
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2586 Session of
1990

INTRODUCED BY PIEVSKY, MAY 23, 1990

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

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

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

9 (d) For the school term of 1972-1973 [and for the school
10 term of each school year thereafter] up to and including the
11 1988-1989 school term, such payments shall consist of an amount
12 payable in two equal installments during the year of operation,
13 with adjustments to be made during the next succeeding school
14 year. The amount to be paid in equal installments on or about
15 the first day of August and on or about the first day of January
16 of the operating year shall be the sum of the products
17 determined by multiplying the anticipated equivalent full-time
18 average daily membership in courses for exceptional children as
19 reported on the approved budget for the operating year (1) at
20 the elementary level times an amount determined by subtracting
21 the estimated instruction cost per elementary pupil, as defined
22 in section 2561 of this act, for the preceding school term from
23 the budgeted instruction cost per special class elementary pupil
24 as approved by the Department of Education for the operating
25 year and (2) at the secondary level times an amount determined
26 by 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 (e) The adjustment to be made during the school year
2 immediately succeeding the operating year shall be determined by
3 subtracting the payments made during the preceding year from the
4 actual amount of reimbursement which would have been payable for
5 said year if calculated as during the year 1954-1955 through
6 1971-1972. When determined, the adjusted amount, if positive,
7 shall be paid promptly to the district and, if negative, shall
8 be withheld from any moneys due to such district out of any
9 State 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] (a) Before the first day of July,
15 of 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 (b) For the 1990-1991 school term, such payments shall
6 consist of an amount payable in five installments during the
7 1990-1991 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

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

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

For the purpose of this subsection, resident pupils in average daily membership (ADM) in approved special education programs and services during the 1990-1991 school year and each school year thereafter shall be determined as follows:

1	<u>Speech</u>	<u>.05</u>
2	<u>Itinerant Room</u>	<u>.20</u>
3	<u>Resource Room</u>	<u>.40</u>
4	<u>Part-time</u>	<u>.70</u>
5	<u>Full-Time</u>	<u>1.00</u>

6 times the ADM as reported by the school district.

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

10 (d) The prior year base amount for the payments made during
11 the 1991-1992 school year shall be the sum of the school
12 district's excess cost for 1990-1991 of classes or schools for
13 exceptional children pursuant to section 2509 of this act, plus
14 the Commonwealth's payment to the intermediate unit, as
15 determined by the Department, on account of special education
16 provided to school district resident exceptional children during
17 1990-1991 pursuant to section 2509.1 of this act, less the
18 school district's total tuition charges for elementary students
19 and secondary students in special classes or schools for
20 exceptional children operated by the intermediate unit pursuant
21 to section 2509.1 of this act.

22 (e) For any school district whose revenue available for the
23 1991-1992 school year is less than the revenue available to the
24 school district in the 1990-1991 school year, that school
25 district shall be paid by the Commonwealth during the 1991-1992
26 school year, the school district's earned reimbursement under
27 subsection (a) for the 1991-1992 school year plus the difference
28 between the revenue available for 1990-1991 less the revenue
29 available for 1991-1992. The payment under this subsection shall
30 be made pursuant to the same installment payment schedule as set

1 out in subsection (a).

2 (f) For purposes of subsection (e), the revenue available to
3 a school district during the 1990-1991 school year shall be the
4 Commonwealth's payment to each school district during the 1990-
5 1991 school year pursuant to section 2509.4(c) of this act, plus
6 the Commonwealth's payment to the intermediate unit during the
7 1990-1991 school year, as determined by the Department of
8 Education, on account of school district resident exceptional
9 students provided special education by the intermediate unit,
10 pursuant to section 2509.1 of this act plus the 1990-1991 school
11 year equivalent full-time average daily membership in school
12 district elementary special education classes multiplied by the
13 "elementary tuition charge" under section 2561 of this act and
14 the 1990-1991 school year equivalent full-time average daily
15 membership in school district secondary special education
16 classes multiplied by the "high school tuition charge" under
17 section 2561 of this act.

18 (g) For purposes of subsection (e), the revenue available to
19 a school district during the 1991-1992 school year shall be the
20 school district's earned excess costs under subsection (a), plus
21 the amount of the tuition that would have been withheld from the
22 school district for the 1991-1992 school year pursuant to
23 section 2509.1 of this act, plus the 1991-1992 school year
24 equivalent full-time average daily membership in school district
25 elementary school special education classes multiplied by the
26 "elementary tuition charge" under section 2561 of this act and
27 the 1991-1992 school year equivalent full-time average daily
28 membership in school district special education classes
29 multiplied by the "high school tuition charge" under section
30 2561 of this act.

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

11 Section 2509.7. Director Support of Intermediate Unit
12 Services for Exceptional Children.--The Department of Education
13 shall, for the 1991-1992 school year and each school year
14 thereafter, pay two percent (2%) of the State special education
15 appropriation for special education to intermediate units in
16 August of the school year to facilitate the cooperative
17 provision of special education services and programs for
18 students with low-incidence handicaps, and to provide regional
19 planning, training, technical assistance, data collection and
20 program evaluation in special education. Each intermediate unit
21 shall be entitled to an amount equal to two percent (2%) of the
22 amount paid from the State special education appropriation to
23 its member school districts pursuant to section 2509.5 of this
24 act. No intermediate unit shall receive less than one hundred
25 thousand dollars (\$100,000) annually on account of this section.

26 Section 5. This act shall take effect immediately.