

No. 1993-16

AN ACT

HB 438

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," requiring a report of certain racial and ethnic groupings; authorizing the board of school directors of certain school districts to levy different rates of taxation for school purposes on land and on buildings; providing for emergency certificates in certain circumstances; further providing for certain inmates of children's institutions, for transportation and lodging of certain children and for approved private schools and chartered schools; providing for instructional support, for reimbursements for community colleges, for payments to intermediate units and for special education payments to school districts, including special education payment adjustments; creating a fund for audit resolutions for approved private schools; further providing for school district reimbursement definitions, for instruction payments, for payment limitations, for the economic supplement, for assistance to small school districts, for temporary special aid, for the low-expenditure, low-wealth supplement and for the low-expenditure poverty supplement; providing for education subsidy base, for an equity supplement, for foundation guarantee payments, for a minimum effort base, for a growth supplement, for a limited revenue sources supplement, for discretionary funds to assist school districts experiencing extreme financial difficulty and for resource data in the foundation-based equity formula; further providing for payments generally and for forfeitures for certain employment practices; and providing for a graduate opportunity fund.

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

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

Section 112. Report of Racial and Ethnic Groupings.—The Department of Education shall conduct a thorough review of the 1991-1992 PennData report "Statistical Summary for 1991-1992" and identify those school districts that have special education enrollments whose gender and ethnic representation exceeds by five percent (5%) the gender and ethnic makeup of the student population for the 1991-1992 school year. The Department of Education shall report to the Committee on Education in the Senate and the Committee on Education in the House of Representatives by October 1993 the findings of the review by the Department of Education, an outline of what further investigative steps should be taken, recommendations for appropriate actions to be taken by the Department of Education and any technical assistance services to be provided by the Department of Education to school districts.

Section 2. Section 672 of the act is amended by adding a subsection to read:

Section 672. Tax Levy; Limitations.—* * *

(e) The board of school directors of any school district of the third class with a coterminous boundary with a third class city may in any year levy separate and different rates of taxation for school purposes on all real estate classified as land, exclusive of the buildings thereon, and on all real estate classified as buildings on land. When real estate taxes are so levied, (1) the rates shall be determined annually by a vote of the board of school directors of a school district of the third class based upon passage of the school district's annual budget, (2) the rates may be levied by a school district of the third class: Provided, That (i) the revenue obtained in the first year of the levy is not in excess of one hundred fifteen (115) per centum of the aggregate revenue which the school district collected from a levy on real estate in the prior year, and (ii) in the second and subsequent years, the school district levy on real estate shall not be in excess of the aggregate revenue which a school district is empowered to collect under existing statute, and (3) the rates levied by a school district of the third class shall be uniform as to all real estate within the classification.

Section 3. The act is amended by adding a section to read:

Section 1109.1. Emergency Certification in Certain Instances.—When the superintendent and board of education of a school district of the first class find that the supply of certified teachers is inadequate to the educational needs of the district's language minority student population or that the loss of teachers due to early retirement would cause the interruption of suitable and essential programs of instruction for such students, the district may hire otherwise qualified persons without current teaching certificates, provided that individuals so employed shall enroll in a teacher certification program and meet Pennsylvania certification requirements within a period not to exceed three (3) years.

Section 4. Section 1306 of the act is amended by adding subsections to read:

Section 1306. Non-resident Inmates of Children's Institutions.—* * *

(c) Except as provided in subsection (d), whenever a student described in this section is a suspected or identified eligible student as defined in 22 Pa. Code Chs. 14 (relating to special education services and programs) and 342 (relating to special education services and programs), the school district in which the institution is located is responsible for:

(1) providing the student with an appropriate program of special education and training consistent with this act and 22 Pa. Code Chs. 14 and 342; and

(2) maintaining contact with the school district of residence of the student for the purpose of keeping the school district of residence informed of its plans for educating the student and seeking the advice of that district with respect to the student.

(d) The student's school district of residence and the school district in which the institution is located may agree to an arrangement of educational and procedural responsibilities other than as contained in subsection (c),

provided that the agreement is in writing and is approved by the Department of Education after notice to and an opportunity to comment by the parents of the student.

(e) Nothing in this section is intended to supersede section 914.1-A of this act or any other provision of law applicable to a particular type of placement.

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

Section 1306.1. Optional Commitment Location.—Any adjudicated delinquent committed to a youth development center or other juvenile correctional facility may serve the time of any such commitment at a facility within the county of residence if an appropriate facility exists within that county.

Section 6. Section 1308 of the act, amended February 5, 1982 (P.L.13, No.6), is amended to read:

Section 1308. Liability for Tuition and Enforcement of Payment.—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[, together with]. *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 [with said institution] within fifteen (15) days from the date it is sent to the district [by the institution] by registered mail, [the institution] *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 [withheld by the Secretary of Education from any moneys due to the district liable for said tuition upon receipt of a sworn statement setting forth the names, ages, tuition charges, and school district liable for tuition of said inmates. All money thus withheld shall be paid by him to the district entitled to receive the same.] *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 [institution] *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.

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 7. Section 1309 of the act is amended to read:

Section 1309. Cost of Tuition; How Fixed.—(a) The cost of tuition in such cases shall be fixed as is now provided by law for tuition costs in other cases, except [where,] *in the following circumstances:*

(1) *Where*, for the accommodation of such children, it shall be necessary to provide a separate school or to erect additional school buildings, [in which cases] the charge for tuition for such children may include a proportionate cost of the operating expenses, rental, and interest on any investment required to be made in erecting such new school buildings.

(2) *When a child who is an inmate of an institution is an exceptional child, the district in which the institution is located may charge the district of residence, and the district of residence shall pay a special education charge in addition to the applicable tuition charge. Such special education charge shall not exceed an additional fifty percent (50%) of the applicable tuition charge.*

(b) The tuition herein provided for shall be paid annually by the [Superintendent of Public Instruction] *Secretary of Education, the district of residence* or the institution as the case may be.

Section 8. Section 1374 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 1374. Free Transportation or Board and Lodging.—Any exceptional child, who is regularly enrolled in a special class that is approved by the Department of [Public Instruction] *Education*, or who is enrolled in

a regular class in which approved educational provisions are made for him, may be furnished with free transportation by the school district. When it is not feasible to provide such transportation the board of school directors may in lieu thereof pay for suitable board and lodging for any such child. If free transportation or board and lodging is not furnished for any exceptional child *or any eligible young child as defined in the act of December 19, 1990 (P.L.1372, No.212), known as the "Early Intervention Services System Act,"* who, by reason thereof, is unable to attend the class or center for which he is qualified, the intermediate unit shall provide the transportation necessary.

Section 9. Section 1376 of the act, amended July 8, 1989 (P.L.253, No.43) and August 5, 1991 (P.L.219, No.25), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.—(a) When any child between school entry age and twenty-one (21) years of age and resident in this Commonwealth, who is blind or deaf, or **[afflicted with] has cerebral palsy and/or [brain damage] neurological impairment and/or muscular dystrophy and/or is mentally retarded and/or [socially and emotionally disturbed,] has a serious emotional disturbance and/or has autism/pervasive developmental disorder and** is enrolled, with the approval of the Department of Education, as a pupil in an approved private school **[for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied and/or mentally retarded, and/or socially and emotionally disturbed,]** approved by the Department of Education, in accordance with standards and regulations promulgated by the State Board of Education, the school district in which such child is resident shall pay the greater of either twenty per centum (20%) of the actual audited cost of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," and the Commonwealth shall pay, out of funds appropriated to the department for special education, the balance due for the costs of such child's tuition and maintenance, as determined by the department. For the school years 1989-1990, 1990-1991 and 1991-1992, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. *For the 1992-1993 school year and each school year thereafter, the school district payment shall be the greater of forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school, as determined by the Department of Education, or its "tuition charge per elementary pupil" or its "tuition charge per high school pupil," and the Commonwealth shall pay, out of funds appropriated to the department for approved private schools, the balance due for the costs of such child's tuition and maintenance, as determined by the department.* The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501. If the residence of such child in a particular school district cannot be determined,

the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. The Department of Education shall be provided with such financial data from approved private schools as may be necessary to determine the reasonableness of costs for tuition and room and board concerning Pennsylvania resident approved reimbursed students. The Department of Education shall evaluate such data and shall disallow any cost deemed unreasonable. Any costs deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

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

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

(c.1) Any funds remaining from the appropriation line items "for special education-approved private schools" from the general appropriations acts for fiscal years 1978-1979 through 1990-1991 inclusive shall be transferred by the State Treasurer into a restricted account (continuing appropriation) for audit resolution which is hereby established. The Department of Education shall also deposit into this restricted account any

funds returned to or recovered by the department from approved private schools for overpayments during fiscal years 1978-1979 through 1990-1991 inclusive. The funds in the restricted account are hereby appropriated upon approval of the Governor to the Department of Education for payments to approved private schools for audit resolutions for fiscal years 1978-1979 through 1990-1991 inclusive. Funds in this restricted account shall not be subject to the limitations in subsection (c) which prohibit advance payments and final reimbursement from exceeding the appropriation available for approved private schools. Any uncommitted funds remaining in this restricted account on June 30, 1995, shall lapse into the General Fund.

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

(e) (1) *The Education Committees of the Senate and House of Representatives are directed to jointly examine the issues of the funding of approved private schools and special education students' access to approved private schools as part of the full continuum of special education placements. The committees' examination should address, at a minimum, the following issues:*

(i) *The funding methodology which supports the school district's responsibility for individualized, appropriate educational services to special education students through access to the most comprehensive continuum of educational options and settings.*

(ii) *The role of the approved private school in the mandated continuum of special education services available to students in Pennsylvania.*

(iii) *The relative roles of the Department of Education and school districts to ensure free appropriate public education (FAPE) through adequate funding and appropriate distribution of comprehensive services.*

(iv) *The provisions of the Individuals with Disabilities Education Act (IDEA) (P.L.101-476), the Cordero Court Orders, this act and 22 Pa. Code Chs. 14 and 342 as they relate to the provision of programs and services to special education students should be carefully reviewed as they pertain to approved private schools, continuum of placement options, funding, FAPE and other pertinent issues.*

(2) *The committees shall report back to the General Assembly by November 15, 1993, with legislative and/or administrative recommendations. The committees may hold such meetings and hearings as they deem appropriate to accomplish the provisions of this subsection.*

Section 10. Section 1376.1 of the act, amended July 8, 1989 (P.L.253, No.43), is amended to read:

Section 1376.1. Actual Cost of Tuition and Maintenance of Certain Exceptional Children in the Four Chartered Schools for Education of the Deaf

and the Blind.—(a) The following term, whenever used or referred to in this section, shall have the following meaning. “Chartered school” shall mean any of the four (4) chartered schools for the education of the deaf or the blind: the Pennsylvania School for the Deaf; the Overbrook School for the Blind; the Western Pennsylvania School for Blind Children; and the Western Pennsylvania School for the Deaf.

(b) When any child of school age resident in this Commonwealth, who is blind or deaf, is enrolled with the approval of the Department of Education as a pupil in any of the four (4) chartered schools in accordance with standards and regulations promulgated by the State Board of Education, the school district in which such child is resident shall pay the greater of either twenty percent (20%) of the actual cost of tuition and maintenance of such child in such institution, as determined by the Department of Education; or its “tuition charge per elementary pupil” or its “tuition charge per high school pupil,” and the Commonwealth shall pay, out of funds appropriated to the department for special education, the balance due for the costs of such child’s tuition and maintenance, as determined by the department. For the school years 1989-90, 1990-91 and 1991-92, the school district payment shall be no greater than forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school. *For the 1992-1993 school year and each school year thereafter, the school district payment shall be the greater of forty percent (40%) of the actual audited costs of tuition and maintenance of such child in such school, as determined by the Department of Education, or its “tuition charge per elementary pupil” or its “tuition charge per high school pupil,” and the Commonwealth shall pay out of funds appropriated to the department for chartered schools the balance due for the costs of such child’s tuition and maintenance, as determined by the department.* The department will credit the district of residence with average daily membership for such child consistent with the rules of procedure developed in accordance with section 2501. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. The Department of Education shall be provided with such financial data from each of the chartered schools as may be necessary to determine the reasonableness of charges for tuition and room and board of each of the chartered schools made on Pennsylvania resident approved students. The Department of Education shall evaluate such data and shall disallow any charges deemed unreasonable. Any charge deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(c) When any person less than school age resident in this Commonwealth who is blind or deaf is enrolled, with the approval of the Department of Education, as a residential pupil in any of the four (4) chartered schools, the

Commonwealth shall pay to the school, out of moneys appropriated to the department for special education, the actual cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the State Board of Education, and in addition, in the case of any child less than school age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

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

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

Section 1548. Instructional Support.—The instructional support program currently found at 22 Pa. Code § 14.24 (relating to instructional support) or any successor regulation shall not apply to students who are thought to be gifted, to students attending nonpublic schools who are thought to be exceptional or to young children not yet of kindergarten age or not enrolled in a public school program. Public school students thought to be eligible may be served regardless of grade.

Section 12. Section 1913-A(a) and (b) of the act, amended or added July 1, 1985 (P.L.103, No.31) and October 20, 1988 (P.L.827, No.110), are amended and the section is amended by adding subsections to read:

Section 1913-A. Financial Program; Reimbursement or Payments.—(a) The plan submitted by the local sponsor shall set forth a financial program for the operation of the community college. The plan shall provide that ***[at least two-thirds of the annual operating costs and up to] the local sponsor shall appropriate or provide to the community college an amount at least equal to the community college's annual operating costs less the student tuition as determined in section 1908-A(a) less the Commonwealth's payment as determined in subsection (b)(1) of this section. The plan shall also provide that*** one-half of the annual capital expenses shall be appropriated or provided by the local sponsor to the community college[, and such allocation]. ***The local sponsor's appropriation for annual operating costs and annual capital expenses may in part be represented by real or personal property or services made available to the community college. The plan shall indicate whether the appropriation shall come from general revenues, loan funds, special tax levies or from other sources, including student tuitions.***

(b) (1) ***[The] For the 1993-1994 fiscal year and for each fiscal year thereafter, the Commonwealth shall pay to a community college on behalf of the sponsor on account of its operating costs during the fiscal year from funds appropriated for that purpose an amount equal to [one-third of such college's approved operating costs not to exceed three thousand dollars***

(\$3,000) per student multiplied by the number of equivalent full-time students determined by an audit to be made in a manner prescribed by the State Board of Education.

(2) In addition, the Commonwealth shall pay to a community college, on account of its] *the lesser of such college's variable State share ceiling as determined in clause (1.3) or such college's equivalent full-time student reimbursement as determined in clause (1.4).*

(1.2) *The Secretary of Education, in consultation with the community colleges, shall promulgate standards for credit courses and for noncredit courses that will be eligible for Commonwealth reimbursement. The standards shall specifically exclude from eligibility for reimbursement any course or program in avocational or recreational pursuits. The standards shall be promulgated by the beginning of the 1994-1995 fiscal year. Until such standards are promulgated, no community college will be reimbursed for any credit course which was offered by such college as a noncredit course during the college's 1992-1993 fiscal year.*

(1.3) *The variable State share ceiling of a community college shall be determined as follows:*

(i) *Subtract the taxable income per person of the local sponsor from the highest taxable income per person of any county in the Commonwealth.*

(ii) *Divide the amount determined under subclause (i) by the difference between the highest taxable income per person of any county in the Commonwealth and the lowest taxable income per person of any county in the Commonwealth.*

(iii) *Multiply the quotient determined under subclause (ii) by one-sixth.*

(iv) *Add one-third to the product determined under paragraph (iii).*

(v) *Multiply the sum determined under subclause (iv) by the community college's operating costs in the year for which reimbursement is being claimed.*

(vi) *The taxable income per person data used in the preceding calculation shall be data certified to the Secretary of Education by the Secretary of Revenue under section 2501(9.1) for school district local sponsors or data otherwise published by the Secretary of Revenue for a municipal local sponsor.*

(1.4) *The equivalent full-time student reimbursement of a community college shall be the sum of credit course, noncredit course and stipend reimbursements. These reimbursements shall be calculated using a reimbursement factor of one thousand and forty dollars (\$1,040) for the 1993-1994 fiscal year and of one thousand eighty dollars (\$1,080) for the 1994-1995 fiscal year and for each year thereafter and shall be determined as follows:*

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

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

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

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

(iii) Stipend reimbursement on account of a community college's operating costs for all equivalent full-time students enrolled in the following categories of two-year or less than two-year occupational or technical programs, [a stipend as follows] shall be the sum of the following:

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

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

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

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

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

(2) For the 1993-1994 fiscal year, each community college shall be reimbursed under clause (1) in an amount which is at least equal to a one percent (1%) increase over its 1992-1993 operating cost and stipend reimbursement. In no case shall a community college's 1993-1994 reimbursement under clause (1) per full-time equivalent student, insofar as said reimbursement does not include a proportionate share attributable to stipend reimbursement under clause (1.4)(iii), exceed its 1992-1993 operating cost reimbursement per full-time equivalent student by more than ten percent (10%).

(2.1) For the 1994-1995 fiscal year, each community college shall be reimbursed under clause (1) in an amount which is at least equal to a one percent (1%) increase over its 1993-1994 reimbursement under clause (1). In no case shall a community college's 1994-1995 reimbursement under clause (1) per full-time equivalent student, insofar as said reimbursement does not include the proportionate share attributable to stipend reimbursement under clause (1.4)(iii), exceed its 1993-1994 reimbursement

under clause (1) per full-time equivalent student, insofar as said reimbursement does not include the proportionate share attributable to stipend reimbursement under clause (1.4)(iii) by more than ten percent (10%).

(2.2) For the 1995-1996 fiscal year, each community college shall be reimbursed under clause (1) in an amount which is at least equal to its 1994-1995 reimbursement under clause (1).

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

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

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

* * *

(j) In no event shall the payments or final reimbursement made by the department following audit exceed the appropriation available for community colleges.

(k) (1) Unless otherwise prescribed by the State Board of Education, the Commonwealth's fiscal audits of community colleges under this section shall be conducted in accordance with "Government Auditing Standards," latest revision, promulgated by the United States General Accounting Office. Written audit reports will be produced and will be sent to the community college by the Commissioner of Postsecondary/Higher Education. Any cost disallowed under findings contained in the audit report shall be considered an adjudication within the meaning of 2 Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(2) The Secretary of Education is hereby specifically authorized and shall be required to resolve audit findings involving disallowed costs that are contested by community colleges except for audit findings that involve mathematical errors, violation of regulations or alleged illegal activities. The proposed resolution of the Secretary of Education shall not be subject to the provisions of 2 Pa.C.S. The Secretary of Education's notice to resolve

audit findings shall be sent to the community college in writing. The Secretary of Education may resolve the audit findings by reducing the disallowed costs related thereto in whole or in part.

(3) The Secretary of Education's notice to resolve an audit finding by reducing or eliminating the disallowed costs must be made contingent upon the community college developing and implementing a corrective action plan to address the audit finding. The community college must submit a corrective action plan to the Secretary of Education within 60 days after receipt of the Secretary of Education's written notice to resolve the audit finding. The Secretary of Education shall approve, reject or alter the plan submitted by the community college within thirty (30) days of submission. After the community college receives written notice of approval or agrees in writing to the Secretary of Education's alterations of the corrective action plan, said plan shall be implemented and shall be binding on the community college. Implementation of the approved or agreed upon corrective action plan will be verified by an audit conducted by the department no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed upon corrective action plan is in place within one year after the date of the Secretary of Education's written notice to resolve audit findings or if the agreed upon corrective action has not been implemented within one year after the date of the Secretary of Education's written notice to resolve the audit findings, then the Secretary of Education is authorized to adjust payments to the community college to collect any amounts due based upon the findings contained in the audit report that was issued to the college by the commissioner.

(4) The department shall deduct any amounts due the Commonwealth as a result of audit findings that are resolved under this subsection from any future payment due to the community college from the Commonwealth. The Secretary of Education is authorized to approve a payment schedule in cases where immediate repayment of the full amount due the Commonwealth would jeopardize the ability of the community college to continue operations.

(5) Resolution authority provided to the Secretary of Education in this subsection shall be limited to disallowed cost findings relating to policy and/or administrative practices. The resolution authority shall not be used for audit findings in which the audited community college data and documentation is in error, where a violation of applicable law or regulation is found or where criminal violations are suspected by the Commonwealth auditors and brought to the Secretary of Education's attention in writing. Notwithstanding the limitations of this subsection, until June 30, 1995, the Secretary of Education is authorized to resolve audit findings involving disallowed costs for fiscal years prior to and including 1992-1993 when such disallowed costs result from violation of regulations.

(6) The department, through the Secretary of Education, is authorized

to issue guidelines for the operation of the community college educational and financial programs. The department shall amend these guidelines on an annual basis to reflect the department's position on issues that require resolution under this subsection.

(7) The provisions of subsection (d) are repealed insofar as they are inconsistent with the provisions of this subsection.

(l) For the fiscal year 1992-1993, if insufficient funds are appropriated to make Commonwealth payments pursuant to this section, such payments shall be made on a pro rata basis.

Section 13. Section 2501(9), (9.1), (9.2), (14.1), (15), (18) and (19) of the act, amended December 20, 1983 (P.L.267, No.73), July 8, 1989 (P.L.253, No.43) and August 5, 1991 (P.L.219, No.25), are amended and the section is amended by adding clauses to read:

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

* * *

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

(9.1) “Personal Income Valuation.” A school district's personal income valuation for purposes of *computing the market value/income aid ratio and for purposes* of reimbursement to a school district under subsections (d), (e), and (f) of section 2502, *section 2502.22, section 2502.25* and section 2592 shall be the valuation of the total taxable income for the tax year preceding the immediate prior year, determined under Article III of the act of March 4, 1971 (P.L.6, No.2), known as the “Tax Reform Code of 1971,” for each school district each year by the Secretary of Revenue and certified to the Secretary of Education. For the 1988-1989 school year and each school year thereafter, the Secretary of Revenue shall additionally certify, for those districts in which residents claim credit against the State personal income tax for income earned outside this Commonwealth under section 314 of the “Tax Reform Code of 1971,” the total number of persons claiming such out-of-State tax credits and the total dollar amount of such tax credits claimed in the individual district.

(9.2) “Equalized Millage.” (a) For the year prior to the year for which reimbursement is being computed, a school district's tax effort to be used for reimbursement under subsections (d) and (e) of section 2502 and section 2502.11[,] shall be the amount of local school taxes collected divided by the real property valuation of the school district for the year prior to the year for which reimbursement is being computed.

(b) *For purposes of computing the base earned for reimbursement and for purposes of reimbursement to a school district under section 2502.22,*

the district's equalized millage shall be computed, for the year for which reimbursement is being paid, as follows: divide the district's amount of local school taxes collected for the school year immediately preceding the school year for which reimbursement is being paid by the real property valuation of the school district for the calendar year that concluded during the school year immediately preceding the school year for which reimbursement is being paid; multiply the result by one thousand (1,000).

* * *

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

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

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

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

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

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

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

(iii) Subtract the resultant product in (b)(ii) from [1.0000] *1.000* to determine the income aid ratio.

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

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

(d) For payments beginning in the 1989-1990 school year and each school year thereafter, the Department of Education shall utilize an adjusted personal income valuation for the 1987 tax year and each tax year thereafter respectively in computing the market value/income aid ratio for such districts. The adjusted personal income valuation shall be calculated by dividing the total out-of-State tax credits claimed by the residents of a school district by the State personal income tax rate and subtracting that amount from the total personal income valuation for the individual school district. The State total personal income valuation shall remain that as certified by the Department of Revenue and shall not be adjusted to reflect out-of-State tax credits.

(15) "Minimum Subsidy." For the school years 1976-1977 and 1977-1978, in no case shall a district receive for each pupil in weighted average daily membership, an amount less than ten percent (10%) of the actual cost of instruction or ten percent (10%) of the base earned for reimbursement whichever is the lesser amount. For the 1978-1979 school year through the 1980-1981 school year, no school district shall receive for each pupil in weighted average daily membership an amount less than fifteen percent (15%) of the base earned for reimbursement or actual instructional expense per WADM, whichever is the lesser amount. For the 1976-1977 school year through the 1980-1981 school year, a district whose actual instruction expense per weighted average daily membership is more than two hundred dollars (\$200) less than the median actual instruction expense per weighted average daily membership, and whose equalized millage is within fifteen percent (15%) of the median equalized millage, the reimbursement shall be two hundred dollars (\$200) below the median actual instruction expense per weighted average daily membership times the district's aid ratio for each weighted average daily membership. For the 1982-1983 school year **[and each school year thereafter]** *through the 1990-1991 school year*, no school district shall receive for each pupil in weighted average daily membership an amount less than fifteen percent (15%) of the factor for educational expense.

* * *

(18) "Equalized Subsidy for Basic Education." For the school year 1982-1983 and each school year thereafter, each school district shall be paid by the Commonwealth an equalized subsidy for basic education, which shall consist of any or all of the following, as applicable:

(i) Payments on account of instruction, as provided for in subsections (d) and (e) of section 2502.

(ii) An economic supplement, as provided for in section 2502.11.

(iii) Assistance to small districts as provided for in section 2502.13.

(iv) A low-expenditure, low-wealth supplement as provided for in section 2502.17.

(v) A low-expenditure poverty supplement as provided for in section 2502.18.

(vi) *A payment as provided for in section 2502.20.*

(19) "Factor for Educational Expense." For the school years 1982-1983 and 1983-1984, the factor for educational expense used to compute school district entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand six hundred fifty-six dollars (\$1,656) unless later changed by statute. For the school year 1983-1984, the Factor for Educational Expense shall be one thousand seven hundred twenty-five dollars (\$1,725), unless later changed by statute, for those school districts participating, during the 1984-1985 school year, in a Statewide program for testing and remediation which is designed to identify and provide remediation services to individual students pursuant to section 1511.1. For the 1984-1985 school year, notwithstanding any other provisions of this act to the contrary, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand eight hundred seventy-five dollars (\$1,875). For the 1985-1986 school year, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand nine hundred seventy dollars (\$1,970). For the 1986-1987 school year, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand one hundred twenty-five dollars (\$2,125). For the school year 1987-1988, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand two hundred thirty dollars (\$2,230). For the school year 1988-1989, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand three hundred thirty dollars (\$2,330). For the school year 1989-1990, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two

thousand three hundred eighty dollars (\$2,380), as provided for in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990." For the school year 1990-1991, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand five hundred fifty dollars (\$2,550). [For the school year 1991-1992 and each school year thereafter, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand six hundred fifty-five dollars (\$2,655).]

(20) *"Total Expenditure per Average Daily Membership."* A school district's total expenditures shall include all General Fund expenditures and other financing uses for a school year, as designated in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems. The total expenditures so determined, when divided by the average daily membership for the same school year for the district, shall be the total expenditure per average daily membership.

(21) *"Children in Low-Income Families."* Children aged five (5) to seventeen (17) years, inclusive, in families receiving a grant in excess of two thousand dollars (\$2,000) per year from the Commonwealth on account of dependent children under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

Section 14. Section 2502(d) and (e) of the act, amended or added February 1, 1966 (1965 P.L.1642, No.580) and July 1, 1985 (P.L.103, No.31), are amended to read:

Section 2502. Payments on Account of Instruction.—* * *

(d) For the school year 1976 and 1977 through the 1980-1981 school year, each school district shall be paid by the Commonwealth on account of instruction of the district's pupils an amount to be determined by multiplying the market value/income aid ratio times the actual instruction expense per weighted average daily membership or by the base earned for reimbursement, whichever is less, and by the weighted average daily membership for the district. For the school year 1976-1977 any school district which, as a result of the impact on payments under subsections (d), (e) and (f) and under section 2592 by reason of the market value/income aid ratio or the application of equalized millage to the base earned for reimbursement, shall suffer a reduction in subsidy entitlement, shall be held harmless from this impact and shall receive an amount which is no less than that received for 1976-1977 under such subsections and under section 2592. For the 1982-1983 school year [and each school year thereafter] *through the 1990-1991 school year*, each school district shall be paid by the Commonwealth on account of instruction of the district's pupils an amount to be determined by multiplying the district's market value/income aid ratio by the factor for educational expense and by the weighted average daily membership of the district. For

the 1983-1984 school year, each school district participating, during the 1984-1985 school year, in a Statewide program for testing and remediation which is designed to identify and provide remediation services to individual students pursuant to section 1511.1, shall be paid by the Commonwealth on account of instruction of the district's pupils an amount to be determined by multiplying the district's market value/income aid ratio by the factor for educational expense, one thousand seven hundred twenty-five dollars (\$1,725), and by the weighted average daily membership of the district. This subsidy may be used for strengthening curriculum, increasing standards, improving student achievement and providing remedial programs during the 1984-1985 school year.

(e) For no school year *from 1966-1967 through 1990-1991* shall any district receive less than an amount obtained by multiplying the minimum subsidy by the weighted average daily membership for the district.

* * *

Section 15. Section 2502.5(b) of the act, amended July 8, 1989 (P.L.253, No.43), is amended to read:

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

(b) Notwithstanding any other provisions of law, for the school year 1982-1983 and 1983-1984, no school district shall be paid under subsections (d) and (e) of section 2502 and section 2502.11 or, for the school year 1984-1985, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, section 2502.11 and section 2502.13 or, for the school year 1985-1986, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, section 2502.11, section 2502.13, section 2502.14 and section 2502.15 or, for the school year 1986-1987, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, section 2502.11, section 2502.13 and section 2502.15 or, for the school year 1987-1988, no school district shall be paid under subsections (d) and (e) of section 2502, subsection (e) of this section, sections 2502.11 and 2502.13 or, for the school [year] years 1988-1989 [and each school year thereafter] *through 1990-1991*, no school district shall be paid under subsections (d) and (e) of section 2502, sections 2502.11 and 2502.13 an amount in excess of one hundred percent (100%) of the total reimbursable instructional expenditures of the school district. For the 1982-1983 school year, all school districts qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed nine percent (9%) over the sums received on account of section 2502.9 for the 1981-1982 school year, nor shall any school district receive an increase of less than two percent (2%) of the 1982-1983 school year payments on account of the 1981-1982 school year. For the 1984-1985 school year, each school district qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed eight

and forty-five one hundredths percent (8.45%) over the sums received on account of such sections for the school year 1983-1984, nor shall any school district receive an increase of less than two percent (2%) of such payments for the school year 1983-1984: Provided, however, That such payments for the school year 1983-1984 shall be computed using a Factor for Educational Expense of one thousand six hundred fifty-six dollars (\$1,656) and a maximum payment increase of seven and forty-five one hundredths percent (7.45%) and a minimum payment increase of two percent (2%) and the eighty percent (80%) guarantee provided for in section 2502.5(e). For the 1985-1986 school year, each school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed seven percent (7%) over the sums received on account of such sections for the school year 1984-1985, nor shall any school district receive an increase less than two percent (2%) of such payments for the school year 1984-1985. For the 1986-1987 school year, each school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed eight percent (8%) over the sums received on account of such sections and section 2502.14 for the school year 1985-1986, nor shall any school district receive an increase less than two percent (2%) of such payment for the school year 1985-1986. For the 1987-1988 school year, each school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed eight percent (8%) over the sums received on account of such sections and section 2502.15 for the school year 1986-1987, nor shall any school district receive an increase less than two percent (2%) of such payments for the school year 1986-1987. For the 1988-1989 school year **[and each school year thereafter] through the 1990-1991 school year**, no school district qualifying for payments under subsections (d) and (e) of section 2502, subsection (e) of this section and section 2502.11 shall receive an increase less than two percent (2%) of such payments for the prior school year.

* * *

Section 16. Section 2502.11 of the act, amended July 8, 1989 (P.L.253, No.43) and August 5, 1991 (P.L.219, No.25), is amended to read:

Section 2502.11. Economic Supplement.—(a) For the school year 1982-1983 **[and each school year thereafter] through the school year 1990-1991**, each qualifying school district shall be paid, in addition to any other payments to which it is entitled, an economic supplement, based upon children in low-income families, local tax effort and population per square mile.

(b) For the school years 1982-1983 through 1986-1987, each qualifying school district shall be paid on account of children in low-income families an

amount in accordance with the following table:

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

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

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

For the school years 1988-1989 and 1989-1990, each qualifying school district shall be paid on account of children in low-income families an amount in accordance with the following table:

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

For the school year 1990-1991 [**and each school year thereafter**], each qualifying school district shall be paid on account of children in low-income families an amount in accordance with the following table:

Percentage of Low-Income Pupils In Average Daily Membership	Grant Per Low-Income Pupil
8 - 14.9	6% of the factor for educational expense used to make payments on account of instruction, as provided for in section 2501(19).
15 - 19.9	16% of the factor for educational expense used to make payments on account of instruction, as provided for in section 2501(19).
20 - 29.9	23% of the factor for educational

	expense used to make payments on account of instruction, as provided for in section 2501(19).
30 or over	27% of the factor for educational expense used to make payments on account of instruction, as provided for in section 2501(19).

For the 1982-1983 school year [**and each school year thereafter**] *through the 1990-1991 school year*, low-income pupils are defined for purposes of this section as children aged five (5) to seventeen (17) years, inclusive, in families receiving a grant in excess of two thousand dollars (\$2,000) from the Commonwealth on account of dependent children under Title IV of the Federal Social Security Act.

(c) For the school year 1982-1983 through the school year 1987-1988, any district which levies and collects local taxes for school purposes equal to or above the median equalized millage, as defined in section 2501(9.3), in the year for which reimbursement is determined shall qualify for and receive a payment based upon local tax effort and population per square mile in accordance with the following table, except for qualifying districts which include a central city of a Standard Metropolitan Statistical Area and have a district population of less than four thousand (4,000) persons per square mile, which districts shall receive three percent (3%) of their instructional expenditures:

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

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

(d) For the school year 1988-1989 [**and each school year thereafter**] *through the school year 1990-1991*, any district which levies and collects local taxes for school purposes equal to or above the median equalized millage, as defined in section 2501(9.3), in the year for which reimbursement is determined or any school district the majority of whose population is drawn from a city of the first through third class which levies and collects local taxes for municipal purposes equal to or above the municipal median equalized millage, as defined in section 2501(9.5), for the most recent municipal fiscal year for which data is available shall qualify for and receive a payment based upon local tax effort and population per square mile in accordance with the following table, except for qualifying districts which include a central city of a Standard Metropolitan Statistical Area and have a district population of less than four thousand (4,000) persons per square mile,

which districts shall receive three percent (3%) of their instructional expenditures:

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

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

[A] *For the 1990-1991 school year, a central city of a Standard Metropolitan Statistical Area which has an equalized millage as defined in clause (9.2) of section 2501 to be greater than the median equalized millage by ten and twenty-nine hundredths (10.29) and has an estimated 1990-1991 Weighted Average Daily Membership (WADM) provided by the Department of Education in June 1991 that is less than the actual 1989-1990 Weighted Average Daily Membership by two hundred (200) shall receive an additional two percent (2%) of their 1990-1991 actual instructional expenditure.*

Section 17. Section 2502.13 of the act, amended August 5, 1991 (P.L.219, No.25), is amended to read:

Section 2502.13. Small District Assistance.—For the 1984-1985 and 1985-1986 school years, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to fifty dollars (\$50) multiplied by that district's average daily membership. For the 1985-1986 school year, no school district shall receive less on account of this section than it did for the 1984-1985 school year. For the school year 1986-1987, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1985-1986 school year, an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership. For the school year 1987-1988, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1986-1987 school year, an amount equal to eighty-five dollars (\$85) multiplied by that district's average daily membership. For the school year 1988-1989 [and each school year thereafter], the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 or 1988-1989

school year, an amount equal to one hundred five dollars (\$105). For the school year 1989-1990, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 school year, an amount equal to one hundred fifteen dollars (\$115) multiplied by the district's average daily membership as provided for in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990." For the school year 1990-1991 [and each school year thereafter], the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the prior school year, an amount equal to one hundred seventy dollars (\$170) multiplied by that district's average daily membership. [Each] *For the school year 1990-1991, each* school district with a population per square mile of less than ninety (90), which otherwise meets the average daily membership and market value/income aid ratio requirements of this section, or received payments under this section for the prior school year, shall instead receive an amount equal to one hundred ninety dollars (\$190) multiplied by that district's average daily membership. For the 1987-1988 school year [and each school year thereafter] *through the 1990-1991 school year*, no school district shall receive less on account of this section than it did for the prior school year.

Section 18. Section 2502.16(d) of the act, added July 10, 1987 (P.L.286, No.50), is amended to read:

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

[(d) Any subsequent payments made on account of such ceased or suspended real estate taxes by such businesses or by bankruptcy officials on behalf of such businesses, during the course of such bankruptcy proceedings or following their completion, shall be paid to the Department of Education by the school district to the extent of the temporary special aid provided to such school district in accordance with the provisions of this section. Any interest or penalties received by such school district shall be retained by the school district.]

* * *

Section 19. Sections 2502.17 and 2502.18 of the act, added August 5, 1991 (P.L.219, No.25), are amended to read:

Section 2502.17. Low-Expenditure, Low-Wealth Supplement.—For the 1990-1991 school year [and each school year thereafter], the Commonwealth shall pay to each school district which has a market value/income aid ratio of six thousand ten-thousandths (0.6000) or greater and has an actual instruction expenditure per weighted average daily membership for the school year prior to the reimbursable year, which is less than the

Statewide median actual instruction expenditure per weighted average daily membership for that year, an amount equal to one and three-tenths percent (1.3%) of the school district's actual instruction expenditure for the reimbursable year: Provided, That no school district shall receive a dollar amount, which, when combined with its actual instruction expenditure for the year prior to the reimbursable year, would result in the district's actual instruction expenditure per weighted average daily membership exceeding the Statewide median actual instruction expenditure per weighted average daily membership for the year prior to reimbursement.

Section 2502.18. Low-Expenditure Poverty Supplement.—For the 1990-1991 school year [and each school year thereafter], the Commonwealth shall pay to each school district, which has an actual instruction expenditure per weighted average daily membership for the school year prior to the reimbursable year, which is less than three thousand four hundred forty-five dollars (\$3,445), and has ten percent (10%) or more of its pupils in average daily membership as children in low-income families, an amount equal to one-half percent (.5%) of their actual instruction expenditure.

Section 20. The act is amended by adding sections to read:

Section 2502.20. Subsidy Payments.—*For the 1992-1993 school year, each school district shall be paid a subsidy amount based upon the provisions of sections 2502.21, 2502.22, 2502.24, 2502.25 and 2502.26.*

Section 2502.21. Education Subsidy Base.—*For the 1992-1993 school year, the Commonwealth shall pay to each school district an education subsidy base which shall consist of the same amount that the district was entitled to receive for the 1990-1991 school year pursuant to sections 2502(d) and (e) and 2502.11, both as adjusted pursuant to section 2502.5(b), if applicable, and sections 2502.13, 2502.17 and 2502.18. For the 1993-1994 school year, the Commonwealth shall pay to each school district an education subsidy base which shall consist of the same amount that the district was entitled to receive for the prior school year pursuant to section 2502.20.*

Section 2502.22. Equity Supplement.—*(a) For the 1992-1993 school year, each school district may qualify for payment of the supplement based upon market value/income aid ratio, local tax effort and total expenditure per average daily membership.*

(b) To qualify for such supplement, districts shall meet all of the following criteria:

(1) The district's market value/income aid ratio for the school year immediately preceding the school year for which reimbursement is being paid is greater than or equal to five thousand ten-thousandths (0.5000).

(2) The district's equalized millage for the school year immediately preceding the school year for which reimbursement is being paid is greater than or equal to nineteen and five-tenths (19.5).

(3) The district's total expenditure per average daily membership for the school year two (2) years prior to the school year for which reimbursement

is being paid is less than or equal to six thousand one hundred ninety-three dollars (\$6,193).

(c) *The Commonwealth shall pay to each qualifying school district, as determined pursuant to subsection (b), a supplement in an amount calculated as follows:*

(1) *Determine the product of the district's average daily membership for the school year for which reimbursement is being paid and the district's market value/income aid ratio for the school year for which reimbursement is being paid.*

(2) *Multiply the result of the calculation pursuant to clause (1) by ninety-three million dollars (\$93,000,000).*

(3) *Divide the result of the calculation pursuant to clause (2) by the sum of the products obtained for all qualifying school districts pursuant to clause (1).*

(d) *For the school year 1992-1993, each school district that does not qualify for the supplement described in subsections (a) through (c) may qualify for payment of a supplement based upon children in low-income families.*

(e) *To qualify for the supplement described in subsection (d), the number of children in low-income families residing in the district for the calendar year that concluded during the school year immediately preceding the year for which reimbursement is being paid divided by the district's average daily membership for the school year two (2) years prior to the school year for which reimbursement is being paid must be greater than or equal to thirty-five percent (35%).*

(f) *The Commonwealth shall pay to each qualifying school district, as determined pursuant to subsections (d) and (e), a supplement in the amount of one hundred dollars (\$100) multiplied by the number of children in low-income families residing in the district for the calendar year that concluded during the school year for which reimbursement is being paid.*

Section 2502.23. Minimum Effort Base.—The minimum effort base shall be, for the purposes of qualifying for foundation guarantee payments, the level of local revenue resources available per pupil in average daily membership. For the 1992-1993 school year, the local revenue resources available per pupil in average daily membership shall be computed by multiplying the 1990 Real Property Valuation of the district by one hundred and ninety-five ten-thousandths (0.0195).

Section 2502.24. Foundation Guarantee.—The foundation guarantee is the minimum level of revenue resources that shall be available to support each pupil in average daily membership in the school districts of the Commonwealth. For the 1992-1993 school year, the foundation guarantee amount shall be the difference between three thousand eight hundred seventy-five dollars (\$3,875) and the sum of the amounts described in sections 2502.21, 2502.22 and 2502.23 for that year divided by the number of pupils in average daily membership in the district for the 1990-1991

school year. For the 1992-1993 school year, the Commonwealth shall pay to each qualifying school district, as a foundation guarantee payment, the foundation guarantee amount multiplied by the number of pupils in average daily membership in the district for the 1990-1991 school year.

Section 2502.25. Growth Supplement.—(a) *For the school year 1992-1993, each school district may qualify for payment of a supplement based upon growth in the school district's average daily membership, in addition to any other subsidy to which the district may be entitled.*

(b) *To qualify for the growth supplement pursuant to this section, the district's average daily membership for the school year immediately preceding the school year for which reimbursement is being paid must have increased by at least four and five-tenths percent (4.5%) or by at least two hundred fifty (250) pupils in average daily membership compared to the school year two (2) years prior to the school year for which reimbursement is being paid.*

(c) *The Commonwealth shall pay to each qualifying school district pursuant to subsections (a) and (b) a supplement in an amount calculated as follows:*

(1) *Subtract the district's average daily membership for the school year two (2) years prior to the school year for which reimbursement is being paid from the district's average daily membership for the school year for which reimbursement is being paid.*

(2) *Multiply the result of the calculation pursuant to clause (1) by the district's market value/income aid ratio for the school year for which reimbursement is being paid.*

(3) *Multiply the result of the calculation pursuant to clause (2) by four hundred dollars (\$400).*

Section 2502.26. Limited Revenue Sources Supplement.—(a) *For the 1992-1993 school year, each school district that does not qualify for any supplement contained in sections 2502.22, 2502.24 and 2502.25 may qualify for payment of a limited revenue sources supplement.*

(b) *To qualify for such supplement, the district's market value/income aid ratio for the school year immediately preceding the school year for which reimbursement is being paid must be greater than or equal to seven thousand ten-thousandths (0.7000).*

(c) *The Commonwealth shall pay to each qualifying district, as determined pursuant to subsections (a) and (b), a supplement in an amount equal to the district's average daily membership for the school year for which reimbursement is being paid, multiplied by two percent (2%) of three thousand eight hundred seventy-five dollars (\$3,875).*

Section 2502.27. Discretionary Funds to Assist School Districts Experiencing Extreme Financial Difficulty.—*A sum of one million dollars (\$1,000,000) from the amount appropriated in the act of May 28, 1993 (P.L.589, No.1A), known as the General Appropriation Act of 1993, for the equity supplement, and any remainder if the sum appropriated for the*

1993-1994 fiscal year for payments in section 2502.20 exceeds the amounts to which all qualifying school districts are entitled, shall be set aside as discretionary funds to assist school districts that have been declared distressed pursuant to section 691 and/or school districts in need of additional support because of extreme financial difficulties. The Secretary of Education shall establish guidelines for school districts' applications for these funds, department approval of applications for funds, department distribution of funds and school districts' expenditure of these funds. The Secretary of Education shall report to the General Assembly on such expenditures.

Section 2502.28. Resource Data for Foundation-Based Equity Formula Development.—(a) The Secretary of Education shall develop and collect data necessary to assist in policy development for the transition to a foundation-based equity formula in fiscal year 1994-1995. Data shall be collected which will assist in the development of definitions of factors and in determining the relative importance of various factors which impact on a school district's ability to provide educational opportunities for its students. Such factors shall include, but not be limited to:

- (1) Regional costs.*
- (2) Students in poverty.*
- (3) Students in special education programs.*
- (4) Local revenue sources.*
- (5) State revenue sources.*
- (6) Other potential State and local revenue sources.*

(b) The initial report on the data system and data collected shall be submitted to the majority chairman and the minority chairman of the Education Committee of the Senate and the majority chairman and the minority chairman of the Education Committee of the House of Representatives by January 1, 1994.

Section 21. Section 2509.1(b.1), (d), (e) and (g) of the act, amended or added August 5, 1991 (P.L.219, No.25) and July 9, 1992 (P.L.392, No.85), are amended to read:

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

(b.1) [On or before the last day of June, every intermediate unit shall submit, for prior review and approval by the Department of Education, an estimate of the cost of operating and administering classes or schools for institutionalized children operated by the intermediate unit during the current school year. The Commonwealth shall pay each intermediate unit the approved amount during the following school year.] For programs operated during the 1992-1993 school year and each school year thereafter, the Commonwealth shall pay intermediate units, based on their costs of operating and administering classes or schools for institutionalized children, an amount to be determined by the Department of Education following review of annual reports of the costs of such classes or schools for the immediately preceding year. To qualify for such payments, each

intermediate unit that operates and administers classes or schools for institutionalized children annually shall submit to the Department of Education on or before the first day of July a report of the cost of operating and administering such classes or schools. Notwithstanding the foregoing, intermediate units may submit their annual reports for the 1991-1992 school year until June 30, 1993, although this date may be extended as deemed necessary by the Secretary of Education provided that for programs operated during the 1992-1993 school year and the 1993-1994 school year the aggregate amounts paid on this account shall not exceed twenty million six hundred thousand dollars (\$20,600,000) per year.

* * *

(d) For the 1991-1992 school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid fifty percent (50%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for exceptional children, as approved by the Department of Education for the 1990-1991 school year. For the 1991-1992 school year, each intermediate unit not coterminous with a school district which operates all the special education programs for handicapped children for its constituent school districts shall be paid ten percent (10%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for handicapped children, as approved by the Department of Education for the 1990-1991 school year. *For the 1992-1993 and the 1993-1994 school years, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid twenty-five percent (25%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for exceptional children, as approved by the Department of Education for the 1990-1991 school year.*

(e) For the 1991-1992 school year and for each school year thereafter, payments to intermediate units under this section shall consist of an amount payable in three (3) installments during the school year as follows: in August, fifty percent (50%) of the payments [under subsections (b) and (c) or (d)] due; in November, forty-five percent (45%) of the payments [under subsection (b), (c) or (d)] due; and on June 1, the balance of the payments due.

* * *

(g) (1) For the 1991-1992 school year and each school year thereafter, for each child enrolled in an intermediate unit class for institutionalized children, the school district in which the child is resident shall pay to the Commonwealth a sum equal to the "tuition charge per elementary pupil" or the "tuition charge per high school pupil," as determined for the schools operated by the district or by a joint board of which the district is a member, for the same year in which the class or school is operated, as provided for in section 2561. In the event that any school district has not established such "tuition charge per elementary pupil" or "tuition charge per high school

pupil," the Secretary of Education shall fix a reasonable charge for such district for the year in question.

(2) In addition, the district shall pay to the Commonwealth on account of transportation by the intermediate unit of pupils to and from classes and schools for exceptional children and of eligible young children to and from early intervention programs, whether or not conducted by the intermediate unit, an amount to be determined by subtracting from the cost of transportation per pupil the reimbursement due the district on account of such transportation.

(3) In order to facilitate such payments by the several school districts, the Secretary of Education shall withhold from any moneys due to such districts out of a State appropriation, except from reimbursements due on account of rentals, the amounts due by such school districts to the Commonwealth. All amounts so withheld are hereby specifically appropriated to the Department of Education for the support of public schools.

Section 22. Section 2509.5 of the act is amended by adding subsections to read:

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

(d) During the 1992-1993 school year, each school district shall be paid:

(1) an amount to be determined by multiplying one thousand dollars (\$1,000) by fifteen percent (15%) of its average daily membership; and

(2) an amount to be determined by multiplying eleven thousand five hundred forty dollars (\$11,540) by one percent (1%) of its average daily membership.

(e) During the 1993-1994 school year, each school district shall be paid:

(1) an amount to be determined by multiplying one thousand twenty-five dollars (\$1,025) by fifteen percent (15%) of its average daily membership; and

(2) an amount to be determined by multiplying twelve thousand dollars (\$12,000) by one percent (1%) of its average daily membership.

(f) The Secretary of Education shall develop a definition of severely classified exceptional students by September 20, 1993. This definition may include the primary exceptionality, level of intervention, type of support and related services requirements elements currently collected through the PennData system. This definition shall not include students who are institutionalized, in approved private school placements, in detention home programs, in mentally gifted programs or in early intervention programs operated under the provisions of the act of December 19, 1990 (P.L.1372, No.212), known as the "Early Intervention Services System Act." This definition shall be submitted to the majority chairman and the minority chairman of the Education Committee of the Senate and the majority chairman and the minority chairman of the Education Committee of the House of Representatives for review and comment no later than September 20, 1993. No sooner than fifteen (15) days and not later than thirty (30)

days after submission of the proposed definition to the committees, the Secretary of Education shall approve a definition of severely classified exceptional students.

(g) The Secretary of Education shall modify the PennData system to collect for each school district an average daily membership count of those exceptional students classified as severe. The Secretary of Education shall use the approved definition of severely classified exceptional in the development of the PennData report "Representation of Students with Severe Disabilities in Special Education." The Secretary of Education shall provide the 1993-1994 PennData report "Representation of Students with Severe Disabilities in Special Education" detailing the average daily membership by category of exceptionality for each school district for the 1993-1994 academic year to the majority chairman and the minority chairman of the Education Committee of the Senate and the majority chairman and the minority chairman of the Education Committee of the House of Representatives by February 1, 1994, and shall annually thereafter provide the PennData report "Representation of Students with Severe Disabilities in Special Education" detailing the average daily membership by category of exceptionality for each school district for the current school year to the committees by the first day of February of each year.

Section 23. Sections 2509.8 and 2509.9 of the act, amended or added July 9, 1992 (P.L.392, No.85), are amended to read:

Section 2509.8. Extraordinary Special Education Program Expenses.—*(a) The Department of Education shall, for the 1991-1992 school year [and each school year thereafter], set aside one percent (1%) of the State special education appropriation for extraordinary expenses to be incurred in providing a special education program or service to an exceptional student as approved by the Secretary of Education.*

(b) (1) Subject to the limitation in clause (2), the Department of Education shall, for the 1992-1993 and 1993-1994 school years, set aside two percent (2%) of the State special education appropriation for extraordinary expenses incurred in providing special education programs or services to one or more exceptional students as approved by the Secretary of Education.

(2) In the 1992-1993 school year, only one-half of the two percent (2%) set aside may be expended immediately, and the other one-half of the amount set aside shall not be expended until all authorized expenditures under sections 2509, 2509.1, 2509.5, 2509.9 and 2509.10 have been made to the qualified school entities.

(c) The Secretary of Education shall establish guidelines for the application, approval, distribution and expenditure of these funds and shall report annually to the General Assembly on such expenditures.

Section 2509.9. Special Education Payments to Intermediate Units and School Districts for 1992-1993.—Notwithstanding any provision of this act

to the contrary, special education payments during the [1992-1993 school year] *period from July 1, 1992, through December 31, 1992*, shall be made in the following manner:

(1) Payments to intermediate units shall be equal to amounts payable under section 2509.1(d) and shall be made in accordance with the schedule under section 2509.1(e) during the 1992-1993 school year.

(2) Payments to school districts shall be equal to those paid to school districts on account of special education services and paid during the 1991-1992 school year in accordance with the schedule under section 2509.5(c), excluding those payments made under section 2509(f).

[(3) Payments to intermediate units and school districts shall be made only through December 31, 1992.

Under no circumstances shall any intermediate unit receive less than it received under section 2509.1(d) during the 1991-1992 school year, nor for the 1992-1993 school year shall any school district receive less than it received during the 1991-1992 school year, excluding payments to school districts under section 2509(f) by the end of the 1992-1993 school year.]

Section 24. The act is amended by adding a section to read:

Section 2509.10. Special Education Payment Adjustments for 1992-1993 School Year.—Payments to each school district pursuant to section 2509.9 and pursuant to court orders shall be applied to the amounts payable to such school district pursuant to section 2509.5(d). Payments pursuant to section 2509.9 and pursuant to court orders to each intermediate unit which is coterminous with a school district shall be applied to the amounts payable to the school district pursuant to section 2509.5(d) and to the intermediate unit pursuant to section 2509.1(b.1), (c) and (d). Payments pursuant to section 2509.9 and pursuant to court orders to each intermediate unit which is not coterminous with a school district shall be applied to the amounts payable to such intermediate unit pursuant to section 2509.1(c). Each intermediate unit which is not coterminous with a school district shall return to the Department of Education any funds received pursuant to section 2509.9 and pursuant to court orders that exceed the amounts payable to such intermediate unit pursuant to section 2509.1(c).

Section 25. Section 2517(d) of the act, amended July 1, 1985 (P.L.103, No.31), is amended to read:

Section 2517. Payments.—* * *

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

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

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

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

Section 26. Section 2518 of the act, amended January 14, 1970 (1969 P.L.468, No.192) and July 22, 1970 (P.L.543, No.185), is amended to read:

Section 2518. Forfeitures for Employing [**Certain Teacher**] *Improperly Certified Individuals*.—In the event that after the first day of July one thousand nine hundred fifty-one, any school district, or intermediate unit with respect to area technical schools, for a period of two successive years employs the same teacher, who holds only an emergency certificate for any grade or subject which he teaches, or for a period of two successive years, employs in the same position teachers, who hold only an emergency certificate for any grades or subjects which they teach, such school district or board shall forfeit the sum of three hundred dollars (\$300) for each teacher so employed or for each position so filled. No such penalty shall be imposed for any violation of the foregoing provision during the biennium one thousand nine hundred forty-seven—one thousand nine hundred forty-nine. Any school district or intermediate unit with respect to area technical schools that now or hereafter employs any teacher, who does not hold any form of teacher certification to teach in the public schools of this Commonwealth, valid for the subjects or grades in which the teacher is giving instruction, shall forfeit one reimbursement unit for each such teacher employed. Any school district or intermediate unit with respect to area technical schools that employs any person in a supervisory capacity after the first Monday of July, 1962, who has not been certified for such position by the Department of [**Public Instruction**] *Education*, shall forfeit one reimbursement unit for each such person employed: Provided, That there shall not be any forfeiture for any uncertificated person who is employed in a supervisory capacity if such person was in the employ of any school district on or before July 1, 1962. Forfeiture shall apply only to uncertificated persons who are hired in a supervisory capacity after July 1, 1962. Any school district or intermediate unit with respect to area technical schools that employs a substitute after July first, one thousand nine hundred fifty-two, in a position where a vacancy exists for a full year or more, without the specific written approval of the [**Superintendent of Public Instruction**] *Secretary of Education*, shall forfeit one reimbursement unit for each substitute so employed. The [**Superintendent of Public Instruction**] *Secretary of Education* shall deduct such sum or sums from the amount of the Commonwealth appropriation otherwise due such district or intermediate unit under the provisions of this act.

The foregoing forfeitures of reimbursement units on account of employes uncertificated for the position in which employed, and on account of substitutes, shall not apply in the case of employes in positions after July 1, 1966: Provided, however, That any school district or any county board of school directors with respect to area technical schools that [after July 1,

1966 has had or shall have] *from July 1, 1966, to July 1, 1992, has had* in its employ any person in a teaching, specialist, supervisory or administrative capacity who has not been certificated for said position by the Department of [Public Instruction] *Education*, or that has had [or shall have] in its employ a substitute in a position where a vacancy exists for a full year or more without the specific written approval of the [Superintendent of Public Instruction] *Secretary of Education*, shall forfeit an amount equal to the minimum salary mandated by law for the position less the product of said salary and the aid ratio of the district[: **And provided further, That any forfeiture levied prior to the effective date of this act shall not be increased by reason of any provisions herein, and any forfeiture levied after July 1, 1966 shall be decreased to conform with this act.** *Notwithstanding the above, after July 1, 1992, any school district, intermediate unit, area vocational-technical school or other public school in this Commonwealth that has in its employ any person in a position that is subject to the certification requirements of the Department of Education but who has not been certificated for his position by the Department of Education or that has in its employ a substitute in a position where a vacancy exists for a full year or more without the specific written approval of the Secretary of Education shall forfeit an amount equal to six thousand dollars (\$6,000) less the product of six thousand dollars (\$6,000) and the district's market value/income aid ratio.* Any exemption from forfeiture by reason of employment on or before July 1, 1962 as provided elsewhere in this section shall not be invalidated by this amendment.

Section 27. Section 2561 of the act is amended by adding a clause to read:

Section 2561. Tuition Charges for Pupils of Other Districts.—A school district or vocational school district receiving elementary or high school pupils or vocational or other extension education pupils who are residents of another school district or another vocational school district shall compute the tuition charges as follows:

* * *

(7) *Special Education Tuition Charge. When the receiving district voluntarily receives exceptional children, the receiving district and sending district may agree that the sending district will pay a special education charge in addition to the applicable tuition charge. Such special education charge shall be an amount as determined by the two school districts.*

Section 28. The act is amended by adding an article to read:

**ARTICLE XXVI-G.
GRADUATE OPPORTUNITY FUND.**

Section 2601-G. Graduate Opportunity Fund.—(a) In addition to any other powers and duties under the act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act, the Pennsylvania Higher Education Assistance Agency shall establish and

administer a fund to be known as the Graduate Opportunity Fund. The purpose of this fund shall be to provide financial assistance to disadvantaged students who desire to or who are attending graduate school.

(b) The fund may accept donations and contributions from all public and private sources, including the Federal Government and any appropriations by the General Assembly.

Section 29. This act shall be retroactive as follows:

(1) The amendment of section 2509.1(g) of the act shall be retroactive to July 1, 1991.

(2) The amendment or addition of sections 1913-A(1), 2509.1(b.1) and (d), 2509.5, 2509.8, 2509.9, 2509.10, 2518 and 2561 of the act shall be retroactive to July 1, 1992.

Section 30. This act shall take effect as follows:

(1) The amendment or addition of sections 1913-A(1), 2509.1(b.1), (d) and (g), 2509.5, 2509.8, 2509.9, 2509.10, 2518 and 2561 of the act shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect July 1, 1993, or immediately, whichever is later.

APPROVED—The 7th day of June, A.D. 1993.

ROBERT P. CASEY