

No. 1988-110

AN ACT

HB 1013

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for subsidies for educational purposes; amending, revising and consolidating provisions relating thereto; and providing for institutional equipment grants.

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

Section 1. Section 513 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a subsection to read:

Section 513. Group Insurance Contracts.—* * *

(b.1) (1) School districts, intermediate units and area vocational-technical schools shall give employes and their dependents, upon the employe's retirement, the option of continuing coverage in the group health plan to which they belonged as employes.

(2) Notwithstanding the provisions of Title XXII of the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 300 bb-1 et seq.) and amendments thereto, annuitants of the Public School Employees' Retirement System may continue to purchase that coverage after retirement until sixty-five years of age or until they are covered by another plan.

(3) Purchase of the coverage provided for in this subsection shall equal the cost of the program for active employes and dependents plus an additional two per centum.

* * *

Section 2. The act is amended by adding a section to read:

Section 680.1. Temporary Continuance of Tax on Landfill or Resource Recovery Facilities.—Notwithstanding the provisions of the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," any school district that initially imposed a tax on a municipal waste landfill or resource recovery facility on or before June 30, 1988, but after December 31, 1987, may continue to collect such tax at the rate in effect on July 1, 1988, during the 1988-1989 school year only.

Section 3. Section 914.1-A(b) of the act, amended December 17, 1982 (P.L.1378, No.316), is amended to read:

Section 914.1-A. Contracts with Private Residential Rehabilitative Institutions.—* * *

(b) The actual cost, not to exceed one and one-quarter times the tuition charges of the school district in which such private residential rehabilitative institution is located, shall be borne [by the school district of the child's residence.] as follows:

(1) *The full tuition charge of the school district in which the private residential rehabilitative institution is located shall be paid by the school district of the child's residence.*

(2) *Any additional charges not to exceed one-quarter of the tuition charge under clause (1) shall be paid by the Commonwealth. In the event that the funds appropriated for payments by the Commonwealth are insufficient to provide for full payment of any additional charges, the amount per school shall be prorated.* If the school district of residence of the child cannot be determined, the costs shall be borne by the Department of Education. *The department shall promulgate audit standards which shall be used by the contracting parties in determining the actual costs which are subject to reimbursement to the private residential rehabilitative institution. The audit standards, promulgated by the department, shall specify as reasonable costs associated with the operation of the educational program offered.* The department shall effectuate necessary procedures for the transfer of funds from the school district of residence to the school district or intermediate unit in which the private residential rehabilitative institution is located. In effectuating the transfer of funds, the department may deduct the appropriate amount from the basic instructional subsidy of any school district which had resident students that were provided educational services by a private residential rehabilitative institution.

* * *

Section 4. The act is amended by adding a section to read:

Section 1142.1. Minimum Salaries for Teachers.—(a) Notwithstanding the provisions of section 1142, the minimum salary paid to full-time teachers for the school term 1988-1989 and each school term thereafter, shall be eighteen thousand five hundred dollars (\$18,500) as provided in this section.

(b) This section shall not require, and shall not be construed to require, the modification, renegotiation or reopening of any contract or agreement in effect on the effective date of this section between a public employer and a public employe or employe organization pursuant to the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," nor shall the salary or any other terms of any such contract or agreement be superseded or modified by this section: Provided, that the board of school directors of a school district may at any time during the term of such contract or agreement implement the minimum salary provisions of this section for the entire school term in the manner provided in section 1151. Whenever a board of school directors of a school district exercises the power granted by this subsection to implement the minimum salary provisions of this section, it shall implement them by making a supplemental salary payment to each full-time teacher who qualifies for such payment in an amount equal to the difference between eighteen thousand five hundred dollars (\$18,500) and the salary to which such teacher is entitled under the terms of the applicable contract or agreement and shall be entitled to receive the special payment provided by section 2594.

(c) The board of school directors of a school district shall pay to full-time teachers a salary which equals at least eighteen thousand five hundred

dollars (\$18,500) for the school term beginning after the expiration of the term of any contract or agreement in effect on the effective date of this section between a public employer and a public employe or employe organization pursuant to the "Public Employe Relations Act," and for each school term thereafter.

(d) For purposes of this section, the following terms shall have the following meanings:

"Board of school directors" shall mean board of school directors, intermediate unit board of directors and area vocational-technical board.

"School district" shall mean school district, intermediate unit and area vocational-technical school.

"Teacher" shall mean classroom teachers and all others included within the definition of "teacher" in section 1141, including speech correctionists and instructional department chairmen employed by a school district.

Section 5. Section 1148 of the act is amended to read:

Section 1148. Substitute Teachers.—Substitutes shall be paid not less than the minimum salary provided for by [this subdivision] *section 1142*, or in the event they are employed for less than a full school year, the proportionate part of such minimum salary equal to the proportionate part of the school year during which they were employed, arrived at by dividing the number of days during which a substitute was employed by the total number of days the schools of the district were in session during the school year.

Section 6. Section 1913-A(b) and (i) of the act, added July 1, 1985 (P.L.103, No.31), are amended to read:

Section 1913-A. Financial Program; Reimbursement or Payments.—

* * *

(b) (1) The Commonwealth shall pay to a community college on behalf of the sponsor on account of its operating costs during the fiscal year from funds appropriated for that purpose an amount equal to one-third of such college's approved operating costs not to exceed [two thousand four hundred dollars (\$2,400)] *three thousand dollars (\$3,000)* per student multiplied by the number of equivalent full-time students determined by an audit to be made in a manner prescribed by the State Board of Education.

(2) In addition, the Commonwealth shall pay to a community college, on account of its operating costs for all equivalent full-time students enrolled in the following categories of two-year or less than two-year occupational or technical programs, a stipend as follows:

(i) One thousand one hundred dollars (\$1,100) per full-time equivalent student enrolled in advanced technology programs. Advanced technology programs are programs using new or advanced technologies which hold promise for creating new job opportunities, including such fields as robotics, biotechnology, specialized materials and engineering and engineering-related programs.

(ii) One thousand dollars (\$1,000) per full-time equivalent student enrolled in programs designated as Statewide programs. A Statewide program is a program which meets one or more of the following criteria:

(A) Program enrollment from out-of-sponsor area is twenty per cent or more of the enrollment for the program.

(B) A consortial arrangement exists with another community college to cooperatively operate a program or share regions in order to avoid unnecessary program duplication.

(iii) Five hundred dollars (\$500) per full-time equivalent student enrolled in other occupational or technical programs.

(3) The Secretary of Education annually shall establish criteria to be used to determine eligibility of programs for each of the above stipend categories, shall approve programs for funding in the following fiscal year according to these criteria and shall submit to chairmen of the committees of education in the House of Representatives and Senate a report setting forth the established criteria, any programs approved for funding under these criteria and the recipient community colleges.

(4) Each community college shall maintain such accounting and student attendance records on generally accepted principles and standards as will lend themselves to satisfactory audit. The Commonwealth shall pay to a community college on behalf of the sponsor on account of its capital expenses an amount equal to one-half of such college's annual capital expenses from funds appropriated for that purpose to the extent that said capital expenses have been approved as herein provided.

(5) For purposes of determining Commonwealth reimbursement of operating costs, Federally funded expenditures for those programs in which the Commonwealth participates in the cost shall be deducted from total operating expenditures to determine net reimbursable operating costs.

* * *

(i) The amount payable to each community college Board of Trustees on behalf of the sponsor shall be paid in the year in which the costs and expenses are incurred in quarterly installments and the Secretary of Education shall draw his requisition quarterly upon the State Treasurer in favor of each community college for the amount of reimbursement to which it is entitled. Reimbursement or payment by the Commonwealth for the operational expenses and capital equipment and the furnishings shall be made on or before the end of the fiscal quarters ended on September 30, December 31, March 31 and June 30 of each Commonwealth fiscal year. Reimbursements or payments shall be made semi-annually for the Commonwealth's share of the annual rentals to an authority or the sponsor or sinking fund or debt-service payments and other leases upon submission of a community college requisition in the form required by the Commonwealth, the reimbursement or payment to be made from funds appropriated for that purpose. *Money that is appropriated under this subsection but not expended by a community college Board of Trustees shall not be distributed to a local sponsor.*

Section 7. The act is amended by adding a section to read:

Section 2114. Prohibitions.—(a) No school district of the first class may close any location for the delivery of early intervention programs or school-sponsored day-care services which were in existence on May 1, 1988.

(b) No school district of the first class may discontinue transportation services to nonpublic school students which were in effect on May 1, 1988, as long as said district continues to provide transportation services to public school students at corresponding grade levels.

Section 8. Sections 2501(19) and 2502.5(b) and (e) of the act, amended July 10, 1987 (P.L.286, No.50), are amended to read:

Section 2501. Definitions.—For the purposes of this article the following terms shall have the following meanings:

* * *

(19) “Factor for Educational Expense.” For the school years 1982-1983 and 1983-1984, the factor for educational expense used to compute school district entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand six hundred fifty-six dollars (\$1,656) unless later changed by statute. For the school year 1983-1984, the Factor for Educational Expense shall be one thousand seven hundred twenty-five dollars (\$1,725), unless later changed by statute, for those school districts participating, during the 1984-1985 school year, in a Statewide program for testing and remediation which is designed to identify and provide remediation services to individual students pursuant to section 1511.1. For the 1984-1985 school year, notwithstanding any other provisions of this act to the contrary, the Factor for Educational Expense used to compute all school districts’ entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand eight hundred seventy-five dollars (\$1,875). For the 1985-1986 school year, the Factor for Educational Expense used to compute all school districts’ entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand nine hundred seventy dollars (\$1,970). For the 1986-1987 school year **[and each school year thereafter]**, the Factor for Educational Expense used to compute all school districts’ entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand one hundred twenty-five dollars (\$2,125). *For the school year 1987-1988 and each school year thereafter, the Factor for Educational Expense used to compute all school districts’ entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand two hundred thirty dollars (\$2,230).*

Section 2502.5. Limitation of Certain Payments.—* * *

(b) Notwithstanding any other provisions of law, for the school year 1982-1983 and 1983-1984, no school district shall be paid under subsections (d) and (e) of section 2502 and section 2502.11 or, for the school year 1984-1985 **[and each school year thereafter]**, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, section 2502.11 and section 2502.13 or, for the school year 1985-1986, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, section 2502.11, section 2502.13, section 2502.14 and section 2502.15 or, for the school year 1986-1987, no school district shall be paid under subsections (d) and (e) of section 2502,

subsection (e) of this section, section 2502.11, section 2502.13 and section 2502.15 *or, for the school year 1987-1988 and each school year thereafter, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, sections 2502.11 and 2502.13* an amount in excess of one hundred percent (100%) of the total reimbursable instructional expenditures of the school district. For the 1982-1983 school year, all school districts qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed nine percent (9%) over the sums received on account of section 2502.9 for the 1981-1982 school year, nor shall any school district receive an increase of less than two percent (2%) of the 1982-1983 school year payments on account of the 1981-1982 school year. For the 1984-1985 school year, each school district qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed eight and forty-five one hundredths percent (8.45%) over the sums received on account of such sections for the school year 1983-1984, nor shall any school district receive an increase of less than two percent (2%) of such payments for the school year 1983-1984: Provided, however, That such payments for the school year 1983-1984 shall be computed using a Factor for Educational Expense of one thousand six hundred fifty-six dollars (\$1,656) and a maximum payment increase of seven and forty-five one hundredths percent (7.45%) and a minimum payment increase of two percent (2%) and the eighty percent (80%) guarantee provided for in section 2502.5(e). For the 1985-1986 school year, each school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed seven percent (7%) over the sums received on account of such sections for the school year 1984-1985, nor shall any school district receive an increase less than two percent (2%) of such payments for the school year 1984-1985. For the 1986-1987 school year **[and each school year thereafter]**, each school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed eight percent (8%) over the sums received on account of such sections and section 2502.14 for the school year 1985-1986, nor shall any school district receive an increase less than two percent (2%) of such payment for the school year 1985-1986. *For the 1987-1988 school year and each school year thereafter, each school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed eight percent (8%) over the sums received on account of such sections and section 2502.15 for the school year 1986-1987, nor shall any school district receive an increase less than two percent (2%) of such payments for the school year 1986-1987.*

(e) For the school years 1983-1984 and 1984-1985, no school district shall be paid under subsections (d) and (e) of section 2502 and under

section 2502.11 less than eighty percent (80%) of the total amount to which it is entitled under said sections, notwithstanding any limitations on increases in such payments enacted by the General Assembly to the contrary. For the school year 1985-1986, no school district shall be paid under subsections (d) and (e) of section 2502 and under section 2502.11 less than eighty-five percent (85%) of the total amount to which it is entitled under said sections, notwithstanding any limitations on increases in such payments enacted by the General Assembly to the contrary. For the school year 1986-1987 **[and each school year thereafter]**, no school district shall be paid under subsections (d) and (e) of section 2502 and under section 2502.11 less than ninety percent (90%) of the total amount to which it is entitled under said sections, notwithstanding any limitations on increases in such payments enacted by the General Assembly to the contrary. *For the school year 1987-1988 and each school year thereafter, no school district shall be paid under subsections (d) and (e) of section 2502 and under section 2502.11 less than ninety-five percent (95%) of the total amount to which it is entitled under said sections, notwithstanding any limitations on increases in such payments enacted by the General Assembly to the contrary.* For the school year 1983-1984, payments under this subsection shall be computed using a Factor for Educational Expense of one thousand six hundred fifty-six dollars (\$1,656) and a maximum payment increase of seven and forty-five one hundredths percent (7.45%) and a minimum payment increase of two percent (2%). For the school year 1984-1985 and each school year thereafter, payments under this subsection shall be computed using the Factor for Educational Expense as defined in section 2501(19) and minimum and maximum increase limits provided for in subsection (b) of this section. No school district shall, as a result of this subsection, be paid an amount in excess of one hundred percent (100%) of the total reimbursable instructional expenditures of the school district.

Section 9. Section 2502.10(c) of the act, added June 25, 1982 (P.L.643, No.182), is amended to read:

Section 2502.10. Temporary Special Aid to School Districts Due to Real Property Reassessments.—***

(c) The special aid authorized by this section shall be paid from undistributed basic instruction subsidy funds to the extent that such funds are available. *Beginning with payments made during the 1987-1988 school year and each school year thereafter, the special aid authorized by this section shall be paid from any funds not expended, encumbered or committed from appropriations for grants and subsidies made to the Department of Education: Provided, that no funds available from appropriations for library-related activities may be used for these payments.*

* * *

Section 10. Section 2502.11(b) of the act, added December 20, 1983 (P.L.267, No.73), is amended to read:

Section 2502.11. Economic Supplement.—***

(b) For the school **[year 1982-1983 and each school year thereafter] years 1982-1983 through 1986-1987**, each qualifying school district shall be paid on

account of children in low-income families an amount in accordance with the following table:

Percentage of Low-Income Pupils In Average Daily Membership	Grant Per Low-Income Pupil
10 - 19.9	\$100
20 - 39.9	\$300
40 or over	\$500

For the school year 1987-1988, each qualifying school district shall be paid on account of children in low-income families an amount in accordance with the following table:

Percentage of Low-Income Pupils In Average Daily Membership	Grant Per Low-Income Pupil
8 - 14.9	\$128
15 - 29.9	\$357
30 or over	\$587

For the school year 1988-1989 and each school year thereafter, each qualifying school district shall be paid on account of children in low-income families an amount in accordance with the following table:

Percentage of Low-Income Pupils In Average Daily Membership	Grant Per Low-Income Pupil
8 - 14.9	6% of the factor for educational expense used to make payments on account of instruction, as provided for in section 2501(19).
15 - 29.9	16% of the factor for educational expense used to make payments on account of instruction, as provided for in section 2501(19).
30 or over	27% of the factor for educational expense used to make payments on account of instruction, as provided for in section 2501(19).

For the 1982-1983 school year and each school year thereafter, low-income pupils are defined for purposes of this section as children aged five (5) to seventeen (17) years, inclusive, in families receiving a grant in excess of two thousand dollars (\$2,000) from the Commonwealth on account of dependent children under Title IV of the Federal Social Security Act.

* * *

Section 11. Section 2502.13 of the act, amended July 10, 1987 (P.L.286, No.50), is amended to read:

Section 2502.13. Small District Assistance.—For the 1984-1985 [school year and each school year thereafter] and 1985-1986 school years, the Commonwealth shall pay[,] to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to fifty dollars (\$50) multiplied by that district's average daily membership. For the 1985-1986 school year, no school district shall

receive less on account of this section than it did for the 1984-1985 school year. For the school year 1986-1987 **[and each school year thereafter]**, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1985-1986 school year, an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership. *For the school year 1987-1988 and each school year thereafter, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1986-1987 school year, an amount equal to eighty-five dollars (\$85) multiplied by that district's average daily membership. For the 1987-1988 school year and each school year thereafter, no school district shall receive less on account of this section than it did for the 1986-1987 school year.*

Section 12. Section 2502.16(c) of the act, added July 10, 1987 (P.L.286, No.50), is amended and the section is amended by adding subsections to read:

Section 2502.16. Temporary Special Aid to School Districts Suffering Loss of Tax Revenue Due to Bankruptcy of Businesses in the School District.—***

(c) The temporary special aid provided for in this section shall be paid from undistributed equalized subsidy for basic education funds to the extent that such funds are available. *Beginning with payments made during the 1987-1988 school year and each school year thereafter, the special aid authorized by this section shall be paid from any funds not expended, encumbered or committed from appropriations for grants and subsidies made to the Department of Education: Provided, that no funds available from appropriations for library-related activities may be used for these payments.*

(f) *The special payments authorized by this section and section 2502.10 shall be paid from a restricted revenue account, which is hereby established, for such payments. Funds shall be transferred by the Secretary of the Budget only to the extent necessary to make the payments authorized by this section and section 2502.10.*

(g) *The Secretary of the Budget shall provide to the Chairman and Minority Chairman of the Senate Appropriations Committee and the Chairman and Minority Chairman of the House Appropriations Committee information concerning the appropriation from which funds have been transferred and the amounts transferred. The Department of Education shall have a written policy concerning the method for making payments to school districts, including the date by which payments shall be made each fiscal year.*

Section 13. The act is amended by adding sections to read:

Section 2594. *Special Payments on Account of Minimum Salary Increases.—(a) For the school year 1988-1989 and each school year thereafter beginning before the expiration of the term of any contract or agree-*

ment effective on or before the effective date of this section between a public employer and a public employe or employe organization pursuant to the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," each school district, intermediate unit and area vocational-technical school which elects to increase minimum salaries pursuant to section 1142.1 shall be paid in the manner provided in subsection (b), in addition to any other payments to which it is entitled, a special payment to cover the cost of implementing section 1142.1.

(b) For the school year 1988-1989, the amount paid to each school district, intermediate unit and area vocational-technical school shall be the difference between the salary paid to each full-time teacher at the beginning of the school term 1988-1989 that is less than eighteen thousand five hundred dollars (\$18,500) and an amount equal to eighteen thousand five hundred dollars (\$18,500). For the school year 1989-1990 and each school year thereafter, the amount paid shall be the difference between the salary payable to each full-time teacher at the beginning of the school term under the terms of the contract or agreement in effect on the effective date of this section which is less than eighteen thousand five hundred dollars (\$18,500) and an amount equal to eighteen thousand five hundred dollars (\$18,500). The amount so calculated shall be paid to each qualifying school district, intermediate unit and area vocational-technical school by the Department of Education during each school year for which each school district, intermediate unit and area vocational-technical school qualifies out of the funds appropriated to the department for this purpose.

(c) For each school year for which a school district, intermediate unit and area vocational-technical school qualifies for a special payment under subsection (a), the entire employer's share of contributions to the Public School Employe's Retirement Fund and Social Security attributable to the salary increase implemented pursuant to section 1142.1 shall be paid for each school district, intermediate unit and area vocational-technical school out of funds appropriated to the Department of Education for such purposes.

Section 2595. School Performance Incentives.—(a) The purpose of this section is to establish a program of school performance incentives to reward significant educational improvements, to evoke further school performance improvement and to foster collegial participation by school employes in improving school performance.

(b) Any public elementary school, secondary school or area vocational-technical school is eligible to participate in the school performance program.

(c) (1) School performance will be determined by improvements in student accomplishment using the following criteria:

(i) student achievement as measured by performance on tests developed or approved by the State board through regulation and pursuant to this act;

(ii) dropout rates as measured by the increase in the proportion of students continuing their education in grades seven through twelve; or

(iii) students prepared to go on to higher education as measured by an increase in the proportion of high school students taking the Scholastic Aptitude Tests and an increase in the average scores on Scholastic Aptitude Tests.

(2) *Improvements in school performance shall be calculated on performance levels during the year prior to the year in which incentive payments are made compared to performance levels during either the immediately preceding year or the average of the two immediately preceding years.*

(3) *All data submissions from the schools shall be subject to audit, and any incentive payment amounts subsequently determined to be excessive due to inappropriate data shall be deducted from subsequent Equalized Subsidy for Basic Education payments.*

(4) *The Secretary of Education shall monitor and evaluate the criteria for selection of schools and shall annually determine and publish the required level of performance improvement for schools to be awarded incentive payments. Beginning with payments to be made during the 1990-1991 fiscal year, any revisions shall be proposed on or before September 1 of the fiscal year prior to the fiscal year in which the incentive payments are to be distributed.*

(d) *The Secretary of Education shall award on account of each school that meets the required level of performance improvement an amount determined by dividing the total full-time equivalent professional employes of the qualifying schools into the amount annually appropriated for the school performance incentives. The incentive awards will be distributed to the school districts based on the number of full-time equivalent professional employes at the qualifying school. Each school performance incentive payment shall be made in a single payment, and the Secretary of Education shall draw his requisition upon the State Treasurer in favor of each school district with qualifying schools.*

(e) (1) *Incentive funds shall be paid to the school district for use only by schools which qualify pursuant to subsection (c). Payments received by school districts with qualifying schools may be applied to one or more of the following uses:*

(i) *Teaching materials, including books, audio-visual aids and computer software.*

(ii) *Initiatives which reach to families to evoke home support of the work of the school and otherwise involve families in the school.*

(iii) *Assistance in the introduction or advancement of curricular and instructional improvements.*

(iv) *Other uses reasonably expected to improve school performance or to enhance teaching and learning or the educational climate of the school.*

(2) *Uses of incentive funds, as provided for in clause (1) of this subsection, in each school shall be determined by the regular full-time and part-time school employes in the school through a selection process of their choice. The plan of the school employes regarding uses of the incentive funds shall be presented to the board of school directors and shall be implemented unless the board of school directors disapproves within sixty days of its receipt. If the plan is disapproved, the school employes may resubmit a new plan which the board of school directors shall consider as provided herein.*

(f) *Incentive funds provided pursuant to this section shall be used to supplement and not to supplant any other sources of funds for the operation of the qualifying schools and the instructional program of such schools.*

(g) (1) *Each school district receiving a school performance incentive payment shall report to the Secretary of Education no later than October 31 of the fiscal year following the year in which such funds were expended on the use of the funds, the results of the use of such funds and the maintenance of the fiscal effort on behalf of qualifying school buildings of such school districts. Reports by school districts, as provided for in this subsection, shall be submitted in a form determined by the Secretary of Education.*

(2) *The Secretary of Education shall annually file with the Education Committee of the House of Representatives and the Education Committee of the Senate a report on the operation of the school performance incentives program provided for herein, including any recommendations for changes in the selection criteria.*

(3) *By September 15, 1992, the Secretary of Education shall report to the Chairman and Minority Chairman of the Education Committee of the House of Representatives and to the Chairman and Minority Chairman of the Education Committee of the Senate on: The identification of exemplary educational programs initiated in various schools which resulted in superior performance improvement; recommendations of methods of encouraging replication of these programs; and evaluation and recommendations on whether these programs should be continued or altered.*

(h) *Nothing in this section shall be construed to deprive any employe, any employe organization or any public employer of any rights, including rights of representation, enjoyed under the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," or under other provisions of this act.*

Section 2596. Special Study on the Revenue Impact of Out-of-State Tax Credits.—(a) *The Department of Education shall undertake a special study to assess the revenue impact on Pennsylvania school districts of residents who work in bordering states. Particular emphasis shall be placed on districts meeting the following criteria:*

(1) *Districts that levy a local earned income tax under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act"; and*

(2) *Districts that include as resident taxpayers individuals who are subject to state and/or local income taxes at their out-of-State place of employment and who, therefore, claim tax credits in Pennsylvania as a result of these levies.*

(b) *The assessment shall include:*

(1) *Identification of all districts which meet the above criteria.*

(2) *Compilation of data indicating, on a per district basis, the number of resident taxpayers claiming a tax credit for out-of-State payments.*

(3) *Analysis of the individual taxpayer data in order to assess the effect on the local and State revenues for each affected school district.*

(c) *The Secretary of Education shall present a report summarizing the results of this study to the Chairman and the Minority Chairman of the House Education Committee and the Chairman and the Minority Chairman of the Senate Education Committee no later than April 1, 1989.*

Section 14. The act is amended by adding an article to read:

**ARTICLE XXVI-C
INSTITUTIONAL EQUIPMENT GRANTS**

Section 2601-C. Definitions.—When used in this article, the following words and phrases shall have the following meanings:

“Community colleges” shall mean institutions now, or hereafter, created pursuant to the act of August 24, 1963 (P.L.1132, No.484), known as the “Community College Act of 1963,” or Article XIX-A of this act.

“Department” shall mean the Department of Education of the Commonwealth.

“Educational equipment” shall mean tangible property used by institutions of higher education in support of instruction. The term shall not include equipment used in support of sectarian and denominational instruction or for any other sectarian and denominational purpose or activity.

“Eligible institution” shall mean an independent institution of higher education, a State-owned institution or a State-related institution, any of which is approved by the department for equipment grants pursuant to the provisions of this act. It shall not mean an institution which is determined by the department to be a community college, a theological seminary or school of theology or a sectarian and denominational institution.

“Equipment grant” shall mean an amount determined by dividing the funds appropriated pursuant to this act, less reasonable administrative expenses, by the total of all certified full-time equivalent students from all eligible institutions applying for grants.

“Full-time equivalent students” shall mean the enrollment in programs at eligible institutions expressed in terms of full-time students as determined by the Department of Education.

“Independent institution of higher education” shall mean an institution of higher education which is operated not-for-profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in section 211 of the act of May 5, 1933 (P.L.289, No.105), known as the “Nonprofit Corporation Law,” and entitled to apply to itself the designation “college” or “university” as provided for by standards and qualifications prescribed by the State Board of Education pursuant to the act of May 7, 1937 (P.L.585, No.150), entitled, as amended, “An act prohibiting the use of the designation of ‘college’ by any institution not conforming to the standards of a college prescribed by the State Board of Education; and providing for injunctions, and penalties.”

“Pennsylvania based” shall mean educational equipment manufactured or assembled within this Commonwealth, or sold, leased or otherwise provided to an eligible institution by a vendor which has a place of business in this Commonwealth.

“State-owned institutions” shall mean those institutions which are part of the State System of Higher Education pursuant to the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of 1929.”

“State-related institutions” shall mean The Pennsylvania State University, the University of Pittsburgh, Temple University and Lincoln University and their branch campuses.

Section 2602-C. Certification of Recipients.—*From the information it receives from colleges and universities or, in the case of State-owned institutions, from the State System of Higher Education, the department shall certify the number of full-time equivalent students attending each eligible institution during the most recent year for which data is available.*

Section 2603-C. Institutional Equipment Grants.—*For the academic year beginning on or about September 1, 1988, the department shall allot a one-time equipment grant on behalf of each full-time equivalent student attending the eligible institution as certified pursuant to section 2602-C. The allotment shall be made to each eligible institution or, in the case of State-owned institutions, to the State System of Higher Education from the funds appropriated to the department pursuant to this article. Following an initial allocation and allotment, if any funds appropriated have not been and cannot be allocated to one or more institutions otherwise eligible for funds, the department shall reallocate these funds to the remaining eligible institutions so that all funds appropriated under this article have been allotted.*

Section 2604-C. Use of Moneys.—*The moneys appropriated shall be used only for, or in connection with, expenses incurred by the eligible institution to purchase, lease or otherwise acquire educational equipment which is Pennsylvania based. If the eligible institution purchases, leases or otherwise acquires educational equipment which is not Pennsylvania based, it must file with the department a statement of justification as to why Pennsylvania-based educational equipment was not obtained.*

Section 2605-C. Forfeiture.—*Any eligible institution which refuses to submit such information for audit as required by this article or knowingly submits misrepresentations or false statements with the intention of fraudulently obtaining moneys from the department shall be denied status as an eligible institution under the provisions of this article.*

Section 2606-C. Expiration.—*This article shall expire on June 30, 1989.*

Section 15. Notwithstanding any other provisions of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, the board of school directors of each school district is authorized to and may reopen its 1988-1989 budget during the months of October and November 1988 to make any revisions in the budget and tax levies heretofore adopted to reflect anticipated increases in subsidies payable to the school district during its 1988-1989 fiscal year under provisions of this act.

Section 16. This act shall be retroactive as follows:

(1) Except with respect to section 15 of this amendatory act and the amendments to sections 2502.10(c) and 2502.16(c) of the act, this amendatory act shall be retroactive to July 1, 1988.

(2) The amendments to sections 2502.10(c) and 2502.16(c) shall be retroactive to May 31, 1988.

Section 17. This act shall take effect as follows:

- (1) Section 513(b.1) of the act shall take effect July 1, 1989.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 20th day of October, A. D. 1988.

ROBERT P. CASEY