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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2661 Session of  
2012

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INTRODUCED BY ROEBUCK, PASHINSKI, THOMAS, DERMODY, HANNA,  
FRANKEL, STURLA, BRIGGS, BROWNLEE, CALTAGIRONE, CARROLL,  
CONKLIN, CURRY, DEAN, DONATUCCI, FREEMAN, GEORGE, HALUSKA,  
HARHAI, HARKINS, HESS, HORNAMAN, JAMES, JOSEPHS,  
M. K. KELLER, LONGIETTI, MAHONEY, MCGEEHAN, MUNDY,  
M. O'BRIEN, READSHAW, SABATINA, SAMUELSON, SANTARSIERO,  
SANTONI, K. SMITH, WATERS AND WILLIAMS, OCTOBER 1, 2012

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REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 1, 2012

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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," in charter schools, further providing  
6 for powers of charter schools, for charter school  
7 requirements, for contents of application to establish a  
8 charter school and for funding for charter schools; providing  
9 for actual costs of education services, for annual reports  
10 and assessments of charter schools and for charter school  
11 fund balance limit; further providing for assessment and  
12 evaluation of cyber charter schools; and providing for cyber  
13 charter school fund balance limit.

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

16 Section 1. Section 1714-A(a)(5) of the act of March 10, 1949  
17 (P.L.30, No.14), known as the Public School Code of 1949,  
18 amended July 4, 2004 (P.L.536, No.70), is amended to read:

19 Section 1714-A. Powers of Charter Schools.--(a) A charter  
20 school established under this act is a body corporate and shall  
21 have all powers necessary or desirable for carrying out its

1 charter, including, but not limited to, the power to:

2 \* \* \*

3 (5) Make contracts and leases for the procurement of  
4 services, equipment and supplies[.], subject to the following  
5 provisions:

6 (i) No contract or lease entered into by a charter school or  
7 cyber charter school for an amount greater than one hundred  
8 dollars (\$100) may provide for a payment in excess of the fair  
9 market value of the services, equipment, supplies or other  
10 property being acquired or leased.

11 (ii) A charter school or cyber charter school may not enter  
12 into or continue operating under a contract for management,  
13 operations or educational services which involve the charter  
14 school or cyber charter school providing a percentage of the  
15 charter or cyber charter school's revenues to the contractor.

16 (iii) No contract entered into by a charter school or cyber  
17 charter school shall have a term that extends beyond the charter  
18 or cyber charter school's existing charter agreement with a  
19 local school board.

20 \* \* \*

21 Section 2. Section 1715-A of the act is amended by adding  
22 paragraphs to read:

23 Section 1715-A. Charter School Requirements.--Charter  
24 schools shall be required to comply with the following  
25 provisions:

26 \* \* \*

27 (13) The board of trustees of a charter school or cyber  
28 charter school shall record in written format the minutes of  
29 each meeting of the board at which any business of the charter  
30 school or cyber charter school is considered or transacted. All

1 meeting minutes shall be maintained by a charter school or cyber  
2 charter school for at least seven (7) years.

3 (14) The board minutes of the trustees of a charter school  
4 or cyber charter school shall reflect the board's approval or  
5 disapproval of all contracts, agreements and obligations in  
6 excess of one hundred dollars (\$100), including how each member  
7 voted on the contract, agreement or obligation.

8 (15) The board minutes of the trustees of a charter school  
9 or cyber charter school shall reflect the board's approval of an  
10 annual budget, including how each member voted on the budget.

11 (16) An individual who is a trustee of a charter school or  
12 cyber charter school shall not have a financial relationship  
13 with an entity with which the charter school or cyber charter  
14 school transacts any business.

15 (17) All payments made by a charter school or cyber charter  
16 school shall be cosigned by the treasurer of the board of  
17 trustees and the chief administrator of the charter school or  
18 cyber charter school.

19 (18) Within ten (10) days of the execution of an agreement  
20 between a charter school or cyber charter school and any  
21 education service provider, the board of trustees shall publish  
22 on the charter or cyber charter school's publicly available  
23 Internet website all of the following:

24 (i) a copy of the executed agreement;

25 (ii) a plain language explanation of all costs and fees  
26 associated with the agreement;

27 (iii) a description of all financial relationships between  
28 the charter school or cyber charter school and the education  
29 service provider or any of its board members or employes;

30 (iv) the education service provider's status as a for-profit

1 or nonprofit organization; and  
2 (v) if the education service provider is a for-profit  
3 organization, a plain language explanation of how any profit  
4 will be determined and distributed between the charter school  
5 and the education service provider.

6 Section 3. Section 1719-A of the act, added June 19, 1997  
7 (P.L.225, No.22), is amended to read:

8 Section 1719-A. Contents of Application.--[An] (a) The  
9 department shall develop and issue a standard application form  
10 that shall be used by all applicants to establish a charter  
11 school or cyber charter school. The application to establish a  
12 charter school or cyber charter school shall include all of the  
13 following information:

14 (1) The identification of the charter school or cyber  
15 charter school applicant.

16 (2) The name of the proposed charter school or cyber charter  
17 school.

18 (3) The grade or age levels served by the school.

19 (4) [The proposed governance structure of the charter  
20 school, including a description and method for the appointment  
21 or election of members of the board of trustees.] An  
22 organization chart clearly presenting the proposed governance  
23 structure of the charter school or cyber charter school,  
24 including lines of authority and reporting among the board of  
25 trustees, administrators, staff and any educational service  
26 provider that will play a role in providing management services  
27 to the charter school or cyber charter school.

28 (4.1) A clear description of the roles and responsibilities  
29 for the board of trustees, administrators and any other  
30 entities, including a charter school or cyber charter school

1 foundation, shown in the organization chart.

2 (4.2) A clear description and method for the appointment or  
3 election of members of the board of trustees.

4 (4.3) Standards for board performance and stewardship,  
5 including compliance with all applicable laws, regulations and  
6 terms of the charter.

7 (4.4) If the charter school or cyber charter school intends  
8 to contract with an educational service provider for services,  
9 the charter or cyber charter school applicant shall:

10 (i) Provide evidence of the education service provider's  
11 record in serving student populations, including demonstrated  
12 academic achievement and demonstrated management of nonacademic  
13 school functions, including proficiency with public school-based  
14 accounting, if applicable.

15 (ii) Provide a copy of the finalized management agreement,  
16 which shall include all of the following:

17 (A) The proposed duration of the service contract.

18 (B) Roles and responsibilities of the governing board, the  
19 school staff and the educational management service provider.

20 (C) The scope of services and resources to be provided by  
21 the educational management service provider.

22 (D) Performance evaluation measures and timelines.

23 (E) The compensation structure, including clear  
24 identification of all fees to be paid to the educational  
25 management service provider.

26 (F) Methods of contract oversight and enforcement.

27 (G) Investment disclosure or the advance of moneys by the  
28 educational management service provider on behalf of the charter  
29 school or cyber charter school.

30 (H) Conditions for renewal and termination of the contract.

1 (iii) Disclose and explain any existing or potential  
2 conflicts of interest between the board of trustees and proposed  
3 educational service provider and any affiliated business  
4 entities, including a charter school or cyber charter school  
5 foundation.

6 (5) The mission and education goals of the charter school or  
7 cyber charter school, the curriculum to be offered and the  
8 methods of assessing whether students are meeting educational  
9 goals.

10 (6) The admission policy and criteria for evaluating the  
11 admission of students, including the maximum number of students  
12 the school will enroll during each year of its charter, which  
13 shall comply with the requirements of section 1723-A.

14 (7) Procedures which will be used regarding the suspension  
15 or expulsion of pupils. Said procedures shall comply with  
16 section 1318.

17 (8) Information on the manner in which community groups will  
18 be involved in the charter school or cyber charter school  
19 planning process.

20 (9) The financial plan for the charter school or cyber  
21 charter school based on the projected range of the number of  
22 students enrolled in the school during each year of the proposed  
23 charter period and the provisions which will be made for  
24 auditing the school under section 437, including the role of any  
25 charter school or cyber charter school foundation.

26 (10) Procedures which shall be established to review  
27 complaints of parents regarding the operation of the charter  
28 school or cyber charter school.

29 (11) A description of and address of the physical facility  
30 in which the charter school will be located and the ownership

1 thereof and any lease arrangements.

2 (12) Information on the proposed school calendar for the  
3 charter school or cyber charter school, including the length of  
4 the school day and school year consistent with the provisions of  
5 section 1502.

6 (13) The proposed faculty and a professional development  
7 plan for the faculty and staff of a charter school or cyber  
8 charter school.

9 (14) Whether any agreements have been entered into or plans  
10 developed with the local school district regarding participation  
11 of the charter school or cyber charter school students in  
12 extracurricular activities within the school district.  
13 Notwithstanding any provision to the contrary, no school  
14 district of residence shall prohibit a student of a charter  
15 school or cyber charter school from participating in any  
16 extracurricular activity of that school district of residence:  
17 Provided, That the student is able to fulfill all of the  
18 requirements of participation in such activity and the charter  
19 school or cyber charter school does not provide the same  
20 extracurricular activity.

21 (15) A report of criminal history record, pursuant to  
22 section 111, for all individuals who shall have direct contact  
23 with students.

24 (16) An official clearance statement regarding child injury  
25 or abuse from the Department of Public Welfare as required by 23  
26 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for  
27 employment in schools) for all individuals who shall have direct  
28 contact with students.

29 (17) How the charter school or cyber charter school will  
30 provide adequate liability and other appropriate insurance for

1 the charter school or cyber charter school, its employes and the  
2 board of trustees of the charter school or cyber charter school.

3 (b) A local school board may not impose additional terms or  
4 require additional information outside the standard application  
5 required under subsection (a).

6 Section 4. Section 1725-A(a) of the act, amended June 29,  
7 2002 (P.L.524, No.88), is amended to read:

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

10 (1) There shall be no tuition charge for a resident or  
11 nonresident student attending a charter school.

12 (2) For non-special education students, the charter school  
13 shall receive for each student enrolled no less than the  
14 [budgeted] actual total expenditure per average daily membership  
15 of the prior school year, as defined in section 2501(20), minus  
16 the [budgeted] actual expenditures at the end of the most recent  
17 fiscal year of the district of residence for nonpublic school  
18 programs; adult education programs; community/junior college  
19 programs and services; student transportation services; for  
20 special education programs; facilities acquisition, construction  
21 and improvement services; athletic funds and school sponsored  
22 extracurricular activities set up in accordance with section  
23 511; the full employer's share of retirement contributions paid  
24 to the Public School Employees' Retirement System; tuition to  
25 Pennsylvania charter schools for educational services provided  
26 to students attending the charter school; and other financing  
27 uses, including debt service and fund transfers as provided in  
28 the Manual of Accounting and Related Financial Procedures for  
29 Pennsylvania School Systems established by the department. This  
30 amount shall be paid by the district of residence of each

1 student.

2 (3) The following shall apply to special education:

3 (i) For special education students, the charter school shall  
4 receive for each student enrolled the same funding as for each  
5 non-special education student as provided in clause (2), plus an  
6 additional amount determined by dividing the district of  
7 residence's total special education expenditure by the product  
8 of multiplying the combined percentage of section 2509.5(k)  
9 times the district of residence's total average daily membership  
10 for the prior school year. This amount shall be paid by the  
11 district of residence of each student[.], but shall not exceed  
12 the actual cost of the educational services provided for special  
13 education students.

14 (ii) If a nonspecial education student is identified by the  
15 charter school in which the student is enrolled as a student  
16 with a disability in need of special education services, the  
17 district of residence shall have the power to administer and  
18 deliver the educational services required to address the  
19 specific needs of the exceptional student in lieu of payments by  
20 the district of residence for such student.

21 (iii) A resident school district may not pay out to charter  
22 schools or cyber charter schools an amount greater than it  
23 receives for special education in a school year.

24 (4) A charter school may request the intermediate unit in  
25 which the charter school is located to provide services to  
26 assist the charter school to address the specific needs of  
27 exceptional students. The intermediate unit shall assist the  
28 charter school and bill the charter school for the services. The  
29 intermediate unit may not charge the charter school more for any  
30 service than it charges the constituent districts of the

1 intermediate unit. If the service is provided by the  
2 intermediate unit or school district, the charter school shall  
3 provide a copy of the contract and invoice for the services to  
4 the student's school district of residence.

5 (5) Payments shall be made to the charter school in twelve  
6 (12) equal monthly payments, by the fifth day of each month,  
7 within the operating school year. A student enrolled in a  
8 charter school shall be included in the average daily membership  
9 of the student's district of residence for the purpose of  
10 providing basic education funding payments and special education  
11 funding pursuant to Article XXV. If a school district fails to  
12 make a payment to a charter school as prescribed in this clause,  
13 the secretary shall deduct the estimated amount, as documented  
14 by the charter school, from any and all State payments made to  
15 the district after receipt of documentation from the charter  
16 school.

17 (6) Within thirty (30) days after the secretary makes the  
18 deduction described in clause (5), a school district may notify  
19 the secretary that the deduction made from State payments to the  
20 district under this subsection is inaccurate. The secretary  
21 shall provide the school district with an opportunity to be  
22 heard concerning whether the charter school documented that its  
23 students were enrolled in the charter school, the period of time  
24 during which each student was enrolled, the school district of  
25 residence of each student and whether the amounts deducted from  
26 the school district were accurate.

27 \* \* \*

28 Section 5. The act is amended by adding a section to read:

29 Section 1725.1-A. Actual Costs of Education Services.--(a)  
30 Within one hundred eighty (180) days of the effective date of

1 this section, the department shall promulgate audit standards  
2 under this article which shall be used in determining the year-  
3 end actual costs of educational services per non-special  
4 education student and special education student provided by a  
5 charter school or a cyber charter school to any child who is a  
6 resident of a school district, which are subject to payment in  
7 accordance with section 1725-A. The department shall follow the  
8 procedures provided in the act of July 31, 1968 (P.L.769,  
9 No.240), referred to as the "Commonwealth Documents Law," and  
10 the act of June 25, 1982 (P.L.633, No.181), known as the  
11 "Regulatory Review Act," for promulgation and review of final-  
12 omitted regulations. Subsequent audit standards promulgated  
13 under this section or amendments to the initial audit standards  
14 may not be in final-omitted form. The audit standards shall take  
15 effect at the beginning of the first school year after which  
16 such audit standards have been promulgated.

17 (b) In order for the year-end actual costs of educational  
18 services per non-special education student and special education  
19 student to be thoroughly and properly determined, the audit  
20 standards promulgated by the department shall:

21 (1) Specify reasonable costs associated with the operation  
22 of the educational program offered by a charter school and a  
23 cyber charter school. The following may not be considered  
24 reasonable costs associated with the operation of the  
25 educational program offered by a charter school and a cyber  
26 charter school:

27 (i) Any paid media advertisement, including television,  
28 radio, movie theater, billboard, bus poster, newspaper,  
29 magazine, the Internet or any other commercial method that may  
30 promote enrollment of a charter school and a cyber charter

1 school.

2 (ii) Any lobbying, legislative advocacy, consulting or any  
3 effort to influence Federal or State legislation or policy  
4 affecting either that charter school or cyber charter school  
5 specifically or charter schools in general.

6 (iii) Any bonuses or additional compensation beyond the  
7 annual or termed contractual compensation for all faculty,  
8 administration and staff, including salary, benefits and any  
9 additional compensation not specifically enumerated in the  
10 contract.

11 (2) Allow a closely related business entity to charge up to  
12 one hundred and seven per centum of the actual educational  
13 costs.

14 (3) Require information as necessary for a full-scope review  
15 of a finalized management agreement entered into between a  
16 charter school or cyber charter school and a closely related  
17 business entity, including:

18 (i) All payments received from school districts of  
19 residence.

20 (ii) Expenditures of the closely related business entity  
21 related to the delivery of educational and administrative  
22 services pursuant to the management agreement.

23 (4) List and show all receipts and expenditures for an  
24 educational service provider that provides any service to a  
25 charter school or cyber charter school.

26 (5) Provide reasonable penalties for failure to comply.

27 (c) The following shall apply:

28 (1) The department shall effectuate an annual year-end final  
29 reconciliation process of tuition payments against actual costs  
30 of educational services per non-special education student and

1 special education student providing any necessary procedures for  
2 the transfer of funds from the charter school or cyber charter  
3 school to the school district of residence. The final  
4 reconciliation process shall include one of the following:

5 (i) Allowing a school district of residence to withhold its  
6 last monthly payment from a charter school or cyber charter  
7 school to account for any overpayments as identified by the  
8 year-end audit. If the school district of residence has sent  
9 overpayments, the district may adjust its last monthly payment  
10 accordingly.

11 (ii) Requiring a charter school or cyber charter school at  
12 the end of each school year to return any overpayments to a  
13 school district of residence owed a refund. A charter school or  
14 cyber charter school may not return any overpayments on a pro-  
15 rata basis.

16 (2) Procedures for the transfer of funds may not permit the  
17 department to deduct from a school district of residence's basic  
18 education subsidy any amount in excess of the selected  
19 expenditure per average daily membership amount calculated in  
20 accordance with section 1725-A.

21 (d) Charter schools, cyber charter schools, educational  
22 service providers and closely related business entities shall  
23 provide to the department, unless already retained by the  
24 department, any information necessary to carry out the  
25 provisions of this section.

26 (e) Except as provided under subsection (c), nothing  
27 contained under this section shall permit a school district of  
28 residence to provide funding for charter schools or cyber  
29 charter schools in a manner other than that which is specified  
30 in section 1725-A.

1 (f) For the purposes of this section, the following terms  
2 shall have the following meanings:

3 "Closely related business entity" shall mean any organization  
4 with a management or operational relationship with a charter  
5 school involving either shared or overlapping aspects of  
6 corporate identity such as ownership, board of directors or  
7 trustees membership, capital or profits.

8 "Educational and administrative services" shall mean any  
9 direct expenditures for any instruction and the administration  
10 of the instructional program. The term shall not include any  
11 expenditures not pertaining directly to the instruction and the  
12 administration of the instructional program.

13 "Educational service provider" shall mean a for-profit  
14 education management organization, nonprofit charter management  
15 organization, school design provider, business manager or any  
16 other partner entity with which a charter school or cyber  
17 charter school intends to contract or presently contracts to  
18 provide educational services, operational services or management  
19 services to the charter school. The term shall not include a  
20 charter school or cyber charter school foundation.

21 "Management agreement" shall mean any contract establishing a  
22 management or operational relationship between a charter school  
23 or cyber charter school and closely related business entity for  
24 the provision of professional or nonprofessional services to the  
25 charter school or cyber charter school.

26 Section 6. Section 1728-A(a), added June 19, 1997 (P.L.225,  
27 No.22), is amended and the section is amended by adding  
28 subsections to read:

29 Section 1728-A. Annual Reports and Assessments.--(a) The  
30 local board of school directors shall annually assess whether

1 each charter school is meeting the goals of its charter and  
2 shall conduct a comprehensive review prior to granting a five  
3 (5) year renewal of the charter. The local board of school  
4 directors shall have ongoing access to the records and  
5 facilities of the charter school to ensure that the charter  
6 school is in compliance with its charter and this act and that  
7 requirements for testing, civil rights and student health and  
8 safety are being met. "Ongoing access" to a charter school's  
9 records shall mean that the local school board shall have access  
10 to records such as financial reports, financial audits,  
11 aggregate standardized test scores without student identifying  
12 information and teacher certification and personnel records.  
13 Charter schools and local school boards shall comply fully with  
14 the requirements of the Family Educational Rights and Privacy  
15 Act of 1974 (Public Law 90-247, 20 U.S.C. § 1232g) and its  
16 implementing regulations, and no personally identifiable  
17 information from education records shall be provided by the  
18 charter school to the local school board which authorized it  
19 except in compliance with the Family Educational Rights and  
20 Privacy Act of 1974 and subsequent regulations.

21 \* \* \*

22 (d) Charter schools and cyber charter schools shall annually  
23 provide a copy of the annual budget for the operation of the  
24 school that identifies the following:

25 (1) The source of funding for all expenditures as part of  
26 its reporting under subsection (a).

27 (2) Where funding is provided by a charter school  
28 foundation, the amount of funds and a description of the use of  
29 such funds.

30 (e) All operations of a contractor that performs management,

1 operations or educational services for a charter school or a  
2 cyber charter school pursuant to a contract or agreement with  
3 the charter school or cyber charter school which relate to the  
4 charter school or cyber charter school shall be subject to  
5 public audit requirements under section 2553. In addition, funds  
6 provided by a charter school or a cyber charter school to a  
7 contractor that performs management, operations or educational  
8 services for a charter school or cyber charter school pursuant  
9 to a contract or agreement with the charter school or cyber  
10 charter school and the use of such funds by such contractor  
11 shall be subject to the audit provisions of section 403 of the  
12 act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal  
13 Code."

14 (f) The charter school or cyber charter school records  
15 produced, obtained or maintained by a contractor that performs  
16 management, operations or educational services for a charter  
17 school or cyber charter school pursuant to a contract or  
18 agreement with the charter school or the cyber charter school  
19 shall be subject to disclosure under the act of February 14,  
20 2008 (P.L.6, No.3), known as the "Right-to-Know Law."

21 Section 7. The act is amended by adding a section to read:

22 Section 1733-A. Charter School Fund Balance Limit.--(a) For  
23 the 2012-2013 school year and each school year thereafter, a  
24 charter school that is not a cyber charter school shall not  
25 accumulate an unassigned fund balance greater than the charter  
26 school fund balance limit, which will be determined as follows:

27	<u>Maximum Unassigned</u>	
28	<u>Charter School Total</u>	<u>Fund Balance as</u>
29	<u>Budgeted Expenditures</u>	<u>Percentage of Total</u>
30		<u>Budgeted Expenditures</u>

1	<u>Less than or equal to \$11,999,999</u>	<u>12%</u>
2	<u>Between \$12,000,000 and \$12,999,999</u>	<u>11.5%</u>
3	<u>Between \$13,000,000 and \$13,999,999</u>	<u>11%</u>
4	<u>Between \$14,000,000 and \$14,999,999</u>	<u>10.5%</u>
5	<u>Between \$15,000,000 and \$15,999,999</u>	<u>10%</u>
6	<u>Between \$16,000,000 and \$16,999,999</u>	<u>9.5%</u>
7	<u>Between \$17,000,000 and \$17,999,999</u>	<u>9%</u>
8	<u>Between \$18,000,000 and \$18,999,999</u>	<u>8.5%</u>
9	<u>Greater than or equal to \$19,000,000</u>	<u>8%</u>

10 (b) Any unassigned fund balance in place on June 30, 2013,  
11 that exceeds the charter school fund balance limit shall be  
12 refunded on a per student pro rata basis within ninety (90) days  
13 of the effective date of this subsection to all school districts  
14 that made payments under section 1725-A in the 2011-2012 and  
15 2012-2013 school years. The funds may not be used to pay bonuses  
16 to any administrator, board of trustee member, employee, staff  
17 or contractor or be transferred to a charter school foundation.

18 (c) For the 2013-2014 school year and each school year  
19 thereafter, any unassigned fund balance in excess of the charter  
20 school fund balance limit shall be refunded on a per student pro  
21 rata basis to all school districts that made payments under  
22 section 1725-A in the prior school year.

23 (d) By August 15, 2013, and August 15 of each year  
24 thereafter, each charter school shall provide the department  
25 with information certifying compliance with this section. The  
26 information shall be provided in a form and manner prescribed by  
27 the department and shall include information on the charter  
28 school's estimated ending unassigned fund balance expressed as a  
29 dollar amount and as a percentage of the charter school's total  
30 budgeted expenditures for that school year.

1 (e) As used in this section, "unassigned fund balance" shall  
2 mean that portion of the fund balance which represents the part  
3 of spendable fund balance that has not been categorized as  
4 restricted, committed or assigned.

5 Section 8. Section 1742-A of the act, added June 29, 2002  
6 (P.L.524, No.88), is amended to read:

7 Section 1742-A. Assessment and evaluation.

8 The department shall:

9 (1) Annually assess, on a standard form developed by the  
10 office, whether each cyber charter school is meeting the  
11 goals of its charter and is in compliance with the provisions  
12 of the charter and conduct a comprehensive review prior to  
13 granting a five-year renewal of the charter.

14 (2) Annually review each cyber charter school's  
15 performance on the Pennsylvania System of School Assessment  
16 test, standardized tests and other performance indicators to  
17 ensure compliance with 22 Pa. Code Ch. 4 (relating to  
18 academic standards and assessment) or subsequent regulations  
19 promulgated to replace 22 Pa. Code Ch. 4.

20 (3) Have ongoing access to all records, instructional  
21 materials and student and staff records of each cyber charter  
22 school [and], to every cyber charter school facility and to  
23 any contractors of the cyber charter school that provide  
24 management, operations or educational services to the cyber  
25 charter school to ensure the cyber charter school is in  
26 compliance with its charter and this subdivision. "Ongoing  
27 access" to a cyber charter school's records shall mean that  
28 the department shall have access to records, including, but  
29 not limited to, financial records, financial audits,  
30 standardized test scores, teacher certification and personnel

1 records. Cyber charter schools and the department shall  
2 comply fully with the requirements of the Family Education  
3 Rights and Privacy Act of 1974 (Public Law 90-247, 20 U.S.C.  
4 § 1232g) and its implementing regulations.

5 Section 9. The act is amended by adding a section to read:  
6 Section 1752-A. Cyber charter school fund balance limit.

7 (a) Limit.--For the 2012-2013 school year and each school  
8 year thereafter, no cyber charter school shall accumulate an  
9 unassigned fund balance greater than the cyber charter school  
10 fund balance limit, which shall be determined as follows:

<u>Cyber Charter School Total</u>	<u>Maximum Unassigned</u>
<u>Budgeted Expenditures</u>	<u>Fund Balance as</u>
	<u>Percentage of Total</u>
	<u>Budgeted Expenditures</u>
<u>Less than or equal to \$11,999,999</u>	<u>12%</u>
<u>Between \$12,000,000 and \$12,999,999</u>	<u>11.5%</u>
<u>Between \$13,000,000 and \$13,999,999</u>	<u>11%</u>
<u>Between \$14,000,000 and \$14,999,999</u>	<u>10.5%</u>
<u>Between \$15,000,000 and \$15,999,999</u>	<u>10%</u>
<u>Between \$16,000,000 and \$16,999,999</u>	<u>9.5%</u>
<u>Between \$17,000,000 and \$17,999,999</u>	<u>9%</u>
<u>Between \$18,000,000 and \$18,999,999</u>	<u>8.5%</u>
<u>Greater than or equal to \$19,000,000</u>	<u>8%</u>

24 (b) Distribution.--Any unassigned fund balance in place on  
25 June 30, 2013, that exceeds the cyber charter school fund  
26 balance limit shall be distributed by the cyber charter school  
27 on a per student pro rata basis within 90 days of the effective  
28 date of this paragraph to all school districts that made  
29 payments under section 1725-A to the cyber charter school in the  
30 2011-2012 and 2012-2013 school years. The funds may not be used

1 to pay bonuses to any administrator, board of trustee member,  
2 employee, staff or contractor or be transferred to a cyber  
3 charter school foundation.

4 (c) Refunds.--For the 2013-2014 school year and each school  
5 year thereafter, any unassigned fund balance in excess of the  
6 cyber charter school fund balance limit shall be refunded on a  
7 per student pro rata basis to all school districts that made  
8 payments to the cyber charter school under section 1725-A in the  
9 prior school year.

10 (d) Certification of compliance.--By August 15, 2013, and  
11 August 15 of each year thereafter, each cyber charter school  
12 shall provide the department with information certifying  
13 compliance with this section. The information shall be provided  
14 in a form and manner prescribed by the department and shall  
15 include information on the cyber charter school's estimated  
16 ending unassigned fund balance expressed as a dollar amount and  
17 as a percentage of the cyber charter school's total budgeted  
18 expenditures for that school year.

19 (e) Definitions.--As used in this section, "unassigned fund  
20 balance" shall mean that portion of the fund balance which  
21 represents the part of spendable fund balance that has not been  
22 categorized as restricted, committed or assigned.

23 Section 10. This act shall take effect in 60 days.