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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 417

Session of  
1979

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INTRODUCED BY ROCKS, McKELVEY, ARTY, POLITE AND L. E. SMITH,  
FEBRUARY 23, 1979

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REFERRED TO COMMITTEE ON APPROPRIATIONS, MARCH 5, 1979

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AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," further providing for exceptional  
6 children and reimbursements for certain special education  
7 services.

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

10 Section 1. Section 1376, act of March 10, 1949 (P.L.30,  
11 No.14), known as the "Public School Code of 1949," amended  
12 December 15, 1975 (P.L.484, No.144), is amended to read:

13 Section 1376. Cost of Tuition and Maintenance of Certain  
14 Exceptional Children in Approved Institutions.--(a) When any  
15 child between the ages of six (6) and twenty-one (21) years of  
16 age resident in this Commonwealth, who is blind or deaf, or  
17 afflicted with cerebral palsy and/or brain damage and/or  
18 muscular dystrophy and/or mentally retarded and/or socially and  
19 emotionally disturbed, is enrolled, with the approval of the  
20 Department of Education, as a pupil in any of the schools or

1 institutions for the blind or deaf, or cerebral palsied and/or  
2 brain damaged and/or muscular dystrophied and/or mentally  
3 retarded, and/or socially and emotionally disturbed, under the  
4 supervision of, subject to the review of or approved by the  
5 Department of Education, in accordance with standards and  
6 regulations promulgated by the Council of Basic Education, the  
7 school district in which such child is resident shall pay  
8 twenty-five per centum (25%) of the cost of tuition and  
9 maintenance of such child in such school or institution, as  
10 determined by the Department of Education; and the Commonwealth  
11 shall pay, out of funds appropriated to the department for  
12 special education, seventy-five per centum (75%) of the cost of  
13 their tuition and maintenance, as determined by the Department.  
14 If the residence of such child in a particular school district  
15 cannot be determined, the Commonwealth shall pay, out of moneys  
16 appropriated to the department for special education, the whole  
17 cost of tuition and maintenance of such child. In no event shall  
18 the total cost of tuition and maintenance for blind, deaf,  
19 cerebral palsied and/or brain damaged and/or muscular  
20 dystrophied and/or socially and emotionally disturbed and/or  
21 mentally retarded residential students exceed [eight thousand  
22 five hundred dollars (\$8,500)] ten thousand five hundred dollars  
23 (\$10,500) per year, for tuition of blind, deaf, cerebral palsied  
24 and/or muscular dystrophied day students exceed [five thousand  
25 one hundred dollars (\$5,100)] six thousand one hundred dollars  
26 (\$6,100) per year, and for tuition of brain damaged and/or  
27 socially and emotionally disturbed and/or mentally retarded day  
28 students exceed [four thousand one hundred dollars (\$4,100)]  
29 five thousand one hundred dollars (\$5,100) per year. The  
30 Department of Education shall be provided with such financial

1 data from private schools as may be necessary to determine the  
2 reasonableness of charges for tuition and room and board of the  
3 institution made on Pennsylvania resident approved reimbursed  
4 students. The Department of Education shall evaluate such data  
5 and shall disallow any charge deemed unreasonable. Any charges  
6 deemed unreasonable by the Department of Education for  
7 disallowance shall be considered an adjudication within the  
8 meaning of [the act of June 4, 1945 (P.L.1388, No.442), known as  
9 the "Administrative Agency Law,"] Title 2 of the Pa.C.S.  
10 (relating to administrative law and procedure) and regulations  
11 promulgated thereunder.

12 (b) When any person less than six (6) or more than twenty-  
13 one (21) years of age resident in this Commonwealth, who is  
14 blind or deaf, or afflicted with cerebral palsy and/or brain  
15 damage and/or muscular dystrophy, is enrolled, with the approval  
16 of the Department of Education, as a pupil in any of the schools  
17 or institutions for the blind or deaf, or cerebral palsied  
18 and/or brain damaged and/or muscular dystrophied, under the  
19 supervision of or approved by the Department of Education, the  
20 Commonwealth shall pay to such school or institution, out of  
21 moneys appropriated to the department for special education, the  
22 cost of tuition and maintenance of such person, as determined by  
23 the Department of Education, subject to review and approval in  
24 accordance with standards and regulations promulgated by the  
25 Council of Basic Education, and in addition, in the case of any  
26 child less than six (6) years of age, who is blind, the cost, as  
27 determined by the Department of Education of instructing the  
28 parent of such blind child in caring for such child. In no event  
29 shall the total cost of tuition and maintenance for residential  
30 students exceed [eight thousand five hundred dollars (\$8,500)]

1 ten thousand five hundred dollars (\$10,500) per year for tuition  
2 of deaf or blind and/or cerebral palsied and/or muscular  
3 dystrophied day students, exceed [five thousand one hundred  
4 dollars (\$5,100)] six thousand one hundred dollars (\$6,100) per  
5 year and for tuition of brain damaged day students [four  
6 thousand one hundred dollars (\$4,100)] five thousand one hundred  
7 dollars (\$5,100) per year.

8 (c) When any child between the ages of six (6) and twenty-  
9 one (21) years of age, resident in this Commonwealth, who is  
10 socially and emotionally disturbed, is enrolled with the  
11 approval of the Department of Education as a pupil in any  
12 approved day school under supervision of or approved by the  
13 Department of Education, the school district in which such child  
14 is resident shall pay twenty-five percent (25%) of the cost of  
15 tuition of such child in such school as determined by the  
16 Department of Education, and the Commonwealth shall pay out of  
17 funds appropriated to the Department for Special Education  
18 seventy-five percent (75%) of the cost of tuition of such child  
19 as determined by the department: Provided, however, That in no  
20 event shall the cost of tuition of such child exceed [four  
21 thousand one hundred dollars (\$4,100)] five thousand one hundred  
22 dollars (\$5,100) per school year.

23 (d) No private institution receiving payment in accordance  
24 with this section shall impose any charge on the student and/or  
25 parents who are Pennsylvania approved reimbursable residents for  
26 a program of instruction and maintenance appropriate to the  
27 child's needs; except that charges for programs not part of the  
28 normal school year may be made.

29 (e) Where the private institution provides a vocational  
30 education program to the students enrolled therein as an

1 established and integral part of its on-going approved program  
2 and where the department deems such program to be necessary  
3 because of the unavailability of an appropriate program for such  
4 students, the maximum rate payable shall be increased by the  
5 audited cost of the program per approved Pennsylvania resident  
6 enrolled in the program.

7 (f) Where the private institution provides special education  
8 programs for multihandicapped students which is adjudged  
9 necessary by the Department of Education, the maximum rate  
10 payable shall be increased by seventy-five percent (75%) for the  
11 second severe handicap, eighty-five percent (85%) for the third  
12 severe handicap and one hundred percent (100%) for more than  
13 three severe handicaps.

14 Section 2. The act is amended by adding a section to read:

15 Section 1376.1. Actual Cost of Tuition and Maintenance of  
16 Certain Exceptional Children in the Four Chartered Schools for  
17 Education of the Deaf and the Blind.--(a) The following term,  
18 whenever used or referred to in this section, shall have the  
19 following meaning. "Chartered School" shall mean any of the four  
20 (4) chartered schools for the education of the deaf or the  
21 blind: the Pennsylvania School for the Deaf; the Overbrook  
22 School for the Blind; the Western Pennsylvania School for Blind  
23 Children; and the Western Pennsylvania School for the Deaf.

24 (b) When any child of school age resident in this  
25 Commonwealth, who is blind or deaf, is enrolled with the  
26 approval of the Department of Education as a pupil in any of  
27 the four (4) chartered schools in accordance with standards and  
28 regulations promulgated by the Council of Basic Education, the  
29 school district in which such child is resident shall pay  
30 twenty-five percent (25%) of the actual cost of tuition and

1 maintenance of such child in such institution, as determined by  
2 the Department of Education; and the Commonwealth shall pay, out  
3 of funds appropriated to the department for special education,  
4 seventy-five percent (75%) of the actual cost of their tuition  
5 and maintenance, as determined by the department. If the  
6 residence of such child in a particular school district cannot  
7 be determined, the Commonwealth shall pay, out of moneys  
8 appropriated to the department for special education, the whole  
9 cost of tuition and maintenance of such child. The Department of  
10 Education shall be provided with such financial data from each  
11 of the chartered schools as may be necessary to determine the  
12 reasonableness of charges for tuition and room and board of each  
13 of the chartered schools made on Pennsylvania resident approved  
14 students. The Department of Education shall evaluate such data  
15 and shall disallow any charges deemed unreasonable. Any charge  
16 deemed unreasonable by the Department of Education for  
17 disallowance shall be considered an adjudication within the  
18 meaning of Title 2 of the Pa.C.S. (relating to administrative  
19 law and procedure) and regulations promulgated thereunder.

20 (c) When any person less than school age resident in this  
21 Commonwealth who is blind or deaf is enrolled, with the approval  
22 of the Department of Education, as a residential pupil in any of  
23 the four (4) chartered schools, the Commonwealth shall pay to  
24 the school, out of moneys appropriated to the department for  
25 special education, the actual cost of tuition and maintenance of  
26 such person, as determined by the Department of Education,  
27 subject to review and approval in accordance with standards and  
28 regulations promulgated by the Council of Basic Education, and  
29 in addition, in the case of any child less than school age, who  
30 is blind, the cost, as determined by the Department of Education

1 of instructing the parent of such blind child in caring for such  
2 child.

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

9 Section 3. Section 1377 of the act, amended December 15,  
10 1975 (P.L.484, No.144), is amended to read:

11 Section 1377. Payment of Cost of Tuition and Maintenance of  
12 Certain Exceptional Children.--(a) To facilitate payments by the  
13 several school districts to the schools or institutions in which  
14 deaf or blind, or cerebral palsied and/or brain damaged and/or  
15 muscular dystrophied, or socially and emotionally disturbed or  
16 mentally retarded children are enrolled, of amounts due by such  
17 districts for their proportion of the cost of tuition and  
18 maintenance of such children, the Secretary of Education shall  
19 withhold from any moneys due to such districts out of any State  
20 appropriation for the assistance as reimbursement of school  
21 districts, the amounts due by such districts to such schools or  
22 institutions for the blind or the deaf, or the cerebral palsied  
23 and/or brain damaged and/or muscular dystrophied or the socially  
24 and emotionally disturbed and/or mentally retarded. Amounts so  
25 withheld shall be paid to such schools or institutions by  
26 warrant of the Auditor General upon the State Treasurer, after  
27 requisition of the Secretary of Education, for which purpose all  
28 amounts so withheld are hereby specifically appropriated to the  
29 Department of Education.

30 (b) Payments of the Commonwealth's proportion of the cost of

1 tuition and maintenance of blind or deaf, or cerebral palsied  
2 and/or brain damaged and/or muscular dystrophied, or socially  
3 and emotionally disturbed and/or mentally retarded pupils  
4 enrolled in schools or institutions for the blind or for the  
5 deaf, or for the cerebral palsied and/or brain damaged and/or  
6 muscular dystrophied, or for the socially and emotionally  
7 disturbed and of the cost of instruction of parents of blind  
8 pupils less than six (6) years of age, as hereinbefore provided,  
9 shall be made quarterly, out of moneys appropriated to the  
10 Department of Education for special education, by warrant of the  
11 Auditor General upon the State Treasurer, after requisition by  
12 the Secretary of Education. [In no event] Except for the  
13 provisions of section 1376.1 providing for the actual cost of  
14 tuition and maintenance of certain exceptional children in the  
15 four chartered schools for education of the deaf and of the  
16 blind, in no event shall the total payment for the cost of  
17 tuition and maintenance of any such child exceed the rates per  
18 year allowed under section 1376. The maximum amount payable for  
19 the cost of tuition and maintenance of such children shall be  
20 subject to review at least once every two years for the purpose  
21 of recommending an adjustment thereof.

22 (c) For the purpose of enabling the Department of Education  
23 to determine from time to time what amounts are due to schools  
24 for the blind or for the deaf or for the cerebral palsied and/or  
25 brain damaged and/or muscular dystrophied or for the socially  
26 and emotionally disturbed and/or mentally retarded hereunder,  
27 such schools shall forward to the department, at such times and  
28 in such form as the department shall prescribe, sworn statements  
29 setting forth the names, ages, and residences of all pupils  
30 enrolled hereunder, specifying the school districts liable for a



1 part of the cost of tuition and maintenance of any such pupils,  
2 the per capita cost of and maintenance of pupils, and such other  
3 information as the department shall require.

4 For the purpose of providing adequate administration of the  
5 program and to carry out the preaudit functions authorized in  
6 section 1376(a), [one-quarter of one percent (.25%)] one-half of  
7 one percent (.50%) of the total appropriations for approved  
8 private schools from all funds shall be allocated to the  
9 Department of Education.

10 Section 4. Section 1 of this act shall take effect July 1,  
11 1979 and shall apply to the school year 1979-1980 and each year  
12 thereafter. Sections 2 and 3 shall take effect immediately and  
13 shall be retroactive to July 1, 1978, to apply to the school  
14 year 1978-1979 and each year thereafter.