

of said Commonwealth or of said State, or to create any debt of said Commonwealth or of said State or of such municipality.

Section 7. Any powers vested in the authority by this act shall be in addition to and not in diminution of the powers heretofore vested by law in the authority.

Section 8. This act shall take effect immediately.

APPROVED—The 19th day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 109

AN ACT

HB 2170

To promote the welfare of the people of the Commonwealth of Pennsylvania; to promote the secular education of children of the Commonwealth of Pennsylvania attending nonpublic schools; creating a Nonpublic Elementary and Secondary Education Fund to finance the purchase of secular educational services from nonpublic schools located within the Commonwealth of Pennsylvania for the benefit of residents of the Commonwealth of Pennsylvania; authorizing the Superintendent of Public Instruction to enter into contracts to carry out the intent and purposes of this act, and to establish such rules and regulations as are necessary; providing for the payment of administrative costs incident to the operation of the act; providing procedures for reimbursement in payment for the rendering of secular educational service; and designating a portion of revenues of the State Harness Racing Fund and of the State Horse Racing Fund as the sources of funds.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Nonpublic Elementary and Secondary Education Act.”

Section 2. Legislative Finding; Declaration of Policy.—It is hereby determined and declared as a matter of legislative finding—

(1) That a crisis in elementary and secondary education exists in the Nation and in the Commonwealth involving (i) the new recognition of our intellectual and cultural resources as prime national assets and of the national imperative now to spur the maximum educational development of every young American’s capacity; (ii) rapidly increasing costs occasioned by the rise in school population, consequent demands for more teachers and facilities, new but costly demands, in the endeavor for excellence, upon education generally; the general impact of inflation upon the economy; and the struggle of the Commonwealth, commonly with many other states, to find sources by

which to finance education, while also attempting to bear the mounting financial burden of the many other areas of modern State governmental responsibility;

(2) That nonpublic education in the Commonwealth today, as during past recent decades, bears the burden of educating more than twenty percent of all elementary and secondary school pupils in Pennsylvania; that the requirements of the compulsory school attendance laws of the Commonwealth are fulfilled through nonpublic education;

(3) That the elementary and secondary education of children is today recognized as a public welfare purpose; that nonpublic education, through providing instruction in secular subjects, makes an important contribution to the achieving of such public welfare purpose; that the governmental duty to support the achieving of public welfare purposes in education may be in part fulfilled through government's support of those purely secular educational objectives achieved through nonpublic education;

(4) That freedom to choose nonpublic education, meeting reasonable State standards, for a child is a fundamental parental liberty and a basic right;

(5) That the Commonwealth has the right and freedom, in the fulfillment of its duties, to enter into contracts for the purchase of needed services with persons or institutions whether public or nonpublic, sectarian or nonsectarian;

(6) That, should a majority of parents of the present nonpublic school population desire to remove their children to the public schools of the Commonwealth, an intolerable added financial burden to the public would result, as well as school stoppages and long term derangement and impairment of education in Pennsylvania; that such hazard to the education of children may be substantially reduced and all education in the Commonwealth improved through the purchase herein provided of secular educational services from Pennsylvania nonpublic schools.

Section 3. Definitions.—The following terms whenever used or referred to in this act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(1) "Nonpublic Elementary and Secondary Education Fund" shall mean the fund created by this act.

(2) "Secular educational service" shall mean the providing of instruction in a secular subject.

(3) "Secular subject" shall mean any course which is presented in the curricula of the public schools of the Commonwealth and shall not include any subject matter expressing religious teaching, or the morals or forms of worship of any sect.

(4) "Nonpublic school" shall mean any school, other than a public school, within the Commonwealth of Pennsylvania, wherein a resident of the Commonwealth may legally fulfill the compulsory school attendance requirements of law.

(5) "Purchase secular educational service" shall mean the purchase

by the Superintendent of Public Instruction from a nonpublic school, pursuant to contract, of secular educational service at the reasonable cost thereof.

(6) "Reasonable cost" shall mean the actual cost to a nonpublic school of providing a secular educational service and shall be deemed to include solely the cost pertaining thereto of teachers' salaries, textbooks and instructional materials.

Section 4. Nonpublic Elementary and Secondary Education Fund.—There is hereby created for the special purpose of this act a Nonpublic Elementary and Secondary Education Fund dedicated to the particular use of purchasing secular educational service consisting of courses solely in the following subjects: mathematics, modern foreign languages, physical science, and physical education; provided, however, that as a condition for payment by the Superintendent of Public Instruction for secular educational service rendered hereunder, the Superintendent of Public Instruction shall establish that (i) solely textbooks and other instructional materials approved by the Superintendent of Public Instruction shall have been employed in the instruction rendered; (ii) a satisfactory level of pupil performance in standardized tests approved by the Superintendent of Public Instruction, shall have been attained; (iii) after five years following the effective date of this act, the secular educational service for which reimbursement is sought was rendered by teachers holding certification approved by the Department of Public Instruction as equal to the standards of this Commonwealth for teachers in the public schools: Provided, however, That any such service rendered by a teacher who, at the effective date of this act, was a full time teacher in a nonpublic school, shall be deemed to meet this condition.

Section 5. Administration.—The administration of this act shall be under the direction of the Superintendent of Public Instruction, who shall establish rules and regulations pertaining thereto, make contracts of every name and number, and execute all instruments necessary or convenient for the purchase of secular educational service hereunder. All expenses incurred in connection with the administration of this act shall be paid solely out of the Nonpublic Elementary and Secondary Education Fund and no money raised for the support of the public schools of the Commonwealth shall be used in connection with the administration of this act.

Section 6. Moneys for Fund.—(a) Permanent Moneys. Into the Nonpublic Elementary and Secondary Education Fund shall be paid each year:

(1) All proceeds from horse racing up to the first ten million dollars (\$10,000,000) realized by the State Horse Racing Fund established by the act of December 11, 1967 (Act No. 331), remaining after, and not required for, payment of all of the items of administrative cost set forth in subsection (b) of section 18 of that act, plus

(2) One-half of all such horse racing proceeds in excess of the sum of ten million dollars (\$10,000,000), the remaining half thereof to be paid into the General Fund.

(b) **Temporary Moneys.** Until the time that proceeds in the amount of ten million dollars (\$10,000,000) shall, in a given fiscal year, have been paid into the Nonpublic Elementary and Secondary Education Fund as provided for under subsection (a) of section 6 hereof, three-fourths of the proceeds from harness racing realized by the State Harness Racing Fund established by the act of December 22, 1959 (P. L. 1978), as amended, remaining after and not required for, the payments provided for in subsections (b) and (d) of section 16 of that act, shall be paid into the Nonpublic Elementary and Secondary Education Fund according to the following formula:

(1) The entire three-fourths of the harness racing proceeds for any fiscal year shall be paid into the Nonpublic Elementary and Secondary Education Fund until such year as the horse racing proceeds designated by this section for the said fund are of such amount that, combined with the harness racing proceeds, the sum of ten million dollars (\$10,000,000) shall have been realized by the Nonpublic Elementary and Secondary Education Fund.

(2) Proceeds from harness racing shall cease to be paid into the Nonpublic Elementary and Secondary Education Fund for any fiscal year in which proceeds from horse racing, designated by this section for the Nonpublic Elementary and Secondary Education Fund, shall equal ten million dollars (\$10,000,000).

Moneys in the Nonpublic Elementary and Secondary Education Fund are hereby appropriated to the Department of Public Instruction to be used by the Superintendent of Public Instruction solely for the purchase of secular educational service hereunder and administrative expenses pertaining thereto as provided for in section 5 of this act.

Section 7. Reimbursement Procedures.—(a) Requests for reimbursement in payment for the purchase of secular educational service hereunder shall be made on such forms and under such conditions as the Superintendent of Public Instruction shall prescribe. Any nonpublic school seeking such reimbursement shall maintain such accounting procedures, including maintenance of separate funds and accounts pertaining to the cost of secular educational service, as to establish that it *actually expended* in support of such service an amount of money equal to the amount of money sought in reimbursement. Such accounts shall be subject to audit by the Auditor General. Reimbursement payments shall be made by the Superintendent of Public Instruction in four equal installments payable on the first day of September, December, March and June of the school term following the school term in which the secular educational service was rendered.

(b) Reimbursements for any fiscal year for the purchase of secular educational service hereunder shall not exceed the total amount of the moneys which were *actually paid into the Nonpublic Elementary and Secondary Education Fund* in that fiscal year.

(c) In the event that, in any fiscal year, the total amount of moneys which were *actually paid into the Nonpublic Elementary and*

Secondary Education Fund shall be insufficient to pay the total amount of validated requests hereunder in reimbursement for that year, reimbursements shall be made in that proportion which the total amount of such requests bears to the total amount of moneys in the Nonpublic Elementary and Secondary Education Fund.

(d) The Budget Secretary shall, by July fifteenth of each year, certify to the Superintendent of Public Instruction, the total amount of money in the Nonpublic Elementary and Secondary Education Fund.

Section ¹ 8. Severability.—If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one ² or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section ³ 9. Effective Date.—This act shall take effect July 1, 1968.

APPROVED—The 19th day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 110

AN ACT

HB 2298

Authorizing the Water and Power Resources Board to grant certain easements across Sand Beach Island, Londonderry Township, Dauphin County, for limited purposes.

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

Section 1. The Water and Power Resources Board is hereby authorized to grant to Metropolitan Edison Company, of Muhlenberg Township, Berks County, its successors and assigns, one or more easements, of such widths and for such consideration as the board shall determine, across Sand Beach Island, sometimes called Evergreen Island, in the Susquehanna River in Londonderry Township, Dauphin County, for the construction, use, operation, maintenance, replacement and removal of a bridge and of electric lines, between Three Mile Island and the east shore of the Susquehanna River.

Section 2. The deed or deeds granting such easements shall recite that said easements are granted to facilitate the construction, operation and maintenance of an electric generating station on said Three

¹ "9" in original.

² "of" in original.

³ "8" in original.