

## No. 1991-25

## AN ACT

## HB 221

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for annual budgets of school districts, transferred programs and classes, funding programs for exceptional children and payments to intermediate units; providing for foreign language academies; further providing for definitions, for payments to school districts, for small district assistance and for payments on account of instruction, tuition, adult program travel, certain vocational education expenses and transportation; providing for equipment grants; making a repeal; and making editorial changes.

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

Section 1. Section 687 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding subsections to read:

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

*(g) (1) Notwithstanding any other provisions of this act, the board of school directors of each school district is required to, and shall, reopen its 1991-1992 budget during the month of August 1991 for the purposes of adjusting their budgets to reflect the following increased allocations for fiscal year 1991-1992 provided by the General Assembly through the act of August 4, 1991 (P.L.484, No.7A), known as the "General Appropriation Act of 1991": subsidy payments on account of instruction; small district assistance payment; payments on account of transportation of nonpublic school pupils; State reimbursement for health services; and local savings accruing as a result of decreases in employer retirement contribution rates.*

*(2) In those districts which levy taxes and where the additional State revenues provided by the General Assembly and the local savings as a result of a decrease in employer retirement contribution rates exceed the State revenue figures and local revenues utilized by the school district at the time of adoption of its original fiscal year 1991-1992 budget, the district shall use these additional State funds to abate local property tax or nuisance taxes, or both, which were levied at the time of original budget adoption within sixty (60) days of the reopening of the district's budget.*

*(3) Those districts which levy taxes and in which the additional State revenues generated as a result of passage of the "General Appropriation Act of 1991," when compared to State revenue figures utilized in their originally adopted budget, exceed the budgeted figures by an amount insufficient to cost-effectively prepare and mail adjusted tax notices shall apply to the Department of Education for a waiver of this tax rebate provision.*

**(4) Under no circumstances shall any of these additional State revenues be used to increase a district's existing fund balance or for deposit into any district reserve accounts but shall be specifically utilized to meet fiscal year 1991-1992 program needs and to reduce local tax levies.**

**(5) At such time as school districts mail out adjusted tax notices resulting from budget reopening actions, such notice shall include the following statement:**

***"These decreased school district tax assessments result from additional revenues allocated to the district as a result of passage of the 'General Appropriation Act of 1991' by the Pennsylvania General Assembly."***

**(6) The Department of Education shall establish the administrative procedures necessary to audit school district compliance with the provisions of this section and shall report its findings to the Education Committee of the Senate and the Education Committee of the House of Representatives.**

**(h) Beginning with the adjusted final fiscal year 1991-1992 budget, and each fiscal year thereafter, on or before September 15, each school district shall furnish to the Education Committee of the Senate and the Education Committee of the House of Representatives a copy of the school district's final adopted annual budget to include the amount of district revenues being held in excess of its total budgeted expenditures. Such documentation shall include an explanation of the district's need to maintain the revenues in this fund balance.**

Section 2. Section 1113 of the act, added February 4, 1982 (P.L.1, No.1), is amended to read:

Section 1113. Transferred Programs and Classes.—(a) When a program or class is transferred *as a unit* from one or more school entities to another school entity or entities, professional employes who *were assigned to the class or program immediately prior to the transfer and* are classified as teachers *as defined in section 1141(1)* and are suspended as a result of the transfer and who are properly certificated shall be offered employment in the program or class by the receiving entity or entities when services of a professional employe are needed to sustain the program or class transferred, as long as there is no suspended professional employe in the receiving entity who is properly certificated to fill the position in the transferred class or program.

(b) Transferred professional employes shall be credited by the receiving entity only for their sick leave accumulated in the sending entity and also for their years of service in the sending entity, the latter for purposes of sabbatical leave eligibility and placement in the salary schedule: Provided, however, That such employes shall not utilize the sabbatical leave until they have taught in the receiving entity for a period of three (3) years. Such employes shall transfer their accrued seniority in the area of certification required for the transferred program or class only.

***(b.1) Professional employes who are classified as teachers and who are not transferred with the classes to which they are assigned or who have received a formal notice of suspension shall form a pool of employes within the school entity. No new professional employe who is classified as a teacher***

*shall be employed by a school entity assuming program responsibility for transferred students while there is:*

*(1) a properly certificated professional employe who is classified as a teacher suspended in the receiving entity; or*

*(2) if no person is qualified under clause (1), a properly certificated member of the school entity pool who is willing to accept employment with the school entity assuming program responsibility for transferred students. Members of the pool shall have the right to refuse employment offers from such school entity and remain in the pool. Refusal to accept work under this subsection shall not be grounds for denial of unemployment compensation under sections 401 and 402 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the "Unemployment Compensation Law."*

(c) Nothing contained in this section shall be construed to supersede or preempt any provision of a collective bargaining agreement *in effect on February 4, 1982, and* negotiated by a school entity and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act."

(d) (1) As used in this section, the term "school entity" or "school entities" shall mean an intermediate unit and its participating school districts or an area vocational-technical school and its sending school districts.

(2) *As used in this section, the term "unit" shall mean a program or class whose membership falls within the minimum and maximum class size as defined in Department of Education standards.*

Section 3. Section 1373.1 of the act is repealed.

Section 4. Section 1376(c) of the act, amended July 8, 1989 (P.L.253, No.43), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.—\*\*\*

(c) Each approved private school, prior to the start of the school year, shall submit to the department such information as the department may require in order to establish an estimate of reimbursable costs. Based upon this information, any other data deemed necessary by the department and in accordance with department standards, the department shall develop for each approved private school an estimate of reimbursable costs. Based upon such estimate, the department shall provide each approved private school with [quarterly] *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.

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

*Section 1522. Foreign Language Academies.—(a) The Department of Education shall establish a summer foreign language academy grant program utilizing Federal education funds and matching grants for students in this Commonwealth. To the greatest extent possible, the department shall estab-*

*lish guidelines for the programs which involve the universities and colleges, local school districts and intermediate units. Those students who are to participate in the program shall be selected by the local school districts.*

*(b) At least one summer foreign language academy shall be in operation by the summer of 1993.*

*(c) The department shall prepare an annual report of the summer foreign language academies program which shall be submitted to the Governor, the Education Committee of the Senate and the Education Committee of the House of Representatives.*

Section 6. Section 2501(9.2), (18) and (19) of the act, amended December 20, 1983 (P.L.267, No.73), July 1, 1985 (P.L.103, No.31) and July 8, 1989 (P.L.253, No.43), are amended to read:

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

\* \* \*

(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 [during the year for which reimbursement is being computed, divided by the most recent real property valuation of the school district] divided by the real property valuation of the school district for the year prior to the year for which reimbursement is being computed.*

\* \* \*

(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.*

(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 **[and each school year thereafter]**, the Factor for Educational Expense used to compute all school districts' entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be two thousand three hundred thirty dollars (\$2,330). *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).

Section 7. Section 2502(h) of the act, added December 17, 1982 (P.L.1378, No.316), is amended to read:

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

(h) Students enrolled in a private residential rehabilitative institution as defined in section 914.1-A or a day treatment program of such an institution or a day treatment program approved by the Department of Public Welfare as provided for in section 1310(b) *or a State-owned school other than a post-secondary school* shall be considered in the weighted average daily membership of the school district of residence for the purpose of making payments under this section.

Section 8. Section 2502.11(b) and (d) of the act, amended or added October 20, 1988 (P.L.827, No.110) and July 8, 1989 (P.L.253, No.43), are amended to read:

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

(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<br>In Average Daily Membership | Grant Per<br>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<br>In Average Daily Membership | Grant Per<br>Low-Income Pupil |
|--|-------------------------------|
| 8 - 14.9   | \$128                         |
| 15 - 29.9  | \$357                         |
| 30 or over   | \$587                         |

For the school [year 1988-1989 and each school year thereafter] 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<br>In Average Daily Membership | Grant Per<br>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<br>In Average Daily Membership | Grant Per<br>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   |

**30 or over**

*expense used to make payments on account of instruction, as provided for in section 2501(19). 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, 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.

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

| Population Per Square Mile<br>of the Qualifying District | Payment as Percent of<br>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 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 9. Section 2502.13 of the act, amended July 8, 1989 (P.L.253, No.43), 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 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, no school district shall receive less on account of this section than it did for the prior school year.



Section 10. The act is amended by adding sections 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 11. Section 2503 of the act is amended by adding a subsection to read:

**Section 2503. Payments on Account of Tuition.**—\*\*\*

*(d) Each school district, regardless of classification, whose resident pupils attend a State-owned school, other than a post-secondary school, shall pay the greater of either twenty percent (20%) of the cost per pupil as determined by the Department of Education or its tuition charge per elementary pupil or its tuition charge per high school pupil, as the case may be. The Secretary of Education shall withhold from any moneys due to such districts out of any State appropriation for assistance as reimbursement of school districts, the amounts due by such districts to such State-owned schools. Amounts so withheld shall be specifically appropriated to the Department of Education.*

Section 12. Section 2505.1 of the act is amended by adding a subsection to read:

**Section 2505.1. State Reimbursement for Health Services.**—\*\*\*

*(b.1) Every school district which renders health services to children shall be reimbursed by the Commonwealth on account of health services which conform to standards approved by the Secretary of Health. Reimbursement shall be paid by the Secretary of Health. For the school year 1990-1991, the amount of this reimbursement for this subsection shall be the sum of five dollars and ninety cents (\$5.90) multiplied by the average daily membership of each school district. For the school year 1991-1992 and each*

*school year thereafter, the amount of this reimbursement for this subsection shall be the sum of nine dollars and seventy cents (\$9.70) multiplied by the average daily membership of each school district.*

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Section 13. Section 2506.1 of the act, added December 17, 1982 (P.L.1378, No.316), is amended to read:

Section 2506.1. Payments on Account of Approved Adult Program Travel.—(a) Every school district *and area vocational-technical school* shall be paid by the Commonwealth for every school year, on account of approved adult vocational program traveling expenses in the discharge of teaching and supervisory responsibilities of teachers, coordinators, supervisors and directors in vocational education, eighty per centum (80%) of the sum expended by the school district *or area vocational-technical school* for such approved travel.

(b) *For the 1991-1992 school year and each school year thereafter, the Commonwealth shall pay the amount required by this section to the school district or area vocational-technical school which provides the program upon which such reimbursement is based.*

Section 14. Section 2507 of the act, amended July 10, 1986 (P.L.1270, No.117), is amended to read:

Section 2507. Payments on Account of Approved Vocational Extension Classes and Pre-employment Training.—Every school district and every vocational school district and area vocational-technical school, regardless of classification, shall be paid by the Commonwealth for every school year, on account of approved vocational extension classes and pre-employment training, eighty per cent (80%) of the sum which was expended by the district or area vocational-technical school for the compensation of vocational extension and pre-employment training teachers and supervisors. For the purpose of computing reimbursement, the maximum compensation shall be four dollars (\$4.00) per hour *for the 1985-1986 through the 1989-1990 school years and eight dollars and sixty cents (\$8.60) per hour for the 1990-1991 school year and each school year thereafter* and the amount expended for supervisory salaries shall not exceed twenty per cent (20%) of the sum expended for teachers' salaries: Provided, That in special cases when travel time or unusual preparation of instructional materials or other factors result in an inadequate compensation, the Department of Education may approve additional reimbursable employment time for such additional services upon the submission of adequate substantive evidence from the responsible superintendent of schools. For the 1985-1986 school year and each school year thereafter, the Commonwealth shall pay the amount required by this section to the school district or area vocational-technical school which provided the approved vocational extension classes and pre-employment training for which reimbursement is made.

Section 15. Section 2509 of the act, amended December 29, 1972 (P.L.1732, No.373), is amended to read:

Section 2509. Payments on Account of Courses for Exceptional Children.—[Annually, before] (a) *Before the first day of July of every year up*

*to and including 1990*, every school district or joint board of school directors planning to conduct classes or schools for **[the] exceptional children** shall submit, for prior review and approval to establish the amount on which reimbursement will be paid by the Department of Education, an estimate of the cost of classes or schools for exceptional children to be operated by the district or joint board during the ensuing school year, and for transportation of pupils to and from classes and schools for exceptional children conducted by the district or joint board of school directors. **[Every school district, regardless of classification, shall be paid by the Commonwealth for the school term 1953-1954, the sum of twenty dollars (\$20) per pupil in average daily membership in a course or courses for mentally handicapped children, and the sum of thirty dollars (\$30) per pupil in average daily membership in a course or courses for physically handicapped children, approved by the Secretary of Education. Beginning with] From the school term of 1954-1955 [and for every school term thereafter] up to and including the school term of 1990-1991**, every school district, regardless of classification, shall be paid by the Commonwealth an amount to be determined by multiplying the average daily membership in a course or courses for exceptional children, (1) at the elementary level, by an amount determined by subtracting the "instruction cost per elementary pupil," as defined in section 2561 of this act, from the "instruction cost per special class pupil," as hereinafter defined, for the preceding school term, or from the instruction cost per special class elementary pupil as approved for reimbursement by the Department of Education in the budget for classes or schools for exceptional children for the school year in which the class is operated, whichever is the lesser, (2) at the secondary level, by an amount determined by subtracting the "instruction cost per high school pupil," as defined in section 2561 of this act, from the "instruction cost per special class pupil," as hereinafter defined, for the preceding school term, or from the instruction cost per special classes secondary pupil as approved for reimbursement by the Department of Education in the budget for classes or school for exceptional children for the school year in which the class is operated, whichever is the lesser.

**(b)** To find the "instruction cost per special class pupil," add (1) salaries of directors and supervisors of special education, public school psychologists, principals of special schools and assistants, teachers of approved special classes for exceptional children, clerks and assistants employed in the district's program for special education, (2) the district's contribution to the retirement fund on behalf of directors and supervisors of special education, public school psychologists, principals of special schools and assistants, teachers of approved special classes for exceptional children, clerks and assistants employed in the district's program for special education, (3) the cost of textbooks and supplies of the second class used in the district's special education classes or schools, (4) the cost of telephonic system equipment which enables handicapped children to remain in their homes and still participate in classroom activities. Divide the sum of (1), (2), (3), and (4) on that part thereof which is approved by the Department of Education for reimbursement by the total number of pupils, including those pupils who have

available for use telephonic system equipment whereby they may remain at home and still participate in classroom activities, in average daily membership in the district's approved special classes for exceptional children. The quotient so obtained shall be the "instruction cost per special class pupil."

(c) The average daily membership of speech correction classes *for every school term up to and including the 1990-1991 school term* shall be calculated by multiplying (1) the average number of pupils in speech correction classes per week by (2) the number of periods per week that speech correction is provided for the individual pupil by (3) the number of minutes per period in speech correction class. Divide the product of (1), (2) and (3) by the total number of minutes spent in all classes weekly by the average pupil. The quotient thus obtained will be the "average daily membership for pupils in speech correction classes."

(d) **[For] From** the school term of 1972-1973 **[and for the school term of each school year thereafter] up to and including the school term of 1988-1989**, such payments shall consist of an amount payable in two equal installments during the year of operation, with adjustments to be made during the next succeeding school year. The amount to be paid in equal installments on or about the first day of August and on or about the first day of January of the operating year shall be the sum of the products determined by multiplying the anticipated equivalent full-time average daily membership in courses for exceptional children as reported on the approved budget for the operating year (1) at the elementary level times an amount determined by subtracting the estimated instruction cost per elementary pupil, as defined in section 2561 of this act, for the preceding school term from the budgeted instruction cost per special class elementary pupil as approved by the Department of Education for the operating year and (2) at the secondary level times an amount determined by subtracting the estimated instruction cost per high school pupil, as defined in section 2561 of this act, for the preceding school term from the budgeted instruction cost per special class secondary pupil as approved by the Department of Education for the operating year.

(e) **[The] For every operating year up to and including the 1987-1988 school year**, the adjustment to be made during the school year immediately succeeding the operating year shall be determined by subtracting the payments made during the preceding year from the actual amount of reimbursement which would have been payable for said year if calculated as during the year 1954-1955 through 1971-1972. When determined, the adjusted amount, if positive, shall be paid promptly to the district and, if negative, shall be withheld from any moneys due to such district out of any State appropriation.

(f) *During the 1991-1992 school year, the Commonwealth shall pay to each school district the estimated amount due on account of approved special education programs operated by each school district during the 1990-1991 school term. Such payments shall consist of an amount payable in six (6) installments as follows: in July of 1991, fifteen percent (15%) of the estimated amount due; in September of 1991, fifteen percent (15%) of the estimated amount due; in November of 1991, fifteen percent (15%) of the esti-*

*mated amount due; in January of 1992, fifteen percent (15%) of the estimated amount due; in March of 1992, fifteen percent (15%) of the estimated amount due; and in June of 1992, the remainder due, determined by adding the payments made during July, September, November, January and March and subtracting the result from the actual reimbursable amount earned for the 1990-1991 school term.*

Section 16. Section 2509.1 of the act, amended July 8, 1989 (P.L.253, No.43), is amended to read:

Section 2509.1. **[Payment on Account of Transportation, Classes and Schools for Exceptional and Institutionalized Children.—]** *Payments to Intermediate Units.—(a)* Annually, before the first day of July, 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 exceptional and institutionalized children, including the cost of such fiscal controls as auditing and necessary treasurer's and secretary's bonds to be operated by the intermediate unit during the ensuing school year, and] for transportation of pupils to and from classes and schools for exceptional children, *and of eligible young children to and from early intervention programs*, whether or not *such classes, schools or programs are* conducted by the intermediate unit. On or before the first day of [August] *September*, the Commonwealth shall pay to the intermediate unit a sum equal to one-half of the approved [estimated] annual cost of [operation and administration of classes and schools for exceptional and institutionalized children and] *such* transportation [for exceptional children] *in the prior year* and, on or before the first day of [January] *February*, shall pay [an equal sum, or a lesser sum as may be shown to be necessary by an adjusted budget based upon expenditures during the first half of the school term. At the end of each school year all unexpended funds shall be credited to Commonwealth. Payments due for the succeeding school year on account of the operation of such classes or upon direction of the Secretary of Education shall be returned to the Commonwealth. All such funds returned are hereby specifically appropriated to the Department of Education for support of schools and classes, and transportation for exceptional children. For] *a sum equal to one-quarter of the approved estimated annual cost of such transportation for the current school year, and on or before June 30, the Commonwealth shall pay the remaining quarter adjusted to reflect actual approved cost.*

*(b) On or before the first day of July 1991, 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 1990-1991 school year. During the 1991-1992 school year, the Commonwealth shall pay each intermediate unit the approved amount.*

*(c) For the 1991-1992 school year, five percent (5%) of the State special education appropriation shall be paid to the intermediate units on account of special education services. Of this five percent (5%), thirty-five percent (35%) shall be distributed equally among all twenty-nine (29) intermediate units. The remaining sixty-five percent (65%) shall be distributed to each*

*intermediate unit in proportion to the number of average daily membership of the component school districts of each intermediate unit as compared to the Statewide total average daily membership.*

*(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.*

*(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); in November, forty-five percent (45%) of the payments under subsection (b), (c) or (d); and on June 1, the balance of the payments due.*

*(f) For each school year up to and including 1990-1991, for each child enrolled in any special class or school for exceptional children operated by an intermediate unit, the school district in which the child is resident shall pay to the Commonwealth a sum equal to the "tuition charge per elementary pupil" or the "tuition charge per high school pupil," as determined for the schools operated by the district or by a joint board of which the district is a member, for the same year in which the special class or school is operated, as provided for in section two thousand five hundred sixty-one of the act to which this is an amendment. In the event that any school district has not established such "tuition charge per elementary pupil" or "tuition charge per high school pupil," the Secretary of Education shall fix a reasonable charge for such district for the year in question. *Except that for the 1990-1991 school year, the school district payment to the Commonwealth under this subsection, for each child enrolled in other than intermediate unit classes or schools for institutionalized children, shall be limited to twenty-five percent (25%) of the applicable tuition charges in the case of all intermediate units.* In addition, the district shall pay on account of transportation by the intermediate unit of pupils to and from classes and schools for exceptional children, whether or not conducted by the intermediate unit, an amount to be determined by subtracting from the cost of transportation per pupil the reimbursement due the district on account of such transportation [in]. In order to facilitate such payments by the several school districts[. The], the Secretary of Education shall withhold from any moneys due to such district out of any state appropriation, except from reimbursements due on account of rentals as provided in section two thousand five hundred eleven point one of the act to which this is an amendment, the amounts due by such school districts to the Commonwealth. All amounts so withheld are hereby spe-*

cifically appropriated to the Department of Education for the support of public schools. **[The cost of operating and administering classes and schools for institutionalized children, including the cost of necessary fiscal controls, shall be paid by the Commonwealth.]**

Section 17. Section 2509.3 of the act, amended July 1, 1985 (P.L.103, No.31), is amended to read:

Section 2509.3. Payments on Account of Transportation of Nonpublic School Pupils.—Each school district, regardless of classification, shall be paid by the Commonwealth the sum of thirty-five dollars (\$35) for each nonpublic school pupil transported in the school year 1978-1979 through the school year 1983-1984 **[and]**, for the school year 1984-1985 **[and each school year thereafter,]** *through the school year 1990-1991* each school district shall be paid the sum of seventy dollars (\$70) for each nonpublic school pupil transported, *and for the school year 1991-1992, each school district shall be paid the sum of one hundred twenty-four dollars (\$124) for each nonpublic school pupil transported and for the school year 1992-1993 and each school year thereafter, each school district shall be paid the sum of one hundred fifty-nine dollars (\$159) for each nonpublic school pupil transported.*

Section 18. The act is amended by adding sections to read:

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

*(a) This section applies to Commonwealth payments to school districts for the support of programs and services for exceptional children during the school year 1991-1992.*

*(b) During the 1991-1992 school year, school districts shall be paid:*

*(1) an amount to be determined by multiplying five hundred twenty-five dollars (\$525) by seventeen percent (17%) of the average daily membership of resident pupils; and*

*(2) an amount to be determined by multiplying seven thousand dollars (\$7,000) by one percent (1%) of the average daily membership of resident pupils.*

*(c) Payments to school districts pursuant to this section and any additional payments pursuant to sections 2509.6 and 2509.7 shall consist of an amount payable in six (6) installments as follows: in July, fifteen percent (15%) of the estimated amount due; in September, fifteen percent (15%) of the estimated amount due; in November, fifteen percent (15%) of the estimated amount due; in January, fifteen percent (15%) of the estimated amount due; in March, fifteen percent (15%) of the estimated amount due; and in June, the balance due, determined by subtracting the payments made during July, September, November, January and March from the special education payment earned by the school district.*

*Section 2509.6. Average Cost Guarantee.—(a) For the 1991-1992 school year, the dollars available to school districts for operating and administering classes for exceptional children shall be guaranteed at eight thousand five hundred five dollars (\$8,505) per average daily membership for special education programs and services offered by school districts during the 1990-1991 school year and ten thousand two hundred ninety dollars (\$10,290) per average daily membership for special education programs and services offered by the intermediate unit during the 1990-1991 school year.*

*(b) The dollars available to school districts for operating and administering classes for exceptional children shall be the sum of the following: total average daily membership for students receiving special education multiplied by the tuition charge pursuant to section 2561, plus the amount calculated pursuant to sections 2509(f) and 2509.5(b) and three times the district's payment to the Commonwealth for noninstitutionalized children's programs pursuant to section 2509.1(f). The sum thus obtained shall be divided by the average daily membership for students reported in intermediate unit and school district special education programs during 1990-1991. The quotient obtained is the amount available per special education average daily membership.*

*(c) For each average daily membership in special education in 1990-1991, each school district shall receive from the Commonwealth the funds equal to the greater of subsection (a) or (b).*

*Section 2509.7. Minimum Guarantee.—For the 1991-1992 school year, each intermediate unit, in the aggregate, including the intermediate unit and its member school districts, shall receive at least a three and five-tenths percent (3.5%) increase in the aggregate revenue for special education over the aggregate cash amount available from the Commonwealth for special education during the 1990-1991 school year. The intermediate unit shall meet with its constituent school districts to develop a plan for the expenditure or distribution of the funds provided by this section for the purpose of the provision of special education programs and services. These funds may not be expended or distributed by the intermediate unit until a majority of the boards of directors of the constituent school districts have approved such expenditures or distribution. If the amount received under the provisions of this section is less than ten thousand dollars (\$10,000), such amount may be retained by the intermediate unit for the purpose of providing special education programs or services without the approval of its constituent school districts. For the purpose of computing the revenue available for the guarantee in this section, the Commonwealth shall include funds allocated pursuant to sections 2509(f) and 2509.5(b), plus an amount equal to three times the school district payment to the Commonwealth pursuant to section 2509.1(b) and the funds allocated pursuant to sections 2509.1(c), (d) and (f) and 2509.6.*

*Section 2509.8. Extraordinary Special Education Program Expenses.—The Department of Education shall, for the 1991-1992 school year, 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. 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 19. Section 2517(c) of the act, amended July 1, 1985 (P.L.103, No.31), is amended to read:

Section 2517. Payments.—\* \* \*



(c) For the 1981-1982 school year [and every school year thereafter] *through the 1990-1991 school year*, the amount apportioned and allotted to each school district shall be divided into six payments and the Secretary of Education shall draw his requisition six times upon the State Treasurer in favor of each district for the amount to which it is entitled. The first five payments shall be estimates based on but not to exceed fifteen percent (15%) each of the total net amount apportioned and allocated to the school district for the payment year. The final payment shall be the balance of the apportionment due for the applicable school year. Payment thereof shall be made to all school districts on the fourth Thursday of August, October, December, February and April and the first day of June. *For the 1991-1992 school year and every school year thereafter, the amount apportioned and allotted to each school district shall be divided into six payments and the Secretary of Education shall draw his requisition six times upon the State Treasurer in favor of each district for the amount to which it is entitled. The first five payments shall be estimates based on but not to exceed fifteen percent (15%) each of the total net amount apportioned and allocated to the school district for the payment year. The final payment shall be the balance of the apportionment due for the applicable school year. Payment thereof shall be made to all school districts on the last Thursday of August, October, December, February and April and the first day of June.*

\* \* \*

Section 20. Section 2543 of the act, amended October 21, 1965 (P.L.601, No.312), is amended to read:

Section 2543. Sworn Statement of Amount Expended for Reimbursable Transportation; Payment; Withholding.—**[On or before the first day of July of each year, each school district entitled to reimbursement on account of pupil transportation shall present to the Superintendent of Public Instruction in such form as he may prescribe and on blanks to be furnished by him, a sworn statement of the amount expended during the previous school year for reimbursable transportation of pupils to and from school, and any amount expended during the previous school year for board and lodging in lieu of reimbursable transportation. On the basis of such statement, the Superintendent of Public Instruction shall, by requisition upon the State Treasurer, pay, during the month of September, to such school district, such reimbursement for the previous school year as is provided for in this act. The Department of Public Instruction] Annually, each school district entitled to reimbursement on account of pupil transportation shall provide in a format prescribed by the Secretary of Education, data pertaining to pupil transportation for the prior and current school year. Districts will receive a payment in August equal to ten percent (10%) of the transportation subsidy paid to that school district in the prior year. An additional twenty percent (20%) payment will be provided in the month following receipt of the prior year's data. A twenty-five percent (25%) payment will be forwarded in December to all school districts that have provided current year data. A payment in March will be calculated by totaling all current year transportation payments and subtracting that total from an amount equal to eighty percent (80%) of**

*the projected total transportation reimbursement for the current year. The final payment will occur in June and be calculated by subtracting the total of the first four payments, and any other transportation subsidy adjustments necessary, from the actual current year's total transportation reimbursement. The Department of Education may, for cause specified by it, withhold such reimbursement, in any given case, permanently, or until the school district has complied with the law or regulations of the State Board of Education.*

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

**ARTICLE XXVI-F  
EQUIPMENT GRANTS**

*Section 2601-F. Definitions.—When used in this article, the following words and phrases shall have the following meanings:*

*“Community colleges” shall mean institutions now or hereafter created pursuant to the act of August 24, 1963 (P.L.1132, No.484), known as the “Community College Act of 1963,” or Article XIX-A of this act.*

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

*“Educational equipment” shall mean tangible property used by institutions of higher education in support of instruction. The term shall not include equipment used in support of sectarian and denominational instruction or for any other sectarian and denominational purpose or activity.*

*“Eligible institution” shall mean an independent institution of higher education which is approved by the department for equipment grants pursuant to the provisions of this article. The term does not include an institution which is determined by the Department of Education to be a community college, a theological seminary or school of theology or a sectarian and denominational institution, nor does it include a State-owned or State-related institution.*

*“Equipment grant” shall mean an amount determined by dividing the funds appropriated pursuant to this article, less reasonable administrative expenses, by the total of all certified full-time equivalent students from all eligible institutions applying for grants.*

*“Full-time equivalent students” shall mean the enrollment in programs at eligible institutions expressed in terms of full-time students as determined by the Department of Education.*

*“Independent institution of higher education” shall mean an institution of higher education which is operated not-for-profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in section 211 of the act of May 5, 1933 (P.L.289, No.105), known as the “Nonprofit Corporation Law,” and entitled to apply to itself the designation “college” or “university” as provided for by standards and qualifications prescribed by the State Board of Education pursuant to the act of May 7, 1937 (P.L.585, No.150), entitled, as amended, “An act prohibiting the use of the designation of ‘college’ by any institution not conforming to the standards of a college prescribed by the State Board of Education; and providing for injunctions, and penalties.”*

**“Pennsylvania based” shall mean educational equipment manufactured or assembled within this Commonwealth, or sold, leased or otherwise provided to an eligible institution by a vendor which has a place of business in this Commonwealth.**

**“State-owned institution” shall mean a member institution of the State System of Higher Education.**

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

**Section 2602-F. Certification of Recipients.—From the information it receives from colleges and universities the department shall certify the number of full-time equivalent students attending each eligible institution during the most recent year for which data is available.**

**Section 2603-F. Institutional Equipment Grants.—For the academic year beginning on or about September 1, 1991, the department shall allot a one-time equipment grant on behalf of each full-time equivalent student attending the eligible institution as certified pursuant to section 2602-F. The allotment shall be made to each eligible institution from the funds appropriated to the department pursuant to this article. Following an initial allocation and allotment, if any funds appropriated have not been and cannot be allocated to one or more institutions otherwise eligible for funds, the department shall reallocate these funds to the remaining eligible institutions so that all funds appropriated under this article have been allotted.**

**Section 2604-F. Use of Moneys.—The moneys appropriated shall be used only for, or in connection with, expenses incurred by the eligible institution to purchase, lease or otherwise acquire educational equipment which is Pennsylvania based. If the eligible institution purchases, leases or otherwise acquires educational equipment which is not Pennsylvania based, it must file with the department a statement of justification as to why Pennsylvania-based educational equipment was not obtained.**

**Section 2605-F. Forfeiture.—Any eligible institution which refuses to submit such information for audit as required by this article or knowingly submits misrepresentations or false statements with the intention of fraudulently obtaining moneys from the department shall be denied status as an eligible institution under the provisions of this article.**

**Section 2606-F. Expiration.—This article shall expire on June 30, 1992.**

**Section 22. The amendment, addition or repeal of sections 687, 1113, 1373.1, 1376(c), 2501(9.2), (18) and (19), 2502(h), 2502.11(b) and (d), 2502.13, 2502.17, 2502.18, 2503, 2505.1, 2506.1, 2507, 2509, 2509.1, 2509.3, 2509.5, 2509.6, 2509.7, 2509.8, 2517(c) and 2543 and Article XXVI-F of the act shall be retroactive to July 1, 1991.**

**Section 23. This act shall take effect immediately.**

**APPROVED—The 5th day of August, A. D. 1991.**

**ROBERT P. CASEY**