

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2562 Session of  
1990

INTRODUCED BY PIEVSKY, MAY 22, 1990

REFERRED TO COMMITTEE ON EDUCATION, MAY 22, 1990

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 funding  
6 programs for exceptional children.

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

9 Section 1. Section 2509 of the act of March 10, 1949  
10 (P.L.30, No.14), known as the Public School Code of 1949,  
11 amended December 29, 1972 (P.L.1732, No.373), is amended to  
12 read:

13 Section 2509. Payments on Account of Courses for Exceptional  
14 Children.--[Annually, before] Before the first day of July, of  
15 every year up to and including 1990, every school district or  
16 joint board of school directors planning to conduct classes or  
17 schools for [the] exceptional children shall submit, for prior  
18 review and approval to establish the amount on which  
19 reimbursement will be paid by the Department of Education, an

1 estimate of the cost of classes or schools for exceptional  
2 children to be operated by the district or joint board during  
3 the ensuing school year, and for transportation of pupils to and  
4 from classes and schools for exceptional children conducted by  
5 the district or joint board of school directors. [Every school  
6 district, regardless of classification, shall be paid by the  
7 Commonwealth for the school term 1953-1954, the sum of twenty  
8 dollars (\$20) per pupil in average daily membership in a course  
9 or courses for mentally handicapped children, and the sum of  
10 thirty dollars (\$30) per pupil in average daily membership in a  
11 course or courses for physically handicapped children, approved  
12 by the Secretary of Education.] Beginning with the school term  
13 of 1954-1955 [and for every school term thereafter] up to and  
14 including the 1990-1991 school term, every school district,  
15 regardless of classification, shall be paid by the Commonwealth  
16 an amount to be determined by multiplying the average daily  
17 membership in a course or courses for exceptional children, (1)  
18 at the elementary level, by an amount determined by subtracting  
19 the "instruction cost per elementary pupil," as defined in  
20 section 2561 of this act, from the "instruction cost per special  
21 class pupil," as hereinafter defined, for the preceding school  
22 term, or from the instruction cost per special class elementary  
23 pupil as approved for reimbursement by the Department of  
24 Education in the budget for classes or schools for exceptional  
25 children for the school year in which the class is operated,  
26 whichever is the lesser, (2) at the secondary level, by an  
27 amount determined by subtracting the "instruction cost per high  
28 school pupil," as defined in section 2561 of this act, from the  
29 "instruction cost per special class pupil," as hereinafter  
30 defined, for the preceding school term, or from the instruction

1 cost per special classes secondary pupil as approved for  
2 reimbursement by the Department of Education in the budget for  
3 classes or school for exceptional children for the school year  
4 in which the class is operated, whichever is the lesser.

5 To find the "instruction cost per special class pupil," add  
6 (1) salaries of directors and supervisors of special education,  
7 public school psychologists, principals of special schools and  
8 assistants, teachers of approved special classes for exceptional  
9 children, clerks and assistants employed in the district's  
10 program for special education, (2) the district's contribution  
11 to the retirement fund on behalf of directors and supervisors of  
12 special education, public school psychologists, principals of  
13 special schools and assistants, teachers of approved special  
14 classes for exceptional children, clerks and assistants employed  
15 in the district's program for special education, (3) the cost of  
16 textbooks and supplies of the second class used in the  
17 district's special education classes or schools, (4) the cost of  
18 telephonic system equipment which enables handicapped children  
19 to remain in their homes and still participate in classroom  
20 activities. Divide the sum of (1), (2), (3), and (4) on that  
21 part thereof which is approved by the Department of Education  
22 for reimbursement by the total number of pupils, including those  
23 pupils who have available for use telephonic system equipment  
24 whereby they may remain at home and still participate in  
25 classroom activities, in average daily membership in the  
26 district's approved special classes for exceptional children.  
27 The quotient so obtained shall be the "instruction cost per  
28 special class pupil."

29 The average daily membership of speech correction classes  
30 shall be calculated by multiplying (1) the average number of

1 pupils in speech correction classes per week by (2) the number  
2 of periods per week that speech correction is provided for the  
3 individual pupil by (3) the number of minutes per period in  
4 speech correction class. Divide the product of (1), (2) and (3)  
5 by the total number of minutes spent in all classes weekly by  
6 the average pupil. The quotient thus obtained will be the  
7 "average daily membership for pupils in speech correction  
8 classes."

9 For the school term of 1972-1973 [and for the school term of  
10 each school year thereafter] up to and including the 1988-1989  
11 school term, such payments shall consist of an amount payable in  
12 two equal installments during the year of operation, with  
13 adjustments to be made during the next succeeding school year.  
14 The amount to be paid in equal installments on or about the  
15 first day of August and on or about the first day of January of  
16 the operating year shall be the sum of the products determined  
17 by multiplying the anticipated equivalent full-time average  
18 daily membership in courses for exceptional children as reported  
19 on the approved budget for the operating year (1) at the  
20 elementary level times an amount determined by subtracting the  
21 estimated instruction cost per elementary pupil, as defined in  
22 section 2561 of this act, for the preceding school term from the  
23 budgeted instruction cost per special class elementary pupil as  
24 approved by the Department of Education for the operating year  
25 and (2) at the secondary level times an amount determined by  
26 subtracting the estimated instruction cost per high school  
27 pupil, as defined in section 2561 of this act, for the preceding  
28 school term from the budgeted instruction cost per special class  
29 secondary pupil as approved by the Department of Education for  
30 the operating year.

1       The adjustment to be made during the school year immediately  
2       succeeding the operating year shall be determined by subtracting  
3       the payments made during the preceding year from the actual  
4       amount of reimbursement which would have been payable for said  
5       year if calculated as during the year 1954-1955 through 1971-  
6       1972. When determined, the adjusted amount, if positive, shall  
7       be paid promptly to the district and, if negative, shall be  
8       withheld from any moneys due to such district out of any State  
9       appropriation.

10       Section 2. Section 2509.1 of the act, amended July 8, 1989  
11       (P.L.253, No.43), is amended to read:

12       Section 2509.1. Payment on Account of Transportation,  
13       Classes and Schools for Exceptional and Institutionalized  
14       Children.--[Annually, before] Before the first day of July, of  
15       every year up to and including 1990, every intermediate unit  
16       shall submit, for prior review and approval by the Department of  
17       Education, an estimate of the cost of operating and  
18       administering classes or schools for exceptional and  
19       institutionalized children, including the cost of such fiscal  
20       controls as auditing and necessary treasurer's and secretary's  
21       bonds to be operated by the intermediate unit during the ensuing  
22       school year, and for transportation of pupils to and from  
23       classes and schools for exceptional children, whether or not  
24       conducted by the intermediate unit. On or before the first day  
25       of August of every year up to and including 1989, the  
26       Commonwealth shall pay to the intermediate unit a sum equal to  
27       one-half of the approved estimated annual cost of operation and  
28       administration of classes and schools for exceptional and  
29       institutionalized children and transportation for exceptional  
30       children and, on or before the first day of January of every

1 year up to and including 1990, shall pay an equal sum, or a  
2 lesser sum as may be shown to be necessary by an adjusted budget  
3 based upon expenditures during the first half of the school  
4 term.

5 For the 1990-1991 school term, such payments shall consist of  
6 an amount payable in five installments during the next  
7 succeeding school year as follows: in August, thirty percent  
8 (30%) of the approved estimated cost, in November, twenty  
9 percent (20%) of the approved estimated cost, in January, twenty  
10 percent (20%) of the approved estimated cost, in March, twenty  
11 percent (20%) of the approved estimated cost and in June, the  
12 balance determined by subtracting the payments made during July,  
13 November, January and March from the actual cost. At the end of  
14 each school year all unexpended funds shall be credited to the  
15 Commonwealth. Payments due for the succeeding school year on  
16 account of the operation of such classes or upon direction of  
17 the Secretary of Education shall be returned to the  
18 Commonwealth. All such funds returned are hereby specifically  
19 appropriated to the Department of Education for support of  
20 schools and classes, and transportation for exceptional  
21 children. For each school year up to and including 1989-1990,  
22 for each child enrolled in any special class or school for  
23 exceptional children operated by an intermediate unit, the  
24 school district in which the child is resident shall pay to the  
25 Commonwealth a sum equal to the "tuition charge per elementary  
26 pupil" or the "tuition charge per high school pupil," as  
27 determined for the schools operated by the district or by a  
28 joint board of which the district is a member, for the same year  
29 in which the special class or school is operated, as provided  
30 for in section two thousand five hundred sixty-one of the act to

1 which this is an amendment. In the event that any school  
2 district has not established such "tuition charge per elementary  
3 pupil" or "tuition charge per high school pupil," the Secretary  
4 of Education shall fix a reasonable charge for such district for  
5 the year in question. In addition, the district shall pay on  
6 account of transportation by the intermediate unit of pupils to  
7 and from classes and schools for exceptional children, whether  
8 or not conducted by the intermediate unit, an amount to be  
9 determined by subtracting from the cost of transportation per  
10 pupil the reimbursement due the district on account of such  
11 transportation in order to facilitate such payments by the  
12 several school districts. [The] During each school year up to  
13 and including 1990-1991, the Secretary of Education shall  
14 withhold from any moneys due to such district out of any state  
15 appropriation, except from reimbursements due on account of  
16 rentals as provided in section two thousand five hundred eleven  
17 point one of the act to which this is an amendment, the amounts  
18 due by such school districts to the Commonwealth. All amounts so  
19 withheld are hereby specifically appropriated to the Department  
20 of Education for the support of public schools. [The cost of  
21 operating and administering classes and schools for  
22 institutionalized children, including the cost of necessary  
23 fiscal controls, shall be paid by the Commonwealth.] Annually,  
24 before the first day of July 1991 and each year thereafter  
25 intermediate units shall submit for prior review and approval by  
26 the Department of Education, an estimate of the cost of  
27 operating and administering classes or schools for  
28 institutionalized children during the ensuing school year and  
29 for transportation of pupils to and from classes and schools for  
30 exceptional children, whether or not conducted by the

1 intermediate unit. The approved estimated cost of operating and  
2 administering classes and schools for institutionalized  
3 children, including the cost of necessary fiscal controls, and  
4 for transportation shall be paid by the Commonwealth. For each  
5 child enrolled in an intermediate unit operated class or school  
6 for institutionalized children, the school district in which the  
7 child is resident shall pay to the Commonwealth a sum equal to  
8 the "tuition charge per elementary pupil," or the "tuition  
9 charge per high school pupil," as determined for the schools  
10 operated by the district or by a joint board of which the  
11 district is a member, based upon the costs of the preceding  
12 school term as provided for in section two thousand five hundred  
13 sixty-one of the act to which this is an amendment. In the event  
14 that any school district has not established such "tuition  
15 charge per elementary pupil" or "tuition charge per high school  
16 pupil," the Secretary of Education shall fix a reasonable charge  
17 for such district for the year in question. In addition, the  
18 district shall pay on account of transportation by the  
19 intermediate unit of pupils to and from classes and schools for  
20 exceptional children, whether or not conducted by the  
21 intermediate unit, an amount to be determined by subtracting  
22 from the cost of transportation per pupil the reimbursement due  
23 the district on account of such transportation in order to  
24 facilitate such payments by the several school districts. The  
25 Secretary of Education shall withhold from any moneys due to  
26 such district out of any State appropriation, except from  
27 reimbursements due on account of rentals as provided in section  
28 two thousand five hundred eleven point one of the act to which  
29 this is an amendment, the amounts due by such school districts  
30 to the Commonwealth. All amounts so withheld are hereby



1 specifically appropriated to the Department of Education for the  
2 support of public schools.

3 Section 3. Section 2509.4 of the act, added July 8, 1989  
4 (P.L.253, No.43), is amended to read:

5 Section 2509.4. Payments on Account of Special Education  
6 Services.--(a) For the school year 1989-1990, the following  
7 provisions shall apply to the Commonwealth's payments of funds  
8 to school districts and intermediate units for the provisions of  
9 special education services.

10 (1) On or before the first day of August, the Commonwealth  
11 shall pay to school districts and intermediate units an amount  
12 which represents fifty percent (50%) of the total State funds  
13 available for such programs operated in the school year 1989-  
14 1990.

15 (2) On January 1, 1990, a second payment shall be made to  
16 school districts and intermediate units consisting of one-fourth  
17 (1/4) of the total State funds available for such programs  
18 operated in the school year 1989-1990.

19 (3) If, by March 1, 1990, the State Board of Education has  
20 adopted revisions to Chapter 13 Special Education regulations  
21 and/or the 22 Pa. Code Ch. 341 standards, the final payment  
22 shall consist of the remaining State funds available for such  
23 programs operated in the school year 1989-1990. If, on March 1,  
24 1990, the State Board of Education has not adopted revisions to  
25 Chapter 13 Special Education regulations and/or 22 Pa. Code Ch.  
26 341 standards, but the Secretary of the Budget determines that  
27 sufficient progress has been made, a one-time waiver in order to  
28 make an additional payment of no more than one-eighth (1/8) of  
29 the total State funds available for such programs operated in  
30 the school year 1989-1990 may be made.

(b) From the funds appropriated in the 1989-1990 fiscal year and notwithstanding the provisions of subsection (a)(1), (2) and (3), fifty million dollars (\$50,000,000) shall be paid on August 1, 1989, to school districts for programs operated in school year 1988-1989 with the additional payment of forty-nine million dollars (\$49,000,000) of the funds due the school districts for the programs operated in school year 1988-1989 to be paid on or before December 1, 1989. Any adjustments to these payments may be made in June 1990 on the basis of actual data.

(c) During the school term of 1990-1991, the Commonwealth shall pay to each school district the balance due on account of approved special education programs operated by each school district during the 1989-1990 school term. Such payments shall consist of an amount payable in five installments as follows: in August of 1990, thirty percent (30%) of the estimated balance due, in November of 1990, twenty percent (20%) of the estimated balance due, in January of 1991, twenty percent (20%) of the estimated balance due, in March of 1991, twenty percent (20%) of the estimated balance due and in June 1991, the remainder, determined by adding the payments made under subsection (a) to the payments made during August, November, January and March and subtracting the result from the actual reimbursable amount earned for the 1989-1990 school term.

Section 4. The act is amended by adding sections to read:

Section 2509.5. Special Education Excess Costs.--(a) During the school term of 1991-1992 and each school term thereafter, the Commonwealth shall pay to each school district the excess costs earned by the district pursuant to this section for approved special education programs and services provided during the immediately preceding school term by the district, or by

1 intermediate units or by other school districts, or by consortia  
2 of school districts or by other approved public educational  
3 agencies to exceptional students who are school district  
4 residents. Such payments shall consist of an amount payable in  
5 five installments as follows: in August, thirty percent (30%) of  
6 the estimated amount, in November, twenty percent (20%) of the  
7 estimated amount, in January, twenty percent (20%) of the  
8 estimated amount, in March, twenty percent (20%) of the  
9 estimated amount and in June, the balance due, determined by  
10 subtracting the payments made during August, November, January  
11 and March from the actual excess costs earned by the school  
12 district.

13 (b) The excess costs earned by each school district for  
14 approved special education programs and services shall be  
15 determined according to the following formula: For the 1990-1991  
16 school year and each school year thereafter school districts  
17 shall be paid by the Commonwealth on account of the excess costs  
18 for special education of the district's pupils an amount to be  
19 determined by multiplying the district's market value/income aid  
20 ratio or .3750, whichever is greater, by the excess cost factor  
21 and by the average daily membership of resident pupils enrolled  
22 in approved special education programs and services. For the  
23 school year 1990-1991 and each school year thereafter, the  
24 excess cost factor used to compute school district entitlements  
25 to payments pursuant to this section shall be nine thousand  
26 twenty-five dollars (\$9,025).

27 (c) The provisions of subsection (a) notwithstanding, the  
28 Commonwealth's payment to each school district shall not exceed  
29 the prior year base amount by greater than nine percent (9%).

30 (d) The prior year base amount for the payments made during

1 the 1991-1992 school year shall be the sum of the school  
2 district's excess cost for 1990-1991 of classes or schools for  
3 exceptional children pursuant to section 2509 of this act, plus  
4 the Commonwealth's payment to the intermediate unit, as  
5 determined by the Department, on account of special education  
6 provided to school district resident exceptional children during  
7 1990-1991 pursuant to section 2509.1 of this act, less the  
8 school district's total tuition charges for elementary students  
9 and secondary students in special classes or schools for  
10 exceptional children operated by the intermediate unit pursuant  
11 to section 2509.1 of this act.

12 (e) For any school district whose revenue available for the  
13 1991-1992 school year is less than the revenue available to the  
14 school district in the 1990-1991 school year, that school  
15 district shall be paid by the Commonwealth during the 1991-1992  
16 school year, the school district's earned reimbursement under  
17 subsection (a) for the 1991-1992 school year plus the difference  
18 between the revenue available for 1990-1991 less the revenue  
19 available for 1991-1992. The payment under this subsection shall  
20 be made pursuant to the same installment payment schedule as set  
21 out in subsection (a).

22 (f) For purposes of subsection (e), the revenue available to  
23 a school district during the 1990-1991 school year shall be the  
24 Commonwealth's payment to each school district during the 1990-  
25 1991 school year pursuant to section 2509 of this act, plus the  
26 Commonwealth's payment to the intermediate unit during the 1990-  
27 1991 school year, as determined by the Department of Education,  
28 on account of school district resident exceptional students  
29 provided special education by the intermediate unit, pursuant to  
30 section 2509.1 of this act plus the 1990-1991 school year

equivalent full-time average daily membership in school district elementary special education classes multiplied by the "elementary tuition charge" under section 2561 of this act and the 1990-1991 school year equivalent full-time average daily membership in school district secondary special education classes multiplied by the "high school tuition charge" under section 2561 of this act.

(g) For purposes of subsection (e), the revenue available to a school district during the 1991-1992 school year shall be the school district's earned excess costs under subsection (a), plus the amount of the tuition that would have been withheld from the school district for the 1991-1992 school year pursuant to section 2509.1 of this act, plus the 1991-1992 school year equivalent full-time average daily membership in school district elementary school classes multiplied by the "elementary tuition charge" under section 2561 of this act and the 1991-1992 school year equivalent full-time average daily membership in school district special education classes multiplied by the "high school tuition charge" under section 2561 of this act.

Section 2509.6. Extraordinary Special Education Program Expenses.--The Department of Education shall for the 1991-1992 school year and each school year thereafter set aside one percent (1%) of the State appropriation for extraordinary expenses approved by the Secretary of Education to be incurred in providing a special education program or service to an exceptional student. The Secretary of Education shall establish guidelines for the application, approval and expenditure of these funds and shall report annually to the General Assembly on such expenditures.

Section 2509.7. Director Support of Intermediate Unit

1 Services for Exceptional Children.--The Department of Education  
2 shall, for the 1991-1992 school year and each school year  
3 thereafter, pay two percent (2%) of the State appropriation for  
4 special education to intermediate units in August of the school  
5 year to facilitate the cooperative provision of special  
6 education services and programs for students with low-incidence  
7 handicaps, and to provide regional planning, training, technical  
8 assistance, data collection and program evaluation in special  
9 education. No intermediate unit shall receive less than one  
10 hundred thousand dollars (\$100,000) annually on account of this  
11 section.

12       Section 5. This act shall take effect immediately.