

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2138 Session of 2014

INTRODUCED BY O'NEILL, CLYMER, ROEBUCK, PEIFER, STURLA,  
 LONGIETTI, BARRAR, BOBACK, R. BROWN, CARROLL, COHEN, DAVIS,  
 DeLUCA, EVERETT, FRANKEL, GINGRICH, GODSHALL, GROVE,  
 W. KELLER, KILLION, KORTZ, MARSHALL, MILLARD, MILNE, MURT,  
 O'BRIEN, QUINN, READSHAW, SAYLOR, SWANGER, THOMAS, TOOHL,  
 TURZAI AND WATSON, APRIL 1, 2014

REFERRED TO COMMITTEE ON EDUCATION, APRIL 1, 2014

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," in pupils and attendance, further  
 6 providing for cost of tuition and maintenance of certain  
 7 exceptional children in approved institutions; in charter  
 8 schools, further providing for funding for charter schools;  
 9 and, in reimbursements by Commonwealth and between school  
 10 districts, further providing for special education payments  
 11 to school districts and for extraordinary special education  
 12 program expenses.

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, is  
 17 amended by adding a subsection to read:

18 Section 1376. Cost of Tuition and Maintenance of Certain  
 19 Exceptional Children in Approved Institutions.--\* \* \*

20 (c.9) (1) Beginning in fiscal year 2014-2015, in any fiscal  
 21 year when there is no increase in the State allocation to

1 approved private schools under subsection (a.2), an amount equal  
2 to the funds remitted to the Commonwealth by the approved  
3 private schools pursuant to subsection (c.2)(5)(ii) from the  
4 previous fiscal year is appropriated to the Department of  
5 Education for the purpose of making payments to the approved  
6 private schools for pupils who are enrolled with the approval of  
7 the Department of Education.

8 (2) The funds available for payment pursuant to paragraph  
9 (1) shall be distributed as follows:

10 (i) Divide the amount of funding paid to the approved  
11 private school during the previous year under subsection (a.2)  
12 by the total allocation of funding paid to approved private  
13 schools under subsection (a.2) during the previous year.

14 (ii) Multiply the quotient from subparagraph (i) by the  
15 amount of funding available for payment under paragraph (1).

16 (3) Funds distributed under this subsection shall be paid in  
17 twelve (12) equal monthly payments.

18 \* \* \*

19 Section 2. Section 1725-A(a)(3) of the act, amended June 29,  
20 2002 (P.L.524, No.88), is amended and the subsection is amended  
21 by adding clauses to read:

22 Section 1725-A. Funding for Charter Schools.--(a) Funding  
23 for a charter school shall be provided in the following manner:

24 \* \* \*

25 (3) For the 1997-1998 school year through the 2013-2014  
26 school year, for special education students, the charter school  
27 shall receive for each student enrolled the same funding as for  
28 each non-special education student as provided in clause (2),  
29 plus an additional amount determined by dividing the district of  
30 residence's total special education expenditure by the product

1 of multiplying the combined percentage of section 2509.5(k)  
2 times the district of residence's total average daily membership  
3 for the prior school year. This amount shall be paid by the  
4 district of residence of each student.

5 (3.1) (i) For the 2014-2015 school year and each year  
6 thereafter, subject to the provisions in clauses (3.2) and (3.3)  
7 which provide for the transition to the new student-based  
8 funding methodology established in this clause, for special  
9 education students, the charter school shall receive for each  
10 student enrolled an amount which shall be paid by the district  
11 of residence of each student to be determined as follows:

12 (A) For each student enrolled in the charter school for  
13 which the annual expenditure for special education programs and  
14 services is less than twenty-five thousand dollars (\$25,000),  
15 which shall be known as Category 1, multiply the same funding as  
16 for each non-special education student as provided in clause (2)  
17 by one and fifty-one hundredths (1.51).

18 (B) For a student enrolled in the charter school for which  
19 the annual expenditure for special education programs and  
20 services is equal to or greater than twenty-five thousand  
21 dollars (\$25,000) and less than fifty thousand dollars  
22 (\$50,000), which shall be known as Category 2, multiply the same  
23 funding as for each non-special education student as provided in  
24 clause (2) by three and seventy-seven hundredths (3.77).

25 (C) For each student enrolled in the charter school for  
26 which the annual expenditure for special education programs and  
27 services is equal to or greater than fifty thousand dollars  
28 (\$50,000), which shall be known as Category 3, multiply the same  
29 funding as for each non-special education student as provided in  
30 clause (2) by seven and forty-six hundredths (7.46).

1 (ii) Pursuant to regulations developed by the department, to  
2 be eligible to receive funding for special education students  
3 under subclause (i)(B) and (C), the charter school must document  
4 the cost of providing special education programs and services to  
5 the student and provide the documentation to the school district  
6 of residence and the department.

7 (iii) The department shall annually adjust the weights  
8 provided in subclause (i)(A), (B) and (C) for each school  
9 district based on the percentage difference in the school  
10 district's annual expenditure for special education programs and  
11 services per student when compared to the Statewide average  
12 annual expenditure for special education programs and services  
13 per student.

14 (iv) The department shall annually adjust the dollar ranges  
15 in subclause (i)(A), (B) and (C) by the Consumer Price Index for  
16 All Urban Consumers for the Pennsylvania, New Jersey, Delaware  
17 and Maryland areas.

18 (3.2) Notwithstanding the provisions of clause (3.1), for  
19 the 2014-2015 school year, for special education students, the  
20 charter school shall receive for each student enrolled an amount  
21 which shall be paid by the district of residence as follows:

22 (i) If the funding for each special education student in  
23 clause (3) for the 2013-2014 school year is equal to or greater  
24 than the funding for the same special education student in  
25 clause (3.1) for the 2014-2015 school year, the amount shall be  
26 determined as follows:

27 (A) Subtract the amount of funding for each special  
28 education student in clause (3.1) for the 2014-2015 school year  
29 from the amount of funding for the same special education  
30 student in clause (3) for the 2013-2014 school year.

1 (B) Multiply the difference in paragraph (A) by three  
2 hundred and thirty-three thousandths (0.333).

3 (C) Subtract the product in paragraph (B) from the amount of  
4 funding for the same special education student in clause (3) for  
5 the 2013-2014 school year.

6 (ii) If the funding for each special education student in  
7 clause (3) for the 2013-2014 school year is less than the amount  
8 of funding for the same special education student in clause  
9 (3.1) for the 2014-2015 school year, the amount shall be  
10 determined as follows:

11 (A) Subtract the amount of funding for each special  
12 education student in clause (3) for the 2013-2014 school year  
13 from the amount of funding for the same special education  
14 student in clause (3.1) for the 2014-2015 school year.

15 (B) Multiply the difference in paragraph (A) by three  
16 hundred and thirty-three thousandths (0.333).

17 (C) Add the product in paragraph (B) to the amount of  
18 funding for the same special education student in clause (3) for  
19 the 2013-2014 school year.

20 (3.3) Notwithstanding the provisions of clause (3.1), for  
21 the 2015-2016 school year, for special education students, the  
22 charter school shall receive for each student enrolled an amount  
23 which shall be paid by the district of residence as follows:

24 (i) If the funding for each special education student in  
25 clause (3) for the 2013-2014 school year is equal to or greater  
26 than the funding for the same special education student in  
27 clause (3.1) for the 2015-2016 school year, the amount shall be  
28 determined as follows:

29 (A) Subtract the amount of funding for each special  
30 education student in clause (3.1) for the 2015-2016 school year

1 from the amount of funding for the same special education  
2 student in clause (3) for the 2013-2014 school year.

3 (B) Multiply the difference in paragraph (A) by six hundred  
4 and sixty-six thousandths (0.666).

5 (C) Subtract the product in paragraph (B) from the amount of  
6 funding for the same special education student in clause (3) for  
7 the 2013-2014 school year.

8 (ii) If the funding for each special education student in  
9 clause (3) for the 2013-2014 school year is less than the  
10 funding for the same special education student in clause (3.1)  
11 for the 2015-2016 school year, the amount shall be determined as  
12 follows:

13 (A) Subtract the amount of funding for each special  
14 education student in clause (3) for the 2013-2014 school year  
15 from the amount of funding for the same special education  
16 student in clause (3.1) for the 2015-2016 school year.

17 (B) Multiply the difference in paragraph (A) by six hundred  
18 and sixty-six thousandths (0.666).

19 (C) Add the product in paragraph (B) to the amount of  
20 funding for the same special education student in clause (3) for  
21 the 2013-2014 school year.

22 \* \* \*

23 Section 3. Section 2509.5 of the act is amended by adding a  
24 subsection to read:

25 Section 2509.5. Special Education Payments to School  
26 Districts.--\* \* \*

27 (bbb) (1) For the 2014-2015 school year and each year  
28 thereafter, when the special education funding allocation made  
29 to school districts exceeds the amount allocated under  
30 subsection (aaa), the Commonwealth shall pay to each school

1 district a special education funding allocation which shall  
2 consist of the following:

3 (i) An amount equal to the special education funding  
4 allocation under subsection (aaa).

5 (ii) A student-based allocation to be calculated as follows:

6 (A) Multiply the sum of the school district's weighted  
7 special education student headcount and its sparsity/size  
8 adjustment by its market value/income aid ratio and its  
9 equalized millage multiplier.

10 (B) Multiply the product in clause (A) by the difference  
11 between the amount appropriated for the allocation of special  
12 education funding and the sum of the amounts allocated in  
13 subparagraph (i).

14 (C) Divide the product from clause (B) by the sum of the  
15 products in clause (A) for all school districts.

16 (2) For the purposes of this section:

17 (i) The weighted special education student headcount shall  
18 be calculated for each school district as follows:

19 (A) Multiply the number of students who reside in the school  
20 district for which the annual expenditure for special education  
21 programs and services is less than twenty-five thousand dollars  
22 (\$25,000), which shall be known as Category 1, by one and fifty-  
23 one hundredths (1.51).

24 (B) Multiply the number of students that reside in the  
25 school district for which the annual expenditure for special  
26 education programs and services is greater than or equal to  
27 twenty-five thousand dollars (\$25,000) but less than fifty  
28 thousand dollars (\$50,000), which shall be known as Category 2,  
29 by three and seventy-seven hundredths (3.77).

30 (C) Multiply the number of students who reside in the school

1 district for which the annual expenditure for special education  
2 programs and services is greater than or equal to fifty thousand  
3 dollars (\$50,000), which shall be known as Category 3, by seven  
4 and forty-six hundredths (7.46).

5 (D) Add the products in clauses (A), (B) and (C).  
6 The Department of Education shall annually adjust the dollar  
7 ranges in clauses (A), (B) and (C) by the Consumer Price Index  
8 for All Urban Consumers for the Pennsylvania, New Jersey,  
9 Delaware and Maryland area.

10 (ii) The sparsity ratio shall be calculated for each school  
11 district as follows:

12 (A) Divide the school district's average daily membership  
13 per square mile by the State's average daily membership per  
14 square mile.

15 (B) Multiply the quotient of clause (A) by five tenths  
16 (0.5).

17 (C) Subtract the product in clause (B) from one (1).

18 (iii) The size ratio for each school district shall be  
19 calculated as follows:

20 (A) Divide the school district's average daily membership by  
21 the average of the average daily membership of all school  
22 districts.

23 (B) Multiply the quotient of clause (A) by five tenths  
24 (0.5).

25 (C) Subtract the product in clause (B) from one (1).

26 (iv) The sparsity/size ratio for each school district shall  
27 be calculated by adding forty percent (40%) of the sparsity  
28 ratio and sixty percent (60%) of the size ratio.

29 (v) The sparsity/size adjustment for each school district  
30 shall be calculated as follows:



1 (A) For a school district with a sparsity/size ratio less  
2 than or equal to the sparsity/size ratio that represents the  
3 seventieth (70th) percentile of the sparsity/size ratio of all  
4 school districts, the school district's sparsity/size adjustment  
5 shall be zero (0).

6 (B) For a school district with a sparsity/size ratio greater  
7 than the sparsity/size ratio that represents the seventieth  
8 (70th) percentile of the sparsity/size ratio of all school  
9 districts, the school district's sparsity/size adjustment shall  
10 be calculated as follows:

11 (I) Divide the school district's sparsity/size ratio by the  
12 sparsity/size ratio that represents the seventieth (70th)  
13 percentile of the sparsity/size ratio of all school districts.

14 (II) Subtract one (1) from the quotient in subclause (I).

15 (III) Multiply the remainder in subclause (II) by five  
16 tenths (0.5).

17 (IV) Multiply the product in subclause (III) by the school  
18 district's weighted special education student headcount.

19 (vi) The equalized millage multiplier for each school  
20 district shall be calculated as follows:

21 (A) For a school district with an equalized millage rate  
22 greater than or equal to the equalized millage rate that  
23 represents the seventieth (70th) percentile of the equalized  
24 millage rate of all school districts, the school district's  
25 equalized millage multiplier shall be one (1).

26 (B) For a school district with an equalized millage rate  
27 less than the equalized millage rate that represents the  
28 seventieth (70th) percentile of the equalized millage rate of  
29 all school districts, the school district's equalized millage  
30 multiplier shall be calculated as follows:

1 (I) Divide the school district's equalized millage rate by  
2 the equalized millage rate that represents the seventieth (70th)  
3 percentile of the equalized millage rate of all school  
4 districts.

5 (II) (Reserved).

6 (3) The data used to calculate the provisions contained in  
7 this section shall be averaged for the three (3) most recent  
8 years for which data is available as determined by the  
9 Department of Education.

10 Section 4. Section 2509.8(e) of the act, added December 23,  
11 2003 (P.L.304, No.48), is amended and the section is amended by  
12 adding a subsection to read:

13 Section 2509.8. Extraordinary Special Education Program  
14 Expenses.--\* \* \*

15 (e) For the 2003-2004 school year [and each school year  
16 thereafter] through the 2013-2014 school year, the Department of  
17 Education shall set aside one percent (1%) of the special  
18 education appropriation for extraordinary expenses incurred in  
19 providing a special education program or service to one or more  
20 students with disabilities as approved by the Secretary of  
21 Education. Such special education program or service shall  
22 include, but not be limited to, the transportation of students  
23 with disabilities; services related to occupational therapy,  
24 physical therapy, speech and language, hearing impairments or  
25 visual impairments; or training in orientation and mobility for  
26 children who are visually impaired or blind.

27 (f) (i) For the 2014-2015 school year and each school year  
28 thereafter, an amount equal to one percent (1%) of the special  
29 education appropriation shall be distributed to school districts  
30 and charter schools for extraordinary expenses incurred in

1 providing a special education program or service to one or more  
2 students with disabilities as approved by the Secretary of  
3 Education. Such special education program or service shall  
4 include, but not be limited to, the transportation of students  
5 with disabilities; services related to occupational therapy,  
6 physical therapy, speech and language, hearing impairments or  
7 visual impairments; or training in orientation and mobility for  
8 children who are visually impaired or blind.

9 (ii) Funds distributed to a school district or charter  
10 school under this subsection shall be allocated for students for  
11 which expenses are incurred on an annual basis that are equal to  
12 or greater than seventy-five thousand dollars (\$75,000) as  
13 follows:

14 (A) For a student for whom expenses are equal to or greater  
15 than seventy-five thousand dollars (\$75,000) and less than or  
16 equal to one hundred thousand dollars (\$100,000), subtract the  
17 State subsidies paid on behalf of the student for special  
18 education programs and services to the school district or, for a  
19 student enrolled in a charter school, the difference in the  
20 nonspecial education and special education charter school  
21 payment received by the charter school where the child is  
22 enrolled from the expense incurred for the student and multiply  
23 the difference by the school district's or charter school's  
24 market value/personal income aid ratio.

25 (B) For a student for which expenses are greater than one  
26 hundred thousand dollars (\$100,000), subtract the State  
27 subsidies paid on behalf of the student for special education  
28 programs and services to the school district or, for a student  
29 enrolled in a charter school, the difference in the nonspecial  
30 education and special education charter school payment received

1 by the charter school where the child is enrolled from the  
2 expense incurred for the student.

3 (iii) No school district or charter school shall in any  
4 school year receive an amount under subclause (i) which exceeds  
5 the total amount of funding available multiplied by the  
6 percentage equal to the greatest percentage of the State's  
7 special education students enrolled in a school district or  
8 charter school.

9 (iv) It is the intent of the General Assembly that funds  
10 necessary to implement this subsection shall be appropriated as  
11 a separate line item in the General Appropriation Act entitled  
12 Extraordinary Cost Fund.

13 Section 5. Section 2509.14 of the act, added April 25, 2013  
14 (P.L.12, No.3), is repealed:

15 [Section 2509.14. Special Education Funding for Eligible  
16 Students with Disabilities in Cost Category 3.--(a) For the  
17 2014-2015 school year and each school year thereafter, the  
18 Department of Education shall set aside an amount not less than  
19 one percent (1%) of the State special education appropriation  
20 above the level of the appropriation in the base year. The  
21 Department of Education shall distribute this amount as provided  
22 in subsection (b).

23 (b) For the 2014-2015 school year and each school year  
24 thereafter, each school district in this Commonwealth shall  
25 receive a pro rata share of the amount set aside under  
26 subsection (a) based upon the number of eligible students  
27 residing or enrolled in each school district and classified in  
28 Cost Category 3 during the immediately preceding school year.

29 (c) The funding provided under this section shall be  
30 accounted for as part of actual special education spending and

1 as part of the special education allocation received by a school  
2 district, according to the definitions in section 2501. School  
3 districts shall also account for the funding provided under this  
4 section and the resulting services and supports for eligible  
5 students through the special education plans, revisions, updates  
6 and amendments required by section 2509.15.]

7 Section 6. This act shall take effect July 1, 2014, or  
8 immediately, whichever occurs later.