

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1612 Session of
1993

INTRODUCED BY COWELL AND EVANS, MAY 5, 1993

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 26, 1993

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 tuition and
6 maintenance of certain exceptional children, ~~for financial~~ <—
7 ~~program reimbursement~~, for aid to districts faced with
8 bankruptcy of businesses, for payments for courses for
9 exceptional children, for payments to intermediate units, for
10 special education payments and for extraordinary special
11 education program expenses; AND providing for excess payment <—
12 recovery.; ~~and further providing for transportation payments.~~ <—

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 1376 of the act of March 10, 1949
16 (P.L.30, No.14), known as the Public School Code of 1949,
17 amended July 8, 1989 (P.L.253, No.43) and August 5, 1991
18 (P.L.219, No.25), is amended to read:

19 Section 1376. Cost of Tuition and Maintenance of Certain
20 Exceptional Children in Approved Institutions.--(a) When any
21 child between school entry age and twenty-one (21) years of age
22 and resident in this Commonwealth, who is blind or deaf, or

1 [afflicted with] has cerebral palsy and/or [brain damage]
2 neurological impairment and/or muscular dystrophy and/or is
3 mentally retarded and/or [socially and emotionally disturbed,]
4 has a serious emotional disturbance and/or has autism/pervasive
5 developmental disorder and is enrolled, with the approval of the
6 Department of Education, as a pupil in an approved private
7 school [for the blind or deaf, or cerebral palsied and/or brain
8 damaged and/or muscular dystrophied and/or mentally retarded,
9 and/or socially and emotionally disturbed,] approved by the
10 Department of Education, in accordance with standards and
11 regulations promulgated by the State Board of Education, the
12 school district in which such child is resident shall pay the
13 greater of either twenty per centum (20%) of the actual audited
14 cost of tuition and maintenance of such child in such school, as
15 determined by the Department of Education, or its "tuition
16 charge per elementary pupil" or its "tuition charge per high
17 school pupil," and the Commonwealth shall pay, out of funds
18 appropriated to the department for special education, the
19 balance due for the costs of such child's tuition and
20 maintenance, as determined by the department. For the school
21 years 1989-1990, 1990-1991 and 1991-1992, the school district
22 payment shall be no greater than forty percent (40%) of the
23 actual audited costs of tuition and maintenance of such child in
24 such school. For the 1993-1994 school year and each school year
25 thereafter, the school district payment shall be the greater of
26 forty percent (40%) of the actual audited costs of tuition and
27 maintenance of such child in such school, as determined by the
28 department, or its "tuition charge per elementary pupil" or its
29 "tuition charge per high school pupil"; and the Commonwealth
30 shall pay, out of funds appropriated to the department for

1 approved private schools, the balance due for the costs of such
2 child's tuition and maintenance, as determined by the
3 department. The department will credit the district of residence
4 with average daily membership for such child consistent with the
5 rules of procedure developed in accordance with section 2501. If
6 the residence of such child in a particular school district
7 cannot 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
11 approved private schools as may be necessary to determine the
12 reasonableness of costs for tuition and room and board
13 concerning Pennsylvania resident approved reimbursed students.
14 The Department of Education shall evaluate such data and shall
15 disallow any cost deemed unreasonable. Any costs deemed
16 unreasonable by the Department of Education for disallowance
17 shall be considered an adjudication within the meaning of Title
18 2 of the Pa.C.S. (relating to administrative law and procedure)
19 and regulations promulgated thereunder.

20 (b) When any person less than school entry age or more than
21 twenty-one (21) years of age and resident in this Commonwealth,
22 who is blind or deaf, or [afflicted with] has cerebral palsy
23 and/or [brain damage] has neurological impairment and/or has
24 muscular dystrophy, or has autism/pervasive developmental delay,
25 and is enrolled, with the approval of the Department of
26 Education, as a pupil in an approved private school [for the
27 blind or deaf, or cerebral palsied and/or brain damaged and/or
28 muscular dystrophied,] approved by the Department of Education,
29 the Commonwealth shall pay to such school, out of moneys
30 appropriated to the department for special education, the actual

1 audited cost of tuition and maintenance of such person, as
2 determined by the Department of Education, subject to review and
3 approval in accordance with standards and regulations
4 promulgated by the State Board of Education, and in addition, in
5 the case of any child less than school entry age, who is blind,
6 the cost, as determined by the Department of Education of
7 instructing the parent of such blind child in caring for such
8 child.

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

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 individualized instruction and maintenance
27 appropriate to the child's needs; except that charges for
28 services not part of such program may be made if agreed to by
29 the parents.

30 (E) (1) THE EDUCATION COMMITTEES OF THE SENATE AND HOUSE OF

<—

1 REPRESENTATIVES ARE DIRECTED TO JOINTLY EXAMINE THE ISSUES OF
2 THE FUNDING OF APPROVED PRIVATE SCHOOLS AND SPECIAL EDUCATION
3 STUDENTS' ACCESS TO APPROVED PRIVATE SCHOOLS AS PART OF THE FULL
4 CONTINUUM OF SPECIAL EDUCATION PLACEMENTS. THE COMMITTEES'
5 EXAMINATION SHOULD ADDRESS, AT A MINIMUM, THE FOLLOWING ISSUES:

6 (I) THE FUNDING METHODOLOGY WHICH SUPPORTS THE SCHOOL
7 DISTRICT'S RESPONSIBILITY FOR INDIVIDUALIZED, APPROPRIATE
8 EDUCATIONAL SERVICES TO SPECIAL EDUCATION STUDENTS THROUGH
9 ACCESS TO THE MOST COMPREHENSIVE CONTINUUM OF EDUCATIONAL
10 OPTIONS AND SETTINGS.

11 (II) THE ROLE OF THE APPROVED PRIVATE SCHOOL IN THE MANDATED
12 CONTINUUM OF SPECIAL EDUCATION SERVICES AVAILABLE TO STUDENTS IN
13 PENNSYLVANIA.

14 (III) THE RELATIVE ROLES OF THE DEPARTMENT OF EDUCATION AND
15 SCHOOL DISTRICTS TO ENSURE FREE APPROPRIATE PUBLIC EDUCATION
16 (FAPE) THROUGH ADEQUATE FUNDING AND APPROPRIATE DISTRIBUTION OF
17 COMPREHENSIVE SERVICES.

18 (IV) THE PROVISIONS OF THE INDIVIDUALS WITH DISABILITIES
19 EDUCATION ACT (IDEA) (P.L.101-476); THE CORDERO SETTLEMENT
20 IMPLEMENTATION PLAN; THIS ACT; AND 22 PA. CODE CHS. 14 AND 342
21 AS THEY RELATE TO THE PROVISION OF PROGRAMS AND SERVICES TO
22 SPECIAL EDUCATION STUDENTS SHOULD BE CAREFULLY REVIEWED AS THEY
23 PERTAIN TO APPROVED PRIVATE SCHOOLS, CONTINUUM OF PLACEMENT
24 OPTIONS, FUNDING, FAPE AND OTHER PERTINENT ISSUES.

25 (2) THE COMMITTEES SHALL REPORT BACK TO THE GENERAL ASSEMBLY
26 BY NOVEMBER 15, 1993, WITH LEGISLATIVE AND/OR ADMINISTRATIVE
27 RECOMMENDATIONS. THE COMMITTEES MAY HOLD SUCH MEETINGS AND
28 HEARINGS AS THEY DEEM APPROPRIATE TO ACCOMPLISH THE PROVISIONS
29 OF THIS SUBSECTION.

30 Section 2. Section 1376.1 of the act, amended July 8, 1989

1 (P.L.253, No.43), is amended to read:

2 Section 1376.1. Actual Cost of Tuition and Maintenance of
3 Certain Exceptional Children in the Four Chartered Schools for
4 Education of the Deaf and the Blind.--(a) The following term,
5 whenever used or referred to in this section, shall have the
6 following meaning. "Chartered school" shall mean any of the four
7 (4) chartered schools for the education of the deaf or the
8 blind: the Pennsylvania School for the Deaf; the Overbrook
9 School for the Blind; the Western Pennsylvania School for Blind
10 Children; and the Western Pennsylvania School for the Deaf.

11 (b) When any child of school age resident in this
12 Commonwealth, who is blind or deaf, is enrolled with the
13 approval of the Department of Education as a pupil in any of the
14 four (4) chartered schools in accordance with standards and
15 regulations promulgated by the State Board of Education, the
16 school district in which such child is resident shall pay the
17 greater of either twenty percent (20%) of the actual cost of
18 tuition and maintenance of such child in such institution, as
19 determined by the Department of Education; or its "tuition
20 charge per elementary pupil" or its "tuition charge per high
21 school pupil," and the Commonwealth shall pay, out of funds
22 appropriated to the department for special education, the
23 balance due for the costs of such child's tuition and
24 maintenance, as determined by the department. For the school
25 years 1989-90, 1990-91 and 1991-92, the school district payment
26 shall be no greater than forty percent (40%) of the actual
27 audited costs of tuition and maintenance of such child in such
28 school. For the 1993-1994 school year and each school year
29 thereafter, the school district payment shall be the greater of
30 forty percent (40%) of the actual audited costs of tuition and

1 maintenance of such child in such school, as determined by the
2 department, or its "tuition charge per elementary pupil" or its
3 "tuition charge per high school pupil"; and the Commonwealth
4 shall pay, out of funds appropriated to the department for
5 chartered schools, the balance due for the costs of such child's
6 tuition and maintenance, as determined by the department. The
7 department will credit the district of residence with average
8 daily membership for such child consistent with the rules of
9 procedure developed in accordance with section 2501. If the
10 residence of such child in a particular school district cannot
11 be determined, the Commonwealth shall pay, out of moneys
12 appropriated to the department for special education, the whole
13 cost of tuition and maintenance of such child. The Department of
14 Education shall be provided with such financial data from each
15 of the chartered schools as may be necessary to determine the
16 reasonableness of charges for tuition and room and board of each
17 of the chartered schools made on Pennsylvania resident approved
18 students. The Department of Education shall evaluate such data
19 and shall disallow any charges deemed unreasonable. Any charge
20 deemed unreasonable by the Department of Education for
21 disallowance shall be considered an adjudication within the
22 meaning of Title 2 of the Pa.C.S. (relating to administrative
23 law and procedure) and regulations promulgated thereunder.

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

1 subject to review and approval in accordance with standards and
2 regulations promulgated by the State Board of Education, and in
3 addition, in the case of any child less than school age, who is
4 blind, the cost, as determined by the Department of Education of
5 instructing the parent of such blind child in caring for such
6 child.

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

13 ~~Section 3. Section 1913 A of the act is amended by adding a~~ <—
14 ~~subsection to read:~~

15 ~~Section 1913 A. Financial Program; Reimbursement or~~
16 ~~Payments. * * *~~

17 ~~(j) For the fiscal year 1992-1993, if insufficient funds are~~
18 ~~appropriated to make Commonwealth payments pursuant to this~~
19 ~~section, such payment shall be made on a pro rata basis.~~

20 Section 4 3. Section 2502.16(d) of the act, added July 10, <—
21 1987 (P.L.286, No.50), is amended to read:

22 Section 2502.16. Temporary Special Aid to School Districts
23 Suffering Loss of Tax Revenue Due to Bankruptcy of Businesses in
24 the School District.--* * *

25 [(d) Any subsequent payments made on account of such ceased
26 or suspended real estate taxes by such businesses or by
27 bankruptcy officials on behalf of such businesses, during the
28 course of such bankruptcy proceedings or following their
29 completion, shall be paid to the Department of Education by the
30 school district to the extent of the temporary special aid

1 provided to such school district in accordance with the
2 provisions of this section. Any interest or penalties received
3 by such school district shall be retained by the school
4 district.]

5 * * *

6 Section 5 4. Section 2509(a) of the act, amended August 5, <—
7 1991 (P.L.219, No.25), is amended to read:

8 Section 2509. Payments on Account of Courses for Exceptional
9 Children.--(a) Before the first day of July of every year [up to
10 and including 1990], every school district or joint board of
11 school directors planning to conduct classes or schools for
12 exceptional children shall submit, for prior review and approval
13 [to establish the amount on which reimbursement will be paid] by
14 the Department of Education, an estimate of the cost of classes
15 or schools for exceptional children to be operated by the
16 district or joint board during the ensuing school year, [and]
17 ~~the revenue and local expenditures~~ TUITION EXPENDITURE OBLIGATION <—
18 to support the estimated cost and an estimate of the cost for
19 transportation of pupils to and from classes and schools for
20 exceptional children conducted by the district or joint board of
21 school directors. FOR THE PURPOSES OF THIS ARTICLE, "TUITION <—
22 EXPENDITURE OBLIGATION" SHALL MEAN THAT SCHOOL DISTRICTS AND
23 SCHOOL DISTRICTS WHICH ARE COTERMINOUS WITH AN INTERMEDIATE UNIT
24 SHALL FIRST UTILIZE LOCAL DISTRICT FUNDS TO SUPPORT SPECIAL
25 EDUCATION PROGRAM EXPENDITURES. THIS EXPENDITURE OBLIGATION
26 SHALL BE AN AMOUNT EQUAL TO THE DISTRICT'S "TUITION CHARGE FOR
27 ELEMENTARY PUPIL" OR "TUITION CHARGE PER HIGH SCHOOL PUPIL," AS
28 DEFINED IN SECTION 2561 OF THIS ACT, MULTIPLIED BY THE AVERAGE
29 DAILY MEMBERSHIP OF DISTRICT STUDENTS IN SPECIAL EDUCATION
30 PROGRAMS. From the school term of 1954-1955 up to and including

1 the school term of 1990-1991, every school district, regardless
2 of classification, shall be paid by the Commonwealth an amount
3 to be determined by multiplying the average daily membership in
4 a course or courses for exceptional children, (1) at the
5 elementary level, by an amount determined by subtracting the
6 "instruction cost per elementary pupil," as defined in section
7 2561 of this act, from the "instruction cost per special class
8 pupil," as hereinafter defined, for the preceding school term,
9 or from the instruction cost per special class elementary pupil
10 as approved for reimbursement by the Department of Education in
11 the budget for classes or schools for exceptional children for
12 the school year in which the class is operated, whichever is the
13 lesser, (2) at the secondary level, by an amount determined by
14 subtracting the "instruction cost per high school pupil," as
15 defined in section 2561 of this act, from the "instruction cost
16 per special class pupil," as hereinafter defined, for the
17 preceding school term, or from the instruction cost per special
18 classes secondary pupil as approved for reimbursement by the
19 Department of Education in the budget for classes or school for
20 exceptional children for the school year in which the class is
21 operated, whichever is the lesser.

22 * * *

23 Section ~~6~~ 5. Section ~~2509.1(b.1)~~, ~~(d)~~ 2509.1(D) and (g) of <—
24 the act, amended or added August 5, 1991 (P.L.219, No.25) and
25 July 9, 1992 (P.L.392, No.85), are amended AND THE SECTION IS <—
26 AMENDED BY ADDING SUBSECTIONS to read:

27 Section 2509.1. Payments to Intermediate Units.--* * *

28 ~~(b.1) On or before the last day of June, every intermediate <—~~
29 ~~unit shall submit, for prior review and approval by the~~
30 ~~Department of Education, an estimate of the cost of operating~~

~~and administering classes or schools for institutionalized children operated by the intermediate unit during the current school year. The Commonwealth shall pay each intermediate unit the approved amount during the following school year. Notwithstanding the foregoing provision of this subsection, for the 1992-1993 school year, intermediate units shall submit their annual reports for the 1991-1992 school year on or before September 1, 1993. The Commonwealth shall pay each intermediate unit reporting on or before September 1, 1993, the approved amount.~~

(B.2) ANNUALLY, ON OR BEFORE THE LAST DAY OF JUNE, EVERY INTERMEDIATE UNIT SHALL SUBMIT FOR PRIOR REVIEW AND APPROVAL BY THE DEPARTMENT OF EDUCATION, AN ESTIMATE OF THE COST OF OPERATING AND ADMINISTERING CLASSES OR SCHOOLS FOR INSTITUTIONALIZED CHILDREN TO BE OPERATED BY THE INTERMEDIATE UNIT DURING THE ENSUING SCHOOL YEAR. THE COMMONWEALTH SHALL PAY EACH INTERMEDIATE UNIT THE APPROVED AMOUNT DURING THE YEAR IN WHICH THE CLASSES OR SCHOOLS ARE OPERATED.

* * *

(d) For the 1991-1992 school year, each intermediate unit which is coterminous to a school district of the first class or first class A shall be paid fifty percent (50%) of the amount received by the intermediate unit for the cost of operating and administering classes or schools for exceptional children, as approved by the Department of Education for the 1990-1991 school year. For the 1991-1992 school year, each intermediate unit not coterminous with a school district which operates all the special education programs for handicapped children for its constituent school districts shall be paid ten percent (10%) of the amount received by the intermediate unit for the cost of

1 operating and administering classes or schools for handicapped
2 children, as approved by the Department of Education for the
3 1990-1991 school year. During the 1993-1994 school year, each
4 intermediate unit which is coterminous to a school district of
5 the first class or first class A shall be paid twenty-five
6 percent (25%) of the amount received by the intermediate unit
7 for the cost of operating and administering classes or schools
8 for exceptional children as approved by the department for the
9 1990-1991 school year. The actual percentage of this payment
10 shall be adjusted to ensure that each intermediate unit which is
11 coterminous to a school district of the first class or first
12 class A does not have fewer special education resources,
13 including tuition expenditure obligations, in the aggregate than
14 it had available in the preceding school year.

15 * * *

16 (E.1) FOR THE 1993-1994 SCHOOL YEAR AND EACH YEAR <—
17 THEREAFTER, PAYMENTS TO INTERMEDIATE UNITS UNDER THIS SECTION
18 SHALL CONSIST OF AN AMOUNT IN THREE INSTALLMENTS DURING THE
19 SCHOOL YEAR AS FOLLOWS: IN AUGUST, FIFTY PERCENT (50%) OF THE
20 PAYMENTS UNDER SUBSECTIONS (B.2) AND (C) OR (D); IN NOVEMBER,
21 FORTY-FIVE PERCENT (45%) OF THE PAYMENTS UNDER SUBSECTIONS (B.2)
22 AND (C) OR (D); AND ON JUNE 1, THE BALANCE OF THE PAYMENTS DUE
23 UPON RECONCILIATION OF ACTUAL COSTS. THE DEPARTMENT OF EDUCATION
24 SHALL ENCUMBER THE BALANCE OF FUNDS APPROPRIATED FOR THE SCHOOL
25 YEAR FOR CLASSES OR SCHOOLS FOR INSTITUTIONALIZED CHILDREN FOR
26 THE PURPOSE OF MAKING THE PAYMENTS DUE UPON RECONCILIATION OF
27 ACTUAL COSTS.

28 * * *

29 (g) (1) For the 1991-1992 school year and each school year
30 thereafter, for each child enrolled in an intermediate unit

1 class for institutionalized children, the school district in
2 which the child is resident shall pay to the Commonwealth a sum
3 equal to the "tuition charge per elementary pupil" or the
4 "tuition charge per high school pupil," as determined for the
5 schools operated by the district or by a joint board of which
6 the district is a member, for the same year in which the class
7 or school is operated, as provided for in section 2561. In the
8 event that any school district has not established such "tuition
9 charge per elementary pupil" or "tuition charge per high school
10 pupil," the Secretary of Education shall fix a reasonable charge
11 for such district for the year in question.

12 (2) In addition, the district shall pay on account of
13 transportation by the intermediate unit of pupils to and from
14 classes and schools for exceptional children, whether or not
15 conducted by the intermediate unit, an amount to be determined
16 by subtracting from the cost of transportation per pupil the
17 reimbursement due the district on account of such
18 transportation. In order to facilitate such payments by the
19 several school districts, the Secretary of Education shall
20 withhold from any money due to such district out of any State
21 appropriation, except from reimbursements due on account of
22 rentals, the amounts due by such school districts to the
23 Commonwealth. All amounts so withheld are hereby specifically
24 appropriated to the Department of Education for the support of
25 public schools.

26 Section 7 6. Section 2509.5 of the act is amended by adding <—
27 subsections to read:

28 Section 2509.5. Special Education Payments to School
29 Districts.--* * *

30 (b.1) During the 1993-1994 school year and each school year

1 thereafter, each school district shall be paid:

2 (1) an amount to be determined by multiplying one thousand
3 dollars (\$1,000) by fifteen percent (15%) of the average daily
4 membership of resident pupils; and

5 (2) an amount to be determined by multiplying eleven
6 thousand three hundred ninety dollars (\$11,390) by one percent
7 (1%) of the average daily membership of resident pupils.

8 * * *

9 (d) The Secretary of Education shall develop a definition of
10 severely classified exceptional students by September 20, 1993.
11 This definition may include the primary exceptionality, level of
12 intervention, type of support and related services requirements
13 elements currently collected through the PennData system. This
14 definition shall not include students who are institutionalized,
15 in approved private school placements, in detention home
16 programs, in mentally gifted programs or in early intervention
17 programs operated under the provisions of the act of December
18 19, 1990 (P.L.1372, No.212), known as the "Early Intervention
19 Services System Act." This definition shall be submitted to the
20 majority chairman and the minority chairman of the Education
21 Committee of the Senate and the majority chairman and the
22 minority chairman of the Education Committee of the House of
23 Representatives for review and comment no later than September
24 20, 1993. No sooner than fifteen (15) days and not later than
25 thirty (30) days after submission of the proposed definition to
26 the committees, the Secretary of Education shall approve a
27 definition of severely classified exceptional students.

28 (e) The Secretary of Education shall modify the PennData
29 system to collect for each school district an average daily
30 membership count of those exceptional students classified as

1 severe. The Secretary of Education shall use the approved
2 definition of severely classified exceptional in the development
3 of the PennData report "Representation of Students with Severe
4 Disabilities in Special Education." The Secretary of Education
5 shall provide the 1993-1994 PennData report "Representation of
6 Students with Severe Disabilities in Special Education"
7 detailing the average daily membership by category of
8 exceptionality for each school district for the 1993-1994
9 academic year to the majority chairman and the minority chairman
10 of the Education Committee of the Senate and the majority
11 chairman and the minority chairman of the Education Committee of
12 the House of Representatives by February 1, 1994, and shall
13 annually thereafter provide the PennData report "Representation
14 of Students with Severe Disabilities in Special Education"
15 detailing the average daily membership by category of
16 exceptionality for each school district for the current school
17 year to the committees by the first day of February of each
18 year.

19 (f) During the 1993-1994 school year only, school districts
20 with a severe incidence rate, as reported in the PennData report
21 "Representation of Students with Severe Disabilities in Special
22 Education" for the school year prior to fiscal year 1993-1994
23 which is in excess of one percent (1%) of the district average
24 daily membership shall qualify for incidence directed funding.
25 Incidence directed funding shall be those payments to qualified
26 districts as determined by multiplying the number of severely
27 classified students in excess of one percent (1%) of the
28 district average daily membership by a dollar amount to be
29 determined by dividing ten million dollars (\$10,000,000) by the
30 sum of the number of severely classified students in districts

1 qualified to receive incidence directed funding.

2 Section 7. Section 2509.8 of the act, amended July 9, 1992 <—
3 (P.L.392, No.85), is amended to read:

4 Section 2509.8. Extraordinary Special Education Program
5 Expenses.--The Department of Education shall, for the 1991-1992
6 school year [and each school year thereafter], set aside one
7 percent (1%) of the State special education appropriation for
8 extraordinary expenses to be incurred in providing a special
9 education program or service to an exceptional student as
10 approved by the Secretary of Education. The department shall,
11 for the 1993-1994 school year and each school year thereafter,
12 set aside two percent (2%) of the State special education
13 appropriation for extraordinary expenses to be incurred by
14 districts in providing special education programs or services to
15 exceptional students. Any unencumbered funds in this account
16 shall be carried forward to supplement subsequent years
17 extraordinary special education program expense PROGRAMS AND <—
18 SERVICES. The Secretary of Education shall establish guidelines
19 for the application, approval, distribution and expenditure of
20 these funds and shall report annually to the General Assembly on
21 such expenditures no later than the last day of March.

22 Section 8. The act is amended by adding a section to read: <—

23 Section 2509.10. Excess Payment Recovery.--The Secretary of
24 Education shall develop a system to annually determine the
25 aggregate special education resources, including tuition
26 expenditure obligations, available to school districts and
27 school districts which are coterminous with an intermediate unit
28 and the annual special education expenditures for those school
29 districts. The Secretary of Education shall, by November 1,
30 1993, develop proposed legislation to establish procedures

1 through which school district aggregate resources for special
2 education which are in excess of special education expenditures
3 are to be recovered. This proposed legislation shall be
4 submitted to the majority chairman and the minority chairman of
5 the Education Committee of the Senate and the majority chairman
6 and the minority chairman of the Education Committee of the
7 House of Representatives for review and consideration no later
8 than November 1, 1993.

9 ~~Section 10. Section 2541 of the act is amended by adding a~~ <—
10 ~~subsection to read:~~

11 ~~Section 2541. Payments on Account of Pupil Transportation.~~

12 ~~* * *~~

13 ~~(c) For the 1991 1992 school year payable in fiscal year~~
14 ~~1992 1993, if insufficient funds are appropriated to make~~
15 ~~Commonwealth payments pursuant to this section, such payments~~
16 ~~shall be made on a pro rata basis.~~

17 ~~Section 11 9.~~ This act shall take effect immediately. <—