

No. 2002-88

AN ACT

HB 4

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 defining the "Pennsylvania System of School Assessment test" or "PSSA test"; providing for report of graduate rates for certain colleges and universities; further providing for establishment of independent schools, for school athletics, publications and organizations, for retention of records and for annual budgets; providing for membership of the School Reform Commission and responsibilities relating to financial matters of first class school districts in distress; further providing for intermediate unit board of directors; providing for conditional employment; further providing for age limits and temporary residence and for educational support services definitions and providers, for high school certificates, for charter school definitions, for funding for charter schools and for provisions applicable to charter schools; adding provisions for cyber charter schools; further providing for regulations and provisions applicable to charter schools, for education empowerment districts, for waivers, for alternative education and for trustee councils in institutions of the State System of Higher Education; providing for placement of adjudicated delinquents in first class school districts; further providing for Commonwealth reimbursement definitions, for small district assistance and for temporary special aid to certain school districts; providing for basic education funding for 2001-2002 school year; further providing for payments to intermediate units, for payments on account of transportation of nonpublic school pupils, for special education payments and for certain payments; providing for Commonwealth reimbursement for charter schools and cyber charter schools; further providing for school performance incentives; authorizing the Multipurpose Service Center Grant Program; further providing for powers and duties of the State Board of Education; and making an appropriation.

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

Section 1. Section 102(6) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended June 22, 2001 (P.L.530, No.35), is amended 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, writing, mathematics and science. *The PSSA test shall be developed and implemented as necessary to comply with Federal law.*

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

Section 114. Report of Graduate Rates for Certain Colleges and Universities.—(a) The Department of Education shall annually conduct

a survey related to completion of undergraduate degree programs by students who are residents of this Commonwealth in four-year, public colleges and universities and in private, not-for-profit colleges and universities in this Commonwealth. The survey shall include the following information for each college or university:

(1) the number and percentage of first-time, full-time students who graduate in four (4) years or less; and

(2) the number and percentage of first-time, full-time students enrolled in approved five-year programs who graduate in five (5) years or less.

(b) By January 15, 2003, and each year thereafter, the department shall publish the results of the survey on its World Wide Web site and provide a copy to the Governor, the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Appropriations Committee 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.

(c) The department shall develop guidelines to implement the requirements of this section.

Section 3. Section 502.1(f) of the act, added May 17, 2001 (P.L.4, No.4), is amended to read:

Section 502.1. Establishment of Independent Schools.—* * *

(f) The department may award *planning* grants for the conversion of schools to independent schools. The total amount of grants awarded shall be limited to funds appropriated for this purpose. Grant applications shall be filed in accordance with procedures developed by the department.

Section 4. Section 511(e) of the act, amended June 29, 1984 (P.L.438, No.93), is amended to read:

Section 511. School Athletics, Publications, and Organizations.—

* * *

[(e) All purchases of materials or supplies made by any organization, club, society, or group, or by any school or class, in excess of one thousand dollars, shall be made upon solicitation of quotations or bids from three or more responsible manufacturers or dealers in such materials or supplies. All such purchases shall be made from the lowest responsible bidder on the basis of price, quality and service.]

(e) All purchases of materials or supplies made by any organization, club, society or group or by any school or class shall be made by the purchaser in accordance with the requirements of section 807.1.

* * *

Section 5. Section 518 of the act, amended June 17, 1982 (P.L.525, No.149), is amended to read:

Section 518. Retention of Records.—Every board of school directors shall retain as a permanent record of the district, the minute book, each

annual auditor's report, and each annual financial report. All other financial records of the district, including financial account books, orders, bills, contracts, invoices, receipts, and purchase orders shall be retained by the district for a period of not less than six years. Records may be retained as **[photographed, microphotographed or microfilmed copies]** recorded or copied in accordance with [the act of January 18, 1968 (1967 P.L.961, No.428), known as the "Municipal Records Act."] 53 Pa.C.S. Ch. 13 Subch. F (relating to records).

Section 6. Section 687 of the act is amended by adding a subsection to read:

Section 687. Annual Budget; Additional or Increased Appropriations; Transfer of Funds.—* * *

(i) (1) Notwithstanding any other provisions of this act, the board of school directors of each school district is required to and shall reopen its 2002-2003 budget during the month of July 2002 to reflect the increased State allocations under sections 2502.13, 2502.40, 2509.3 and 2591.1 for fiscal year 2002-2003 provided by the General Assembly through the act of June 29, 2002 (P.L.2106, No.7A), known as the "General Appropriation Act of 2002."

(2) In those school districts which levy taxes and where the increased State allocations exceed the State revenue figures utilized by the school district at the time of adoption of its original fiscal year 2002-2003 budget, the board of school directors shall use the increases in State allocations to do any of the following:

(i) abate any local taxes which were levied at the time of original budget adoption. Such tax abatements shall occur within sixty (60) days of the reopening of the school district's budget and may take the form of tax reductions, rebates or credits;

(ii) reduce or retire any outstanding indebtedness of the school district; or

(iii) restore funding to any educational programs which were reduced or eliminated for the 2002-2003 school year.

(3) Under no circumstances shall any increased State allocations be used to increase a school district's reserved or unreserved fund balance.

Section 7. Section 696(a), (b) and (h) of the act, amended October 30, 2001 (P.L.828, No.83), are amended to read:

Section 696. Distress in School Districts of the First Class.—(a) Within thirty (30) days of a declaration by the Secretary of Education that a school district of the first class is distressed under section 691(c), a School Reform Commission shall be established consisting of four members *initially* appointed by the Governor and one member *initially* appointed by the mayor of the city coterminous with the school district. The School Reform Commission shall be an instrumentality of a school district of the first class, exercising the powers of the board of school directors. The Governor shall appoint a chairman of the School Reform Commission. At least three of the

commission members, including the member appointed by the mayor, must be residents of the school district.

(b) Membership of the School Reform Commission shall be as follows:

(1) Members appointed pursuant to this section shall serve terms as follows:

(i) Two of the members appointed by the Governor shall serve initial terms of seven (7) years.

(ii) One of the members appointed by the Governor shall serve an initial term of five (5) years.

(iii) One of the members appointed by the Governor shall serve an initial term of three (3) years. *Upon the expiration of the initial term of this member, the mayor shall appoint an individual to fill this position.*

(iv) The member appointed by the mayor shall serve an initial term of three (3) years.

(v) After *the expiration of each initial term*, a subsequent term shall be for four (4) years.]:

(A) Members appointed by the Governor under subclauses (i) and (ii) shall be appointed for a term of five (5) years.

(B) Members appointed by the mayor under subclauses (iii) and (iv) shall be appointed for a term of four (4) years.

(2) Except as authorized in this subsection, no commission member may be removed from office during a term. The Governor may, upon proof by clear and convincing evidence of malfeasance or misfeasance in office, remove a commission member prior to the expiration of the term. Before a commission member is removed, that member must be provided with a written statement of the reasons for removal and an opportunity for a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3) Upon the expiration of term or the occurrence of a vacancy in the office of a commission member appointed by the Governor, the Governor shall appoint, with the consent of a majority of the members elected to the Senate, the successor member. Upon the expiration of term or the occurrence of a vacancy in the office of a commission member appointed by the mayor, the mayor shall appoint the successor member. An appointment to fill a vacancy shall be for the balance of the unexpired term.

(4) A commission member shall hold office until a successor has been appointed and qualified.

(5) A commission member may serve successive terms.

(6) No commission member may, while in the service of the School Reform Commission, seek or hold a position as any other public official within this Commonwealth or as an officer of a political party.

(7) Commission members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties from funds of the school district.

* * *

(h) The School Reform Commission shall be responsible for financial matters related to the distressed school district of the first class and:

(1) All taxes authorized to be levied by a school district of the first class or for a school district of the first class by a city or county of the first class on the date of the declaration of distress shall continue to be authorized and levied in accordance with this act and shall be transmitted to the school district. For the first fiscal year or part thereof and every fiscal year thereafter in which the school district is declared to be distressed, the amount appropriated or paid by the city or county to the school district *and the tax authorized by the city or county to be levied for the school district or dedicated to the school district* shall be [in] an amount *or tax* not less than the highest amount paid by the city or county to the school district *or authorized by the city or county to be levied for the school district or dedicated to the school district* during any of the three full preceding fiscal years. In addition, the city of the first class shall provide to the school district of the first class all other available local non-tax revenue, including grants, subsidies or payments made during the prior year.

(2) In addition to the moneys collected under paragraph (1), the city of the first class shall remit to the school district of the first class for each year that the school district is declared distressed that portion of all other local tax revenue levied for a full fiscal year by a city or county of the first class coterminous with a school district of the first class that was allocated to the school district prior to the school district being declared distressed in accordance with section 691(c).

(3) All taxes collected on behalf of a school district of the first class by any person or entity, including a city or county of the first class, shall be promptly paid following collection to the School Reform Commission for the benefit of the school district.

(4) In the event the city or county of the first class does not meet the financial obligations prescribed in this subsection, the Commonwealth may apply to that obligation any amounts otherwise due from the Commonwealth to the city or county of the first class, including, but not limited to, grants, awards and moneys collected by the Commonwealth on behalf of the city or county of the first class. Funds withheld shall be maintained in a separate account by the State Treasurer to be disbursed as determined by the Secretary of Education in consultation with the State Treasurer.

(5) The School Reform Commission shall adopt a budget.

* * *

Section 8. Section 910-A(a) of the act, amended December 19, 1980 (P.L.1314, No.237), is amended to read:

Section 910-A. Intermediate Unit Board of Directors.—(a) The intermediate unit board of directors shall be composed of thirteen members except as otherwise provided for in this subsection, chosen for terms of three

years from among members of the boards of school directors of school districts comprising the intermediate unit. An intermediate unit director may succeed himself without limitation as to the number of terms. Where there are fewer than thirteen school districts within an intermediate unit, there shall be one school director from each school district elected to the intermediate unit board of directors, but any such intermediate unit board of directors may elect one additional at-large member. When there are more than thirteen districts in an intermediate unit each district, as far as practicable, may have one member on the unit board, up to a maximum of [twenty] *twenty-two* members. The election of intermediate unit boards of directors shall be by proportionate ballot, and each school director of each school district within an intermediate unit shall be entitled to cast votes determined by dividing the weighted average daily membership of the school district by the total weighted average daily membership within the intermediate unit, multiplying the quotient so obtained by one thousand, dividing the product so obtained by the number of directors as provided for above, and rounding such dividend to the nearest whole number: Provided, however, That each school director shall have at least one vote. The Secretary of Education shall annually, not later than the first day of February, certify the weighted average daily membership for the previous school year for each school district and for each intermediate unit, and shall compute the number of votes to which each school director of each school district within an intermediate unit shall be entitled.

* * *

Section 9. The act is amended by adding a section to read:

Section 1109.2. Conditional Employment.—(a) *A board of school directors may enter into an agreement to employ an individual as a temporary professional employe who, within six months of the date of expected graduation from an approved Pennsylvania college or university, presents a letter verifying that the individual is enrolled in an approved teacher preparation program in that institution and will complete all requirements for the conferring of a bachelor's degree on a date certain as specified.*

(b) *The validity of this agreement shall be contingent upon all of the following conditions being met prior to the actual commencement of the individual's employment as a temporary professional employe:*

(1) *The conferring of a bachelor's degree.*

(2) *The individual having obtained a teaching certificate from the Commonwealth of Pennsylvania in the area of assignment or certification specified in the agreement.*

Section 10. Section 1301 of the act is amended to read:

Section 1301. Age Limits; Temporary Residence.—Every child, being a resident of any school district, between the ages of six (6) and twenty-one (21) years, may attend the public schools in his district, subject to the provisions of this act. *Notwithstanding any other provision of law to the*

contrary, a child who attains the age of twenty-one (21) years during the school term and who has not graduated from high school may continue to attend the public schools in his district free of charge until the end of the school term. The board of school directors of any school district may admit to the schools of the district, with or without the payment of tuition, any non-resident child temporarily residing in the district, and may require the attendance of such non-resident child in the same manner and on the same conditions as it requires the attendance of a resident child.

Section 11. Sections 1501-C and 1505-C of the act, added May 17, 2001 (P.L.4, No.4), are amended to read:

Section 1501-C. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

“Eligible student.” A resident of this Commonwealth who is enrolled in third, fourth, fifth or sixth grade in a school entity and is deemed eligible pursuant to section 1502-C(b).

“Eligibility test.” The Pennsylvania System of School Assessment or a commercially prepared, [norm-referenced,] standardized achievement test approved by the Department of Education. A list of approved tests under this article shall be published annually in the Pennsylvania Bulletin.

“Grant.” A grant awarded to a grant recipient under this article.

“Grant recipient.” A resident of this Commonwealth who is a parent, guardian or person in parental relation to an eligible student.

“Program.” The Education Support Services Program established in section 1502-C.

“Provider.” A school entity, an institution of higher education, a nonprofit or for-profit organization or a certified teacher employed by a school entity, that is approved by the Department of Education to provide education support services.

“School entity.” Any of the following located in this Commonwealth: a school district, intermediate unit, joint school district, area vocational-technical school, charter school, independent school, licensed private academic school, accredited school, a school registered under section 1327(b), the Scotland School for Veterans’ Children or the Scranton School for the Deaf.

Section 1505-C. Providers.

A prospective provider shall submit an application to the department for approval to provide education support services under this article. The application shall include a description of the services to be provided, the cost of the services, the qualification of all individuals providing those services, including evidence of compliance with section 111 *and with 23 Pa.C.S. § 6355 (relating to requirement)*, and such other information as may be required by the department.

Section 12. Section 1703-A of the act, amended June 26, 1999 (P.L.394, No.36), is amended to read:

Section 1703-A. Definitions.—As used in this article,

“Appeal board” shall mean the State Charter School Appeal Board established by this article.

“At-risk student” shall mean a student at risk of educational failure because of limited English proficiency, poverty, community factors, truancy, academic difficulties or economic disadvantage.

“Charter school” shall mean an independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend. A charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

“Chief executive officer” shall mean an individual appointed by the board of trustees to oversee and manage the operation of the charter school, but who shall not be deemed a professional staff member under this article.

“Cyber charter school” shall mean an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means. A cyber charter school must be organized as a public, nonprofit corporation. A charter may not be granted to a for-profit entity.

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

“Local board of school directors” shall mean the board of directors of a school district in which a proposed or an approved charter school is located.

“Regional charter school” shall mean an independent public school established and operated under a charter from more than one local board of school directors and in which students are enrolled or attend. A regional charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.

“School district of residence” shall mean the school district in this Commonwealth in which the parents or guardians of a child reside.

“School entity” shall mean a school district, intermediate unit, joint school or area vocational-technical school.

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

“State board” shall mean the State Board of Education of the Commonwealth.

Section 13. Sections 1725-A(a) and 1732-A of the act, added June 19, 1997 (P.L.225, No.22), are amended to read:

Section 1725-A. Funding for Charter Schools.—(a) Funding for a charter school shall be provided in the following manner:

(1) There shall be no tuition charge for a resident or nonresident student attending a charter school.

(2) For non-special education students, the charter school shall receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the budgeted expenditures of the district of residence for nonpublic school programs; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; and other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems established by the department. This amount shall be paid by the district of residence of each student.

(3) For special education students, the charter school shall receive for each student enrolled the same funding as for each non-special education student as provided in clause (2), plus an additional amount determined by dividing the district of residence's total special education expenditure by the product of multiplying the combined percentage of section 2509.5(k) times the district of residence's total average daily membership for the prior school year. This amount shall be paid by the district of residence of each student.

(4) A charter school may request the intermediate unit in which the charter school is located to provide services to assist the charter school to address the specific needs of exceptional students. The intermediate unit shall assist the charter school and bill the charter school for the services. The intermediate unit may not charge the charter school more for any service than it charges the constituent districts of the intermediate unit.

(5) Payments shall be made to the charter school in twelve (12) equal monthly payments, by the fifth day of each month, within the operating school year. A student enrolled in a charter school shall be included in the average daily membership of the student's district of residence for the purpose of providing basic education funding payments and special education funding pursuant to Article XXV. If a school district fails to make a payment to a charter school as prescribed in this clause, the secretary shall deduct the *estimated* amount, as documented by the charter school, from any and all State payments made to the district after receipt of documentation from the charter school.

(6) Within thirty (30) days after the secretary makes the deduction described in clause (5), a school district may notify the secretary that the deduction made from State payments to the district under this subsection is inaccurate. The secretary shall provide the school district with an opportunity to be heard concerning whether the charter school documented that its students were enrolled in the charter school, the period of time during which each student was enrolled, the school district

of residence of each student and whether the amounts deducted from the school district were accurate.

* * *

Section 1732-A. Provisions Applicable to Charter Schools.—(a) Charter schools shall be subject to the following:

Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), **1301**, 1310, 1317, 1317.1, 1317.2, 1318, 1327, 1330, 1332, 1303-A, 1513, 1517, 1518, 1521, 1523, **1531**, 1547, 2014-A, Article XIII-A and Article XIV.

Act of July 17, 1961 (P.L.776, No.341), known as the “Pennsylvania Fair Educational Opportunities Act.”

Act of July 19, 1965 (P.L.215, No.116), entitled “An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities.”

Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled “An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary institutions of higher learning, making an appropriation, and providing for the administration of this act.”

Act of July 12, 1972 (P.L.765, No.181), entitled “An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations.”

Act of December 15, 1986 (P.L.1595, No.175), known as the “Antihazing Law.”

(b) Charter schools shall be subject to the following provisions of 22 Pa. Code:

Section 5.216 (relating to ESOL).

Section 5.4 (relating to general policies).

Chapter 11 (relating to pupil attendance).

Chapter 12 (relating to students).

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).

Chapter 711 (relating to charter school services and programs for children with disabilities).

(c) (1) The secretary may promulgate additional regulations relating to charter schools.

(2) The secretary shall have the authority and the responsibility to ensure that charter schools comply with Federal laws and regulations governing children with disabilities. The secretary shall promulgate regulations to implement this provision.

Section 14. Article XVII-A of the act is amended by adding a subdivision to read:

(c) Cyber Charter Schools.

Section 1741-A. Powers and duties of department.

(a) Powers and duties.—The department shall:

(1) Receive, review and act on applications for the creation of a cyber charter school and have the power to request further information from applicants, obtain input from interested persons or entities and hold hearings regarding applications.

(2) Renew the charter of cyber charter school and renew the charter of a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means. Upon renewal of a charter of a charter school approved under section 1717-A or 1718-A, the charter school shall qualify as a cyber charter school under this subdivision and shall be subject to the provisions of this subdivision.

(3) Revoke or deny renewal of a cyber charter school's charter under the provisions of section 1729-A.

(i) Notwithstanding the provisions of section 1729-A(i), when the department has revoked or denied renewal of a charter, the cyber charter school shall be dissolved. After the disposition of the liabilities and obligations of the cyber charter school, any remaining assets of the cyber charter school shall be given over to the intermediate unit in which the cyber charter school's administrative office was located for distribution to the school districts in which the students enrolled in the cyber charter school reside at the time of dissolution.

(ii) Notwithstanding any laws to the contrary, the department may, after notice and hearing, take immediate action to revoke a charter if:

(A) a material component of the student's education as required under this subdivision is not being provided; or

(B) the cyber charter school has failed to maintain the financial ability to provide services as required under this subdivision.

(4) Execute charters after approval.

(5) Develop forms, including the notification form under section 1748-A(b), necessary to carry out the provisions of this subdivision.

(b) Hearings.—Hearings conducted by the department shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings).

(c) Documents.—Documents of the appeal board shall be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

Section 1742-A. Assessment and evaluation.

The department shall:

(1) Annually assess whether each cyber charter school is meeting the goals of its charter and is in compliance with the provisions of the charter and conduct a comprehensive review prior to granting a five-year renewal of the charter.

(2) Annually review each cyber charter school's performance on the Pennsylvania System of School Assessment test, standardized tests and other performance indicators to ensure compliance with 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.

(3) Have ongoing access to all records, instructional materials and student and staff records of each cyber charter school and to every cyber charter school facility to ensure the cyber charter school is in compliance with its charter and this subdivision.

Section 1743-A. Cyber charter school requirements and prohibitions.

(a) Special financial requirements prohibited.—A cyber charter school shall not:

(1) provide discounts to a school district or waive payments under section 1725-A for any student;

(2) except as provided for in subsection (e), provide payments to parents or guardians for the purchase of instructional materials; or

(3) except as compensation for the provision of specific services, enter into agreements to provide funds to a school entity.

(b) Enrollment.—A cyber charter school shall report to the department an increase or a decrease of 30% or more in its anticipated enrollment set forth in the application under section 1747-A(11).

(c) School district.—A cyber charter school shall make available upon request, either in writing or electronically, to each student's school district of residence the following:

(1) A copy of the charter.

(2) A copy of the cyber charter school application.

(3) A copy of all annual reports prepared by the cyber charter school.

(4) A list of all students from that school district enrolled in the cyber charter school.

(d) Parent or guardian.—Upon request and prior to the student's first day in a cyber charter school, the cyber charter school shall, either in writing or electronically, provide to the parent or guardian of a student the following:

(1) A list and brief description of the courses of instruction the student will receive. The list shall be updated annually for each grade level in which the student is enrolled.

(2) A description of the lessons and activities to be offered both online and offline.

(3) The manner in which attendance will be reported and work will be authenticated.

(4) *A list of all standardized tests the student will be required to take during the school year and the place where the test will be administered, if available.*

(5) *The meetings to be held during the school year between a parent or guardian and a teacher and among other school officials or parents or guardians and the manner in which the parent or guardian will be notified of the time and place for the meeting.*

(6) *The address of the cyber charter school and the name, telephone number and e-mail address of the school administrator and other school personnel.*

(7) *A list of any extracurricular activities provided by the cyber charter school.*

(8) *The names of the student's teachers, if available, and the manner in which each teacher can be contacted by the student or the parent or guardian.*

(9) *A list of all services that will be provided to the student by the cyber charter school.*

(10) *Copies of policies relating to computer security and privacy, truancy, absences, discipline and withdrawal or expulsion of students.*

(11) *Information on:*

(i) *The cyber charter school's professional staff, including the number of staff personnel, their education level and experience.*

(ii) *The cyber charter school's performance on the PSSA and other standardized test scores.*

(12) *Information regarding the proper usage of equipment and materials and the process for returning equipment and materials supplied to the students by the cyber charter school. A parent or guardian shall acknowledge, either in writing or electronically, the receipt of this information.*

(13) *A description of the school calendar, including, but not limited to, the time frame that will constitute a school year and a school week, holidays and term breaks.*

(e) *Students.—For each student enrolled, a cyber charter school shall:*

(1) *provide all instructional materials;*

(2) *provide all equipment, including, but not limited to, a computer, computer monitor and printer; and*

(3) *provide or reimburse for all technology and services necessary for the on-line delivery of the curriculum and instruction.*

The Commonwealth shall not be liable for any reimbursement owed to students, parents or guardians by a cyber charter school under paragraph (3).

(f) *Annual report.—A cyber charter school shall submit an annual report no later than August 1 of each year to the department in the form prescribed by the department.*

(g) *Records and facilities.*—A cyber charter school shall provide the department with ongoing access to all records and facilities necessary for the department to assess the cyber charter school in accordance with the provisions of this subdivision.

(h) *Offices and facilities.*—A cyber charter school shall maintain an administrative office within this Commonwealth where all student records shall be maintained at all times and shall provide the department with the addresses of all offices and facilities of the cyber charter school, the ownership thereof and any lease arrangements. The administrative office of the cyber charter school shall be considered as the principal place of business for service of process for any action brought against the cyber charter school or cyber charter school staff members. The cyber charter school shall notify the department of any changes in this information within ten days of the change.

(i) *Applicable law.*—Any action taken against the cyber charter school, its successors or assigns or its employees, including any cyber charter school staff member as defined in the act of December 12, 1973 (P.L.397, No.141), known as the Professional Educator Discipline Act, shall be governed by the laws of this Commonwealth. If the department initiates an investigation or pursues an action pursuant to the Professional Educator Discipline Act involving any current or former charter school staff member outside this Commonwealth, any reasonable expenses incurred by the department in such investigation or action shall be paid by the cyber charter school which employed that staff member at the time of the alleged misconduct.

Section 1744-A. School district and intermediate unit responsibilities.

An intermediate unit or a school district in which a student enrolled in a cyber charter school resides shall do all of the following:

(1) Provide the cyber charter school within ten days of receipt of the notice of the admission of the student under section 1748-A(a) with all records relating to the student, including transcripts, test scores and a copy of any individualized education program for that student.

(2) Provide the cyber charter school with reasonable access to its facilities for the administration of standardized tests required under this subdivision.

(3) Upon request, provide assistance to the cyber charter school in the delivery of services to a student with disabilities. The school district or intermediate unit shall not charge the cyber charter school more for a service than it charges a school district.

(4) Make payments to the cyber charter school under section 1725-A.

Section 1745-A. Establishment of cyber charter school.

(a) *Establishment.*—A cyber charter school may be established by an individual; one or more teachers who will teach at the proposed cyber charter school; parents or guardians of students who will enroll in the

cyber charter school; a nonsectarian college, university or museum located in this Commonwealth; a nonsectarian corporation not-for-profit as defined in 15 Pa.C.S. § 5103 (relating to definitions); a corporation, association or partnership; or any combination of the foregoing. Section 1327.1 shall not apply to a cyber charter school established under this subdivision.

(b) Sectarian entities.—No cyber charter school shall be established or funded by and no charter shall be granted to a sectarian school, institution or other entity.

(c) Attendance.—Attendance at a cyber charter school shall satisfy requirements for compulsory attendance.

(d) Application.—An application to establish a cyber charter school shall be submitted to the department by October 1 of the school year preceding the school year in which the cyber charter school proposes to commence operation.

(e) Grant or denial.—Within 120 days of receipt of an application, the department shall grant or deny the application. The department shall review the application and shall hold at least one public hearing under 65 Pa.C.S. Ch. 7 (relating to open meetings). At least 30 days prior to the hearing, the department shall publish in the Pennsylvania Bulletin and on the department's World Wide Web site notice of the hearing and the purpose of the application.

(f) Evaluation criteria.—

(1) A cyber charter school application submitted under this subdivision shall be evaluated by the department based on the following criteria:

(i) The demonstrated, sustainable support for the cyber charter school plan by teachers, parents or guardians and students.

(ii) The capability of the cyber charter school applicant, in terms of support and planning, to provide comprehensive learning experiences to students under the charter.

(iii) The extent to which the programs outlined in the application will enable students to meet the academic standards under 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.

(iv) The extent to which the application meets the requirements of section 1747-A.

(v) The extent to which the cyber charter school may serve as a model for other public schools.

(2) Written notice of the action of the department shall be sent by certified mail to the applicant and published on the department's World Wide Web site. If the application is denied, the reasons for denial, including a description of deficiencies in the application, shall be clearly stated in the notice.

(3) Upon approval of a cyber charter school application, a written charter shall be developed which shall contain the provisions of the charter application and be signed by the secretary and each member of the board of trustees of the cyber charter school. The charter, when duly signed, shall act as legal authorization of the establishment of a cyber charter school. The charter shall be legally binding on the department, the cyber charter school and its board of trustees. The charter shall be for a period of no less than three years nor more than five years and may be renewed for a period of five years by the department.

(4) The decision of the department to deny an application may be appealed to the appeal board.

(g) Denied application.—A cyber charter school applicant may revise and resubmit a denied application to the department. The department shall grant or deny the revised application within 60 days after its receipt.

(h) Appeal.—If the department fails to hold the required public hearing or to approve or disapprove the charter, the applicant may file its application as an appeal to the appeal board. The appeal board shall review the application and make a decision to approve or disapprove the charter based on the criteria in subsection (f).

Section 1746-A. State Charter School Appeal Board review.

(a) Jurisdiction.—The appeal board shall have the exclusive review of an appeal by a cyber charter school applicant or by the board of trustees of a cyber charter school on the decisions of the department, including:

- (1) The denial of an application for a charter.
- (2) The denial of a renewal of a charter.
- (3) The revocation of a charter.
- (4) An appeal under section 1745-A(h).

(b) Procedure.—The appeal board shall:

(1) Review the decision made by the department under subsection (a) on the record as certified by the department. The secretary shall recuse himself from all cyber charter school appeals and shall not participate in a hearing, deliberation or vote on a cyber charter school appeal. The appeal board may allow the department, the cyber charter school applicant or the board of trustees of a cyber charter school to supplement the record if the supplemental information was previously unavailable.

(2) Meet to officially review the certified record no later than 30 days after the date of filing the appeal.

(3) Issue a written decision affirming or denying the appeal no later than 60 days following its review.

(4) In the case of a decision by the department to deny a cyber charter application, make its decision based on section 1745-A(f)(1). A decision by the appeal board to reverse the decision of the department

and grant a charter shall serve as a requirement for the secretary to sign the written charter of the cyber charter school.

(5) In the case of a decision by the department to revoke or deny renewal of a cyber school charter in accordance with section 1741-A(a)(3), make its decision based on section 1729-A(a). A decision of the appeal board to reverse the decision of the department to not revoke or deny renewal of a charter shall serve as a requirement of the department to not revoke or to not deny renewal of the charter of the cyber charter school.

(c) Stay.—If the department appeals the decision of the appeal board, the appeal board's decision shall be stayed only upon order of the appeal board, the Commonwealth Court or the Pennsylvania Supreme Court.

(d) Review.—All decisions of the appeal board shall be subject to appellate review by the Commonwealth Court.

Section 1747-A. Cyber charter school application.

In addition to the provisions of section 1719-A, an application to establish a cyber charter school shall also include the following:

(1) The curriculum to be offered and how it meets the requirements of 22 Pa. Code Ch. 4 (relating to academic standards and assessment) or subsequent regulations promulgated to replace 22 Pa. Code Ch. 4.

(2) The number of courses required for elementary and secondary students.

(3) An explanation of the amount of on-line time required for elementary and secondary students.

(4) The manner in which teachers will deliver instruction, assess academic progress and communicate with students to provide assistance.

(5) A specific explanation of any cooperative learning opportunities, meetings with students, parents and guardians, field trips or study sessions.

(6) The technology, including types of hardware and software, equipment and other materials which will be provided by the cyber charter school to the student.

(7) A description of how the cyber charter school will define and monitor a student's school day, including the delineation of on-line and off-line time.

(8) A description of commercially prepared standardized achievement tests that will be used by the cyber charter school in addition to the Pennsylvania System of School Assessment test, including the grade levels that will be tested and how the data collected from the tests will be used to improve instruction.

(9) The technical support that will be available to students and parents or guardians.

(10) The privacy and security measures to ensure the confidentiality of data gathered online.

(11) The level of anticipated enrollment during each school year of the proposed charter, including expected increases due to the addition of grade levels.

(12) The methods to be used to insure the authenticity of student work and adequate proctoring of examinations.

(13) The provision of education and related services to students with disabilities, including evaluation and the development and revision of individualized education programs.

(14) Policies regarding truancy, absences and withdrawal of students, including the manner in which the cyber charter school will monitor attendance consistent with the provisions of section 1715-A(9).

(15) The types and frequency of communication between the cyber charter school and the student and the manner in which the cyber charter school will communicate with parents and guardians.

(16) The addresses of all facilities and offices of the cyber charter school, the ownership thereof and any lease arrangements.

Section 1748-A. Enrollment and notification.

(a) Notice to school district.—

(1) Within 15 days of the enrollment of a student to a cyber charter school, the parent or guardian and the cyber charter school shall notify the student's school district of residence of the enrollment through the use of the notification form under subsection (b).

(2) If a school district which has received notice under paragraph (1) determines that a student is not a resident of the school district, the following apply:

(i) Within seven days of receipt of the notice under paragraph (1), the school district shall notify the cyber charter school and the department that the student is not a resident of the school district. Notification of nonresidence shall include the basis for the determination.

(ii) Within seven days of notification under subparagraph (i), the cyber charter school shall review the notification of nonresidence, respond to the school district and provide a copy of the response to the department. If the cyber charter school agrees that a student is not a resident of the school district, it shall determine the proper district of residence of the student before requesting funds from another school district.

(iii) Within seven days of receipt of the response under subparagraph (ii), the school district shall notify the cyber charter school that it agrees with the cyber charter school's determination or does not agree with the cyber charter school's determination.

(iv) A school district that has notified the cyber charter school that it does not agree with the cyber charter school's determination under subparagraph (iii) shall appeal to the department for a final determination.

(v) *All decisions of the department regarding the school district of residence of a student shall be subject to review by the Commonwealth Court.*

(vi) *A school district shall continue to make payments to a cyber charter school under section 1725-A during the time in which the school district of residence of a student is in dispute.*

(vii) *If a final determination is made that a student is not a resident of an appealing school district, the cyber charter school shall return all funds provided on behalf of that student to the school district within 30 days.*

(b) *Notification form.—The department shall develop a notification form for use under subsection (a). The notification shall include:*

(1) *The name, home address and mailing address of the student.*

(2) *The grade in which the student is being enrolled.*

(3) *The date the student will be enrolled.*

(4) *The name and address of the cyber charter school and the name and telephone number of a contact person able to provide information regarding the cyber charter school.*

(5) *The signature of the parent or guardian and an authorized representative of the cyber charter school.*

(c) *Withdrawal.—The cyber charter school and the parent or guardian of a student enrolled in a cyber charter school shall provide written notification to the student's school district of residence within 15 days following the withdrawal of a student from the cyber charter school.*

Section 1749-A. Applicability of other provisions of this act and of other acts and regulations.

(a) *General requirements.—Cyber charter schools shall be subject to the following:*

(1) *Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1301, 1302, 1310, 1317.2, 1318, 1330, 1332, 1303-A, 1518, 1521, 1523, 1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-A, 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-A, 1725-A, 1727-A, 1729-A, 1730-A, 1731-A(a)(1) and (b) and 2014-A and Articles XII-A, XIII-A and XIV.*

(2) *The act of July 17, 1961 (P.L.776, No.341), known as the Pennsylvania Fair Educational Opportunities Act.*

(3) *The act of July 19, 1965 (P.L.215, No.116), entitled "An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities."*

(4) *Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled "An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary*

institutions of higher learning, making an appropriation, and providing for the administration of this act."

(5) The act of July 12, 1972 (P.L.765, No.181), entitled "An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations."

(6) The act of December 15, 1986 (P.L.1595, No.175), known as the Antihazing Law.

(b) Regulations.—Cyber charter schools shall be subject to the following provisions of 22 Pa. Code (relating to education):

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

(2) Chapter 11 (relating to pupil attendance).

(3) Chapter 12 (relating to students).

(4) Section 32.3 (relating to assurances).

(5) Section 121.3 (relating to discrimination prohibited).

(6) Section 235.4 (relating to practices).

(7) Section 235.8 (relating to civil rights).

(8) Chapter 711 (relating to charter school services and programs for children with disabilities).

(c) Existing charter schools.—

(1) The charter of a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means shall remain in effect for the duration of the charter and shall be subject to the provisions of subdivision (b).

(2) In addition to subsections (a) and (b), the following provisions of this subdivision shall apply to a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means:

(i) Section 1743-A(c), (d), (e), (h) and (i).

(ii) Section 1744-A.

(iii) Section 1748-A.

Section 1750-A. Effect on certain existing charter schools.

(a) Determination.—For a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means, prior to August 15, 2002, the department shall determine:

(1) whether the charter school is in compliance with this subdivision;

(2) whether the charter school has provided notification of the enrollment of each existing student to the school district of residence; and

(3) how the charter school plans to comply with section 1743-A(d).

(b) Notification of compliance.—Prior to August 15, 2002, the department shall:

(1) Notify each charter school and the chartering school district of the department's determination under subsection (a). The notification shall include specific requirements with which the charter school has failed to comply.

(2) Publish a copy of the notification on the department's World Wide Web site.

(c) Charter school requirement.—A charter school subject to the requirements of this section shall, either in writing or electronically, provide the parent or guardian of any student enrolled in the charter school a copy of the department's determination under subsection (b).

(d) School districts.—A school district shall not renew the charter of a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or approve a charter for a cyber charter school.

(e) Renewal of charter for certain existing charter schools.—Upon the expiration of its charter, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means shall seek renewal of its charter from the department under this subdivision. The charter shall be amended as needed to reflect the requirements of this subdivision.

Section 1751-A. Regulations.

The department may issue regulations to implement this subdivision.

Section 15. Section 1705-B(h)(4) of the act, added June 22, 2001 (P.L.530, No.35), is amended to read:

Section 1705-B. Education Empowerment Districts.—* * *

(h) * * *

(4) The department may utilize up to \$2,000,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts certified as an education empowerment district under paragraph (3). There is hereby established a restricted account from which payments under this paragraph shall be paid. Funds shall be transferred by the Secretary of the Budget to the restricted account to the extent necessary to make payments under this paragraph. Funds in the restricted account are hereby appropriated to carry out the purposes of this paragraph. This paragraph shall apply to fiscal years 2000-2001 [and], 2001-2002 *and* 2002-2003 and shall expire June 30, [2002] 2003.

Section 16. Section 1714-B(h) of the act, added May 10, 2000 (P.L.44, No.16), is amended to read:

Section 1714-B. Mandate Waiver Program.—* * *

(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).

Chapter 16 (relating to special education for gifted students).

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).

* * *

Section 17. Section 1901-C(1) of the act, added June 25, 1997 (P.L.297, No.30), is amended to read:

Section 1901-C. Definitions.—For purposes of this article, the following terms shall have the following meanings:

(1) “Alternative education program” or “program.” Any applicant’s program applying for funds under this article, which program is implemented by a school district, an area vocational-technical school, a group of school districts or an intermediate unit, which removes disruptive students from regular school programs in order to provide those students with a sound educational course of study and counseling designed to modify disruptive behavior and return the students to a regular school curriculum. Notwithstanding section 1502, alternative education programs may operate outside the normal school day of the applicant district, including Saturdays. School districts *and private alternative education institutions operating pursuant to the provisions of Article XIX-E* shall adopt a policy for periodic review of *those* students placed in [the] *their respective* alternative education program for disruptive students. This review shall occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district’s *or private alternative education institution’s* discretion. The purpose of this review is to determine whether or not the student is ready to return to the regular school curriculum. Programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent in a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who have been judged to have committed a crime under an adult criminal proceeding.

* * *

Section 18. Section 2008-A of the act, amended June 23, 1988 (P.L.457, No.77), is amended to read:

Section 2008-A. Councils of Trustees.—(a) The council of each of the institutions shall consist of eleven (11) members who, except for student members, shall be nominated and appointed by the Governor with the advice and consent of the Senate. At least two (2) members of the eleven (11) member council of trustees shall be alumni of the institution.

(b) Ten (10) members of each council shall serve terms of six (6) years, respectively, and until their respective successors are duly appointed and qualified. One (1) member of each council shall be a full-time undergraduate student in good academic standing, other than freshman,

enrolled for at least twelve (12) semester hours at the institution of which he is a trustee. The student member shall serve a term of four (4) years or for so long as he is a full-time undergraduate student in attendance at the institution of which he is a trustee, whichever period is shorter, and is in good academic standing. Vacancies occurring before the expiration of the term of any member shall be filled in like manner for the unexpired term. Student members of the Council of Trustees shall be appointed by the Governor and shall not be subject to Senate confirmation. *If a student member is temporarily unable, for medical or valid academic reasons, to fulfill the responsibilities of office, the Council of Trustees may request that the Governor appoint an otherwise qualified student to serve as an alternate until the return of the student member.*

(c) The members of each board of trustees of a former State college or university serving in such capacity on the effective date of this act shall continue to serve for the balance of their respective terms.

(d) Six (6) members of a council shall constitute a quorum. Each council shall select from its members a chairperson and a secretary to serve at the pleasure of the council. Each council shall meet at least quarterly, and additionally at the call of the president, or its chairperson, or upon request of three (3) of its members.

Section 19. The act is amended by adding a section to read:

Section 2134. Placement of Certain Adjudicated Students.—*No student returning from placement or who is on probation as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who has been adjudged to have committed a crime under an adult criminal proceeding shall be returned directly to the regular classroom. Prior to returning such student to the regular classroom, the school district shall:*

(1) Place the student in a transition center operated by the school district for a period not to exceed four (4) weeks.

(2) Develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student and establishes terms and conditions the student must meet prior to returning to the regular classroom.

(3) Place the student in an alternative education program as defined in Article XIX-C, in a private alternative education institution as defined in Article XIX-E, in a general education development program or in a program operating after the traditional school day as provided for in the transition plan developed pursuant to clause (2).

Section 20. Section 2501(14.1) of the act, amended June 22, 2001 (P.L.530, No.35), is amended to read:

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

* * *

(14.1) "Market Value/Income Aid Ratio." For purposes of reimbursement to a school district under subsections (d), (e), and (f) of section 2502, section 2502.8, section 2502.22, section 2502.25, section 2502.26 and section 2592, or to an intermediate unit or area vocational-technical school, shall be the Commonwealth's method of determining the combined market value and income wealth for each pupil, and shall be computed, for the school year for which reimbursement is being paid, as follows:

(a) (i) Divide the market value per weighted average daily membership of the district, intermediate unit or area vocational-technical school by the market value per weighted average daily membership of the State;

(ii) Determine the product of *subsection* (a)(i) multiplied by .5;

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

(iv) For purposes of the calculation described in *subsection* (a)(i) through [(a)(iii)] (iii), the market value of a district shall be the real property valuation of the district for the calendar year that concluded during the school year immediately preceding the school year for which reimbursement is being paid. The market value of an intermediate unit or area vocational-technical school shall be the sum of the real property valuations of each of its component districts for the calendar year that concluded during the school year immediately preceding the school year for which reimbursement is being paid. The weighted average daily membership of a district shall be the weighted average daily membership for the school year immediately preceding the school year for which reimbursement is being paid. The weighted average daily membership of an intermediate unit or area vocational-technical school shall be the sum of the weighted average daily memberships of each of its component districts for the school year immediately preceding the school year for which reimbursement is being paid.

(b) (i) Divide the income per weighted average daily membership of the district, the intermediate unit or area vocational-technical school by the average personal income per weighted average daily membership of the State;

(ii) Determine the product of *subsection* (b)(i) multiplied by .5;

(iii) Subtract the resultant product in *subsection* (b)(ii) from 1.000 to determine the income aid ratio.

(iv) For purposes of the calculation described in *subsection* (b)(i) through [(b)(iii)] (iii), the income of a district shall be the personal income valuation of the district. The income of an intermediate unit or area vocational-technical school shall be the sum of the personal income valuations of each of its component districts. The weighted average daily membership of the district shall be the weighted average daily membership for the school year immediately preceding the school year for which reimbursement is being paid. The weighted average daily membership of an

intermediate unit or area vocational-technical school shall be the sum of the weighted average daily memberships of each of its component districts for the school year immediately preceding the school year for which reimbursement is being paid.

(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.

[(e) For the purpose of determining payments for the 1999-2000 school year and each school year thereafter, the department shall utilize the following calculation for any school district where the personal income as determined by the Department of Revenue under Article III, section 303(a)(3), (4), (7) or (8) of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," increases by at least one thousand percent (1,000%) over such income reported for the prior tax year: the total personal income used to determine the personal income aid ratio and market value/personal income aid ratio shall be calculated using an amount for personal income as determined by the Department of Revenue under Article III, section 303(a)(3), (4), (7) or (8) of the "Tax Reform Code of 1971" that is ten percent (10%) higher than such income reported for the prior tax year.]

Section 21. Section 2502.13 of the act, amended June 22, 2001 (P.L.530, No.35), 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 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 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. For the school [year 2000-

2001] years 2000-2001 and 2001-2002, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership.

Section 22. Section 2502.30 of the act, reenacted and amended June 22, 2001 (P.L.530, No.35), is amended to read:

Section 2502.30. Temporary Special Aid to School Districts Suffering Loss of Tax Revenue Due to Reduction in Assessed Valuation of Taxable Property.—(a) Temporary special aid shall be paid in fiscal years 1994-1995, 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000 **[and]**, 2001-2002 **and 2002-2003** to school districts experiencing a severe reduction in local revenue due to a decline in the assessed value of taxable properties. The allocation to these districts shall be determined by multiplying the reduction in assessed value between 1985-1986 and 1992-1993 by the 1992-1993 real estate millage rate. This aid shall be paid from undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the Department of Education. No other funds shall be used for assistance under this section. These funds shall be sufficient to provide temporary relief to seven school districts in fiscal year 1995-1996 at seventy-five per centum (75%) of the funds received in fiscal year 1994-1995, in fiscal year 1996-1997 at fifty per centum (50%) of the funds received in fiscal year 1994-1995, in fiscal year 1997-1998, 1998-1999 and in fiscal year 1999-2000 at twenty-five per centum (25%) of the funds received in fiscal year 1994-1995. For fiscal **[year] years 2001-2002 and 2002-2003**, to the extent funds are available as determined by the Secretary of the Budget, qualifying school districts shall receive twenty-five per centum (25%) of the funds received in fiscal year 1994-1995. **[This section shall expire October 1, 2002.]**

(b) Payments made pursuant to subsection (a) shall be paid from a restricted receipt account, which is hereby established, for such payments. Funds shall be transferred by the Secretary of the Budget to the restricted account only to the extent necessary to make the payments authorized by this section. The money in the restricted account is hereby appropriated from the account for purposes of this section.

(c) This section shall expire October 1, 2003.

Section 23. The act is amended by adding a section to read:

Section 2502.40. Basic Education Funding for 2001-2002 School Year.—For the 2001-2002 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 2000-2001 school year pursuant to sections 2502.13 and 2502.39.

(2) A base supplement calculated as follows:

(i) If the school district's 2002-2003 market value/income aid ratio is equal to or greater than .7000:

(A) Multiply the school district's 2002-2003 market value/income aid ratio by its 2001-2002 average daily membership.

(B) Multiply the product from (A) by \$40,000,000.

(C) Divide the product from (B) by the sum of the products of the 2002-2003 market value/income aid ratio multiplied by the 2001-2002 average daily membership for all qualifying school districts.

(ii) If the school district's 2002-2003 market value/income aid ratio is equal to or greater than .4000 and less than .7000:

(A) Multiply the school district's 2002-2003 market value/income aid ratio by its 2001-2002 average daily membership.

(B) Multiply the product from (A) by \$35,000,000.

(C) Divide the product from (B) by the sum of the products of the 2002-2003 market value/income aid ratio multiplied by the 2001-2002 average daily membership for all qualifying school districts.

(iii) If the school district's 2002-2003 market value/income aid ratio is less than .4000:

(A) Multiply the school district's 2002-2003 market value/income aid ratio by its 2001-2002 average daily membership.

(B) Multiply the product from (A) by \$10,000,000.

(C) Divide the product from (B) by the sum of the products of the 2002-2003 market value/income aid ratio multiplied by the 2001-2002 average daily membership for all qualifying school districts.

(3) A poverty supplement calculated for qualifying school districts as follows:

(i) To qualify for the poverty supplement, a school district's 2002-2003 market value/income aid ratio shall be equal to or greater than 0.6500 and its personal income valuation when divided by its 2001-2002 average daily membership shall be equal to or less than \$100,200.

(ii) The poverty supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the school district's 2001-2002 average daily membership by \$20,000,000.

(B) Divide the product from (A) by the sum of the 2001-2002 average daily membership for all qualifying school districts.

(4) A growth supplement calculated for qualifying school districts as follows:

(i) Each school district with an increase in average daily membership between the 2000-2001 and 2001-2002 school years of less than three percent (3%) shall receive an amount equal to two hundred fifty dollars (\$250) multiplied by the actual numerical increase in average daily membership between the 2000-2001 and 2001-2002 school years.

(ii) Each school district with an increase in average daily membership between the 2000-2001 and 2001-2002 school years equal to or greater than three percent (3%) shall receive an amount equal to five hundred

dollars (\$500) multiplied by the actual numerical increase in average daily membership between the 2000-2001 and 2001-2002 school years.

(5) Each school district will receive additional funding as necessary so that the sum of the amounts under section 2502.13 and under clauses (2), (3), (4) and this clause will equal at least two percent (2%) of the amount in clause (1).

Section 24. Section 2509.1 of the act is amended by adding a subsection to read:

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

(b.10) Up to nine million five hundred thousand dollars (\$9,500,000) may be utilized for programs administered and operated by intermediate units during the 2002-2003 school year for institutionalized children as established in subsection (b.1).

* * *

Section 25. Section 2509.3 of the act, amended April 27, 1998 (P.L.270, No.46), is amended to read:

Section 2509.3. Payments on Account of Transportation of Nonpublic School Pupils.—Each school district, regardless of classification, shall be paid by the Commonwealth the sum of thirty-five dollars (\$35) for each nonpublic school pupil transported in the school year 1978-1979 through the school year 1983-1984. For the school year 1984-1985 through the school year 1989-1990, each school district shall be paid the sum of seventy dollars (\$70) for each nonpublic school pupil transported. For the school years 1990-1991 and 1991-1992, each school district shall be paid the sum of one hundred twenty-four dollars (\$124) for each nonpublic school pupil transported. For the school year 1992-1993 and the 1993-1994 school year, each school district shall be paid the sum of one hundred fifty-nine dollars (\$159) for each nonpublic school pupil transported. For the school year 1994-1995 through the school year 1996-1997, each school district shall be paid the sum of two hundred dollars (\$200) for each nonpublic school pupil transported. For the school year 1997-1998 [and each school year thereafter] *through the school year 2000-2001*, each school district shall be paid the sum of two hundred eighty-five dollars (\$285) for each nonpublic school pupil transported. *For the school year 2001-2002 and each school year thereafter, each school district shall be paid the sum of three hundred eighty-five dollars (\$385) for each nonpublic school pupil transported.*

Section 26. Section 2509.5 of the act is amended by adding a subsection to read:

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

(kk) For the 2002-2003 school year, each school district shall receive additional funding as necessary so that the payments school districts receive are equal to one hundred one and five tenths per centum (101.5%) of the payments to school districts for the 2001-2002 school year under subsections (gg), (hh), (ii) and (ij).

Section 27. Section 2517(d) of the act, amended June 7, 1993 (P.L.49, No.16), is amended to read:

Section 2517. Payments.—* * *

(d) Subsection (c) of this section shall apply to:

(1) All payments to which a school district is entitled under any provision of sections 2502, 2502.3, 2502.4, 2502.8, 2502.9 and 2592 for the school year 1981-1982.

(2) Payments to which a school district is entitled under any provision of sections 2502, 2502.8 and 2502.11 for the school year 1982-1983 and the school year 1983-1984.

(3) Payments to which a school district is entitled under any provision of sections 2502, 2502.8, 2502.11, 2502.13 and 2502.20 for the school year 1984-1985 [and each school year thereafter.] *through the school year 2000-2001.*

(4) *Payments to which a school district is entitled under any provision of sections 2502, 2502.8, 2502.11, 2502.13, 2502.40 and 2591.1 for the school year 2001-2002 and each school year thereafter.*

Section 28. The act is amended by adding a section to read:

Section 2591.1. Commonwealth Reimbursements for Charter Schools and Cyber Charter Schools.—For the 2001-2002 school year, the Commonwealth shall pay to each school district with resident students enrolled in a charter school, a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means or a cyber charter school as defined pursuant to Article XVII-A an amount equal to thirty percent (30%) of the total funding required under section 1725-A(a). If insufficient funds are appropriated to make Commonwealth reimbursements under this section, the reimbursements shall be made on a pro rata basis.

Section 29. Section 2595(f.1) of the act, amended May 10, 2000 (P.L.44, No.16), is amended and the section is amended by adding a subsection to read:

Section 2595. School Performance Incentives.—* * *

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

(f.2) Pursuant to guidelines issued by the Department of Education, up to ten percent (10%) of the allocation for school performance funding under this section may be used by the department to establish an incentive program to reward school entities that show improved academic performance as evidenced by a decline in the percentage of students who score below the basic level of proficiency as defined by 22 Pa. Code Ch. 4 (relating to academic standards and assessment) and who are in disaggregated groups, including the following:

- (1) Economically disadvantaged students.*
- (2) Students from major racial and ethnic groups.*
- (3) Students with disabilities.*
- (4) Students with limited English proficiency.*

* * *

Section 30. The act is amended by adding a section to read:

Section 2599.1. Multipurpose Service Center Grant Program.—*(a) The Department of Education may administer a grant program to assist multipurpose service centers in the delivery of certain services to displaced homemakers and single parents in accordance with department guidelines.*

(b) (1) To the extent that funds are available, grants shall be awarded to multipurpose service centers that offer job counseling, job training, financial management, employment referral and any other services that the department may require. Priority in the award of grants shall be afforded to those multipurpose service centers that received State assistance during the 1998-1999 fiscal year.

(2) Qualified multipurpose service centers shall apply for grants in the form and manner required by the department.

(c) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Displaced homemaker” or “single parent.” An individual who:

- (1) Has worked in the home, providing unpaid household services for family members.*
- (2) Is underemployed.*
- (3) Has had or is having difficulty securing employment.*
- (4) Has been dependent on the income of another family member but is no longer supported by such income, has been dependent on government assistance or is supported as the parent of minor children by government assistance or other support.*

“Multipurpose service center.” A community-based organization, school district, joint school district or intermediate unit, postsecondary school, institution of higher learning or area vocational-education school that provides job counseling services; job training, education and placement services; financial management services, outreach information services with respect to Federal and State employment and education, health and unemployment assistance programs to displaced homemakers and single parents.

Section 31. Section 2603-B(d) of the act, added March 30, 1988 (P.L.321, No.43), is amended by adding a clause to read:

Section 2603-B. Powers and Duties of the Board.—* * *

(d) The board shall also have the authority and duty to:

* * *

(10) (i) Approve or disapprove standards proposed by the department in order to comply with the provisions of the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425) to maintain the eligibility of this Commonwealth to receive Federal funding for education programs. The board shall approve or disapprove the standards within 30 days of submission to the board’s office or at its next scheduled meeting, whichever is sooner. Failure of the board to approve or disapprove the standards within the time established under this section shall be deemed an approval of the standards.

(ii) Standards promulgated under this section shall be deposited with the Pennsylvania Bulletin for publication.

(iii) These standards shall be exempt from:

(A) Sections 201 through 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(B) Section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the “Commonwealth Attorneys Act.”

(C) The act of June 25, 1982 (P.L.633, No.181), known as the “Regulatory Review Act.”

(D) This subclause shall expire June 30, 2003.

* * *

Section 32. The State Board of Education shall adopt revisions to 22 Pa. Code § 4.24 (relating to high school graduation requirements) that, at a minimum, delete from the regulation the requirement that school districts affix to diplomas State Seals of Proficiency or Distinction. Due to the urgent need for an expedited but public regulatory process, the State Board of Education, in adopting such revised regulations, shall follow the procedures set forth in the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, for the promulgation and review of final-omitted regulations.

Section 33. The purpose of the addition of subdivision (c) of Article XVII-A is to provide for the continued operation of charter schools

approved under section 1717-A or 1718-A of the act and which provide instruction through the Internet or other electronic means and to establish additional requirements for all cyber charter schools.

Section 34. The sum of \$25,000,000 is hereby appropriated to the Department of Education for payments to school districts of the first class subject to the following:

(1) Payment of funds from this appropriation shall be contingent upon the determination of the Secretary of Education that a school district of the first class which has been declared distressed pursuant to section 691(c) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, has satisfied all of the following by December 31, 2002: achieved \$25,000,000 in savings through elimination of redundancies, noninstructional operational efficiencies and reductions in administrative personnel at district headquarters; complied with sections 697 and 2134 of the Public School Code of 1949; and established a Uniform Code of Conduct for all students.

(2) Funds received from this appropriation shall first be expended by the School Reform Commission of a school district of the first class for all costs associated with the operation of schools governed by agreements pursuant to section 696(i)(2) of the Public School Code of 1949 and for the operation of schools previously designated as partnership schools under the School Reform Commission Resolution Number 10 of April 17, 2002, before the funds can be expended on any other schools identified for targeted reforms by the School Reform Commission pursuant to that resolution. Such expenditures shall include costs associated with targeted reform efforts such as: enhancements in curriculum; enhancements or improvements in instructional supplies, materials and equipment, including computer hardware and software used to provide instruction; enhancements in professional development programs; improved or newly established accountability measures for school employees; and other costs associated with such agreements. Additionally, as a condition for payment of these funds to school districts of the first class, the School Reform Commission must enter into such agreements no later than August 1, 2002.

(3) Funds received from this appropriation shall be distributed by the School Reform Commission of a school district of the first class in accordance with a funding methodology approved by the Secretary of Education and shall be supplemental and in addition to any amount of Federal, State and local funds allocated to those schools previously designated as partnership schools by a school district of the first class under its standard budgeting process.

(4) Receipt of funds from this appropriation shall in no way be deemed to authorize those schools previously designated as partnership schools by a school district of the first class to be treated differently from

other schools in the school district of the first class in terms of services or other funding provided by the school district of the first class.

(5) The secretary shall not pay funds from this appropriation to a school district of the first class until the secretary determines that the conditions in this section have been satisfied.

Section 35. This act shall take effect as follows:

(1) The following provisions shall take effect July 1, 2002, or immediately, whichever is later:

- (i) The amendment of section 511(e) of the act.
 - (ii) The amendment of section 518 of the act.
 - (iii) The amendment of section 687 of the act.
 - (iv) The amendment of section 910-A of the act.
 - (v) The amendment of section 1725-A of the act.
 - (vi) The addition of subdivision (c) of Article XVII-A of the act.
 - (vii) The amendment of section 1705-B of the act.
 - (viii) The amendment of section 1901-C(1) of the act.
 - (ix) The amendment of section 2502.13 of the act.
 - (x) The amendment of section 2502.30 of the act.
 - (xi) The addition of section 2502.40 of the act.
 - (xii) The amendment of section 2509.1 of the act.
 - (xiii) The amendment of section 2509.3 of the act.
 - (xiv) The amendment of section 2509.5 of the act.
 - (xv) The amendment of section 2517(d) of the act.
 - (xvi) The addition of section 2591.1 of the act.
 - (xvii) The amendment of section 2595(f.1) of the act.
 - (xviii) The addition of section 2599.1 of the act.
 - (xix) Section 33 of this act.
 - (xx) Section 34 of this act.
- (2) The following provisions shall take effect immediately:
- (i) The amendment of section 102 of the act.
 - (ii) The amendment of section 502.1(f) of the act.
 - (iii) The amendment of section 696(a), (b) and (h) of the act.
 - (iv) The addition of section 1109.2 of the act.
 - (v) The amendment of section 1301 of the act.
 - (vi) The amendment of section 1501-C of the act.
 - (vii) The amendment of section 1505-C of the act.
 - (viii) The amendment of section 1613 of the act.
 - (ix) The amendment of section 1703-A of the act.
 - (x) The amendment of section 1732-A of the act.
 - (xi) The amendment of section 1714-B(h) of the act.
 - (xii) The addition of section 2134 of the act.
 - (xiii) The amendment of section 2501(14.1) of the act.
 - (xiv) The addition of section 2603-B(d)(10) of the act.
 - (xv) Section 32 of this act.
 - (xvi) This section.

(3) The remainder of this act shall take effect in 60 days.

APPROVED—The 29th day of June, A.D. 2002.

MARK S. SCHWEIKER