

No. 2012-82

AN ACT

HB 1901

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," in preliminary provisions, further providing for definitions, for background checks of prospective employees and conviction of employees of certain offenses and for collection of identifying information of students attending institutions of higher education; providing for adjustments based on Consumer Price Index and for Keystone Exams; in school districts, further providing for moratorium on certain data collection systems and data sets; in school finances, providing for reopening of 2012-2013 budget and for intergovernmental agreements for school security and safety; in grounds and buildings, providing for limitation on new applications for the Department of Education's approval of public school building projects and further providing for work to be done under contract let on bids and exception; in books, furniture and supplies, further providing for purchase of supplies; in district superintendents and assistant district superintendents, further providing for eligibility and for manner of election or approval, providing for performance review and further providing for election of assistant district superintendents, for term and salary of assistants, for commissions and for removal; in professional employees, further providing for rating system and for causes for suspension; in pupils and attendance, further providing for liability for tuition and enforcement of payment and for school lunch and breakfast reimbursement; in safe schools, further providing for regulations; adding a requirement relating to cardiopulmonary resuscitation; providing for open campus initiatives; in high schools, further providing for attendance in other districts; providing for disclosure by school entities of certain interscholastic athletic opportunity information; reenacting and amending provisions relating to school boards and educational empowerment; in community colleges, further providing for financial program, reimbursement of payments; in Thaddeus Stevens College of Technology, further providing for contracts for construction, repair, renovation or maintenance; in State System of Higher Education, further providing for project contracts and for powers and duties of institution presidents; in school districts of the first class, further providing for superintendents of schools or buildings and of supplies; in funding for public libraries, providing for State and for fiscal year 2012-2013; in reimbursements by Commonwealth and between school districts, providing for basic education funding for 2011-2012 school year, further providing for payments to intermediate units and for special education payments to school districts, providing for assistance to school districts certified as education empowerment districts, further providing for Pennsylvania accountability grants and providing for targeted industry cluster certificate scholarship program; and making editorial changes.

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

Section 1. Section 102 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a definition to read:

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

* * *

"Keystone Exam." *An assessment developed or caused to be developed by the Department of Education pursuant to 22 Pa. Code § 4.51(f) (relating to State assessment system).*

* * *

Section 2. Section 111 heading, (a.1), (e), (f.1), (f.2), (h), (i) and (j) of the act, amended or added July 11, 2006 (P.L.1092, No.114) and June 30, 2011 (P.L.112, No.24), are amended to read:

Section 111. [**Background Checks of**] ***Criminal History of Employes and Prospective Employes***; Conviction of [**Employes of**] ***Certain Offenses.***—* * *

(a.1) Beginning April 1, 2007, this section shall apply to all ***current and*** prospective employes of public and private schools, intermediate units and area vocational-technical schools, including, but not limited to, teachers, substitutes, janitors, cafeteria workers, independent contractors and their employes, except those employes and independent contractors and their employes who have no direct contact with children.

(1) Beginning April 1, 2007, this section shall apply to bus drivers ***employed or*** offered employment by a school district, private school, nonpublic school, intermediate unit or area vocational-technical school or by an independent contractor.

(2) Beginning April 1, 2007, this section shall apply to ***student teachers and*** student teacher candidates assigned to all public and private schools, intermediate units and area vocational-technical schools.

(3) For purposes of this section, ***"student teacher" or "student teacher candidate"*** shall mean an individual participating in a classroom teaching, internship, clinical or field experience who, as part of a program for the initial or advanced preparation of professional educators, performs classroom teaching or assists in the education program in a public or private school, intermediate unit or area vocational-technical school under the supervision of educator preparation program faculty.

(4) Prior to a ***student teacher or*** student teacher candidate's participation in any classroom teaching, internship, clinical or field experience, [**that candidate**] ***the student teacher or student teacher candidate*** shall provide to the administrator of his or her educator preparation program all criminal history record information required of an employe or prospective employe who is subject to this section.

(5) [**The**] ***A student teacher or*** student teacher candidate may not participate in any classroom teaching, internship, clinical or field experience if this section would prohibit an employe or prospective employe subject to this section from being employed under those circumstances.

(6) During the course of a ***student teacher or*** student teacher candidate's participation in an educator preparation program, the administrator of the ***student teacher or*** student teacher candidate's educator preparation program shall maintain a copy of the criminal history record information that was provided by the ***student teacher or*** student teacher candidate. The penalty

provisions of subsection (g) shall be applicable to the administrator of a *student teacher or student teacher candidate's* educator preparation program.

(7) If a *student teacher or student teacher candidate* is continuously enrolled in an educator preparation program, the criminal history record information initially submitted by [that] *the student teacher or student teacher candidate* to that program shall remain valid during that period of enrollment, *subject to the requirements of subsection (j)*. If a *student teacher or student teacher candidate's* enrollment in an educator preparation program is interrupted or if [that] *the student teacher or student teacher candidate* transfers to another educator preparation program, the *student teacher or student teacher candidate* shall provide to the administrator of his or her educator preparation program all criminal history record information required of an employe who is subject to this section.

* * *

(e) No person subject to this act shall be employed *or remain employed* in a public or private school, intermediate unit or area vocational-technical school where [the] *a* report of criminal history record information *or a form submitted by an employe under subsection (j)* indicates the [applicant] *person* has been convicted of any of the following offenses:

(1) An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 2910 (relating to luring a child into a motor vehicle or structure).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2 (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 3129 (relating to sexual intercourse with animal).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301(a)(1) (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

Section 6318 (relating to unlawful contact with minor).

Section 6319 (relating to solicitation of minors to traffic drugs).

Section 6320 (relating to sexual exploitation of children).

(2) An offense designated as a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(3) An offense similar in nature to those crimes listed in clauses (1) and (2) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(f.1) (1) If **[the] a** report of criminal history record information **or a form submitted by an employe under subsection (j)** indicates the person has been convicted of **an offense graded as** a felony offense of the first, second or third degree other than **[those] one of the offenses** enumerated under subsection (e), the person shall be eligible for **continued or** prospective employment only if a period of ten years has elapsed from the date of expiration of the sentence for the offense.

(2) If **[the conviction is for] a report of criminal history record information or a form submitted by an employe under subsection (j)** indicates the person has been convicted of **an offense graded as** a misdemeanor of the first degree, **other than one of the offenses enumerated in subsection (e)**, the person shall be eligible for **continued or** prospective employment only if a period of five years has elapsed from the date of expiration of the sentence for the offense.

(3) If the report of criminal history record information **or a form submitted by an employe under subsection (j)** indicates the person has been convicted more than once for an offense under 75 Pa.C.S. § 3802(a), (b), (c) or (d) (relating to driving under influence of alcohol or controlled substance) and the offense is graded as a misdemeanor of the first degree under 75 Pa.C.S. § 3803 (relating to grading), the person shall be eligible for **current or** prospective employment only if a period of three years has elapsed from the date of expiration of the sentence for the most recent offense.

(f.2) Nothing in this section shall be construed to interfere with the ability of a public or private school, intermediate unit or area vocational-technical school to make employment, discipline or termination decisions, **provided that this subsection shall not be construed to conflict with subsection (e), (f.1) or (j)(6).**

* * *

(h) **[Any] Subject to the requirements of subsection (j)**, any person who has once obtained the information required under **[this section] subsections (b), (c) and (c.1)** may transfer to or provide services to another school in the same district, diocese or religious judicatory or established and supervised by the same organization and shall not be required to obtain additional reports before making such transfer.

(i) Notwithstanding subsections (b), (c) and (c.1), **and subject to the requirements of subsection (j)**, administrators, before April 1, 2007, may employ in-State applicants on a provisional basis for a single period not to exceed thirty (30) days and may employ out-of-State applicants on a provisional basis for a single period not to exceed ninety (90) days and, after March 31, 2007, may employ any applicants on a provisional basis for a

single period not to exceed ninety (90) days, except during a lawful strike proceeding under the provisions of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," provided that all of the following conditions are met:

(1) the applicant has applied for the information required under subsection (b) and, where applicable, under subsection (c) or (c.1) and the applicant provides a copy of the appropriate completed request forms to the administrator;

(2) the administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (e) *or (f.1)*;

(3) the applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (e) *or (f.1)*;

(4) if the information obtained pursuant to subsection (b), (c) or (c.1) reveals that the applicant is disqualified from employment pursuant to subsection (e) *or (f.1)*, the applicant shall be suspended and subject to termination proceedings as provided for by law; and

(5) the administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employe.

(j) (1) The department shall develop a standardized form to be used by current and prospective employes of public and private schools, intermediate units and area vocational-technical schools for the written reporting by current and prospective employes of any arrest or conviction for an offense enumerated under **[subsection (e)] subsections (e) and (f.1)**. The form shall provide a space in which a current or prospective employe who has not been convicted of or arrested for any such offense will respond "no conviction" and "no arrest." The form also shall provide that failure to accurately report any arrest or conviction for an offense enumerated under subsection (e) *or (f.1)* shall subject the current or prospective employe to criminal prosecution under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). The department shall publish the form on its publicly accessible Internet website and in the Pennsylvania Bulletin.

(2) **[Within ninety (90) days of the effective date of this subsection, all current] All current and prospective** employes of a public or private school, intermediate unit or area vocational-technical school shall complete the form described in clause (1), indicating whether or not they have been *arrested for or* convicted of an offense enumerated under **[subsection (e)] subsections (e) and (f.1)**, *provided that any current employe who completed the form on or before December 27, 2011, in compliance with clauses (1) and (2) on that date and who has not been arrested for or convicted of an offense enumerated under subsections (e) and (f.1) shall not be required to complete an additional form under this subsection.*

(3) If, as required in clause (2), **[an] a current or prospective** employe refuses to submit the form described in clause (1), the administrator or other person responsible for employment decisions in a school or other institution shall immediately require the *current or prospective* employe to submit to the administrator a current report of criminal history record information as required under subsections (a.1), (b) and (c.1).

(4) If the arrest or conviction for an offense enumerated under subsection (e) *or* (f.1) occurs after the effective date of this subsection, the *current or prospective* employe shall provide the administrator or designee with written notice utilizing the form provided for in clause (1) not later than seventy-two (72) hours after an arrest or conviction.

(5) If an administrator or other person responsible for employment decisions in a school or other institution has a reasonable belief that **[an] a current or prospective** employe was arrested or has a conviction for an offense required to be reported under clause (2) or (4) and the employe or prospective employe has not notified the administrator as required under this section, the administrator or other person responsible for employment decisions in a school or other institution shall immediately require the *current or prospective* employe to submit to the administrator a current report of criminal history record information as required under subsections (a.1), (b) and (c.1). The cost of the criminal background check shall be borne by the employing entity.

(6) **[(i) An] A current or prospective** employe who willfully fails to disclose a conviction or an arrest for an offense enumerated under **[subsection (e)(1)] this section** shall be subject to discipline up to and including termination or denial of employment and may be subject to criminal prosecution under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

[(ii) An employe who willfully fails to disclose a conviction of any other offense required to be reported by this section may be subject to discipline and may be subject to criminal prosecution under 18 Pa.C.S. § 4904.]

Section 3. Section 118(a)(1) of the act, added June 30, 2011 (P.L.112, No.24), is amended to read:

Section 118. Collection of Identifying Information of Students Attending Institutions of Higher Education.—(a) The following provisions shall apply to the Department of Education's collection of identifying information of students:

(1) The department may collect identifying information of students only if:

(i) the department is specifically required to do so under Federal statute or regulation or under another provision of this act; *or*

(ii) *the information is voluntarily provided by an institution of higher education.*

* * *

Section 4. Section 119 of the act, added November 3, 2011 (P.L.400, No.97), is repealed:

[Section 119. Adjustments Based on Consumer Price Index.— Adjustments to the base amounts shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars (\$100) to determine the final adjusted base amounts.

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts.

(5) The determinations and adjustments required under this section shall be made in the period between October 1 and November 15 of the year following the effective date of this section and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required and written or telephonic price quotations are required, respectively, for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this section for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three percent (3%).]

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

Section 120. Adjustments Based on Consumer Price Index.— Adjustments to the base amounts shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(2) If the Department of Labor and Industry determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period.

(3) (i) If the Department of Labor and Industry determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest one hundred dollars (\$100) to determine the final adjusted base amounts.

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest one hundred dollars (\$100) to determine the new final adjusted base amounts.

(5) The determinations and adjustments required under this section shall be made in the period between October 1 and November 15, 2012, and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The Department of Labor and Industry shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required and written or telephonic price quotations are required, respectively, for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the Department of Labor and Industry in establishing the unadjusted or final adjusted base amounts under this section for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three percent (3%).

Section 121. Keystone Exams.—Subject to annual appropriation, not later than the 2020-2021 school year, the Department of Education shall develop and implement Keystone Exams in the following subjects: algebra I, literature, biology, English composition, algebra II, geometry, United States history, chemistry, civics and government and world history. The State Board of Education shall promulgate regulations, subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act," necessary to implement this section.

Section 6. Section 221.1(a) of the act, added June 30, 2011 (P.L.112, No.24), is amended to read:

Section 221.1. Moratorium on Certain Data Collection Systems and Data Sets.—(a) For the school years 2011-2012 and 2012-2013, the Department of Education and the Department of Public Welfare shall suspend the collection of data through Pennsylvania's Enterprise to Link Information for Children Across Network (PELICAN) and the Pennsylvania Information Management System (PIMS) except as follows:

- (1) Information required to meet Federal mandates in the following:
 - (i) The Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6301 et seq.).
 - (ii) The Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).
 - (iii) The Educational Technical Assistance Act of 2002 (Public Law 107-279, 116 Stat. 1975).
 - (iv) Title VI of the America COMPETES Act or the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act (Public Law 110-69, 121 Stat. 572).
 - (v) The American Recovery and Reinvestment Act of 2009 (Public Law 111-5, 123 Stat. 115).
 - (vi) The Head Start Act (Public Law 97-35, 42 U.S.C. § 9831 et seq.).
 - (vii) The Child Care and Development Block Grant Act of 1990 (Public Law 101-508, 42 U.S.C. § 9858 et seq.).
 - (viii) The Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).
 - (ix) Any data pursuant to other Federal requirements and to meet eligibility requirements for Federal funds.
- (2) Pennsylvania Value-Added Assessment System (PVAAS), including any revisions or improvements made to the system.
- (3) Information required by the Department of Public Welfare to supervise, license or register a child-care provider under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."
- (4) Information relating to background checks required in section 111 and in 23 Pa.C.S. §§ 6344 (relating to information relating to prospective child-care personnel) and 6344.1 (relating to information relating to family day-care home residents).
- (5) Information necessary for all payments or reimbursement by the Commonwealth.
- (6) Information required to be reported pursuant to Article XIII-A of this act.
- (7) *Information which is voluntarily provided by an institution of higher education.*

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

Section 616. Reopening of 2012-2013 Budget.—*Notwithstanding any other provisions of law, a board of school directors of a school district may reopen its 2012-2013 budget to reflect the following:*

- (1) *Federal and State allocations for fiscal years 2011-2012 and 2012-2013 provided by the act of June 30, 2012 (P.L.1740, No.9A), known as the General Appropriation Act of 2012; and*

(2) *any increase in local revenue allocations that result from other legislation enacted by the General Assembly during the 2011 regular session.*

Section 617. Intergovernmental Agreements for School Security and Safety.—The board of school directors of a school district may enter into agreements with other political subdivisions to provide for the safety and security of the school. The board of school directors may use school funds to share costs with municipalities and counties for such expenses as benefits and salaries of school resource officers and probation officers. Such officers are not required to be employes of the school district and may be employes of other political subdivisions.

Section 732.1. Limitation on New Applications for Department of Education Approval of Public School Building Projects.—(a) For the 2012-2013 fiscal year, the Department of Education shall not accept or approve new school building construction or reconstruction project applications. Completed school building construction or reconstruction project applications received by the Department of Education by October 1, 2012, are not subject to this provision.

(b) The Department of Education shall, in consultation with school district officials and the General Assembly, conduct a review of the Department of Education's current process through which public school building projects are reviewed and approved for Commonwealth reimbursement. The review shall incorporate an analysis of impacting local factors, including, but not limited to, tax effort and building requirements, and shall make recommendations to the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Education Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives and the chair and minority chair of the Education Committee of the House of Representatives by May 1, 2013.

Section 8. Sections 751(a), (a.1), (b) and (f) and 807.1 of the act, amended November 3, 2011 (P.L.400, No.97), are amended and the sections are amended by adding subsections to read:

Section 751. Work to be Done Under Contract Let on Bids; Exception.—
[(a) All construction, reconstruction, repairs, maintenance or work of any nature, including the introduction of plumbing, heating and ventilating, or lighting systems, upon any school building or upon any school property, or upon any building or portion of a building leased under the provisions of section 703.1, made by any school district, where the entire cost, value, or amount of such construction, reconstruction, repairs, maintenance or work, including labor and material, shall exceed a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119, shall be done under separate contracts to be entered into by such school district with the lowest responsible bidder, upon proper terms, after due public notice has been given asking for competitive bids. Whenever a board of school directors shall approve the use of a prefabricated unit, complete in itself, for a school building or other proper structure to be erected upon school property, the board of school directors may have prepared appropriate

specifications detailing the size and material desired in a particular prefabricated unit, including all utilities such as plumbing, heating and ventilating, and electrical work, and may advertise for a single bid on all the work and award the contract therefor to the lowest responsible bidder: Provided, That if due to an emergency a school plant or any part thereof becomes unusable competitive bids for repairs or replacement may be solicited from at least three responsible bidders, and upon the approval of any of these bids by the Secretary of Education, the board of school directors may proceed at once to make the necessary repairs or replacements in accordance with the terms of said approved bid or bids.

(a.1) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested by the board of school directors for all contracts that exceed a base amount of ten thousand dollars (\$10,000), subject to adjustment under section 119, but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.]

(a.2) All construction, reconstruction, repairs, maintenance or work of any nature, including the introduction of plumbing, heating and ventilating, or lighting systems, upon any school building or upon any school property, or upon any building or portion of a building leased under the provisions of section 703.1, made by any school district where the entire cost, value or amount of such construction, reconstruction, repairs, maintenance or work, including labor and material, shall exceed a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120, shall be done under separate contracts to be entered into by such school district with the lowest responsible bidder, upon proper terms, after due public notice has been given asking for competitive bids. Whenever a board of school directors shall approve the use of a prefabricated unit, complete in itself, for a school building or other proper structure to be erected upon school property, the board of school directors may have prepared appropriate specifications detailing the size and material desired in a particular prefabricated unit, including all utilities such as plumbing, heating and ventilating, and electrical work, and may advertise for a single bid on all the work and award the contract therefor to the lowest responsible bidder: Provided, That, if due to an emergency a school plant or any part thereof becomes unusable, competitive bids for repairs or replacement may be solicited from at least three responsible bidders, and, upon the approval of any of these bids by the board of school directors, the school district may proceed at once to

make the necessary repairs or replacements in accordance with the terms of said approved bid or bids; and Provided further, That the school district shall notify the Secretary of Education in a form and manner determined by the Secretary of Education that an emergency has occurred and a bid has been selected under the emergency process provided for in this section.

(a.3) Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested by the board of school directors for all contracts that exceed a base amount of ten thousand dollars (\$10,000), subject to adjustment under section 120, but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

[(b) The board of school directors in any school district may perform any construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, is less than a base amount of ten thousand dollars (\$10,000), subject to adjustment under section 119, by its own maintenance personnel. The board of school directors in any school district may authorize the secretary of the board or other executive to award contracts for construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, subject to adjustment under section 119, is a base amount of eighteen thousand five hundred dollars (\$18,500) or less, without soliciting competitive bids, subject, however, to the provisions of subsection (a.1).]

(b.1) The board of school directors in any school district may perform any construction, reconstruction, repairs, or work of any nature where the entire cost or value, including labor and material, is less than a base amount of ten thousand dollars (\$10,000), subject to adjustment under section 120, by its own maintenance personnel. The board of school directors in any school district may authorize the secretary of the board or other executive to award contracts for construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, subject to adjustment under section 120, is a base amount of eighteen thousand five hundred dollars (\$18,500) or less, without soliciting competitive bids, subject, however, to the provisions of subsection (a.3).

* * *

[(f) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119, upon transactions which should, in the

exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.]

(g) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120, upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.

Section 807.1. Purchase of Supplies.—[(a) All furniture, equipment, textbooks, school supplies and other appliances for the use of the public schools, costing, subject to adjustment under section 119, a base amount of eighteen thousand five hundred dollars (\$18,500) or more shall be purchased by the board of school directors only after due advertisement as hereinafter provided. Supplies costing, subject to adjustment under section 119, a base amount of eighteen thousand five hundred dollars (\$18,500) or more shall be purchased by the board of school directors only after public notice has been given by advertisement once a week for three (3) weeks in not less than two (2) newspapers of general circulation. In any district where no newspaper is published, said notice may, in lieu of such publication, be posted in at least five (5) public places.

(a.1) Written or telephonic price quotations from at least three qualified and responsible vendors shall be requested by the board of school directors for all purchases of supplies that exceed a base amount of ten thousand dollars (\$10,000), subject to adjustment under section 119, but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified vendors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the vendor and the vendor's representative, the supplies which were the subject of the quotation and the price of the supplies. Written price quotations,

written records of telephonic price quotations and memoranda shall be retained for a period of three years.]

(a.2) All furniture, equipment, textbooks, school supplies and other appliances for the use of the public schools costing, subject to adjustment under section 120, a base amount of eighteen thousand five hundred dollars (\$18,500) or more shall be purchased by the board of school directors only after due advertisement as hereinafter provided. Supplies costing, subject to adjustment under section 120, a base amount of eighteen thousand five hundred dollars (\$18,500) or more shall be purchased by the board of school directors only after public notice has been given by advertisement once a week for three (3) weeks in not less than two (2) newspapers of general circulation. In any district where no newspaper is published, said notice may, in lieu of such publication, be posted in at least five (5) public places.

(a.3) Written or telephonic price quotations from at least three (3) qualified and responsible vendors shall be requested by the board of school directors for all purchases of supplies that exceed a base amount of ten thousand dollars (\$10,000), subject to adjustment under section 120, but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three (3) qualified vendors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the vendor and the vendor's representative, the supplies which were the subject of the quotation and the price of the supplies. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b) The board of school directors shall accept the bid of the lowest responsible bidder, kind, quality, and material being equal, but shall have the right to reject any and all bids, or select a single item from any bid. The board of school directors in any district may authorize or appoint the secretary of the board or other executive as purchasing agent for the district, with authority to purchase supplies that cost a base amount of less than eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119.]

(b.1) The board of school directors shall accept the bid of the lowest responsible bidder, kind, quality, and material being equal, but shall have the right to reject any and all bids or select a single item from any bid. The board of school directors in any district may authorize or appoint the secretary of the board or other executive as purchasing agent for the district, with authority to purchase supplies that cost a base amount of less than eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120.

(c) The following shall be exempt from the above provisions: maps, music, globes, charts, educational films, filmstrips, prepared transparencies and slides, pre-recorded magnetic tapes and disc recordings, textbooks, games, toys, prepared kits, flannel board materials, flash cards, models, projectuals and teacher demonstration devices necessary for school use.

[(d) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials piecemeal for the purpose of obtaining prices under the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119, upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.]

(e) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials piecemeal for the purpose of obtaining prices under the base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120, upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.

Section 9. Section 1003 of the act, amended June 30, 2011 (P.L.112, No.24), is amended to read:

Section 1003. Eligibility.—(a) Except as otherwise provided in **[subsection (b)] subsections (b) and (b.1)**, no person shall receive a letter of eligibility or be elected or appointed as a district superintendent or assistant district superintendent, unless—

(1) He holds a diploma from a college or other institution approved by the Department of Education;

(2) He has had six (6) years' successful teaching experience, not less than three of which shall have been in a supervisory or administrative capacity;

(3) He has completed in a college or university a graduate program in education approved by the Department of Education that includes the Pennsylvania school leadership standards under section 1217. Completion of the program shall not be subject to waiver under section 1714-B unless the candidate provides to the Secretary of Education evidence that the candidate has successfully completed an equivalent leadership development program that addresses the school leadership standards under section 1217.

(4) Provided that in school districts of the first class, five (5) years of administrative experience at the level of assistant, associate or deputy superintendent, may be substituted for prescribed graduate administrative courses, and which shall be the responsibility of the Secretary of Education to review these equivalences to conform with State board regulations.

(b) Notwithstanding the requirements of subsection (a), a person shall be eligible for election or appointment as a district superintendent or assistant district superintendent if he holds a graduate degree from an accredited higher education institution in business [or finance], *finance or management* and has at least four (4) years of relevant experience in business, finance or management.

(b.1) Notwithstanding the requirements of subsection (a), a person shall be eligible for election or appointment as a district superintendent or assistant district superintendent if he holds a juris doctorate degree from an accredited law school and has at least four (4) years of relevant experience in law. This subsection shall expire three (3) years from the effective date of this subsection. A person who is issued a commission by the department based on satisfaction of the requirements of this subsection may retain his commission after the expiration of this subsection.

(b.2) The department shall, upon request in a form and manner as prescribed by the department and made available on the department's publicly accessible Internet website, confirm that an individual satisfies the requirements of subsection (b) or (b.1) and that the individual is eligible for election or appointment as a district superintendent or assistant district superintendent. Upon a school district's hiring of an individual who satisfies the requirements of subsection (b) or (b.1), the department shall issue the individual a commission.

(c) Notwithstanding the provisions of sections 1205.1(f), 1205.2(n.1) and 1205.5(h), a person elected or appointed as a district superintendent or assistant district superintendent for the first time in this Commonwealth under subsection (b) *or (b.1)* shall successfully complete a leadership development program that meets the Pennsylvania school leadership standards under section 1217.

Section 10. Section 1073 of the act, amended January 14, 1970 (1969 P.L.468, No.192) and January 16, 1974 (P.L.1, No.1), is amended to read:

Section 1073. Manner of Election or Approval.—(a) The board of school directors of each school district[, **except in school districts of the first class,**] shall meet at its regular place of meeting, during the last year of the term of the district superintendent or at any other time when a vacancy shall occur in the office of district superintendent, at an hour previously fixed by the board. The secretary of each board of school directors shall mail to each member thereof at least five days beforehand, a notice of the time, place and purpose of such meeting. At such meeting the board shall elect or approve a properly qualified district superintendent *to enter into a contract* to serve a term of [from] three to five years from the first day of July next following his election or from a time mutually agreed upon by the duly elected district superintendent and the board of school directors. *The contract shall be subject to the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."*

(b) At a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the district superintendent, the agenda shall include an item requiring affirmative action by five or more members of the board of school directors to notify the district superintendent that the board intends to retain

him for a further term of **[from]** three (3) to five (5) years or that another or other candidates will be considered for the office. In the event that the board fails to take such action at a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the district superintendent, he shall continue in office for a further term of similar length to that which he is serving.

(d) The term of office or commission of a district superintendent or assistant district superintendent shall not be shortened by reason of the fact that the district in which he serves shall **[be come]** *become* part of a joint school, or by reason of the fact that the district in which he serves shall become a part of a new school district established as the result of reorganization of school districts pursuant to Article II., subdivision (i) or section 224 of this act. Any district superintendent, assistant district superintendent or supervising principal not selected as the district superintendent of the joint school or newly established school district in which the district he serves becomes a part shall be assigned to a position or office for which he is eligible: Provided, however, That in a new school district reorganized under Article II., subdivision (i) or section 224 of this act, he shall be assigned to a position or office which is administrative or supervisory in nature only, but there shall be no reduction in salary until the expiration of his commission. Thereafter, unless elected to an office requiring a commission he shall have the status of a professional employe: Provided, That the board of school directors may adjust the salary according to the classification of the position to which he may be assigned, and that the period of service as a commissioned district superintendent, assistant district superintendent or associate superintendent shall be counted as time served as a professional employe in determining his seniority rights.

(e) The following shall apply:

(1) Notwithstanding any other provision of law, no individual shall be employed as a district superintendent or assistant district superintendent by a school district except pursuant to a written contract of employment expressly stating the terms and conditions of employment.

(2) A contract for the employment of a district superintendent or assistant district superintendent shall do all of the following:

(i) Contain the mutual and complete agreement between the district superintendent or assistant district superintendent and the board of school directors with respect to the terms and conditions of employment.

(ii) Consistent with State Board of Education certification requirements, specify the duties, responsibilities, job description and performance expectations, including performance standards and assessments provided for under section 1073.1.

(iii) Incorporate all provisions relating to compensation and benefits to be paid to or on behalf of the district superintendent or assistant district superintendent.

(iv) Specify the term of employment and state that the contract shall terminate immediately, except as otherwise provided under this section, upon the expiration of the term unless the contract is allowed to renew automatically under subsection (b).

(v) Specify the termination, buyout and severance provisions, including all postemployment compensation and the period of time in which the compensation shall be provided. Termination, buyout and severance provisions may not be modified during the course of the contract or in the event a contract is terminated prematurely.

(vi) Contain provisions relating to outside work that may be performed, if any.

(vii) State that any modification to the contract must be in writing.

(viii) State that the contract shall be governed by the laws of this Commonwealth.

(ix) Limit compensation for unused sick leave in new employment contracts entered into after the effective date of this subsection for district superintendents or assistant district superintendents who have no prior experience as a district superintendent or assistant district superintendent to the maximum compensation for unused sick leave under the school district's administrator compensation plan under section 1164 in effect at the time of the contract.

(x) Limit transferred sick leave from previous employment to not more than thirty (30) days in new employment contracts after the effective date of this subsection for district superintendents or assistant district superintendents who have no prior experience as a district superintendent or assistant district superintendent.

(xi) Specify postretirement benefits and the period of time in which the benefits shall be provided.

(3) No agreement between the board of school directors and a district superintendent or assistant district superintendent for a negotiated severance of employment prior to the end of the specified contract term shall provide for severance compensation to the district superintendent or assistant district superintendent, including the reasonable value of any noncash severance benefits or postemployment benefits not otherwise accruing under the contract or pursuant to law, that:

(i) If the agreement takes effect two (2) years or more prior to the end of the specified contract term, exceeds the equivalent of one (1) year's compensation and benefits otherwise due under the contract.

(ii) If the agreement takes effect less than two (2) years prior to the end of the specified contract term, exceeds the equivalent of one-half of the total compensation and benefits due under the contract for the remainder of the term.

Section 11. The act is amended by adding a section to read:

Section 1073.1. Performance Review.—(a) In addition to any other requirements provided for under this act, the employment contract for a district superintendent or assistant district superintendent shall include objective performance standards mutually agreed to in writing by the board of school directors and the district superintendent or assistant district superintendent. The objective performance standards may be based upon the following:

(1) achievement of annual measurable objectives established by the school district;

(2) *achievement on Pennsylvania System of School Assessment (PSSA) tests;*

(3) *achievement on Keystone Exams;*

(4) *student growth as measured by the Pennsylvania Value-Added Assessment System;*

(5) *attrition rates or graduation rates;*

(6) *financial management standards;*

(7) *standards of operational excellence; or*

(8) *any additional criteria deemed relevant and mutually agreed to by the board of school directors and the district superintendent or assistant district superintendent.*

(b) *The board of school directors shall conduct a formal written performance assessment of the district superintendent and assistant district superintendent annually. A time frame for the assessment shall be included in the contract.*

(b.1) *The board of school directors shall post the mutually agreed to objective performance standards contained in the contract on the school district's publicly accessible Internet website. Upon completion of the annual performance assessment, the board of school directors shall post the date of the assessment and whether or not the district superintendent and assistant district superintendent have met the agreed-to objective performance standards on the school district's publicly accessible Internet website.*

(c) *The State Board of Education may promulgate regulations pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act," in order to implement this section.*

Section 12. Sections 1076 and 1077 of the act, amended January 16, 1974 (P.L.1, No.1), are amended to read:

Section 1076. Election of Assistant District Superintendents[, **Except in Districts First Class**].—[**Except in districts of the first class, assistant**] *Assistant* district superintendents shall be chosen by a majority vote of all the members of the board of school directors of the district, for a term of [**from**] three to five years upon the nomination by the district superintendent.

Section 1077. Term and Salary of Assistants.—(a) Assistant district superintendents may serve through the term of the district superintendent, or enter a contract for a term of [**from**] three to five years at salaries paid by the district, and fixed by a majority vote of the whole board of school directors prior to their election. *The contract shall be subject to the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."*

(b) At a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the assistant district superintendent, the agenda shall include an item requiring affirmative action by five (5) or more members of the board of school directors to notify the assistant district superintendent that the board intends to retain him for a further term of [**from**] three (3) to five (5) years or that another or other candidates will be considered for the office. In the event that the board fails to take such action at a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the assistant district

superintendent, he shall continue in office for a further term of similar length to that which he is serving.

Section 13. Section 1078 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 1078. Commissions.—District superintendents and assistant district superintendents shall be commissioned by the **[Superintendent of Public Instruction] Secretary of Education**.

Section 14. Section 1080 of the act is amended to read:

Section 1080. Removal.—(a) District superintendents and assistant district superintendents may be removed from office *and have their contracts terminated*, after hearing, by a majority vote of the board of school directors of the district, for neglect of duty, incompetency, intemperance, or immorality, of which hearing notice of at least one week has been sent by mail to the accused, as well as to each member of the board of school directors.

(b) *The board of school directors shall publicly disclose at the next regularly scheduled monthly meeting the removal of a district superintendent or assistant district superintendent from office under subsection (a).*

(c) *Proceedings under this section shall be held under 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies).*

Section 14.1. Section 1123 of the act, amended March 29, 1996 (P.L.47, No.16), is amended to read:

Section 1123. Rating System.—(a) In determining whether a professional employe shall be dismissed for incompetency or unsatisfactory teaching performance as provided for in section 1122(a) of this act, and in rating [the services of a temporary professional employe, the professional employe or temporary professional employe shall be rated by an approved rating system which shall give due consideration to personality, preparation, technique, and pupil reaction, in accordance with standards and regulations for such scoring as defined by rating cards to be prepared by the Department of Education, and to be revised, from time to time, by the Department of Education with the cooperation and advice of a committee appointed by the Secretary of Education, including representation from district superintendents of schools, classroom teachers, school directors, school supervisors, parents of school-age children enrolled in a public school, a representative from a college or department of education within a higher education institution located within this Commonwealth, and such other groups or interests as the Secretary of Education may deem appropriate. Rating shall be done by or under the supervision of the superintendent of schools or, if so directed by him, the same may be done by an assistant superintendent, a supervisor, or a principal, who has supervision over the work of the professional employe or temporary professional employe who is being rated: Provided, That no unsatisfactory rating shall be valid unless approved by the district superintendent.] *professional employes and temporary professional employes, all professional employes and temporary professional employes shall be rated through the use of an approved rating tool developed by the Secretary of Education in*

consultation with education experts, parents of school-age children enrolled in a public school, teachers and administrators, including research and collaboration conducted by the department.

(b) For professional employes and temporary professional employes who serve as classroom teachers, the following shall apply:

(1) Beginning in the 2013-2014 school year, the evaluation of the effectiveness of professional employes and temporary professional employes serving as classroom teachers shall give due consideration to the following:

(i) Classroom observation and practice models that are related to student achievement in each of the following areas:

(A) Planning and preparation.

(B) Classroom environment.

(C) Instruction.

(D) Professional responsibilities.

(ii) Student performance, which shall comprise fifty per centum (50%) of the overall rating of the professional employe or temporary professional employe serving as a classroom teacher and shall be based upon multiple measures of student achievement. The fifty per centum (50%) shall be comprised of the following:

(A) Fifteen per centum (15%) building-level data, including, but not limited to, all of the following:

(I) Student performance on assessments.

(II) Value-added assessment system data made available by the department under section 221.

(III) Graduation rate as reported to the department under section 222.

(IV) Promotion rate.

(V) Attendance rate as reported to the department under section 2512.

(VI) Advanced placement course participation.

(VII) Scholastic aptitude test and preliminary scholastic aptitude test data.

(B) Fifteen per centum (15%) teacher-specific data, including, but not limited to, student achievement attributable to a specific teacher as measured by all of the following:

(I) Student performance on assessments.

(II) Value-added assessment system data made available by the department under section 221.

(III) Progress in meeting the goals of student individualized education plans required under the Individuals With Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(IV) Locally developed school district rubrics.

(C) Twenty per centum (20%) elective data, including measures of student achievement that are locally developed and selected by the school district from a list approved by the department and published in the Pennsylvania Bulletin by June 30 of each year, including, but not limited to, the following:

(I) District-designed measures and examinations.

(II) Nationally recognized standardized tests.

(III) Industry certification examinations.

(IV) Student projects pursuant to local requirements.

(V) Student portfolios pursuant to local requirements.

(2) (i) No later than June 30, 2013, the department shall develop, issue and publish in the Pennsylvania Bulletin a rating tool for professional employes and temporary professional employes serving as classroom teachers that is consistent with this subsection and includes the weights given to the multiple measures of student performance contained in clause (1)(ii).

(ii) Following publication, the rating tool developed under this subsection shall be used in the rating of all professional employes and temporary professional employes serving as classroom teachers.

(iii) After June 30, 2013, any changes to the rating tool developed under this subsection shall be made by the State Board of Education through regulations promulgated under the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

(c) For professional employes and temporary professional employes serving as principals, the following shall apply:

(1) Beginning in the 2014-2015 school year, principal effectiveness shall be measured using a rating tool designed specifically for professional employes and temporary professional employes serving as principals which shall give due consideration to the following:

(i) Planning and preparation.

(ii) School environment.

(iii) Delivery of service.

(iv) Professional development.

(v) Student performance, pursuant to clause (2).

(2) Student performance shall be measured as provided in subsection (b)(1)(ii) for professional employes and temporary professional employes supervised by the principal and shall comprise fifty per centum (50%) of the principal's overall rating. The fifty per centum (50%) shall be comprised of the following:

(A) Fifteen per centum (15%) building-level data, including, but not limited to, all of the following:

(I) Student performance on assessments.

(II) Value-added assessment system data made available by the department under section 221.

(III) Graduation rate as reported to the department under section 222.

(IV) Promotion rate.

(V) Attendance rate as reported to the department under section 2512.

(VI) Advanced placement course participation.

(VII) Scholastic aptitude test and preliminary scholastic aptitude test data.

(B) Fifteen per centum (15%) correlation data based on teacher-level measures.

(C) Twenty per centum (20%) elective data, including measures of student achievement that are locally developed and selected by the school district from a list approved by the department and published in the Pennsylvania Bulletin by June 30 each year, which shall include, but not be limited to, the following:

(I) District-designed measures and examinations.

(II) Nationally recognized standardized tests.

(III) Industry certification examinations.

(IV) Student projects pursuant to local requirements.

(V) Student portfolios pursuant to local requirements.

(3) (i) No later than June 30, 2014, the department shall develop, issue and publish in the Pennsylvania Bulletin a rating tool for professional employes and temporary professional employes serving as principals that is consistent with this subsection and includes the weights given to the multiple measures of student performance contained in clause (2).

(ii) Following publication, the rating tool developed under this subsection shall be used in the rating of all principals superseding all other rating cards and forms used previously.

(iii) After June 30, 2014, any changes to the rating tool developed under this subsection shall be made by the State Board of Education through regulations promulgated under the "Regulatory Review Act."

(d) For nonteaching professional employes, the following shall apply:

(1) Beginning in the 2014-2015 school year, nonteaching professional employes shall be evaluated using a rating tool designed specifically for nonteaching professional employes which shall give due consideration to the following:

(i) Planning and preparation.

(ii) Educational environment.

(iii) Delivery of service.

(iv) Professional development.

(v) Student performance of all students in the school building in which the nonteaching professional employe is employed which shall comprise twenty per centum (20%) of the overall rating of nonteaching professional employes and temporary professional employes.

(2) (i) No later than June 30, 2014, the department shall develop, issue and publish in the Pennsylvania Bulletin a rating tool for nonteaching professional employes that is consistent with this subsection and includes the weights given to the multiple measures of student performance contained in clause (1)(v).

(ii) Following publication, the rating tool developed under this subsection shall be used in the rating of all nonteaching professional employes.

(iii) After June 30, 2014, any subsequent changes to the rating tool developed under this paragraph shall be made by the State Board of Education through regulations promulgated under the "Regulatory Review Act."

(e) Notwithstanding subsections (b), (c) and (d), professional employes and temporary professional employes serving as classroom teachers, principals and nonteaching professional employes may be evaluated through the use of a rating tool developed by an individual school district, intermediate unit or area vocational-technical school that the department has approved as meeting or exceeding the measures of effectiveness established under this section.

(f) (1) Each rating tool developed or approved under this section shall identify the overall performance rating of the professional employes and temporary professional employes serving as classroom teachers, principals and nonteaching professional employes as one of the following:

- (i) Distinguished.*
- (ii) Proficient.*
- (iii) Needs improvement.*
- (iv) Failing.*

(2) An overall performance rating of either "distinguished" or "proficient" shall be considered satisfactory.

(3) An overall performance rating of "needs improvement" shall be considered satisfactory, except that any subsequent overall rating of "needs improvement" issued by the same employer within ten (10) years of the first overall performance rating of "needs improvement" where the employe is in the same certification shall be considered unsatisfactory.

(4) An overall performance rating of "failing" shall be considered unsatisfactory.

(5) An overall performance rating of "needs improvement" or "failing" shall require the employe to participate in a performance improvement plan. No employe shall be rated "needs improvement" or "failing" based solely upon student test scores.

(6) The department shall develop a rating scale to reflect student performance measures and employe observation results and establish overall score ranges for each of the four rating categories contained in clause (1).

(g) Upon publication in the Pennsylvania Bulletin of a rating tool developed under this section, the rating cards set forth in 22 Pa. Code § 351.21 (relating to rating form) and any alternative rating forms approved pursuant to 22 Pa. Code Ch. 351 (relating to teacher tenure hearings) prior to the implementation of this section shall be discontinued for use in the evaluation of professional and temporary professional employes.

(h) The following shall apply to the ratings of all professional employes and temporary professional employes:

(1) All ratings shall be completed using the rating tools developed or approved under this section.

(2) Professional employes shall be rated at least annually and temporary professional employes shall be rated at least twice annually.

(3) Ratings shall be performed by or under the supervision of the chief school administrator or, if so directed by the chief school administrator, by an assistant administrator, a supervisor or a principal who has supervision over the work of the professional employe or temporary professional employe being rated, provided that no unsatisfactory rating shall be valid unless approved by the chief school administrator.

(4) No employe shall be dismissed under section 1122 unless the employe has been provided a completed rating tool provided for under this section, which includes a description based upon classroom observations of deficiencies in practice supported by detailed anecdotal records that justify the unsatisfactory rating.

(i) All school districts, intermediate units and area vocational-technical schools shall provide to the department the aggregate results of all professional employe and temporary professional employe, principal and nonteaching professional employe evaluations.

(j) (1) Any rating tool developed by the Department of Education under this section shall be exempt from:

(i) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L. 769, No.240), referred to as the "Commonwealth Documents Law."

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

(iii) The "Regulatory Review Act."

(2) This subsection shall not apply to any changes made to a rating tool or new rating tool developed by the State Board of Education pursuant to subsections (b)(2)(iii), (c)(3)(iii) and (d)(2)(iii).

(k) The State Board of Education may develop standards or regulations consistent with this section.

(l) (1) The department's duty to develop a rating tool under subsection (b)(2) shall expire on June 30, 2013.

(2) The department's duty to develop rating tools under subsections (c)(3) and (d)(2) shall expire on June 30, 2014.

(m) No collective bargaining agreement negotiated by a school district and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employee Relations Act," after the effective date of this subsection shall provide for a rating system other than as provided for in this section. A provision in any agreement or contract in effect on the effective date of this subsection that provides for a rating system in conflict with this section shall be discontinued in any new or renewed agreement or contract or during the period of status quo following an expired contract.

(n) The requirements of this section shall apply to all school districts, intermediate units and area vocational-technical schools.

(o) For purposes of this section:

(1) The term "assessment" shall mean the Pennsylvania System of School Assessment test, the Keystone Exam, an equivalent local assessment or another test established by the State Board of Education to meet the requirements of section 2603-B(d)(10)(i) and required under the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425) or its successor statute or required to achieve other standards established by the department for the school or school district under 22 Pa. Code § 403.3 (relating to single accountability system).

(2) The term "chief school administrator" shall include individuals who are employed as a school district superintendent, an executive director of an intermediate unit or a chief school administrator of an area vocational-technical school.

(3) The term "classroom teacher" shall mean a professional employe or temporary professional employe who provides direct instruction to students related to a specific subject or grade level.

(4) The term "department" shall mean the Department of Education of the Commonwealth.

(5) *The term "education specialist" shall have the meaning given to it under the act of December 12, 1973 (P.L.397, No.141), known as the "Professional Educator Discipline Act."*

(6) *The term "nonteaching professional employe" shall mean an education specialist or a professional employe or temporary professional employe who provides services other than classroom instruction.*

(7) *The term "performance improvement plan" shall mean a plan, designed by a district with input of the employe, that may include mentoring, coaching, recommendations for professional development and intensive supervision based on the contents of the rating tool provided for under this section.*

(8) *The term "principal" shall include a building principal, an assistant principal, a vice principal or a director of vocational education.*

(p) *An employe's individual rating form shall not be subject to disclosure under the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."*

Section 15. Section 1124 of the act, amended August 8, 1963 (P.L.564, No.299), is amended to read:

Section 1124. Causes for Suspension.—(a) Any board of school directors may suspend the necessary number of professional employes, for any of the causes hereinafter enumerated:

(1) **[Substantial]** *substantial* decrease in pupil enrollment in the school district;

(2) **[Curtailment]** *curtailment* or alteration of the educational program on recommendation of the superintendent[, **concurred in**] *and on concurrence* by the board of school directors, **[approved by the Department of Public Instruction,]** as a result of substantial decline in class or course enrollments or to conform with standards of organization or educational activities required by law or recommended by the Department of Public Instruction;

(3) **[Consolidation]** *consolidation* of schools, whether within a single district, through a merger of districts, or as a result of joint board agreements, when such consolidation makes it unnecessary to retain the full staff of professional employes[.]; *or*

(4) **[When]** *when* new school districts are established as the result of reorganization of school districts pursuant to Article II., subdivision (i) of this act, and when such reorganization makes it unnecessary to retain the full staff of professional employes.

(b) *Notwithstanding an existing or future provision in a collective bargaining agreement or other similar employment contract to the contrary, suspension of a professional employe due to the curtailment or alteration of the educational program as set forth in subsection (a)(2) may be effectuated without the approval of the curtailment or alteration of the educational program by the Department of Education, provided that, where an educational program is altered or curtailed as set forth in subsection (a)(2), the school district shall notify the Department of Education of the actions taken pursuant to subsection (a)(2). The Department of Education shall post all notifications received from a school*

district pursuant to this subsection on the Department of Education's publicly accessible Internet website.

Section 16. Section 1205.1(c) of the act, amended June 22, 2001 (P.L.530, No.35), is amended to read:

Section 1205.1. Continuing Professional Development.—* * *

(c) The professional education plan of each school entity shall be designed to meet the educational needs of that school entity and its professional employees. A school entity shall annually review its plan to determine whether or not it continues to reflect the needs of the school entity **[and its strategic plan]** and the needs of its professional employees, students and the community. The plan shall be amended as necessary to ensure that the plan meets the requirements of this subsection. The plan shall specify the continuing professional educational courses, programs, activities and other learning experiences approved to meet continuing professional development requirements under section 1205.2(c), including efforts designed to improve teacher knowledge in subject areas covering the academic standards listed in 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

* * *

Section 16.1. Section 1308 of the act, amended June 7, 1993 (P.L.49, No.16), is amended to read:

Section 1308. Liability for Tuition and Enforcement of Payment.—(a) In all cases not covered by the preceding section if a charge is made by any school district for tuition for the inmates of any such institution, the officers of the institution shall submit to the board of school directors a sworn statement, setting forth the names, ages, and school districts liable for tuition of all children who are inmates thereof, and desire to attend public school in the district. The district in which the institution is located shall obtain a blank acknowledging or disclaiming residence, signed by the secretary of the school district in which the institution declares the legal residence of the child to be. If said district shall fail to file said blank within fifteen (15) days from the date it is sent to the district by registered mail, the district in which the institution is located shall again notify the district of its failure to comply with the provisions of this act. If the district shall fail to comply within fifteen (15) days following the second notice, said failures to return the blank shall be construed as an acknowledgement of said child's residence. The tuition of such inmates as are included in the sworn statement to the board of school directors shall be paid by the district of residence of the inmates upon receipt of a bill from the district in which the institution is located setting forth the names, ages and tuition charges of the inmates. The district so charged with tuition may file an appeal with the Secretary of Education, in which it shall be the complainant and the district in which the institution is located the respondent. The decision of the Secretary of Education, as to which of said parties is responsible for tuition, shall be final.

(b) In the event that the district in which the institution is located contracts with a third party to provide educational services to children who are inmates of the institution, the third party may seek payment of tuition directly from the district of residence. The third party shall notify the district in which the institution is located of its payment request to the district of residence, and, if the district of residence makes payment to the

third party, the third party shall notify the district in which the institution is located. Such payment to the third party shall satisfy and extinguish the contractual payment obligation of the district in which the institution is located. The district so charged with tuition by the third party may file an appeal with the secretary as set forth in subsection (a).

(c) If any inmates have been received from outside of Pennsylvania, or if the institution cannot certify as to their residence, their tuition shall be paid by the institution having the care or custody of said children, except in the case of medically indigent children hospitalized in exclusively charitable children's hospitals exempt under section 501(c)(3) of the Internal Revenue Code which make no charges to any of its patients nor accepts any third-party payments for services provided to any of its patients. In such cases their tuition shall be paid by the Commonwealth out of moneys appropriated by the General Assembly for the purposes of this act. Enrollment of any out-of-state student in a school district or intermediate unit program shall be conditioned upon a guarantee, or actual advance receipt, of tuition and transportation payment from the institution, from the student's home state or out-of-state school district, or from the out-of-state party or agency which placed the student in the institution, except in the case of medically indigent children hospitalized in exclusively charitable children's hospitals exempt under section 501(c)(3) of the Internal Revenue Code which make no charges to any of its patients nor accepts any third-party payments for services provided to any of its patients where the Commonwealth is paying the tuition as otherwise provided for in this paragraph. If the Secretary of Education decides that the legal residence of any of said inmates is in Pennsylvania, but cannot be fixed in a particular district, the Commonwealth shall pay the tuition of such inmate out of moneys appropriated to the Department of Education by the General Assembly for the maintenance and support of the public schools of the Commonwealth.

Section 17. Section 1337.1 of the act, amended or added May 10, 2000 (P.L.44, No.16) and July 20, 2007 (P.L.278, No.45), is amended to read:

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

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

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

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

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

(2) For the 2000-2001 school year and each school year thereafter, reimbursements for the school breakfast program shall be fixed by regulation

of the Department of Education: Provided, That such reimbursements shall be no less than the amounts per breakfast served established by clause (1).

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

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

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

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

[(c.1) (1) In order to promote initiatives regarding child health and nutrition, the department shall establish a School Nutrition Incentive Program. The program shall provide a supplemental school lunch and breakfast reimbursement to any school in a local education agency that has adopted and implemented the nutritional guidelines for food and beverages available on each school campus published by the department pursuant to section 1422.3(5).

(2) To qualify, the local wellness policy adopted by the local education agency pursuant to section 1422.1 must indicate adoption of such guidelines.

(3) For the 2007-2008 school year and each school year thereafter, supplemental reimbursement shall be provided to schools in qualifying local education agencies as follows:

(i) Each school that offers the school lunch program under subsection (a) shall receive an additional reimbursement of one cent (1¢) per lunch served, exclusive of any additional supplemental reimbursement under subclause (iii) or (iv).

(ii) Each school that offers the school breakfast program under subsection (b) shall receive an additional reimbursement of one cent (1¢) per breakfast served, exclusive of any additional supplemental reimbursement under subclause (iii) or (iv).

(iii) Each school that offers both a school lunch program under subsection (a) and a school breakfast program under subsection (b) that serves breakfast to less than or equal to twenty per centum (20%) of its student enrollment shall receive an additional reimbursement of two cents (2¢) per lunch served.

(iv) Each school that offers both a school lunch program under subsection (a) and a school breakfast program under subsection (b) that serves breakfast to more than twenty per centum (20%) of its student

enrollment shall receive an additional reimbursement of three cents (3¢ per lunch served.)

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

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

"School lunch program" shall have the same meaning as given to the term "National School Lunch Program" in 7 CFR 210.2 (relating to definitions).

"School breakfast program" shall have the same meaning as given to that term in 7 CFR Pt. 220 (relating to School Breakfast Program).

Section 18. Section 1302.1-A(a) of the act, added November 17, 2010 (P.L.996, No.104), is amended to read:

Section 1302.1-A. Regulations.—(a) Within one year of the effective date of this section, the State Board of Education shall promulgate final-omitted regulations pursuant to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act," necessary to implement this article. The regulations shall include the following:

(1) A model memorandum of understanding between school entities and local police departments. The model memorandum of understanding shall be reviewed on a biennial basis and revised where necessary. *The State Board of Education may revise the model memorandum of understanding by publishing a notice in the Pennsylvania Bulletin that contains the complete revised model memorandum of understanding. The revised model memorandum of understanding shall be incorporated into the Pennsylvania Code in place of the existing model memorandum of understanding.*

(2) Protocol for the notification of the police department when an offense listed under section 1303-A(b)(4.1) occurs on school property, which shall include a requirement that the local police department be notified immediately when such an offense occurs.

(3) Protocol for the notification of the police department at the discretion of the chief school administrator regarding an offense listed under section 1303-A(b)(4.2) or any other offense that occurs on school property.

(4) Protocol for emergency and nonemergency response by the police department, which shall include a requirement that the school district shall supply the police department with a copy of the comprehensive disaster response and emergency preparedness plan as required by 35 Pa.C.S. § 7701(g) (relating to duties concerning disaster prevention).

(5) Procedures and protocols for the response and handling of students with a disability, including procedures related to student behavior as required by 22 Pa. Code §§ 14.104 (relating to special education plans) and 14.133 (relating to positive behavior support).

* * *

Section 19. Section 1422.1 of the act, amended November 17, 2010 (P.L.996, No.104), is amended to read:

Section 1422.1. Local Wellness Policy.—(a) Not later than the first day of the school year beginning after June 30, 2006, each local education agency shall, pursuant to section 204 of the Child Nutrition and WIC

Reauthorization Act of 2004 (Public Law 108-265, 118 Stat. 729), establish a local wellness policy for schools within the local education agency.

[(b) A local education agency to which 22 Pa. Code § 4.13 (relating to strategic plans) applies shall include the local wellness policy as part of the strategic plan required under 22 Pa. Code § 4.13.]

(c) A local education agency may submit its local wellness policy or information on other initiatives regarding child health, nutrition, food allergy reaction management and physical education to the Department of Education for inclusion in the clearinghouse established under section 1422.3(3). **[An update to the policy information may be done in concert with the scheduled submission of the school district's strategic plan as required under 22 Pa. Code § 4.13.]**

Section 19.1. The act is amended by adding a section to read:

Section 1424.1 Cardiopulmonary Resuscitation.—(a) A school entity shall have at each school, or in the case of a cyber charter school at each location, under its jurisdiction, except in extenuating circumstances, one person certified in the use of cardiopulmonary resuscitation during regular school hours when school is in session and students are present.

(b) The provisions of 42 Pa.C.S. §§ 8332 (relating to nonmedical good Samaritan civil immunity) and 8337.1 (relating to civil immunity of school officers or employees relating to emergency care, first aid and rescue) shall apply to a person who renders cardiopulmonary resuscitation.

(c) As used in this section, "school entity" means an area vocational-technical school, a charter school, a cyber charter school, an intermediate unit, a nonpublic school or a school district.

Section 20. Section 1524(a) of the act, added December 9, 2002 (P.L.1472, No.187), is amended to read:

Section 1524. Recognition of American Sign Language Courses.—(a) A student shall receive credit for completion of a course in American Sign Language at the high school level toward the satisfaction of the foreign language requirements included in **[a school district's strategic plan or]** requirements for graduation established pursuant to 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

* * *

Section 21. The act is amended by adding an article to read:

ARTICLE XV-G OPEN CAMPUS INITIATIVES

Section 1501-G. Legislative intent.

It is the intent of the General Assembly to encourage collaborative partnerships between school districts for the purpose of providing expanded access to high-quality curricula to students in a cost-effective manner through the use of technology.

Section 1502-G. Definitions.

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

"Department." The Department of Education of the Commonwealth.

¹"Section 1439." in enrolled bill.

"Nonparticipating school entity." A school district, which is not a party to a cooperative agreement between school districts, a charter school, cyber charter school, nonpublic school or home education program provided under section 1327.1.

"Open campus initiative." A program established under section 1503-G.

"Participating school district." A school district which is party to the cooperative agreement between school districts establishing the open campus initiative.

Section 1503-G. Open campus initiatives.

(a) Establishment.—An open campus initiative may be established between school districts through a cooperative agreement.

(b) Courses.—Courses of an open campus initiative may be delivered outside of a school building in whole or in part using technology that may include the Internet, video conferencing or other electronic means.

(c) Grades, credit, promotion and graduation.—Course grades, credit, promotion and graduation policies for students participating in open campus initiative courses shall be determined by the school district, charter school, cyber charter school, nonpublic school or evaluator of a home education program in which the student is enrolled and the cooperative agreement between the participating school districts.

(d) Student eligibility requirements.—Eligibility requirements for student participation in open campus initiative courses shall be determined by the school district, charter school, cyber charter school, nonpublic school or supervisor of a home education program in which each student is enrolled and the cooperative agreement between the participating school districts.

(e) Nonparticipating school entities.—A cooperative agreement between participating school districts may provide for students attending a nonparticipating school entity to participate in an open campus initiative course.

(f) Compulsory attendance requirements.—The time during which a student participates in open campus initiative courses shall be considered to be compliant with the compulsory attendance requirements of section 1327.

(g) Student participation.—The school district, charter school, cyber charter school, nonpublic school or home education program in which the student is enrolled shall ensure that a student participating in open campus initiative courses is offered at least 990 hours of instruction at the secondary level and 900 hours of instruction at the elementary level.

(h) Technical assistance.—The department shall provide technical assistance as needed to school districts establishing and operating an open campus initiative.

Section 1504-G. Cooperative agreements.

(a) Contents.—School districts desiring to establish and operate an open campus initiative shall develop and enter into a cooperative agreement that shall, at a minimum, include:

(1) A policy for grading, credit and promotion of students participating in open campus initiative courses.

(2) *A policy for participation of students from participating school districts which shall include minimum academic and attendance criteria.*

(3) *A policy for participation of students from nonparticipating school entities, which includes a fee schedule for determining tuition charges for courses delivered to those students, if the participating school districts allow participation of students from nonparticipating school entities.*

(4) *A policy for discipline and removal of students from open campus initiative courses in compliance with State law related to student discipline.*

(5) *Information about the attribution of student data to the school district, charter school, cyber charter school, nonpublic school or home education program in which the student is enrolled, including student assessment data.*

(6) *Information about the sharing of costs between the participating school districts.*

(7) *Information about the use and distribution of tuition revenue.*

(8) *Processes for adding and removing open campus initiative courses.*

(9) *Processes for termination of the open campus initiative.*

(b) *Adoption by boards of school directors.—Each open campus initiative cooperative agreement shall be adopted by majority vote of the board of school directors of each of the participating school districts.*

Section 1505-G. Reimbursements by the Commonwealth.

For the purpose of making reimbursements under Article XXV, a student participating in an open campus initiative shall be considered to be enrolled in the school district, charter school, cyber charter school, nonpublic school or home education program which determines the student's eligibility for participation in the open campus initiative.

Section 1506-G. Parental and public information.

All policies related to an open campus initiative shall be made accessible to parents and posted on the participating school districts' publicly accessible Internet websites.

Section 1507-G. Students with disabilities.

Nothing in this article or in any policy or cooperative agreement developed under this article shall conflict with:

(1) *Federal or State law regarding the protections provided to a student with a disability for receiving education in the least restrictive environment.*

(2) *The legal authority of an individualized education program team to make appropriate program and placement decisions for a student with a disability in accordance with the student's individualized education program.*

Section 1508-G. Collective bargaining.

Nothing contained in this article shall be construed to supersede or preempt the rights, remedies and procedures afforded to school employees or labor organizations under Federal or State law, including the act of July 23, 1970 (P.L.563, No.195), known as the Public Employee Relations

Act, or any provision of a collective bargaining agreement negotiated between a school entity and an exclusive representative of the employees in accordance with that act.

Section 22. Section 1607(b) of the act, amended November 23, 2010 (P.L.1350, No.123), is amended and the section is amended by adding a subsection to read:

Section 1607. Attendance in Other Districts.—* * *

(b) If a third class school district operating under a special board of control pursuant to section 692 has, with the approval of the Secretary of Education, curtailed its educational program by eliminating its high school and has not assigned its high school pupils to another school district and provided adequate transportation in a manner under subsection (a), the secretary shall have the following authority:

(1) To designate two or more school districts, which shall accept on a tuition basis the high school students of the distressed school district, so long as a designated school district's border is no more than three (3) miles from the border of the distressed school district. The designation under this paragraph shall occur no later than thirty (30) days after receiving the approval of the secretary to curtail its educational program by the elimination of its high school, provided, however, that if any school district meets the criteria of this subsection on the effective date of this subsection, the designation of school districts shall occur no later than thirty (30) days after the effective date of this subsection. **[No designated school district shall be assigned more than one hundred sixty-five (165) students from the distressed school district.]**

(2) To establish a process for the distressed school district to use to reassign its high school students to the school districts designated under paragraph (1).

(3) To establish the per-pupil tuition rate that a school district designated under paragraph (1) shall receive for each reassigned student in a regular or special education program. For the 2010-2011 *and 2011-2012* school [year and each school year thereafter] years, the tuition rate established under this paragraph may not exceed the product of:

(i) the tuition rate established for the 2007-2008 school year; and

(ii) the greater of:

(A) two percent (2%); or

(B) the percentage increase in total budgeted revenues available to a distressed school district.

(4) *For the 2012-2013 school year and each school year thereafter, the per pupil tuition rate that a school district designated under paragraph (1) shall receive for each reassigned student in a regular or special education program shall be the greater of ten thousand dollars (\$10,000) or the product of:*

(i) *the tuition rate established for the prior school year; and*

(ii) *the greater of:*

(A) *the percentage increase in total budgeted revenues available to a distressed school district; or*

(B) the index set pursuant to the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the "Taxpayer Relief Act," for the distressed school district.

** * **

(h.1) For the two (2) consecutive school years following the effective date of this subsection, a school district designated under subsection (b)(1) shall receive an additional per-pupil sum of five hundred (\$500) dollars for students reassigned and entering grades seven, eight and nine pursuant to this section. These additional funds shall be used for transition services to students, including student mentoring, tutoring, employe in-service programs designed to assist transition students and security expenditures.

Section 22.1. The act is amended by adding an article to read:

**ARTICLE XVI-C
DISCLOSURE OF INTERSCHOLASTIC
ATHLETICS OPPORTUNITIES**

Section 1601-C. Scope of article.

This article requires reporting by school entities of athletic opportunities afforded to male and female secondary school students.

Section 1602-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:

"Athletic facilities." Locker rooms, playing fields, gymnasiums, field houses, arenas, athletic training rooms, stadiums, weight rooms or any other location used by secondary school students and their coaches for sports training, practice, competition and coaching.

"Department." The Department of Education of the Commonwealth.

"Equipment and supplies." Sport-specific equipment and supplies, general equipment and supplies, instructional devices and conditioning and weight training equipment.

"Participant." A secondary school student who is:

(1) receiving institutionally sponsored support normally provided to athletes competing at the institution involved, such as coaching, equipment, medical and training room services, on a regular basis during a sport's season;

(2) participating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and

(3) listed on the team list on the day of the team's first scheduled competition, excluding preseason scrimmages.

"School entity." A school of a school district, joint school district, area vocational-technical school or charter school that provides interscholastic athletic opportunities for secondary school students.

"Secondary school student." A student who attends a school entity in grades 7 through 12.

"Travel." Transportation, housing furnished during travel and per diem dining allowances.

"Uniforms." Clothing for practice and games, such as shoes, rain gear and warm-up suits.

Section 1603-C. Duty to disclose.

(a) Information.—A school entity shall annually submit information to the department regarding interscholastic athletic opportunity and treatment for male and female secondary school students for the preceding school year.

(b) Disclosure form.—The information shall be submitted on a disclosure form and in a manner to be established by the department.

(c) Submission.—By October 15, 2013, and October 15 of each year thereafter, a school entity shall submit to the department the completed disclosure form for the immediately preceding school year.

(d) Public access.—No later than November 1 of each year, a school entity shall make a copy of the completed disclosure form available for public inspection during regular business hours, including on any publicly accessible Internet website of the school entity. The completed disclosure form shall constitute a public record subject to public inspection under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(e) Notice to students and other affected individuals.—As soon as the disclosure form required by this section is completed, each school entity shall provide notice of its availability for review to students, educational personnel, student athletes and parents by posting a notice on school bulletin boards, in the school newspaper, on any electronic mailing list or list serve and by any other means reasonably likely to provide such notice.

Section 1604-C. Department duties.

(a) Duties.—The department shall establish a disclosure form for the submission of the required information for the immediately preceding school year by school entities. The department shall provide for the distribution of the disclosure form through the department's Internet website and shall provide technical assistance to school entities.

(b) Disclosure form information.—The following information shall be collected for all secondary school students in grades 7 through 12 and shall be included in the disclosure form:

(1) The total number of students in each school entity as of October 1 of the immediately preceding school year, including:

(i) the total number of students by gender; and

(ii) the total number of male students by race or ethnicity and the total number of female students by race or ethnicity.

(2) A listing by gender of each varsity, junior varsity and freshman athletic team that competed in interscholastic athletic competition.

(3) For each team identified in paragraph (2), the following information:

(i) The total number of team participants as of the day of the first scheduled competition for each team by gender.

(ii) The total number of male team participants by race or ethnicity and the total number of female team participants by race or ethnicity as of the day of the first scheduled competition for each team.

(iii) *For the initial submission under this article, the school year in which each existing interscholastic athletic team was established and, for teams that the school entity sponsored in the past but no longer sponsors, the identity of the team and the year it was eliminated or demoted from interscholastic competition. For each subsequent year, a listing of interscholastic athletic teams that were newly established, reestablished, eliminated or demoted from interscholastic competition during the reported school year.*

(iv) *The seasons during which each interscholastic athletic team competed.*

(v) *The total value of contributions and purchases made on behalf of each team by booster clubs, alumni and any other nonschool sources.*

(vi) *The total expenditures for each team in the school year, including a separate listing of expenditures for each team in each of the following categories:*

(A) *The total amount of expenditures for travel.*

(B) *The total amount of expenditures for purchase and replacement of athletic uniforms.*

(C) *The total amount of expenditures for purchase and replacement of equipment and supplies.*

(D) *Compensation of coaches, per sport and per season.*

(E) *Expenditures made for construction, renovation, expansion, maintenance, repair and rental of athletic facilities. For any facilities shared by multiple teams, expenditures per team shall be calculated either by dividing expenditures by the number of teams using the facility or percentage of time used by each team.*

(F) *Compensation of athletic trainers per academic year.*

(vii) *The total number of athletic trainers, including the amount of time spent by each athletic trainer with each team.*

(viii) *The total number of coaches per team by employment status, full time, part time, head and assistant.*

(ix) *The total number of competitions scheduled and played per team.*

(x) *The name of the school entity's Title IX compliance officer required under 34 CFR § 106.8(a) (relating to designation of responsible employee and adoption of grievance procedures).*

(c) *Copies.—The department shall make copies of all submitted disclosures available for public inspection on the department's publicly accessible Internet website.*

(d) *Annual report.—No later than January 15 of each year, the department shall prepare and submit an annual report to the General Assembly regarding the compliance with the disclosure requirements of this article and summarizing the information submitted to it regarding interscholastic athletic opportunity for and treatment of each gender by race and ethnic group and other such information as the department deems relevant.*

Section 1605-C. Regulations.

The department may promulgate rules, regulations or standards to administer this article.

Section 22.2. Section 1704-B heading and (c) of the act, amended or added July 11, 2006 (P.L.1092, No.114) and July 9, 2008 (P.L.846, No.61), are reenacted and amended to read:

Section 1704-B. Board of School Directors *of Commonwealth Partnership School Districts*.—* * *

(c) (1) In addition to all current rights, powers, privileges, prerogatives and duties, a board of school directors of a school district that has been placed on the empowerment list *on or after June 30, 2006*, due to the designation by the secretary as a Commonwealth partnership school district shall have the power to cancel or renegotiate any contract, other than collective bargaining agreements, for the purpose of making necessary economies in the operation of the schools within the school district; eliminate nonprofessional positions for services nonessential for the operation of the school district; or enter into agreements with individuals, for-profit or nonprofit organizations for the operation of school buildings or groups of school buildings or for the provision of educational or other types of services to or for the school district.

(2) The superintendent shall be responsible for the implementation of a system of performance review of school administrators, as approved by the board of school directors. Administrator performance shall be evaluated on the basis of abilities and effectiveness to manage the operation of the school facilities and staff, manage resources, provide instructional leadership, implement and administer the school budget and promote and maintain a positive educational learning environment.

(3) Based upon an unsatisfactory review and evaluation of a school administrator arising from the implementation of the program established in paragraph (2), a board of school directors may reassign, transfer or suspend the school administrator without regard to section 1125.1 or 1151.

(4) Based upon an unsatisfactory review and evaluation of a school administrator arising from the implementation of the program established in paragraph (2), a board of school directors may dismiss the school administrator pursuant to the procedure contained in section 1127, provided that the board of school directors shall afford the school administrator notice and an opportunity to be heard pursuant to 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies).

(4.1) In addition to powers enumerated in this act, a school district designated as a Commonwealth partnership school district may dispose of unused and unnecessary lands and buildings, if such buildings are in excess of twenty-five (25) years of age, in the following manner, notwithstanding the provisions of section 707 of this act:

(i) By negotiated sale, provided the district has an affidavit of at least three (3) persons who are familiar with the value of real estate in the locality in which the lands and buildings proposed to be sold are located, who have examined the property and set forth a value for the property and who opine that the consideration for the property is equal to or better than that which could be received by sealed bid. The sale price shall not be less than the highest value set forth in the three (3) affidavits.

(ii) By entering into agreements with an urban redevelopment authority organized under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, under which the district may convey property to the authority for the purpose of the authority facilitating the conveyance of the property consistent with the goals of the school district and the authority.

(5) [As used in] *For purposes of* this subsection, ["school administrator" shall have the same meaning given to it under section 1164] *the following terms shall have the following meanings:*

"Commonwealth partnership school district." A school district for which the secretary has determined, on or after July 11, 2006, and not later than September 9, 2006, all of the following:

(i) The school district has experienced a decline of fifteen per centum (15%) or more in student enrollment during the immediately preceding five-year period.

(ii) The school district has experienced a loss of revenue during the immediately preceding three-year period due to the statutory removal of one or more of the sources of revenue made available pursuant to section 652.1.

(iii) The school district has an equalized millage for the 2004-2005 fiscal year of greater than twenty-seven (27).

"Empowerment list." A list prepared by the Department of Education containing school districts that fall below certain academic assessments as provided in former section 1703-B.

"School administrator." As defined in section 1164.

"Secretary." The Secretary of Education of the Commonwealth.

[(6) This subsection shall expire June 30, 2012.]

Section 23. Section 1913-A(b)(1.6)(v) of the act, amended June 30, 2011 (P.L.112, No.24), is amended and the clause is amended by adding a subclause to read:

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

(b) * * *

(1.6) For the 2006-2007 fiscal year and each fiscal year thereafter, the payment for a community college shall consist of the following:

* * *

(v) Subclauses (i), (ii), (iii) and (iv) shall not apply to the 2011-2012 *and 2012-2013* fiscal [year] years.

* * *

(vii) For the 2012-2013 fiscal year, each community college shall receive an amount equal to the sum of the following:

(A) A reimbursement for operating costs determined by:

(I) dividing the amount of funding that the community college received in fiscal year 2011-2012 under subclause (vi)(A) by the total amount of funding provided to community colleges in fiscal year 2011-2012 under subclause (vi)(A); and

(II) multiplying the quotient under subparagraph (I) by \$168,167,000.

(B) An economic development stipend determined by:

(I) dividing the amount of funding that the community college received in fiscal year 2011-2012 under subclause (vi)(B) by the total amount of

funding provided to all community colleges in fiscal year 2011-2012 under subclause (vi)(B); and

(II) multiplying the quotient under subparagraph (I) by \$44,000,000.

* * *

Section 24. Sections 1913-B.1(c) and 2003-A.1(c) and (c.1) of the act, amended or added November 3, 2011 (P.L.400, No.97), are amended and the sections are amended by adding subsections to read:

Section 1913-B.1. Contracts for Construction, Repair, Renovation or Maintenance.—* * *

[(c) All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119, shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the board of trustees may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the college and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.]

(c.1) All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120, shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the board of trustees may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the college and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

* * *

Section 2003-A.1. Project Contracts.—* * *

[(c) All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (c.1), shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the chancellor may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the

State system and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(c.1) Adjustments shall be made as follows:

(1) The Department of Labor and Industry shall calculate the average annual percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(1.1) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period.

(2) The positive percentage change, as determined in accordance with clause (1), shall be multiplied by the amount applicable under subsection (c) for the current period, and the product thereof shall be added to the amount applicable under subsection (c) for the current period, with the result rounded to the nearest multiple of one hundred dollars (\$100).

(3) The determination required under clause (1) and the calculation adjustments required under clause (2) shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and between October 1 and November 15 of each successive year.

(4) The adjusted amounts obtained in accordance with clause (2) shall become effective January 1 for the period following the year in which the determination required under clause (1) is made.

(5) The Department of Labor and Industry shall give notice in the Pennsylvania Bulletin prior to January 1 of each calendar year in which the percentage change is determined in accordance with clause (1) of the amounts, whether adjusted or unadjusted in accordance with clause (2), at which competitive bidding is required under subsection (c) for the period beginning the first day of January after publication of the notice.

(6) The annual increase in the preliminary adjusted base amounts obtained under clauses (3) and (4) shall not exceed three percent (3%).]

(c.2) *All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under subsection (c.3), shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the chancellor may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the State system and creates an urgency of need which does not permit the delay involved in*

using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(c.3) Adjustments shall be made as follows:

(1) The Department of Labor and Industry shall calculate the average annual percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(1.1) If the Department of Labor and Industry determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period.

(2) The positive percentage change, as determined in accordance with clause (1), shall be multiplied by the amount applicable under subsection (c.2) for the current period, and the product thereof shall be added to the amount applicable under subsection (c.2) for the current period, with the result rounded to the nearest multiple of one hundred dollars (\$100).

(3) The determination required under clause (1) and the calculation adjustments required under clause (2) shall be made in the period between October 1 and November 15, 2012, and between October 1 and November 15 of each successive year.

(4) The adjusted amounts obtained in accordance with clause (2) shall become effective January 1 for the period following the year in which the determination required under clause (1) is made.

(5) The Department of Labor and Industry shall give notice in the Pennsylvania Bulletin prior to January 1 of each calendar year in which the percentage change is determined in accordance with clause (1) of the amounts, whether adjusted or unadjusted in accordance with clause (2), at which competitive bidding is required under subsection (c.2) for the period beginning the first day of January after publication of the notice.

(6) The annual increase in the preliminary adjusted base amounts obtained under clauses (3) and (4) shall not exceed three percent (3%).

** * **

Section 25. Section 2010-A(10) of the act, amended November 3, 2011 (P.L.400, No.97), is amended and the section is amended by adding a paragraph to read:

Section 2010-A. Power and Duties of Institution Presidents.—The president of each institution shall be appointed by the board. The president shall be the chief executive officer of that institution. He shall have the right to attend all meetings of the council of that institution and shall have the right to speak on all matters before the council but not to vote. Subject to the stated authority of the board and the council, each president shall have the following powers and duties:

** * **

[(10) Within the limitations of the operating budget and other available funds in accordance with the procedures established by the board and with the approval of the local council, to negotiate and award

all contracts for equipment, services and supplies in excess of a cost of a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119, on a competitive bid basis and to purchase instructional, educational, extracurricular, technical, administrative, custodial and maintenance equipment and supplies not in excess of a cost of a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 119, without competitive bidding, except that such items shall not be bought in series to avoid the dollar ceiling.]

(10.1) Within the limitations of the operating budget and other available funds in accordance with the procedures established by the board and with the approval of the local council, to negotiate and award all contracts for equipment, services and supplies in excess of a cost of a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120, on a competitive bid basis and to purchase instructional, educational, extracurricular, technical, administrative, custodial and maintenance equipment and supplies not in excess of a cost of a base amount of eighteen thousand five hundred dollars (\$18,500), subject to adjustment under section 120, without competitive bidding, except that such items shall not be bought in series to avoid the dollar ceiling.

* * *

Section 26. Section 2104 of the act is amended to read:

Section 2104. Superintendents of Schools or Buildings and of Supplies.—The board of public education in each school district of the first class shall, whenever a vacancy in said office shall occur, appoint a district superintendent, who shall be designated and known as superintendent of schools[, for a term of not more than six (6) years]. The board may also appoint a superintendent of buildings and a superintendent of supplies. The board shall prescribe the terms and duties and fix the salaries of each of such employes. They shall be responsible to the board for the conduct of their respective departments, shall make annual reports to the board, and shall from time to time submit such plans and suggestions for the improvement of the schools and the school system as they shall deem expedient or as the board of public education may require.

The superintendent of buildings shall be an engineer or architect of good standing in his profession. The superintendent of buildings and the superintendent of supplies shall each give such security for the faithful performance of the duties of their respective offices as the board of public education shall prescribe.

Section 27. The act is amended by adding sections to read:

Section 2319. State aid for fiscal year 2012-2013.

Notwithstanding any other provision of law to the contrary, each library subject to the act of June 14, 1961 (P.L.324, No.188), known as The Library Code, shall be eligible for State aid for fiscal year 2012-2013, which shall consist of the following:

(1) Funds appropriated for libraries shall be distributed to each library under the following formula:

(i) Divide the amount of funding that the library received in fiscal year 2011-2012 under section 2318 by the total State-aid subsidy for fiscal year 2011-2012.

(ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy for 2012-2013.

(2) Following distribution of funds appropriated for State aid to libraries under paragraph (1), any remaining funds may be distributed at the discretion of the State Librarian.

(3) If funds appropriated for State aid to libraries in fiscal year 2012-2013 are less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive standards as prescribed in section 103 of The Library Code.

(4) (i) Each library system receiving State aid under this section may distribute the local library share of that aid in a manner as determined by the board of directors of the library system.

(ii) In the case of a library system that contains a library operating in a city of the second class, changes to the distribution of State aid to the library shall be made by mutual agreement between the library and the library system.

(5) In the event of a change in district library center population prior to the effective date of this section as a result of:

(i) a city, borough, town, township, school district or county moving from one library center to another; or

(ii) a transfer of district library center status to a county library system,

funding of district library center aid shall be paid based on the population of the newly established or reconfigured district library center.

Section 2502.51. Basic Education Funding for 2011-2012 School Year.—(a) For the 2011-2012 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 2010-2011 school year pursuant to section 2502.50.

(2) An English language learner high incidence supplement calculated for qualifying school districts as follows:

(i) To qualify for the English language learner high incidence supplement, a school district's 2011-2012 market value/income aid ratio must be greater than seven thousand ten-thousandths (0.7000) and its English language learner concentration must be equal to or greater than six percent (6%).

(ii) The English language learner high incidence supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the qualifying school district's 2009-2010 average daily membership by seventeen million four hundred fifty thousand dollars (\$17,450,000).

(B) Divide the product from clause (A) by the sum of the 2009-2010 average daily membership for all qualifying school districts.

(3) *A charter and cyber charter school extraordinary enrollment supplement calculated for qualifying school districts as follows:*

(i) *To qualify for the charter and cyber charter school extraordinary enrollment supplement, a school district's 2011-2012 market value/income aid ratio must be greater than eight thousand ten-thousandths (0.8000), its 2009-2010 average daily membership must be greater than five thousand (5,000) and its charter and cyber charter school concentration must be greater than fourteen percent (14%).*

(ii) *The charter and cyber charter school extraordinary enrollment supplement shall be calculated for qualifying school districts as follows:*

(A) *For school districts with a charter and cyber charter school concentration equal to or greater than thirty percent (30%), multiply the qualifying school district's 2009-2010 average daily membership by one thousand three hundred seventeen dollars (\$1,317).*

(B) *For school districts with a charter and cyber charter school concentration less than thirty percent (30%), multiply the qualifying school district's 2009-2010 average daily membership by five hundred dollars (\$500).*

(4) *A second class county school district supplement calculated for qualifying school districts as follows:*

(i) *To qualify for the second class county school district supplement, a school district must be located in a county of the second class, its 2011-2012 market value/income aid ratio must be greater than six thousand ten-thousandths (0.6000), its 2009-2010 average daily membership must be greater than one thousand (1,000) and less than two thousand five hundred (2,500) and its number of students eligible for free or reduced-price meals under the National School Lunch Program during the 2010-2011 school year must be greater than one thousand fifty (1,050) and less than one thousand two hundred fifty (1,250).*

(ii) *The second class county school district supplement shall be calculated for qualifying school districts as follows:*

(A) *Multiply the qualifying school district's 2009-2010 average daily membership by one million dollars (\$1,000,000).*

(B) *Divide the product from clause (A) by the sum of the 2009-2010 average daily membership for all qualifying school districts.*

(5) *A second class school district supplement calculated for qualifying school districts as follows:*

(i) *To qualify for the second class school district supplement, a school district must have been classified as a second class school district during the 2000 census, it must have received State reimbursements pursuant to section 2591.1 for the 2009-2010 school year in an amount greater than three million five hundred thousand dollars (\$3,500,000), and it must have a 2009-2010 average daily membership greater than eight thousand (8,000).*

(ii) *The second class school district supplement shall be calculated for qualifying school districts as follows:*

(A) *Multiply the qualifying school district's 2009-2010 average daily membership by one million dollars (\$1,000,000).*

(B) Divide the product from clause (A) by the sum of the 2009-2010 average daily membership for all qualifying school districts.

(6) An increasing aid ratio supplement calculated for qualifying school districts as follows:

(i) To qualify for the increasing aid ratio supplement, a school district's 2011-2012 market value/income aid ratio must be greater than six thousand ten-thousandths (0.6000), its 2009-2010 average daily membership must be greater than eleven thousand (11,000), its number of students eligible for free or reduced-price meals under the National School Lunch Program during the 2010-2011 school year must be greater than six thousand (6,000) and its market value/income aid ratio must have increased from the 1991-1992 school year to the 2011-2012 school year by more than sixty percent (60%).

(ii) The increasing aid ratio supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the qualifying school district's 2009-2010 average daily membership by two million dollars (\$2,000,000).

(B) Divide the product from clause (A) by the sum of the 2009-2010 average daily membership for all qualifying school districts.

(7) A personal income supplement calculated for qualifying school districts as follows:

(i) To qualify for the personal income supplement, a school district's 2011-2012 market value/income aid ratio must be greater than fifty-two hundred ten-thousandths (0.5200) and less than six thousand ten-thousandths (0.6000), its 2009-2010 average daily membership must be greater than five thousand five hundred (5,500), its 2010-2011 equalized millage rate must be greater than twenty-two (22) and less than twenty-six (26), its adjusted personal income valuation for the 2008 tax year must be greater than six hundred fifty million dollars (\$650,000,000) and its number of students eligible for free or reduced-price meals under the National School Lunch Program during the 2010-2011 school year must be greater than one thousand five hundred (1,500).

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

(A) For each school district with an adjusted personal income valuation for the 2008 tax year greater than eight hundred million dollars (\$800,000,000), the personal income supplement shall be two million dollars (\$2,000,000).

(B) For each school district with an adjusted personal income valuation for the 2008 tax year less than eight hundred million dollars (\$800,000,000), the personal income supplement shall be one million five hundred thousand dollars (\$1,500,000).

(8) A small district increasing aid ratio supplement calculated for qualifying school districts as follows:

(i) To qualify for the small district increasing aid ratio supplement, a school district's 2011-2012 market value/income aid ratio must be greater than five thousand ten-thousandths (0.5000) and less than fifty-five hundred ten-thousandths (0.5500), its market value/income aid ratio must have increased from the 1991-1992 school year to the 2011-2012 school

year by more than thirty percent (30%), and its 2009-2010 average daily membership must be greater than one thousand seven hundred (1,700) and less than one thousand eight hundred (1,800).

(ii) The small district increasing aid ratio supplement shall be calculated for qualifying school districts as follows:

(A) Multiply the qualifying school district's 2009-2010 average daily membership by three hundred thousand dollars (\$300,000).

(B) Divide the product from clause (A) by the sum of the 2009-2010 average daily membership for all qualifying school districts.

(9) A small district supplement calculated for qualifying school districts as follows:

(i) To qualify for the small district supplement, a school district's 2011-2012 market value/income aid ratio must be greater than seven thousand ten-thousandths (0.7000) and less than seventy-five ten-thousandths (0.7500), its 2009-2010 average daily membership must be greater than one thousand two hundred (1,200) and less than one thousand three hundred (1,300), and its 2010-2011 equalized millage rate must be greater than nineteen (19).

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

(A) Multiply the qualifying school district's 2009-2010 average daily membership by two hundred fifty thousand dollars (\$250,000).

(B) Divide the product from clause (A) by the sum of the 2009-2010 average daily membership for all qualifying school districts.

(b) The data used to calculate the provisions contained in subsection (a)(2), (3), (4), (5), (6), (7), (8) and (9) shall be based on information available to the Department of Education as of June 30, 2012.

(c) Funds received under subsection (a)(2)(ii) by a school district with a 2011-2012 market value/income aid ratio greater than eighty-five hundred ten-thousandths (0.8500) shall be withheld until such time that a spending plan proposed by the school district's board of school directors for use of the funds is approved by the Secretary of Education in consultation with the local intermediate unit.

(d) The following shall apply:

(1) (i) Funds received by a school district under subsection (a)(3)(ii)(A) shall be used to satisfy judgments and past-due accounts payable beyond ninety (90) or more days, including health care benefits, payments to charter schools, payments to approved private schools and payments to intermediate units.

(ii) If all judgments have been satisfied and past-due accounts paid, funds may be used for timely payment of health care benefits, payments to charter schools, payments to approved private schools, payments to intermediate units and for other expenses approved by the Secretary of Education to ensure the fiscal stability of the school district.

(2) Not later than August 31, 2012, the school district shall submit a report to the Department of Education detailing the use of the funds received under this subsection, including specific payment amounts, specific payment dates and the entities receiving payment.

(e) Any undistributed funds shall be deposited in the Financial Recovery School District Transitional Loan Account.

(f) For the purposes of this section:

(1) The English language learner concentration shall be determined by dividing the school district's number of enrolled students identified as limited English proficient during the 2009-2010 school year by its 2009-2010 average daily membership.

(2) The charter and cyber school concentration shall be determined by dividing the school district's 2009-2010 average daily membership enrolled in charter and cyber charter schools by its 2009-2010 average daily membership.

Section 28. Sections 2509.1(c.1) and 2509.5(aaa) of the act, added June 30, 2011 (P.L.112, No.24), are amended to read:

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

(c.1) For the 2011-2012 [school year] and 2012-2013 school years, five and one-half percent (5.5%) of the State special education appropriation shall be paid to intermediate units on account of special education services. Of this five and one-half percent (5.5%), thirty-five percent (35%) shall be distributed equally among all intermediate units. The remaining sixty-five percent (65%) shall be distributed to each intermediate unit in proportion to the number of average daily membership of the component school districts of each intermediate unit as compared to the Statewide total average daily membership.

* * *

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

(aaa) During the 2009-2010 through the [2011-2012] 2012-2013 school years, each school district shall be paid the amount it received during the 2008-2009 school year under subsection (zz). If insufficient funds are appropriated, the payments shall be made on a pro rata basis.

Section 29. The act is amended by adding a section to read:

Section 2510.2. Assistance to School Districts Certified as Education Empowerment Districts.—For the 2012-2013 fiscal year, the Department of Education may utilize up to \$4,500,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the Department of Education to assist school districts certified on or before June 30, 2010, as an education empowerment district under section 1705-B(h)(3). The funds shall be transferred by the Secretary of the Budget to a restricted account as necessary to make payments under this section and, when transferred, are hereby appropriated to carry out the provisions of this section.

Section 30. Section 2574(a) of the act, amended September 29, 1959 (P.L.992, No.407), is amended to read:

Section 2574. Approved Reimbursable Rental for Leases Hereafter Approved and Approved Reimbursable Sinking Fund Charges on Indebtedness.—(a) For school building projects for which the general construction contract is awarded subsequent to March 22, 1956, and for approved school building projects for which the general construction contract was awarded but for which a lease was not approved by the Department of [Public Instruction] Education prior to March 22, 1956, the

Department of **[Public Instruction] Education** shall calculate an approved reimbursable rental or approved reimbursable sinking fund charges. Reimbursable sinking fund charges may include charges for temporary indebtedness within constitutional limitations, if the indebtedness is incurred for approved permanent improvements to the school plant including the cost of acquiring a suitable site for a school building, the cost of constructing a new school building, or the cost of providing needed additions or alterations to existing buildings for which no bond issue is provided and for which an approved obligation or obligations other than bonds have been issued and the obligation or obligations are payable within five (5) years from the date of issue of the obligation in equal annual installments.

Nothing in this section or in the Department of Education guidelines shall prohibit a school district from receiving reimbursement for approved building improvements, including the cost of acquiring a suitable site for a school building, the cost of constructing a new school building or the cost of providing needed additions or alterations to existing buildings, if a school district elects not to remove any relocatable or modular classroom utilized after the completion of a building project. The term "relocatable or modular classroom" shall mean a classroom not of a permanent nature which meets the criteria and specifications of the Department of Education.

Approved reimbursable rental or sinking fund charge shall consist of that part of the annual rental or sinking fund charge attributable to—

(1) The cost of acquiring the land upon which the school buildings are situate, the cost of necessary rough grading to permit proper placement of the building upon said land and the cost of sewage treatment plants, as required by the Department of Health, to the extent that such costs are deemed reasonable by the Department of **[Public Instruction] Education** and the interest on such costs of acquisition, grading and sewage treatment plants earned subsequent to date the construction contract is awarded, and

(2) The approved building construction cost and the interest on such construction cost.

* * *

Section 31. Section 2599.2(e)(7) of the act, added July 9, 2008 (P.L.846, No.61), is amended to read:

Section 2599.2. Pennsylvania Accountability Grants.—* * *

(e) * * *

(7) For the 2008-2009 *and* 2012-2013 fiscal [year] years, if insufficient funds are appropriated to make Commonwealth payments pursuant to this section, such payments shall be made on a pro rata basis.

* * *

Section 32. The act is amended by adding a section to read:

Section 2599.4. Targeted Industry Cluster Certificate Scholarship Program.—(a) *The Targeted Industry Cluster Certificate Scholarship Program is established within the Pennsylvania Higher Education Assistance Agency.*

(b) *The agency may use funds appropriated to provide grants for defraying the necessary expense of residents of this Commonwealth who are eligible students pursuing an eligible course of study at an eligible educational provider.*

(c) The agency shall determine and approve student eligibility and educational provider eligibility requirements for the program.

(d) The Department of Education shall consult with the Department of Labor and Industry to identify programs of study that train individuals for areas of immediate workforce need and provide the agency with a list of eligible programs of study.

(e) Grant awards shall be established by the agency based upon available resources.

Section 33. Section 2506-A(b) of the act, added December 23, 2003 (P.L.304, No.48), is amended to read:

Section 2506-A. Review process.

* * *

(b) [Strategic plan.—Each district's review shall be scheduled one year prior to the date required for filing of the district's strategic plan under 22 Pa. Code § 4.13 (relating to strategic plans) or its successor regulations, except that all districts placed on the education empowerment list pursuant to section 1703-B or determined to be distressed pursuant to section 691 as of the effective date of this article shall be included in the initial cycle of school districts subject to a review.] (Reserved).

* * *

Section 34. This act shall apply as follows:

(1) The amendment or addition of sections 1073, 1073.1, 1076, 1077, 1078 and 1080 of the act shall apply to contracts of district superintendents or assistant district superintendents entered into or renewed on or after November 1, 2012.

(2) To contracts and purchases advertised on or after July 1, 2012, or immediately, whichever is later.

Section 35. This act shall take effect as follows:

(1) The amendment of section 1308 of the act shall take effect in 60 days.

(2) The addition of section 1424 of the act shall take effect in 90 days.

(3) The addition of Article XV-G of the act shall take effect immediately.

(4) Except as otherwise provided in paragraph (5), the addition of Article XVI-C of the act shall take effect in 60 days.

(5) The addition of section 1604-C(b)(3)(v) of the act shall take effect two years from the effective date of this section.

(6) The reenactment and amendment of section 1704-B heading and (c) of the act shall take effect immediately.

(7) Section 34 and this section shall take effect immediately.

(8) The remainder of this act shall take effect July 1, 2012, or immediately, whichever is later.

APPROVED—The 30th day of June, A.D. 2012

TOM CORBETT

¹The amendments of section 1439 of " in enrolled bill.