

## Veto No. 2004-3

HB 2128

July 1, 2004

To the Honorable, the House of Representatives  
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, House Bill 2128, Printer's No.3290, entitled "An act amending the act of March 10,1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for regulation of expelled students; establishing the Emergency Basic Education Subsidy Fund; and providing for basic education subsidy continuation funding."

The goal of shielding school districts from the uncertainty in their budget process that could be associated with late passage of a Commonwealth general appropriations bill is an extremely laudable concept. However, the legal requirements of the Pennsylvania Constitution prohibit me from approving the provisions of House Bill 2128. In particular, House Bill 2128 interferes with my Constitutional obligation to develop a balanced budget and financial plan each fiscal year. Further, the legislation abrogates my authority to evaluate the provisions of the budget as passed by the General Assembly and, if need be, to disapprove or reduce the funding level of appropriations as specified in the Constitution.

In recognizing the importance of enacting a balanced budget, the framers of the Commonwealth's Constitution created a budgetary process that places powers, obligations and restrictions on both the executive and legislative branches. The Constitution has ten sections regulating the budgetary process. Seven of these sections are found in Article III, Legislation. Several of the sections in this article place restrictions on the manner and content of legislation that deals with appropriations. Included in these restrictions, in section 11, is a requirement that the public school appropriation must be part of the yearly general appropriation bill. In section 24, the Constitution prohibits payment of any money from the Treasury without the passage of an appropriation. In addition, Articles IV and VIII of the Constitution define powers and duties of the Governor with respect to preparing the budget and certifying revenues. A reading of these provisions together establishes a defined budgetary process wherein education funding is required to be part of the general operating budget; the Governor must annually submit the proposed expenditures to the General Assembly; and the General Assembly must enact an appropriation to enable the expenditure of the funds. The educational funding provisions in section 2 of House Bill 2128, Printer's Number 3290, are contrary to this process and thus are unconstitutional.

While Article III, section 14, of the Constitution requires that the General Assembly provide for the maintenance and support of a thorough and efficient system of public education, the Constitutional mechanism for the General Assembly to discharge this duty is the enactment of appropriations for the public schools pursuant to the mandate in Article III, section 11. The Constitutional provision requiring support of the public education schools does

not supercede other Constitutional provisions defining the powers of the executive and legislative branches with respect to the passage and enactment of the budget.

In the upcoming fiscal year, basic education funding will account for approximately \$9.3 billion of the General Fund. The basic education subsidy alone will total \$4.9 billion. In total, basic education funding accounts for almost one-third of our \$22 billion in General Fund budget and the basic education subsidy accounts for more than 20% of all General Fund expenditures. To remove this portion of the budget from either the negotiation process or the Governor's purview is unconstitutional, unwise with respect to fiscal management, irresponsible on our part and unfair to the taxpayers.

It is our job as stewards of the public funds and holders of the public trust to engage annually in serious budget negotiations that commence in earnest in time to pass the budget by our deadline. We must do so in service to the taxpayers, parents and schoolchildren of our communities and in compliance with the Constitution of our Commonwealth.

For the reasons set forth above, I must withhold my signature from House Bill 2128, Printer's No.3290.

EDWARD G. RENDELL