

No. 1998-46

AN ACT

SB 494

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 auxiliary services and for the definitions of "school year" and "children in low-income families"; authorizing school districts to impose dress codes and require students to wear standard dress or uniforms; further providing for distressed school districts and for basic education grants and higher education grants for the Link-to-Learn Program; providing for certain procedures relating to management of distressed first class school districts and for technology grants to nonpublic and private schools; further providing for community college reimbursements, small school district assistance, basic education funding payments to intermediate units, special education payments to school districts, school performance incentives and charter school grants; providing for community education councils, for the operation of the State System of Higher Education, for payments on account of transportation of nonpublic school pupils, for temporary special aid to school districts suffering loss of tax revenue due to reduction in assessed valuation of taxable property and for incentives for administrative and instructional consolidation; and making repeals.

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

Section 1. Sections 102(4) and 507 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, section 102(4) amended July 31, 1963 (P.L.389, No.206), are amended to read:

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

* * *

(4) "School year" shall mean the period of time elapsing in school districts of the first class between the first day of January and the thirty-first day of December of any year, and in school districts of all other classes between the first day of July of one year and the thirtieth day of June of the following year. *School districts with a year-round education program may submit a request to the Secretary of Education for approval or disapproval to extend the school year until August 15 for the purpose of determining average daily memberships for students whose one hundred eighty (180) days of instruction continue into the summer months.*

* * *

Section 507. General Powers; Taxation.—In order to establish, enlarge, equip, furnish, operate, and maintain any schools or departments herein provided, or to pay any school indebtedness which any school district is required to pay, or to pay any indebtedness that may at any time hereafter be created by any school district, or to enable it to carry out any provisions of this act, the board of school directors in each school district is hereby vested

with all the necessary authority and power annually to levy and collect, in the manner herein provided, the necessary taxes required, in addition to the annual State appropriation, and shall have, and be vested with, all necessary power and authority to comply with and carry out any or all of the provisions of this act. *In the case of a school district of the first class, the duties imposed by this section shall apply to a city of the first class that is coterminous with a school district of the first class.*

Section 2. Section 691 of the act, amended or added December 15, 1959 (P.L.1842, No.675) and July 31, 1963 (P.L.407, No.215), is amended to read:

Section 691. When District Distressed.—(a) A school district shall be deemed to be distressed when any one of the following circumstances shall arise and the [Superintendent of Public Instruction] *Secretary of Education*, after proper investigation of the district's financial condition, the administrative practices of the board and such other matters [as to him may seem pertinent] *deemed appropriate by the Secretary of Education*, has issued a certificate declaring such district in financial distress:

(1) The salaries of any teachers or other employes have remained unpaid for a period of ninety (90) days.

(2) The tuition due another school district remains unpaid on and after January first of the year following the school year it was due and there is no dispute regarding the validity or amount of the claim.

(3) Any amount due any joint board of school directors under a joint board agreement remains unpaid for a period of ninety (90) calendar days beyond the due date specified in the joint board's articles of agreement.

(4) The school district has defaulted in payment of its bonds or interest on such bonds or in payment of rentals due any authority for a period of ninety (90) calendar days and no action has been initiated within that period of time to make payment.

(5) The school district has contracted any loan not authorized by law.

(6) The school district has accumulated and has operated with a deficit equal to two per centum (2%) or more of the assessed valuation of the taxable real estate within the district for two successive years.

(7) A new, merged or union school district has been formed and one or more of the former school districts which compose the merged or union school district was a distressed school district at the time of the formation of the merged or union school district.

(b) No school district shall be deemed to be distressed by reason of any of the above circumstances arising as a result of the failure of the Commonwealth to make any payment of money due the district at the time such payment is due.

(c) *In addition to the circumstances to determine financial distress under subsection (a), the Secretary of Education may declare a school district of the first class to be distressed if the Secretary of Education determines that:*

(1) the school district of the first class failed to adopt or to comply with a valid budget to operate the school district for a minimum instructional school year under section 1501;

(2) the school district of the first class failed to allocate or transfer revenues to ensure that funds are sufficient to provide a minimum instructional school year under section 1501;

(3) the city of the first class failed to transfer revenues to the school district consistent with the current budget; or

(4) the school district of the first class has failed or will fail to provide for an educational program in compliance with the provisions of this act, regulations of the State Board of Education or standards of the Secretary of Education.

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

Section 696. Distress in School Districts of the First Class.—(a) The Secretary of Education shall appoint a chief executive officer within fifteen (15) days after a declaration by the Secretary of Education that a school district of the first class is distressed under section 691(c) to oversee and manage the school district. The chief executive officer shall serve at the pleasure of the Secretary of Education.

(b) The chief executive officer and the School Reform Commission shall assume control of the affairs of the district. Except as provided in this section, the chief executive officer shall assume the powers and duties of the superintendent and the board of school directors until termination of the period of distress under subsection (n).

(c) Upon the appointment of the chief executive officer, the superintendent shall be suspended or dismissed, and the powers and duties of the board of school directors shall be suspended.

(d) Within fifteen (15) days of a declaration by the Secretary of Education that a school district of the first class is distressed under section 691(c), a five-member School Reform Commission shall be established. Members shall serve at the pleasure of the appointing authority. The School Reform Commission shall consist of the following:

(1) Three members appointed by the Governor, at least two of whom shall be residents of the school district.

(2) One member appointed by the mayor who shall be a resident of the school district. In the event the mayor fails to appoint the member to the commission within fifteen (15) days of the date the Secretary of Education declared the district to be distressed, the Governor shall appoint the remaining member.

(3) The Secretary of Education, who shall serve as chairman, or his designee.

(e) The School Reform Commission shall advise and assist the chief executive officer regarding the operation, management and educational program of the school district. The powers and duties granted heretofore to the board of school directors of a school district of the first class under

this act or any other law regarding the authority to levy taxes and incur debt shall be vested in the School Reform Commission until the Secretary of Education issues a declaration under subsection (n).

(f) The commission members shall be reimbursed for expenses incurred in the performance of their official duties from funds of the Department of Education.

(g) Actions of the School Reform Commission shall be by majority vote. Three members shall constitute a quorum.

(h) The chief executive officer and the School Reform Commission shall direct financial matters related to the distressed school district of the first class and:

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

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

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

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

(5) The chief executive officer shall develop and adopt a budget with the assistance of the School Reform Commission.

(i) In addition to all powers granted to the superintendent by law and a special board of control under section 693 and notwithstanding any other law to the contrary, the chief executive officer shall have the following powers:

(1) To appoint such persons and other entities as needed to conduct fiscal and performance audits and other necessary analyses.

(2) Except as otherwise provided for in this section, to approve the establishment of a charter school or the conversion of an existing school to a charter school pursuant to the provisions of Article XVII-A.

(i) A school district building converted to a charter school or a charter school otherwise approved under this section shall not be subject to sections 1717-A(b), (c), (d), (e), (f) and (g), 1722-A(c) and 1724-A.

(ii) The chief executive officer may suspend or revoke a charter pursuant to section 1729-A.

(3) To suspend the requirements of this act and regulations of the State Board of Education except that the school district shall remain subject to those provisions of this act and regulations set forth in section 1732-A(a), (b) and (c).

(4) To employ professional and senior management employees who do not hold State certification if the School Reform Commission has approved the qualifications of the person at a salary established by the commission.

(5) To enter into contracts with for-profit or nonprofit entities for the purpose of operating schools or providing educational or other services to or for the school district.

(6) Notwithstanding any other provisions of this act, to close or reconstitute a school, including the reassignment, suspension or dismissal of professional employees.

(7) To suspend professional employees without regard to the provisions of section 1125.1.

(8) To appoint managers or management teams to oversee the operations of a school or group of schools within the school district.

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

(10) To supervise and direct principals, teachers and administrators.

(11) To negotiate any memoranda of understanding under the collective bargaining agreement in existence on the effective date of this section.

(12) To negotiate a new collective bargaining agreement.

(j) The board of school directors of the distressed school district of the first class shall continue in office for the remainder of their terms during the time the district is operated by the chief executive officer and the commission unless removed for neglect of duty under section 318 by the court of common pleas or unless the director is elected to another position not compatible with the position of school director or is appointed to a position for which there is a requirement that the appointee shall hold no

elective office. The board of school directors shall perform any duties delegated to it by the commission. The assumption of control by the chief executive officer and the School Reform Commission shall not interfere with the regular selection of school directors for the school district of the first class.

(k) Collective bargaining between employes and the school district of the first class shall be conducted in accordance with this subsection.

(1) Whether or not a declaration of distress has been made under section 691(c), a collective bargaining agreement in effect on the effective date of this section shall not be extended and shall have no force or effect beyond the existing term of the contract, notwithstanding any other law to the contrary.

(2) No distressed school district of the first class shall be required to engage in collective bargaining negotiations or enter into memoranda of understanding or other agreements regarding any of the following issues:

(i) Contracts with third parties for the provision of goods or services, including educational services or the potential impact of such contracts on employes.

(ii) Decisions related to reductions in force.

(iii) Staffing patterns and assignments, class schedules, academic calendar, places of instruction, pupil assessment and teacher preparation time.

(iv) The use, continuation or expansion of programs designated by the chief executive officer as pilot or experimental programs.

(v) The approval or designation of a school as a charter or magnet school.

(vi) The use of technology to provide instructional or other services.

(3) A collective bargaining agreement for professional employes entered into after the expiration of the agreement in effect on the date of the declaration of distress shall provide for the following:

(i) A school day for professional employes that is equal to or exceeds the State average as determined by the department. An extension of the school day resulting from this requirement shall be used exclusively for instructional time for students.

(ii) The number of instructional days shall be equal to or exceed the State average number of instructional days.

(iii) The chief executive officer and the commission shall not increase compensation for employes solely to fulfill the requirements under subparagraphs (i) and (ii).

(4) A provision in any contract in effect on the date of the declaration of distress under this subsection that is in conflict with this subsection shall be discontinued in any new or renewed contract.

(5) Nothing in this subsection shall eliminate, supersede or preempt any provision of an existing collective bargaining agreement until the expiration of the agreement unless otherwise authorized by law.

(6) If upon the termination of a collective bargaining agreement in effect on the date of the declaration of distress under this section a new collective bargaining agreement has not been ratified, the Secretary of Education shall establish a personnel salary schedule to be used until a new agreement is ratified.

(l) During the time the school district of the first class is under the direction of the chief executive officer, all school employes shall be prohibited from engaging in any strike as defined in Article XI-A and section 301 of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act." The Secretary of Education may suspend the certificate of an employe who violates this subsection.

(m) If a vacancy occurs in the position of chief executive officer, the Secretary of Education may implement a temporary transfer of all powers and duties of the chief executive officer to the School Reform Commission until a new chief executive officer is appointed.

(n) The Secretary of Education, upon the recommendation of the chief executive officer and with the concurrence of a majority of the School Reform Commission, may issue a declaration to dissolve the commission and terminate the services of the chief executive officer. The dissolution declaration shall be effective ninety (90) days after issuance by the Secretary of Education.

(o) The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, the invalidity shall not affect the remaining provisions or applications.

Section 4. Sections 917.1-A and 919.1-A of the act are amended by adding subsections to read:

Section 917.1-A. Commonwealth Payments.—* * *

(h) For the 1998-1999 school year, each intermediate unit shall receive a proportionate share of the amount available under subsection (a) minus the payments made under section 919.1-A(e) based on the amount received by the intermediate unit under subsection (g) for the 1997-1998 school year. During the 1998-1999 school year, however, no intermediate unit shall receive less payment under this subsection than the amount of the payments the intermediate unit received under subsection (g) during the 1997-1998 school year.

Section 919.1-A. Capital Subsidy.—* * *

(e) Notwithstanding any provision of this act to the contrary, for the 1998-1999 school year, each intermediate unit shall receive the actual payment for capital subsidy which it received under this section and section 2502.6(b) during the 1997-1998 school year.

Section 5. Section 922.1-A(c) of the act, added August 1, 1975 (P.L.180, No.89), is amended to read:

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

(c) Program of Auxiliary Services. Students attending nonpublic schools shall be furnished a program of auxiliary services which are provided to

public school students in the school district in which their nonpublic school is located. The program of auxiliary services shall be provided by the intermediate unit in which the nonpublic school is located, in accordance with standards of the Secretary of Education. Such services shall be provided directly to the nonpublic school students by the intermediate unit **[except that such services shall not be provided in a church or in any facility under the control of a sectarian school]** *in the schools which the students attend, in mobile instructional units located on the grounds of such schools or in any alternative setting mutually agreed upon by the school and the intermediate unit, to the extent permitted by the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania.*

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

Section 6. The act is amended by adding a section to read:

Section 1317.3. Uniforms.—The board of directors in any school entity may impose limitations on dress and may require pupils to wear standard dress or uniforms. Dress policies may be applicable throughout the school entity or may be applicable to one or more school buildings within the school entity.

Section 7. Section 1548 of the act, added June 7, 1993 (P.L.49, No.16), is amended 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.] All provisions in 22 Pa. Code Chs. 14 (relating to special education services and programs) and 342 (relating to special education services and programs) pertaining to instructional support are optional for school districts.**

Section 8. The definition of “community education council” in section 1502-A of the act, added June 25, 1997 (P.L.297, No.30), is amended to read:

Section 1502-A. Definitions.—As used in this article,

* * *

“Community education council” shall mean a nonprofit **[institutionally neutral]** educational organization, governed by a community-based board of directors, which serves to provide access to post-secondary education and training resources for citizens in **[communities that have a shortage of**

adult education, continuing education and/or post-secondary education services] *educationally underserved areas of this Commonwealth.*

* * *

Section 9. Sections 1503-A(c)(2.1) and (2.2) and 1504-A(a) of the act, amended June 25, 1997 (P.L.297, No.30), are amended to read:

Section 1503-A. Basic Education Grants.—* * *

(c) * * *

(2.1) For the 1997-1998 *and 1998-1999* school [year] years, a school district shall be eligible for a grant in the same amount as a school district was eligible to receive for the 1996-1997 school year as provided in clause (2).

(2.2) For the 1997-1998 *and 1998-1999* school [year] years, an area vocational-technical school shall be eligible to receive from the amount of three million dollars (\$3,000,000) appropriated for the purposes of this clause a grant in the same [manner as a school district as provided in clause (2). **If the sum provided in this clause is not sufficient to pay in full the total amount to which a qualifying area vocational-technical school is entitled to receive, the allocation shall be proportionately reduced to the extent necessary to bring the aggregate of the allocations within the limit of the amount provided in this clause] amount as the area vocational-technical school was eligible to receive for the 1997-1998 school year.**

* * *

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

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

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

(i) Funds for [**infrastructure investment**] grants shall be distributed through [**a grant**] *an* application at such time and in such form as the Secretary of Education may require.

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

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

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

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

* * *

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

Section 1505-A. Technology Grants for Equipment and Services.—(a) *The purposes of the technology grants to benefit students in nonpublic and private schools are to:*

(1) *Improve the education Pennsylvania's nonpublic and private school students receive.*

(2) *Increase nonpublic and private students' access to worldwide information, expertise and resources available through technology.*

(3) *Provide professional development opportunities to ensure nonpublic and private school teachers can use technology effectively with the curriculum.*

(4) *Complement Link-to-Learn's efforts and add value to the Pennsylvania Education Network by forging collaborative partnerships between educational institutions.*

(5) *Complement Federal technology initiatives.*

(b) *The Department of Education through intermediate units shall have the power and duty to purchase computer hardware, software, connectivity and related technology to loan them to all children residing in this Commonwealth who are enrolled in grades kindergarten through twelve of a nonpublic and private school and may provide professional development opportunities. The Secretary of Education shall establish a per capita formula based on the number of eligible students in nonpublic and private schools and each intermediate unit. Funds shall be allocated to intermediate units who shall purchase and loan the equipment to such children and may provide professional development opportunities. Equipment and services shall not be used for sectarian purposes.*

Section 11. Section 1913-A(b)(1.4)(iii) of the act, amended June 25, 1997 (P.L.297, No.30), is amended to read:

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

*

(b) * * *

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

* * *

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

(A) One thousand one hundred dollars (\$1,100) per full-time equivalent student enrolled in advanced technology programs. For the fiscal year 1995-1996 [and each year thereafter], *1996-1997 and 1997-1998*, the reimbursement rate shall be calculated at one thousand one hundred seventy-five dollars (\$1,175) per full-time equivalent student enrolled in advanced technology programs. *For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at one thousand four hundred sixty dollars (\$1,460) per full-time equivalent student enrolled in advanced technology programs.* Advanced technology programs are programs using new or advanced technologies which hold promise for creating new job opportunities, including such fields as robotics, biotechnology, specialized materials and engineering and engineering-related programs.

(B) One thousand dollars (\$1,000) per full-time equivalent student enrolled in programs designated as Statewide programs. For the fiscal year 1995-1996 [and each year thereafter], *1996-1997 and 1997-1998*, the reimbursement rate shall be calculated at one thousand seventy-five dollars (\$1,075) per full-time equivalent student enrolled in programs designated as Statewide programs. *For the fiscal year 1998-1999 and each year thereafter, the reimbursement rate shall be calculated at one thousand three hundred sixty dollars (\$1,360) per full-time equivalent student enrolled in programs designated as Statewide programs.* A Statewide program is a program which meets one or more of the following criteria:

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

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

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

* * *

Section 12. Section 2003-A.1(c) of the act, amended July 11, 1990 (P.L.424, No.103), is amended to read:

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

(c) All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed [five thousand dollars

(\$5,000)] ten thousand dollars (\$10,000) shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. *In case of emergencies and notwithstanding any other provision of this section to the contrary, the chancellor may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the State system and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.*

* * *

Section 13. Section 2006-A(a) of the act is amended by adding a clause to read:

Section 2006-A. Powers and Duties of the Board of Governors.—(a) The Board of Governors shall have overall responsibility for planning and coordinating the development and operation of the system. The powers and duties of the Board of Governors shall be:

* * *

(13.1) To set the amounts for fines for violations of rules respecting the use, parking and operation of motor vehicles on system facilities, which may be established to exceed the amounts which municipalities are authorized to assess for such offenses under 75 Pa.C.S. (relating to vehicles).

* * *

Section 14. Section 2010-A introductory paragraph and (10) of the act, added November 12, 1982 (P.L.660, No.188), is amended to read:

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

* * *

(10) Within the limitations of the operating budget and other available funds in accordance with the procedures established by the board and with the approval of the local council, to negotiate and award all contracts for equipment, services and supplies in excess of a cost of [five thousand dollars (\$5,000)] *ten thousand dollars (\$10,000)* on a competitive bid basis and to purchase instructional, educational, extracurricular, technical, administrative, custodial and maintenance equipment and supplies not in excess of a cost of [five thousand dollars (\$5,000)] *ten thousand dollars*

(\$10,000) without competitive bidding, except that such items shall not be bought in series to avoid the dollar ceiling.

* * *

Section 15. Section 2501(21) of the act, added June 7, 1993 (P.L.49, No.16), is amended to read:

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

* * *

(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.)] *pursuant to Title IV of the Social Security Act, as amended (42 U.S.C. § 601 et seq.)*.

* * *

Section 16. Section 2502.13 of the act, amended June 30, 1995 (P.L.220, No.26), is amended to read:

Section 2502.13. Small District Assistance.—For the 1984-1985 and 1985-1986 school years, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to fifty dollars (\$50) multiplied by that district’s average daily membership. For the 1985-1986 school year, no school district shall receive less on account of this section than it did for the 1984-1985 school year. For the school year 1986-1987, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and has a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1985-1986 school year, an amount equal to seventy-five dollars (\$75) multiplied by that district’s average daily membership. For the school year 1987-1988, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the 1986-1987 school year, an amount equal to eighty-five dollars (\$85) multiplied by that district’s average daily membership. For the school year 1988-1989, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten thousandths (0.5000) or greater, or received payments under this section for the 1987-1988 or 1988-1989 school year, an amount equal to one hundred five dollars (\$105). For the school year 1989-1990, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater,

or received payments under this section for the 1987-1988 school year, an amount equal to one hundred fifteen dollars (\$115) multiplied by the district's average daily membership as provided for in section 212 of the act of July 1, 1990 (P.L.1591, No.7A), known as the "General Appropriation Act of 1990." For the school year 1990-1991, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, or received payments under this section for the prior school year, an amount equal to one hundred seventy dollars (\$170) multiplied by that district's average daily membership. For the school year 1990-1991, each school district with a population per square mile of less than ninety (90), which otherwise meets the average daily membership and market value/income aid ratio requirements of this section, or received payments under this section for the prior school year, shall instead receive an amount equal to one hundred ninety dollars (\$190) multiplied by that district's average daily membership. For the 1987-1988 school year through the 1990-1991 school year, no school district shall receive less on account of this section than it did for the prior school year. For the school year 1994-1995, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater, an amount equal to ninety five dollars (\$95) multiplied by that district's average daily membership. *For the school year 1997-1998, the Commonwealth shall pay to each school district which has an average daily membership of one thousand five hundred (1,500) or less and a market value/income aid ratio of five thousand ten-thousandths (0.5000) or greater an amount equal to seventy-five dollars (\$75) multiplied by that district's average daily membership.*

Section 17. Section 2502.30 of the act, amended July 11, 1996 (P.L.633, No.107), is amended to read:

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

and 1998-1999 at twenty-five per centum (25%) of the funds received in fiscal year 1994-1995. This section shall expire October 1, [1998] 1999.

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

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

Section 2502.35. Basic Education Funding for 1997-1998 School Year.—For the 1997-1998 school year, the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of the following:

(1) *An amount equal to the basic education funding allocation for the 1996-1997 school year pursuant to section 2502.33.*

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

(i) *To qualify for the base supplement, a school district's 1998-1999 market value/income aid ratio must be equal to or greater than four thousand ten-thousandths (0.4000).*

(ii) *The base supplement is calculated for qualifying school districts as follows: multiply the school district's 1998-1999 market value/income aid ratio times its 1997-1998 average daily membership; multiply this product times eighty-five million five hundred thousand dollars (\$85,500,000); divide the resultant product by the sum of the products of the 1998-1999 market value/income aid ratio times the 1997-1998 average daily membership for all qualifying districts.*

(3) *A growth supplement is calculated for qualifying school districts as follows: multiply the increase in average daily membership between the 1996-1997 and 1997-1998 school years times four hundred dollars (\$400).*

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

(i) *To qualify for the poverty supplement, the number of children in low-income families residing in the district for the 1997 calendar year divided by the district's average daily membership for the 1997-1998 school year must be greater than or equal to ten per centum (10%).*

(ii) *The poverty supplement is calculated for qualifying school districts by multiplying the number of children in low-income families as defined in section 2501(21) residing in the district for the 1997 calendar year times fifty dollars (\$50).*

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

(i) *Each school district with a 1998-1999 market value/income aid ratio equal to or greater than seven thousand ten-thousandths (0.7000) will receive additional funding, as necessary, so that the sum of the amounts in clauses (2), (3), (4) and (5) will equal at least four per centum (4%) of the amount in clause (1).*

(ii) *Each school district with a 1998-1999 market value/income aid ratio less than seven thousand ten-thousandths (0.7000) will receive additional funding, as necessary, so that the sum of the amounts in clauses (2), (3), (4) and (5) will equal at least one per centum (1%) of the amount in clause (1).*

Section 19. Section 2509.1(d)(4) of the act, amended June 25, 1997 (P.L.297, No.30), is amended and the section is amended by adding a subsection to read:

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

(b.6) Up to nine million dollars (\$9,000,000) may be utilized for programs administered and operated during the 1998-1999 school year for institutionalized children by intermediate units as established in subsection (b.1).

* * *

(d) * * *

[(4) For the 1998-1999 school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid a proportionate share of ten million three hundred thousand dollars (\$10,300,000) based on the amount received by the intermediate unit for the cost of operating and administering classes or schools for children with exceptionalities, as approved by the Department of Education for the 1990-1991 school year.]

* * *

Section 20. Section 2509.3 of the act, amended June 30, 1995 (P.L.220, No.26), is amended to read:

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

Section 21. Section 2509.5 of the act is amended by adding subsections to read:

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

(p) During the 1998-1999 school year, each school district shall be paid:

(1) an amount to be determined by multiplying fifteen percent (15%) of its school-age average daily membership by one thousand two hundred sixty dollars (\$1,260); and

(2) an amount to be determined by multiplying one percent (1%) of its school-age average daily membership by thirteen thousand nine hundred fifty-five dollars (\$13,955).

(q) During the 1998-1999 school year, a portion of the funds appropriated to the Department of Education for special education shall be available to provide supplemental funding for special education to school districts which operate special education programs. Only school districts that qualify under the provisions of subsection (r) will be eligible to receive this supplemental special education funding.

(r) School districts will qualify for supplemental payments under subsection (q) if:

(1) (i) the school district's special education expenditures for the 1995-1996 school year as a percentage of the sum of the school district's 1995-1996 school year expenditures for regular education, vocational-technical education and special education is equal to or greater than the special education expenditures of all school districts for the 1995-1996 school year as a percentage of the sum of the 1995-1996 school year expenditures of all school districts for regular education, vocational-technical education and special education; and

(ii) the school district's market value/income aid ratio for the 1997-1998 school year is equal to or greater than six thousand ten-thousandths (0.6000); and

(iii) the school district's equalized millage for the 1995-1996 school year is equal to or greater than twenty-one (21); or

(2) The school district satisfies the criterion set forth in clause (1)(i), does not satisfy the criterion set forth in clause (1)(ii) but the school district's equalized millage for the 1995-1996 school year is equal to or greater than twenty-five (25); or

(3) The school district does not satisfy the criteria of clause (1) or (2) but does satisfy the following:

(i) the number of school-age children in low-income families as defined in section 2501(21) for calendar year 1996 is equal to or greater than thirteen percent (13%) of the school district's 1996-1997 school year average daily membership; and

(ii) the school district's market value/income aid ratio for the 1997-1998 school year is equal to or greater than five thousand five hundred ten thousandths (0.5500).

(s) Qualifying school districts will receive an additional twenty percent (20%) of the amount calculated at subsection (p)(1). This amount shall be paid pursuant to the payment schedule established in subsection (c). During

the 1998-1999 school year, however, no school district shall receive less payment under subsections (p) and (r) than the amount of the payments the school district received during the 1997-1998 school year under subsections (l) and (m).

(t) Additionally, during the 1998-1999 school year, each school district of the first class or first class A belonging to an intermediate unit the boundary of which is coterminous with that of the school district shall receive a proportionate share of ten million three hundred thousand dollars (\$10,300,000) based on the amount received by its coterminous intermediate unit for the cost of operating and administering classes or schools for students with exceptionalities as approved by the Department of Education for the 1990-1991 school year. This amount will be added to the school district's payment under subsection (q). Provided, however, that during the 1998-1999 school year, no school district of the first class or first class A will receive less payment under this subsection and subsection (q) than the amount of the payments the school district's coterminous intermediate unit received during the 1997-1998 school year under section 2509.1(d)(3).

Section 22. Section 2595 of the act, repealed June 25, 1997 (P.L.297, No.30), is reenacted and amended to read:

Section 2595. School Performance Incentives.—(a) The purpose of this section is to establish a program of school performance incentives to reward significant educational improvements, to evoke further school performance improvement and to foster collegial participation by school employes in improving school performance.

(b) Any public elementary school, secondary school or area vocational-technical school is eligible to participate in the school performance program.

(c) (1) School performance will be determined by improvements in student accomplishment using the following criteria:

(i) student achievement as measured by performance on tests developed or approved by the State board through regulation and pursuant to this act;

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

(iii) students prepared to go on to higher education as measured by an increase in the proportion of high school students taking the Scholastic Aptitude Tests and an increase in the average scores on Scholastic Aptitude Tests.

(2) Improvements in school performance shall be calculated on performance levels during the year prior to the year in which incentive payments are made compared to performance levels during either the immediately preceding year or the average of the two immediately preceding years.

(3) All data submissions from the schools shall be subject to audit, and any incentive payment amounts subsequently determined to be

excessive due to inappropriate data shall be deducted from subsequent Equalized Subsidy for Basic Education payments.

(4) The Secretary of Education shall monitor and evaluate the criteria for selection of schools and shall annually determine and publish the required level of performance improvement for schools to be awarded incentive payments. Beginning with payments to be made during the 1990-1991 fiscal year, any revisions shall be proposed on or before September 1 of the fiscal year prior to the fiscal year in which the incentive payments are to be distributed.

(d) The Secretary of Education shall award on account of each school that meets the required level of performance improvement an amount determined by dividing the total full-time equivalent professional employes of the qualifying schools into the amount annually appropriated for the school performance incentives. All awards shall be limited to funds appropriated for this purpose. The incentive awards will be distributed to the school districts based on the number of full-time equivalent professional employes at the qualifying school. Each school performance incentive payment shall be made in a single payment, and the Secretary of Education shall draw his requisition upon the State Treasurer in favor of each school district with qualifying schools.

(e) (1) Incentive funds shall be paid to the school district for use only by schools which qualify pursuant to subsection (c). Payments received by school districts with qualifying schools may be applied to one or more of the following uses:

(i) Teaching materials, including books, audio-visual aids and computer software.

(ii) Initiatives which reach to families to evoke home support of the work of the school and otherwise involve families in the school.

(iii) Assistance in the introduction or advancement of curricular and instructional improvements.

(iv) Other uses reasonably expected to improve school performance or to enhance teaching and learning or the educational climate of the school.

(2) Uses of incentive funds, as provided for in clause (1) of this subsection, in each school shall be determined by the regular full-time and part-time school employes in the school through a selection process of their choice.

(f) Incentive funds provided pursuant to this section shall be used to supplement and not to supplant any other sources of funds for the operation of the qualifying schools and the instructional program of such schools.

(g) (1) Each school district receiving a school performance incentive payment shall report to the Secretary of Education no later than October 31 of the fiscal year following the year in which such funds were expended on the use of the funds, the results of the use of such funds

and the maintenance of the fiscal effort on behalf of qualifying school buildings of such school districts. Reports by school districts, as provided for in this subsection, shall be submitted in a form determined by the Secretary of Education.

(2) The Secretary of Education shall file a report by the end of the 1998-1999 fiscal year and annually thereafter with the Education Committee of the House of Representatives and the Education Committee of the Senate a report on the operation of the school performance incentives program provided for herein, including any recommendations for changes in the selection criteria.

(3) By September 15, 1992, the Secretary of Education shall report to the Chairman and Minority Chairman of the Education Committee of the House of Representatives and to the Chairman and Minority Chairman of the Education Committee of the Senate on: The identification of exemplary educational programs initiated in various schools which resulted in superior performance improvement; recommendations of methods of encouraging replication of these programs; and evaluation and recommendations on whether these programs should be continued or altered.

(h) Nothing in this section shall be construed to deprive any employe, any employe organization or any public employer of any rights, including rights of representation, enjoyed under the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," or under other provisions of this act.]

(a) The purpose of this section is to establish a program of school performance incentives to reward significant educational improvements, to evoke further school performance improvement and to foster collegial participation by school employes in improving school performance.

(b) Any public elementary school, secondary school or area vocational-technical school is eligible to participate in the school performance program.

(c) (1) School performance will be determined by improvements in student accomplishment using the following criteria:

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

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

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

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

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

(3) *All data submissions from the schools shall be subject to audit, and any incentive payment amounts subsequently determined to be excessive due to inappropriate data shall be deducted from subsequent basic education funding payments.*

(4) *The Secretary of Education shall monitor and evaluate the criteria for selection of schools and shall annually determine and publish the required level of performance improvement for schools to be awarded incentive payments.*

(d) *The Secretary of Education shall award on account of each school that meets the required level of performance improvement an amount determined by multiplying the number of students in the school by the fixed amount per student established annually when the appropriation for the school performance incentives funding is established. All awards shall be limited to funds appropriated for this purpose. The incentive awards will be distributed to the school districts based on the number of students enrolled in the qualifying school October 1 of the school year in which the criteria for the award was met. Each school performance incentive payment shall be made in a single payment, and the Secretary of Education shall draw his requisition upon the State Treasurer in favor of each school district with qualifying schools.*

(e) (1) *Incentive funds shall be paid to the school district for use only by schools which qualify pursuant to subsection (c). Payments received by school districts with qualifying schools may be applied to one or more of the following uses:*

(i) *Instructional equipment and materials, including, but not limited to, textbooks, library holdings, laboratory equipment and supplies; computers, software, telecommunications equipment and support services; facilities and support services for distance learning and staff development.*

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

(iii) *Assistance in the introduction or advancement of curricular and instructional improvements.*

(iv) *Other uses reasonably expected to improve school performance or to enhance teaching and learning in the school.*

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

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

(2) *Uses of incentive funds, as provided in clause (1) of this subsection, in each school shall be determined by a committee chaired by the principal*

of the school and composed of teachers, support personnel, parents, community and business representatives.

(f) Incentive funds provided pursuant to this section shall be used to supplement and not to supplant any other sources of funds for the operation of qualifying schools and the instructional program of such schools.

(g) (1) Each school district with one or more schools receiving a school performance incentive payment shall report to the Secretary of Education no later than October 31 of the fiscal year following the year in which such funds were expended on the use of the funds, the results of the use of such funds and the maintenance of the fiscal effort on behalf of the qualified school buildings of such school districts. Reports by school districts, as provided for in this subsection, shall be submitted in a form determined by the Secretary of Education.

(2) The Secretary of Education shall file a report by the end of 1998-1999 fiscal year and annually thereafter with the Education Committee of the Senate and the Education Committee of the House of Representatives a report on the operation of the school performance incentives program provided for herein, including any recommendations for changes in the selection criteria.

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

Section 23. Section 2598 of the act is repealed.

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

Section 2599. Administrative/Instructional Consolidation Incentives.—(a) The purpose of this section is to establish a program of incentives to school entities to encourage greater efficiency in the management of schools and the consolidation of administrative and instructional programming.

(b) Any school district, area vocational-technical school, intermediate unit or joint school is eligible to participate in the consolidation incentives program and shall be considered a school entity for the purposes of this section.

(c) Funding will be provided only to programs which have the participation of two or more school entities. Funding will be provided for programs which are initiated after July 1, 1998.

(d) (1) Funding will be provided through a competitive request for proposal process. Proposals will be evaluated by a team of Department of Education and nondepartment personnel. The evaluations will be completed and funds awarded in the second semester of the school year following the submission of a proposal.

(2) Funds may be awarded for two years. School entities may be awarded up to fifty percent (50%) of the savings the first year. The award in the second year may be up to one-half of the amount of the first year's award.

(3) The Department of Education will establish general criteria for qualifying for these funds:

(i) for rating purposes, savings will be calculated as a percentage of the applicable part of the budgets of the entities involved in the consolidation;

(ii) the Department of Education will establish multiple categories to allow for awards based on the size and variety of proposals;

(iii) awards for consolidation of administrative services must result in the reduction of the overall administrative complements of the participating entities;

(iv) awards for consolidation of instructional staff must result in the reduction of the overall staffing complement of the participating entities or the participating school entities not hiring additional personnel.

(4) All data submissions from the school entities shall be subject to audit, and any incentive payments subsequently determined to be excessive due to inappropriate data will be deducted from subsequent basic education funding payments.

(5) Incentive funds shall be paid to school entities for use in consolidated programs.

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

Section 25. The amendment of section 922.1-A of the act shall apply to services provided in the school year 1998-1999 and each school year thereafter.

Section 26. (a) A school district of the first class shall commence the 1998-1999 school year no later than September 8, 1998, and shall provide school students with a minimum instructional year as required by section 1501 of the act to be completed no later than June 30, 1999.

(b) All professional employees and other employees of the school district of the first class shall report for duty and fulfill their duties as required by the appropriate contract or work agreement. Any employee of the school district of the first class who fails to comply with the provisions of this section shall be subject to suspension of any certificate for a period of one year, to disciplinary action for illegal work stoppage or to other discipline as provided for in this act.

(c) In addition to the penalties set forth in subsection (b), any employee, administrator or person responsible for unlocking, opening or maintaining a school building who does not fulfill their responsibility or impedes others from fulfilling their responsibilities shall be subject to disciplinary action. In

addition, any individual who violates this section who is a member of the Pennsylvania Public School Employees' Retirement System shall be permanently barred from exercising any option for early retirement which may be authorized now or in the future.

Section 27. The Pennsylvania Supreme Court shall have exclusive jurisdiction to hear any challenge to or to render a declaratory judgment concerning the constitutionality of sections 691(c) and 696 of the act and issues related to collective bargaining arising under those sections. The Supreme Court is authorized to take such action as it deems appropriate, consistent with the Supreme Court retaining jurisdiction over such a matter, to find facts or to expedite a final judgment in connection with such a challenge or request for declaratory relief.

Section 28. (a) The act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, is repealed insofar as it is inconsistent with the provisions of this act.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 29. This act shall take effect as follows:

(1) The amendment or addition of sections 507, 691 and 696 of the act shall take effect immediately.

(2) Sections 26, 27 and 28 of this act and this section shall take effect immediately.

(3) The remainder of this act shall take effect July 1, 1998.

APPROVED—The 27th day of April, A.D. 1998.

THOMAS J. RIDGE