

## No. 2000-16

## AN ACT

## SB 652

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," providing for reports; requiring school districts to file management information reports; further providing for auxiliary services to nonpublic schools, for reports on exceptional students, for continuing professional development, for school lunch and breakfast reimbursement, for basic education grants, for higher education funding, for full-time student community college reimbursement, for small district assistance, for basic education funding, for payments to intermediate units, for special education payments, for school and institute operation, for vocational education funding and payments, for minimum basic education payments, for extraordinary special education payments and for school performance incentives; adding a definition and provisions relating to education empowerment; and providing for an education empowerment list and education empowerment school districts and for their operation and for a mandate waiver program.

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

Section 1. Section 102 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 definition to read:

Section 102. Definitions.—When used in this act the following words and phrases shall have the following meanings:

\* \* \*

**(6) "Pennsylvania System of School Assessment test" or "PSSA test"** shall mean a test developed and implemented by the Department of Education to determine only academic achievement relating to objective academic standards in the areas of reading, mathematics and science.

Section 1.1. The act is amended by adding sections to read:

**Section 218. Reports to Department of Education.**—All financial accounting and reporting by school districts to the Department of Education shall be in accordance with generally accepted accounting and reporting standards.

**Section 613. Management Information Reports.**—(a) For the 2000-2001 school year and each school year thereafter, each school district shall report to the Department of Education expenditures of all governmental funds at the school operational unit for:

- (1) classroom instruction;
- (2) instructional student support; and
- (3) facilities and plant management costs.

(b) For the 2001-2002 school year and each school year thereafter, each school district shall report to the Department of Education:

(1) *Expenditures of all governmental funds at the school operational unit level in middle and high schools for subject matter including math, science, language arts and social studies.*

(2) *Expenditures of all governmental funds at the school operational unit level for each grade level in elementary school.*

(c) *For the 2001-2002 school year and each school year thereafter, each school district shall report to the Department of Education districtwide expenditures of all governmental funds for:*

(1) *special education noninstructional student support;*

(2) *professional development; and*

(3) *technology.*

(d) *The Department of Education shall issue specific guidelines for the collection, reporting and submission of the information under this section.*

(e) *As used in this section, a "school operational unit" is defined as any individual school within a district, as reported by the district. A school district is comprised of all the school operational units within the district.*

Section 2. Section 921-A of the act, added May 4, 1970 (P.L.311, No.102), is amended to read:

Section 921-A. Financial Reports.—An annual financial report shall be submitted to the [Superintendent of Public Instruction] *Secretary of Education* by each intermediate unit not later than the first day of October, together with an auditor's report prepared by an independent auditor who shall be a certified public accountant or other competent public accountant. *All financial accounting and reporting by intermediate units to the Department of Education shall be in accordance with generally accepted accounting and reporting standards.*

Section 3. Section 922.1-A(c) of the act, amended April 27, 1998 (P.L.270, No.46), is amended to read:

Section 922.1-A. Auxiliary Services.—\* \* \*

(c) Program of Auxiliary Services. Students attending nonpublic schools shall be furnished a program of auxiliary services which are provided to public school students in the school district in which their nonpublic school is located. The program of auxiliary services shall be provided by the intermediate unit in which the nonpublic school is located, in accordance with standards of the Secretary of Education. *Before an intermediate unit makes any decision that affects the opportunities for children attending nonpublic schools to participate in the auxiliary services provided under this section, the intermediate unit shall consult with such nonpublic schools to determine at a minimum: which general categories of children shall receive services; what services shall be provided; how and where the services shall be provided; and how the services shall be evaluated.* Such services shall be provided directly to the nonpublic school students by the intermediate unit in the schools which the students attend, in mobile

instructional units located on the grounds of such schools or in any alternative setting mutually agreed upon by the school and the intermediate unit, to the extent permitted by the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania.

Such auxiliary services shall be provided directly by the intermediate units and no auxiliary services presently provided to public school students by the intermediate units and/or school districts by means of State or local revenues, during the school year 1974-1975, shall be eliminated. No school districts shall be required, pursuant to any section of this act, to offer auxiliary services provided by any other school districts within such intermediate units.

\* \* \*

Section 4. Section 1205.1 of the act is amended by adding a subsection to read:

Section 1205.1. Continuing Professional Development.—\* \* \*

*(e) The requirements of this section and section 1205.2 do not apply to a professional educator not employed by a school entity who serves as an evaluator of a home education program authorized under section 1327.1(e)(2).*

Section 5. The act is amended by adding a section to read:

*Section 1337.1. School Lunch and Breakfast Reimbursement.—(a) Schools that participate in the school lunch program shall be reimbursed in the following manner:*

*(1) Subject to future adjustments under clause (2), each school which offers the school lunch program shall receive a reimbursement of no less than ten cents (10¢) per lunch served, exclusive of any reimbursements under subsection (c).*

*(2) For the 2000-2001 school year and each school year thereafter, reimbursements for the school lunch program shall be fixed by regulation of the Department of Education: Provided, That such reimbursements shall be no less than the amounts per lunch served established by clause (1).*

*(b) Schools that participate in the school breakfast program shall be reimbursed in the following manner:*

*(1) Subject to future adjustments under clause (2), each school which offers the school breakfast program shall receive a reimbursement of no less than ten cents (10¢) per breakfast served.*

*(2) For the 2000-2001 school year and each school year thereafter, reimbursements for the school breakfast program shall be fixed by regulation of the Department of Education: Provided, That such reimbursements shall be no less than the amounts per breakfast served established by clause (1).*

*(c) Schools that participate in both the school lunch program and the school breakfast program shall be provided with the following incentive reimbursements:*

*(1) Subject to future adjustments under clause (3), each school which offers both a school lunch program under subsection (a) and a school breakfast program under subsection (b) which serves less than or equal to twenty per centum (20%) of its student enrollment shall receive an additional reimbursement of two cents (2¢) per lunch served.*

*(2) Subject to future adjustments under clause (3), each school which offers a school lunch program under subsection (a) and a school breakfast program under subsection (b) which serves more than twenty per centum (20%) of its student enrollment shall receive an additional reimbursement of four cents (4¢) per lunch served.*

*(3) For the 2000-2001 school year and each school year thereafter, reimbursements for the school breakfast incentive program shall be fixed by regulation of the Department of Education: Provided, That such reimbursement shall be no less than the amounts per lunch served established by clauses (1) and (2).*

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

*“School” shall have the same meaning as given to that term in 7 CFR 210.2 (relating to definitions).*

*“School lunch program” shall have the same meaning as given to that term in 7 CFR 210.2 (relating to definitions).*

*“School breakfast program” shall have the same meaning as given to that term in 7 CFR 210.2 (relating to definitions).*

Section 6. Section 1372(7) of the act, added June 26, 1999 (P.L.394, No.36), is amended and the section is amended by adding a clause to read:

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

**(7) Reporting of Exceptional Students.**

**(i) The department shall review each school district’s incidence rate of mildly and severely disabled students as calculated under section 2509.5(z). When the incidence rate is thirty (30) per centum above or below the Statewide average incidence rate of mildly and severely disabled students, the department shall prepare an analysis of the process used by the school district to identify and place mildly and severely disabled students.**

**(ii) The department shall submit a written report to the school district of the department’s findings relating to the process used by the school district to determine its incidence rate of mildly and severely disabled students under subclause (i). The report may include recommendations regarding the process used to identify mildly and severely disabled students.**

**(iii) Following receipt of the report under subclause (ii), the school district shall submit a written response to the department describing the basis for the deviation from the Statewide average incidence rate of mildly and severely disabled students.**

(iv) The department may conduct site visits and review school district records relating to the process used to identify and place mildly and severely disabled students under this clause.

(v) The department shall submit a report to the majority and minority chairman of the Education and Appropriations Committees of the Senate and the majority and minority chairman of the Education and Appropriations Committees of the House of Representatives regarding the process used by school districts to identify and place mildly and severely disabled students. The report shall be submitted annually at the same time as the submission of the Governor's budget to the General Assembly.]

*(8) Reporting of Expenditures Relating to Exceptional Students. By December 31, 2000, and each year thereafter, each school district shall compile information listing the number of students with disabilities for which expenditures are between twenty-five thousand dollars (\$25,000) and fifty thousand dollars (\$50,000), between fifty thousand dollars (\$50,000) and seventy-five thousand dollars (\$75,000) and over seventy-five thousand dollars (\$75,000) for the prior school year. The information shall be submitted to the department in a form prescribed by the department. By February 1, 2001, and each year thereafter, the department shall submit to the chairman and minority chairman of the Education and Appropriations Committees of the Senate and the chairman and minority chairman of the Education and Appropriations Committees of the House of Representatives a report listing this information by school district.*

Section 7. Section 1503-A of the act, amended June 25, 1997 (P.L.297, No.30) and June 26, 1999 (P.L.394, No.36), is amended to read:

Section 1503-A. Basic Education Grants.—(a) Grants shall be allocated to school districts and to area vocational-technical schools by the department from funds appropriated for this purpose. A nonpublic school, an intermediate unit or local library may participate in the grant process through a partnership with a school district.

(b) Grants shall be used to:

(1) Improve the quality and quantity of educational technology in accordance with minimum standards and specifications developed by the department and the Office of Administration.

(2) Equip schools and other entities with the appropriate networking and Internet technologies to build the Pennsylvania Education Network.

(3) Provide for the training of teachers and staff in ways to effectively integrate the technology with the curriculum.

(4) Begin implementing the regional action plans that were developed as part of the shared vision and action plan project activities.

(5) Improve the quality of technology services at the State Library of Pennsylvania.

*(6) Acquire software systems to assess individual student learning needs, customize instruction for individual students, correlate Pennsylvania's academic standards to local school curriculum resources, automate teachers' administrative responsibilities and track individual student progress through assessments and reports to teachers and parents.*

(c) (1) Grants shall be allocated through a *competitive* grant review process established by the Secretary of Education.

**[(2) The secretary may establish matching requirements for grant recipients. Grant recipients with a market value/income aid ratio which is equal to or greater than .7000 shall be eligible for larger grant awards as determined by the secretary. A school district of the first class shall be eligible for a grant award which shall not exceed three million dollars (\$3,000,000), and a school district of the first class A shall be eligible for a grant award which shall not exceed six hundred thousand dollars (\$600,000), unless the grant awards are included within a partnership.]**

*(2) School districts, charter schools, area vocational-technical schools and intermediate units are eligible to apply for grants as prescribed by the department. Maximum grant awards will be established by the department based on a formula that considers the market value/income aid ratio and average daily membership. The department may establish matching requirements for grant recipients.*

(3) The application for a grant shall be made at such time and in such form as the Secretary of Education may require.

**(4) [A school district or area vocational-technical school] An applicant** may collaborate or form a partnership with one or more of the following: a political subdivision, a school district, an area vocational-technical school, an intermediate unit, a nonpublic school, a local library, an independent institution of higher education, a State-owned institution, a State-related institution, a community education council or any other entity approved by the Department of Education.

Section 8. Section 1504-A(a) of the act, amended April 27, 1998 (P.L.270, No.46), is amended to read:

Section 1504-A. Higher Education Funding.—(a) The department and the Office of Administration shall establish management teams to provide direction and oversight and to distribute funds appropriated for the researching, planning and development of the Pennsylvania Education Network which can include when appropriate, but not be limited to, the following focus areas:

(1) Documenting public and private technology resources, including, but not limited to, existing telecommunications networks, video conferencing capabilities and distance education courses and identifying technology transfer opportunities that can be leveraged for the Pennsylvania Education Network.

(2) Establishing technology grants to develop educational content and implement Pennsylvania Education Network strategies and connectivity by using competing technologies and methodologies.

(i) Funds for grants shall be distributed through an application at such time and in such form as the Secretary of Education may require.

(ii) Applicants may include public and private institutions of higher education, community education councils, not-for-profit organizations in Pennsylvania and any other entity approved by the Department of Education.

(iii) Priority shall be given to applications consisting of partnerships.

(3) Implementing a shared Statewide vision and strategic plan for building the Pennsylvania Education Network.

(4) Developing methods and resources to ensure educators are able to use the technology effectively with the curriculum.

(5) *Implementing a web-based application that makes all articulation agreements among higher education institutions available on the Internet.*

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Section 8.1. The act is amended by adding an article to read:

**ARTICLE XVII-B.  
EDUCATION EMPOWERMENT ACT.**

*Section 1701-B. Short Title.—This article shall be known and may be cited as the “Education Empowerment Act.”*

*Section 1702-B. Definitions.—For purposes of this article, the following terms shall have the following meanings:*

*“Department.” The Department of Education of the Commonwealth.*

*“Education empowerment list.” A list prepared annually by the Department of Education containing school districts that fall below certain academic assessments as provided in section 1703-B.*

*“Guidelines.” Procedures, forms and other requirements developed by the department to implement the provisions of this article, which shall not be subject to review, regulation or approval by the State Board of Education.*

*“History of low test performance.” A combined average of fifty per centum or more of students scoring in the bottom measured group of twenty-five per centum or below basic level of performance on the Pennsylvania system of school assessment tests under 22 Pa. Code Ch. 4 (relating to academic standards and assessment) in math and reading in the most recent two school years for which scores are available.*

*“Reconstitute.” To remove all or a significant percentage of the administration, faculty and staff of a school and to create a new school with new leadership and personnel as an alternative to closure of the school.*

***“School district improvement plan.”*** A plan to improve the level of student performance and the management and operation of a school district transmitted to the department by the board of school directors under section 1703-B(g) or by the board of control under section 1706-B(c).

***“Secretary.”*** The Secretary of Education of the Commonwealth.

***Section 1703-B. Education Empowerment List.—(a)*** The department shall place a school district that has a history of low test performance on an education empowerment list. The department shall immediately notify the school district of its placement on the education empowerment list and shall publish the list in the *Pennsylvania Bulletin*. A school district may petition the department to exclude from its calculation under this subsection the PSSA test score of any student who was enrolled in the district for less than ninety (90) instructional days of the school year in which the test was administered.

***(b)*** The department shall provide a school district on the education empowerment list with a list of every school in that district with a history of low test performance. These schools shall be listed based upon the percentage of students with a history of low test performance. The department shall publish the list in the *Pennsylvania Bulletin*.

***(c) (1)*** No later than fourteen (14) days after notification pursuant to subsection (a), the department shall establish an academic advisory team for each school district placed on the education empowerment list. The academic advisory team shall work in the school district with the school district empowerment team to assist in the development of the school district improvement plan.

***(2)*** The academic advisory team shall consist of no less than three (3) nor more than six (6) members and shall be composed of experts selected by the department who possess knowledge and experience in such areas as school or business administration, staff development, early childhood education, curriculum development, budget development or fiscal management, labor relations or special education. These experts may include certificated teachers and administrators, school board members, school business officials and academic experts or consultants. The academic advisory team shall not be composed entirely of department staff.

***(d) (1)*** No later than thirty (30) days following the placement of a school district on the education empowerment list, the school district shall establish a school district empowerment team to work with the academic advisory team established under subsection (c) to develop a school district improvement plan.

***(2)*** The school district empowerment team shall consist of eleven (11) members as follows:

***(i)*** One (1) member of the board of school directors who may be the president or a designated member of the board.



- (ii) *The superintendent of the school district.*
  - (iii) *The school business manager or the individual responsible for the fiscal management of the school district.*
  - (iv) *A principal from a district school selected by all principals in the district.*
  - (v) *A teacher from a district school selected by all teachers in the district.*
  - (vi) *Two (2) parents of students from district schools, at least one of whom has a child in a district school identified under subsection (b).*
  - (vii) *A local representative of business.*
  - (viii) *A local community leader.*
  - (ix) *Two (2) members of the general public, which may include local law enforcement, social service providers or health care providers serving the school district.*
- (3) *The board of school directors shall establish procedures for selecting the parents, the business and community leaders and members of the general public. The procedures shall ensure public awareness of these openings and input from local parent organizations, local business organizations and community and civic organizations.*
- (4) *The school district empowerment team shall elect a chairperson from among its membership at its first meeting. No school director or employe of the school district shall be eligible for election as chairperson.*
- (e) *The school district improvement plan developed pursuant to subsection (c) shall give priority consideration to improvement of schools identified pursuant to subsection (b) and shall set forth specific methods and goals for improving the educational performance of each district school and the school district that include all of the following:*
- (1) *Identification of districtwide academic standards, which meet or exceed the academic standards under 22 Pa. Code Ch. 4 (relating to academic standards and assessment).*
  - (2) *Performance goals, benchmarks and timetables to improve academic performance for the school district and each school in the school district that will enable the school district to be removed from the education empowerment list.*
  - (3) *Revisions to the curriculum, instructional practices and programming that will enable students to attain the academic standards under paragraph (1).*
  - (4) *A system of assessments to measure the performance of the school district, each school in the school district and students in meeting the academic standards under paragraph (1).*
  - (5) *A system of academic accountability that provides for specific consequences for students, each school in the school district and administrators for attaining or failing to attain levels of academic performance set forth in the school district improvement plan.*

(6) *Specific procedures to inform parents or guardians and the community of the performance of each school in the school district and to increase their participation.*

(7) *Specific policies and procedures to increase the authority to individual schools and responsibility for performance of individual schools, including granting individual schools greater control of their personnel, budget and educational program.*

(8) *A system of school selection that to the greatest extent possible allows parents to choose the public school in the district their child can attend.*

(9) *Professional development activities and programs that will assist teachers and administrators in enabling students to attain academic standards.*

(10) *Policies and procedures to assure a safe and secure environment in schools in the district.*

(f) *The school district empowerment team shall hold at least one public hearing prior to submitting its school district improvement plan to the school board. Additionally, the plan shall be made available for public inspection in the school district offices for at least ten (10) days prior to its submission to the board of school directors.*

(g) *The board of school directors shall transmit the final school district improvement plan to the department with its recommendations within one hundred twenty (120) days of the establishment of the school district empowerment team under subsection (d).*

(h) *The department shall return the school district improvement plan to the board of school directors with its approval or any request for modifications no later than thirty (30) days following its submission. Any further modifications made by the school district empowerment team shall be transmitted to the department by the board of school directors.*

(i) *Amendments to an existing school district improvement plan may be transmitted to the department, in a manner prescribed by the department, whenever the school district empowerment team working with the board of school directors determines that the amendments will improve the performance of the school district.*

**Section 1704-B. Board of School Directors.—***(a) The board of school directors shall implement the school district improvement plan. Notwithstanding any other provision of law to the contrary, the board of school directors of a school district on the education empowerment list may do any of the following consistent with the school district improvement plan:*

*(1) Establish any school as a charter school under section 1708-B.*

*(2) Designate any school of the district as an independent school operating under an agreement with the board of school directors, granting operational control to the governing body of the independent school. The governing body of the independent school, including its*

*membership and selection process, shall be established by the board of school directors. The governing body shall include representatives of parents and teachers. A school designated as independent under this paragraph shall have the authority to decide all matters related to the operation of the school, including the exercise of powers provided under this article. The agreement between the board of school directors and the independent school shall do the following, consistent with the school district improvement plan:*

*(i) Describe the governance structure of the independent school, including the method for the selection of members to the governing body.*

*(ii) Prescribe the educational goals and mission of the independent school and the curriculum to be offered.*

*(iii) Describe the academic, fiscal and other goals and objectives for which the independent school will be held accountable and the evaluation criteria and procedures that will be employed to determine whether the school is meeting its goals and objectives.*

*(iv) Grant the independent school allocation of and control over its funding and budget. An independent school shall be considered a charter school for purposes of funding pursuant to section 1725-A.*

*(v) Grant the independent school control of the educational program and curriculum.*

*(vi) Prescribe the authority of the independent school to establish working conditions, select and assign professional and nonprofessional employes, establish nonteaching duties, extend the length of the school year and schedule of the school day, including holding class after regular hours.*

*(vii) Define the terms under which the agreement may be terminated, extended or renewed.*

*(3) Employ professional staff in accordance with section 1724-A as it pertains to certification.*

*(4) Enter into contracts with an individual or a for-profit or nonprofit organization, which shall be authorized to operate a school and employ its own staff to provide educational services.*

*(5) Reconstitute a school.*

*(6) Notwithstanding section 1125.1, reassign, suspend or dismiss a professional employe.*

*(7) Supervise and direct principals, teachers and administrators.*

*(8) Rescind without penalty the contract of the superintendent and other administrative personnel entered into after the effective date of this article.*

*(9) Reallocate resources, amend school procedures, develop achievement plans and implement testing or other evaluation procedures for educational purposes.*

*(b) The board of school directors of a school district on the education empowerment list shall submit an annual report to the department that*

*includes a list of all contracts entered into by the board and any other information relating to the implementation of this section as required by department guidelines.*

**Section 1705-B. Education Empowerment Districts.**—(a) *Except as provided in subsection (h), a school district on the education empowerment list that does not meet the goals for improving educational performance set forth in the school district improvement plan and maintains a history of low test performance at the end of the third school year following the date of its placement on the list shall be certified by the department as an education empowerment district, and a board of control shall be established. The department may allow the school district to remain on the education empowerment list for an additional school year prior to certifying the school district as an education empowerment district if the department determines that the additional year will enable the school district to improve test performance and meet other goals set forth in the school district improvement plan.*

(b) *The board of control shall be comprised of three members as follows:*

(1) *the secretary, who shall serve as chairman, or a designee; and*

(2) *two members who are residents of a county in which the school district is located and who shall be appointed by the secretary within fourteen (14) days of the school district's certification as an education empowerment district.*

(c) *No person who is an officer, board member or employe of the school district shall be appointed to the board of control.*

(d) *Members of the board of control who are not employes of the Commonwealth or a political subdivision shall receive compensation under section 692.2.*

(e) *Vacancies on the board of control shall be filled in the same manner as the original appointment.*

(f) *Members of the board of control shall serve at the pleasure of the secretary.*

(g) *Actions of the board of control shall be by a majority vote. A majority of the members appointed shall constitute a quorum.*

(h) (1) *A board of control established under section 692 shall be abolished upon certification of the school district as an education empowerment district. The school district shall be operated by a board of control established under subsection (a). The secretary may appoint the same individuals serving on the board of control under section 692 to the board of control under subsection (b).*

(2) *Sections 691 and 692 shall not apply to a school district certified as an education empowerment district.*

(3) *For a school district with a history of low test performance that is certified as distressed for a minimum period of two (2) years under sections 691 and 692 on the effective date of this article, the department*

*shall waive the inclusion of the school district on the education empowerment list under section 1703-B(a) and immediately certify the school district as an education empowerment district.*

*Section 1706-B. Powers and Duties of Board of Control.—(a) Except for the power to levy taxes, the board of control may exercise all other powers and duties conferred by law on the board of school directors. In addition to the powers set forth in section 1704-B(a), the board of control shall have the power to close a district school.*

*(b) The department shall provide a board of control, in a school district certified as an education empowerment district, with a list of every school in that district with a history of low test performance. These schools shall be listed based upon the percentage of students with a history of low test performance.*

*(c) The board of control shall review the school district improvement plan in conjunction with the school district's academic advisory team and the school district empowerment team. Based on that review, the board of control shall develop a revised school district improvement plan that meets the requirements of section 1703-B(e). The revised plan shall be submitted to the department for approval within one hundred twenty (120) days of the appointment of the board of control. Amendments shall be submitted as provided in section 1703-B(i).*

*(d) Following the submission of the revised school district improvement plan by the board of control or upon restoration of control to the board of school directors pursuant to section 1710-B, the school district's academic advisory team and the school district empowerment team shall be dissolved.*

*Section 1707-B. Boards of Control for Certain School Districts.—(a) For a school district of the second class with a history of low test performance which is coterminous with the city of the third class which contains the permanent seat of government of this Commonwealth, the secretary shall waive the inclusion of the school district on the education empowerment list under section 1703-B(a) and immediately certify the school district as an education empowerment district.*

*(b) A board of control in an education empowerment district certified under subsection (a) shall consist of five (5) residents of the school district who shall be appointed by the mayor of the coterminous city within fourteen (14) days of the certification of the school district as an education empowerment district. Members of the board of control shall serve at the pleasure of the mayor.*

*(c) The authority granted to a board of school directors under section 1704-B(a) shall be exercised by the board of control of an education empowerment district certified under subsection (a). The provisions of sections 1705-B(c), (d), (e) and (g) and 1708-B(a) shall be applicable to a board of control appointed under subsection (b).*

*(d) Within thirty (30) days of the certification of an education empowerment district under subsection (a), the mayor shall appoint a school district empowerment team under section 1703-B(d)(2) to develop a school district improvement plan under section 1703-B(e). The mayor or his designee shall serve as chairman of the school district empowerment team.*

*(e) The school district improvement plan under subsection (d) shall be transmitted by the board of control to the department within one hundred twenty (120) days of the appointment of the school district empowerment team. The department shall return the school district improvement plan to the board of control with its approval or any request for modifications within thirty (30) days following its submission. Any further modifications made by the school district empowerment team shall be transmitted to the department by the board of control.*

*(f) When a school district certified as an education empowerment district under subsection (a) no longer has a history of low test performance and has reached the goals set forth in the school district improvement plan, the department shall remove the certification as an education empowerment district as provided under section 1710-B, except that no certification removal shall be made for a period of at least five (5) years.*

*Section 1708-B. Charter Schools.—(a) The board of school directors of a school district on the education empowerment list as set forth in section 1704-B(a)(1) or a board of control established under this article may approve a charter school pursuant to Article XVII-A.*

*(b) Charter schools approved pursuant to this section shall not be subject to sections 1717-A(b), (c), (d), (e), (f) and (g) and 1722-A(c).*

*(c) The board of school directors or a board of control may suspend or revoke a charter under section 1729-A.*

*Section 1709-B. School Improvement Grants.—(a) The department shall establish a program of annual school improvement grants for school districts on the education empowerment list or certified as an education empowerment district to assist in the implementation of their school district improvement plans.*

*(b) Grants shall be limited to the amount appropriated for that purpose.*

*(c) Grants shall be provided annually to the school district for use as directed by the school district empowerment team or the board of control in implementing the school district improvement plan developed pursuant to sections 1703-B and 1706-B as follows:*

*(1) To purchase instructional materials, including textbooks, technology and related educational materials and supplies.*

*(2) To reduce class size in kindergarten through grade three.*

*(3) To establish after-school, summer and weekend programs.*

*(4) To establish or expand full-day kindergarten program.*

*(5) To fund curriculum development.*

*(6) To fund enhanced staff professional development.*

*(7) To fund any other program contained in the school district improvement plan.*

*(d) Subject to the requirements of this section, each qualifying school district shall receive a base annual grant of four hundred fifty thousand dollars (\$450,000) and an additional grant of up to seventy-five dollars (\$75) per average daily membership for the prior school year of the school district. The school district or the board of control shall give priority in allocating the grant funding received under this section to the individual schools identified pursuant to sections 1703-B(b) and 1706-B(b).*

*(e) The department shall set forth the specific allowable uses for grant funds and place conditions, as necessary, on the use of grant funds. The department shall establish accountability procedures and auditing guidelines to ensure that grant funds are utilized in accordance with the allowable uses and conditions.*

*(f) A school district receiving a grant under this section shall be required to maintain separate accounts in that school district's budget to facilitate monitoring the use of these grant funds. In no case shall a school district use more than five per centum of the grant funds for administrative costs.*

*(g) The department shall reduce the amount of a State subsidy payment to a school district by the amount of any grant funds provided under this section if the school district does not use the grant funds in accordance with the allowable uses and conditions set forth by the department.*

*Section 1710-B. Restoration of Control.—When a school district on the education empowerment list or certified as an education empowerment district no longer has a history of low test performance and has reached the goals set forth in the school district improvement plan, the department shall remove the school district from the education empowerment list or remove the certification as an education empowerment district. When the department removes a school district from the education empowerment list or from certification as an education empowerment district, the board of school directors shall continue to have the powers and duties set forth in section 1704-B and all other powers and duties imposed or conferred by law.*

*Section 1711-B. Annual Report to the Governor and General Assembly.—(a) On or before October 1 of every year, the department shall provide a report to the Governor and the General Assembly regarding the implementation of this article for the immediately preceding school year.*

*(b) The annual report shall contain the following information:*

(1) *The names of school districts on the education empowerment list or certified as education empowerment districts and the date of placement on the list or certification.*

(2) *A progress report consistent with the school district improvement plans.*

(3) *The names of any school districts removed from the prior year's education empowerment list or which are no longer certified as education empowerment districts.*

(4) *Any recommended changes to this article.*

(c) *The report shall be filed with the Governor's Office, the Secretary of the Senate, the Chief Clerk of the House of Representatives, the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives.*

*Section 1712-B. Collective Bargaining.—Nothing contained in this article shall supersede or preempt any provisions of a collective bargaining agreement between a school district and an employe organization in effect on the effective date of this article.*

*Section 1713-B. Desegregation Orders.—Neither the board of school directors nor a board of control in a school district operating under a desegregation plan approved by the Pennsylvania Human Relations Commission or a desegregation order by a Federal or State court shall establish an independent school, a charter school or contract with an individual, a for-profit or nonprofit organization to operate a school if such action would place the school district in noncompliance with its desegregation order.*

*Section 1714-B. Mandate Waiver Program.—(a) Except as otherwise provided in this section, the board of school directors may adopt a resolution to apply for a waiver to any provision of this act, the regulations of the State Board of Education or the standards of the secretary if the waiver will enable the school district to improve its instructional program or operate in a more effective, efficient or economical manner.*

(b) *The application for a waiver shall be in a manner and in a form developed by the department and shall:*

(1) *Specify the need for the waiver.*

(2) *Provide supporting data and information to explain the benefits to be obtained by the waiver and, when applicable, to explain the instructional program that will operate under the waiver.*

(3) *Include an evaluation procedure to determine the effectiveness of an innovative program or programs; the effectiveness of a revised instructional program, which shall include measures of student performance; and the effectiveness of changes in the operations of the school district.*



*(c) The application for a waiver shall be adopted by a resolution of the board of directors at a regularly scheduled meeting of the board. Prior to the board of directors implementing the policies or procedures contained in the waiver, approval by the department shall be required.*

*(d) The department shall have sixty (60) days from receipt of the application to approve, disapprove or request modifications to the application. If the department fails to act within that time period, the waiver shall be deemed to be approved.*

*(e) If the department disapproves the application for waiver, the basis for the department's disapproval shall be transmitted to the board of school directors. The board of school directors may submit a revised application for a waiver.*

*(f) Three years from the implementation of the waiver, the board of school directors shall submit to the department the evaluation set forth in subsection (b)(3). When the evaluation of a waiver indicates an improvement in student performance, instructional program or school operations, the waiver shall be renewed by the department and shall remain in effect, unless rescinded by the board of school directors.*

*(g) The following provisions of this act shall not be subject to waiver pursuant to this section: sections 108, 110, 111, 321, 322, 323, 324, 325, 326, 327, 431, 436, 437, 440.1, 443, 510, 513, 518, 527, 701.1, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1303(a), 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1327.1, 1330, 1332, 1361, 1366, 1501, 1502, 1513, 1517, 1518, 1521, 1523, 1546 and 1547; provisions prohibiting discrimination; Articles VI, XI, XI-A, XII, XIII-A, XIV and XVII-A and this article.*

*(h) The following provisions of 22 Pa. Code (relating to education) shall not be subject to waiver pursuant to this section:*

*Chapter 4 (relating to academic standards and assessment).*

*Chapter 11 (relating to pupil attendance).*

*Chapter 12 (relating to students).*

*Chapter 14 (relating to special education services and programs).*

*Section 32.3 (relating to assurances).*

*Section 121.3 (relating to discrimination prohibited).*

*Section 235.4 (relating to practices).*

*Section 235.8 (relating to civil rights).*

*(i) The board of directors may not waive any Federal law or State law applicable to a public school that is not within the provisions of this act.*

*(j) The department shall issue an annual report to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives, listing all waiver requests and department approvals or disapprovals under this section.*

*(k) Notwithstanding section 1704-B, nothing in this section shall be construed to supersede or preempt any provisions of a collective bargaining agreement in effect on the effective date of this section.*

*Section 1715-B. Applicability.—Nothing in this article shall be construed to supersede or abrogate the following:*

*(1) The provisions of sections 507, 691, 696 and 1125.1 as they pertain to a city of the first class that is coterminous with a school district of the first class or a school district of the first class A.*

*(2) Sections 751, 751.1, 755, 756 and 757 to the extent that these sections are not inconsistent with the act of December 20, 1967 (P.L.869, No.385), known as the “Public Works Contractors’ Bond Law of 1967.”*

*(3) Section 1 of the act of May 1, 1913 (P.L.155, No.104), entitled “An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings,” the act of August 15, 1961 (P.L.987, No.442), known as the “Pennsylvania Prevailing Wage Act,” and the act of March 3, 1978 (P.L.6, No.3), known as the “Steel Products Procurement Act.”*

*(4) Nonpublic transportation as provided in section 1361.*

*(5) A requirement of Federal law.*

*Section 1716-B. Expiration.—This article shall expire June 30, 2010.*

Section 9. Section 1850.1(b) of the act is amended by adding a clause to read:

Section 1850.1. Organization and Operation of Schools and Institutes.—\* \* \*

(b) The area vocational-technical board shall have authority and its duty shall be:

\* \* \*

*(26) When authorized by the participating school districts, to establish capital reserve funds under the provisions of section 1850.4 for the purposes of purchasing equipment and maintaining facilities;*

\* \* \*

Section 10. The act is amended by adding sections to read:

*Section 1850.4. Capital Reserve Fund for Approved Purchases of Equipment and Facility Maintenance.—(a) Any area vocational-technical board shall have the power to create a special fund which may be designated as a capital reserve fund and to accumulate therein moneys to be expended, in accordance with the provisions of this section, during a period not to exceed five years from the date when the first payment was made into the fund, for the purpose of purchasing equipment or maintaining facilities.*

*(b) The capital reserve fund herein provided for shall consist of funds transferred during any fiscal year from appropriations made for this particular purpose and of unencumbered funds remaining from the current and/or prior years’ general fund.*

*(c) The moneys in the capital reserve fund shall be kept separate and apart from any other fund by the treasurer of the area vocational-technical board, and the moneys in the fund may be invested by the operating agent in securities legal for the investment of sinking fund moneys of the school district. The interest earnings on investments shall be paid into the capital reserve fund. The area vocational-technical school shall annually show in its financial report the amount of moneys in the capital reserve fund which shall at all times be properly identified as to purpose.*

*(d) The moneys in any such capital reserve fund may be expended only upon approval of a majority of the members of the operating agent only during the period of time for which the fund was created and only for equipment purchases or facilities maintenance projects and for no other purpose.*

**Section 1855. Vocational Education Equipment Grants.**—*For the 2000-2001 fiscal year, the Department of Education shall establish a grant program to assist area vocational-technical schools and school districts offering approved vocational-technical programs in purchasing equipment that meets industry standards for the purpose of providing training to students. Grants shall be limited to the purchase of equipment in the following program areas: automotive technology, auto body, diesel technology, precision machine technology, heating ventilation and air conditioning, printing, dental assisting, electronics, building trades and other program areas approved by the Secretary of Education. Grants shall be awarded by the Department of Education on a matching basis, two State dollars (\$2) for every local dollar (\$1), and shall be limited to funds appropriated for that purpose.*

Section 11. Section 1913-A(b)(1.4) of the act, amended June 26, 1999 (P.L.394, No.36), is amended to read:

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

(b) \* \* \*

(1.4) The equivalent full-time student reimbursement of a community college shall be the sum of credit course, noncredit course and stipend reimbursements. These reimbursements shall be calculated using a reimbursement factor of one thousand and forty dollars (\$1,040) for the 1993-1994 fiscal year, of one thousand eighty dollars (\$1,080) for the 1994-1995 fiscal year and of one thousand one hundred eighty dollars (\$1,180) for the 1995-1996 fiscal year and one thousand and two hundred and ten dollars (\$1,210) for the 1996-1997 fiscal year and one thousand two hundred sixty dollars (\$1,260) for the 1997-1998 fiscal year and the 1998-1999 fiscal year and one thousand three hundred dollars (\$1,300) for the 1999-2000 fiscal year *and one thousand four hundred dollars (\$1,400) for the 2000-2001 fiscal year* and for each year thereafter and shall be determined as follows:

(i) Credit course reimbursement shall be calculated by multiplying the reimbursement factor by the number of equivalent full-time students enrolled in credit courses as determined by an audit to be made in a manner prescribed by the State Board of Education.

(ii) Noncredit course reimbursement shall be calculated as follows:

(A) eighty percent (80%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit courses for the 1993-1994 fiscal year, as determined by the audit referred to in paragraph (i);

(B) seventy percent (70%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit courses for the 1994-1995 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i); or

(C) one hundred percent (100%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit public safety courses that provide training for volunteer firefighters and emergency medical services for the 1995-1996 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i).

(iii) Stipend reimbursement on account of a community college's 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, shall be the sum of the following:

(A) One thousand one hundred dollars (\$1,100) per full-time equivalent student enrolled in advanced technology programs. For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the reimbursement rate shall be calculated at one thousand one hundred seventy-five dollars (\$1,175) per full-time equivalent student enrolled in advanced technology programs. For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at one thousand four hundred sixty dollars (\$1,460) 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.

(B) One thousand dollars (\$1,000) per full-time equivalent student enrolled in programs designated as Statewide programs. For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the reimbursement rate shall be calculated at one thousand seventy-five dollars (\$1,075) per full-time equivalent student enrolled in programs designated as Statewide programs. For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at one thousand three hundred sixty dollars (\$1,360) 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:

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

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

(C) Five hundred dollars (\$500) per full-time equivalent student enrolled in other occupational or technical programs. For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the reimbursement rate shall be calculated at five hundred seventy-five dollars (\$575) per full-time equivalent student enrolled in other occupational or technical programs. For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at eight hundred sixty dollars (\$860) per full-time equivalent student enrolled in other occupational or technical programs.

\* \* \*

Section 12. Section 2502.8 of the act is amended by adding a subsection to read:

Section 2502.8. Payments on Account of Pupils Enrolled in Vocational Curriculums.—\* \* \*

*(d) For the school year 1999-2000 and each school year thereafter, any additional funding provided by the Commonwealth over the amount provided for the school year 1998-1999 will be distributed to area vocational-technical schools, to school districts with eight (8) or more vocational programs and to school districts offering a vocational agricultural education program, based on subsection (b).*

Section 13. Sections 2502.13 and 2502.36(1) of the act, amended or added June 26, 1999 (P.L.394, No.36), are 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 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, 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, 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 or 1988-1989 school year, an amount equal to one hundred five dollars (\$105). For the school year 1989-1990, 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 fifteen dollars (\$115) multiplied by the district's average daily membership as provided for in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990." For the school year 1990-1991, 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 prior school year, an amount equal to one hundred seventy dollars (\$170) multiplied by that district's average daily membership. For the school year 1990-1991, each school district with a population per square mile of less than ninety (90), which otherwise meets the average daily membership and market value/income aid ratio requirements of this section, or received payments under this section for the prior school year, shall instead receive an amount equal to one hundred ninety dollars (\$190) multiplied by that district's average daily membership. For the 1987-1988 school year through the 1990-1991 school year, no school district shall receive less on account of this section than it did for the prior school year. For the school year 1994-1995, 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, an amount equal to ninety five dollars (\$95) multiplied by that district's average daily membership. For [the school year 1997-1998 and the school year 1998-1999] *each of the school years 1997-1998 through 1999-2000*, 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 an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership.

Section 2502.36. Basic Education Funding for 1998-1999 School Year.—For the 1998-1999 school year, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:

(1) An amount equal to the basic education funding allocation for the 1997-1998 school year pursuant to [section] *sections 2502.13 and 2502.35*.

\* \* \*

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

**Section 2502.37. Basic Education Funding for 1999-2000 School Year.**—*For the 1999-2000 school year, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:*

(1) *An amount equal to the basic education funding allocation for the 1998-1999 school year pursuant to sections 2502.13 and 2502.36.*

(2) *A base supplement payable to qualifying school districts.*

(i) *To qualify for the base supplement, a school district's 2000-2001 market value/income aid ratio must be equal to or greater than four thousand ten-thousandths (0.4000).*

(ii) *The base supplement is calculated for qualifying school districts as follows: multiply the school district's 2000-2001 market value/income aid ratio times its 1999-2000 average daily membership; multiply this product times seventy-six million dollars (\$76,000,000); divide the resultant product by the sum of the products of the 2000-2001 market value/income aid ratio times the 1999-2000 average daily membership for all qualifying school districts.*

(3) *A growth supplement is calculated for qualifying school districts as follows: multiply the increase in average daily membership between the 1998-1999 and 1999-2000 school years times four hundred dollars (\$400).*

(4) *A poverty supplement to qualifying school districts.*

(i) *To qualify for the poverty supplement, the number of children in low-income families residing in the district for the 1999 calendar year divided by the district's average daily membership for the 1999-2000 school year must be greater than or equal to ten per centum (10%).*

(ii) *The poverty supplement is calculated for qualifying school districts by multiplying the number of children in low-income families as defined in section 2501(21) residing in the district for the 1999 calendar year times fifty dollars (\$50).*

(5) *Each school district will be guaranteed a minimum increase to be calculated as follows:*

(i) *Each school district with a 2000-2001 market value/income aid ratio equal to or greater than seven thousand ten-thousandths (0.7000) will receive additional funding, as necessary, so that the sum of the amounts in clauses (2), (3), (4) and (5) will equal at least four per centum (4%) of the amount in clause (1).*

(ii) *Each school district with a 2000-2001 market value/income aid ratio less than seven thousand ten-thousandths (0.7000) will receive additional funding, as necessary, so that the sum of the amounts in clauses (2), (3), (4) and (5) will equal at least one per centum (1%) of the amount in clause (1).*

**Section 2502.38. Minimum per Average Daily Membership Guarantee.**—*For the 1999-2000 school year, when a school district's basic education funding allocation calculated as the sum of the amount under section 2502.13 for the 1999-2000 school year plus the amount under section 2502.37, divided by the school district's 1999-2000 average daily membership, is less than one hundred one per centum (101%) of the school district's basic education funding allocation calculated as the sum of the amount under section 2502.13 for the 1998-1999 school year plus the amount under section 2502.36, divided by the school district's 1998-1999 average daily membership, the school district shall receive additional funding as necessary to provide a one per centum (1%) increase in its basic education funding allocation per average daily membership for the 1999-2000 school year over its basic education funding allocation per average daily membership for the 1998-1999 school year.*

Section 15. Sections 2509.1, 2509.5 and 2509.8 of the act are amended by adding subsections to read:

Section 2509.1. Payments to Intermediate Units.—\* \* \*

*(b.8) Up to nine million dollars (\$9,000,000) may be utilized for programs administered and operated by intermediate units during the 2000-2001 school year for institutionalized children as provided in subsection (b.1).*

\* \* \*

Section 2509.5. Special Education Payments to School Districts.—\* \* \*

*(bb) During the 2000-2001 school year, each school district shall be paid the amount it received during the 1999-2000 school year under subsections (u), (v), (y), (z) and (aa).*

*(cc) During the 2000-2001 school year, thirty-one million nine hundred thousand dollars (\$31,900,000) of the funds appropriated to the Department of Education for special education shall be used to provide supplemental funding for special education to all school districts. The supplemental funding to each school district is calculated as follows: multiply the school district's 2000-2001 market value/income aid ratio times sixteen per centum (16%) of its 1999-2000 average daily membership; multiply this product times thirty-one million nine hundred thousand dollars (\$31,900,000); divide the resultant product by the sum of the products of the 2000-2001 market value/income aid ratio times sixteen per centum (16%) of the 1999-2000 average daily membership for all school districts.*

*(dd) Supplemental payments shall be as follows:*

*(1) School districts shall qualify for additional supplemental payments if all of the following apply:*

*(i) The school district's special education expenditures for the 1997-1998 school year, as a percentage of the sum of the school district's 1997-1998 school year expenditures for regular education, vocational-technical*



*education and special education, is equal to or greater than the special education expenditures of all school districts for the 1997-1998 school year, as a percentage of the sum of the 1997-1998 school year expenditures of all school districts for regular education, vocational-technical education and special education.*

*(ii) The school district's equalized millage for the 1997-1998 school year is equal to or greater than twenty-one and one-tenth (21.1).*

*(iii) The district does not meet all of the following criteria:*

*(A) The school district's special education expenditures for the 1997-1998 school year, as a percentage of the sum of the school district's 1997-1998 school year expenditures for regular education, vocational-technical education and special education, is equal to or greater than the special education expenditures of all school districts for the 1997-1998 school year, as a percentage of the sum of the 1997-1998 school year expenditures of all school districts for regular education, vocational-technical education and special education.*

*(B) The school district's market value/income aid ratio for the 1999-2000 school year is equal to or greater than five thousand four hundred ten thousandths (0.5400).*

*(C) The school district's equalized millage for the 1997-1998 school year is equal to or greater than sixteen and nine-tenths (16.9).*

*(2) Qualifying school districts shall receive twenty per cent (20%) of the amount calculated by multiplying fifteen per cent (15%) of its school age average daily membership by one thousand three hundred eighty dollars (\$1,380), and the amount shall be paid pursuant to the payment schedule established in subsection (c).*

*(ee) During the 2000-2001 school year, a school district with an incidence rate of mildly and severely disabled students greater than one hundred twenty-five per cent (125%) of the Statewide average incidence rate of mildly and severely disabled students shall qualify to receive a supplemental payment, as specified in this subsection, from funds appropriated to the Department of Education for special education. A school district's incidence rate of mildly and severely disabled students shall be calculated by dividing the school district's 1998 child count of students with disabilities collected and reported under sections 611(d)(2) and 618(a) of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. §§ 1411(d)(2) and 1418(a)) and 34 CFR 300.750 (relating to annual report of children served—report requirement) by the school district's 1998-1999 total enrollment reported to the Department of Education. The Statewide average incidence rate of mildly and severely disabled students shall be calculated by dividing the Statewide total 1998 child count of students with disabilities for all school districts by the 1998-1999 Statewide total enrollment for all school districts. The payment to a qualifying school district shall be calculated as follows:*

(1) *subtract one hundred twenty-five per cent (125%) of the Statewide average incidence rate from the school district's incidence rate;*

(2) *multiply the difference obtained in clause (1) by the school district's 1999-2000 school year average daily membership; and*

(3) *multiply the product obtained in clause (2) by one thousand three hundred eighty dollars (\$1,380).*

(ff) *For the 2000-2001 school year, the sum of payments school districts receive under subsections (bb), (cc), (dd) and (ee) must be greater than or equal to one hundred and five per cent (105%) of the payments to school districts for the 1999-2000 school year under subsections (u), (v), (y), (z) and (aa).*

Section 2509.8. Extraordinary Special Education Program Expenses.—\*

\* \*

(d) *For the 2000-2001 school year and each school year thereafter, the Department of Education shall set aside two per centum (2%) of the special education appropriation for extraordinary expenses incurred in providing a special education program or service to one or more students with disabilities as approved by the Secretary of Education.*

Section 16. Section 2595 of the act, reenacted and amended April 27, 1998 (P.L.270, No.46) and amended June 26, 1999 (P.L.394, No.36), is amended to read:

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 *and the maintenance of high levels of achievement and effort*, to encourage accountability programs with school districts, 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 *or maintenance of high standards* using the following criteria:

(i) student achievement as measured by performance on assessments developed by the department or by the State Board of Education through regulation and pursuant to this act;

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

(iii) attendance rates as measured by an increase in the proportion of students attending school on a regular basis; [or]

(iv) rates of employment related to the training received by area vocational-technical school graduates until such time as an occupational competency testing program is established and which meets the measurement requirements in this section[.]; *or*

***(v) maintenance of high standards in any of the criteria in paragraphs (i), (iii) or (iv) for a period of three (3) consecutive school years beginning with the 1997-1998 school year. In order to receive an award for maintenance of high standards, a school must achieve and maintain a minimum high baseline as established by the Department of Education.***

(2) Improvements in school performance *or maintenance of high standards* shall be calculated on performance levels comparing the assessment results from one school year to the average of two or more years, as determined by the Department of Education.

(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 basic education funding 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 *or maintenance of high standards* for schools to be awarded incentive payments.

(d) The Secretary of Education shall award on account of each school that meets the required level of performance improvement *or maintenance of high standards* an amount determined by multiplying the number of students in the school by the fixed amount per student established annually when the appropriation for the school performance incentives funding is established. All awards shall be limited to funds appropriated for this purpose. The incentive awards will be distributed to the school districts based on the number of students enrolled in the qualifying school October 1 of the school year in which the criteria for the award was met. 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) Instructional equipment and materials, including, but not limited to, textbooks, library holdings, laboratory equipment and supplies; computers, software, telecommunications equipment and support services; facilities and support services for distance learning and staff development.

(ii) Initiatives which involve parents and 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 in the school.

(v) At least fifty percent (50%) of the amount received must be spent on the planning, delivery and assessment of the school's instructional program, including staff development for these purposes.

(vi) No more than twenty-five percent (25%) of the total received for the qualifying school shall be for direct payments to the professional employees of the school.

(2) Uses of incentive funds, as provided in clause (1) of this subsection, in each school shall be determined by a committee chaired by the principal of the school and composed of teachers, support personnel, parents, community and business representatives.

(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 qualifying schools and the instructional program of such schools.

(f.1) Up to [**one million dollars (\$1,000,000)**] *three million dollars (\$3,000,000)* of the allocation for school performance funding under this section shall be used to fund an incentive program for School District Performance Measures (SDPM) to be based upon the individual performance of employees of a school district.

(1) School districts shall apply annually for an SDPM award in a format established by the Department of Education.

(2) The Department of Education shall review school district professional teacher accountability plans that contain differentiated rewards and sanctions based on individual job performance.

(3) The Department of Education shall review the submitted school district accountability plans and rate them for impact on the individual employe according to financial and programmatic measures, including compensation and training and other rewards and sanctions.

(4) The Department of Education shall use the total impact of each plan times the number of professional staff affected in the school district to award SDPM incentive grants to school districts.

(5) If the amount for awards under this subsection exceeds the amount allocated for that purpose, the awards shall be reduced to reflect the amount allocated.

(g) (1) Each school district with one or more schools 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 the qualified 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 file a report by the end of 1998-1999 fiscal year and annually thereafter with the Education Committee of the Senate and the Education Committee of the House of Representatives a report on the operation of the school performance incentives program provided for herein, including any recommendations for changes in the selection criteria.

(h) Nothing contained in this section shall be construed to supersede or preempt any provisions of a collective bargaining agreement negotiated by a school and the employe organization district, intermediate unit or area vocational-technical school that is in effect on the effective date of this section.

Section 16.1. A school district of the first class shall commence the 2000-2001 school year and each school year thereafter no later than the first Wednesday after Labor Day and shall provide school students with a minimum instructional year as required by section 1501 of the act to be completed no later than June 30.

Section 17. This act shall apply as follows:

(1) The amendment of section 2502.36 of the act shall apply to the appropriation for basic education funding for the 1998-1999 school year.

(2) The amendment of section 2595 of the act shall apply to the appropriations for performance incentives for the fiscal year 1999-2000 and each fiscal year thereafter.

Section 18. This act shall take effect as follows:

(1) The amendment of sections 2502.36 and 2595 of the act shall take effect immediately.

(2) Sections 16.1 and 17 and this section shall take effect immediately.

(3) The remainder of this act shall take effect July 1, 2000, or immediately, whichever is later.

APPROVED—The 10th day of May, A.D. 2000.

THOMAS J. RIDGE