
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 604 Session of
2019

INTRODUCED BY ARGALL, BLAKE, FOLMER AND AUMENT, APRIL 30, 2019

REFERRED TO EDUCATION, APRIL 30, 2019

AN ACT

1 Amending Title 24 (Education) of the Pennsylvania Consolidated
2 Statutes, establishing the Public School Employees' Benefit
3 Board and providing for its powers and duties; requiring a
4 school employee health benefits evaluation; providing for a
5 health benefits program for public school employees; and
6 establishing the Public School Employees' Benefit Trust Fund.

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

9 Section 1. Title 24 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 3

12 SCHOOL EMPLOYEE BENEFITS

13 Subchapter

14 A. Preliminary Provisions

15 B. Public School Employees' Benefit Board

16 C. School Employee Health Benefits Evaluation

17 D. Health Benefits Program

18 E. (Reserved)

19 F. Retirement Health Savings Plan

20 SUBCHAPTER A

1 PRELIMINARY PROVISIONS

2 Sec.

3 301. Short title of chapter.

4 302. Definitions.

5 § 301. Short title of chapter.

6 This chapter shall be known and may be cited as the Public
7 School Employees' Benefit Act.

8 § 302. Definitions.

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

12 "Annuitant." An "annuitant" or "disability annuitant" as
13 defined in section 8102 (relating to definitions).

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

22 "Board." The Public School Employees' Benefit Board created
23 under section 311 (relating to Public School Employees' Benefit
24 Board).

25 "Board member." An individual designated or appointed to the
26 board under section 311(a) (relating to Public School Employees'
27 Benefit Board).

28 "Consortium." A coalition of two or more geographically
29 defined public school entities, or a coalition of one or more
30 geographically defined public school entities and one or more

1 political subdivisions as defined by 61 Pa. Code § 315.2
2 (relating to definitions), formed for the purpose of pooling
3 combined purchasing of the individual participants in order to
4 increase bargaining power to obtain health care benefits.

5 "Contribution rate." The rate established by the board in
6 accordance with section 334(b) and (c) (relating to partnership
7 for stable benefits funding) used to determine contributions by
8 the Commonwealth and public school entities for the funding of
9 the benefit package for eligible individuals in each health care
10 region.

11 "Cost-sharing." The fee paid by the member that covers a
12 share of the cost of providing group health benefits under the
13 health benefits program or the fee paid by a school employee or
14 annuitant that covers a share of the cost of providing health
15 care coverage in a plan sponsored by the public school entity.

16 The term does not include:

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

21 (2) an additional cost paid by the member, school
22 employee or annuitant for optional benefit packages.

23 "Eligible individual." An individual who is a member or the
24 health care dependent of a member.

25 "Employee benefits account." A ledger account of the Public
26 School Employee Benefit Trust Fund created under section 336(a)
27 (1) (relating to Public School Employees' Benefit Trust Fund).

28 "Employer contribution account." A ledger account of the
29 Public School Employees' Benefit Trust Fund created under
30 section 336(a)(3) (relating to Public School Employees' Benefit

1 Trust Fund).

2 "Health care dependent." An individual who is eligible to
3 receive health care coverage under the health benefits program
4 due to the individual's relation to the member, as determined by
5 the board.

6 "Health care region." The geographic regions determined by
7 the board to be appropriate for providing health benefits for
8 eligible individuals based on the availability of insurance
9 carriers, benefit administrators, health care providers, health
10 care provider networks, costs and any other factors related to
11 health care or the financing of the benefits.

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

18 "Long-term substitute." A school employee who is
19 substituting for an officer, administrator or employee of a
20 public school entity for a qualifying period of time to be
21 determined by the board.

22 "Medicare." The programs established by Title XVIII of the
23 Social Security Act (Public Law 74-271, 42 U.S.C. § 1395 et
24 seq.) which include:

25 (1) Part A, Hospital Insurance Benefits for the Aged and
26 Disabled;

27 (2) Part B, Supplementary Medical Insurance Benefits for
28 the Aged and Disabled;

29 (3) Part C, Medicare Advantage Program; and

30 (4) Part D, Voluntary Prescription Drug Benefit Program;

1 and
2 including any subsequent changes or additions to those programs.

3 "Member." An eligible individual who is specified as such
4 for enrollment in the health benefits program and in whose name
5 the identification card is issued. A member can be:

6 (1) A school employee.

7 (2) An annuitant.

8 (3) A transfer employee.

9 (4) An individual separated from employment with a
10 public school entity who the board determines is eligible to
11 purchase continuation of coverage in the health benefits
12 program.

13 (5) Others as approved by the board.

14 "Optional benefit package." A plan or plan design
15 established by the board under section 331(f)(2) (relating to
16 health benefits program), which includes specific health care
17 services that are not part of the benefit package.

18 "Participant account holder." A school employee
19 participating in a retirement health savings plan or a school
20 employee who retires or otherwise terminates employment with a
21 public school entity and becomes eligible to be reimbursed from
22 the employee's retirement health savings plan account for the
23 Internal Revenue Code of 1986 qualified health-related expenses.
24 The term includes the health care dependent of a school employee
25 who succeeds in interest to a deceased school employee and
26 becomes eligible to be reimbursed for health-related expenses
27 from the school employee's account.

28 "Phase-in period." The period of program operation in a
29 health care region from the time the board begins implementation
30 of mandatory participation under section 332 (relating to

1 mandatory participation and optional membership) until the
2 commencement of the first plan year in which 75% of school
3 districts in that region are participating in the program.

4 "Program." The health benefits program sponsored by the
5 board in accordance with the provisions of Subchapter D
6 (relating to health benefits program).

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

9 "Public school entity." A school district of any class,
10 intermediate unit, area vocational-technical school, charter
11 school or other school, under the Public School Code of 1949.
12 The term includes the Scranton School for Deaf and Hard of
13 Hearing Children.

14 "Qualified majority vote." A vote by the board requiring the
15 support of three-fourths of all board members.

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

21 "Reserve account." A ledger account of the trust fund
22 created under section 336(a)(2) (relating to Public School
23 Employees' Benefit Trust Fund).

24 "Retirement system." The Public School Employees' Retirement
25 System of Pennsylvania or "system" as defined in section 8102
26 (relating to definitions).

27 "School employee." An individual regularly employed by or in
28 a public school entity for which work the individual is
29 receiving regular remuneration as an officer, administrator,
30 employee or long-term substitute. The term does not include an

1 independent contractor, individual compensated on a fee basis
2 or, unless otherwise determined by the board, a part-time hourly
3 school employee. The term includes an employee of a public
4 school entity who has a position for which eligibility in a
5 health care plan sponsored by the public school entity is in
6 effect as of the effective date of this chapter.

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

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

16 "Trust fund." The Public School Employees' Benefit Trust
17 Fund created in section 336 (relating to Public School
18 Employees' Benefit Trust Fund).

19 SUBCHAPTER B

20 PUBLIC SCHOOL EMPLOYEES' BENEFIT BOARD

21 Sec.

22 311. Public School Employees' Benefit Board.

23 312. Administrative duties of board.

24 § 311. Public School Employees' Benefit Board.

25 (a) Status and membership.--The Public School Employee's
26 Benefit Board is established as an independent administrative
27 board and shall consist of the following members:

28 (1) The Secretary of the Budget, the Secretary of
29 Education and the Insurance Commissioner, or their designees.

30 (2) The Majority Leader of the Senate, the Minority

1 Leader of the Senate, the Majority Leader of the House of
2 Representatives and the Minority Leader of the House of
3 Representatives, or their designees.

4 (3) One individual appointed by the President pro
5 tempore of the Senate and one individual appointed by the
6 Speaker of the House of Representatives.

7 (b) Designee and appointee terms.--

8 (1) An individual may be a designee for a term of four
9 years and is eligible for reappointment.

10 (2) The members appointed under subsection (a)(3) shall
11 serve for a term of four years and are eligible for
12 reappointment.

13 (c) Meetings.--The board shall meet as needed to fulfill
14 duties, and five board members shall constitute a quorum. Board
15 members shall elect the chairperson of the board. Except in
16 instances where a qualified majority is required under this
17 chapter, a majority of the board members present and voting
18 shall have authority to act upon any matter. The board is
19 authorized to establish rules of operation, including a
20 provision for the removal of board members for nonattendance.

21 (d) (Reserved).

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

1 (f) Compensation and expenses.--Board members and designees
2 who are members of the retirement system or the State Employees'
3 Retirement System shall serve without compensation. Board
4 members and designees who are members of the retirement system
5 and who are employed by a public school entity may not suffer
6 loss of salary or wages through serving on the board. The board,
7 on request of the employer of any board member or a board
8 member's designee who is an active professional or
9 nonprofessional member of the retirement system, may reimburse
10 the employer for the salary or wages of the member or designee
11 or for the cost of employing a substitute for the board member
12 or designee while the board member or designee is necessarily
13 absent from employment to execute the duties of the board. An
14 appointed board member or board member's designee who is not a
15 legislator, the Insurance Commissioner, the Secretary of the
16 Budget or the Secretary of Education may be paid \$100 per day
17 when attending meetings, and all board members and designees
18 shall be reimbursed for any necessary expenses. When the duties
19 of the board as mandated are not executed, no compensation or
20 reimbursement for expenses of board members and designees shall
21 be paid or payable during the period in which the duties are not
22 executed.

23 (g) Corporate power and legal advisor.--For the purposes of
24 this chapter, the board shall possess the power and privileges
25 of a corporation. The Office of General Counsel shall be the
26 legal advisor of the board.

27 (h) Duties of the board.--The board shall have the power and
28 authority to carry out the duties established by this chapter,
29 including the design, implementation and administration of the
30 school employee health benefits study under Subchapter C

1 (relating to school employee health benefits evaluation) and the
2 health benefits program approved under section 323 (relating to
3 plan adoption).

4 § 312. Administrative duties of board.

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

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

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

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

22 (b) Professional personnel.--The board may employ or
23 contract with consultants and other professional personnel as
24 needed to operate the program, including third-party
25 administrators, managed care managers, chief medical examiners,
26 actuaries, investment advisors and investment managers, legal
27 counsel and other professional personnel as the board deems
28 advisable. The board may also contract for the services of any
29 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 (c) Expenses.--The board shall, through the Governor,
3 annually submit to the General Assembly 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 subsequent fiscal
10 year, from reserves and investment earnings of the trust
11 fund.

12 (d) Meetings.--The board shall hold at least four regular
13 meetings annually and other meetings as the board deems
14 necessary.

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

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

19 (g) Temporary regulations.--

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

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

1 Commonwealth Documents Law.

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

4 (2) The authority provided to the board to adopt
5 temporary regulations in this subsection shall expire two
6 years from the effective date of this chapter. Regulations
7 adopted after the two-year period shall be promulgated as
8 provided by law.

9 SUBCHAPTER C

10 SCHOOL EMPLOYEE HEALTH BENEFITS EVALUTION

11 Sec.

12 321. School employee health benefits evaluation.

13 322. Board review.

14 323. Plan adoption.

15 § 321. School employee health benefits evaluation.

16 (a) Duty to conduct.--The board shall conduct a thorough
17 evaluation of existing health care arrangements covering school
18 employees in this Commonwealth, examine future cost forecasts
19 and collect data necessary to determine the manner in which the
20 board may construct and sponsor a health benefits program to
21 reduce long-term costs or the rate of growth of long-term costs
22 in the aggregate for public school entities while maintaining
23 packages of quality health care benefits for school employees.
24 The board shall use the Legislative Budget and Finance Committee
25 report from December 2015, as directed by Senate Resolution
26 No.250 of 2013-2014.

27 (b) Data elements.--No later than 60 days after the board is
28 constituted, the board shall determine the information necessary
29 to evaluate the existing health care arrangements covering
30 school employees in this Commonwealth and begin to collect the

1 data, including:

2 (1) The total cost of providing medical services and
3 hospital services and prescription drug coverage.

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

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

7 (4) An explanation and estimate of a financial
8 obligation of or funds owed to a public school entity related
9 to the termination of coverage under a school district-
10 sponsored health benefits plan.

11 (5) An estimate of the amount of and basis for claims
12 that may be outstanding during the transition for public
13 school entities which self-fund coverage and the status of
14 reserves established for outstanding claims.

15 (6) The term and effect of collective bargaining
16 agreements governing health benefits.

17 (7) The amount and basis of a school employee cost-
18 sharing, both individual and in aggregate.

19 (8) The total amount of employer-paid costs in
20 aggregate.

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

23 (c) Data sources.--

24 (1) All entities providing health benefit coverage for
25 eligible individuals or administering coverage for health
26 benefits under this chapter shall provide information on
27 coverage, benefits, plan design, claims data, premiums, cost-
28 sharing and financial arrangements as the board shall specify
29 to meet the requirements of subsection (b).

30 (2) Notwithstanding any law to the contrary, an agency,

1 authority, board, commission, council, department or office
2 under the jurisdiction of the Governor shall consult with the
3 Legislative Budget and Finance Committee and cooperate with
4 the board in the collection of health insurance or health
5 care coverage data as specified by the board to effectuate
6 this section in accordance with this section.

7 (d) Public school entities.--

8 (1) The Secretary of Education shall assist the board in
9 obtaining the necessary data for the evaluation of public
10 school entities and consortia.

11 (2) If necessary to facilitate the collection of data
12 from a noncooperating public school entity or consortium, the
13 Secretary of Education may request the State Treasurer to
14 cause the suspension of any payment of money due to the
15 noncooperating public school entity or public school entities
16 that participate in a noncooperating consortium on account of
17 any appropriation for schools or other purposes until the
18 necessary information is properly provided.

19 (3) A public school entity shall be notified before
20 payments are suspended and may appeal to the Secretary of
21 Education for an extension of time if there have been
22 extenuating circumstances preventing the timely submission of
23 all necessary information.

24 (4) In considering an appeal, the Secretary of Education
25 may grant an extension of time for the public school entity
26 or consortium to provide the necessary information before the
27 suspension is instituted.

28 (5) School entities and consortia may enter into
29 agreements with entities providing or administering coverage
30 for health care benefits under this chapter for the purpose

1 of carrying out this section.

2 (e) Health benefit entities.--

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

10 (2) (i) The Insurance Commissioner, the Department of
11 Health and any other agency, authority, board,
12 commission, council, department or office under the
13 jurisdiction of the Governor, having regulatory authority
14 over any entity charged under paragraph (1), referred to
15 under this subsection as the "regulating authority,"
16 shall cooperate with the board, if necessary, to obtain
17 information from an insurance company, third-party
18 administrator or other administrator or provider of
19 health insurance benefits for school employees, other
20 than a public school entity or consortium.

21 (ii) Following notice and hearing, the board may
22 impose an order assessing a penalty of up to \$1,000 per
23 day upon an entity, other than a public school entity or
24 consortium, that willfully fails to comply with the
25 obligations imposed by this section.

26 (iii) If the entity does not comply with the
27 obligations imposed by this section within 15 days of an
28 order being imposed, the board shall notify the
29 regulating authority of the failure of an entity under
30 the regulating authority's jurisdiction to provide data

1 as set forth in this section.

2 (iv) Upon notification, the regulating authority
3 shall suspend or revoke the license of the entity or
4 otherwise suspend or revoke the entity's ability to
5 operate until the board notifies the regulating authority
6 that the entity is in compliance.

7 (v) The board shall have standing to petition the
8 Commonwealth Court to seek enforcement of the order.

9 (3) This subsection shall apply to every entity
10 providing or administering group health coverage in
11 connection with providing health care benefits to school
12 employees within this Commonwealth, including plans,
13 policies, contracts or certificates issued by:

14 (i) A stock insurance company incorporated for any
15 of the purposes set forth in section 202(c) of the act of
16 May 17, 1921 (P.L.682, No.284), known as The Insurance
17 Company Law of 1921.

18 (ii) A mutual insurance company incorporated for any
19 of the purposes set forth in section 202(d) of The
20 Insurance Company Law of 1921.

21 (iii) A professional health services plan
22 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to
23 professional health services plan corporations).

24 (iv) A health maintenance organization as defined in
25 the act of December 29, 1972 (P.L.1701, No.364), known as
26 the Health Maintenance Organization Act.

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

29 (vi) A hospital plan corporation as defined in 40
30 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

1 (vii) Health care plans subject to the Employee
2 Retirement Income Security Act of 1974 (Public Law 93-
3 406, 88 Stat. 829), to the maximum extent permitted by
4 Federal law.

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

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

10 (x) Any other person providing or administering
11 group health care coverage on behalf of a public school
12 entity, or accepting charges or premiums from a public
13 school entity, in connection with providing health care
14 coverage for school employees, including multiple
15 employer welfare arrangements, self-insured public school
16 entities and third-party administrators.

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

21 (g) Prepared materials.--

22 (1) Documents, materials or information solely prepared
23 or created for the purpose of implementation of subsection
24 (b) are confidential and may not be discoverable or
25 admissible as evidence in any civil or administrative action
26 or proceeding.

27 (2) Documents, materials, records or information that
28 would otherwise be available from original sources may not be
29 construed as immune from discovery or use in any civil or
30 administrative action or proceeding merely because they were

1 presented to the board.

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

5 (h) Received materials.--

6 (1) Documents, materials or information received by the
7 board or by a department under the jurisdiction of the
8 Governor on the board's behalf for the purpose of
9 implementation of subsection (b) may not be discoverable from
10 the board, any department or the submitting entity, nor shall
11 they be admissible as evidence in any civil or administrative
12 action or proceeding.

13 (2) Documents, materials, records or information that
14 would otherwise be available from original sources may not be
15 construed as immune from discovery or use in any civil or
16 administrative action or proceeding merely because they were
17 received by the board or a department.

18 (i) Document review.--

19 (1) No current member or former member or employee of
20 the board or any department shall be allowed to testify as to
21 any matters by reason of the member's review or employee's
22 review of documents, materials, records or information
23 submitted to the board by the entity providing health
24 insurance or health care coverage under subsection (b).

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

28 (j) Original source document.--In the event an original
29 source document as specified under subsection (g) is determined
30 by a court of competent jurisdiction to be unavailable from the

1 entity providing health insurance or health care coverage in a
2 civil action or proceeding, then, in that circumstance alone,
3 the board may be required by a court order to release the
4 original source document to the party identified in the court
5 order.

6 (k) Right-to-know requests.--Documents, materials or
7 information made confidential under subsection (f) may not be
8 subject to requests under the act of February 14, 2008 (P.L.6,
9 No.3), known as the Right-to-Know Law, or any successor statute.

10 (l) Liability.--Notwithstanding any other provision of law,
11 no person or entity providing any documents, materials or
12 information to the board, a department or other entity on the
13 board's behalf shall be held by reason of having provided the
14 documents, materials or information to have violated a criminal
15 law, or to be civilly liable under law, unless the information
16 is false and the person providing the information knows or had
17 reason to believe that the information was false and was
18 motivated by malice toward any person directly affected by the
19 action.

20 § 322. Board review.

21 (a) Duties.--

22 (1) Upon collection of the necessary information, the
23 board shall evaluate existing public school entity health
24 care arrangements, examine options that would aggregate
25 health care coverage for public school employees, assess
26 possible cost-management improvements, solicit input from
27 public school entities and consortia identified with best
28 practices and establish geographic regions of this
29 Commonwealth to include all public school entities and
30 consortia.

1 (2) The board shall establish a program under section
2 331 (relating to health benefits program) with the goal of
3 improving the overall affordability of providing health care
4 coverage for public school employees in all geographic
5 regions of this Commonwealth.

6 (3) The cost projections shall be predicated on a plan
7 that provides quality health care benefits at a level
8 consistent with the current health care benefits provided to
9 most school employees through existing collective bargaining
10 agreements and offers coverage to school employees and other
11 eligible individuals.

12 (b) Program.--No later than 10 months after the board is
13 constituted, unless a request by the board for an extension is
14 granted by the Governor, the board shall decide on a program to
15 be implemented under section 331.

16 § 323. Plan adoption.

17 (a) Health benefits program adoption.--

18 (1) Within three months of the board's decision to
19 proceed with the program under section 322(b) (relating to
20 board review), the board shall verify that implementation of
21 a program will result in reduction in the Statewide aggregate
22 cost of the purchase of benefits or the rate of growth of the
23 costs and adopt a proposed plan for the implementation of the
24 program.

25 (2) The proposed plan shall be in writing and include a
26 detailed description of the program and the transition
27 procedures necessary to phase in and implement the program.
28 The board's adoption of a proposed plan shall require
29 approval by a qualified majority vote.

30 (b) Parameters of program.--The description of the program

1 shall at a minimum include:

2 (1) The designation of the health care regions of this
3 Commonwealth in which each public school entity shall
4 participate in the program.

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

8 (3) The identification of the benefits and supplemental
9 benefits to be included as part of a benefit package in each
10 health care region.

11 (4) Disclosure of any member cost-sharing, whether
12 expressed as a target percentage of overall program costs or
13 individually determined as a percentage of salary and whether
14 the cost-sharing is uniform with the health care region.

15 (5) The procedure by which the board will select an
16 administrator for the program in each health care region.

17 (6) The design of the pool or pools in each health care
18 region that would be established to aggregate public school
19 entities for the purpose of purchasing services and managing
20 health insurance risks.

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

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

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

30 (1) A determination of when benefit packages in the

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

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

9 (3) The interim steps to aggregate public school
10 entities into a health care regional pool, including best
11 practices and benchmarks to be applied to new or existing
12 consortia, or public school entities, or in selection process
13 to build a health care regional pool.

14 (4) Transition rules on member cost-sharing
15 responsibility until member cost-sharing is required within a
16 health care region.

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

22 (d) Legislative and public review.--

23 (1) The board shall transmit notice of the provisions of
24 a proposed plan adopted under this section to the Legislative
25 Reference Bureau for publication in the Pennsylvania Bulletin
26 and make the plan available on the board's publicly
27 accessible Internet website. Following publication, the board
28 shall schedule at least eight public hearings to solicit
29 public input on the plan. The hearings shall be conducted in
30 Philadelphia County, Allegheny County and the northeast,

1 northwest, southeast, southwest, north central and south
2 central regions of this Commonwealth.

3 (2) The board shall submit a proposed plan adopted under
4 this section to the chairperson and minority chairperson of
5 the Education Committee of the Senate and the chairperson and
6 minority chairperson of the Education Committee of the House
7 of Representatives. The committees shall have 45 days to
8 review the proposed plan and submit comments to the board.

9 (e) Final plan adoption.--

10 (1) Upon completion of the public hearings under
11 subsection (d)(1) and expiration of the committee review
12 under subsection (d)(2), the board shall review all testimony
13 and comments received regarding the proposed plan. The board
14 may, subject to a qualified majority vote, make changes and
15 adjustments to the plan to effectuate this chapter.

16 (2) Within 90 days of publishing the proposed plan under
17 subsection (d)(1), the board shall transmit notice of the
18 final plan, as adopted by the board, to the Legislative
19 Reference Bureau for publication in the Pennsylvania Bulletin
20 and shall publish the notice on the publicly accessible
21 Internet website of the Department of Education.

22 (f) Failure to reach consensus.--If the board fails to
23 achieve agreement and approve a plan for implementing a program
24 by a qualified majority vote, the board shall report the board's
25 findings and reasons preventing agreement on a plan to the
26 Governor, the President pro tempore of the Senate and the
27 Speaker of the House of Representatives.

28 SUBCHAPTER D

29 HEALTH BENEFITS PROGRAM

30 Sec.

- 1 331. Health benefits program.
- 2 332. Mandatory participation and optional membership.
- 3 333. Continuation of coverage and transfer employees.
- 4 334. Partnership for stable benefits funding.
- 5 335. Powers and duties of board.
- 6 336. Public School Employees' Benefit Trust Fund.
- 7 337. Misrepresentation, refusal to cooperate and fraud.
- 8 338. Miscellaneous provisions.

9 § 331. Health benefits program.

10 (a) Board action.--Upon adoption of a health plan under
11 section 323(e) (relating to plan adoption), the board shall
12 proceed to initiate and sponsor an employee benefits program for
13 eligible individuals.

14 (b) Program design.--The board shall design a program that
15 follows the parameters of the plan and transition procedures as
16 established in section 323. The board may develop and administer
17 the program itself or operate through a legal entity authorized
18 by law to do so, including consortia selected through a
19 competitive process as administrators. The program may be
20 developed and administered differently within each health care
21 region as long as a benefit package, as determined by the board,
22 is available to eligible individuals. The program may also be
23 administered in whole or in part on a fully insured or self-
24 funded basis at the board's sole discretion.

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

26 (1) Establish pools for selected areas of coverage,
27 including pharmacy services, transplants, stop-loss
28 insurance, health care management or other possible areas
29 that in the board's judgment can be offered to health care
30 regions on a more stable and cost-effective basis. The board

1 may offer separate plans to public school entities and
2 consortia prior to the phase-in of the benefit package.

3 (2) Make the program available in some health care
4 regions before the program is made available within all
5 health care regions.

6 (d) Eligibility requirements.--The board may determine
7 eligibility requirements for benefits and adopt rules and
8 regulations to bind all eligible individuals. No coverage shall
9 be provided for eligible individuals without payment being made
10 except under circumstances as may be established by the board
11 under reasonable guidelines.

12 (e) Coverage and plan selection.--The board may select and
13 contract with insurance carriers, health maintenance
14 organizations, pharmacy benefit managers, third-party
15 administrators, reinsurers and any other entities necessary to
16 provide a range of benefit packages to eligible individuals
17 through the program. The board may determine the nature, amount
18 and duration and discontinuation of coverage to be provided.

19 (f) Benefits.--

20 (1) A benefit package shall be established by the board
21 that shall include coverage for medical and hospital
22 services, prescription drugs and may include supplemental
23 benefits in amounts to be determined by the board.

24 (2) Within each health care region, the board shall
25 approve and make available to each eligible individual
26 affiliated with a public school entity which is participating
27 in the program, all of the following:

28 (i) A health care plan that includes coverage
29 determined by the board.

30 (ii) An optional benefit package, as approved by the

1 board, which allows an eligible individual to purchase
2 coverage that is not included in the benefit package, as
3 long as any cost over and above the cost of the health
4 care plan in subparagraph (i) shall be paid by the member
5 except as otherwise provided in section 338(f)(2)
6 (relating to miscellaneous provisions).

7 (3) The detailed basis on which payment of benefits is
8 to be made shall be specified in writing. The benefits under
9 this chapter are subject to change or modification by the
10 board from time to time as the board, in its discretion, may
11 determine. All changes or modifications shall be specified in
12 writing and communicated by the board to members within a
13 reasonable period of time.

14 § 332. Mandatory participation and optional membership.

15 (a) Mandatory participation.--All public school entities
16 shall participate in the program on a health care regional
17 basis.

18 (b) Transition plan.--

19 (1) When the board determines under subsection (a) that
20 a public school entity shall be required to participate in
21 the program, the public school entity or consortium in which
22 the public school entity is a participant shall, within a
23 reasonable period of time as determined by the board, present
24 to the board a transition plan with a schedule for the
25 eventual migration of school employees into the program.

26 (2) The board shall review the transition plan with the
27 public school entity or consortium and make necessary
28 modifications before granting approval of the plan.

29 (3) A public school entity or consortium shall be
30 subject to adherence to the transition plan approved by the

1 board.

2 (c) Extensions of time.--The board shall give due
3 consideration to a transition plan submitted under subsection
4 (b) that includes a request for an extension of time. Requests
5 may be submitted by entities, including, but not limited to, the
6 following:

7 (1) A public school entity that participates in a
8 consortium where an extension of time is necessary for the
9 rundown and proper termination of the consortium's program.

10 (2) A public school entity that participates in a
11 consortium where the withdrawal of the public school entity
12 may undermine the financial stability of the consortium.

13 (3) A public school entity or a consortium that will
14 incur a significant financial penalty under terms of a
15 contract with an insurance carrier or other provider of
16 health care coverage for a contract in existence on or before
17 January 1, 2020.

18 (4) A public school entity or consortium which will
19 incur a significant financial cost, including fees, penalties
20 or other contractual financial obligations, related to the
21 termination of coverage under a contract of insurance or, in
22 the case of a public school entity that self-insures,
23 insufficient reserves to pay claims incurred during the
24 previous coverage year, if the obligation relates to a plan
25 of coverage that was in existence on or before January 1,
26 2020, and the public school entity or consortium provides the
27 board with a financial plan for meeting the obligation.

28 (d) Optional membership.--No school district of the first
29 class, as classified under section 202 of the Public School
30 Code, shall be required to participate in the program, except as

1 may be agreed upon under terms of a collective bargaining
2 agreement covering a majority of employees of a school district
3 of the first class. Upon a school district of the first class
4 entering participation in the program under a collective
5 bargaining agreement, continued participation in the program
6 shall become mandatory.

7 (e) Prohibited membership.--A public school entity that, on
8 the effective date of this section, participates in the
9 Pennsylvania Employees Benefit Trust Fund shall be prohibited
10 from participating in the program, and employees of the public
11 school entity may not be members of the program.

12 (f) Transition of employees.--

13 (1) A public school entity that provides some or all of
14 its employees with health benefits through another health
15 care plan by virtue of one or more collective bargaining
16 agreements, entered into prior to the effective date of this
17 section, may not be required to join the program until
18 expiration of the collective bargaining agreements.

19 (2) The public school entity and some or all of its
20 employees or bargaining representatives of its employees may,
21 by mutual agreement and approval of the board, join the
22 program at an earlier date.

23 (3) Renewal or extension of a collective bargaining
24 agreement shall constitute its expiration for the purpose of
25 this subsection.

26 § 333. Continuation of coverage and transfer employees.

27 (a) Annuitants.--

28 (1) Upon retirement, an annuitant eligible under this
29 paragraph or paragraph (2) shall have the option to elect
30 coverage in the program, including coverage for an eligible

1 health care dependent.

2 (2) The annuitant shall pay the full cost of the
3 coverage, unless a public school entity has agreed, separate
4 from any requirements of the program, to pay toward the
5 coverage under an award of health benefits under a written
6 policy or agreement collectively bargained or otherwise
7 entered into by the public school entity.

8 (3) The board shall annually determine the cost of
9 coverage as follows:

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

21 (ii) For an annuitant, other than an annuitant
22 qualified for coverage under subparagraph (i), payments
23 shall be made on the same basis as an annuitant qualified
24 for coverage under subparagraph (i), except as determined
25 as follows:

26 (A) The board's actuary shall periodically
27 review and determine the separate cost of providing
28 continuation of coverage to annuitants under this
29 subparagraph, along with an assessment of the
30 coverage impact on the cost of providing coverage to

1 members who are school employees and annuitants
2 qualified for coverage under subparagraph (i). The
3 review and assessment shall first occur as part of
4 the school employee health benefits evaluation
5 conducted under section 321 (relating to school
6 employee health benefits evaluation) and the results
7 shall be considered in the development of parameters
8 under section 323(b) (relating to plan adoption).

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

20 (b) Separation from service.--

21 (1) The board shall determine the eligibility of
22 members, other than annuitants covered by subsection (a), to
23 elect continuation of coverage in the program upon separation
24 from service as a school employee.

25 (2) The member shall pay the full cost of the coverage
26 in the member's health care region, plus an administrative
27 fee to be set by the board.

28 (3) The board shall, at a minimum, provide continuation
29 of coverage eligibility that meets the requirements of Title
30 X of the Employee Retirement Income Security Act of 1974

1 (Public Law 93-406, 88 Stat. 829) and provide the
2 continuation of coverage options required under 51 Pa.C.S. §
3 7309 (relating to employment discrimination for military
4 membership or duty) for members on military leave.

5 (c) Transfer employees.--

6 (1) The board may approve the participation of transfer
7 employees in the program, provided that any position for
8 which a transfer employee who is provided health benefits in
9 a health care plan sponsored by a public school entity
10 through an agreement that was in existence on or before
11 January 1, 2020, with the transfer employee's employer shall
12 be allowed to participate in the program.

13 (2) The board shall establish the terms and conditions
14 necessary for participation in the program, including the
15 cost of coverage to be paid by the third-party entity which
16 shall be based on the full cost of coverage in the health
17 care region as determined by the board, plus an
18 administrative fee.

19 (3) The sponsoring public school entity shall, on behalf
20 of the board, collect the payments for transfer employees
21 from the third-party entity.

22 § 334. Partnership for stable benefits funding.

23 (a) Basis of partnership.--In recognition that the long-term
24 viability and stability of the program will require public
25 school entity employers, members and the Commonwealth to be
26 partners both in sustaining the program as well as managing the
27 costs of reasonable and appropriate benefit packages, the board
28 shall determine for each plan year and in each health care
29 region the payments due from public school entities, from
30 members and from the Commonwealth.

1 (b) Determination of contribution rate.--The board shall
2 determine for each plan year the total amount of the
3 contributions by the Commonwealth, public school entities and
4 school employees required to provide projected benefits for that
5 plan year under the benefit packages on behalf of each school
6 employee member and the employee's eligible health care
7 dependents. The contribution rate shall consist of the amount
8 required to provide the benefit packages, including appropriate
9 reserves and administrative expenses, and shall be adjusted for
10 each health care region to reflect the cost of benefits in that
11 health care region. The contribution rates may differentiate
12 between single coverage for members only and types of family
13 coverage, as determined by the board.

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

21 (d) Commonwealth cost share.--The Commonwealth shall make a
22 contribution to offset a portion of the cost increase consistent
23 with subsections (e) and (f) for a plan year in which the board
24 determines that the aggregate cost of providing the benefit
25 packages on behalf of members who are school employees and
26 eligible health care dependents exceeds the sum of:

27 (1) the projected carry-over balance for the plan year
28 in the employer contribution account after all required
29 transfers have been made to the employee benefits account for
30 the prior year; and

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

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

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

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

18 (f) Limitation on Commonwealth contribution.--

19 (1) The Commonwealth may not be obligated to pay any
20 amount beyond that which is appropriated by the General
21 Assembly. The amount requested by the board under subsection
22 (e) (1) may not exceed the sum of an amount paid by the
23 Commonwealth for the fiscal year preceding the plan year for
24 which funds are requested and the lesser of:

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

29 (ii) the product of the total revenue transferred in
30 the prior plan year from the employer contribution

1 account to the employee benefits account and the most
2 recent annual percent change in the per enrollee private
3 health insurance premium for all benefits, as defined in
4 the National Health Expenditure Data published by the
5 Centers for Medicare and Medicaid Services, Department of
6 Health and Human Services.

7 (2) If any excess revenue in the employer contribution
8 account will be applied to payments for the plan year, then
9 the excess revenue shall be used to reduce the calculation
10 under this subsection in proportion to the Commonwealth's
11 share of the total increase in the contribution rate on
12 behalf of active members for the plan year.

13 (g) Additional optional contribution.--Notwithstanding the
14 limitation in subsection (f), the General Assembly may
15 appropriate additional revenue to the employer contribution
16 account in a fiscal year.

17 (h) Allocation of Commonwealth contribution.--

18 (1) A contribution made by the Commonwealth under this
19 section shall be used to offset an increase in the
20 contribution rate paid in a health care region by public
21 school entities on behalf of members who are school employees
22 and the employee's eligible health care dependents and to
23 maintain an offset that was paid in a prior year.

24 (2) The Commonwealth contribution shall be allocated to
25 offset a portion of each participating public school entity's
26 cost of coverage on a per member basis, for members who are
27 school employees and the employee's eligible health care
28 dependents, based on the public school entity's market
29 value/income aid ratio using the most recent data provided by
30 the Department of Education.

1 (3) For a public school entity that is not assigned a
2 market value/income aid ratio by the Department of Education,
3 the Commonwealth contribution may not be adjusted based on a
4 market value/income aid ratio.

5 (4) For the purpose of this subsection, "market
6 value/income aid ratio" means the term as defined in section
7 2501 of the the Public School Code.

8 (i) Contributions on behalf of school employees.--

9 (1) Consistent with a transition rules under section
10 323(c) (5) (relating to plan adoption), each public school
11 entity shall be required to make payments to the trust fund
12 on behalf of members who are school employees and the school
13 employee members' eligible health care dependents based on
14 the contribution rate certified by the board in subsection
15 (c).

16 (2) The increase in payments made from one year to the
17 next by public school entities on behalf of school employees
18 shall be equal to or greater than the increase in payment
19 from one year to the next made under subsection (d),
20 excluding an additional optional contribution made by the
21 Commonwealth under subsection (g).

22 (j) Deduction from appropriations.--In the event a public
23 school entity does not make the required payment in the time
24 allotted as determined by the board, the Secretary of Education
25 and the State Treasurer shall deduct and pay into the trust fund
26 from the amount of money due to a public school entity on
27 account of an appropriation for schools or other purposes the
28 amount due to the trust fund as certified by the board and as
29 remains unpaid on the date the appropriation would otherwise be
30 paid to the public school entity by the Department of Education,

1 and the amount shall be credited to the public school entity's
2 account in the trust fund.

3 (k) Transition.--

4 (1) Until a transition under section 323(c)(5) has been
5 completed, the payments made by each public school entity
6 shall be no less than the total amount paid by the public
7 school entity to provide, purchase and administer health care
8 benefits to members who are school employees and school
9 employee's eligible health care dependents in the year before
10 implementation of the program.

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

14 § 335. Powers and duties of board.

15 (a) Powers.--In addition to the powers granted by other
16 provisions of this chapter, the board shall have the powers
17 necessary or convenient to carry out this subchapter, including
18 the power to:

19 (1) Determine appropriate geographic health care regions
20 for the administration of the program and make changes to the
21 health care regions as necessary.

22 (2) Formulate and establish the following:

23 (i) The conditions of eligibility, including
24 eligibility for health care dependent coverage for
25 members, to include consideration whether a member or
26 health care dependent is covered, or eligible for
27 coverage, under another employer-sponsored group health
28 insurance plan.

29 (ii) Provisions for payment of benefits.

30 (iii) All other provisions that may be necessary to

1 carry out the intent and purpose of the program.

2 (3) Determine and make necessary changes to the benefit
3 packages and benefit structure of the program.

4 (4) Establish copayments, annual deductibles,
5 coinsurance levels, exclusions, formularies and other
6 coverage limitations and payment responsibilities of members
7 incurred at the time of service.

8 (5) Set and adjust member cost-sharing contributions to
9 be expressed as a target percentage of overall program costs
10 or individually determined as a percentage of salary. The
11 board shall determine whether member cost-sharing shall be
12 uniform across all health care regions or shall vary by
13 health care region.

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

15 (7) Determine enrollment procedures.

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

19 (9) Establish a plan with the retirement system to
20 coordinate health care coverage for annuitants between the
21 program established by this chapter and the group health
22 insurance program sponsored by the retirement system under
23 Chapter 89 (relating to group health insurance program) and
24 to coordinate the sharing of information pertaining to
25 premium assistance payment transfers.

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

30 (11) Set and adjust costs for members electing to

1 continue coverage upon retirement or separation from
2 employment. The board may establish different cost rates to
3 be charged for different categories of members electing to
4 continue coverage.

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

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

11 (14) Issue self-liquidating debt or borrow against
12 contributions, payments or other accounts receivable for the
13 purposes of prepaying any health benefits, establishing
14 reserves or otherwise lowering the cost of coverage.

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

18 (16) Receive and collect all contributions due and
19 payable to the accounts or delegate to a public school entity
20 or claims processor the right to receive contributions and
21 payments or to perform ministerial functions required to
22 assert the board's rights. In so doing, the board shall have
23 the right to do the following:

24 (i) Maintain any and all actions and legal
25 proceedings necessary for the collection of
26 contributions.

27 (ii) Prosecute, defend, compound, compromise,
28 settle, abandon or adjust any actions, suits,
29 proceedings, disputes, claims, details and things related
30 to the accounts and program.

1 (17) Establish procedures to hear and determine claims
2 and controversies under this chapter.

3 (18) Promulgate rules and regulations regarding the
4 administration of the program, including the establishment of
5 the plan year.

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

10 (20) Seek and take all necessary steps to retain
11 eligibility for the members, public school entities and the
12 Commonwealth to receive tax-preferred treatment or tax-free
13 treatment under the IRC for contributions to and earnings of
14 the trust fund.

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

19 (22) Perform and do any and all actions and things that
20 may be properly incidental to the exercising of powers,
21 rights, duties or responsibilities of the board.

22 (23) Determine best practice standards and benchmarks
23 for consortia in a selection process to build health care
24 regional pools, including the power to require a consortium
25 to merge with another consortium. The board may require
26 consortia, as a condition of serving as an administrator for
27 the program, to accept a public school entity applying to
28 join and participate in a consortium.

29 (24) Enter into agreements with a public school entity
30 or consortium to implement the program developed under this

1 chapter and delegate powers necessary to administer coverage
2 for health benefits.

3 (b) Administrative duties of board.--In addition to other
4 duties of the board provided under this chapter, the duties
5 specified in this section shall be afforded to the board for the
6 implementation of this section.

7 (c) Regulations and procedures.--The board shall, with the
8 advice of the Office of General Counsel and the actuary, adopt
9 and promulgate rules and regulations for the uniform
10 administration of the program. The actuary shall approve, in
11 writing, all computational procedures used in the calculation of
12 contributions and the cost of benefits, and the board shall by
13 resolution adopt the computational procedures prior to their
14 application of the computational procedures by the board. The
15 rules, regulations and computational procedures as adopted from
16 time to time and as in force and effect at any time, together
17 with tables that are adopted as necessary for the calculation of
18 contributions and the cost of benefits, shall be effective as
19 specified in this chapter.

20 (d) Data.--The board shall keep in electronic format records
21 of claims, eligibility and other data stipulated by the actuary
22 in order that an annual contribution rate determination for each
23 health care region and various program options can be completed
24 within six months of the close of each plan year. The board
25 shall have final authority over the means by which data is
26 collected, maintained and stored, and shall protect the privacy
27 and confidentiality of the members.

28 (e) Annual financial statement.--Within six months following
29 the end of each plan year, the board shall prepare and publish a
30 financial statement showing the condition of the trust fund as

1 of the end of the previous plan year. The board shall submit the
2 financial statement to the Governor and make copies available to
3 public school entities for the use of the school employees and
4 the public.

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

8 (g) Manual of regulations.--Within six months of the
9 commencement of a program adopted under this chapter, the board
10 shall prepare, with the advice of the Office of General Counsel
11 and the actuary, a manual incorporating rules and regulations
12 consistent with the provisions of this chapter for each
13 participating public school entity that shall make information
14 contained in the manual available to school employees. The board
15 shall subsequently advise public school entities within 90 days
16 of changes in rules and regulations due to changes in the law or
17 administrative policies.

18 (h) Annual budget.--The board shall establish an annual
19 budget for the program and make disbursements from the trust
20 fund that are consistent with the budget.

21 (i) Program assistance.--The board may solicit and accept
22 grants, loans or other aid from a person, corporation or other
23 legal entity or from the Federal, State or local government and
24 participate in any Federal, State or local government program if
25 necessary for prudent management of the program.

26 (j) Functions.--The board shall perform other functions
27 required for the execution of this chapter and shall have the
28 right to inspect employment records of public school entities.

29 (k) Qualified majority voting provision.--A qualified
30 majority vote shall be required on a matter voted upon by the

1 board affecting the development of or change in:

2 (1) The plan to implement the program adopted under
3 section 323(e) (relating to plan adoption).

4 (2) The benefit packages, benefit options or plan
5 designs offered by the program to covered employees.

6 (3) Membership eligibility criteria.

7 (4) The addition, deletion or significant change in
8 status of an insurance carrier, benefits administrator or
9 other major contractor in the administration of benefits, or
10 the addition, deletion or significant change in status of a
11 health care provider network.

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

13 (6) The overall per employee cost of the benefit package
14 to the trust fund and any public school entity funding and
15 member cost-sharing responsibilities.

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

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

19 (9) Changes in trust document, bylaws or a major
20 internal operating policies or procedures, including claims
21 appeal procedures, not to include routine ministerial
22 functions.

23 (10) Approve employment of and contracts with
24 consultants and professional personnel.

25 (l) Duties conferred upon secretary.--The secretary of the
26 board shall supervise a staff of administrative, technical and
27 clerical employees engaged in recordkeeping and clerical
28 processing activities in maintaining files of members,
29 accounting for contributions, processing payments, preparing
30 required reports and counseling.

1 § 336. Public School Employees' Benefit Trust Fund.

2 (a) Establishment of trust fund.--The Public School
3 Employees' Benefit Trust Fund is established in the State
4 Treasury. The money in the trust fund is appropriated on a
5 continuing basis and shall be used exclusively for the purposes
6 specified under this chapter. All of the assets of the trust
7 fund shall be maintained and accounted for, separate from all
8 other funds and money of the Commonwealth. The Treasury
9 Department shall credit to the trust fund all money received
10 from the Department of Revenue arising from the contributions
11 required under this chapter and all earnings from investments or
12 money of the trust fund. The board shall establish and maintain
13 several ledger accounts as follows:

14 (1) The employee benefits account shall be the ledger
15 account to which shall be credited the payments from section
16 333 (relating to continuation of coverage and transfer
17 employees), payments from members for cost-sharing and
18 additional member-paid cost associated with optional benefit
19 packages elected by members and transfers from the employer
20 contribution account under paragraph (3). All earnings
21 derived from investment of the assets of the employee
22 benefits account shall be credited to the employee benefits
23 account. The board may separately invest the amounts in the
24 employee benefits account in a prudent manner intended to
25 maximize the safety of the capital contained in the employee
26 benefits account. Payments for member health care benefits
27 and the direct administrative expenses of the board related
28 to the administration of the employee benefits program, under
29 section 312(c) (relating to administrative duties of board),
30 shall be charged to the employee benefits account.

1 (2) A restricted reserve account, or more than one
2 account if the board determines it necessary to have
3 segregated accounts, is established within the trust fund for
4 the purpose of establishing and maintaining a reserve or
5 separate reserves sufficient:

6 (i) to pay the expected claims experience of the
7 program in the event the board elects to self-fund all or
8 a portion of the program for any plan years;

9 (ii) to prefund the accrued liability for any
10 postretirement health care benefits earned by employees
11 enrolled in the program under section 333(a) (3) (i) as the
12 benefit is earned by the employees; and

13 (iii) to amortize the unfunded actuarial accrued
14 liability for postretirement health care benefits already
15 earned by employees and annuitants under section 333(a)
16 (3) (i) in the event the board elects to assume all or a
17 portion of the liability. The board shall use an
18 amortization period that does not exceed 30 years for
19 this purpose.

20 The board shall annually establish through an actuary
21 retained by the board the amount necessary, if any, to
22 establish and maintain a reserve or separate reserves
23 sufficient for this paragraph. Money needed to maintain the
24 reserve or separate reserves established under this paragraph
25 shall be collected through the adjustment of the contribution
26 rate established under section 334(b) and (c) (relating to
27 partnership for stable benefits funding) or through other
28 available sources. The money in a reserve account may be
29 invested by the board separate from other money of the trust
30 fund. All earnings derived from investment of the assets of

1 any reserve account shall be credited to the reserve account.

2 (3) The employer contribution account shall be the
3 ledger account to which shall be credited all contributions
4 made by the Commonwealth as determined in accordance with
5 section 334(e) and payments from public school entities as
6 determined in accordance with section 334(i), as well as all
7 earnings derived from the investment of the assets of the
8 employer contribution account. The total amount of the
9 Commonwealth and public school entity contributions required
10 to provide the benefit packages on behalf of all members who
11 are school employees and the school employee's eligible
12 health care dependents shall be transferred on a monthly
13 basis to the employee benefits account.

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

15 (1) All payments made by members or received from the
16 Commonwealth and public school entities and all interest,
17 earnings and additions to the payments.

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

22 (c) Administration of trust and associated funds.--The
23 assets of the trust fund shall be preserved, invested and
24 expended solely under and for purposes under this chapter.

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

26 (1) The board shall have exclusive control and
27 management of the trust fund and full power to invest and
28 manage the assets of each account of the trust fund as a
29 prudent investor would, by considering the purposes, terms
30 and other circumstances of each account and by pursuing an

1 overall investment strategy reasonably suited to the trust
2 fund.

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

6 (3) In making investment and management decisions, the
7 board shall consider, at a minimum, to the extent relevant to
8 the decision or action:

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

10 (ii) the liquidity and payment requirements of the
11 account;

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

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

16 (v) the reasonable diversification of assets, taking
17 into account the purposes, terms and other circumstances
18 of the trust fund and the requirements of this section.

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

21 (f) Name for transacting business.--By the name of "The
22 Public School Employees' Benefit Trust Fund," all of the
23 business of the trust fund shall be transacted, the fund money
24 invested, all requisitions for money drawn and payments made and
25 all cash and securities and other property shall be held, except
26 that, any other law to the contrary notwithstanding, the board
27 may establish a nominee registration procedure for the purpose
28 of registering securities in order to facilitate the purchase,
29 sale or other disposition of securities.

30 (g) Payment from trust fund.--All payments from the trust

1 fund shall be made by the State Treasurer in accordance with
2 requisitions signed by the secretary of the board or the
3 secretary's designee. The board shall reimburse the State
4 Treasurer for the cost of making disbursements from the trust
5 fund.

6 (h) Fiduciary status of board.--Board members, employees of
7 the board and agents of the board shall stand in a fiduciary
8 relationship to the members regarding the investments and
9 disbursements of any of the money of the trust fund and may not
10 profit either directly or indirectly.

11 (i) Transfers.--

12 (1) The board may transfer money among the various
13 accounts of the trust fund, including reserve accounts
14 established under subsection (a)(2), as may be necessary to
15 satisfy this chapter.

16 (2) Transfers from funds retained in the reserve account
17 under subsection (a)(2)(i) may be made only for the payment
18 of claims or expected claims as determined by the actuary
19 retained by the board.

20 (3) Transfers from funds retained in the reserve account
21 under subsection (a)(2)(ii) or (iii) may be made only for
22 paying toward the cost of providing health care benefits to
23 annuitants enrolled in the program under section 333(a)(3)
24 (i).

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

26 (1) Adopt, from time to time, appropriate investment
27 policy guidelines and convey the same to those fiduciaries
28 who have the responsibility for the investment of funds.

29 (2) Retain a portion of the money of the accounts in
30 cash or cash balances as the board may deem desirable,

1 without any liability or interest.

2 (3) Settle, compromise or submit to arbitration all
3 claims or damages due from or to the accounts, commence or
4 defend any legal, equitable or administrative proceedings
5 brought in connection with the program and represent the
6 trust fund in all proceedings under this paragraph.

7 (k) Additional duties of secretary.--The secretary of the
8 board shall serve as liaison to the Treasury Department and the
9 Department of the Auditor General and between the board and the
10 investment counsel and the mortgage supervisor in arranging for
11 investments to secure maximum returns to the trust fund.

12 § 337. Misrepresentation, refusal to cooperate and fraud.

13 (a) Misrepresentation.--If the eligible individual or anyone
14 acting on behalf of an eligible individual makes a false
15 statement or withholds information on the application for
16 enrollment with intent to deceive or affect the acceptance of
17 the enrollment application or the risks assumed by the program
18 or otherwise misleads the board, the board shall be entitled to
19 recover its damages, including legal fees, from the eligible
20 individual or from any other person responsible for misleading
21 the board and from the person for whom the benefits were
22 provided. A material misrepresentation on the part of the
23 eligible individual in making application for coverage or any
24 application for reclassification or for service under the
25 program shall render the coverage under the program null and
26 void.

27 (b) Refusal to cooperate.--

28 (1) The board may refuse to pay benefits or cease to pay
29 benefits on behalf of an eligible individual who fails to
30 sign any document deemed by the board to be relevant to

1 protecting its subrogation rights or certifying eligibility
2 or who fails to provide relevant information when requested.

3 (2) As used in this subsection, the term "information"
4 includes any documents, insurance policies, police reports or
5 any reasonable request by the claims processor to enforce the
6 board's rights.

7 (c) Penalty for fraud.--

8 (1) In a case in which the board finds that an eligible
9 individual is receiving benefits based on false information,
10 the additional amounts received predicated on the false
11 information, together with interest doubled and compounded
12 and legal fees, shall be due from the member.

13 (2) To secure payment of funds, the board may garnish or
14 attach all or a portion of compensation payable to the party
15 by the party's employer, any annuity payable to the party by
16 the retirement system, any accumulated deductions held by the
17 retirement system in the party's account or any process.

18 § 338. Miscellaneous provisions.

19 (a) Construction of chapter.--

20 (1) Termination or other modifications of the program,
21 including a change in rates, benefits options or structure of
22 the provision of health care benefits, may not give rise to
23 any contractual rights or claims by any eligible individuals
24 or any other person claiming an interest, either directly or
25 indirectly, in the program. No provisions of this chapter,
26 nor any rule or regulation adopted under this chapter, shall
27 create in any person a contractual right in that provision.

28 (2) The provisions of this chapter are severable and if
29 any of its provisions shall be held to be unconstitutional,
30 the decision of the court may not affect or impair any of the

1 remaining provisions. It is declared to be the legislative
2 intent that this chapter would have been adopted had the
3 unconstitutional provisions not been included.

4 (3) This subsection may not apply to policies designed
5 primarily to provide coverage payable on a per diem, fixed
6 indemnity or nonexpense incurred basis, or policies that
7 provide accident only coverage, where payment for the policy
8 is made solely by the school employee.

9 (b) Hold harmless.--

10 (1) Neither the Commonwealth nor the board, including
11 their respective officers, directors and employees, shall be
12 liable for claims, demands, actions or liability, including
13 attorney fees and court costs, based upon or arising out of
14 the operations of the program, whether incurred directly or
15 indirectly.

16 (2) The eligible individuals who enroll and participate
17 in the program shall be deemed to agree, on behalf of
18 themselves and their heirs, successors and assigns, to hold
19 harmless the Commonwealth and the board, including their
20 respective officers, directors and employees, from claims,
21 demands, actions or liability, whether directly or
22 indirectly, including attorney fees and court costs, based
23 upon or arising out of the operation of the program.

24 (c) No recourse.--Under no circumstances shall the assets of
25 the Commonwealth be liable for or the Commonwealth's assets be
26 used to pay claims, demands, actions or liability, whether
27 directly or indirectly, including attorney fees and court costs,
28 based upon or arising out of the operation of the program.

29 (d) Reservation of immunities.--Nothing contained in this
30 chapter shall be construed as a waiver of the Commonwealth's or

1 board's immunities, defenses, rights or actions arising out of
2 their sovereign status or from the Eleventh Amendment to the
3 Constitution of the United States.

4 (e) Collective bargaining, mediation and binding
5 arbitration.--Except as otherwise provided in subsection (f),
6 nothing in this chapter or in any other law shall be construed:

7 (1) To permit, authorize or require collective
8 bargaining, mediation or binding arbitration to create, alter
9 or modify health benefits set forth in this chapter or
10 administered by the board for school employees and health
11 care dependents.

12 (2) To permit, authorize or require a public school
13 entity, through collective bargaining, mediation or binding
14 arbitration, or otherwise, to establish, create, alter or
15 modify a health benefits plan or pay health benefits
16 specified in this chapter or administered by the board that
17 modify or supplement in any way the health benefits specified
18 in this chapter for school employees and health care
19 dependents.

20 (f) Exceptions.--

21 (1) The parties may:

22 (i) Continue to engage in collective bargaining with
23 regard to health benefits until the board-sponsored
24 program, under this subchapter, is released and the
25 benefit packages are made available to employees of a
26 public school entity. However, health benefits provided
27 under a collective bargaining agreement entered into on
28 or after the effective date of this section shall contain
29 a provision that school employees covered by the
30 agreement must join the board-sponsored program as

1 required by section 332 (relating to mandatory
2 participation and optional membership) as a condition of
3 continuing to receive health benefits. The board shall
4 determine the appropriate timing and phase-in of the
5 program in any public school entity taking into
6 consideration the need for the public school entity to
7 properly terminate any existing health benefits
8 arrangements.

9 (ii) Negotiate or otherwise agree to provide or make
10 payment for supplemental benefits that have not been
11 included as part of the benefit package.

12 (2) Nothing contained in this chapter shall restrict a
13 public school entity from negotiating or otherwise agreeing
14 to make payment for postretirement health benefits for
15 members or as may be provided for in Subchapter F (relating
16 to retirement health savings plan).

17 (g) Initial qualified majority vote requirement.--A
18 qualified majority vote of the board that occurs on or before
19 December 31, 2022, must include the support of either the
20 Secretary of the Budget or the Insurance Commissioner.

21 SUBCHAPTER E

22 (RESERVED)

23 SUBCHAPTER F

24 RETIREMENT HEALTH SAVINGS PLAN

25 Sec.

26 361. Retirement health savings plan.

27 § 361. Retirement health savings plan.

28 (a) Duty of board to establish.--The board shall establish a
29 retirement health savings plan through which school employees
30 can save to cover health-related expenses following retirement.

1 For this purpose the board shall make available one or more
2 trusts including a governmental trust or governmental trusts
3 authorized under the IRC as eligible for tax-preferred or tax-
4 free treatment. The board may promulgate regulations regarding
5 the prudent and efficient operation of the retirement health
6 savings plan, including:

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

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

12 (3) Determination of enrollment procedures.

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

27 (c) Separate account.--All funds related to the retirement
28 health savings plan shall be maintained and accounted for
29 separately from the program sponsored by the board. The assets
30 of the retirement health savings plan shall not be liable or

1 utilized for payment of expenses or claims incurred by the
2 program other than as may be directed by the participant account
3 holder for reimbursement of an IRC-qualifying, health-related
4 expense.

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

8 (e) Contributions.--

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

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

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

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

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

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

25 (ii) Any other payments by the Commonwealth or
26 public school entity, including any set-aside payments to
27 be made to school employee accounts under section 334
28 (relating to partnership for stable benefits funding) as
29 determined by the board.

30 (3) Contributions to the plan by a school employee or by

1 the Commonwealth or a public school entity on behalf of an
2 employee must be held in trust for reimbursement of employee
3 health-related expenses and the health-related expenses of
4 any health care dependents following retirement of the
5 employee or when otherwise determined to be benefit eligible.
6 The board shall maintain a separate account of the
7 contributions made by or on behalf of each participant and
8 the earnings on the contributions. The board shall make
9 available a selection of investment options for participants
10 who wish to direct the investment of the accumulations in the
11 participant's account, in addition to a default option for
12 participants to be invested in a prudent manner as determined
13 by the board.

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

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

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

27 (3) The board shall pay reimbursements from a retirement
28 health savings plan account until the accumulation in the
29 account has been exhausted. If an account balance remains
30 after the death of all participant account holders, the

1 remainder of the account must be paid to the school
2 employee's beneficiaries or, if none, to the employee's
3 estate.

4 (g) Annual financial statement.--Quarterly and annually the
5 board shall prepare summary retirement health savings plan
6 statements for individual participant account holders listing
7 information on contributions, investment earnings and
8 distributions for the account holders' accounts.

9 (h) Fees.--The board may charge uniform fees to participants
10 to cover the ongoing costs of operating the plan. Any fees not
11 needed must revert to participant accounts or be used to reduce
12 plan fees the following year.

13 (i) Advisory committee.--

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

16 (i) One representative appointed by each Statewide
17 union that represents bargaining groups of school
18 employees participating in the plan.

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

21 (iii) One representative of the Pennsylvania
22 Association of School Business Officials.

23 (iv) One representative of the Pennsylvania School
24 Boards Association.

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

27 (3) The advisory committee shall meet at least two times
28 per year and shall be consulted on plan offerings. By October
29 1 of each year, the board shall give the advisory committee a
30 statement of fees collected and the use of the fees.

1 Section 2. This act shall take effect immediately.