11 APPROPRIATION AVAILABLE FOR APPROVED PRIVATE SCHOOLS.

12 (7) AN INDEPENDENT AUDIT REPORT FOR THE PRECEDING FISCAL
13 YEAR WHICH IS CONSISTENT WITH DEPARTMENT AUDIT STANDARDS SHALL
14 BE SUBMITTED BY EACH APPROVED PRIVATE SCHOOL TO THE DEPARTMENT
15 NO LATER THAN ONE HUNDRED TWENTY (120) DAYS AFTER THE CLOSE OF
16 THE PRECEDING FISCAL YEAR. THE DEPARTMENT SHALL REVIEW EACH
17 AUDIT AND MAKE A DETERMINATION OF ITS ACCEPTANCE. SUCH
18 DETERMINATION SHALL BE COMMUNICATED IN WRITING TO THE APPROVED
19 PRIVATE SCHOOL WITHIN ONE HUNDRED TWENTY (120) DAYS OF ITS
20 RECEIPT; OTHERWISE, THE AUDIT SHALL BE DEEMED TO BE APPROVED AND
21 ACCEPTED. THE DETERMINATION OF ACCEPTANCE SHALL BE CONSIDERED AN
22 ADJUDICATION WITHIN THE MEANING OF 2 P.A.C.S. (RELATING TO
23 ADMINISTRATIVE LAW AND PROCEDURE) AND REGULATIONS PROMULGATED
24 THEREUNDER. FINAL PAYMENT TO THE APPROVED PRIVATE SCHOOL SHALL
25 BE MADE WITHIN NINETY (90) DAYS OF ACCEPTANCE OF THE AUDIT BY
26 THE DEPARTMENT.

27 (D) NO PRIVATE INSTITUTION RECEIVING PAYMENT IN ACCORDANCE
28 WITH THIS SECTION SHALL IMPOSE ANY CHARGE ON THE STUDENT AND/OR
29 PARENTS WHO ARE PENNSYLVANIA APPROVED REIMBURSABLE RESIDENTS FOR
30 A PROGRAM OF INDIVIDUALIZED INSTRUCTION AND MAINTENANCE

1 APPROPRIATE TO THE CHILD'S NEEDS; EXCEPT THAT CHARGES FOR
2 SERVICES NOT PART OF SUCH PROGRAM MAY BE MADE IF AGREED TO BY
3 THE PARENTS.

4 SECTION 1376.1. ACTUAL COST OF TUITION AND MAINTENANCE OF
5 CERTAIN EXCEPTIONAL CHILDREN IN THE FOUR CHARTERED SCHOOLS FOR
6 EDUCATION OF THE DEAF AND THE BLIND.--(A) THE FOLLOWING TERM,
7 WHENEVER USED OR REFERRED TO IN THIS SECTION, SHALL HAVE THE
8 FOLLOWING MEANING. "CHARTERED SCHOOL" SHALL MEAN ANY OF THE FOUR
9 (4) CHARTERED SCHOOLS FOR THE EDUCATION OF THE DEAF OR THE
10 BLIND: THE PENNSYLVANIA SCHOOL FOR THE DEAF; THE OVERBROOK
11 SCHOOL FOR THE BLIND; THE WESTERN PENNSYLVANIA SCHOOL FOR BLIND
12 CHILDREN; AND THE WESTERN PENNSYLVANIA SCHOOL FOR THE DEAF.

13 (B) WHEN ANY CHILD OF SCHOOL AGE RESIDENT IN THIS
14 COMMONWEALTH, WHO IS BLIND OR DEAF, IS ENROLLED WITH THE
15 APPROVAL OF THE DEPARTMENT OF EDUCATION AS A PUPIL IN ANY OF THE
16 FOUR (4) CHARTERED SCHOOLS IN ACCORDANCE WITH STANDARDS AND
17 REGULATIONS PROMULGATED BY THE STATE BOARD OF EDUCATION, THE
18 SCHOOL DISTRICT IN WHICH SUCH CHILD IS RESIDENT SHALL PAY THE
19 GREATER OF EITHER TWENTY PERCENT (20%) OF THE ACTUAL COST OF
20 TUITION AND MAINTENANCE OF SUCH CHILD IN SUCH INSTITUTION, AS
21 DETERMINED BY THE DEPARTMENT OF EDUCATION IN ACCORDANCE WITH
22 SUBSECTION (E); OR ITS "TUITION CHARGE PER ELEMENTARY PUPIL" OR
23 ITS "TUITION CHARGE PER HIGH SCHOOL PUPIL," AND THE COMMONWEALTH
24 SHALL PAY, OUT OF FUNDS APPROPRIATED TO THE DEPARTMENT FOR
25 SPECIAL EDUCATION, THE BALANCE DUE FOR THE COSTS OF SUCH CHILD'S
26 TUITION AND MAINTENANCE, AS DETERMINED BY THE DEPARTMENT IN
27 ACCORDANCE WITH SUBSECTION (E). FOR THE SCHOOL YEARS 1989-90,
28 1990-91 AND 1991-92, THE SCHOOL DISTRICT PAYMENT SHALL BE NO
29 GREATER THAN FORTY PERCENT (40%) OF THE ACTUAL AUDITED COSTS OF
30 TUITION AND MAINTENANCE OF SUCH CHILD IN SUCH SCHOOL. THE

1 DEPARTMENT WILL CREDIT THE DISTRICT OF RESIDENCE WITH AVERAGE
2 DAILY MEMBERSHIP FOR SUCH CHILD CONSISTENT WITH THE RULES OF
3 PROCEDURE DEVELOPED IN ACCORDANCE WITH SECTION 2501. IF THE
4 RESIDENCE OF SUCH CHILD IN A PARTICULAR SCHOOL DISTRICT CANNOT
5 BE DETERMINED, THE COMMONWEALTH SHALL PAY, OUT OF MONEYS
6 APPROPRIATED TO THE DEPARTMENT FOR SPECIAL EDUCATION, THE WHOLE
7 COST OF TUITION AND MAINTENANCE OF SUCH CHILD. [THE DEPARTMENT
8 OF EDUCATION SHALL BE PROVIDED WITH SUCH FINANCIAL DATA FROM
9 EACH OF THE CHARTERED SCHOOLS AS MAY BE NECESSARY TO DETERMINE
10 THE REASONABLENESS OF CHARGES FOR TUITION AND ROOM AND BOARD OF
11 EACH OF THE CHARTERED SCHOOLS MADE ON PENNSYLVANIA RESIDENT
12 APPROVED STUDENTS. THE DEPARTMENT OF EDUCATION SHALL EVALUATE
13 SUCH DATA AND SHALL DISALLOW ANY CHARGES DEEMED UNREASONABLE.
14 ANY CHARGE DEEMED UNREASONABLE BY THE DEPARTMENT OF EDUCATION
15 FOR DISALLOWANCE SHALL BE CONSIDERED AN ADJUDICATION WITHIN THE
16 MEANING OF TITLE 2 OF THE PA.C.S. (RELATING TO ADMINISTRATIVE
17 LAW AND PROCEDURE) AND REGULATIONS PROMULGATED THEREUNDER.]

18 (C) WHEN ANY PERSON LESS THAN SCHOOL AGE RESIDENT IN THIS
19 COMMONWEALTH WHO IS BLIND OR DEAF IS ENROLLED, WITH THE APPROVAL
20 OF THE DEPARTMENT OF EDUCATION, AS A [RESIDENTIAL] PUPIL IN ANY
21 OF THE FOUR (4) CHARTERED SCHOOLS, THE COMMONWEALTH SHALL PAY TO
22 THE SCHOOL, OUT OF MONEYS APPROPRIATED TO THE DEPARTMENT FOR
23 SPECIAL EDUCATION, THE ACTUAL COST OF TUITION AND MAINTENANCE OF
24 SUCH PERSON, AS DETERMINED [BY THE DEPARTMENT OF EDUCATION,
25 SUBJECT TO REVIEW AND APPROVAL IN ACCORDANCE WITH STANDARDS AND
26 REGULATIONS PROMULGATED BY THE STATE BOARD OF EDUCATION, AND IN
27 ADDITION,] IN ACCORDANCE WITH SUBSECTION (E), INCLUDING, IN THE
28 CASE OF ANY CHILD LESS THAN SCHOOL AGE, WHO IS BLIND, THE COST,
29 AS DETERMINED BY THE DEPARTMENT OF EDUCATION OF INSTRUCTING THE
30 PARENT OF SUCH BLIND CHILD IN CARING FOR SUCH CHILD.

1 (D) NONE OF THE CHARTERED SCHOOLS RECEIVING PAYMENT IN
2 ACCORDANCE WITH THIS SECTION SHALL IMPOSE ANY CHARGE ON THE
3 STUDENT AND/OR PARENTS WHO ARE APPROVED REIMBURSABLE RESIDENTS
4 FOR A PROGRAM OF INSTRUCTION AND MAINTENANCE APPROPRIATE TO THE
5 CHILD'S NEEDS; EXCEPT THAT CHARGES FOR PROGRAMS NOT PART OF THE
6 NORMAL SCHOOL YEAR MAY BE MADE.

7 (E) THE PROCEDURES FOR THE DEVELOPMENT OF PRE-APPROVED
8 BUDGETS FOR CHARTERED SCHOOLS SHALL BE AS FOLLOWS:

9 (1) ON OR BEFORE AUGUST 30 OF THE SCHOOL YEAR PREVIOUS TO
10 THE SCHOOL YEAR OF OPERATION, EACH CHARTERED SCHOOL SHALL SUBMIT
11 TO THE DEPARTMENT OF EDUCATION A PROGRAM PLAN AND BUDGET WHICH
12 SPECIFIES IN DETAIL THE SPECIAL EDUCATION SERVICES TO BE
13 PROVIDED TO APPROVED RESIDENTS OF THIS COMMONWEALTH. THESE
14 ESTIMATES WILL FORM THE PRELIMINARY ESTIMATE OF THE CHARTERED
15 SCHOOL'S LINE ITEM IN THE DEPARTMENT'S BUDGET.

16 (2) ON OR BEFORE NOVEMBER 15 OF THE SCHOOL YEAR PREVIOUS TO
17 THE SCHOOL YEAR OF OPERATION, EACH CHARTERED SCHOOL SHALL SUBMIT
18 ANY REVISIONS TO THEIR AUGUST ESTIMATED PROGRAM PLAN AND BUDGET.

19 (3) BY FEBRUARY 1 OF THE SCHOOL YEAR PREVIOUS TO THE SCHOOL
20 YEAR OF OPERATION, THE DEPARTMENT SHALL REVIEW THE DETAILED
21 PROGRAM PLANS AND BUDGETS AND DISCUSS MODIFICATIONS WITH EACH
22 CHARTERED SCHOOL.

23 (4) BETWEEN FEBRUARY 1 AND APRIL 15 OF THE SCHOOL YEAR
24 PREVIOUS TO THE SCHOOL YEAR OF OPERATION, THE DEPARTMENT SHALL
25 MEET WITH EACH CHARTERED SCHOOL TO NEGOTIATE A PRE-APPROVED
26 BUDGET FOR THE FOLLOWING SCHOOL YEAR. THESE PRE-APPROVED BUDGETS
27 WILL FORM THE BASIS FOR ADJUSTMENTS TO THE CHARTERED SCHOOL'S
28 LINE ITEM IN THE GENERAL APPROPRIATIONS ACT FOR THE NEXT FISCAL
29 YEAR.

30 (5) ON OR BEFORE JANUARY 31 OF THE SCHOOL YEAR OF OPERATION,

1 EACH CHARTERED SCHOOL MAY SUBMIT A REQUEST FOR PROGRAM PLAN
2 AND/OR BUDGET MODIFICATIONS TO THE DEPARTMENT. THE DEPARTMENT
3 SHALL RESPOND IN WRITING TO THE REQUEST FOR MODIFICATION WITHIN
4 THIRTY (30) DAYS OF THE RECEIPT OF SUCH REQUEST. THE DEPARTMENT
5 MAY APPROVE, REJECT OR APPROVE IN PART THE REQUESTED
6 MODIFICATIONS.

7 (6) BASED UPON THE APPROVED BUDGET, THE DEPARTMENT SHALL
8 PROVIDE EACH CHARTERED SCHOOL WITH QUARTERLY PAYMENTS DURING THE
9 YEAR OF OPERATION OF THE PROGRAM. THE DEPARTMENT MAY WITHHOLD A
10 PORTION OF SUCH PAYMENTS NOT EXCEEDING FIVE PER CENTUM (5%) OF
11 SUCH PAYMENT PENDING FINAL AUDIT. UNDER NO CIRCUMSTANCES SHALL
12 EITHER THE ADVANCE PAYMENTS OR FINAL REIMBURSEMENT MADE BY THE
13 DEPARTMENT FOLLOWING AUDIT EXCEED THE APPROPRIATION AVAILABLE
14 FOR CHARTERED SCHOOLS.

15 (7) AN INDEPENDENT AUDIT REPORT FOR THE PRECEDING FISCAL
16 YEAR WHICH IS CONSISTENT WITH DEPARTMENT AUDIT STANDARDS SHALL
17 BE SUBMITTED BY EACH CHARTERED SCHOOL TO THE DEPARTMENT NO LATER
18 THAN ONE HUNDRED TWENTY (120) DAYS AFTER THE CLOSE OF THE
19 PRECEDING FISCAL YEAR. THE DEPARTMENT SHALL REVIEW EACH AUDIT
20 AND MAKE A DETERMINATION OF ITS ACCEPTANCE. SUCH DETERMINATION
21 SHALL BE COMMUNICATED IN WRITING TO THE CHARTERED SCHOOL WITHIN
22 ONE HUNDRED TWENTY (120) DAYS OF ITS RECEIPT; OTHERWISE, THE
23 AUDIT SHALL BE DEEMED TO BE APPROVED AND ACCEPTED. THE
24 DETERMINATION OF ACCEPTANCE SHALL BE CONSIDERED AN ADJUDICATION
25 WITHIN THE MEANING OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW
26 AND PROCEDURE) AND REGULATIONS PROMULGATED THEREUNDER. FINAL
27 PAYMENT TO THE CHARTERED SCHOOL SHALL BE MADE WITHIN NINETY (90)
28 DAYS OF ACCEPTANCE OF THE AUDIT BY THE DEPARTMENT.

29 SECTION 4. SECTION 1913-A(B) OF THE ACT, AMENDED OCTOBER 20,
30 1988 (P.L.827, NO.110), IS AMENDED TO READ:

1 SECTION 1913-A. FINANCIAL PROGRAM; REIMBURSEMENT OR
2 PAYMENTS.--* * *

3 (B) (1) THE COMMONWEALTH SHALL PAY TO A COMMUNITY COLLEGE
4 ON BEHALF OF THE SPONSOR ON ACCOUNT OF ITS OPERATING COSTS FOR
5 CREDIT COURSES DURING THE FISCAL YEAR FROM FUNDS APPROPRIATED
6 FOR THAT PURPOSE AN AMOUNT EQUAL TO ONE-THIRD OF SUCH COLLEGE'S
7 APPROVED OPERATING COSTS NOT TO EXCEED THREE THOUSAND DOLLARS
8 (\$3,000) PER STUDENT MULTIPLIED BY THE NUMBER OF EQUIVALENT
9 FULL-TIME STUDENTS DETERMINED BY AN AUDIT TO BE MADE IN A MANNER
10 PRESCRIBED BY THE STATE BOARD OF EDUCATION.

11 (1.1) THE COMMONWEALTH SHALL PAY A COMMUNITY COLLEGE, IN THE
12 SAME MANNER AS FOR CREDIT COURSES, FOR THE FOLLOWING CATEGORIES
13 OF NONCREDIT CONTINUING EDUCATION COURSES:

14 (I) PUBLIC SAFETY COURSES PROVIDE THE EDUCATION AND TRAINING
15 NEEDED BY MUNICIPALITIES AND CORPORATIONS THROUGHOUT THE
16 COMMONWEALTH TO ENSURE PUBLIC SAFETY. THIS CATEGORY INCLUDES,
17 BUT IS NOT LIMITED TO, THE FOLLOWING TYPES OF TRAINING:
18 CONSTABLE, POLICE, FIRE, HAZARDOUS MATERIALS, EMERGENCY MEDICAL
19 SERVICES, CARDIOPULMONARY RESUSCITATION, FIRST AID,
20 ENVIRONMENTAL AND OTHER MANDATED COURSES.

21 (II) LITERACY COURSES PROVIDE BASIC ACADEMIC AND LIFE
22 SKILLS. THIS CATEGORY INCLUDES, BUT IS NOT LIMITED TO, ADULT
23 BASIC EDUCATION, COURSES LEADING TO A GENERAL EDUCATION DIPLOMA,
24 ENGLISH AS A SECOND LANGUAGE, ACADEMIC TUTORIAL SERVICES AND
25 REMEDIAL COURSES.

26 (III) OCCUPATIONAL COURSES PROVIDE ENTRY-LEVEL JOB SKILLS
27 AND KNOWLEDGE AS WELL AS UPGRADED JOB SKILLS AND KNOWLEDGE THAT
28 LEAD TO BETTER EMPLOYMENT OPPORTUNITIES. THIS CATEGORY INCLUDES,
29 BUT IS NOT LIMITED TO, TRAINING IN THE TRADES, TECHNOLOGIES,
30 COMPUTERS, CONSTRUCTION, VARIOUS LICENSING EXAMS, NURSING

1 ASSISTANCE, AUTO EMISSIONS, JOB-SEARCH SKILLS AND COURSES
2 OFFERED TO HELP COMMONWEALTH BUSINESS AND INDUSTRY UPGRADE THE
3 SKILLS OF EMPLOYES.

4 (IV) ACADEMIC COURSES CONTRIBUTE TO KNOWLEDGE IN THE ARTS,
5 SCIENCES, HUMANITIES, MATHEMATICS AND BUSINESS, AS WELL AS
6 CONTINUE THE PROFESSIONAL EDUCATION AND ACADEMIC SKILLS OF
7 GROUPS SUCH AS, BUT NOT LIMITED TO, ACCOUNTANTS, NURSES,
8 MANAGERS AND ENGINEERS.

9 (1.2) NO LATER THAN DECEMBER 31, 1992, THE SECRETARY OF
10 EDUCATION, THROUGH THE CONTINUING EDUCATION POLICY GUIDELINES
11 AND IN CONJUNCTION WITH THE COMMUNITY COLLEGES, SHALL ESTABLISH
12 PROCEDURES TO RESOLVE DISPUTES CONCERNING THE CATEGORIZATION OF
13 NONCREDIT CONTINUING EDUCATION COURSES. FAILURE TO ESTABLISH
14 THESE PROCEDURES SHALL NOT ACT TO DELAY ANY PAYMENTS.

15 (1.3) IF THE SUMS APPROPRIATED FOR THE 1992-1993 FISCAL YEAR
16 ARE NOT SUFFICIENT TO PAY IN FULL THE TOTAL AMOUNTS WHICH ALL
17 QUALIFIED COMMUNITY COLLEGES AND TECHNICAL INSTITUTES ARE
18 ENTITLED TO RECEIVE UNDER THE PROVISIONS OF CLAUSES (1) AND (2)
19 OF SUBSECTION (B) OF THIS SECTION, THE ALLOCATIONS TO THE
20 COMMUNITY COLLEGES SHALL BE PROPORTIONATELY REDUCED TO THE
21 EXTENT NECESSARY TO BRING THE AGGREGATE OF THE COMMUNITY COLLEGE
22 ALLOCATIONS WITHIN THE LIMITS OF THE AMOUNTS APPROPRIATED.

23 (2) IN ADDITION, THE COMMONWEALTH SHALL PAY TO A COMMUNITY
24 COLLEGE, ON ACCOUNT OF ITS OPERATING COSTS FOR ALL EQUIVALENT
25 FULL-TIME STUDENTS ENROLLED IN THE FOLLOWING CATEGORIES OF TWO-
26 YEAR OR LESS THAN TWO-YEAR OCCUPATIONAL OR TECHNICAL PROGRAMS, A
27 STIPEND AS FOLLOWS:

28 (I) ONE THOUSAND ONE HUNDRED DOLLARS (\$1,100) PER FULL-TIME
29 EQUIVALENT STUDENT ENROLLED IN ADVANCED TECHNOLOGY PROGRAMS.
30 ADVANCED TECHNOLOGY PROGRAMS ARE PROGRAMS USING NEW OR ADVANCED

1 TECHNOLOGIES WHICH HOLD PROMISE FOR CREATING NEW JOB
2 OPPORTUNITIES, INCLUDING SUCH FIELDS AS ROBOTICS, BIOTECHNOLOGY,
3 SPECIALIZED MATERIALS AND ENGINEERING AND ENGINEERING-RELATED
4 PROGRAMS.

5 (II) ONE THOUSAND DOLLARS (\$1,000) PER FULL-TIME EQUIVALENT
6 STUDENT ENROLLED IN PROGRAMS DESIGNATED AS STATEWIDE PROGRAMS. A
7 STATEWIDE PROGRAM IS A PROGRAM WHICH MEETS ONE OR MORE OF THE
8 FOLLOWING CRITERIA:

9 (A) PROGRAM ENROLLMENT FROM OUT-OF-SPONSOR AREA IS TWENTY
10 PER CENT OR MORE OF THE ENROLLMENT FOR THE PROGRAM.

11 (B) A CONSORTIAL ARRANGEMENT EXISTS WITH ANOTHER COMMUNITY
12 COLLEGE TO COOPERATIVELY OPERATE A PROGRAM OR SHARE REGIONS IN
13 ORDER TO AVOID UNNECESSARY PROGRAM DUPLICATION.

14 (III) FIVE HUNDRED DOLLARS (\$500) PER FULL-TIME EQUIVALENT
15 STUDENT ENROLLED IN OTHER OCCUPATIONAL OR TECHNICAL PROGRAMS.

16 (3) THE SECRETARY OF EDUCATION ANNUALLY SHALL ESTABLISH
17 CRITERIA TO BE USED TO DETERMINE ELIGIBILITY OF PROGRAMS FOR
18 EACH OF THE ABOVE STIPEND CATEGORIES, SHALL APPROVE PROGRAMS FOR
19 FUNDING IN THE FOLLOWING FISCAL YEAR ACCORDING TO THESE CRITERIA
20 AND SHALL SUBMIT TO CHAIRMEN OF THE COMMITTEES OF EDUCATION IN
21 THE HOUSE OF REPRESENTATIVES AND SENATE A REPORT SETTING FORTH
22 THE ESTABLISHED CRITERIA, ANY PROGRAMS APPROVED FOR FUNDING
23 UNDER THESE CRITERIA AND THE RECIPIENT COMMUNITY COLLEGES.

24 (4) EACH COMMUNITY COLLEGE SHALL MAINTAIN SUCH ACCOUNTING
25 AND STUDENT ATTENDANCE RECORDS ON GENERALLY ACCEPTED PRINCIPLES
26 AND STANDARDS AS WILL LEND THEMSELVES TO SATISFACTORY AUDIT. THE
27 COMMONWEALTH SHALL PAY TO A COMMUNITY COLLEGE ON BEHALF OF THE
28 SPONSOR ON ACCOUNT OF ITS CAPITAL EXPENSES AN AMOUNT EQUAL TO
29 ONE-HALF OF SUCH COLLEGE'S ANNUAL CAPITAL EXPENSES FROM FUNDS
30 APPROPRIATED FOR THAT PURPOSE TO THE EXTENT THAT SAID CAPITAL

1 EXPENSES HAVE BEEN APPROVED AS HEREIN PROVIDED.

2 (5) FOR PURPOSES OF DETERMINING COMMONWEALTH REIMBURSEMENT
3 OF OPERATING COSTS, FEDERALLY FUNDED EXPENDITURES FOR THOSE
4 PROGRAMS IN WHICH THE COMMONWEALTH PARTICIPATES IN THE COST
5 SHALL BE DEDUCTED FROM TOTAL OPERATING EXPENDITURES TO DETERMINE
6 NET REIMBURSABLE OPERATING COSTS.

7 SECTION 5. THIS ACT SHALL TAKE EFFECT JULY 1, 1992.