
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1170 Session of
2017

INTRODUCED BY CALTAGIRONE, DeLUCA, ROZZI, MILLARD, DRISCOLL,
BURNS AND V. BROWN, APRIL 12, 2017

REFERRED TO COMMITTEE ON EDUCATION, APRIL 12, 2017

AN ACT

1 Establishing the Public School Employees' Benefit Board and
2 providing for its powers and duties; requiring a school
3 employee benefits study and evaluation; providing for a
4 Statewide health benefits program for public school
5 employees, for alternative measures for cost reduction and
6 for a retirement health savings plan; and establishing the
7 Public School Employees' Benefit Trust Fund.

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

20 CHAPTER 1

21 PRELIMINARY PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the Public School
24 Employees' Benefit Act.

25 CHAPTER 3

26 ADMINISTRATION OF BENEFITS

27 SUBCHAPTER A

28 DEFINITIONS

29 Section 301. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Alternate health care plan." A plan or plan design
4 established by the Public School Employees' Benefit Board under
5 section 331(f)(2)(ii) that the board in its exclusive authority
6 determines to contain benefits equivalent to the standard
7 benefit package.

8 "Alternative measures program." A program created by the
9 Public School Employees' Benefit Board in accordance with
10 Subchapter E.

11 "Annuitant." An "annuitant" or "disability annuitant" as
12 defined in 24 Pa.C.S. § 8102 (relating to definitions).

13 "Best practices." Standards of criteria, measures and
14 results developed by the Public School Employees' Benefit Board
15 that may be reflective of the standards developed by broadly
16 accepted organizations, including the National Committee for
17 Quality Assurance (NCQA) and the Centers for Medicare and
18 Medicaid Services (CMS), consulting firm benchmarks and medical
19 and industry journals that promote the precisions of efficient
20 delivery and design of employee benefits.

21 "Board." The Public School Employees' Benefit Board created
22 in section 311.

23 "Board member." A person designated or appointed to the
24 Public School Employees' Benefit Board under section 311(a).

25 "Consortium." A coalition of two or more geographically
26 defined public school entities, or a coalition of one or more
27 geographically defined public school entities and one or more
28 political subdivisions as defined in 61 Pa. Code § 315.2
29 (relating to definitions), formed for the purpose of pooling
30 combined purchasing of the individual participants in order to

1 increase bargaining power to obtain health care benefits.

2 "Contribution rate." The rate established by the Public
3 School Employees' Benefit Board in accordance with section
4 334(b) and (c) used to determine contributions by the
5 Commonwealth and public school entities for the funding of the
6 standard benefit package for eligible individuals in each health
7 care region.

8 "Cost-sharing." A fee paid by a member that covers a share
9 of the cost of providing group health benefits under the
10 Statewide health benefits program under this act or a fee paid
11 by a school employee or annuitant that covers a share of the
12 cost of providing health care coverage in a plan sponsored by a
13 public school entity. The term does not include:

14 (1) a fee paid by the member, school employee or
15 annuitant at the time of service, including copayments or
16 deductibles, in order to obtain prescription drugs or other
17 specific health care services; or

18 (2) any additional cost paid by the member, school
19 employee or annuitant for optional benefit packages.

20 "Eligible individual." An individual who is a member or the
21 health care dependent of a member.

22 "Employee benefits account." A ledger account of the Public
23 School Employees' Benefit Trust Fund created under section
24 336(a)(1).

25 "Employer contribution account." A ledger account of the
26 Public School Employees' Benefit Trust Fund created under
27 section 336(a)(3).

28 "Health care dependent." An individual who is eligible to
29 receive health care coverage under the Statewide health benefits
30 program under this act due to the individual's relation to the

1 member, as determined by the Public School Employees' Benefit
2 Board.

3 "Health care region." The geographic regions determined by
4 the Public School Employees' Benefit Board to be appropriate for
5 providing health benefits for eligible individuals based on the
6 availability of insurance carriers, benefit administrators,
7 health care providers, health care provider networks, costs and
8 other factors related to health care or the financing of
9 benefits.

10 "IRC." The Internal Revenue Code of 1986, as designated and
11 referred to in section 2 of the Tax Reform Act of 1986 (Public
12 Law 99-514, 100 Stat. 2085, 2095). A reference in this chapter
13 to "IRC §" shall be deemed to refer to the identically numbered
14 section and subsection or other subdivision of the section in 26
15 U.S.C. (relating to Internal Revenue Code).

16 "Long-term substitute." A school employee who is
17 substituting for an officer, administrator or employee of a
18 public school entity for a qualifying period of time to be
19 determined by the Public School Employees' Benefit Board.

20 "Medicare." The programs established by Title XVIII of the
21 Social Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.),
22 which include: Part A, Hospital Insurance Benefits for the Aged
23 and Disabled; Part B, Supplementary Medical Insurance Benefits
24 for the Aged and Disabled; Part C, Medicare+ Choice Program; and
25 Part D, Voluntary Prescription Drug Benefit Program; and
26 including subsequent changes or additions to those programs.

27 "Member." An eligible individual who is so specified for
28 enrollment in the Statewide health benefits program and in whose
29 name an identification card is issued. A member can be:

30 (1) A school employee.

1 (2) An annuitant.

2 (3) A transfer employee.

3 (4) An individual separated from employment with a
4 public school entity who the Public School Employees' Benefit
5 Board determines is eligible to purchase continuation of
6 coverage in the Statewide health benefits program under this
7 act.

8 (5) Others as approved by the Public School Employees'
9 Benefit Board.

10 "Optional benefit package." A plan or plan design
11 established by the Public School Employees' Benefit Board under
12 section 331(f)(2)(ii) that includes specific health care
13 services that are not part of the standard benefit package.

14 "Participant account holder." A school employee
15 participating in a retirement health savings plan or a school
16 employee who retires or otherwise terminates employment with a
17 public school entity and becomes eligible to be reimbursed from
18 the employee's retirement health savings plan account for
19 I.R.C.-qualified health-related expenses. The term includes the
20 health care dependent of a school employee who succeeds in
21 interest to a deceased school employee and becomes eligible to
22 be reimbursed for health-related expenses from the school
23 employee's account.

24 "Phase-in period." The period of program operation in a
25 health care region from the time the Public School Employees'
26 Benefit Board begins implementation of mandatory participation
27 under section 332 until the commencement of the first plan year
28 in which 75% of school districts in that region participate in
29 the program.

30 "Program." The Statewide health benefits program sponsored

1 by the Public School Employees' Benefit Board in accordance with
2 Subchapter D.

3 "Public School Code." The act of March 10, 1949 (P.L.30,
4 No.14), known as the Public School Code of 1949.

5 "Public school entity." A school district of any class,
6 intermediate unit, area vocational-technical school, charter
7 school or other school, as under the Public School Code. The
8 term includes the Scotland School for Veterans' Children and the
9 Scranton State School for the Deaf.

10 "Qualified majority vote." A vote by the Public School
11 Employees' Benefit Board requiring the support of three-fourths
12 of all members.

13 "Qualifying event." A change in marital status, death of a
14 member or change in a health care dependent's status, subsequent
15 to the commencement of coverage under this chapter, or the
16 involuntary termination of health plan coverage that was
17 obtained through a health care dependent.

18 "Reserve account." A ledger account of the Public School
19 Employees' Benefit Trust Fund created under section 336(a)(2).

20 "Retirement system." The Public School Employees' Retirement
21 System of Pennsylvania established by the former act of July 18,
22 1917 (P.L.1043, No.343), referred to as the Public School
23 Employees' Retirement Law.

24 "School employee." A person regularly employed by or in a
25 public school entity, for which work the person is receiving
26 regular remuneration as an officer, administrator, employee or
27 long-term substitute. The term does not include an independent
28 contractor, a person compensated on a fee basis or, unless
29 otherwise determined by the Public School Employees' Benefit
30 Board, a part-time hourly school employee. The term includes an

1 employee of a public school entity who has a position for which
2 eligibility in a health care plan sponsored by the public school
3 entity is in effect as of the effective date of this section.

4 "Standard benefit package." The benefit package established
5 by the Public School Employees' Benefit Board under section
6 331(f)(1).

7 "Supplemental benefits." Dental care, vision care and
8 employee assistance program benefits that may be offered in
9 addition to medical and hospital services and prescription drug
10 benefits.

11 "Transfer employee." A person who is not a school employee
12 and who is regularly employed at a worksite in a public school
13 entity, regardless of who actually employs the person, if the
14 person is performing services previously performed by a school
15 employee.

16 "Trust fund." The Public School Employees' Benefit Trust
17 Fund established in section 336.

18 SUBCHAPTER B

19 PUBLIC SCHOOL EMPLOYEES' BENEFIT BOARD

20 Section 311. Public School Employees' Benefit Board.

21 (a) Status and membership.--The board shall be an
22 independent administrative board and shall consist of the
23 following board members:

24 (1) The Secretary of the Budget and the Insurance
25 Commissioner, both of whom shall serve ex officio.

26 (2) The President pro tempore of the Senate or his
27 designee, the Minority Leader of the Senate or his designee,
28 the Majority Leader of the House of Representatives or his
29 designee and the Minority Leader of the House of
30 Representatives or his designee.

1 (3) Ten people, representing school employees who are
2 covered by the program, appointed in the following manner:

3 (i) Eight people, representing school employees in
4 approximate proportion to the percentage of professional
5 employees represented in collective bargaining by school
6 employee unions working in public school entities that
7 will be covered by the program when it is fully
8 operational, appointed by the Governor and chosen from a
9 list of candidates submitted by those school employee
10 unions. At least one person shall be appointed by the
11 Governor from a list of candidates submitted by a school
12 employee union that, on the effective date of this
13 section, represents in collective bargaining more than
14 4,000 professional employees working in public school
15 entities that will be covered by the program when it is
16 fully operational. The proportional calculation of
17 membership under this paragraph may not include
18 professional employees represented in collective
19 bargaining by school employee unions working in a school
20 district of the first class, as classified under section
21 202 of the Public School Code, until the school district
22 opts to participate in the program under the terms of
23 section 332(d).

24 (ii) Two persons, representing school employees
25 represented in collective bargaining by school employee
26 unions other than school employee unions within
27 subparagraph (i), appointed by the Governor and chosen
28 from a list of candidates submitted by those school
29 employee unions other than school employee unions within
30 subparagraph (i).

1 (iii) For purposes of this section "school employee
2 unions" shall include a Statewide affiliate of school
3 employee unions.

4 (4) Four people representing public school entity
5 employers appointed by the Governor and chosen from a list of
6 candidates submitted by the Pennsylvania School Boards
7 Association. At least one of the school entity employer
8 representatives initially named to the board shall be a
9 member of a consortium board.

10 (b) Candidate list.--The school employee unions and the
11 Pennsylvania School Boards Association shall provide the
12 Governor with their respective lists of candidates within 15
13 days following the effective date of this section. The Governor
14 shall make his appointments within 45 days following receipt of
15 the lists.

16 (c) Terms.--

17 (1) Board members appointed under subsection (a) (3) (i)
18 shall serve a term of four years.

19 (2) One board member appointed under subsection (a) (3)
20 (ii), as designated by the Governor, shall serve a term of
21 two years, and one board member appointed under subsection
22 (a) (3) (ii), as designated by the Governor, shall serve a term
23 of four years.

24 (3) Two board members appointed under subsection (a) (4),
25 as designated by the Governor, shall serve a term of two
26 years, and two board members appointed under subsection (a)
27 (4), as designated by the Governor, shall serve a term of
28 four years, except that the Pennsylvania School Boards
29 Association shall designate for which initial term the
30 representative who is a member of a consortium board shall

1 serve.

2 (4) Successors for all board members shall be appointed
3 for terms of four years, except as provided in subsection
4 (e). Board members shall be eligible for reappointment.

5 (d) Meetings.--The board shall meet as needed to fulfill its
6 duties, and seven board members shall constitute a quorum. Board
7 members shall elect a chairperson for the board. Except in
8 instances where a qualified majority is required under this
9 chapter, a majority for the board members present and voting
10 shall have authority to act upon any matter. The board is
11 authorized to establish rules for its operation, including a
12 provision for the removal of board members for nonattendance.

13 (e) Vacancies.--A vacancy occurring during the term of a
14 board member shall be filled for the unexpired term by a
15 successor appointed in the same manner as his predecessor. The
16 school employee unions and the Pennsylvania School Boards
17 Association shall provide the Governor with their respective
18 lists of candidates within 60 days of the end of a member's term
19 or within 15 days of another vacancy.

20 (f) Oath of office.--Each board member shall take an oath of
21 office that the member will, so far as it devolves upon the
22 member, diligently and honestly administer the affairs of the
23 board and that the member will not knowingly violate or
24 willfully permit to be violated any other provision of law
25 applicable to this chapter. The oath shall be subscribed by the
26 board member making it and certified by the officer before whom
27 it is taken and shall be immediately filed in the office of the
28 Secretary of the Commonwealth.

29 (g) Compensation and expenses.--Board members who are
30 members of the retirement system or the State Employees'

1 Retirement System shall serve without compensation. Board
2 members who are members of the retirement system and who are
3 employed by a public school entity may not suffer loss of salary
4 or wages through serving on the board. The board, on request of
5 the employer of a board member who is an active professional or
6 nonprofessional member of the retirement system, may reimburse
7 the employer for the salary or wages of the member or for the
8 cost of employing a substitute for the board member while the
9 board member is necessarily absent from employment to execute
10 the duties of the board. Board members who are not members of
11 either the retirement system or the State Employees' Retirement
12 System may be paid \$100 per day when attending meetings. All
13 board members shall be reimbursed for necessary expenses. When
14 the duties of the board are not executed, no compensation or
15 reimbursement for expenses of board members shall be paid or
16 payable during the period in which the duties are not executed.

17 (h) Corporate power and legal advisor.--For the purposes of
18 this chapter, the board shall possess the power and privileges
19 of a corporation. The Office of General Counsel shall be the
20 legal advisor of the board.

21 (i) Duties of the board.--The board shall have the power and
22 authority to carry out the duties established by this chapter,
23 including the design, implementation and administration of the
24 school employee health benefits study under Subchapter C and
25 either the Statewide health benefits program, if approved under
26 section 323, or the alternative measures program, if created
27 under section 351.

28 Section 312. Administrative duties of board.

29 (a) Employees.--The compensation of all officers and
30 employees of the board who are not covered by a collective

1 bargaining agreement shall be established by the board
2 consistent with the standards of compensation established by the
3 Executive Board.

4 (b) Secretary.--The board shall select a secretary, who may
5 not be a board member. The secretary shall act as chief
6 administrative officer for the board. In addition to other
7 powers and duties conferred upon and delegated to the secretary
8 by the board, the secretary shall:

9 (1) Serve as the administrative agent of the board and
10 as liaison between the board and applicable legislative
11 committees.

12 (2) Review and analyze proposed legislation and
13 legislative developments affecting the program and present
14 findings to the board, legislative committees and other
15 interested groups or individuals.

16 (3) Receive inquiries and requests for information
17 concerning the program from the press, Commonwealth
18 officials, public school entities, school employees and the
19 general public and provide information as authorized by the
20 board.

21 (c) Professional personnel.--The board may employ or
22 contract with consultants and other professional personnel as
23 needed to conduct the school employee health benefits study and
24 evaluation under Subchapter C and to operate the program,
25 including third-party administrators, managed care managers,
26 chief medical examiners, actuaries, investment advisors and
27 managers, legal counsel and other professional personnel as it
28 deems advisable. The board may also contract for the services of
29 a national or State banking corporation or association having
30 trust powers, with respect to carrying out the business and

1 other matters of the program.

2 (d) Expenses.--The board shall, through the Governor, submit
3 to the General Assembly annually a budget covering the
4 administrative expenses of this chapter. The expenses, as
5 approved by the General Assembly in an appropriation bill, shall
6 be paid:

7 (1) from the General Fund; or

8 (2) starting in the first fiscal year after the
9 transition period is complete and every fiscal year
10 thereafter, from reserves and investment earnings of the
11 trust fund.

12 (e) Meetings.--The board shall hold at least four regular
13 meetings annually and other meetings as it may deem necessary.

14 (f) Records.--The board shall keep a record of all its
15 proceedings which shall be open to inspection by the public.

16 (g) Procurement.--The board may not be subject to 62 Pa.C.S.
17 Pt. I (relating to Commonwealth Procurement Code).

18 (h) Temporary regulations.--

19 (1) Notwithstanding any other provision of law to the
20 contrary and in order to facilitate the prompt implementation
21 of this chapter, regulations promulgated by the board during
22 the two years following the effective date of this section
23 shall be deemed temporary regulations which shall expire no
24 later than three years following the effective date of this
25 section or upon promulgation of regulations as generally
26 provided by law. The temporary regulations may not be subject
27 to:

28 (i) Sections 201, 202, 203, 204 and 205 of the act
29 of July 31, 1968 (P.L.769, No.240), referred to as the
30 Commonwealth Documents Law.

1 constituted, the board shall determine the information necessary
2 to evaluate the existing health care arrangements covering
3 school employees in this Commonwealth and begin to collect the
4 data, including:

5 (1) The total cost of providing medical, hospital and
6 prescription drug coverage.

7 (2) The types and levels of coverage currently made
8 available to school employees.

9 (3) The nature of health care purchasing arrangements.

10 (4) An explanation and estimate of financial obligations
11 of or funds owed to a public school entity related to the
12 termination of coverage under a school-district-sponsored
13 health benefits plan.

14 (5) An estimate of the amount of and basis for claims
15 which may be outstanding during the transition for public
16 school entities which self-fund their coverage and the status
17 of reserves established for the outstanding claims.

18 (6) The term and effect of collective bargaining
19 agreements governing health benefits.

20 (7) The amount and basis of school employee cost-
21 sharing, both individual and in aggregate.

22 (8) The total amount of employer-paid costs in
23 aggregate.

24 (9) An assessment of postretirement health care benefit
25 liabilities and claims experience data.

26 (c) Data sources.--All entities providing health benefit
27 coverage for eligible individuals or administering coverage for
28 health benefits under this chapter shall provide information on
29 coverage, benefits, plan design, claims data, premiums, cost-
30 sharing and financial arrangements as the board shall specify to

1 meet the requirements of subsection (b). Notwithstanding any law
2 to the contrary, an agency, authority, board, commission,
3 council, department or office under the jurisdiction of the
4 Governor shall cooperate with the board in its collection of
5 health insurance or health care coverage data as specified by
6 the board in accordance with this section.

7 (d) Public school entities.--The Secretary of Education
8 shall assist the board in obtaining the necessary data for the
9 study from public school entities and consortia. In the event
10 that it is necessary to facilitate the collection of data from a
11 noncooperating public school entity or consortium, the Secretary
12 of Education may request the State Treasurer to cause the
13 suspension of payment of money due to the noncooperating public
14 school entity or public school entities that are participants in
15 a noncooperating consortium on account of an appropriation for
16 schools or other purposes until the necessary information is
17 properly provided. A public school entity shall be notified
18 before payments are suspended and may appeal to the Secretary of
19 Education and request an extension of time if there have been
20 extenuating circumstances preventing the timely submission of
21 all necessary information. In considering an appeal, the
22 Secretary of Education may grant an extension of time for the
23 public school entity or consortium to provide the necessary
24 information before the suspension is instituted. The board is
25 authorized and shall authorize school entities and consortia to
26 enter into agreements with entities providing or administering
27 coverage for health care benefits under this chapter for the
28 purpose of carrying out the provisions of this section.

29 (e) Health benefit entities.--

30 (1) An entity providing or administering health

1 insurance or health care coverage for public school
2 employees, with the exception of public school entities or
3 consortia as provided for under subsection (d), shall, upon
4 the written request of the board, public school entities,
5 consortia or insured, provide claims and loss information
6 within 60 days of the request or sooner, if so determined by
7 the board.

8 (2) A regulatory authority shall cooperate with the
9 board, if necessary, to obtain information from an insurance
10 company, third-party administrator or other administrator or
11 provider of health insurance benefits for school employees,
12 other than a public school entity or consortium. Following
13 notice and hearing, the board may impose an order assessing a
14 penalty of up to \$1,000 per day upon an entity, other than a
15 public school entity or consortium, that willfully fails to
16 comply with the obligations imposed by this section. If the
17 entity does not comply with the obligations imposed by this
18 section within 15 days of an order being imposed, the board
19 shall notify the regulatory authority of the failure of an
20 entity under the regulatory authority's jurisdiction to
21 provide data as specified in this section. Upon notification,
22 the regulatory authority shall suspend or revoke the license
23 of the entity or otherwise suspend or revoke the entity's
24 ability to operate until the board notifies the regulatory
25 authority that the entity is in compliance. The board shall
26 have standing to petition the Commonwealth Court to seek
27 enforcement of the order.

28 (3) This subsection shall apply to every entity
29 providing or administering group health coverage in
30 connection with providing health care benefits to school

1 employees within this Commonwealth, including plans,
2 policies, contracts or certificates issued by:

3 (i) A stock insurance company incorporated for a
4 purpose specified in section 202(c) of the act of May 17,
5 1921 (P.L.682, No.284), known as The Insurance Company
6 Law of 1921.

7 (ii) A mutual insurance company incorporated for a
8 purpose specified in section 202(d) of The Insurance
9 Company Law of 1921.

10 (iii) A professional health services plan
11 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to
12 professional health services plan corporations).

13 (iv) A health maintenance organization as defined in
14 section 3 of the act of December 29, 1972 (P.L.1701,
15 No.364), known as the Health Maintenance Organization
16 Act.

17 (v) A fraternal benefit society as defined in
18 section 2403 of The Insurance Company Law of 1921.

19 (vi) A hospital plan corporation as defined in 40
20 Pa.C.S. § 6101 (relating to definitions).

21 (vii) Health care plans subject to the Employee
22 Retirement Income Security Act of 1974 (Public Law 93-
23 406, 88 Stat. 829), to the maximum extent permitted by
24 Federal law.

25 (viii) An administrator as defined in section 1002
26 of the act of May 17, 1921 (P.L.789, No.285), known as
27 The Insurance Department Act of 1921.

28 (ix) A person licensed under Article VI-A of The
29 Insurance Department Act of 1921.

30 (x) Any other person providing or administering

1 group health care coverage on behalf of a public school
2 entity, or accepting charges or premiums from a public
3 school entity, in connection with providing health care
4 coverage for school employees, including multiple
5 employer welfare arrangements, self-insured public school
6 entities and third-party administrators.

7 (4) As used in this subsection, the term "regulatory
8 authority" shall include the Insurance Commissioner, the
9 Department of Health and any other agency, authority, board
10 commission, council, department or office under the Governor
11 having regulatory authority over an entity under paragraph
12 (1).

13 (f) Confidentiality.--Data requested by or provided to the
14 board under this section shall comply with the standards for
15 privacy established under the Health Insurance Portability and
16 Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

17 (g) Prepared materials.--

18 (1) Documents, materials or information solely prepared
19 or created for the purpose of implementation of subsection
20 (b) are confidential and may not be discoverable or
21 admissible as evidence in a civil or administrative action or
22 proceeding.

23 (2) Documents, materials, records or information that
24 would otherwise be available from original sources may not be
25 construed as immune from discovery or use in a civil or
26 administrative action or proceeding merely because they were
27 presented to the board.

28 (3) Nothing in this subsection shall be construed to
29 prevent publication or dissemination of the aggregate study
30 findings.

1 (h) Received materials.--Documents, materials or information
2 received by the board or by a department under the jurisdiction
3 of the Governor on the board's behalf for the purpose of
4 implementation of subsection (b) may not be:

5 (1) Discoverable from the board, a department or the
6 submitting entity.

7 (2) Admissible as evidence in any civil or
8 administrative action or proceeding.

9 (3) Construed as immune from discovery or use in a civil
10 or administrative action or proceeding merely because they
11 were received by the board or a department.

12 (i) Document review.--

13 (1) A current or former member or employee of the board
14 or a department shall be allowed to testify as to any matter
15 by reason of the member's or employee's review of documents,
16 materials, records or information submitted to the board by
17 the entity providing health insurance or health care coverage
18 under subsection (b).

19 (2) The enjoinder of testimony does not apply to
20 findings or actions by the board or a department that are
21 public records.

22 (j) Original source document.--In the event an original
23 source document as specified in subsection (g) is determined by
24 a court of competent jurisdiction to be unavailable from the
25 entity providing health insurance or health care coverage in a
26 civil action or proceeding, then, in that circumstance alone,
27 the board may be required by a court order to release that
28 original source document to the party identified in the court
29 order.

30 (k) Right-to-know requests.--Documents, materials or

1 information made confidential by subsection (f) may not be
2 subject to requests under the act of February 14, 2008 (P.L.6,
3 No.3), known as the Right-to-Know Law, or a successor statute.

4 (1) Liability.--Notwithstanding any other provision of law,
5 a person or entity providing documents, materials or information
6 to the board, a department or other entity on the board's behalf
7 may not be held to have violated a criminal law, by reason of
8 having provided the documents, materials or information or to be
9 civilly liable under any law, unless the information is false
10 and the person providing the information knew or had reason to
11 believe that the information was false and was motivated by
12 malice toward a person directly affected by the action.

13 Section 322. Board review and election.

14 (a) Options assessment.--Upon collection of the necessary
15 information, the board shall evaluate existing public school
16 entity health care arrangements, examine options that would
17 aggregate, either Statewide or regionally, health care coverage
18 for public school employees, assess possible cost-management
19 improvements and solicit input from public school entities and
20 consortia identified with best practice standards. The board
21 shall investigate the creation of a Statewide health benefits
22 program under section 331, with the goal of improving the
23 overall affordability of providing health care coverage for
24 public school employees. The cost projections shall be
25 predicated on a plan that provides quality health care benefits
26 at a level consistent with those now provided to most school
27 employees through existing collective bargaining contracts and
28 offers coverage to school employees and other eligible
29 individuals.

30 (b) Election to proceed with program.--No later than 10

1 months after the board is constituted, unless a request by the
2 board for an extension is granted by the Governor, the board
3 shall decide whether to implement a Statewide health benefits
4 program under section 331, or to implement an alternative
5 measures program under section 351, to reduce health coverage
6 costs for public school entities. The board's election to
7 implement a Statewide health benefits program or to implement an
8 alternative measures program shall require approval by a
9 qualified majority vote. Upon election to proceed with a
10 Statewide health benefits program, the board shall develop a
11 plan for adoption under section 323.

12 (c) Alternative election.--If the board decides that a
13 Statewide health benefits program cannot be created in
14 accordance with subsection (a), or the board fails to achieve
15 agreement and approve a plan for implementing a Statewide health
16 benefits program, the board shall proceed with consideration of
17 an alternative measures program that will reduce long-term costs
18 or the rate of growth of those costs in the aggregate for public
19 school entities in accordance with Subchapter E.

20 Section 323. Plan adoption.

21 (a) Statewide health benefits program adoption.--Within
22 three months of electing to proceed with the Statewide health
23 benefits program, under section 322(b), the board shall verify
24 that implementation of a Statewide health care program will
25 result in reduction in the Statewide aggregate cost of the
26 purchase of benefits or the rate of growth of those costs and
27 adopt a proposed plan for the implementation of the program. The
28 proposed plan shall be in writing and shall include a detailed
29 description of the program and the transition procedures
30 necessary to phase in and implement the program. The board's

1 adoption of a proposed plan shall require approval by a
2 qualified majority vote.

3 (b) Parameters of program.--The description of the Statewide
4 health benefits program shall, at minimum, include:

5 (1) The eligibility requirements for a school employee
6 and the employee's health care dependents to qualify for
7 participation in the program.

8 (2) The identification of the benefits to be included as
9 part of the standard benefit package.

10 (3) Disclosure of member cost-sharing contributions,
11 whether expressed as a target percentage of overall program
12 costs or individually determined as a percentage of salary,
13 and whether the cost-sharing is uniform on a Statewide basis
14 or varies by health care region.

15 (4) The designation of health care regions.

16 (5) The design of the Statewide pool or regional pools
17 that would be established to aggregate public school entities
18 for the purpose of purchasing services and managing health
19 insurance risks.

20 (6) The requirements for electronic eligibility
21 transmission between the board and other participating
22 entities, including public school entities, consortia and the
23 retirement system.

24 (7) Financial and accounting plans, including the
25 establishment of necessary reserves or escrow accounts with
26 carriers.

27 (c) Transition procedures.--The description of the steps to
28 phase in and implement the Statewide health benefits program
29 shall, at minimum, include:

30 (1) A determination of when the standard benefit package

1 shall become the mandatory program offering for eligible
2 individuals in a public school entity as health care benefits
3 for school employees are normalized on a Statewide basis.

4 (2) A determination, based on the size and structure of
5 a risk pool established within a health care region, as to
6 when the program would be phased in within that region.

7 (3) The interim steps to aggregate public school
8 entities into a Statewide pool or regional pools, including
9 best practice standards and benchmarks to be applied to new
10 or existing consortia, or public school entities, or in a
11 selection process to build a Statewide or regional pool.

12 (4) Transition rules on member cost-sharing
13 responsibility until member cost-sharing is required for all
14 members Statewide, or within a region.

15 (5) Transition rules to limit a negative financial
16 impact on a public school entity required to purchase health
17 care coverage through a Statewide or regional pool and to
18 normalize contribution rates for all participating public
19 school entities within the same health care region.

20 (d) Alternative measures program adoption.--Within three
21 months of proceeding with consideration of an alternative
22 measures program under section 322(c), the board shall adopt a
23 proposed plan for the implementation of an alternative measures
24 program under Subchapter E that will result in reduction in the
25 Statewide aggregate cost of the purchase of benefits or the rate
26 of growth of the costs. The proposed plan shall be in writing
27 and shall include a detailed description and the transition
28 procedures necessary to phase in and implement the alternative
29 measures program. The board's adoption of a proposed plan for
30 implementation of an alternative measures program shall require

1 approval by a qualified majority vote.

2 (e) Legislative and public review.--

3 (1) The board shall publish the provisions of a proposed
4 plan adopted under this section in the Pennsylvania Bulletin
5 and make it available on the board's publicly accessible
6 Internet website. Following publication, the board shall
7 schedule at least eight public hearings to solicit public
8 input on the plan. The hearings shall be conducted in:

9 (i) Philadelphia County.

10 (ii) Allegheny County.

11 (iii) The Northeast, Northwest, Southeast,
12 Southwest, North Central and South Central regions of
13 this Commonwealth.

14 (2) The board shall submit the provisions of a proposed
15 plan adopted under this section to the chairperson and
16 minority chairperson of the Education Committee of the Senate
17 and the chairperson and minority chairperson of the Education
18 Committee of the House of Representatives. The committees
19 shall have 45 days to review the proposed plan and submit
20 comments to the board.

21 (f) Final plan adoption.--Upon completion of the public
22 hearings under subsection (e)(1) and expiration of the committee
23 review under subsection (e)(2), the board shall review all the
24 testimony and comments received regarding the proposed plan. The
25 board may, subject to a qualified majority vote, make changes
26 and adjustments to the plan to effectuate this chapter. Within
27 90 days of publishing the proposed plan under subsection (e)(1),
28 the board shall publish the final plan as adopted by the board
29 in the Pennsylvania Bulletin and on the publicly accessible
30 Internet website of the Department of Education.

1 (g) Legislative oversight.--The board shall proceed with
2 implementation unless a resolution to the contrary has been
3 adopted within 45 days after publication of the plan in
4 accordance with this subsection. Upon publication of the final
5 adopted plan in the Pennsylvania Bulletin, the board shall
6 submit the plan to the Education Committee of the Senate and the
7 Education Committee of the House of Representatives. Either
8 committee may recommend to its respective chamber whether the
9 board shall be prevented from implementing the plan. If the
10 committee recommends the plan not be implemented, the Secretary
11 of the Senate or the Chief Clerk of the House of Representatives
12 shall place on the calendar for the next legislative day the
13 question, in the form of a resolution, of whether the board
14 shall proceed with implementation. If the resolution is adopted
15 in either chamber, it shall be referred to the Education
16 Committee in the opposite chamber, which may recommend the board
17 not implement the plan. Upon the recommendation, the resolution
18 shall be placed on the calendar of the chamber. If a majority of
19 the members elected to each house approve the resolution, the
20 resolution shall be presented to the Governor for approval or
21 disapproval in accordance with section 9 of Article III of the
22 Constitution of Pennsylvania.

23 (h) Failure to reach consensus.--If the board fails to
24 achieve agreement and approve a plan for implementing a
25 Statewide health benefits program by a qualified majority vote
26 or if the board fails to achieve agreement and approve a plan
27 for implementing an alternative measures program by a qualified
28 majority vote, the board shall report its findings and reasons
29 preventing agreement on a plan to the Governor, the President
30 pro tempore of the Senate and the Speaker of the House of

1 Representatives.

2 SUBCHAPTER D

3 STATEWIDE HEALTH BENEFITS PROGRAM

4 Section 331. Health benefits program.

5 (a) Creation.--Upon adoption of a Statewide health plan
6 under section 323(f), the board shall proceed to initiate and
7 sponsor an employee benefits program for eligible individuals.

8 (b) Program design.--The board shall design a program which
9 follows the parameters of the plan and transition procedures as
10 established in section 323. The board may develop and administer
11 the program itself or operate through a legal entity authorized
12 by law to do so, including a consortium, and the program may be
13 developed and administered differently within each health care
14 region as long as a standard benefit package that is
15 substantially equivalent in coverage, as determined by the
16 board, is available to eligible individuals. The program may
17 also be administered in whole or in part on a fully insured or
18 self-funded basis at the board's sole discretion.

19 (c) Implementation.--The board may:

20 (1) Establish pools for selected areas of coverage,
21 including pharmacy services, transplants, stop-loss
22 insurance, health care management or other possible areas
23 that, in the board's judgment, can be offered Statewide or
24 regionally on a more stable and cost-effective basis. The
25 board may offer separate plans to public school entities and
26 consortia prior to the phase-in of the standard benefit
27 package.

28 (2) Make the program available in some health care
29 regions before it is made available within all regions.

30 (d) Eligibility requirements.--The board shall have full

1 authority to determine eligibility requirements for benefits and
2 to adopt rules and regulations setting forth the same which will
3 be binding on all eligible individuals. No coverage shall be
4 provided for eligible individuals without payment being made,
5 except under circumstances as may be established by the board
6 under reasonable guidelines.

7 (e) Coverage and plan selection.--The board shall have full
8 authority to select and contract with insurance carriers, health
9 maintenance organizations, pharmacy benefit managers, third-
10 party administrators, reinsurers and other entities necessary to
11 provide a range of benefit packages to eligible individuals
12 through the program. The board shall have full authority to
13 determine the nature, amount and duration and discontinuation of
14 coverage to be provided.

15 (f) Standard and optional benefits.--

16 (1) A standard benefit package shall be established by
17 the board that shall include coverage for medical and
18 hospital services and prescription drugs and may include
19 supplemental and other benefits in amounts to be determined
20 by the board.

21 (2) Within each health care region, the board shall
22 approve and make available to each eligible individual
23 affiliated with a public school entity that is participating
24 in the program the following:

25 (i) A health care plan that includes coverage the
26 board determines to be the equivalent of the standard
27 benefit package established in paragraph (1).

28 (ii) One or more alternate health care plans or plan
29 designs that, in the board's judgment, contain benefits
30 equivalent to the standard benefit package in paragraph

1 (1). The deductibles and copayments for each alternate
2 health care plan shall be set and annually adjusted so
3 that the cost of providing the coverage for the
4 Commonwealth and a public school entity is no greater
5 than the cost incurred for the health care plan in
6 subparagraph (i).

7 (iii) One or more optional benefit plans, as
8 approved by the board, that allow an eligible individual
9 to purchase coverage that is not included in the standard
10 benefit package, provided that costs over and above the
11 cost of the health care plan in subparagraph (i) shall be
12 paid by the member except as otherwise provided in
13 section 338(f)(1)(ii).

14 (3) The detailed basis on which payment of benefits is
15 to be made shall be specified in writing. The benefits
16 provided in this chapter are subject to change or
17 modification by the board from time to time as the board, in
18 its discretion, may determine. All changes or modifications
19 shall be specified in writing and communicated to members
20 within a reasonable period of time.

21 Section 332. Mandatory participation and optional membership.

22 (a) Mandatory participation.--The board shall have the
23 authority to require public school entities to participate in
24 the program on a Statewide basis or may phase in and require
25 participation on a regional basis. Except as provided under
26 subsections (c), (d), (e) and (f), public school entities in a
27 health care region designated by the board shall be required to
28 participate in the program.

29 (b) Transition plan.--When the board determines, in
30 accordance with subsection (a), that a public school entity

1 shall be required to participate in the program, the public
2 school entity or consortium in which the public school entity is
3 a participant shall, within a reasonable period of time
4 determined by the board, present to the board a transition plan
5 with a schedule for the eventual migration of school employees
6 into the program. The board shall review the transition plan
7 with the public school entity or consortium and make necessary
8 modifications before granting approval of the plan. A public
9 school entity or consortium shall be subject to adherence to the
10 transition plan approved by the board.

11 (c) Extensions of time.--The board shall give due
12 consideration to a transition plan submitted under subsection
13 (b) that includes a request for an extension of time. Requests
14 may be submitted by at least one of the following:

15 (1) A public school entity that participates in a
16 consortium where an extension of time is necessary for the
17 rundown and proper termination of the consortium's health
18 care program.

19 (2) A public school entity that participates in a
20 consortium where the withdrawal of the public school entity
21 may undermine the financial stability of the consortium.

22 (3) A public school entity or a consortium that will
23 incur a significant financial penalty under terms of a
24 contract with an insurance carrier or other provider of
25 health care coverage for a contract in existence on or before
26 January 1, 2018.

27 (4) A public school entity or consortium that will incur
28 a significant financial cost, including fees, penalties or
29 other contractual financial obligations, related to the
30 termination of coverage under a contract of insurance or, in

1 the case of a public school entity that self-insures,
2 insufficient reserves to pay claims incurred during the
3 previous coverage year, if the obligation relates to a plan
4 of coverage that was in existence on or before January 1,
5 2018, and the public school entity or consortium provides the
6 board with a financial plan for meeting those obligations.

7 (d) Optional membership.--A school district of the first
8 class, as classified under section 202 of the Public School
9 Code, may not be required to participate in the program, except
10 as may be agreed upon under terms of a collective bargaining
11 agreement covering a majority of employees of a school district
12 of the first class. Upon a school district of the first class
13 entering participation in the program under a collective
14 bargaining agreement, continued participation in the program
15 shall become mandatory.

16 (e) Prohibited membership.--A public school entity that, on
17 the effective date of this section, participates in the
18 Pennsylvania Employees' Benefit Trust Fund shall be prohibited
19 from participating in the program, and employees of the public
20 school entity may not elect membership in the program.

21 (f) Transition of employees.--A public school entity that
22 provides some or all of its employees with health benefits
23 through another health care plan by virtue of one or more
24 collective bargaining agreements entered into prior to the
25 effective date of this section may not be required to join the
26 program until expiration of the collective bargaining
27 agreements. The public school entity and some or all of its
28 employees or bargaining representatives of its employees may by
29 mutual agreement and approval of the board join the program at
30 an earlier date. Renewal or extension of a collective bargaining

1 agreement shall constitute its expiration for the purpose of
2 this subsection.

3 Section 333. Continuation of coverage and transfer employees.

4 (a) Annuitants.--Upon retirement, an annuitant eligible
5 under paragraph (1) or (2) shall have the option to elect
6 coverage in the program, including coverage for an eligible
7 health care dependent. The annuitant shall be responsible to pay
8 the full cost of the coverage, unless a public school entity has
9 agreed, separate from the requirements of the program, to pay
10 toward the coverage in accordance with an award of health
11 benefits under a written policy or agreement collectively
12 bargained or otherwise entered into by the public school entity.
13 The board shall annually determine the cost of coverage as
14 follows:

15 (1) For an annuitant who is enrolled in the program
16 under section 513 of the Public School Code or an annuitant
17 who, in accordance with an award of health benefits for
18 annuitants under a written policy or agreement, collectively
19 bargained or otherwise entered into by the public school
20 entity prior to the effective date of this section, payments
21 shall be based on the total contribution rate established
22 under section 334(b) and (c) for a school employee in the
23 same health care region, plus a 2% administrative fee.

24 (2) For an annuitant, other than an annuitant qualified
25 for coverage under paragraph (1), payments shall be made on
26 the same basis as an annuitant qualified for coverage under
27 paragraph (1), except:

28 (i) The board shall periodically have the actuary
29 review and determine the separate cost of providing
30 continuation of coverage to annuitants under this

1 paragraph, along with an assessment of its impact on the
2 cost of providing coverage to members who are school
3 employees and annuitants qualified for coverage under
4 paragraph (1). The review and assessment shall first
5 occur as part of the school employee health benefits
6 study and evaluation conducted under section 321 and its
7 results shall be considered in the development of
8 parameters under section 323(b).

9 (ii) The board shall consider the findings of the
10 actuary in subparagraph (i) to determine if there is a
11 substantial impact on the cost of providing coverage to
12 members who are school employees and annuitants qualified
13 for coverage under paragraph (1). If there is a
14 substantial cost impact, the board shall require payments
15 for an annuitant qualified to elect coverage in the
16 program under this paragraph to be separately determined
17 and the contribution rate to be based on the
18 disaggregated cost of providing the coverage, plus a 2%
19 administrative fee.

20 (b) Separation from service.--The board shall determine the
21 eligibility of members, other than annuitants covered by
22 subsection (a), to elect continuation of coverage in the program
23 upon separation from service as a school employee. The member
24 shall be responsible to pay the full cost of the coverage in the
25 member's health care region, plus an administrative fee to be
26 set by the board. The board shall, at minimum, provide
27 continuation of coverage eligibility that meets the requirements
28 of Title X of the Employee Retirement Income Security Act of
29 1974 (Public Law 99-272, 29 U.S.C. § 1161 et seq.) and provide
30 the continuation of coverage options required under 51 Pa.C.S. §

1 7309 (relating to employment discrimination for military
2 membership or duty) for members on military leave.

3 (c) Transfer employees.--The board may, in its discretion,
4 approve the participation of transfer employees in the program.
5 A transfer employee who is provided health benefits in a health
6 care plan sponsored by a public school entity through an
7 agreement with the transfer employee's employer that was in
8 existence on or before January 1, 2018, shall be allowed to
9 participate in the program. The board shall set the terms and
10 conditions necessary for participation in the program, including
11 the cost of coverage to be paid by the third-party entity, which
12 shall be based on the full cost of coverage in the health care
13 region as determined by the board, plus an administrative fee.
14 The sponsoring public school entity shall be responsible to the
15 board for the collection of the payments for transfer employees
16 from the third-party entity.

17 Section 334. Partnership for stable benefits funding.

18 (a) Basis of partnership.--In recognition that the long-term
19 viability and stability of the program will require public
20 school entity employers, members and the Commonwealth to be
21 partners, both in sustaining the health benefits program and in
22 managing the costs of a reasonable and appropriate standard
23 benefit package, the board shall determine for each plan year
24 and in each region the payments due from public school entities,
25 from members and from the Commonwealth.

26 (b) Determination of contribution rate.--The board shall
27 determine for each plan year the total amount of the
28 contributions by the Commonwealth, public school entities and
29 school employees required to provide projected benefits for that
30 plan year under the standard benefit package on behalf of each

1 school employee member and the employee's eligible health care
2 dependents. The contribution rate shall consist of the amount
3 required to provide the standard benefit package, including
4 appropriate reserves and administrative expenses, and shall be
5 adjusted for each health care region to reflect the cost of
6 benefits in that region. The contribution rates may
7 differentiate between single coverage for members only and types
8 of family coverage, as determined by the board.

9 (c) Certification of rate.--The board shall certify the
10 contribution rate for each health care region to the
11 Commonwealth and public school entities, including the payments
12 that shall be due from public school entities, from members and
13 from the Commonwealth. The certifications shall be regarded as
14 final and may not be subject to modification by the Secretary of
15 the Budget.

16 (d) Commonwealth cost share.--The Commonwealth shall make a
17 contribution to offset a portion of the cost increase consistent
18 with subsections (e) and (f) for a plan year in which the board
19 determines that the aggregate cost of providing the standard
20 benefit package on behalf of members who are school employees
21 and their eligible health care dependents exceeds the sum of:

22 (1) the projected carry-over balance for the plan year
23 in the employer contribution account after all required
24 transfers have been made to the employee benefits account for
25 the prior year; and

26 (2) employee cost-sharing for the plan year.

27 (e) Budget submission and appropriation.--If the board
28 determines that the requirements of subsection (d) have been
29 met, all of the following shall occur:

30 (1) The board shall submit to the Secretary of the

1 Budget an itemized budget specifying the amount necessary to
2 be appropriated by the Commonwealth consistent with
3 subsection (f). The budget submission shall be on a form and
4 in a manner determined by the Secretary of the Budget and
5 shall occur no later than November 1 of the fiscal year
6 preceding the plan year for which funds are requested.

7 (2) Upon appropriation by the General Assembly to
8 provide for the obligations of the Commonwealth, the amount
9 shall be paid by the State Treasurer through the Department
10 of Revenue into the employer contribution account within 30
11 days of receipt of the requisition presented each month by
12 the board.

13 (f) Limitation on Commonwealth contribution.--

14 (1) The Commonwealth shall not be obligated to pay an
15 amount beyond that which is appropriated by the General
16 Assembly. The amount requested by the board under subsection
17 (e) (1) may not exceed the sum of an amount paid by the
18 Commonwealth for the fiscal year preceding the plan year for
19 which funds are requested and the lesser of:

20 (i) fifty percent of the amount that the board
21 determines is necessary to meet the increase in the
22 contribution rate on behalf of members who are school
23 employees determined under subsection (b); and

24 (ii) the product of the total revenue transferred in
25 the prior plan year from the employer contribution
26 account to the employee benefits account and the most
27 recent annual percent change in the per-enrollee private
28 health insurance premium for all benefits, as defined in
29 the National Health Expenditure Data published by the
30 Centers for Medicare and Medicaid Services, United States

1 Department of Health and Human Services.

2 (2) If excess revenue in the employer contribution
3 account is to be applied to payments for the plan year, then
4 the excess revenue shall be used to reduce the calculation
5 under this subsection in proportion to the Commonwealth's
6 share of the total increase in the contribution rate on
7 behalf of active members for the plan year.

8 (g) Additional optional contribution.--Notwithstanding the
9 limitation in subsection (f), the General Assembly may
10 appropriate additional revenue to the employer contribution
11 account in any fiscal year.

12 (h) Allocation of Commonwealth contribution.--

13 (1) A contribution made by the Commonwealth under this
14 section shall be used to offset an increase in the
15 contribution rate paid in a health care region by public
16 school entities on behalf of members who are school employees
17 and their eligible health care dependents and to maintain an
18 offset that was paid in a prior year. The Commonwealth
19 contribution shall be allocated to offset a portion of each
20 participating public school entity's cost of coverage on a
21 per-member basis, for members who are school employees and
22 their eligible health care dependents, based on the public
23 school entity's market value/income aid ratio using the most
24 recent data provided by the Department of Education.

25 (2) For a public school entity that is not assigned a
26 market value/income aid ratio by the Department of Education,
27 the Commonwealth contribution shall not be adjusted based on
28 a market value/income aid ratio.

29 (3) For the purpose of this subsection, "market
30 value/income aid ratio" shall have the same meaning given to

1 it in the Public School Code.

2 (i) Contributions on behalf of school employees.--Consistent
3 with a transition procedure under section 323(c)(5), each public
4 school entity shall be required to make payments to the trust
5 fund on behalf of members who are school employees and their
6 eligible health care dependents based on the contribution rate
7 certified by the board in subsection (c). The increase in
8 payments made from one year to the next by public school
9 entities on behalf of school employees shall be equal to or
10 greater than the increase in payment from one year to the next
11 made under subsection (d), excluding additional optional
12 contributions made by the Commonwealth under subsection (g).

13 (j) Deduction from appropriations.--In the event a public
14 school entity does not make the required payment in the time
15 allotted, as determined by the board, the Secretary of Education
16 and the State Treasurer shall cause to be deducted and paid into
17 the trust fund from the amount of money due to a public school
18 entity on account of an appropriation for schools or other
19 purposes the amount due to the trust fund as certified by the
20 board and as remains unpaid on the date the appropriations would
21 otherwise be paid to the public school entity by the Department
22 of Education, and the amount shall be credited to the public
23 school entity's account in the trust fund.

24 (k) Transition.--

25 (1) Until a transition under section 323(c)(5) has been
26 completed, the payments made by each public school entity
27 shall be no less than the total amount paid by the public
28 school entity to provide, purchase and administer health care
29 benefits to members who are school employees and their
30 eligible health care dependents in the year before

1 implementation of the program.

2 (2) Contributions received by the public school entity
3 from school employees in the form of cost-sharing payments
4 for health care coverage shall be excluded from the amount.

5 (1) Referendum exception.--

6 (1) In addition to the exceptions provided for in
7 section 333(f) of the act of June 27, 2006 (1st Sp.Sess.,
8 P.L.1873, No.1), known as the Taxpayer Relief Act, the costs
9 specified in paragraph (2) shall constitute an exception to
10 the referendum requirements of section 333(c) of the Taxpayer
11 Relief Act subject to department approval under section
12 333(j) of the Taxpayer Relief Act.

13 (2) Costs incurred by a school district in providing
14 health care-related benefits which are attributable to the
15 school district's participation in the program shall
16 constitute an expenditure for purposes of section 333(f) (1)
17 and (2) of the Taxpayer Relief Act to the extent that the
18 anticipated increase in the costs between the current year
19 and the upcoming year is greater than the index established
20 for the school district under section 313(1) (ii) of the
21 Taxpayer Relief Act. The dollar amount of this exception
22 shall be equal to the portion of the increase which exceeds
23 the index established for the school district under section
24 313(1) (ii) of the Taxpayer Relief Act.

25 Section 335. Powers and duties of board.

26 (a) Powers.--In addition to the powers granted by other
27 provisions of this chapter, the board shall have the powers
28 necessary or convenient to carry out this subchapter, including
29 the power to:

30 (1) Determine appropriate geographic health care regions

1 for the administration of the program and make changes to the
2 regions as necessary.

3 (2) Formulate and establish the conditions of
4 eligibility, including:

5 (i) Eligibility for health care dependent coverage
6 for members, to include consideration if a member or
7 health care dependent is covered, or eligible for
8 coverage, under another employer-sponsored group health
9 insurance plan.

10 (ii) Provisions for payment of benefits.

11 (iii) All other provisions that may be required or
12 necessary to carry out the intent and purpose of the
13 program.

14 (3) Determine and make necessary changes to the standard
15 benefit package and benefit structure of the program.

16 (4) Establish copayments, annual deductibles,
17 coinsurance levels, exclusions, formularies and other
18 coverage limitations and payment responsibilities of members
19 incurred at the time of service.

20 (5) Set and adjust member cost-sharing contributions to
21 be expressed as a target percentage of overall program costs
22 or individually determined as a percentage of salary. The
23 board shall determine whether member cost-sharing shall be
24 uniform on a Statewide basis or shall vary by health care
25 region.

26 (6) Impose and collect necessary fees and charges.

27 (7) Determine enrollment procedures.

28 (8) Establish procedures for coordination of benefits
29 with other plans and third-party payers, including
30 coordinating benefits or contracting directly with Medicare.

1 (9) Establish a plan with the retirement system to
2 coordinate health care coverage for annuitants between the
3 program established by this chapter and the group health
4 insurance program sponsored by the retirement system under
5 the provisions of 24 Pa.C.S. Ch. 89 (relating to group health
6 insurance program) and to coordinate the sharing of
7 information pertaining to premium assistance payment
8 transfers.

9 (10) Set and adjust contribution rates sufficient to
10 maintain the adequacy of reserves established by this chapter
11 and to fully fund the benefits offered by and to pay for the
12 administrative expenses related to the program.

13 (11) Set and adjust costs for members electing to
14 continue coverage upon retirement or separation from
15 employment. The board may establish different cost rates to
16 be charged for different categories of members electing to
17 continue coverage.

18 (12) Purchase insurance or employ self-insurance, alone
19 or in combination, to provide benefits as shall be determined
20 by the board.

21 (13) Establish appropriate reserves based on generally
22 accepted standards as applied by Federal and State regulators
23 to similar types of plans.

24 (14) Issue self-liquidating debt or borrow against
25 contributions, payments or other accounts receivable for the
26 purposes of prepaying health benefits, establishing reserves
27 or otherwise lowering the cost of coverage.

28 (15) Establish procedures to verify the accuracy of
29 statements and information submitted by eligible individuals
30 on enrollment forms, claim forms or other forms.

1 (16) Receive and collect all contributions due and
2 payable to the accounts or delegate to a public school entity
3 or claims processor the right to receive contributions,
4 payments or perform ministerial functions required to assert
5 the board's rights. In so doing, the board shall have the
6 right to:

7 (i) Maintain actions and legal proceedings necessary
8 for the collection of contributions.

9 (ii) Prosecute, defend, compound, compromise,
10 settle, abandon or adjust actions, suits, proceedings,
11 disputes, claims, details and things related to the
12 accounts and program.

13 (17) Establish procedures to hear and determine claims
14 and controversies under this chapter.

15 (18) Promulgate rules and regulations regarding the
16 administration of the program, including the establishment of
17 the plan year.

18 (19) Ensure that a public school entity provides
19 detailed information about the program to eligible employees
20 at least 90 days before program coverage begins to be offered
21 to school employees.

22 (20) Seek and take all necessary steps to retain
23 eligibility for the members, the public school entities and
24 the Commonwealth to receive tax-preferred or tax-free
25 treatment under the IRC for contributions to and earnings of
26 the trust fund.

27 (21) Enter into agreements with entities providing or
28 administering coverage for health benefits under this chapter
29 for the electronic exchange of data between the parties at a
30 frequency as determined by the board.

1 (22) Perform actions that may be properly incidental to
2 the exercise of powers, rights, duties and responsibilities
3 of the board.

4 (23) Determine best practice standards and benchmarks
5 for consortia in a selection process to build a Statewide
6 pool or regional pools, including the power to require a
7 consortium to merge with another consortium. The board shall
8 have the power to require consortia, as a condition of
9 continued participation in the program, to accept a public
10 school entity applying to join and participate in a
11 consortium.

12 (24) Enter into agreements with a public school entity
13 or consortium to implement the program developed under this
14 chapter and delegate powers necessary to administer coverage
15 for health benefits.

16 (b) Administrative duties of board.--The administrative
17 duties imposed on the board by this section shall be in addition
18 to other duties of the board provided in this chapter.

19 (c) Regulations and procedures.--The board shall, with the
20 advice of the Office of General Counsel and the actuary, adopt
21 and promulgate rules and regulations for the uniform
22 administration of the program. The actuary shall approve in
23 writing all computational procedures used in the calculation of
24 contributions and the cost of benefits, and the board shall by
25 resolution adopt the computational procedures prior to their
26 application by the board. The rules, regulations and
27 computational procedures as so adopted from time to time and as
28 in force and effect at any time, together with tables that are
29 adopted as necessary for the calculation of contributions and
30 the cost of benefits, shall be effective as if enumerated in

1 this chapter.

2 (d) Data.--The board shall keep in electronic format records
3 of claims, eligibility and other data as stipulated by the
4 actuary so that an annual contribution rate determination for
5 each health care region and various program options can be
6 completed within six months of the close of each plan year. The
7 board shall have final authority over the means by which data is
8 collected, maintained and stored and, in so doing, shall protect
9 the rights of its membership as to privacy and confidentiality.

10 (e) Annual financial statement.--The board shall prepare and
11 have published within six months following the end of each plan
12 year a financial statement showing the condition of the trust
13 fund as of the end of the previous plan year. The board shall
14 submit said financial statement to the Governor and shall make
15 copies available to public school entities for the use of the
16 school employees and the public.

17 (f) Independent audit.--The board shall provide for an
18 annual audit of the trust fund by an independent certified
19 public accounting firm.

20 (g) Manual of regulations.--The board shall, with the advice
21 of the Office of General Counsel and the actuary, prepare within
22 six months of the commencement of a program adopted under this
23 chapter a manual incorporating rules and regulations consistent
24 with the provisions of this chapter for each participating
25 public school entity that shall make information contained in
26 the manual available to school employees. The board shall
27 thereafter advise public school entities within 90 days of
28 changes in rules and regulations due to changes in the law or
29 due to changes in administrative policies.

30 (h) Annual budget.--The board shall establish an annual

1 budget for the program and make disbursements from the trust
2 fund that are consistent with the budget.

3 (i) Program assistance.--The board may solicit and accept
4 grants, loans and other aid from a person, corporation or other
5 legal entity or from the Federal, State or local government and
6 participate in a Federal, State or local government program if
7 necessary for prudent management of the program.

8 (j) Functions.--The board shall perform other functions as
9 are required for the execution of this chapter and shall have
10 the right to inspect employment records of public school
11 entities.

12 (k) Qualified majority voting provision.--A qualified
13 majority vote shall be required on a matter voted upon by the
14 board affecting the development of or change in:

15 (1) The plan to implement the program adopted under
16 section 323(f).

17 (2) The standard benefit package, benefit options or
18 plan design offered by the program to covered employees.

19 (3) Membership eligibility criteria.

20 (4) The status of an insurance carrier, benefits
21 administrator or other major contractor in the administration
22 of benefits, status of a health care provider network.

23 (5) A determination on the use of excess fund payments.

24 (6) The overall per-employee cost of the standard
25 benefit package to the trust fund and a public school entity
26 funding and member cost-sharing responsibilities.

27 (7) Cost containment measures, including managed care,
28 wellness centers and large case management.

29 (8) Contracts valued at more than \$25,000,000.

30 (9) The trust document, bylaws or major internal

1 operating policies or procedures, including claims appeal
2 procedures, not to include routine ministerial functions.

3 (10) The alternative measures program created under
4 section 351(a).

5 (11) The employment of and contracts with consultants
6 and professional personnel.

7 (1) Duties conferred upon secretary.--The secretary of the
8 board shall supervise a staff of administrative, technical and
9 clerical employees engaged in recordkeeping and clerical
10 processing activities in maintaining files of members,
11 accounting for contributions, processing payments, preparing
12 required reports and counseling.

13 Section 336. Public School Employees' Benefit Trust Fund.

14 (a) Establishment of trust fund.--The Public School
15 Employees' Benefit Trust Fund is established in the State
16 Treasury. Money in the trust fund is appropriated on a
17 continuing basis and shall be used exclusively for the purposes
18 specified in this chapter. All of the assets of the trust fund
19 shall be maintained and accounted for separately from all other
20 funds and money of the Commonwealth. The Treasury Department
21 shall credit to the trust fund all money received from the
22 Department of Revenue arising from the contributions required
23 under this chapter and all earnings from investments or money in
24 the trust fund. There shall be established and maintained by the
25 board several ledger accounts, including:

26 (1) An employee benefits account, which shall be
27 credited the payments from section 333(a), (b) and (c),
28 payments from members for cost sharing and additional member-
29 paid costs associated with optional benefit packages elected
30 by members and transfers from the employer contribution

1 account as provided under paragraph (3). All earnings derived
2 from investment of the assets of the employee benefits
3 account shall be credited to this account. The board is
4 authorized to separately invest the amounts in the employee
5 benefits account in a prudent manner intended to maximize the
6 safety of the capital contained in the employee benefits
7 account. Payments for member health care benefits and the
8 direct administrative expenses of the board related to the
9 administration of the employee benefits program under section
10 312(d) shall be charged to this account.

11 (2) A restricted reserve account, as follows:

12 (i) More than one account may be established if the
13 board determines it necessary to have segregated
14 accounts, which shall be for the purpose of establishing
15 and maintaining a reserve or separate reserves sufficient
16 to:

17 (A) pay the expected claims experience of the
18 program in the event the board elects to self-fund
19 all or a portion of the program for a plan year;

20 (B) prefund the accrued liability for
21 postretirement health care benefits earned by
22 employees enrolled in the program under section
23 333(a)(1) as the benefit is earned by the employees;
24 and

25 (C) amortize the unfunded actuarial accrued
26 liability for postretirement health care benefits
27 already earned by employees and annuitants under
28 section 333(a)(1) in the event the board elects to
29 assume all or a portion of the liability. The board
30 shall use an amortization period that does not exceed

1 30 years for this purpose.

2 (ii) The board shall annually establish through an
3 actuary retained by the board any amount necessary to
4 establish and maintain a reserve or separate reserves
5 sufficient for the purposes of this paragraph. Money
6 needed to maintain the reserve or separate reserves
7 established under this paragraph shall be collected
8 through the adjustment of the contribution rate
9 established under section 334(b) and (c) or through other
10 available sources.

11 (iii) The money in a reserve account may be invested
12 by the board separate from other money of the trust fund.
13 All earnings derived from investment of the assets of a
14 reserve account shall be credited to the reserve account.

15 (3) An employer contribution account, to which shall be
16 credited all contributions made by the Commonwealth as
17 determined in accordance with section 334(e) and payments
18 from public school entities as determined in accordance with
19 section 334(i), as well as all earnings derived from the
20 investment of the assets of the employer contribution
21 account. The total amount of the Commonwealth and public
22 school entity contributions required to provide the standard
23 benefit package on behalf of all members who are school
24 employees and their eligible health care dependents shall be
25 transferred on a monthly basis to the employee benefits
26 account.

27 (b) Composition.--The trust fund shall consist of:

28 (1) All payments made by members or received from the
29 Commonwealth and public school entities and all interest,
30 earnings and additions thereto.

1 (2) Other money, public or private, appropriated or made
2 available to the board for the trust fund or a reserve
3 account from any source and all interest, earnings and
4 additions to the trust fund or reserve account.

5 (c) Administration of trust and associated funds.--The
6 assets of the trust fund shall be preserved, invested and
7 expended solely under and for the purposes specified in this
8 chapter.

9 (d) Control and management of trust fund.--

10 (1) The board shall have exclusive control and
11 management of the trust fund and full power to invest and
12 manage the assets of each account of the trust fund as a
13 prudent investor would, by considering the purposes, terms
14 and other circumstances of each account and by pursuing an
15 overall investment strategy reasonably suited to the trust
16 fund.

17 (2) The board may invest in every kind of property and
18 type of investment, including mutual funds and similar
19 investments, consistent with this subsection.

20 (3) In making investment and management decisions, the
21 board shall consider, among other things, to the extent
22 relevant to the decision or action:

23 (i) the size and nature of the account;

24 (ii) the liquidity and payment requirements of the
25 account;

26 (iii) the role that each investment or course of
27 action plays in the overall investment strategy;

28 (iv) to the extent reasonably known to the board,
29 the needs for present and future payments; and

30 (v) the reasonable diversification of assets, taking

1 into account the purposes, terms and other circumstances
2 of the trust fund and the requirements of this section.

3 (e) Custodian of trust fund.--The State Treasurer shall be
4 the custodian of the trust fund.

5 (f) Name for transacting business.--By the name of "The
6 Public School Employees' Benefit Trust Fund," all of the
7 business of the trust fund shall be transacted, its fund
8 invested, all requisitions for money drawn and payments made and
9 all of its cash and securities and other property held. Any
10 other law to the contrary notwithstanding, the board may
11 establish a nominee registration procedure for the purpose of
12 registering securities in order to facilitate the purchase, sale
13 or other disposition of securities.

14 (g) Payment from trust fund.--All payments from the trust
15 fund shall be made by the State Treasurer in accordance with
16 requisitions signed by the secretary of the board or the
17 secretary's designee. The board shall reimburse the State
18 Treasurer for the cost of making disbursements from the trust
19 fund.

20 (h) Fiduciary status of board.--Board members, employees of
21 the board and agents thereof shall stand in a fiduciary
22 relationship to the members regarding the investments and
23 disbursements of money of the trust fund and shall not profit
24 either directly or indirectly with respect thereto.

25 (i) Transfers.--The board may transfer money among the
26 various accounts of the trust fund, including reserve accounts
27 established under subsection (a) (2), as may be necessary to
28 satisfy the provisions of this chapter. Transfers from funds
29 retained in the reserve account under subsection (a) (2) (i) (A)
30 may be made only for the payment of claims or expected claims as

1 determined by the actuary retained by the board. Transfers from
2 funds retained in the reserve account under subsection (a) (2) (i)
3 (B) or (C) may be made only for paying toward the cost of
4 providing health care benefits to annuitants enrolled in the
5 program under section 333(a) (1).

6 (j) Additional powers of board.--The board may:

7 (1) Adopt, from time to time, appropriate investment
8 policy guidelines and convey them to fiduciaries who have the
9 responsibility for the investment of funds.

10 (2) Retain a portion of the money of the accounts in
11 cash or cash balances as the board may deem desirable,
12 without liability or interest thereon.

13 (3) Settle, compromise or submit to arbitration all
14 claims or damages due from or to the accounts, commence or
15 defend legal, equitable or administrative proceedings brought
16 in connection with the program and represent the trust fund
17 in all proceedings under this paragraph.

18 (k) Additional duties of secretary.--The secretary of the
19 board shall serve as liaison to the Treasury Department, the
20 Department of the Auditor General and between the board, the
21 investment counsel and the mortgage supervisor in arranging for
22 investments to secure maximum returns to the trust fund.

23 Section 337. Misrepresentation, refusal to cooperate and fraud.

24 (a) Misrepresentation.--If an eligible individual or a
25 person acting on behalf of the eligible individual makes a false
26 statement or withholds information on the application for
27 enrollment with intent to deceive or affect the acceptance of
28 the enrollment application or the risks assumed by the program,
29 or otherwise misleads the board, the board shall be entitled to
30 recover damages, including legal fees, from the eligible

1 individual or from another person responsible for misleading the
2 board and from the person for whom the benefits were provided. A
3 material misrepresentation on the part of the eligible
4 individual in making application for coverage or an application
5 for reclassification or for service thereunder shall render the
6 coverage under the program null and void.

7 (b) Refusal to cooperate.--

8 (1) The board may refuse or cease to pay benefits on
9 behalf of an eligible individual who fails to sign a document
10 deemed by the board to be relevant to protecting its
11 subrogation rights or certifying eligibility or who fails to
12 provide relevant information when requested.

13 (2) As used in this subsection, the term "information"
14 includes documents, insurance policies, police reports or a
15 reasonable request by the claims processor to enforce the
16 board's rights.

17 (c) Penalty for fraud.--

18 (1) If the board finds that an eligible individual is
19 receiving benefits based on false information, the additional
20 amounts received predicated on the false information,
21 together with interest doubled and compounded and legal fees,
22 shall be due from the member.

23 (2) To secure payment of funds, the board shall have the
24 right to garnish or attach all or a portion of compensation
25 payable to any party by the party's employer, an annuity
26 payable to the party by the retirement system, accumulated
27 deductions held by the retirement system in the party's
28 account or another process.

29 Section 338. Miscellaneous provisions.

30 (a) Construction of chapter.--

1 (1) Termination or other modification of the program,
2 including a change in rates, benefits options or structure of
3 the provision of health care benefits, may not give rise to
4 contractual rights or claims by eligible individuals or other
5 persons claiming an interest, either directly or indirectly,
6 in the program. No provisions of this chapter, nor rule or
7 regulation adopted under this chapter, shall create in any
8 person a contractual right in that provision.

9 (2) The provisions of this chapter are severable and if
10 any of its provisions shall be held to be unconstitutional,
11 the decision of the court shall not affect or impair any of
12 the remaining provisions. It is the legislative intent that
13 this chapter would have been adopted had the unconstitutional
14 provisions not been included.

15 (3) This subsection may not apply to policies designed
16 primarily to provide coverage payable on a per diem, fixed
17 indemnity or non-expense-incurred basis, or policies that
18 provide accident only coverage, where payment for the policy
19 is made solely by the school employee.

20 (b) Hold harmless.--Neither the Commonwealth nor the board,
21 including their respective officers, directors and employees,
22 shall be liable for any claim, demand, action or liability of
23 any nature, including attorney fees and court costs, based upon
24 or arising out of the operations of the program, whether
25 incurred directly or indirectly. The eligible individuals who
26 enroll and participate in the program shall be deemed to agree,
27 on behalf of themselves and their heirs, successors and assigns,
28 to hold harmless the Commonwealth and the board, including their
29 respective officers, directors and employees, from any claim,
30 demand, action or liability of any nature, whether directly or

1 indirectly, including attorney fees and court costs, based upon
2 or arising out of the operation of the program.

3 (c) No recourse.--Under no circumstances shall the assets of
4 the Commonwealth be liable for or used to pay any claim, demand,
5 action or liability of any nature, whether directly or
6 indirectly, including attorney fees and court costs, based upon
7 or arising out of the operation of the program.

8 (d) Reservation of immunities.--Nothing contained in this
9 chapter shall be construed as a waiver of the Commonwealth's or
10 board's immunities, defenses, rights or actions arising out of
11 their sovereign status or from the Eleventh Amendment to the
12 Constitution of the United States.

13 (e) Collective bargaining, mediation and binding
14 arbitration.--Except as otherwise provided in subsection (f),
15 nothing in this chapter or in any other law shall be construed
16 to permit, authorize or require collective bargaining, mediation
17 or binding arbitration to create, alter or modify health
18 benefits provided under this chapter or administered by the
19 board for school employees and their health care dependents.
20 Further, except as otherwise provided in subsection (f), nothing
21 in this chapter or in any other law shall be construed to
22 permit, authorize or require a public school entity, through
23 collective bargaining, mediation, binding arbitration or
24 otherwise, to establish, create, alter or modify a health
25 benefits plan or pay health benefits provided under this chapter
26 or administered by the board that modify or supplement the
27 health benefits provided under this chapter for school employees
28 and their health care dependents.

29 (f) Exceptions.--

30 (1) The parties may:

1 (i) Continue to engage in collective bargaining with
2 regard to health benefits until the board-sponsored
3 program under this subchapter is released and the
4 standard benefit package is made available to employees
5 of a public school entity. However, health benefits
6 provided under a collective bargaining agreement entered
7 into on or after the effective date of this section shall
8 contain a provision that school employees covered by the
9 agreement must join the board-sponsored program as
10 required by section 332 as a condition of continuing to
11 receive health benefits. The board shall determine the
12 appropriate timing and phase-in of the program in a
13 public school entity, taking into consideration the need
14 for the public school entity to properly terminate an
15 existing health benefits arrangement.

16 (ii) Negotiate or otherwise agree to provide or make
17 payment for supplemental benefits that have not been
18 included as part of the standard benefit package.

19 (2) Nothing in this chapter shall be construed to
20 restrict a public school entity from negotiating or otherwise
21 agreeing to make payment for postretirement health benefits
22 for members or as may be provided for in Subchapter F.

23 (g) Initial qualified majority vote requirement.--A
24 qualified majority vote of the board that occurs on or before
25 December 31, 2019, must include the support of the Secretary of
26 the Budget or the Insurance Commissioner.

27 SUBCHAPTER E

28 ALTERNATIVE MEASURES FOR COST REDUCTION

29 Section 351. Alternative measures program.

30 (a) Creation.--Upon completing the study required under

1 section 321 with either a negative recommendation to proceed
2 with implementation of a Statewide health care program or if the
3 board fails to achieve agreement and approve a plan for
4 implementing a Statewide health benefits program by a qualified
5 majority vote, the board shall proceed to initiate and sponsor
6 an alternative measures program to reduce the costs for public
7 school entities in providing health care coverage to employees
8 and other eligible individuals.

9 (b) Program design.--In designing an alternative measures
10 program, the board may consider all of the following:

11 (1) Establishment of pools for selected areas of
12 coverage, including pharmacy services, transplants, stop-loss
13 insurance, health care management or other possible areas
14 that, in the board's judgment, can be offered Statewide or
15 regionally on a more stable and cost-effective basis.

16 (2) Assistance in the formation of consortia to serve
17 public school entities that do not have the option of joining
18 an existing consortium.

19 (3) Development of best practice standards and
20 benchmarks for public school entities and consortia-
21 sponsoring health care plans for school employees.

22 (4) Requirements that public school entities and
23 consortia aggregate into larger regional pools, with opt-out
24 provisions for public school entities or consortia that meet
25 best practice standards and benchmarks.

26 (5) Requirements for public disclosure by public school
27 entities and consortia comparing their health benefits
28 purchasing to established best practice standards in their
29 region.

30 (c) Implementation.--The board shall have full authority to

1 select and contract with insurance carriers, health maintenance
2 organizations, pharmacy benefit managers, third-party
3 administrators, reinsurers and other entities necessary to
4 provide the selected areas of coverage. The board shall have
5 full authority to determine the nature, amount, duration and
6 discontinuation of coverage to be provided.

7 (d) Mandatory and optional participation.--The board shall
8 have the authority to require public school entities and
9 consortia to participate in the alternative measures program.

10 (e) Transition plan.--If the board determines that a public
11 school entity or consortium be required to participate in the
12 alternative measures program, the public school entity or
13 consortium shall, within a reasonable period of time determined
14 by the board, present to the board a transition plan with a
15 schedule for the public school entity or consortium to join the
16 alternative measures program. The board shall review the
17 transition plan with the public school entity or consortium and
18 make necessary modifications before granting approval of the
19 plan. A public school entity or consortium shall be subject to
20 adherence to the transition plan approved by the board.

21 (f) Extensions of time.--The board shall give due
22 consideration to a transition plan submitted under subsection
23 (e) that includes a request for an extension of time.
24 Consideration shall be given to a public school entity or
25 consortium which will incur a significant financial cost or
26 penalty.

27 (g) Prohibited membership.--A public school entity that
28 participates in the Pennsylvania Employees' Benefit Trust Fund
29 shall be prohibited from participating in the alternative
30 measures program.

1 (h) Transition of employees.--A public school entity that
2 provides some or all of its employees with health benefits
3 through another health care plan by virtue of one or more
4 collective bargaining agreements entered into prior to the
5 effective date of this section shall not be required to join the
6 alternative measures program until expiration of the collective
7 bargaining agreements. The public school entity and some or all
8 of its employees, or bargaining representatives of its
9 employees, may, by mutual agreement and approval of the board,
10 join the program at an earlier date. Renewal or extension of a
11 collective bargaining agreement shall constitute its expiration
12 for the purposes of this subsection.

13 (i) Optional membership.--No school district of the first
14 class, as classified under section 202 of the Public School
15 Code, shall be required to participate in the alternative
16 measures program, except as may be agreed upon under the terms
17 of a collective bargaining agreement covering a majority of
18 employees of the school district. Upon a school district of the
19 first class entering participation in the alternative measures
20 program under a collective bargaining agreement, continued
21 participation in the alternative measures program shall become
22 mandatory.

23 SUBCHAPTER F

24 RETIREMENT HEALTH SAVINGS PLAN

25 Section 361. Retirement health savings plan.

26 (a) Plan created.--The board shall establish a retirement
27 health savings plan through which school employees can save to
28 cover health-related expenses following retirement. For this
29 purpose the board shall make available one or more trusts,
30 including a governmental trust or governmental trusts authorized

1 under the IRC as eligible for tax-preferred or tax-free
2 treatment. The board may promulgate regulations regarding the
3 prudent and efficient operation of the retirement health savings
4 plan, including:

5 (1) Establishment of an annual administrative budget and
6 disbursements in accordance with the budget.

7 (2) Determination of the structure of the retirement
8 health savings accounts available to eligible school
9 employees.

10 (3) Determination of enrollment procedures.

11 (b) Contracting authorized.--The board is authorized to
12 administer the retirement health savings plan and to contract
13 with lawfully authorized entities to provide investment
14 services, recordkeeping, benefit payments and other functions
15 necessary for the administration of the retirement health
16 savings plan. The board may contract with the retirement system
17 to invest funds in an account that shall be maintained and
18 accounted for separately from the funds of the retirement system
19 and invested in a prudent manner intended to maximize the safety
20 of the capital, with all earnings derived from investment of the
21 assets to be credited to the retirement health savings plan.
22 Costs and expenses incurred by the retirement system in
23 administering the investment option shall be paid by the
24 retirement health savings plan.

25 (c) Separate account.--All funds related to the retirement
26 health savings plan shall be maintained and accounted for
27 separately from the health benefits program sponsored by the
28 board. The assets of the retirement health savings plan shall
29 not be liable or utilized for payment of expenses or claims
30 incurred by the health benefits program other than as may be

1 directed by the participant account holder for reimbursement of
2 an IRC-qualifying health-related expense.

3 (d) Enrollment.--The board shall establish eligibility
4 guidelines consistent with the IRC for school employees to
5 participate in the retirement health savings plan.

6 (e) Contributions.--

7 (1) The board shall determine what contributions are
8 eligible under the IRC for tax-preferred or tax-free
9 treatment and may be made into a retirement health savings
10 plan by a school employee. The board shall authorize and
11 allow contributions, subject to appropriate limits as may be
12 established by the board, to be paid by a school employee
13 electing participation in the retirement health savings plan
14 subject to the following conditions:

15 (i) A mandatory school employee contribution
16 established as a fixed percentage of compensation may be
17 established through a collective bargaining agreement
18 between a public school entity and a bargaining group
19 representing school employees. The retirement health
20 savings plan contribution rate need not be uniform for
21 all groups of school employees.

22 (ii) An optional employee contribution at a fixed
23 percentage of compensation may be elected by a school
24 employee during an annual election window that, once
25 elected, shall continue in effect, except to the extent
26 it may be changed or discontinued at a subsequent annual
27 election window as provided for by the board or
28 supplanted by a mandatory contribution.

29 (iii) An optional school employee contribution of
30 all or any portion of annual leave, vacation pay,

1 personal days or sick leave may be elected by a school
2 employee as so designated by the employee and agreed to
3 by the employee's employer. The board may provide that
4 the election occur during an annual election window of no
5 greater than 90 days. Once the election has been made, an
6 employee shall not be allowed to change the amount or
7 discontinue the contributions until the next annual
8 election window.

9 (2) The following contributions shall be made into a
10 retirement health savings plan on behalf of a school
11 employee:

12 (i) For an employee who elects participation in the
13 retirement health savings plan, the employee's employer
14 shall make a contribution to the employee's account equal
15 to the public school entity's savings in Social Security
16 and Medicare taxes resulting from the tax-preferred or
17 tax-free treatment of contributions made by the school
18 employee under this subsection. Additional contributions
19 by a public school entity may be established through a
20 collective bargaining agreement between a public school
21 entity and a bargaining group representing school
22 employees.

23 (ii) Other payments by the Commonwealth or a public
24 school entity, including set-aside payments to be made to
25 school employee accounts under section 334, as determined
26 by the board.

27 (3) Contributions to the plan by a school employee or by
28 the Commonwealth or a public school entity on behalf of an
29 employee must be held in trust for reimbursement of employee
30 health-related expenses and the health-related expenses of

1 health care dependents following retirement of the employee
2 or when otherwise determined to be benefit eligible. The
3 board shall maintain a separate account of the contributions
4 made by or on behalf of each participant and the earnings on
5 the contributions. The board shall make available a selection
6 of investment options for participants who wish to direct the
7 investment of the accumulations in the participant's account,
8 in addition to a default option for participants to be
9 invested in a prudent manner as determined by the board.

10 (f) Reimbursement for health-related expenses.--

11 (1) Upon retirement or separation from employment with a
12 public school entity, a participant becomes eligible to seek
13 reimbursements for IRC-qualifying health-related expenses
14 from the participant's retirement health savings plan
15 account, including reimbursements for the health-related
16 expenses of the participant's eligible health care
17 dependents.

18 (2) If a school employee dies prior to exhausting the
19 balance in the employee's retirement health savings plan
20 account, the employee's health care dependents are eligible
21 to seek reimbursement for IRC-qualifying health-related
22 expenses from the account.

23 (3) The board shall pay reimbursements from a retirement
24 health savings plan account until the accumulation in the
25 account has been exhausted. If an account balance remains
26 after the death of all participant account holders, the
27 remainder of the account must be paid to the school
28 employee's beneficiaries or, if none, to the employee's
29 estate.

30 (g) Annual financial statement.--Quarterly and annually the

1 board shall prepare summary retirement health savings plan
2 statements for individual participant account holders listing
3 information on contributions, investment earnings and
4 distributions for the account holders' accounts.

5 (h) Fees.--The board is authorized to charge uniform fees to
6 participants to cover the ongoing costs of operating the plan.
7 Fees not needed must revert to participant accounts or be used
8 to reduce plan fees the following year.

9 (i) Advisory committee.--

10 (1) The board shall establish a participant advisory
11 committee for the retirement health savings plan composed of:

12 (i) One representative appointed by each Statewide
13 union that represents bargaining groups of school
14 employees participating in the plan.

15 (ii) One representative of each Statewide
16 organization representing at least 10% of annuitants.

17 (iii) One representative of the Pennsylvania
18 Association of School Business Officials.

19 (iv) One representative of the Pennsylvania School
20 Boards Association.

21 (2) Each participant group shall be responsible for the
22 expenses of its own representative.

23 (3) The advisory committee shall meet at least two times
24 per year and shall be consulted on plan offerings. By October
25 1 of each year, the board shall give the advisory committee a
26 statement of fees collected and the use of the fees.

27 CHAPTER 5

28 MISCELLANEOUS PROVISIONS

29 Section 501. Feasibility report.

30 Within 18 months after the Statewide health benefits program

1 or the alternative measures program is fully implemented, the
2 Secretary of Administration shall report to the Governor, the
3 President pro tempore of the Senate and the Speaker of the House
4 of Representatives the feasibility of including community
5 college employees in the program.

6 Section 502. Effective date.

7 This act shall take effect July 1, 2019.