

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1318** Session of  
1991

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INTRODUCED BY COWELL, HAYES, O'DONNELL, KOSINSKI, HERMAN,  
E. Z. TAYLOR, DALEY, STAIRS, KUKOVICH, FAJT, MARKOSEK,  
SALOOM, VROON, SERAFINI, LANGTRY, COLAIZZO, DEMPSEY,  
CAPPABIANCA, PRESTON, STABACK, SAURMAN, NAHILL, TRELLO,  
MELIO, MURPHY, STISH, TRICH, PESCI, GIGLIOTTI, LAUGHLIN,  
GANNON, MUNDY, TIGUE, COLAFELLA, LESCOVITZ, RUDY, ROEBUCK,  
BATTISTO, ITKIN, COY, CARONE, ROBINSON, DAVIES, ADOLPH,  
CLYMER, PETRARCA, MICOZZIE, COHEN, LINTON AND KASUNIC,  
MAY 15, 1991

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AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 6, 1991

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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 the cost of  
6 tuition and maintenance of certain exceptional children.

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

9 Section 1. Sections 1376 and 1376.1 of the act of March 10,  
10 1949 (P.L.30, No.14), known as the Public School Code of 1949,  
11 amended July 8, 1989 (P.L.253, No.43), are amended to read:

12 Section 1376. Cost of Tuition and Maintenance of Certain  
13 Exceptional Children in Approved Institutions.--(a) When any  
14 child between school entry age and twenty-one (21) years of age  
15 and resident in this Commonwealth, who is blind or deaf, or  
16 [afflicted with] who has cerebral palsy and/or [brain damage] <—

1 NEUROLOGICAL IMPAIRMENT and/or muscular dystrophy and/or is  
2 mentally retarded and/or [socially and emotionally disturbed,]  
3 who has a serious emotional disturbance, and/or has  
4 autism/pervasive developmental disorder, and is enrolled, with  
5 the approval of the Department of Education, as a pupil in an  
6 approved private school [for the blind or deaf, or cerebral  
7 palsied and/or brain damaged and/or muscular dystrophied and/or  
8 mentally retarded, and/or socially and emotionally disturbed,]  
9 approved by the Department of Education, in accordance with  
10 standards and regulations promulgated by the State Board of  
11 Education, the school district in which such child is resident  
12 shall pay the greater of either twenty per centum (20%) of the  
13 actual audited cost of tuition and maintenance of such child in  
14 such school, as determined by the Department of Education, or  
15 its "tuition charge per elementary pupil" or its "tuition charge  
16 per high school pupil," and the Commonwealth shall pay, out of  
17 funds appropriated to the department for special education, the  
18 balance due for the costs of such child's tuition and  
19 maintenance, as determined by the department in accordance with  
20 subsection (c). For the school years 1989-1990, 1990-1991 and  
21 1991-1992, the school district payment shall be no greater than  
22 forty percent (40%) of the actual audited costs of tuition and  
23 maintenance of such child in such school. The department will  
24 credit the district of residence with average daily membership  
25 for such child consistent with the rules of procedure developed  
26 in accordance with section 2501. If the residence of such child  
27 in a particular school district cannot be determined, the  
28 Commonwealth shall pay, out of moneys appropriated to the  
29 department for special education, the whole cost of tuition and  
30 maintenance of such child[. The Department of Education shall be

1 provided with such financial data from approved private schools  
2 as may be necessary to determine the reasonableness of costs for  
3 tuition and room and board concerning Pennsylvania resident  
4 approved reimbursed students. The Department of Education shall  
5 evaluate such data and shall disallow any cost deemed  
6 unreasonable. Any costs deemed unreasonable by the Department of  
7 Education for disallowance shall be considered an adjudication  
8 within the meaning of Title 2 of the Pa.C.S. (relating to  
9 administrative law and procedure) and regulations promulgated  
10 thereunder.] in accordance with subsection (c).

11 (b) When any person less than school entry age or more than  
12 twenty-one (21) years of age and resident in this Commonwealth,  
13 who is blind or deaf, or [afflicted with] has cerebral palsy  
14 and/or ~~has brain damage~~ **[BRAIN DAMAGE]** HAS NEUROLOGICAL ←  
15 IMPAIRMENT and/or has muscular dystrophy, or has  
16 autism/pervasive developmental delay, and is enrolled, with the  
17 approval of the Department of Education, as a pupil in an  
18 approved private school [for the blind or deaf, or cerebral  
19 palsied and/or brain damaged and/or muscular dystrophied,]  
20 approved by the Department of Education, the Commonwealth shall  
21 pay to such school, out of moneys appropriated to the department  
22 for special education[, the actual audited cost of tuition and  
23 maintenance of such person, as determined by the Department of  
24 Education, subject to review and approval in accordance with  
25 standards and regulations promulgated by the State Board of  
26 Education, and in addition,] in accordance with subsection (c),  
27 including, in the case of any child less than school entry age,  
28 who is blind, the cost, as determined by the Department of  
29 Education of instructing the parent of such blind child in  
30 caring for such child.

1 [(c) Each approved private school, prior to the start of the  
2 school year, shall submit to the department such information as  
3 the department may require in order to establish an estimate of  
4 reimbursable costs. Based upon this information, any other data  
5 deemed necessary by the department and in accordance with  
6 department standards, the department shall develop for each  
7 approved private school an estimate of reimbursable costs. Based  
8 upon such estimate, the department shall provide each approved  
9 private school with quarterly payments in advance of department  
10 audit. The department may withhold a portion of such payments  
11 not exceeding five percent (5%) of such payment, pending final  
12 audit. In no event shall either the advance payments or final  
13 reimbursement made by the department following audit exceed the  
14 appropriation available for approved private schools.]

15 (c) The procedures for the development of pre-approved  
16 budgets for approved private schools shall be as follows:

17 (1) On or before August 30 of the school year previous to  
18 the school year of operation, each approved private school shall  
19 submit to the Department of Education a program plan and budget  
20 which specifies in detail the special education services to be  
21 provided to approved residents of this Commonwealth. These  
22 estimates shall form the preliminary estimate of the approved  
23 private school's line item in the department's budget.

24 (2) On or before November 15 of the school year previous to  
25 the school year of operation, each approved private school shall  
26 submit any revisions to their August estimated program plan and  
27 budget.

28 (3) By February 1 of the school year previous to the school  
29 year of operation, the department shall review the detailed  
30 program plans and budgets and discuss modifications with each

1 approved school.

2 (4) Between February 1 and April 15 of the school year  
3 previous to the school year of operation, the department shall  
4 meet with each approved private school to negotiate a pre-  
5 approved budget for the following school year. These pre-  
6 approved budgets shall form the basis for adjustments to the  
7 approved private school's line item in the General  
8 Appropriations act for the next fiscal year.

9 (5) On or before January 31 of the school year of operation,  
10 each approved private school may submit a request for program  
11 plan and/or budget modifications to the department. The  
12 department shall respond in writing to the request for  
13 modification within thirty (30) days of the receipt of such  
14 request. The department may approve, reject or approve in part  
15 the requested modifications.

16 (6) Based upon the approved budget, the department shall  
17 provide each approved private school with quarterly payments  
18 during the year of operation of the program. The department may  
19 withhold a portion of such payments not exceeding five per  
20 centum (5%) of such payment pending final audit. Under no  
21 circumstances shall either the advance payments or final  
22 reimbursement made by the department following audit exceed the  
23 appropriation available for approved private schools.

24 (7) An independent audit report for the preceding fiscal  
25 year which is consistent with department audit standards shall  
26 be submitted by each approved private school to the department  
27 no later than one hundred twenty (120) days after the close of  
28 the preceding fiscal year. The department shall review each  
29 audit and make a determination of its acceptance. Such  
30 determination shall be communicated in writing to the approved

1 private school within one hundred twenty (120) days of its  
2 receipt; otherwise, the audit shall be deemed to be approved and  
3 accepted. The determination of acceptance shall be considered an  
4 adjudication within the meaning of 2 Pa.C.S. (relating to  
5 administrative law and procedure) and regulations promulgated  
6 thereunder. Final payment to the approved private school shall  
7 be made within ninety (90) days of acceptance of the audit by  
8 the department.

9 (d) No private institution receiving payment in accordance  
10 with this section shall impose any charge on the student and/or  
11 parents who are Pennsylvania approved reimbursable residents for  
12 a program of individualized instruction and maintenance  
13 appropriate to the child's needs; except that charges for  
14 services not part of such program may be made if agreed to by  
15 the parents.

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

25 (b) When any child of school age resident in this  
26 Commonwealth, who is blind or deaf, is enrolled with the  
27 approval of the Department of Education as a pupil in any of the  
28 four (4) chartered schools in accordance with standards and  
29 regulations promulgated by the State Board of Education, the  
30 school district in which such child is resident shall pay the

1 greater of either twenty percent (20%) of the actual cost of  
2 tuition and maintenance of such child in such institution, as  
3 determined by the Department of Education in accordance with  
4 subsection (e); or its "tuition charge per elementary pupil" or  
5 its "tuition charge per high school pupil," and the Commonwealth  
6 shall pay, out of funds appropriated to the department for  
7 special education, the balance due for the costs of such child's  
8 tuition and maintenance, as determined by the department in  
9 accordance with subsection (e). For the school years 1989-90,  
10 1990-91 and 1991-92, the school district payment shall be no  
11 greater than forty percent (40%) of the actual audited costs of  
12 tuition and maintenance of such child in such school. The  
13 department will credit the district of residence with average  
14 daily membership for such child consistent with the rules of  
15 procedure developed in accordance with section 2501. If the  
16 residence of such child in a particular school district cannot  
17 be determined, the Commonwealth shall pay, out of moneys  
18 appropriated to the department for special education, the whole  
19 cost of tuition and maintenance of such child. [The Department  
20 of Education shall be provided with such financial data from  
21 each of the chartered schools as may be necessary to determine  
22 the reasonableness of charges for tuition and room and board of  
23 each of the chartered schools made on Pennsylvania resident  
24 approved students. The Department of Education shall evaluate  
25 such data and shall disallow any charges deemed unreasonable.  
26 Any charge deemed unreasonable by the Department of Education  
27 for disallowance shall be considered an adjudication within the  
28 meaning of Title 2 of the Pa.C.S. (relating to administrative  
29 law and procedure) and regulations promulgated thereunder.]

30 (c) When any person less than school age resident in this

1 Commonwealth who is blind or deaf is enrolled, with the approval  
2 of the Department of Education, as a [residential] pupil in any  
3 of the four (4) chartered schools, the Commonwealth shall pay to  
4 the school, out of moneys appropriated to the department for  
5 special education, the actual cost of tuition and maintenance of  
6 such person, as determined [by the Department of Education,  
7 subject to review and approval in accordance with standards and  
8 regulations promulgated by the State Board of Education, and in  
9 addition,] in accordance with subsection (e), including, in the  
10 case of any child less than school age, who is blind, the cost,  
11 as determined by the Department of Education of instructing the  
12 parent of such blind child in caring for such child.

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

19 (e) The procedures for the development of pre-approved  
20 budgets for chartered schools shall be as follows:

21 (1) On or before August 30 of the school year previous to  
22 the school year of operation, each chartered school shall submit  
23 to the Department of Education a program plan and budget which  
24 specifies in detail the special education services to be  
25 provided to approved residents of this Commonwealth. These  
26 estimates will form the preliminary estimate of the chartered  
27 school's line item in the department's budget.

28 (2) On or before November 15 of the school year previous to  
29 the school year of operation, each chartered school shall submit  
30 any revisions to their August estimated program plan and budget.



1       (3) By February 1 of the school year previous to the school  
2 year of operation, the department shall review the detailed  
3 program plans and budgets and discuss modifications with each  
4 chartered school.

5       (4) Between February 1 and April 15 of the school year  
6 previous to the school year of operation, the department shall  
7 meet with each chartered school to negotiate a pre-approved  
8 budget for the following school year. These pre-approved budgets  
9 will form the basis for adjustments to the chartered school's  
10 line item in the General Appropriations act for the next fiscal  
11 year.

12       (5) On or before January 31 of the school year of operation,  
13 each chartered school may submit a request for program plan  
14 and/or budget modifications to the department. The department  
15 shall respond in writing to the request for modification within  
16 thirty (30) days of the receipt of such request. The department  
17 may approve, reject or approve in part the requested  
18 modifications.

19       (6) Based upon the approved budget, the department shall  
20 provide each chartered school with quarterly payments during the  
21 year of operation of the program. The department may withhold a  
22 portion of such payments not exceeding five per centum (5%) of  
23 such payment pending final audit. Under no circumstances shall  
24 either the advance payments or final reimbursement made by the  
25 department following audit exceed the appropriation available  
26 for chartered schools.

27       (7) An independent audit report for the preceding fiscal  
28 year which is consistent with department audit standards shall  
29 be submitted by each chartered school to the department no later  
30 than one hundred twenty (120) days after the close of the

1 preceding fiscal year. The department shall review each audit  
2 and make a determination of its acceptance. Such determination  
3 shall be communicated in writing to the chartered school within  
4 one hundred twenty (120) days of its receipt; otherwise, the  
5 audit shall be deemed to be approved and accepted. The  
6 determination of acceptance shall be considered an adjudication  
7 within the meaning of 2 Pa.C.S. (relating to administrative law  
8 and procedure) and regulations promulgated thereunder. Final  
9 payment to the chartered school shall be made within ninety (90)  
10 days of acceptance of the audit by the department.

11 Section 2. This act shall take effect July 1, 1991.