

## No. 1989-43

## AN ACT

## SB 252

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 filling vacancies on certain boards of school directors, for group insurance contracts and for property tax assessments in certain school districts; providing for business administrators; further providing for the duties of the State Board of Education; further providing for an economic supplement; further defining "personal income valuation" and "market value/income aid ratio" to expand tax credits for income earned out-of-State; further providing for subsidies; providing for equipment grants; and making editorial changes.

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

Section 1. Sections 315, 316 and 317 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended November 28, 1973 (P.L.361, No.127), are amended to read:

Section 315. Filling of Vacancies.—In case any vacancy shall occur in any board of school directors by reason of death, resignation, removal from the district, or otherwise, such vacancy shall, in a school district of the first class **[or of the first class A]**, be filled for the unexpired term by the court of common pleas of the county in which such school district is situated from the qualified electors of the district; and in a school district of the second, third, or fourth classes, the remaining members of the board of school directors shall, by a majority vote thereof, fill such vacancy from the qualified electors of the district within thirty (30) days thereafter. In a district of the second, third, or fourth class, the person selected to fill such vacancy shall be a qualified elector of the district and shall hold his office, if the term thereof so long continues, until the first Monday of December after the first municipal election occurring more than sixty (60) days after **[his appointment] the vacancy shall have occurred**. At such election an eligible person shall be elected for the remainder of the unexpired term. If, by reason of a tie vote or otherwise, such vacancy shall not have been filled by the board of school directors within thirty (30) days after such vacancy shall have occurred from the qualified electors of the district, the court of common pleas of the proper county, upon the petition of ten or more resident taxpayers, shall fill such vacancy by the appointment of a suitable person from the qualified electors of the district if the term of the vacant office so long continues, until the first Monday of December after the first municipal election occurring more than sixty (60) days after **[his appointment] the vacancy shall have occurred**. At such election an eligible person shall be elected for the remainder of the unexpired term. When any member of a board of school directors heretofore or hereafter enlists or is inducted into the military or naval forces of the United

States in time of war, a temporary vacancy shall be declared, which shall be filled by the remaining members of the board or the court, as the case may be from the qualified electors of the district, until the return of such member of the board from the military or naval service, or until the expiration of the term for which he shall have been elected, whichever shall be the shorter period.

Section 316. Vacancies in Majority of Members.—In case vacancies occur whereby the offices of a majority of the members of any board of school directors, other than the board of school directors of a school district of the first class or of the first class A becomes vacant, such vacancies shall be filled by the court of common pleas of the county in which such school district is situated from the qualified electors of the district. The persons selected to fill such vacancies shall hold their offices, if the terms thereof continue so long, until the first Monday in December after the first municipal election occurring more than sixty (60) days after **[their appointment] the vacancy shall have occurred**, at which election eligible persons shall be elected for the remainder of the respective unexpired term.

Section 317. Vacancies in All Members.—If at any time vacancies exist or occur in the membership of all the members of any board of school directors in any school district, other than a school district of the first class or of the first class A, the court of common pleas of the county in which such district, or the largest part in area thereof, is located, shall, after ten (10) days from the time such vacancies exist or occur, appoint a board of properly qualified persons from the qualified electors of the district who shall serve, if the terms thereof continue so long, until the first Monday in December after the first municipal election occurring more than sixty (60) days after **[their appointment] the vacancy shall have occurred**; at which election a board of school directors for such district shall be elected for the remainder of the respective unexpired term. Whenever a vacancy of the entire membership of a board of school directors in any school district of the fourth class occurs, the executive director of the intermediate unit may enter and take full charge of and, at the expense of the district, maintain the schools thereof in accordance with the provisions of the school laws of the Commonwealth, under the direction of the Secretary of Education, and may continue in charge thereof until a board of school directors has been appointed from the qualified electors of the district and has qualified.

Section 2. Section 513(b.1) of the act, added October 20, 1988 (P.L. 827, No. 110), is amended 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, *as defined in paragraph*

*(4), until sixty-five years of age or until they are covered by another plan. An annuitant who is eligible to be covered as an employe or dependent by any other employer-provided health plan shall not be eligible for coverage in the school unit's health plan: Provided, however, That such annuitant shall be eligible for reinstatement in the school unit's health plan whenever such alternate coverage ceases.*

(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.

*(4) For purposes of this section, an annuitant shall mean a member of the Public School Employees' Retirement System who has taken superannuation retirement, has retired with thirty (30) or more years of credited service or has taken disability retirement.*

*(5) Qualifying annuitants who retired from the school entity prior to July 1, 1989, or subsequent to that date shall be eligible for continuing coverage under the school unit's group health plan. No qualifying annuitant, however, may purchase such coverage until July 1, 1989. Annuitants shall be required to comply with the following conditions in order to purchase continuing coverage as provided in this section:*

*(i) Annuitants who retired prior to July 1, 1989, shall, within sixty (60) days of the effective date of this act, be notified by the Public School Employees' Retirement System of their entitlement to purchase continuing medical coverage as provided herein. Within forty-five (45) days from the date of such notice, annuitants who elect to purchase continuing coverage shall provide written notification to the school unit from which they retired of their decision to enroll in its health plan.*

*(ii) Annuitants who retire after July 1, 1989, shall, within sixty (60) days of their retirement, be notified by the school unit to which they belonged at the time of retirement of their entitlement to purchase continuing medical coverage as provided herein. Within forty-five (45) days from the date of such notice, annuitants who elect to purchase continuing coverage shall provide written notification to the school unit of their decision to enroll in the health plan to which they belonged at the time of retirement.*

*(iii) The school unit shall be responsible for providing annuitants with written notification of deadlines for payment of premiums. Failure to pay prescribed premiums and fees, as provided in this section, in not less than sixty (60) days from the date of notice, shall automatically terminate eligibility of an annuitant to participate in the health care plan: Provided, however, That nothing in this subsection shall prohibit the reinstatement of persons into the health plan in accordance with procedures established by the school unit, consistent with policies of the provider of the health plan.*

(6) School districts, intermediate units and area vocational-technical schools shall report annually to the Department of Education the increased costs resulting exclusively from the inclusion of qualified annuitants and their dependents in the entity's group health plan, for the purpose of evaluating the feasibility of future Commonwealth funding.

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Section 3. Section 677.1 of the act, amended July 22, 1970 (P.L.555, No.191), is amended to read:

Section 677.1. Additions and Revisions to Duplicates.—Whenever in second, third and fourth class school districts there is any construction of a building or buildings not otherwise exempt as a dwelling[, **after September first of any year**] and such building is not included in the tax duplicate of the school district, the authority responsible for assessments in the city, borough, township or county shall, upon the request of the board of school directors, *direct the assessor in the district to inspect and [reassess] assess*, subject to the right of appeal and adjustment provided by the act of Assembly under which assessments are made, all taxable property in the district to which major improvements have been made [**after September first,**] and to give notice of such [reassessments] *change in the assessed valuation* within ten days to the authority responsible for assessments, the school district and the property owner. Such property shall then be added to the duplicate, and shall be taxable for school purposes at the [reassessed] *assessed valuation* for that proportionate part of the fiscal year of the school district remaining after the property was improved. Any improvement made during the month shall be computed as having been made on the first of the *next succeeding* month. A certified copy of the additions or revisions to the duplicate shall be furnished *monthly* by the board of school directors to the tax collector for the district, and within ten days thereafter the tax collector shall notify the owner of the property of the taxes due the school district.

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

*Section 1089. Business Administrator.—(a) A governing board of a school entity may employ or continue to employ a person serving in the function of business administrator of the school entity who shall perform such duties as the governing board may determine, including, but not limited to, the business responsibilities specified in section 433 of this act.*

*(b) The governing board may enter into a written employment agreement with a person hired after the effective date of this section to serve as a business administrator or into an amended or renewed agreement with a person serving in that function as of such effective date. The agreement may define the period of employment, salary, benefits, other related matters of employment and provisions of renewal and termination of the agreement.*

*(c) Unless otherwise specified in an employment agreement, the governing board shall, after due notice, giving the reasons therefor, and after hearing if demanded, have the right at any time to remove a business administrator for incompetency, intemperance, neglect of duty, violation of any of the school laws of this Commonwealth or other improper conduct.*

*(d) A person serving as business administrator shall not be a member of the governing board of the school entity.*

*(e) A person serving as business administrator may serve as secretary or treasurer of the governing board.*

*(f) For purposes of this section, the term "school entity" shall mean a school district, intermediate unit or an area vocational-technical school. The term "governing board" shall mean the board of directors or joint board of such entity.*

Section 5. Section 1372 of the act is amended by adding a subsection to read:

Section 1372. Exceptional Children; Education and Training.—\* \* \*

*(1.1) Revision of Standards for Education and Training of Exceptional Children. During the school year 1989-1990 the following provisions shall apply to the State Board of Education:*

*(i) Not later than March 1, 1990, the State Board of Education shall adopt revised Chapter 13 Special Education regulations and approve revised 22 Pa. Code Ch. 341 department standards for the education and training of exceptional children, and such revised regulations and standards shall be effective beginning with the school year and fiscal year 1990-1991. Such revised regulations and standards shall, at a minimum, provide measures as may be necessary to assure fiscal accountability, prudent management, appropriate education support services and special classes to meet the needs of pupils, and assurance of continued service to children receiving special education instruction and services on the effective date of such revised regulations and standards, including a requirement that no changes in such instruction or service be made unless through changes in the child's Individualized Education Program.*

*(ii) Due to the urgent need for an expedited but public regulatory process, the State Board of Education, in adopting such revised regulations and approving such revised department standards, shall follow the procedures set forth in this subsection.*

*(A) The State Board of Education shall conduct such public hearings and receive such testimony as it deems appropriate, provided, however, that the State Board of Education conduct at least three public hearings prior to the final adoption of such revised regulations and approval of such revised department standards. Not later than November 10, 1989, at the time the State Board of Education announces its intention to adopt such revised regulations and to approve such revised department standards, it shall announce its intention pursuant to the provisions of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, and shall transmit copies of such proposed regulations and standards to the chairmen of the standing Committees on Education of the Senate and House of Representatives to permit those committees thirty (30) days to review and comment upon such proposed regulations and standards. At the time the State Board finally adopts such final form regulations and approves such revised department standards, it shall transmit copies of such regulations and standards to the chairmen of the standing Committees on Education of the Senate and House of Representatives and the Independent Regulatory Review Commission. The final form regulations and revised department standards shall be subject to review in accordance with the procedures set forth in the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," for proposed final regulations. Other than as herein provided, regulations adopted pursuant to this paragraph shall not be subject to review under the "Regulatory Review Act."*

**(B) The State Board of Education may transmit to the Governor and the Secretary of Education recommendations, if any, for changes in statutes.**

**(iii) The Department of Education shall require the submission of appropriate program and fiscal data from the school districts and intermediate units in order to assist in the development of regulations and proposed program standards. Each school district and intermediate unit shall provide such data at such time and in such form as the department may require.**

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Section 6. Section 1376 of the act, amended December 20, 1983 (P.L.267, No.73), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.--(a) When any child between **[the ages of six (6)] school entry age** and twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy and/or mentally retarded and/or socially and emotionally disturbed, is enrolled, with the approval of the Department of Education, as a pupil in an approved *private* school for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied and/or mentally retarded, and/or socially and emotionally disturbed, approved by the Department of Education, in accordance with standards and regulations promulgated by the **[Council of Basic] State Board of Education**, the school district in which such child is resident shall pay **the greater of either** twenty per centum (20%) of the actual audited cost of tuition and maintenance of such child in such school, as determined by the Department of Education[;], **or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil,"** and the Commonwealth shall pay, out of funds appropriated to the department for special education, **[eighty per centum (80%) of the cost of their] the balance due for the costs of such child's** tuition and maintenance, as determined by the **[Department.] department**. **For the school years 1989-1990, 1990-1991 and 1991-1992, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501.** If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. The Department of Education shall be provided with such financial data from approved *private* schools as may be necessary to determine the reasonableness of costs for tuition and room and board concerning Pennsylvania resident approved reimbursed students. The Department of Education shall evaluate such data and shall disallow any cost deemed unreasonable. Any costs deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(b) When any person less than [six (6)] *school entry age* or more than twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy, is enrolled, with the approval of the Department of Education, as a pupil in an approved *private* school for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, approved by the Department of Education, the Commonwealth shall pay to such school, out of moneys appropriated to the department for special education, the actual audited cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the [Council of Basic] *State Board of Education*, and in addition, in the case of any child less than [six (6) years of age] *school entry age*, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

(c) Each approved *private* school, prior to the start of the school year, shall submit to the department such information as the department may require in order to establish an estimate of reimbursable costs. Based upon this information, any other data deemed necessary by the department and in accordance with department standards, the department shall develop for each approved *private* school an estimate of reimbursable costs. Based upon such estimate, the department shall provide each approved *private* school with quarterly payments in advance of department audit. The department may withhold a portion of such payments not exceeding five percent (5%) of such payment, pending final audit. In no event shall either the advance payments or final reimbursement made by the department following audit exceed the appropriation available for approved *private* schools.

(d) No private institution receiving payment in accordance with this section shall impose any charge on the student and/or parents who are Pennsylvania approved reimbursable residents for a program of individualized instruction and maintenance appropriate to the child's needs; except that charges for services not part of such program may be made if agreed to by the parents.

Section 7. Section 1376.1 of the act, added May 31, 1979 (P.L.33, No.11), is amended to read:

Section 1376.1. Actual Cost of Tuition and Maintenance of Certain Exceptional Children in the Four Chartered Schools for Education of the Deaf and the Blind.—(a) The following term, whenever used or referred to in this section, shall have the following meaning. "Chartered school" shall mean any of the four (4) chartered schools for the education of the deaf or the blind: the Pennsylvania School for the Deaf; the Overbrook School for the Blind; the Western Pennsylvania School for Blind Children; and the Western Pennsylvania School for the Deaf.

(b) When any child of school age resident in this Commonwealth, who is blind or deaf, is enrolled with the approval of the Department of Education as a pupil in any of the four (4) chartered schools in accordance with standards and regulations promulgated by the [Council of Basic] *State Board of*

Education, the school district in which such child is resident shall pay *the greater of either* twenty percent (20%) of the actual cost of tuition and maintenance of such child in such institution, as determined by the Department of Education; *or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil,"* and the Commonwealth shall pay, out of funds appropriated to the department for special education, **[eighty percent (80%) of the actual cost of their]** *the balance due for the costs of such child's* tuition and maintenance, as determined by the department. *For the school years 1989-90, 1990-91 and 1991-92, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501.* If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. The Department of Education shall be provided with such financial data from each of the chartered schools as may be necessary to determine the reasonableness of charges for tuition and room and board of each of the chartered schools made on Pennsylvania resident approved students. The Department of Education shall evaluate such data and shall disallow any charges deemed unreasonable. Any charge deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(c) When any person less than school age resident in this Commonwealth who is blind or deaf is enrolled, with the approval of the Department of Education, as a residential pupil in any of the four (4) chartered schools, the Commonwealth shall pay to the school, out of moneys appropriated to the department for special education, the actual cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the **[Council of Basic] State Board of Education**, and in addition, in the case of any child less than school age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

(d) None of the chartered schools receiving payment in accordance with this section shall impose any charge on the student and/or parents who are approved reimbursable residents for a program of instruction and maintenance appropriate to the child's needs; except that charges for programs not part of the normal school year may be made.

Section 8. Section 1377(a) and (b) of the act, amended May 31, 1979 (P.L.33, No.11), are amended to read:

Section 1377. Payment of Cost of Tuition and Maintenance of Certain Exceptional Children.—(a) To facilitate payments by the several school districts to the schools or institutions in which deaf or blind, or cerebral palsied and/or brain damaged and/or muscular dystrophied, or socially and



emotionally disturbed or mentally retarded children are enrolled, of amounts due by such districts for their proportion of the cost of tuition and maintenance of such children, the Secretary of Education shall withhold from any moneys due to such districts out of any State appropriation for the assistance as reimbursement of school districts, the amounts due by such districts to such schools or institutions for the blind or the deaf, or the cerebral palsied and/or brain damaged and/or muscular dystrophied or the socially and emotionally disturbed and/or mentally retarded. Amounts so withheld shall be **[paid to such schools or institutions by warrant of the Auditor General upon the State Treasurer, after requisition of the Secretary of Education, for which purpose all amounts so withheld are hereby]** specifically appropriated to the Department of Education.

(b) Payments of the Commonwealth's proportion of the cost of tuition and maintenance of blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, or socially and emotionally disturbed and/or mentally retarded pupils enrolled in schools or institutions for the blind or for the deaf, or for the cerebral palsied and/or brain damaged and/or muscular dystrophied, or for the socially and emotionally disturbed and of the cost of instruction of parents of blind pupils less than **[six (6) years of school entry** age, as hereinbefore provided, shall be made quarterly, out of moneys appropriated to the Department of Education for special education], **by warrant of the Auditor General upon the State Treasurer, after requisition by the Secretary of Education]**. Except for the provisions of section 1376.1 providing for the actual cost of tuition and maintenance of certain exceptional children in the four chartered schools for education of the deaf and of the blind, in no event shall the total payment for the cost of tuition and maintenance of any such child exceed the rates per year allowed under section 1376. The maximum amount payable for the cost of tuition and maintenance of such children shall be subject to review at least once every two years for the purpose of recommending an adjustment thereof.

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Section 9. Section 2501(9), (9.1), (14.1) and (19) of the act, amended or added August 24, 1977 (P.L.199, No.59), June 30, 1980 (P.L.279, No.80) and October 20, 1988 (P.L.827, No.110), are amended and the section is amended by adding clauses to read:

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

\* \* \*

(9) "Real Property Valuation." A school district's **[or]**, vocational school district's **or municipality's** real property valuation, to be used for purposes of computing the basic account standard reimbursement fraction, the subsidiary account reimbursement fraction, and the aid ratio shall be the valuation placed upon its taxable real property by the State Tax Equalization Board.

(9.1) "Personal Income Valuation." A school district's personal income valuation for purposes of reimbursement to a school district under subsections (d), (e), and (f) of section 2502, and section 2592 shall be the valuation

of the total taxable income for the tax year preceding the immediate prior year, determined under Article III of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," for each school district each year by the Secretary of Revenue and certified to the Secretary of Education. *For the 1988-1989 school year and each school year thereafter, the Secretary of Revenue shall additionally certify, for those districts in which residents claim credit against the State personal income tax for income earned outside this Commonwealth under section 314 of the "Tax Reform Code of 1971," the total number of persons claiming such out-of-State tax credits and the total dollar amount of such tax credits claimed in the individual district.*

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*(9.4) "Municipal Equalized Millage." A city of the first through third class tax effort to be used for reimbursement under subsections (d) and (e) of section 2502 and section 2502.11 shall be the amount of municipal taxes collected and reported to the Department of Community Affairs divided by the real property valuation of the municipality for the most recent year for which both municipality tax and real property valuation are available.*

*(9.5) "Municipal Median Equalized Millage." For the school year 1988-1989 and each school year thereafter, the Secretary of Education shall annually calculate the equalized millage for which an equal number of cities of the first through third class are above and below for that year.*

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*(14.1) "Market Value/Income Aid Ratio." For purposes of reimbursement to a school district under subsections (d), (e), and (f) of section 2502, and section 2592, shall be the Commonwealth's method of determining the combined market value and income wealth for each pupil, and shall be computed as follows:*

*(a) (i) Divide the market value per weighted average daily membership of the district by the market value per weighted average daily membership of the State;*

*(ii) Determine the product of (a)(i) multiplied by the district's share of total costs which is .5;*

*(iii) Subtract the resultant product in (a)(ii) from 1.000 to determine the market value portion of the aid ratio.*

*(b) (i) Divide the income per weighted average daily membership of the district by the average personal income per weighted average daily membership of the State;*

*(ii) Determine the product of (b)(i) multiplied by the district's share of total costs which is .5;*

*(iii) Subtract the resultant product in (b)(ii) from 1.0000 to determine the income aid ratio.*

*(c) Add sixty percent (60%) of the market value aid ratio to forty percent (40%) of the income aid ratio to determine the market value/income aid ratio.*

*(d) For payments beginning in the 1989-1990 school year and each school year thereafter, the Department of Education shall utilize an adjusted personal income valuation for the 1987 tax year and each tax year thereafter*

*respectively in computing the market value/income aid ratio for such districts. The adjusted personal income valuation shall be calculated by dividing the total out-of-State tax credits claimed by the residents of a school district by the State personal income tax rate and subtracting that amount from the total personal income valuation for the individual school district. The State total personal income valuation shall remain that as certified by the Department of Revenue and shall not be adjusted to reflect out-of-State tax credits.*

\* \* \*

(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, 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). *For the school year 1988-1989 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 three hundred thirty dollars (\$2,330).*

Section 10. Section 2502.5(b) and (e) of the act, amended October 20, 1988 (P.L.827, No.110), are amended to read:

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, 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 *or, for the school year 1988-1989 and each school year thereafter, no school district shall be paid under subsections (d) and (e) of section 2502, 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, 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. *For the 1988-1989 school year and each school year thereafter, no school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall receive an increase less than two percent (2%) of such payments for the prior school year.*

(e) For the school years 1983-1984 and 1984-1985, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, 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, 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 11. Section 2502.11(c) of the act, amended June 29, 1984 (P.L.438, No.93), is amended and the section is amended by adding a subsection to read:

Section 2502.11. Economic Supplement.—\* \* \*

(c) For the school year 1982-1983 **[and each school year thereafter] through the school year 1987-1988**, any district which levies and collects local taxes for school purposes equal to or above the median equalized millage, as defined in section 2501(9.3), in the year for which reimbursement is determined shall qualify for and receive a payment based upon local tax effort

and population per square mile in accordance with the following table, except for qualifying districts which include a central city of a Standard Metropolitan Statistical Area and have a district population of less than four thousand (4,000) persons per square mile, which districts shall receive three percent (3%) of their instructional expenditures:

Population Per Square Mile of the Qualifying District	Payment as Percent of Instructional Expenditure
5,950 and over	5
4,000 - 5,949	3
less than 4,000	1

Notwithstanding the provisions of this subsection, districts having a general population of five thousand nine hundred fifty (5,950) or more persons per square mile and at least thirty-five thousand (35,000) WADM's shall be paid nineteen percent (19%) of their instructional expenditures.

*(d) For the school year 1988-1989 and each school year thereafter, any district which levies and collects local taxes for school purposes equal to or above the median equalized millage, as defined in section 2501(9.3), in the year for which reimbursement is determined or any school district the majority of whose population is drawn from a city of the first through third class which levies and collects local taxes for municipal purposes equal to or above the municipal median equalized millage, as defined in section 2501(9.5), for the most recent municipal fiscal year for which data is available shall qualify for and receive a payment based upon local tax effort and population per square mile in accordance with the following table, except for qualifying districts which include a central city of a Standard Metropolitan Statistical Area and have a district population of less than four thousand (4,000) persons per square mile, which districts shall receive three percent (3%) of their instructional expenditures:*

Population Per Square Mile of the Qualifying District	Payment as Percent of Instructional Expenditure
5,950 and over	5
4,000 - 5,949	3
less than 4,000	1

*Qualifying districts having a general population of five thousand nine hundred fifty (5,950) or more persons per square mile and at least thirty-five thousand (35,000) WADM's shall be paid nineteen percent (19%) of their instructional expenditures.*

Section 12. Section 2502.13 of the act, amended October 20, 1988 (P.L.827, No.110), is amended to read:

Section 2502.13. Small District Assistance.—For the 1984-1985 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, the Common-

wealth 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 school year 1988-1989 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 1987-1988 school year, an amount equal to one hundred five dollars (\$105) 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] prior** school year.

Section 13. Section 2509.1 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 2509.1. Payment on Account of Transportation, Classes and Schools for Exceptional and Institutionalized Children.—Annually, before the first day of July, every intermediate unit shall submit, for prior review and approval by the Department of **[Public Instruction] Education**, an estimate of the cost of operating and administering classes or schools for exceptional and institutionalized children, including the cost of such fiscal controls as auditing and necessary treasurer's and secretary's bonds to be operated by the intermediate unit during the ensuing school year, and for transportation of pupils to and from classes and schools for exceptional children, whether or not conducted by the intermediate unit. On or before the first day of August, the Commonwealth shall pay to the intermediate unit a sum equal to one-half of the approved estimated annual cost of operation and administration of classes and schools for exceptional and institutionalized children and transportation for exceptional children and, on or before the first day of January, shall pay an equal sum, or a lesser sum as may be shown to be necessary by an adjusted budget based upon expenditures during the first half of the school term. At the end of each school year all unexpended funds shall be credited to Commonwealth. Payments due for the succeeding school year on account of the operation of such classes or upon direction of the **[Superintendent of Public Instruction] Secretary of Education** shall be returned to the Commonwealth. All such funds returned are hereby specifically appropriated to the Department of **[Public Instruction] Education** for support of schools and classes, and transportation for exceptional children. For each child enrolled in any special class or school for exceptional children operated

by an intermediate unit, the school district in which the child is resident shall pay to the Commonwealth a sum equal to the "tuition charge per elementary pupil" or the "tuition charge per high school pupil," as determined for the schools operated by the district or by a joint board of which the district is a member, **[based upon the costs of the preceding school term]** *for the same year in which the special class or school is operated*, as provided for in section two thousand five hundred sixty-one of the act to which this is an amendment. In the event that any school district has not established such "tuition charge per elementary pupil" or "tuition charge per high school pupil," the **[Superintendent of Public Instruction]** *Secretary of Education* shall fix a reasonable charge for such district for the year in question. In addition, the district shall pay on account of transportation by the intermediate unit of pupils to and from classes and schools for exceptional children, whether or not conducted by the intermediate unit, an amount to be determined by subtracting from the cost of transportation per pupil the reimbursement due the district on account of such transportation in order to facilitate such payments by the several school districts. The **[Superintendent of Public Instruction]** *Secretary of Education* shall withhold from any moneys due to such district out of any state appropriation, except from reimbursements due on account of rentals as provided in section two thousand five hundred eleven point one of the act to which this is an amendment, the amounts due by such school districts to the Commonwealth. All amounts so withheld are hereby specifically appropriated to the Department of **[Public Instruction]** *Education* for the support of public schools. The cost of operating and administering classes and schools for institutionalized children, including the cost of necessary fiscal controls, shall be paid by the Commonwealth.

Section 14. The act is amended by adding a section to read:

*Section 2509.4. Payments on Account of Special Education Services.—*  
*(a) For the school year 1989-1990, the following provisions shall apply to the Commonwealth's payments of funds to school districts and intermediate units for the provisions of special education services.*

*(1) On or before the first day of August, the Commonwealth shall pay to school districts and intermediate units an amount which represents fifty percent (50%) of the total State funds available for such programs operated in the school year 1989-1990.*

*(2) On January 1, 1990, a second payment shall be made to school districts and intermediate units consisting of one-fourth (1/4) of the total State funds available for such programs operated in the school year 1989-1990.*

*(3) If, by March 1, 1990, the State Board of Education has adopted revisions to Chapter 13 Special Education regulations and/or the 22 Pa. Code Ch. 341 standards, the final payment shall consist of the remaining State funds available for such programs operated in the school year 1989-1990. If, on March 1, 1990, the State Board of Education has not adopted revisions to Chapter 13 Special Education regulations and/or 22 Pa. Code Ch. 341 standards, but the Secretary of the Budget determines that sufficient progress has been made, a one-time waiver in order to make an additional payment of no*



more than one-eighth (1/8) of the total State funds available for such programs operated in the school year 1989-1990 may be made.

(b) From the funds appropriated in the 1989-1990 fiscal year and notwithstanding the provisions of subsection (a)(1), (2) and (3), fifty million dollars (\$50,000,000) shall be paid on August 1, 1989, to school districts for programs operated in school year 1988-1989 with the additional payment of forty-nine million dollars (\$49,000,000) of the funds due the school districts for the programs operated in school year 1988-1989 to be paid on or before December 1, 1989. Any adjustments to these payments may be made in June 1990 on the basis of actual data.

Section 15. The act is amended by adding an article to read:

**ARTICLE XXVI-D  
EQUIPMENT GRANTS**

**Section 2601-D. 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 which is approved by the department for equipment grants pursuant to the provisions of this act. The term does not include 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, nor does it include a State-owned or State-related 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 stan-

*dards 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 institution" shall mean a member institution of the State System of Higher Education.*

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

*Section 2602-D. Certification of Recipients.—From the information it receives from colleges and universities 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-D. Institutional Equipment Grants.—For the academic year beginning on or about September 1, 1989, 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-D. The allotment shall be made to each eligible institution 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-D. 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-D. 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-D. Expiration.—This article shall expire on June 30, 1990.*

Section 16. 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 1989-1990 budget during the months of July and August 1989 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 1989-1990 fiscal year under provisions of this act.

Section 17. With the exception of the amendments to sections 315, 316, 317 and 677.1, this act shall be retroactive to July 1, 1989.

Section 18. This act shall take effect as follows:

- (1) The amendments to sections 315, 316, 317 and 677.1 shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 8th day of July, A. D. 1989.

ROBERT P. CASEY