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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1786 Session of  
2015

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INTRODUCED BY CALTAGIRONE, PASHINSKI, LEWIS, THOMAS, COX,  
BOBACK, KOTIK, YOUNGBLOOD, GODSHALL, SACCONI AND COHEN,  
JANUARY 25, 2016

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REFERRED TO COMMITTEE ON EDUCATION, JANUARY 25, 2016

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AN ACT

1 Establishing the Public School Employees' Benefit Board and  
2 providing for its powers and duties; requiring a school  
3 employee benefits study and evaluation; providing for a  
4 Statewide health benefits program for public school  
5 employees, for alternative measures for cost reduction and  
6 for a retirement health savings plan; and establishing the  
7 Public School Employees' Benefit Trust Fund.

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

20 CHAPTER 1

21 PRELIMINARY PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the Public School  
24 Employees' Benefit Act.

25 CHAPTER 3

26 ADMINISTRATION OF BENEFITS

27 SUBCHAPTER A

28 DEFINITIONS

29 Section 301. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Alternate health care plan." A plan or plan design  
4 established by the Public School Employees' Benefit Board under  
5 section 331(f)(2)(ii) which the board in its exclusive authority  
6 determines to contain benefits equivalent to the standard  
7 benefit package.

8 "Alternative measures program." A program created by the  
9 Public School Employees' Benefit Board in accordance with  
10 Subchapter E.

11 "Annuitant." An "annuitant" or "disability annuitant" as  
12 defined in 24 Pa.C.S. § 8102 (relating to definitions).

13 "Best practices." Standards of criteria, measures and  
14 results developed by the Public School Employees' Benefit Board  
15 that may be reflective of the standards developed by broadly  
16 accepted organizations, including the National Committee for  
17 Quality Assurance (NCQA) and the Centers for Medicare and  
18 Medicaid Services (CMS), consulting firm benchmarks and medical  
19 and industry journals that promote the precisions of efficient  
20 delivery and design of employee benefits.

21 "Board." The Public School Employees' Benefit Board created  
22 in section 311.

23 "Board member." A person designated or appointed to the  
24 Public School Employees' Benefit Board under section 311(a).

25 "Consortium." A coalition of two or more geographically  
26 defined public school entities, or a coalition of one or more  
27 geographically defined public school entities and one or more  
28 political subdivisions as defined by 61 Pa. Code § 315.2  
29 (relating to definitions), formed for the purpose of pooling  
30 combined purchasing of the individual participants in order to

1 increase bargaining power to obtain health care benefits.

2 "Contribution rate." The rate established by the Public  
3 School Employees' Benefit Board in accordance with section  
4 334(b) and (c) used to determine contributions by the  
5 Commonwealth and public school entities for the funding of the  
6 standard benefit package for eligible individuals in each health  
7 care region.

8 "Cost-sharing." The fee paid by the member that covers a  
9 share of the cost of providing group health benefits under the  
10 Statewide health benefits program or the fee paid by a school  
11 employee or annuitant that covers a share of the cost of  
12 providing health care coverage in a plan sponsored by the public  
13 school entity. The term does not include:

14 (1) a fee paid by the member, school employee or  
15 annuitant at the time of service, including copayments or  
16 deductibles, in order to obtain prescription drugs or other  
17 specific health care services; or

18 (2) any additional cost paid by the member, school  
19 employee or annuitant for optional benefit packages.

20 "Eligible individual." An individual who is a member or the  
21 health care dependent of a member.

22 "Employee benefits account." A ledger account of the Public  
23 School Employees' Benefit Trust Fund created in section 336(a)  
24 (1).

25 "Employer contribution account." A ledger account of the  
26 Public School Employees' Benefit Trust Fund created in section  
27 336(a) (3).

28 "Health care dependent." An individual who is eligible to  
29 receive health care coverage under the Statewide health benefits  
30 program due to the individual's relation to the member, as

1 determined by the Public School Employees' Benefit Board.

2 "Health care region." The geographic regions determined by  
3 the Public School Employees' Benefit Board to be appropriate for  
4 providing health benefits for eligible individuals based on the  
5 availability of insurance carriers, benefit administrators,  
6 health care providers, health care provider networks, costs and  
7 any other factors related to health care or the financing of the  
8 benefits.

9 "IRC." The Internal Revenue Code of 1986, as designated and  
10 referred to in section 2 of the Tax Reform Act of 1986 (Public  
11 Law 99-514, 100 Stat. 2085, 2095). A reference in this chapter  
12 to "IRC § " shall be deemed to refer to the identically numbered  
13 section and subsection or other subdivision of the section in 26  
14 U.S.C. (relating to Internal Revenue Code).

15 "Long-term substitute." A school employee who is  
16 substituting for an officer, administrator or employee of a  
17 public school entity for a qualifying period of time to be  
18 determined by the Public School Employees' Benefit Board.

19 "Medicare." The programs established by Title XVIII of the  
20 Social Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.)  
21 which include: Part A, Hospital Insurance Benefits for the Aged  
22 and Disabled; Part B, Supplementary Medical Insurance Benefits  
23 for the Aged and Disabled; Part C, Medicare+ Choice Program; and  
24 Part D, Voluntary Prescription Drug Benefit Program; and  
25 including any subsequent changes or additions to those programs.

26 "Member." An eligible individual who is so specified for  
27 enrollment in the Statewide health benefits program and in whose  
28 name the identification card is issued. A member can be:

29 (1) A school employee.

30 (2) An annuitant.

1 (3) A transfer employee.

2 (4) An individual separated from employment with a  
3 public school entity who the Public School Employees' Benefit  
4 Board determines is eligible to purchase continuation of  
5 coverage in the Statewide health benefits program.

6 (5) Others as approved by the Public School Employees'  
7 Benefit Board.

8 "Optional benefit package." A plan or plan design  
9 established by the Public School Employees' Benefit Board under  
10 section 331(f)(2)(iii) which includes specific health care  
11 services that are not part of the standard benefit package.

12 "Participant account holder." A school employee  
13 participating in a retirement health savings plan or a school  
14 employee who retires or otherwise terminates employment with a  
15 public school entity and becomes eligible to be reimbursed from  
16 the employee's retirement health savings plan account for the  
17 I.R.C.-qualified health-related expenses. The term includes the  
18 health care dependent of a school employee who succeeds in  
19 interest to a deceased school employee and becomes eligible to  
20 be reimbursed for health-related expenses from the school  
21 employee's account.

22 "Phase-in period." The period of program operation in any  
23 health care region from the time the Public School Employees'  
24 Benefit Board begins implementation of mandatory participation  
25 under section 332 until the commencement of the first plan year  
26 in which 75% of school districts in that region are  
27 participating in the program.

28 "Program." The Statewide health benefits program sponsored  
29 by the Public School Employees' Benefit Board in accordance with  
30 Subchapter D.

1 "Public School Code." The act of March 10, 1949 (P.L.30,  
2 No.14), known as the Public School Code of 1949.

3 "Public school entity." A school district of any class,  
4 intermediate unit, area vocational-technical school, charter  
5 school or other school, as under the Public School Code. The  
6 term includes the Scotland School for Veterans' Children and the  
7 Scranton State School for the Deaf.

8 "Qualified majority vote." A vote by the Public School  
9 Employees' Benefit Board requiring the support of three-fourths  
10 of all the members thereof.

11 "Qualifying event." A change in marital status, death of a  
12 member or the change in a health care dependent's status,  
13 subsequent to the commencement of coverage under this chapter,  
14 or the involuntary termination of health plan coverage that was  
15 obtained through a health care dependent.

16 "Reserve account." A ledger account of the Public School  
17 Employees' Benefit Trust Fund created in section 336(a)(2).

18 "Retirement system." The Public School Employees' Retirement  
19 System of Pennsylvania as established by the former act of July  
20 18, 1917 (P.L.1043, No.343).

21 "School employee." Any person regularly employed by or in a  
22 public school entity for which work the person is receiving  
23 regular remuneration as an officer, administrator, employee or  
24 long-term substitute. The term does not include an independent  
25 contractor, person compensated on a fee basis or, unless  
26 otherwise determined by the Public School Employees' Benefit  
27 Board, any part-time hourly school employee. The term includes  
28 any employee of a public school entity who has a position for  
29 which eligibility in a health care plan sponsored by the public  
30 school entity is in effect as of the effective date of this

1 chapter.

2 "Standard benefit package." The benefit package established  
3 by the Public School Employees' Benefit Board under section  
4 331(f)(1).

5 "Supplemental benefits." Dental care, vision care and  
6 employee assistance program benefits that may be offered in  
7 addition to medical and hospital services and prescription drug  
8 benefits.

9 "Transfer employee." A person who is not a school employee  
10 who is regularly employed at a worksite in a public school  
11 entity, regardless of who actually employs the person, if the  
12 person is performing services previously performed by a school  
13 employee.

14 "Trust fund." The Public School Employees' Benefit Trust  
15 Fund established in section 336.

16 SUBCHAPTER B

17 PUBLIC SCHOOL EMPLOYEES' BENEFIT BOARD

18 Section 311. Public School Employees' Benefit Board.

19 (a) Status and membership.--The board shall be an  
20 independent administrative board and shall consist of the  
21 following board members:

22 (1) The Secretary of the Budget and the Insurance  
23 Commissioner, both of whom shall serve ex officio.

24 (2) The President Pro Tempore of the Senate or his  
25 designee, the Minority Leader of the Senate or his designee,  
26 the Majority Leader of the House of Representatives or his  
27 designee and the Minority Leader of the House of  
28 Representatives or his designee.

29 (3) Ten people representing school employees who are  
30 covered by the program appointed in the following manner:



1           (i) Eight people representing school employees who  
2 are covered by the program in an approximate proportion  
3 to the percentage of professional employees represented  
4 in collective bargaining by school employee unions  
5 working in public school entities that will be covered by  
6 the program when it is fully operational, appointed by  
7 the Governor and chosen from a list of candidates  
8 submitted by those school employee unions. At least one  
9 person shall be appointed by the Governor from a list of  
10 candidates submitted by any school employee union that on  
11 the effective date of this chapter represents in  
12 collective bargaining more than 4,000 professional  
13 employees working in public school entities that will be  
14 covered by the program when it is fully operational. The  
15 proportional calculation of membership under this  
16 paragraph may not include professional employees  
17 represented in collective bargaining by school employee  
18 unions working in a school district of the first class,  
19 as classified under section 202 of the Public School  
20 Code, until the school district opts to participate in  
21 the program under the terms of section 332(d).

22           (ii) Two persons representing school employees who  
23 are covered by the program represented in collective  
24 bargaining by school employee unions other than school  
25 employee unions within subparagraph (i) appointed by the  
26 Governor and chosen from a list of candidates submitted  
27 by those school employee unions other than school  
28 employee unions within subparagraph (i).

29           (iii) For purposes of this section "school employee  
30 unions" shall include a Statewide affiliate of school

1 employee unions.

2 (4) Four people representing public school entity  
3 employers appointed by the Governor and chosen from a list of  
4 candidates submitted by the Pennsylvania School Boards  
5 Association. At least one of the school entity employer  
6 representatives initially named to the board shall be a  
7 member of a consortium board.

8 (b) Candidate list.--The school employee unions and the  
9 Pennsylvania School Boards Association shall provide the  
10 Governor with their respective lists of candidates within 15  
11 days following the effective date of this section. The Governor  
12 shall make his appointments within 45 days following receipt of  
13 the lists.

14 (c) Terms.--

15 (1) Eight board members appointed under subsection (a)  
16 (3)(i) shall serve a term of four years.

17 (2) One board member appointed under subsection (a)(3)  
18 (ii), as designated by the Governor, shall serve a term of  
19 two years, and one board member appointed under subsection  
20 (a)(3)(ii), as designated by the Governor, shall serve a term  
21 of four years.

22 (3) Two board members appointed under subsection (a)(3),  
23 as designated by the Governor, shall serve a term of two  
24 years, and two board members appointed under subsection (a)  
25 (3), as designated by the Governor, shall serve a term of  
26 four years, except that the Pennsylvania School Boards  
27 Association shall designate for which initial term the  
28 representative who is a member of a consortium board shall  
29 serve.

30 (4) Successors for all board members shall be appointed

1 for terms of four years, except as provided in subsection  
2 (e). Board members shall be eligible for reappointment.

3 (d) Meetings.--The board shall meet as needed to fulfill its  
4 duties, and seven board members shall constitute a quorum. Board  
5 members shall elect the chairman of the board. Except in  
6 instances where a qualified majority is required under this  
7 chapter, a majority of the board members present and voting  
8 shall have authority to act upon any matter. The board is  
9 authorized to establish rules of its operation, including a  
10 provision for the removal of board members for nonattendance.

11 (e) Vacancies.--A vacancy occurring during the term of any  
12 board member shall be filled for the unexpired term by a  
13 successor appointed in the same manner as his predecessor. The  
14 school employee unions and the Pennsylvania School Boards  
15 Association shall provide the Governor with their respective  
16 lists of candidates within 60 days of the end of a member's term  
17 or within 15 days of any other vacancy.

18 (f) Oath of office.--Each board member shall take an oath of  
19 office that the member will, so far as it devolves upon the  
20 member, diligently and honestly administer the affairs of the  
21 board and that the member will not knowingly violate or  
22 willfully permit to be violated any of the provisions of law  
23 applicable to this chapter. The oath shall be subscribed by the  
24 board member making it and certified by the officer before whom  
25 it is taken and shall be immediately filed in the office of the  
26 Secretary of the Commonwealth.

27 (g) Compensation and expenses.--Board members who are  
28 members of the retirement system or the State Employees'  
29 Retirement System shall serve without compensation. Board  
30 members who are members of the retirement system and who are

1 employed by a public school entity may not suffer loss of salary  
2 or wages through serving on the board. The board, on request of  
3 the employer of any board member who is an active professional  
4 or nonprofessional member of the retirement system, may  
5 reimburse the employer for the salary or wages of the member or  
6 for the cost of employing a substitute for the board member  
7 while the board member is necessarily absent from employment to  
8 execute the duties of the board. The board members who are not  
9 members of either the retirement system or the State Employees'  
10 Retirement System may be paid \$100 per day when attending  
11 meetings. All board members shall be reimbursed for any  
12 necessary expenses. When the duties of the board as mandated are  
13 not executed, no compensation or reimbursement for expenses of  
14 board members shall be paid or payable during the period in  
15 which the duties are not executed.

16 (h) Corporate power and legal advisor.--For the purposes of  
17 this chapter, the board shall possess the power and privileges  
18 of a corporation. The Office of General Counsel shall be the  
19 legal advisor of the board.

20 (i) Duties of the board.--The board shall have the power and  
21 authority to carry out the duties established by this chapter,  
22 including the design, implementation and administration of the  
23 school employee health benefits study under Subchapter C and  
24 either the Statewide health benefits program if approved under  
25 section 323 or the alternative measures program if created under  
26 section 351.

27 Section 312. Administrative duties of board.

28 (a) Employees.--The compensation of all officers and  
29 employees of the board who are not covered by a collective  
30 bargaining agreement shall be established by the board

1 consistent with the standards of compensation established by the  
2 Executive Board.

3 (b) Secretary.--The board shall select a secretary, who may  
4 not be a board member. The secretary shall act as chief  
5 administrative officer for the board. In addition to other  
6 powers and duties conferred upon and delegated to the secretary  
7 by the board, the secretary shall:

8 (1) Serve as the administrative agent of the board and  
9 as liaison between the board and applicable legislative  
10 committees.

11 (2) Review and analyze proposed legislation and  
12 legislative developments affecting the program and present  
13 findings to the board, legislative committees and other  
14 interested groups or individuals.

15 (3) Receive inquiries and requests for information  
16 concerning the program from the press, Commonwealth  
17 officials, public school entities, school employees and the  
18 general public and provide information as authorized by the  
19 board.

20 (c) Professional personnel.--The board may employ or  
21 contract with consultants and other professional personnel as  
22 needed to conduct the school employee health benefits study and  
23 evaluation under Subchapter C and to operate the program,  
24 including third-party administrators, managed care managers,  
25 chief medical examiners, actuaries, investment advisors and  
26 managers, legal counsel and other professional personnel as it  
27 deems advisable. The board may also contract for the services of  
28 any national or State banking corporation or association having  
29 trust powers, with respect to carrying out the business and  
30 other matters of the program.

1 (d) Expenses.--The board shall, through the Governor, submit  
2 to the General Assembly annually a budget covering the  
3 administrative expenses of this chapter. The expenses, as  
4 approved by the General Assembly in an appropriation bill, shall  
5 be paid:

6 (1) from the General Fund; or

7 (2) starting in the first fiscal year after the  
8 transition period is complete and every fiscal year  
9 thereafter, from reserves and investment earnings of the  
10 trust fund.

11 (e) Meetings.--The board shall hold at least four regular  
12 meetings annually and other meetings as it may deem necessary.

13 (f) Records.--The board shall keep a record of all its  
14 proceedings which shall be open to inspection by the public.

15 (g) Procurement.--The board may not be subject to 62 Pa.C.S.  
16 Pt. I (relating to Commonwealth Procurement Code).

17 (h) Temporary regulations.--

18 (1) Notwithstanding any other provision of law to the  
19 contrary and in order to facilitate the prompt implementation  
20 of this chapter, regulations promulgated by the board during  
21 the two years following the effective date of this chapter  
22 shall be deemed temporary regulations which shall expire no  
23 later than three years following the effective date of this  
24 chapter or upon promulgation of regulations as generally  
25 provided by law. The temporary regulations may not be subject  
26 to:

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

30 (ii) The act of June 25, 1982 (P.L.633, No.181),

1 known as the Regulatory Review Act.

2 (2) The authority provided to the board to adopt  
3 temporary regulations in this subsection shall expire two  
4 years from the effect date of this chapter. Regulations  
5 adopted after the two-year period shall be promulgated as  
6 provided by law.

7 (i) Postretirement benefits study.--The board shall conduct  
8 an assessment of public school entity postretirement health care  
9 liability in this Commonwealth and publish a report providing  
10 generalized data regarding the scope of the liability to be  
11 borne by public school entities and measures implemented by  
12 public school entities to prepare for this liability. This  
13 assessment may be conducted in conjunction with the study  
14 required by section 321.

15 SUBCHAPTER C

16 STUDY AND OPTIONS ELECTION

17 Section 321. School employee health benefits study and  
18 evaluation.

19 (a) Study.--The board shall conduct a thorough evaluation of  
20 existing health care arrangements covering school employees in  
21 this Commonwealth, examine future cost forecasts and collect  
22 data necessary to determine if the board could construct and  
23 sponsor a health care benefit program that would reduce long-  
24 term costs or the rate of growth of long-term costs in the  
25 aggregate for public school entities while maintaining a  
26 comprehensive package of quality health care benefits for school  
27 employees. The board shall conduct the study as provided under  
28 this section.

29 (b) Data elements.--No later than 60 days after the board is  
30 constituted, the board shall determine the information necessary

1 to evaluate the existing health care arrangements covering  
2 school employees in this Commonwealth and begin to collect the  
3 data, including:

4 (1) The total cost of providing medical, hospital and  
5 prescription drug coverage.

6 (2) The types and levels of coverage currently made  
7 available to school employees.

8 (3) The nature of health care purchasing arrangements.

9 (4) An explanation and estimate of any financial  
10 obligation of or funds owed to a public school entity related  
11 to the termination of coverage under a school district-  
12 sponsored health benefits plan.

13 (5) An estimate of the amount of and basis for claims  
14 which may be outstanding during the transition for public  
15 school entities which self-fund their coverage and the status  
16 of any reserves established for the outstanding claims.

17 (6) The term and effect of collective bargaining  
18 agreements governing health benefits.

19 (7) The amount and basis of any school employee cost-  
20 sharing, both individual and in aggregate.

21 (8) The total amount of employer-paid costs in  
22 aggregate.

23 (9) An assessment of any postretirement health care  
24 benefit liabilities and claims experience data.

25 (c) Data sources.--All entities providing health benefit  
26 coverage for eligible individuals or administering coverage for  
27 health benefits under this chapter shall provide information on  
28 coverage, benefits, plan design, claims data, premiums, cost-  
29 sharing and financial arrangements as the board shall specify to  
30 meet the requirements of subsection (b). Notwithstanding any law



1 to the contrary, any agency, authority, board, commission,  
2 council, department or office under the jurisdiction of the  
3 Governor shall cooperate with the board in its collection of  
4 health insurance or health care coverage data as specified by  
5 the board to effectuate this section in accordance with this  
6 section.

7 (d) Public school entities.--The Secretary of Education  
8 shall assist the board in obtaining the necessary data for the  
9 study from public school entities and consortia. In the event it  
10 is necessary to facilitate the collection of data from a  
11 noncooperating public school entity or consortium, the Secretary  
12 of Education may request the State Treasurer to cause the  
13 suspension of any payment of money due to the noncooperating  
14 public school entity or public school entities that are  
15 participants in a noncooperating consortium on account of any  
16 appropriation for schools or other purposes until the necessary  
17 information is properly provided. A public school entity shall  
18 be notified before any payments are suspended and may appeal to  
19 the secretary and request an extension of time if there have  
20 been extenuating circumstances preventing the timely submission  
21 of all necessary information. In considering an appeal, the  
22 secretary may grant an extension of time for the public school  
23 entity or consortium to provide the necessary information before  
24 the suspension is instituted. The board is authorized and shall  
25 authorize school entities and consortia to enter into agreements  
26 with entities providing or administering coverage for health  
27 care benefits under this chapter for the purpose of carrying out  
28 the provisions of this section.

29 (e) Health benefit entities.--

30 (1) An entity providing or administering health

1 insurance or health care coverage for public school  
2 employees, with the exception of public school entities or  
3 consortia as provided for in subsection (d), shall, upon the  
4 written request of the board, public school entities,  
5 consortium or insured, provide claims and loss information  
6 within 60 days of the request or sooner, if so determined by  
7 the board.

8 (2) A regulatory authority shall cooperate with the  
9 board, if necessary, to obtain information from any insurance  
10 company, third-party administrator or other administrator or  
11 provider of health insurance benefits for school employees,  
12 other than a public school entity or consortium. Following  
13 notice and hearing, the board may impose an order assessing a  
14 penalty of up to \$1,000 per day upon any entity, other than a  
15 public school entity or consortium, that willfully fails to  
16 comply with the obligations imposed by this section. If the  
17 entity does not comply with the obligations imposed by this  
18 section within 15 days of an order being imposed, the board  
19 shall notify the regulatory authority of the failure of an  
20 entity under the regulatory authority's jurisdiction to  
21 provide data as set forth in this section. Upon notification,  
22 the regulatory authority shall suspend or revoke the license  
23 of the entity or otherwise suspend or revoke the entity's  
24 ability to operate until the board notifies the regulatory  
25 authority that the entity is in compliance. The board shall  
26 have standing to petition the Commonwealth Court to seek  
27 enforcement of the order.

28 (3) This subsection shall apply to every entity  
29 providing or administering group health coverage in  
30 connection with providing health care benefits to school

1 employees within this Commonwealth, including plans,  
2 policies, contracts or certificates issued by:

3 (i) A stock insurance company incorporated for any  
4 of the purposes set forth in section 202(c) of the act of  
5 May 17, 1921 (P.L.682, No.284), known as The Insurance  
6 Company Law of 1921.

7 (ii) A mutual insurance company incorporated for any  
8 of the purposes set forth in section 202(d) of The  
9 Insurance Company Law of 1921.

10 (iii) A professional health services plan  
11 corporation as defined in 40 Pa.C.S. Ch. 63 (relating to  
12 professional health services plan corporations).

13 (iv) A health maintenance organization as defined in  
14 the act of December 29, 1972 (P.L.1701, No.364), known as  
15 the Health Maintenance Organization Act.

16 (v) A fraternal benefit society as defined in  
17 section 2403 of The Insurance Company Law of 1921.

18 (vi) A hospital plan corporation as defined in 40  
19 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

20 (vii) Health care plans subject to the Employee  
21 Retirement Income Security Act of 1974 (Public Law 93-  
22 406, 88 Stat. 829), to the maximum extent permitted by  
23 Federal law.

24 (viii) An administrator as defined in section 1002  
25 of the act of May 17, 1921 (P.L.789, No.285), known as  
26 The Insurance Department Act of 1921.

27 (ix) A person licensed under Article VI-A of The  
28 Insurance Department Act of 1921.

29 (x) Any other person providing or administering  
30 group health care coverage on behalf of a public school

1           entity, or accepting charges or premiums from a public  
2           school entity, in connection with providing health care  
3           coverage for school employees, including multiple  
4           employer welfare arrangements, self-insured public school  
5           entities and third-party administrators.

6           (4) As used in this subsection, the term "regulatory  
7           authority" shall include the Insurance Commissioner, the  
8           Department of Health and any other agency, authority, board  
9           commission, council, department or office under the Governor  
10          having regulatory authority over an entity under paragraph  
11          (1).

12          (f) Confidentiality.--Any data requested by or provided to  
13          the board under this section shall comply with the standards for  
14          privacy established under the Health Insurance Portability and  
15          Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

16          (g) Prepared materials.--Any documents, materials or  
17          information solely prepared or created for the purpose of  
18          implementation of subsection (b) are confidential and may not be  
19          discoverable or admissible as evidence in any civil or  
20          administrative action or proceeding. Any documents, materials,  
21          records or information that would otherwise be available from  
22          original sources may not be construed as immune from discovery  
23          or use in any civil or administrative action or proceeding  
24          merely because they were presented to the board. Nothing in this  
25          subsection shall be construed to prevent publication or  
26          dissemination of the aggregate study findings.

27          (h) Received materials.--Any documents, materials or  
28          information received by the board or by a department under the  
29          jurisdiction of the Governor on the board's behalf for the  
30          purpose of implementation of subsection (b) may not be:

1           (1) Discoverable from the board, any department or the  
2 submitting entity.

3           (2) Admissible as evidence in any civil or  
4 administrative action or proceeding.

5           (3) Construed as immune from discovery or use in any  
6 civil or administrative action or proceeding merely because  
7 they were received by the board or any department.

8           (i) Document review.--A current or former member or employee  
9 of the board or any department shall be allowed to testify as to  
10 any matters by reason of the member's or employee's review of  
11 documents, materials, records or information submitted to the  
12 board by the entity providing health insurance or health care  
13 coverage under subsection (b). The enjoinder of testimony does  
14 not apply to findings or actions by the board or any department  
15 that are public records.

16           (j) Original source document.--In the event an original  
17 source document as set forth in subsection (g) is determined by  
18 a court of competent jurisdiction to be unavailable from the  
19 entity providing health insurance or health care coverage in a  
20 civil action or proceeding, then, in that circumstance alone,  
21 the board may be required by a court order to release that  
22 original source document to the party identified in the court  
23 order.

24           (k) Right-to-know requests.--Any documents, materials or  
25 information made confidential by subsection (f) may not be  
26 subject to requests under the act of act of February 14, 2008  
27 (P.L.6, No.3), known as the Right-to-Know Law, or any successor  
28 statute.

29           (l) Liability.--Notwithstanding any other provision of law,  
30 a person or entity providing any documents, materials or

1 information to the board, any department or other entity on the  
2 board's behalf may not be held by reason of having provided the  
3 documents, materials or information to have violated any  
4 criminal law, or to be civilly liable under any law, unless the  
5 information is false and the person providing the information  
6 knew or had reason to believe that the information was false and  
7 was motivated by malice toward any person directly affected by  
8 the action.

9 Section 322. Board review and election.

10 (a) Options assessment.--Upon collection of the necessary  
11 information, the board shall evaluate existing public school  
12 entity health care arrangements, examine options that would  
13 aggregate, either Statewide or regionally, health care coverage  
14 for public school employees, assess possible cost-management  
15 improvements and solicit input from public school entities and  
16 consortia identified with best practice standards. The board  
17 shall investigate the creation of a Statewide health benefits  
18 program, as in section 331, with the goal of improving the  
19 overall affordability of providing health care coverage for  
20 public school employees. The cost projections shall be  
21 predicated on a plan that provides quality health care benefits  
22 at a level consistent with those now provided to most school  
23 employees through existing collective bargaining contracts and  
24 offers coverage to school employees and other eligible  
25 individuals.

26 (b) Election to proceed with program.--No later than ten  
27 months after the board is constituted, unless a request by the  
28 board for an extension is granted by the Governor, the board  
29 shall decide whether to implement a Statewide health benefits  
30 program, as in section 331, or to implement an alternative

1 measures program, as in section 351, to reduce health coverage  
2 costs for public school entities. The board's election to  
3 implement a Statewide health benefits program or to implement an  
4 alternative measures program shall require approval by a  
5 qualified majority vote. Upon election to proceed with a  
6 Statewide health benefits program, the board shall develop a  
7 plan for adoption, under section 323.

8 (c) Alternative election.--If the board decides that a  
9 Statewide health benefits program cannot be created in  
10 accordance with subsection (a), or the board fails to achieve  
11 agreement and approve a plan for implementing a Statewide health  
12 benefits program, the board will proceed with consideration of  
13 an alternative measures program that will reduce long-term costs  
14 or the rate of growth of the costs in the aggregate for public  
15 school entities in accordance with Subchapter E.  
16 Section 323. Plan adoption.

17 (a) Statewide health benefits program adoption.--Within  
18 three months of electing to proceed with the Statewide health  
19 benefits program, under section 322(b), the board shall verify  
20 that implementation of a Statewide health care program will  
21 result in reduction in the Statewide aggregate cost of the  
22 purchase of benefits or the rate of growth of such costs and  
23 adopt a proposed plan for the implementation of the program. The  
24 proposed plan shall be in writing and shall include a detailed  
25 description of the program and the transition procedures  
26 necessary to phase in and implement the program. The board's  
27 adoption of a proposed plan shall require approval by a  
28 qualified majority vote.

29 (b) Parameters of program.--The description of the Statewide  
30 health benefits program shall at minimum include:

1           (1) The eligibility requirements for a school employee  
2 and the employee's health care dependents to qualify for  
3 participation in the program.

4           (2) The identification of the benefits to be included as  
5 part of the standard benefit package.

6           (3) Disclosure of any member cost-sharing contributions,  
7 whether expressed as a target percentage of overall program  
8 costs or individually determined as a percentage of salary  
9 and whether the cost-sharing is uniform on a Statewide basis  
10 or varies by health care region.

11          (4) The designation of health care regions.

12          (5) The design of the Statewide pool or regional pools  
13 that would be established to aggregate public school entities  
14 for the purpose of purchasing services and managing health  
15 insurance risks.

16          (6) The requirements for electronic eligibility  
17 transmission between the board and other participating  
18 entities, including public school entities, consortia and the  
19 retirement system.

20          (7) Financial and accounting plans, including the  
21 establishment of any necessary reserves or escrow accounts  
22 with carriers.

23          (c) Transition procedures.--The description of the steps to  
24 phase in and implement the Statewide health benefits program  
25 shall at minimum include:

26           (1) A determination of when the standard benefit package  
27 shall become the mandatory program offering for eligible  
28 individuals in a public school entity as health care benefits  
29 for school employees are normalized on a Statewide basis.

30           (2) A determination, based on the size and structure of



1 any risk pool established within a health care region, as to  
2 when the program would be phased in within that region.

3 (3) The interim steps to aggregate public school  
4 entities into a Statewide pool or regional pools, including  
5 any best practice standards and benchmarks to be applied to  
6 new or existing consortia, or public school entities, or in  
7 any selection process to build a Statewide or regional pool.

8 (4) Transition rules on member cost-sharing  
9 responsibility until any member cost-sharing is required for  
10 all members Statewide, or within any region.

11 (5) Transition rules to limit any negative financial  
12 impact on a public school entity required to purchase health  
13 care coverage through a Statewide or regional pool and to  
14 normalize contribution rates for all participating public  
15 school entities within the same health care region.

16 (d) Alternative measures program adoption.--Within three  
17 months of proceeding with consideration of an alternative  
18 measures program under section 322(c), the board shall adopt a  
19 proposed plan for the implementation of an alternative measures  
20 program, under Subchapter E, that will result in reduction in  
21 the Statewide aggregate cost of the purchase of benefits or the  
22 rate of growth of the costs. The proposed plan shall be in  
23 writing and shall include a detailed description and the  
24 transition procedures necessary to phase in and implement the  
25 alternative measures program. The board's adoption of a proposed  
26 plan for implementation of an alternative measures program shall  
27 require approval by a qualified majority vote.

28 (e) Legislative and public review.--

29 (1) The board shall publish the provisions of any  
30 proposed plan adopted under this section in the Pennsylvania

1 Bulletin and make it available on the board's publicly  
2 accessible Internet website. Following publication, the board  
3 shall schedule at least eight public hearings to solicit  
4 public input on the plan. The hearings shall be conducted in:

5 (i) Philadelphia County.

6 (ii) Allegheny County.

7 (iii) The Northeast, Northwest, Southeast,  
8 Southwest, North Central and South Central regions of  
9 this Commonwealth.

10 (2) The board shall submit the provisions of any  
11 proposed plan adopted under this section to the chairman and  
12 minority chairman of the Education Committee of the Senate  
13 and the chairman and minority chairman of the Education  
14 Committee of the House of Representatives. The committees  
15 shall have 45 days to review the proposed plan and submit  
16 comments to the board.

17 (f) Final plan adoption.--Upon completion of the public  
18 hearings under subsection (e) (1) and expiration of the committee  
19 review under subsection (e) (2), the board shall review all the  
20 testimony and comments received regarding the proposed plan. The  
21 board may, subject to a qualified majority vote, make changes  
22 and adjustments to the plan to effectuate this chapter. Within  
23 90 days of publishing the proposed plan, under subsection (e)  
24 (1), the board shall publish the final plan, as adopted by the  
25 board, in the Pennsylvania Bulletin and on the Internet website  
26 of the Department of Education.

27 (g) Legislative oversight.--The board shall proceed with  
28 implementation unless a resolution to the contrary has been  
29 adopted within 45 days after publication of the plan, in  
30 accordance with this subsection. Upon publication of the final

1 adopted plan in the Pennsylvania Bulletin, the board shall  
2 submit the plan to the Education Committee of the Senate and the  
3 Education Committee of the House of Representatives. Either  
4 committee may recommend to its respective chamber whether the  
5 board shall be prevented from implementing the plan. If the  
6 committee recommends the plan not be implemented, the Secretary  
7 of the Senate or the Chief Clerk of the House of Representatives  
8 shall place on the calendar for the next legislative day the  
9 question, in the form of a resolution, of whether the board  
10 shall proceed with implementation. If the resolution is adopted  
11 in either chamber, it shall be referred to the Education  
12 Committee in the opposite chamber which may recommend the board  
13 not implement the plan. Upon the recommendation, the resolution  
14 shall be placed on the calendar of the chamber. If a majority of  
15 the members elected to each House approve the resolution, the  
16 resolution shall be presented to the Governor for approval or  
17 disapproval in accordance with section 9 of Article III of the  
18 Constitution of Pennsylvania.

19 (h) Failure to reach consensus.--If the board fails to  
20 achieve agreement and approve a plan for implementing a  
21 Statewide health benefits program by a qualified majority vote  
22 or if the board fails to achieve agreement and approve a plan  
23 for implementing an alternative measures program by a qualified  
24 majority vote, the board shall report as to its findings and  
25 reasons preventing agreement on a plan to the Governor, the  
26 President pro tempore of the Senate and the Speaker of the House  
27 of Representatives.

28 SUBCHAPTER D

29 STATEWIDE HEALTH BENEFITS PROGRAM

30 Section 331. Health benefits program.

1 (a) Creation.--Upon adoption of a Statewide health plan  
2 under section 323(f), the board shall proceed to initiate and  
3 sponsor an employee benefits program for eligible individuals.

4 (b) Program design.--The board shall design a program which  
5 follows the parameters of the plan and transition procedures as  
6 established in section 323. The board may develop and administer  
7 the program itself or operate through any legal entity  
8 authorized by law to do so, including consortia, and the program  
9 may be developed and administered differently within each health  
10 care region as long as a standard benefit package that is  
11 substantially equivalent in coverage, as determined by the  
12 board, is available to eligible individuals. The program may  
13 also be administered in whole or in part on a fully insured or  
14 self-funded basis at the board's sole discretion.

15 (c) Implementation.--The board may:

16 (1) Establish pools for selected areas of coverage,  
17 including pharmacy services, transplants, stop-loss  
18 insurance, health care management or other possible areas  
19 that in the board's judgment can be offered Statewide or  
20 regionally on a more stable and cost-effective basis. The  
21 board may offer separate plans to public school entities and  
22 consortia prior to the phase-in of the standard benefit  
23 package.

24 (2) Make the program available in some health care  
25 regions before it is made available within all regions.

26 (d) Eligibility requirements.--The board shall have full  
27 authority to determine eligibility requirements for benefits and  
28 to adopt rules and regulations setting forth the same which will  
29 be binding on all eligible individuals. No coverage shall be  
30 provided for eligible individuals without payment being made,

1 except under circumstances as may be established by the board  
2 under reasonable guidelines.

3 (e) Coverage and plan selection.--The board shall have full  
4 authority to select and contract with insurance carriers, health  
5 maintenance organizations, pharmacy benefit managers, third-  
6 party administrators, reinsurers and any other entities  
7 necessary to provide a range of benefit packages to eligible  
8 individuals through the program. The board shall have full  
9 authority to determine the nature, amount and duration and  
10 discontinuation of coverage to be provided.

11 (f) Standard and optional benefits.--

12 (1) A standard benefit package shall be established by  
13 the board that shall include coverage for medical and  
14 hospital services, prescription drugs and may include  
15 supplemental and other benefits in amounts to be determined  
16 by the board.

17 (2) Within each health care region, the board shall  
18 approve and make available to each eligible individual  
19 affiliated with a public school entity which is participating  
20 in the program the following:

21 (i) A health care plan that includes coverage the  
22 board determines to be the equivalent of the standard  
23 benefit package established in paragraph (1).

24 (ii) One or more alternate health care plans or plan  
25 designs which in the board's judgment contain benefits  
26 equivalent to the standard benefit package in paragraph  
27 (1). The deductibles and copayments for each alternate  
28 health care plan shall be set and annually adjusted so  
29 that the cost of providing the coverage for the  
30 Commonwealth and a public school entity is no greater

1 than the cost incurred for the health plan in  
2 subparagraph (i).

3 (iii) One or more optional benefit plans, as  
4 approved by the board, which allow an eligible individual  
5 to purchase coverage that is not included in the standard  
6 benefit package, provided that any cost over and above  
7 the cost of the health care plan in subparagraph (i) is  
8 to be paid by the member except as otherwise provided in  
9 section 338(f)(1)(ii).

10 (3) The detailed basis on which payment of benefits is  
11 to be made shall be specified in writing. The benefits  
12 provided in this chapter are subject to change or  
13 modification by the board from time to time as the board, in  
14 its discretion, may determine. All changes or modifications  
15 shall be specified in writing and communicated to members  
16 within a reasonable period of time.

17 Section 332. Mandatory participation and optional membership.

18 (a) Mandatory participation.--The board shall have the  
19 authority to require public school entities to participate in  
20 the program on a Statewide basis or may phase in and require  
21 participation on a regional basis. Except as provided under  
22 subsections (c), (d), (e) and (f), public school entities in any  
23 health care region designated by the board shall be required to  
24 participate in the program.

25 (b) Transition plan.--When the board determines, in  
26 accordance with subsection (a), that a public school entity  
27 shall be required to participate in the program, the public  
28 school entity or consortium in which the public school entity is  
29 a participant shall, within a reasonable period of time as  
30 determined by the board, present to the board a transition plan

1 with a schedule for the eventual migration of school employees  
2 into the program. The board shall review the transition plan  
3 with the public school entity or consortium and make any  
4 necessary modifications before granting approval of the plan. A  
5 public school entity or consortium shall be subject to adherence  
6 to the transition plan approved by the board.

7 (c) Extensions of time.--The board shall give due  
8 consideration to a transition plan submitted under subsection  
9 (b) that includes a request for an extension of time. Requests  
10 may be submitted by at least any of the following:

11 (1) A public school entity that participates in a  
12 consortium where an extension of time is necessary for the  
13 rundown and proper termination of the consortium's health  
14 care program.

15 (2) A public school entity that participates in a  
16 consortium where the withdrawal of the public school entity  
17 may undermine the financial stability of the consortium.

18 (3) A public school entity or a consortium which will  
19 incur a significant financial penalty under terms of a  
20 contract with an insurance carrier or other provider of  
21 health care coverage for a contract in existence on or before  
22 January 1, 2016.

23 (4) A public school entity or consortium which will  
24 incur a significant financial cost, including fees, penalties  
25 or other contractual financial obligations, related to the  
26 termination of coverage under a contract of insurance or, in  
27 the case of a public school entity that self-insures,  
28 insufficient reserves to pay claims incurred during the  
29 previous coverage year, if the obligation relates to a plan  
30 of coverage that was in existence on or before January 1,

1 2016, and the public school entity or consortium provides the  
2 board with a financial plan for meeting these obligations.

3 (d) Optional membership.--A school district of the first  
4 class, as classified under section 202 of the Public School  
5 Code, may not be required to participate in the program, except  
6 as may be agreed upon under terms of a collective bargaining  
7 agreement covering a majority of employees of a school district  
8 of the first class. Upon a school district of the first class  
9 entering participation in the program under a collective  
10 bargaining agreement, continued participation in the program  
11 shall become mandatory.

12 (e) Prohibited membership.--A public school entity that, on  
13 the effective date of this chapter, participates in the  
14 Pennsylvania Employees' Benefit Trust Fund shall be prohibited  
15 from participating in the program, and employees of the public  
16 school entity may not have the right to elect membership in the  
17 program.

18 (f) Transition of employees.--A public school entity that  
19 provides some or all of its employees with health benefits  
20 through another health care plan by virtue of one or more  
21 collective bargaining agreements, entered into prior to the  
22 effective date of this chapter, may not be required to join the  
23 program until expiration of the collective bargaining  
24 agreements. The public school entity and some or all of its  
25 employees or bargaining representatives of its employees may by  
26 mutual agreement and approval of the board join the program at  
27 an earlier date. Renewal or extension of a collective bargaining  
28 agreement shall constitute its expiration for the purpose of  
29 this subsection.

30 Section 333. Continuation of coverage and transfer employees.



1 (a) Annuitants.--Upon retirement, an annuitant eligible  
2 under paragraph (1) or (2) shall have the option to elect  
3 coverage in the program, including coverage for any eligible  
4 health care dependent. The annuitant shall be responsible to pay  
5 the full cost of the coverage, unless a public school entity has  
6 agreed, separate from any requirements of the program, to pay  
7 toward the coverage in accordance with an award of health  
8 benefits under a written policy or agreement collectively  
9 bargained or otherwise entered into by the public school entity.  
10 The board shall annually determine the cost of coverage as  
11 follows:

12 (1) For an annuitant who is enrolled in the program  
13 under section 513 of the Public School Code or an annuitant  
14 who in accordance with any award of health benefits for  
15 annuitants under a written policy or agreement collectively  
16 bargained or otherwise entered into by the public school  
17 entity prior to the effective date of this section, payments  
18 shall be based on the total contribution rate established  
19 under section 334(b) and (c) for a school employee in the  
20 same health care region, plus a 2% administrative fee.

21 (2) For an annuitant, other than an annuitant qualified  
22 for coverage under paragraph (1), payments shall be made on  
23 the same basis as an annuitant qualified for coverage under  
24 paragraph (1), except as determined as follows:

25 (i) The board shall periodically have the actuary  
26 review and determine the separate cost of providing  
27 continuation of coverage to annuitants under this  
28 paragraph, along with an assessment of its impact on the  
29 cost of providing coverage to members who are school  
30 employees and annuitants qualified for coverage under

1 paragraph (1). The review and assessment shall first  
2 occur as part of the school employee health benefits  
3 study and evaluation conducted under section 321 and its  
4 results shall be considered in the development of  
5 parameters under section 323(b).

6 (ii) The board shall consider the findings of the  
7 actuary in subparagraph (i) to determine if there is a  
8 substantial impact on the cost of providing coverage to  
9 members who are school employees and annuitants qualified  
10 for coverage under paragraph (1). If there is a  
11 substantial cost impact, the board shall require payments  
12 for an annuitant qualified to elect coverage in the  
13 program under this paragraph to be separately determined  
14 and the contribution rate to be based on the  
15 disaggregated cost of providing the coverage, plus a 2%  
16 administrative fee.

17 (b) Separation from service.--The board shall determine the  
18 eligibility of members, other than annuitants covered by  
19 subsection (a), to elect continuation of coverage in the program  
20 upon separation from service as a school employee. The member  
21 shall be responsible to pay the full cost of the coverage in the  
22 member's health care region, plus an administrative fee to be  
23 set by the board. The board shall, at minimum, provide  
24 continuation of coverage eligibility that meets the requirements  
25 of Title X of the Employee Retirement Income Security Act of  
26 1974 (Public Law 99-272, 29 U.S.C. § 1161 et seq.) and provide  
27 the continuation of coverage options required under 51 Pa.C.S. §  
28 7309 (relating to employment discrimination for military  
29 membership or duty) for members on military leave.

30 (c) Transfer employees.--The board may, in its discretion,

1 approve the participation of transfer employees in the program,  
2 provided that any position for which a transfer employee who is  
3 provided health benefits in a health care plan sponsored by a  
4 public school entity through an agreement that was in existence  
5 on or before January 1, 2016, with the transfer employee's  
6 employer shall be allowed to participate in the program. The  
7 board shall set the terms and conditions necessary for  
8 participation in the program, including the cost of coverage to  
9 be paid by the third-party entity which shall be based on the  
10 full cost of coverage in the health care region as determined by  
11 the board, plus an administrative fee. The sponsoring public  
12 school entity shall be responsible to the board for the  
13 collection of the payments for transfer employees from the  
14 third-party entity.

15 Section 334. Partnership for stable benefits funding.

16 (a) Basis of partnership.--In recognition that the long-term  
17 viability and stability of the program will require public  
18 school entity employers, members and the Commonwealth to be  
19 partners both in sustaining the health benefits program as well  
20 as managing the costs of a reasonable and appropriate standard  
21 benefit package, the board shall determine for each plan year  
22 and in each region the payments due from public school entities,  
23 from members and from the Commonwealth.

24 (b) Determination of contribution rate.--The board shall  
25 determine for each plan year the total amount of the  
26 contributions by the Commonwealth, public school entities and  
27 school employees required to provide projected benefits for that  
28 plan year under the standard benefit package on behalf of each  
29 school employee member and the employee's eligible health care  
30 dependents. The contribution rate shall consist of the amount

1 required to provide the standard benefit package, including  
2 appropriate reserves and administrative expenses, and shall be  
3 adjusted for each health care region to reflect the cost of  
4 benefits in that region. The contribution rates may  
5 differentiate between single coverage for members only and types  
6 of family coverage, as determined by the board.

7 (c) Certification of rate.--The board shall certify the  
8 contribution rate for each health care region to the  
9 Commonwealth and public school entities, including the payments  
10 that shall be due from public school entities, from members and  
11 from the Commonwealth. The certifications shall be regarded as  
12 final and may not be subject to modification by the Secretary of  
13 the Budget.

14 (d) Commonwealth cost share.--The Commonwealth shall make a  
15 contribution to offset a portion of the cost increase consistent  
16 with subsections (e) and (f) for any plan year in which the  
17 board determines that the aggregate cost of providing the  
18 standard benefit package on behalf of members who are school  
19 employees and their eligible health care dependents exceeds the  
20 sum of:

21 (1) the projected carry-over balance for the plan year  
22 in the employer contribution account after all required  
23 transfers have been made to the employee benefits account for  
24 the prior year; and

25 (2) any employee cost-sharing for the plan year.

26 (e) Budget submission and appropriation.--If the board  
27 determines that the requirements of subsection (d) have been  
28 met, all of the following shall occur:

29 (1) The board shall submit to the Secretary of the  
30 Budget an itemized budget specifying the amount necessary to

1 be appropriated by the Commonwealth consistent with  
2 subsection (f). The budget submission shall be on a form and  
3 in a manner determined by the Secretary of the Budget and  
4 shall occur no later than November 1 of the fiscal year  
5 preceding the plan year for which funds are requested.

6 (2) Upon appropriation by the General Assembly to  
7 provide for the obligations of the Commonwealth, the amount  
8 shall be paid by the State Treasurer through the Department  
9 of Revenue into the employer contribution account within 30  
10 days of receipt of the requisition presented each month by  
11 the board.

12 (f) Limitation on Commonwealth contribution.--

13 (1) The Commonwealth shall not be obligated to pay any  
14 amount beyond that which is appropriated by the General  
15 Assembly. The amount requested by the board under subsection  
16 (e) (1) may not exceed the sum of any amount paid by the  
17 Commonwealth for the fiscal year preceding the plan year for  
18 which funds are requested and the lesser of:

19 (i) fifty percent of the amount that the board  
20 determines is necessary to meet the increase in the  
21 contribution rate on behalf of members who are school  
22 employees determined under subsection (b); and

23 (ii) the product of the total revenue transferred in  
24 the prior plan year from the employer contribution  
25 account to the employee benefits account and the most  
26 recent annual percent change in the per enrollee private  
27 health insurance premium for all benefits, as defined in  
28 the National Health Expenditure Data published by the  
29 Centers for Medicare and Medicaid Services, Department of  
30 Health and Human Services.

1           (2) If any excess revenue in the employer contribution  
2 account is to be applied to payments for the plan year, then  
3 the excess revenue shall be used to reduce the calculation  
4 under this subsection in proportion to the Commonwealth's  
5 share of the total increase in the contribution rate on  
6 behalf of active members for the plan year.

7           (g) Additional optional contribution.--Notwithstanding the  
8 limitation in subsection (f), the General Assembly may  
9 appropriate additional revenue to the employer contribution  
10 account in any fiscal year.

11          (h) Allocation of Commonwealth contribution.--Any  
12 contribution made by the Commonwealth under this section shall  
13 be used to offset an increase in the contribution rate paid in a  
14 health care region by public school entities on behalf of  
15 members who are school employees and their eligible health care  
16 dependents and to maintain any offset that was paid in a prior  
17 year. The Commonwealth contribution shall be allocated to offset  
18 a portion of each participating public school entity's cost of  
19 coverage on a per-member basis, for members who are school  
20 employees and their eligible health care dependents, based on  
21 the public school entity's market value/income aid ratio using  
22 the most recent data provided by the Department of Education.  
23 For any public school entity that is not assigned a market  
24 value/income aid ratio by the Department of Education, the  
25 Commonwealth contribution shall not be adjusted based on a  
26 market value/income aid ratio. For the purpose of this  
27 subsection, "market value/income aid ratio" shall have the same  
28 meaning given to it in the Public School Code.

29          (i) Contributions on behalf of school employees.--Consistent  
30 with any transition procedure under section 323(c)(5), each

1 public school entity shall be required to make payments to the  
2 trust fund on behalf of members who are school employees and  
3 their eligible health care dependents based on the contribution  
4 rate certified by the board in subsection (c). The increase in  
5 payments made from one year to the next by public school  
6 entities on behalf of school employees shall be equal to or  
7 greater than the increase in payment from one year to the next  
8 made under subsection (d), excluding any additional optional  
9 contribution made by the Commonwealth under subsection (g).

10 (j) Deduction from appropriations.--In the event a public  
11 school entity does not make the required payment in the time  
12 allotted, as determined by the board, the Secretary of Education  
13 and the State Treasurer shall cause to be deducted and paid into  
14 the trust fund from the amount of any money due to any public  
15 school entity on account of any appropriation for schools or  
16 other purposes the amount due to the trust fund as certified by  
17 the board and as remains unpaid on the date the appropriations  
18 would otherwise be paid to the public school entity by the  
19 Department of Education, and the amount shall be credited to the  
20 public school entity's account in the trust fund.

21 (k) Transition.--Until a transition under section 323(c)(5)  
22 has been completed, the payments made by each public school  
23 entity shall be no less than the total amount paid by the public  
24 school entity to provide, purchase and administer health care  
25 benefits to members who are school employees and their eligible  
26 health care dependents in the year before implementation of the  
27 program. Any contributions received by the public school entity  
28 from school employees in the form of cost-sharing payments for  
29 health care coverage shall be excluded from the amount.

30 (l) Referendum exception.--

1           (1) In addition to the exceptions provided for in  
2 section 333(f) of the act of June 27, 2006 (1st Sp.Sess.,  
3 P.L.1873, No.1), known as the Taxpayer Relief Act, the costs  
4 specified in paragraph (2) shall constitute an exception to  
5 the referendum requirements of section 333(c) of the Taxpayer  
6 Relief Act subject to department approval under section  
7 333(j) of the Taxpayer Relief Act.

8           (2) Costs incurred by a school district in providing  
9 health care-related benefits which are attributable to the  
10 school district's participation in the program shall  
11 constitute an expenditure for purposes of section 333(f) (1)  
12 and (2) of the Taxpayer Relief Act to the extent the  
13 anticipated increase in the costs between the current year  
14 and the upcoming year is greater than the index established  
15 for the school district under section 313(1) (ii) of the  
16 Taxpayer Relief Act. The dollar amount of this exception  
17 shall be equal to the portion of the increase which exceeds  
18 the index established for the school district under section  
19 313(1) (ii) of the Taxpayer Relief Act.

20 Section 335. Powers and duties of board.

21       (a) Powers.--In addition to the powers granted by other  
22 provisions of this chapter, the board shall have the powers  
23 necessary or convenient to carry out this subchapter, including  
24 the power to:

25           (1) Determine appropriate geographic health care regions  
26 for the administration of the program and make changes to the  
27 regions as necessary.

28           (2) Formulate and establish the conditions of  
29 eligibility, including:

30           (i) Eligibility for health care dependent coverage



1 for members, to include consideration if a member or  
2 health care dependent is covered, or eligible for  
3 coverage, under another employer-sponsored group health  
4 insurance plan.

5 (ii) Provisions for payment of benefits.

6 (iii) All other provisions that may be required or  
7 necessary to carry out the intent and purpose of the  
8 program.

9 (3) Determine and make necessary changes to the standard  
10 benefit package and benefit structure of the program.

11 (4) Establish copayments, annual deductibles,  
12 coinsurance levels, exclusions, formularies and other  
13 coverage limitations and payment responsibilities of members  
14 incurred at the time of service.

15 (5) Set and adjust member cost-sharing contributions to  
16 be expressed as a target percentage of overall program costs  
17 or individually determined as a percentage of salary. The  
18 board shall determine whether member cost-sharing shall be  
19 uniform on a Statewide basis or shall vary by health care  
20 region.

21 (6) Impose and collect necessary fees and charges.

22 (7) Determine enrollment procedures.

23 (8) Establish procedures for coordination of benefits  
24 with other plans and third-party payers, including  
25 coordinating benefits or contracting directly with Medicare.

26 (9) Establish a plan with the retirement system to  
27 coordinate health care coverage for annuitants between the  
28 program established by this chapter and the group health  
29 insurance program sponsored by the retirement system under  
30 the provisions of 24 Pa.C.S. Ch. 89 (relating to group health

1 insurance program) and to coordinate the sharing of  
2 information pertaining to premium assistance payment  
3 transfers.

4 (10) Set and adjust contribution rates sufficient to  
5 maintain the adequacy of any reserves established by this  
6 chapter and to fully fund the benefits offered by and to pay  
7 for the administrative expenses related to the program.

8 (11) Set and adjust costs for members electing to  
9 continue coverage upon retirement or separation from  
10 employment. The board may establish different cost rates to  
11 be charged for different categories of members electing to  
12 continue coverage.

13 (12) Purchase insurance or employ self-insurance, alone  
14 or in combination, to provide benefits as shall be determined  
15 by the board.

16 (13) Establish appropriate reserves based on generally  
17 accepted standards as applied by Federal and State regulators  
18 to similar types of plans.

19 (14) Issue self-liquidating debt or borrow against  
20 contributions, payments or other accounts receivable for the  
21 purposes of prepaying any health benefits, establishing  
22 reserves or otherwise lowering the cost of coverage.

23 (15) Establish procedures to verify the accuracy of  
24 statements and information submitted by eligible individuals  
25 on enrollment forms, claim forms or other forms.

26 (16) Receive and collect all contributions due and  
27 payable to the accounts or delegate to a public school entity  
28 or claims processor the right to receive contributions,  
29 payments or perform ministerial functions required to assert  
30 the board's rights. In so doing, the board shall have the

1 right to:

2 (i) Maintain any and all actions and legal  
3 proceedings necessary for the collection of  
4 contributions.

5 (ii) Prosecute, defend, compound, compromise,  
6 settle, abandon or adjust any actions, suits,  
7 proceedings, disputes, claims, details and things related  
8 to the accounts and program.

9 (17) Establish procedures to hear and determine any  
10 claims and controversies under this chapter.

11 (18) Promulgate rules and regulations regarding the  
12 administration of the program, including the establishment of  
13 the plan year.

14 (19) Ensure that a public school entity provides  
15 detailed information about the program to eligible employees  
16 at least 90 days before program coverage begins to be offered  
17 to school employees.

18 (20) Seek and take all necessary steps to retain  
19 eligibility for the members, public school entities and the  
20 Commonwealth to receive tax-preferred or tax-free treatment  
21 under the IRC for contributions to and earnings of the trust  
22 fund.

23 (21) Enter into agreements with entities providing or  
24 administering coverage for health benefits under this chapter  
25 for the electronic exchange of data between the parties at a  
26 frequency as determined by the board.

27 (22) Perform and do any and all actions and things that  
28 may be properly incidental to the exercising of powers,  
29 rights, duties and responsibilities of the board.

30 (23) Determine best practice standards and benchmarks

1 for consortia in any selection process to build a Statewide  
2 pool or regional pools, including the power to require a  
3 consortium to merge with another consortium. The board shall  
4 have the power to require consortia, as a condition of  
5 continued participation in the program, to accept any public  
6 school entity applying to join and participate in a  
7 consortium.

8 (24) Enter into agreements with any public school entity  
9 or consortium to implement the program developed under this  
10 chapter and delegate powers necessary to administer coverage  
11 for health benefits.

12 (b) Administrative duties of board.--In addition to other  
13 duties of the board provided in this chapter, the following  
14 duties shall be afforded to the board for the implementation of  
15 this section.

16 (c) Regulations and procedures.--The board shall, with the  
17 advice of the Office of General Counsel and the actuary, adopt  
18 and promulgate rules and regulations for the uniform  
19 administration of the program. The actuary shall approve in  
20 writing all computational procedures used in the calculation of  
21 contributions and the cost of benefits, and the board shall by  
22 resolution adopt the computational procedures prior to their  
23 application by the board. The rules, regulations and  
24 computational procedures as so adopted from time to time and as  
25 in force and effect at any time, together with tables that are  
26 adopted as necessary for the calculation of contributions and  
27 the cost of benefits, shall be effective as if fully set forth  
28 in this chapter.

29 (d) Data.--The board shall keep in electronic format records  
30 of claims, eligibility and other data as are stipulated by the

1 actuary in order that an annual contribution rate determination  
2 for each health care region and various program options can be  
3 completed within six months of the close of each plan year. The  
4 board shall have final authority over the means by which data is  
5 collected, maintained and stored and in so doing shall protect  
6 the rights of its membership as to privacy and confidentiality.

7 (e) Annual financial statement.--The board shall prepare and  
8 have published within six months following the end of each plan  
9 year a financial statement showing the condition of the trust  
10 fund as of the end of the previous plan year. The board shall  
11 submit said financial statement to the Governor and shall make  
12 copies available to public school entities for the use of the  
13 school employees and the public.

14 (f) Independent audit.--The board shall provide for an  
15 annual audit of the trust fund by an independent certified  
16 public accounting firm.

17 (g) Manual of regulations.--The board shall, with the advice  
18 of the Office of General Counsel and the actuary, prepare within  
19 six months of the commencement of a program adopted under this  
20 chapter a manual incorporating rules and regulations consistent  
21 with the provisions of this chapter for each participating  
22 public school entity that shall make information contained in  
23 the manual available to school employees. The board shall  
24 thereafter advise public school entities within 90 days of any  
25 changes in rules and regulations due to changes in the law or  
26 due to changes in administrative policies.

27 (h) Annual budget.--The board shall establish an annual  
28 budget for the program and make disbursements from the trust  
29 fund that are consistent with the budget.

30 (i) Program assistance.--The board may solicit and accept

1 grants, loans and other aid from any person, corporation or  
2 other legal entity or from the Federal, State or local  
3 government and participate in any Federal, State or local  
4 government program if necessary for prudent management of the  
5 program.

6 (j) Functions.--The board shall perform other functions as  
7 are required for the execution of this chapter and shall have  
8 the right to inspect employment records of public school  
9 entities.

10 (k) Qualified majority voting provision.--A qualified  
11 majority vote shall be required on any matter voted upon by the  
12 board affecting the development of or any change in:

13 (1) The plan to implement the program adopted under  
14 section 323(f).

15 (2) The standard benefit package, benefit options or  
16 plan design offered by the program to covered employees.

17 (3) Membership eligibility criteria.

18 (4) The addition, deletion or significant change in  
19 status of an insurance carrier, benefits administrator or  
20 other major contractor in the administration of benefits, or  
21 the addition, deletion or significant change in status of a  
22 health care provider network.

23 (5) Any determination on the use of excess fund  
24 payments.

25 (6) The overall per-employee cost of the standard  
26 benefit package to the trust fund and any public school  
27 entity funding and member cost-sharing responsibilities.

28 (7) Cost containment measures, including managed care,  
29 wellness centers and large case management.

30 (8) Contracts valued at more than \$25,000,000.

1 (9) Changes in trust document, bylaws or any major  
2 internal operating policies or procedures, including claims  
3 appeal procedures, not to include routine ministerial  
4 functions.

5 (10) The alternative measures program created under  
6 section 351(a).

7 (11) Approve employment of and contracts with  
8 consultants and professional personnel.

9 (1) Duties conferred upon secretary.--The secretary of the  
10 board shall supervise a staff of administrative, technical and  
11 clerical employees engaged in recordkeeping and clerical  
12 processing activities in maintaining files of members,  
13 accounting for contributions, processing payments, preparing  
14 required reports and counseling.

15 Section 336. Public School Employees' Benefit Trust Fund.

16 (a) Establishment of trust fund.--The Public School  
17 Employees' Benefit Trust Fund is established in the State  
18 Treasury. The money of the trust fund are appropriated on a  
19 continuing basis and shall be used exclusively for the purposes  
20 set forth in this chapter. All of the assets of the trust fund  
21 shall be maintained and accounted for, separate from all other  
22 funds and money of the Commonwealth. The Treasury Department  
23 shall credit to the trust fund all money received from the  
24 Department of Revenue arising from the contributions required  
25 under this chapter and all earnings from investments or money of  
26 the trust fund. There shall be established and maintained by the  
27 board the several ledger accounts, including:

28 (1) The employee benefits account shall be the ledger  
29 account to which shall be credited the payments from section  
30 333(a), (b) and (c), payments from members for cost sharing

1 and any additional member-paid cost associated with optional  
2 benefit packages elected by members and transfers from the  
3 employer contribution account as provided in paragraph (3).  
4 All earnings derived from investment of the assets of the  
5 employee benefits account shall be credited to this account.  
6 The board is authorized to separately invest the amounts in  
7 the employee benefits account in a prudent manner intended to  
8 maximize the safety of the capital contained in the employee  
9 benefits account. Payments for member health care benefits  
10 and the direct administrative expenses of the board related  
11 to the administration of the employee benefits program, as in  
12 section 312(d), shall be charged to this account.

13 (2) Reserve account.

14 (i) A restricted reserve account, or more than one  
15 account if the board determines it necessary to have  
16 segregated accounts, is established within the trust fund  
17 for the purpose of establishing and maintaining a reserve  
18 or separate reserves sufficient:

19 (A) to pay the expected claims experience of the  
20 program in the event the board elects to self-fund  
21 all or a portion of the program for any plan years;

22 (B) to prefund the accrued liability for any  
23 postretirement health care benefits earned by  
24 employees enrolled in the program under section  
25 333(a)(1) as the benefit is earned by the employees;  
26 and

27 (C) to amortize the unfunded actuarial accrued  
28 liability for postretirement health care benefits  
29 already earned by employees and annuitants under  
30 section 333(a)(1) in the event the board elects to



1           assume all or a portion of the liability. The board  
2           shall use an amortization period that does not exceed  
3           30 years for this purpose.

4           (ii) The board shall annually establish through an  
5           actuary retained by the board the amount necessary, if  
6           any, to establish and maintain a reserve or separate  
7           reserves sufficient for the purposes of this paragraph.  
8           Any money needed to maintain the reserve or separate  
9           reserves established under this paragraph shall be  
10          collected through the adjustment of the contribution rate  
11          established under section 334(b) and (c) or through other  
12          available sources.

13          (iii) The money in any reserve account may be  
14          invested by the board separate from other money of the  
15          trust fund. All earnings derived from investment of the  
16          assets of any reserve account shall be credited to the  
17          reserve account.

18          (3) The employer contribution account shall be the  
19          ledger account to which shall be credited all contributions  
20          made by the Commonwealth as determined in accordance with  
21          section 334(e) and payments from public school entities as  
22          determined in accordance with section 334(i), as well as all  
23          earnings derived from the investment of the assets of the  
24          employer contribution account. The total amount of the  
25          Commonwealth and public school entity contributions required  
26          to provide the standard benefit package on behalf of all  
27          members who are school employees and their eligible health  
28          care dependents shall be transferred on a monthly basis to  
29          the employee benefits account.

30          (b) Composition.--The trust fund shall consist of:

1           (1) All payments made by members or received from the  
2 Commonwealth and public school entities and all interest,  
3 earnings and additions thereto.

4           (2) Any other money, public or private, appropriated or  
5 made available to the board for the trust fund or any reserve  
6 account from any source and all interest, earnings and  
7 additions thereto.

8           (c) Administration of trust and associated funds.--The  
9 assets of the trust fund shall be preserved, invested and  
10 expended solely under and for the purposes set forth in this  
11 chapter.

12           (d) Control and management of trust fund.--

13           (1) The board shall have exclusive control and  
14 management of the trust fund and full power to invest and  
15 manage the assets of each account of the trust fund as a  
16 prudent investor would, by considering the purposes, terms  
17 and other circumstances of each account and by pursuing an  
18 overall investment strategy reasonably suited to the trust  
19 fund.

20           (2) The board may invest in every kind of property and  
21 type of investment, including mutual funds and similar  
22 investments, consistent with this subsection.

23           (3) In making investment and management decisions, the  
24 board shall consider, among other things, to the extent  
25 relevant to the decision or action:

26                   (i) the size and nature of the account;

27                   (ii) the liquidity and payment requirements of the  
28 account;

29                   (iii) the role that each investment or course of  
30 action plays in the overall investment strategy;

1           (iv) to the extent reasonably known to the board,  
2           the needs for present and future payments; and  
3           (v) the reasonable diversification of assets, taking  
4           into account the purposes, terms and other circumstances  
5           of the trust fund and the requirements of this section.

6           (e) Custodian of trust fund.--The State Treasurer shall be  
7           the custodian of the trust fund.

8           (f) Name for transacting business.--By the name of "The  
9           Public School Employees' Benefit Trust Fund," all of the  
10          business of the trust fund shall be transacted, its fund  
11          invested, all requisitions for money drawn and payments made and  
12          all of its cash and securities and other property shall be held.  
13          Any other law to the contrary notwithstanding, the board may  
14          establish a nominee registration procedure for the purpose of  
15          registering securities in order to facilitate the purchase, sale  
16          or other disposition of securities.

17          (g) Payment from trust fund.--All payments from the trust  
18          fund shall be made by the State Treasurer in accordance with  
19          requisitions signed by the secretary of the board or the  
20          secretary's designee. The board shall reimburse the State  
21          Treasurer for the cost of making disbursements from the trust  
22          fund.

23          (h) Fiduciary status of board.--Board members, employees of  
24          the board and agents thereof shall stand in a fiduciary  
25          relationship to the members regarding the investments and  
26          disbursements of any of the money of the trust fund and shall  
27          not profit either directly or indirectly with respect thereto.

28          (i) Transfers.--The board may transfer money among the  
29          various accounts of the trust fund, including any reserve  
30          accounts established under subsection (a) (2), as may be

1 necessary to satisfy the provisions of this chapter. Transfers  
2 from funds retained in the reserve account under subsection (a)  
3 (2) (i) (A) may be made only for the payment of claims or expected  
4 claims as determined by the actuary retained by the board.  
5 Transfers from funds retained in the reserve account under  
6 subsection (a) (2) (i) (B) or (C) may be made only for paying  
7 toward the cost of providing health care benefits to annuitants  
8 enrolled in the program under section 333(a) (1).

9 (j) Additional powers of board.--The board may:

10 (1) Adopt, from time to time, appropriate investment  
11 policy guidelines and convey the same to those fiduciaries  
12 who have the responsibility for the investment of funds.

13 (2) Retain such portion of the money of the accounts in  
14 cash or cash balances as the board may deem desirable,  
15 without any liability or interest thereon.

16 (3) Settle, compromise or submit to arbitration all  
17 claims or damages due from or to the accounts, commence or  
18 defend any legal, equitable or administrative proceedings  
19 brought in connection with the program and represent the  
20 trust fund in all proceedings under this paragraph.

21 (k) Additional duties of secretary.--The secretary of the  
22 board shall serve as liaison to the Treasury Department, the  
23 Department of the Auditor General and between the board and the  
24 investment counsel and the mortgage supervisor in arranging for  
25 investments to secure maximum returns to the trust fund.

26 Section 337. Misrepresentation, refusal to cooperate and fraud.

27 (a) Misrepresentation.--If the eligible individual or anyone  
28 acting on behalf of an eligible individual makes a false  
29 statement or withholds information on the application for  
30 enrollment with intent to deceive or affect the acceptance of

1 the enrollment application or the risks assumed by the program  
2 or otherwise misleads the board, the board shall be entitled to  
3 recover its damages, including legal fees, from the eligible  
4 individual or from any other person responsible for misleading  
5 the board and from the person for whom the benefits were  
6 provided. Any material misrepresentation on the part of the  
7 eligible individual in making application for coverage or an  
8 application for reclassification or for service thereunder shall  
9 render the coverage under the program null and void.

10 (b) Refusal to cooperate.--

11 (1) The board may refuse to pay benefits, or cease to  
12 pay benefits, on behalf of an eligible individual who fails  
13 to sign a document deemed by the board to be relevant to  
14 protecting its subrogation rights or certifying eligibility  
15 or who fails to provide relevant information when requested.

16 (2) As used in this subsection, the term "information"  
17 includes any documents, insurance policies, police reports or  
18 any reasonable request by the claims processor to enforce the  
19 board's rights.

20 (c) Penalty for fraud.--In any case in which the board finds  
21 that an eligible individual is receiving benefits based on false  
22 information, the additional amounts received predicated on the  
23 false information, together with interest doubled and compounded  
24 and legal fees, shall be due from the member. To secure payment  
25 of funds, the board shall have the right to garnish or attach  
26 all or a portion of any compensation payable to the party by the  
27 party's employer, any annuity payable to the party by the  
28 retirement system, any accumulated deductions held by the  
29 retirement system in the party's account or any process.

30 Section 338. Miscellaneous provisions.

1 (a) Construction of chapter.--

2 (1) Any termination or other modifications of the  
3 program, including a change in rates, benefits options or  
4 structure of the provision of health care benefits, may not  
5 give rise to any contractual rights or claims by any eligible  
6 individuals or any other person claiming an interest, either  
7 directly or indirectly, in the program. No provisions of this  
8 chapter, nor any rule or regulation adopted under this  
9 chapter, shall create in any person a contractual right in  
10 that provision.

11 (2) The provisions of this chapter are severable and if  
12 any of its provisions shall be held to be unconstitutional,  
13 the decision of the court may not affect or impair any of the  
14 remaining provisions. It is hereby declared to be the  
15 legislative intent that this chapter would have been adopted  
16 had the unconstitutional provisions not been included.

17 (3) This subsection may not apply to policies designed  
18 primarily to provide coverage payable on a per diem, fixed  
19 indemnity or nonexpense incurred basis, or policies that  
20 provide accident only coverage, where payment for the policy  
21 is made solely by the school employee.

22 (b) Hold harmless.--Neither the Commonwealth nor the board,  
23 including their respective officers, directors and employees,  
24 shall be liable for any claims, demands, actions or liability of  
25 any nature, including attorney fees and court costs, based upon  
26 or arising out of the operations of the program, whether  
27 incurred directly or indirectly. The eligible individuals who  
28 enroll and participate in the program shall be deemed to agree,  
29 on behalf of themselves and their heirs, successors and assigns,  
30 to hold harmless the Commonwealth and the board, including their

1 respective officers, directors and employees, from any claims,  
2 demands, actions or liability of any nature, whether directly or  
3 indirectly, including attorney fees and court costs, based upon  
4 or arising out of the operation of the program.

5 (c) No recourse.--Under no circumstances shall the assets of  
6 the Commonwealth be liable for or its assets be used to pay any  
7 claims, demands, actions or liability of any nature, whether  
8 directly or indirectly, including attorney fees and court costs,  
9 based upon or arising out of the operation of the program.

10 (d) Reservation of immunities.--Nothing contained in this  
11 chapter shall be construed as a waiver of the Commonwealth's or  
12 board's immunities, defenses, rights or actions arising out of  
13 their sovereign status or from the 11th amendment to the  
14 Constitution of the United States.

15 (e) Collective bargaining, mediation and binding  
16 arbitration.--Except as otherwise provided in subsection (f),  
17 nothing in this chapter or in any other law shall be construed  
18 to permit, authorize or require collective bargaining, mediation  
19 or binding arbitration to create, alter or modify health  
20 benefits set forth in this chapter or administered by the board  
21 for school employees and their health care dependents. Further,  
22 except as otherwise provided in subsection (f), nothing in this  
23 chapter or in any other law shall be construed to permit,  
24 authorize or require a public school entity, through collective  
25 bargaining, mediation or binding arbitration, or otherwise, to  
26 establish, create, alter or modify a health benefits plan or pay  
27 health benefits set forth in this chapter or administered by the  
28 board that modify or supplement in any way the health benefits  
29 set forth in this chapter for school employees and their health  
30 care dependents.

1 (f) Exceptions.--

2 (1) The parties may:

3 (i) Continue to engage in collective bargaining with  
4 regard to health benefits until the board-sponsored  
5 program, under this subchapter, is released and the  
6 standard benefit package is made available to employees  
7 of a public school entity. However, any health benefits  
8 provided under a collective bargaining agreement entered  
9 into on or after the effective date of this chapter shall  
10 contain a provision that school employees covered by the  
11 agreement must join the board-sponsored program as  
12 required by section 332 as a condition of continuing to  
13 receive health benefits. The board shall determine the  
14 appropriate timing and phase-in of the program in any  
15 public school entity taking into consideration the need  
16 for the public school entity to properly terminate any  
17 existing health benefits arrangements.

18 (ii) Negotiate or otherwise agree to provide or make  
19 payment for supplemental benefits that have not been  
20 included as part of the standard benefit package.

21 (2) Nothing contained in this chapter shall restrict a  
22 public school entity from negotiating or otherwise agreeing  
23 to make payment for postretirement health benefits for  
24 members or as may be provided for in Subchapter F.

25 (g) Initial qualified majority vote requirement.--A  
26 qualified majority vote of the board that occurs on or before  
27 December 31, 2017, must include the support of either the  
28 Secretary of the Budget or the Insurance Commissioner.

29 SUBCHAPTER E

30 ALTERNATIVE MEASURES FOR COST REDUCTION



1 Section 351. Alternative measures program.

2 (a) Creation.--Upon completing the study required under  
3 section 321 with either a negative recommendation to proceed  
4 with implementation of a Statewide health care program or if the  
5 board fails to achieve agreement and approve a plan for  
6 implementing a Statewide health benefits program by a qualified  
7 majority vote, the board shall proceed to initiate and sponsor  
8 an alternative measures program to reduce the costs for public  
9 school entities in providing health care coverage to employees  
10 and other eligible individuals.

11 (b) Program design.--In designing an alternative measures  
12 program, the board may consider all of the following:

13 (1) Establishment of pools for selected areas of  
14 coverage, including pharmacy services, transplants, stop-loss  
15 insurance, health care management or other possible areas  
16 that in the board's judgment can be offered Statewide or  
17 regionally on a more stable and cost-effective basis.

18 (2) Assistance in the formation of consortia to serve  
19 public school entities that do not have the option of joining  
20 an existing consortium.

21 (3) Development of best practice standards and  
22 benchmarks for public school entities and consortia-  
23 sponsoring health care plans for school employees.

24 (4) Requirements that public school entities and  
25 consortia aggregate into larger regional pools, with opt-out  
26 provisions for public school entities or consortia that meet  
27 best practice standards and benchmarks.

28 (5) Requirements for public disclosure by public school  
29 entities and consortia comparing their health benefits  
30 purchasing to established best practice standards in their

1 region.

2 (c) Implementation.--The board shall have full authority to  
3 select and contract with insurance carriers, health maintenance  
4 organizations, pharmacy benefit managers, third-party  
5 administrators, reinsurers and any other entities necessary to  
6 provide the selected areas of coverage. The board shall have  
7 full authority to determine the nature, amount and duration and  
8 discontinuation of coverage to be provided.

9 (d) Mandatory and optional participation.--The board shall  
10 have the authority to require public school entities and  
11 consortia to participate in the alternative measures program.

12 (e) Transition plan.--If the board determines that a public  
13 school entity or consortium shall be required to participate in  
14 the alternative measures program, the public school entity or  
15 consortium shall, within a reasonable period of time as  
16 determined by the board, present to the board a transition plan  
17 with a schedule for the public school entity or consortium to  
18 join the alternative measures program. The board shall review  
19 the transition plan with the public school entity or consortium  
20 and make any necessary modifications before granting approval of  
21 the plan. A public school entity or consortium shall be subject  
22 to adherence to the transition plan approved by the board.

23 (f) Extensions of time.--The board shall give due  
24 consideration to a transition plan submitted under subsection  
25 (e) that includes a request for an extension of time.  
26 Consideration shall be given to a public school entity or  
27 consortium which will incur a significant financial cost or  
28 penalty.

29 (g) Prohibited membership.--A public school entity that  
30 participates in the Pennsylvania Employees' Benefit Trust Fund

1 shall be prohibited from participating in the alternative  
2 measures program.

3 (h) Transition of employees.--A public school entity that  
4 provides some or all of its employees with health benefits  
5 through another health care plan by virtue of one or more  
6 collective bargaining agreements entered into prior to the  
7 effective date of this chapter may not be required to join the  
8 alternative measures program until expiration of the collective  
9 bargaining agreements. The public school entity and some or all  
10 of its employees, or bargaining representatives of its  
11 employees, may, by mutual agreement and approval of the board,  
12 join the program at an earlier date. Renewal or extension of a  
13 collective bargaining agreement shall constitute its expiration  
14 for the purposes of this subsection.

15 (i) Optional membership.--No school district of the first  
16 class, as classified under section 202 of the Public School  
17 Code, shall be required to participate in the alternative  
18 measures program, except as may be agreed upon under the terms  
19 of a collective bargaining agreement covering a majority of  
20 employees of the school district. Upon a school district of the  
21 first class entering participation in the alternative measures  
22 program under a collective bargaining agreement, continued  
23 participation in the alternative measures program shall become  
24 mandatory.

25 SUBCHAPTER F

26 RETIREMENT HEALTH SAVINGS PLAN

27 Section 361. Retirement health savings plan.

28 (a) Plan created.--The board shall establish a retirement  
29 health savings plan through which school employees can save to  
30 cover health-related expenses following retirement. For this

1 purpose the board shall make available one or more trusts  
2 including a governmental trust or governmental trusts authorized  
3 under the IRC as eligible for tax-preferred or tax-free  
4 treatment. The board may promulgate regulations regarding the  
5 prudent and efficient operation of the retirement health savings  
6 plan, including:

7 (1) Establishment of an annual administrative budget and  
8 disbursements in accordance with the budget.

9 (2) Determination of the structure of the retirement  
10 health savings accounts available to eligible school  
11 employees.

12 (3) Determination of enrollment procedures.

13 (b) Contracting authorized.--The board is authorized to  
14 administer the retirement health savings plan and to contract  
15 with any lawfully authorized entities to provide investment  
16 services, recordkeeping, benefit payments and other functions  
17 necessary for the administration of the retirement health  
18 savings plan. The board may contract with the retirement system  
19 to invest funds in an account that shall be maintained and  
20 accounted for separately from the funds of the retirement system  
21 and invested in a prudent manner intended to maximize the safety  
22 of the capital, with all earnings derived from investment of the  
23 assets to be credited to the retirement health savings plan.  
24 Costs and expenses incurred by the retirement system in  
25 administering the investment option shall be paid by the  
26 retirement health savings plan.

27 (c) Separate account.--All funds related to the retirement  
28 health savings plan shall be maintained and accounted for  
29 separately from the health benefits program sponsored by the  
30 board. The assets of the retirement health savings plan shall

1 not be liable or utilized for payment of any expenses or claims  
2 incurred by the health benefits program other than as may be  
3 directed by the participant account holder for reimbursement of  
4 an IRC-qualifying health-related expense.

5 (d) Enrollment.--The board shall establish eligibility  
6 guidelines consistent with the IRC for school employees to  
7 participate in the retirement health savings plan.

8 (e) Contributions.--

9 (1) The board shall determine what contributions are  
10 eligible under the IRC for tax-preferred or tax-free  
11 treatment and may be made into a retirement health savings  
12 plan by a school employee. The board shall authorize and  
13 allow contributions, subject to appropriate limits as may be  
14 established by the board, to be paid by a school employee  
15 electing participation in the retirement health savings plan  
16 subject to the following conditions:

17 (i) A mandatory school employee contribution  
18 established as a fixed percentage of compensation may be  
19 established through a collective bargaining agreement  
20 between a public school entity and a bargaining group  
21 representing school employees. The retirement health  
22 savings plan contribution rate does not have to be  
23 uniform for all groups of school employees.

24 (ii) An optional employee contribution at a fixed  
25 percentage of compensation may be elected by a school  
26 employee during an annual election window that, once  
27 elected, shall continue in effect, except to the extent  
28 it may be changed or discontinued at a subsequent annual  
29 election window as provided for by the board or  
30 supplanted by a mandatory contribution.

1           (iii) An optional school employee contribution of  
2 all or any portion of annual leave, vacation pay,  
3 personal days or sick leave may be elected by a school  
4 employee as so designated by the employee and agreed to  
5 by the employee's employer. The board may provide that  
6 the election shall be made during an annual election  
7 window of no greater than 90 days as determined by the  
8 board. Once the election has been made, an employee shall  
9 not be allowed to change the amount or discontinue the  
10 contributions until the next annual election window.

11           (2) The following contributions shall be made into a  
12 retirement health savings plan on behalf of a school  
13 employee:

14           (i) For an employee who elects participation in the  
15 retirement health savings plan, the employee's employer  
16 shall make a contribution to the employee's account equal  
17 to the public school entity's savings in Social Security  
18 and Medicare taxes resulting from the tax-preferred or  
19 tax-free treatment of contributions made by the school  
20 employee under this subsection. Additional contributions  
21 by a public school entity may be established through a  
22 collective bargaining agreement between a public school  
23 entity and a bargaining group representing school  
24 employees.

25           (ii) Any other payments by the Commonwealth or  
26 public school entity, including any set-aside payments to  
27 be made to school employee accounts under section 334 as  
28 determined by the board.

29           (3) Contributions to the plan by a school employee or by  
30 the Commonwealth or a public school entity on behalf of an

1 employee must be held in trust for reimbursement of employee  
2 health-related expenses and the health-related expenses of  
3 any health care dependents following retirement of the  
4 employee or when otherwise determined to be benefit eligible.  
5 The board shall maintain a separate account of the  
6 contributions made by or on behalf of each participant and  
7 the earnings thereon. The board shall make available a  
8 selection of investment options for participants who wish to  
9 direct the investment of the accumulations in the  
10 participant's account, in addition to a default option for  
11 participants to be invested in a prudent manner as determined  
12 by the board.

13 (f) Reimbursement for health-related expenses.--

14 (1) Upon retirement or separation from employment with a  
15 public school entity, a participant becomes eligible to seek  
16 reimbursements for IRC-qualifying health-related expenses  
17 from the participant's retirement health savings plan  
18 account, including reimbursements for the health-related  
19 expenses of the participant's eligible health care  
20 dependents.

21 (2) If a school employee dies prior to exhausting the  
22 balance in the employee's retirement health savings plan  
23 account, the employee's health care dependents are eligible  
24 to seek reimbursement for IRC-qualifying health-related  
25 expenses from the account.

26 (3) The board shall pay reimbursements from a retirement  
27 health savings plan account until the accumulation in the  
28 account has been exhausted. If an account balance remains  
29 after the death of all participant account holders, the  
30 remainder of the account must be paid to the school

1 employee's beneficiaries or, if none, to the employee's  
2 estate.

3 (g) Annual financial statement.--Quarterly and annually the  
4 board shall prepare summary retirement health savings plan  
5 statements for individual participant account holders listing  
6 information on contributions, investment earnings and  
7 distributions for the account holders' accounts.

8 (h) Fees.--The board is authorized to charge uniform fees to  
9 participants to cover the ongoing costs of operating the plan.  
10 Any fees not needed must revert to participant accounts or be  
11 used to reduce plan fees the following year.

12 (i) Advisory committee.--

13 (1) The board shall establish a participant advisory  
14 committee for the retirement health savings plan composed of:

15 (i) One representative appointed by each Statewide  
16 union that represents bargaining groups of school  
17 employees participating in the plan.

18 (ii) One representative of each Statewide  
19 organization representing at least 10% of annuitants.

20 (iii) One representative of the Pennsylvania  
21 Association of School Business Officials.

22 (iv) One representative of the Pennsylvania School  
23 Boards Association.

24 (2) Each participant group shall be responsible for the  
25 expenses of its own representative.

26 (3) The advisory committee shall meet at least two times  
27 per year and shall be consulted on plan offerings. By October  
28 1 of each year, the board shall give the advisory committee a  
29 statement of fees collected and the use of the fees.

30 CHAPTER 5



MISCELLANEOUS PROVISIONS

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Section 501. Feasibility report.

Within 18 months after the Statewide health benefits program or the alternative measures program is fully implemented, the Secretary of Administration shall report to the Governor, the President pro tempore of the Senate and the Speaker of the House of Representatives the feasibility of including community college employees in the program.

Section 502. Effective date.

This act shall take effect July 1, 2017.