

AMENDMENTS TO HOUSE BILL NO. 688

Sponsor: REPRESENTATIVE BERNSTINE

Printer's No. 1036

1 Amend Bill, page 1, lines 1 through 9, by striking out all of
2 said lines and inserting

3 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
4 act relating to the public school system, including certain
5 provisions applicable as well to private and parochial
6 schools; amending, revising, consolidating and changing the
7 laws relating thereto," in preliminary provisions, providing
8 for learning pod protection and for advertising; in
9 opportunities for educational excellence, further providing
10 for definitions, for responsibilities of school entities and
11 for concurrent enrollment agreements; in charter schools,
12 further providing for definitions, providing for ideal
13 charter schools, further providing for charter school
14 requirements, for powers of board of trustees and for
15 facilities, providing for fund balance limits and further
16 providing for school district and intermediate unit
17 responsibilities; in educational tax credits, further
18 providing for limitations; and providing for education
19 opportunity accounts and establishing the Education
20 Opportunity Account Program.

21 Amend Bill, page 1, lines 12 through 20; pages 2 through 7,
22 lines 1 through 30; page 8, lines 1 through 13; by striking out
23 all of said lines on said pages and inserting

24 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
25 as the Public School Code of 1949, is amended by adding sections
26 to read:

27 Section 130. Learning Pod Protection.--(a) Notwithstanding
28 any other provision of law to the contrary, a learning pod shall
29 be exempt from the following provisions:

30 (1) All provisions of this act related to staff ratios,
31 certifications, background checks and physical accommodations.

32 (2) All regulatory provisions of the Department of Human
33 Services related to the operation of a day-care, child-care
34 center or at home day-care, including staff certifications,
35 background checks and physical accommodations.

1 (3) Any State building or fire codes applicable to
2 educational or child-care facilities.

3 (4) Any local building or fire codes applicable to an
4 educational or child-care facility.

5 (5) Any other State or local statute, rule or code which
6 would not be applicable to any group, building or facility but
7 for the operation or presence of a learning pod.

8 (b) No State, local or school district employe may initiate
9 or conduct any site inspection or other investigation or visit
10 that would not have been initiated or made but for the operation
11 or presence of a learning pod.

12 (c) No State, local or school district employe may initiate
13 or conduct any site inspection or other investigation or visit,
14 that would not have been initiated or made but for the operation
15 or presence of a learning pod, on the basis of any provision of
16 Federal code, rule, guideline or any other Federal authority.

17 (d) No school district may take any action or act in any
18 manner discriminate against or otherwise distinguish any student
19 or parent on the basis of participation in a learning pod.

20 (e) No State agency, local government or school district may
21 require that any learning pod be in any manner required to
22 register or otherwise report any information related to the
23 operation of the learning pod.

24 (f) This section shall not alter the regulation of any day-
25 care center, child-care center or home-day-care center related
26 to any operations or other matters not directly related to the
27 operation of a learning pod.

28 (g) The following shall apply to any administrative,
29 judicial hearing or other action regarding this section:

30 (1) Compliance of this section with any State or local law,
31 regulations, guidelines or school district guidelines or other
32 action shall be a judicial question and determined without
33 regard to any assertion of compliance with this section.

34 (2) Any State or local law, regulation, guideline or school
35 district guidelines or other action shall be required to
36 establish by clear and convincing evidence that law, regulation,
37 guideline or action:

38 (i) Does not unduly impede on the freedom of parents and
39 guardians to provide care and supervision of their children.

40 (ii) Does not single out educational activities while
41 similar gatherings of children for recreational or social
42 activities remain unregulated.

43 (iii) Is narrowly tailored to protect the public health and
44 safety.

45 (h) As used in this section, the following words and phrases
46 shall have the meanings given to them in this subsection:

47 "Learning pod." A group of children who otherwise meet the
48 compulsory attendance requirements under Article XIII and meet
49 at various times or places to participate in educational
50 activities. The term shall include payment for any services
51 provided to the children participating in a learning pod by a

1 parent.
2 "Operation of a learning pod." Any actions taken by a parent
3 or individual assisting a parent while engaged in any actions
4 taken to organize, facilitate or operate a learning pod at any
5 facility, home or other structure utilized by a learning pod.
6 Section 131. Advertising.--(a) A paid media advertisement
7 by a public school entity that refers to the cost of tuition or
8 transportation shall not advertise those expenses as free, and
9 any reference to tuition or transportation costs must stipulate
10 that the cost is covered by taxpayer dollars.
11 (b) As used in this section, the following words and phrases
12 shall have the meanings given to them in this subsection:
13 "Paid media advertisement." The term includes a television,
14 radio or movie theater advertisement, billboard, bus poster,
15 newspaper, magazine, publicly accessible Internet website or any
16 other commercial method that may promote enrollment in a public
17 school entity.
18 "Public school entity." A public school district, charter
19 school, cyber charter school, regional charter school,
20 intermediate unit or area career and technical school.
21 Section 2. The definitions of "concurrent student" and
22 "school entity" in section 1602-B of the act are amended to
23 read:
24 Section 1602-B. Definitions.
25 The following words and phrases when used in this article
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:
28 * * *
29 "Concurrent student." A student who is enrolled in a school
30 district, a charter school, a regional charter school, a cyber
31 charter school, an area career and technical school, a nonpublic
32 school, a private school or a home education program under
33 section 1327.1 and who takes a concurrent course through a
34 concurrent enrollment program.
35 * * *
36 "School entity." A school district, a charter school, a
37 regional charter school, a cyber charter school or an area
38 career and technical school.
39 * * *
40 Section 3. Sections 1611-B and 1613-B of the act are amended
41 by adding subsections to read:
42 Section 1611-B. Responsibilities of school entities.
43 * * *
44 (g) Revenue received by school district.--Notwithstanding
45 any provision of law to the contrary, the revenues received by a
46 school district under section 1603-B shall not be included in
47 the school district's budgeted total expenditure per average
48 daily membership used to calculate the amount to be paid to a
49 charter school entity under section 1725-A(a)(2) and (3).
50 Section 1613-B. Concurrent enrollment agreements.
51 * * *

1 (c) Charter schools, regional charter schools and cyber
2 charter schools.--Charter schools, regional charter schools and
3 cyber charter schools shall have the power and authority to
4 enter into a concurrent enrollment agreement with an institution
5 of higher education, and appropriate credit shall be awarded to
6 students concurrently enrolled under the agreement.

7 Section 4. Section 1703-A of the act is amended to read:

8 Section 1703-A. Definitions.--As used in this article,

9 "Administrator" shall include an employe of a charter school
10 entity, including the chief administrator of a charter school
11 entity and any other employe, who by virtue of the employe's
12 position is responsible for taking official action of a
13 nonministerial nature with regard to contracting or procurement,
14 administering or monitoring grants or subsidies, managing or
15 regulating staff, student and school activities or any activity
16 where the official action has an economic impact of greater than
17 a de minimis nature on the interests of any person.

18 "Aid ratio" and "market value/income aid ratio" shall be:

19 (1) the aid ratio and market value/income aid ratio for the
20 school district that granted a charter to the charter school;

21 (2) for a regional charter school, the aid ratio and market
22 value/income aid ratio shall be a composite, as determined by
23 the department, based on the school districts that granted the
24 charter; or

25 (3) for a cyber charter school, the aid ratio and market
26 value/income aid ratio shall be that of the school district in
27 which the administrative offices of the cyber charter school are
28 located.

29 "Appeal board" shall mean the State Charter School Appeal
30 Board established by this article.

31 "Assessment" shall mean the Pennsylvania System of School
32 Assessment test, the Keystone Exam or another test established
33 or approved by the State board or the General Assembly to meet
34 the requirements of section 2603-B or 2604-B or 22 Pa. Code §
35 4.51 (relating to State assessment system) or required under the
36 Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802)
37 or its successor Federal statute.

38 "At-risk student" shall mean a student at risk of educational
39 failure because of limited English proficiency, poverty,
40 community factors, truancy, academic difficulties or economic
41 disadvantage.

42 "Charter school" shall mean an independent public school
43 established and operated under a charter from the local board of
44 school directors and in which students are enrolled or attend. A
45 charter school must be organized as a public, nonprofit
46 corporation. Charters may not be granted to any for-profit
47 entity.

48 ["Chief executive officer" shall mean an individual appointed
49 by the board of trustees to oversee and manage the operation of
50 the charter school, but who shall not be deemed a professional
51 staff member under this article.]

1 "Charter school entity" shall mean a charter school, regional
2 charter school or cyber charter school.

3 "Charter school foundation" shall mean a nonprofit
4 organization under 26 U.S.C. § 501(c)(3) (relating to exemption
5 from tax on corporations, certain trusts, etc.), that provides
6 funding, resources or otherwise serves to support a charter
7 school entity, either directly or through an affiliated entity.

8 "Chief administrator" shall mean an individual appointed by a
9 board of trustees to oversee and manage the operation of a
10 charter school entity. The term shall not include a professional
11 staff member under this article.

12 "Community college" shall mean a community college
13 established under Article XIX-A.

14 "Cyber charter school" shall mean an independent public
15 school established and operated under a charter from the
16 Department of Education and in which the school uses technology,
17 including electronic or digital books, in order to provide a
18 significant portion of its curriculum and to deliver a
19 significant portion of instruction to its students through the
20 Internet or other electronic means. A cyber charter school must
21 be organized as a public, nonprofit corporation. A charter may
22 not be granted to a for-profit entity.

23 "Department" shall mean the Department of Education of the
24 Commonwealth.

25 "Educational management service provider" shall mean a
26 nonprofit charter management organization, for-profit education
27 management organization, school design provider, business
28 manager or any other partner entity with which a board of
29 trustees of a charter school entity contracts to provide
30 educational design, business services, comprehensive management
31 or personnel functions or to implement the charter. The term
32 shall not include a charter school foundation.

33 "Immediate family member" shall mean a parent, spouse, child,
34 brother, sister, grandparent or grandchild.

35 "Local board of school directors" shall mean the board of
36 directors or other governing authority of a school district in
37 which a proposed or an approved charter school is located.

38 "Nonrelated" shall mean an individual who is not an immediate
39 family member.

40 "Regional charter school" shall mean an independent public
41 school established and operated under a charter from more than
42 one local board of school directors and in which students are
43 enrolled or attend. A regional charter school must be organized
44 as a public, nonprofit corporation. Charters may not be granted
45 to any for-profit entity.

46 "School district of residence" shall mean the school district
47 in this Commonwealth in which [the parents or guardians of a
48 child reside.] a child resides as determined under section 1302
49 and 22 Pa. Code § 11.11(a)(1) (relating to entitlement of
50 resident children to attend public schools).

51 "School entity" shall mean a school district, intermediate

1 unit, joint school or area career and technical school.

2 "Secretary" shall mean the Secretary of Education of the
3 Commonwealth.

4 "State board" shall mean the State Board of Education of the
5 Commonwealth.

6 "State System institution" shall mean a member institution of
7 the State System of Higher Education established under Article
8 XX-A.

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

10 Section 1714.1-A. Ideal Charter Schools.--(a)

11 Notwithstanding any other provision of law, an applicant seeking
12 to establish a public charter school in this Commonwealth may
13 submit the charter petition to any of the following:

14 (1) The elected governing authority of a county
15 or municipality.

16 (2) The mayor of a city of the first class.

17 (3) Any school district located in this Commonwealth.

18 (4) The State Board of Education.

19 (5) The board of trustees of a two-year or four-year
20 institution of higher education as defined by section 2001-A.

21 (6) The Public Charter School Commission established in
22 subsection (n).

23 (b) Public university authorizers are established in this
24 Commonwealth. A public university authorizer shall be
25 responsible for sponsoring a charter school. The responsibility
26 for maintaining sponsorship shall rest with the university's
27 board of trustees. The university's board of trustees may vote
28 to assign sponsorship authority and sponsorship responsibilities
29 to another person or entity that functions under the direction
30 of the university's board. Prior to a university sponsoring a
31 charter school, the university must conduct a public meeting
32 with public notice in the county where the charter school will
33 be located. A charter authorizer shall:

34 (1) Receive applications, evaluate applications to ensure
35 that they meet the minimal requirements set forth by statute,
36 and make approval and denial decisions.

37 (2) Execute contracts, incorporating and consistent with
38 approved applications, between the authorizer and public charter
39 schools detailing the rights and responsibilities of the
40 authorizer and the charter school and setting forth the academic
41 and operational performance expectations and measures by which
42 the charter school will be judged. The authorizer may choose to
43 make the approved application the charter contract.

44 (3) Monitor, on a regular basis, the performance of the
45 charter schools it oversees.

46 (4) Establish, through formal rulemaking, renewal and
47 revocation criteria and processes for the charter schools it
48 oversees.

49 (c) In reviewing and evaluating charter applications,
50 authorizers shall employ procedures, practices and criteria
51 consistent with this section. The application review process

1 shall include thorough evaluation of each written charter
2 application, an in-person interview with the applicant group and
3 an opportunity in a public forum for local residents to learn
4 about and provide input on each application. The authority shall
5 provide each applicant with a detailed analysis of the
6 application and grant the applicant a reasonable time to provide
7 additional materials and amendments to an application to address
8 any identified deficiencies. In deciding whether to approve
9 charter applications, an authorizer shall:

10 (1) Grant charters only to applicants that have demonstrated
11 competence in each element of the authorizer's published
12 approval criteria and are likely to open and operate a
13 successful public charter school.

14 (2) Base decisions on documented evidence collected through
15 the application review process.

16 (3) Follow charter-granting policies and practices that are
17 transparent, based on merit and avoid conflicts of interest or
18 any appearance thereof.

19 (d) No later than thirty (30) days after the filing of a
20 charter application, the authorizer shall decide to approve or
21 deny the charter application. The authorizer shall adopt by
22 resolution all charter approval or denial decisions in an open
23 meeting of the authorizer's governing board. An approval
24 decision may include, if appropriate, reasonable conditions that
25 the charter applicant must meet before a charter contract may be
26 executed under this section. Conditions under this subsection
27 may not include enrollment caps or operational requirements that
28 in any manner contradict this section. For any charter denial,
29 the authorizer shall clearly state, for public record, any
30 reasons for denial. A denied applicant may subsequently reapply
31 to any authorizer in this Commonwealth.

32 (e) Within fifteen (15) days of an action to approve or deny
33 a charter application, the authorizer shall report the action to
34 the department. The authorizer shall provide a copy of the
35 report to the charter applicant at the same time that the report
36 is submitted to the department. The report shall include a copy
37 of the authorizer governing board's resolution setting forth the
38 action taken and reasons for the decision and assurances as to
39 compliance with all of the procedural requirements and
40 application elements set forth in this section.

41 (f) A charter may be renewed for successive ten-year terms
42 of duration, although the authorizer may vary the term based on
43 the performance, demonstrated capacities and particular
44 circumstances of each public charter school. An authorizer may
45 grant renewal with specific conditions for necessary
46 improvements to a public charter school, but may not impose
47 conditions inconsistent with this section. No later than July 30
48 of each year, the authorizer shall issue a public charter school
49 performance report and charter renewal application guidance to
50 any public charter school whose charter will expire the
51 following year. The performance report shall summarize the

1 public charter school's performance record to date, based on the
2 data required by this section and the charter contract, and
3 shall provide notice of any weaknesses or concerns related to
4 the public charter school that may jeopardize its position in
5 seeking renewal if not timely rectified. The public charter
6 school shall have sixty (60) days to respond to the performance
7 report and submit any corrections or clarifications for the
8 report.

9 (g) The renewal application guidance shall:

10 (1) Provide an opportunity for the public charter school to:

11 (i) Present additional evidence, beyond the data contained
12 in the performance report, supporting its case for
13 charter renewal.

14 (ii) Describe improvements undertaken or planned for the
15 school.

16 (iii) Detail the school's plans for the next charter term.

17 (2) Include or refer explicitly to the criteria that will
18 guide the authorizer's renewal decisions, which shall be based
19 on the performance framework set forth in the charter contract
20 and consistent with this section.

21 (h) No later than April 1 of each year, the governing board
22 of a public charter school seeking renewal shall submit a
23 renewal application to the charter authorizer in accordance with
24 the renewal application guidance issued by the authorizer. The
25 authorizer shall rule, by resolution, on the renewal application
26 no later than thirty (30) days after the filing of the renewal
27 application. In making charter renewal decisions, every
28 authorizer shall:

29 (1) Ground its decisions in evidence of the school's
30 performance over the term of the charter contract in accordance
31 with the performance framework set forth in the charter
32 contract.

33 (2) Ensure that data used in making renewal decisions are
34 available to the school and the public.

35 (3) Provide a public report summarizing the evidence basis
36 for each decision.

37 (i) A charter contract may be revoked at any time or not
38 renewed if the authorizer determines that the public charter
39 school did any of the following or otherwise failed to comply
40 with the provisions of this section:

41 (1) commits a material and substantial violation of any of
42 the terms, conditions, standards or procedures required under
43 this section or the charter contract, and has persistently
44 failed to correct the violation after fair and specific notice
45 from the authorizer;

46 (2) fails to meet or make progress toward the performance
47 expectations set forth in the charter contract;

48 (3) fails to meet generally accepted standards of fiscal
49 management, and has failed to correct the violation after fair
50 and specific notice from the authorizer; or

51 (4) substantially violates any material provision of law

1 from which the public charter school was not exempted and has
2 failed to correct the violation after fair and specific notice
3 from the authorizer.

4 (j) In the case of a violation that threatens the health and
5 safety of the students of any public charter school or if
6 members of the public charter school committed a material
7 violation of the law, the authorizer may take immediate action.

8 (k) An authorizer must develop revocation and nonrenewal
9 processes that:

10 (1) Provide the holders of the charter with a timely
11 notification of the prospect of revocation or nonrenewal and of
12 the reasons for possible closure.

13 (2) Allow the holders of the charter a reasonable amount of
14 time to prepare a response.

15 (3) Provide the holders of the charter with an opportunity
16 to submit documents and give testimony challenging the rationale
17 for closure and in support of the continuation of the school at
18 an orderly proceeding held for that purpose.

19 (4) Allow the holders of the charter access to
20 representation by counsel and to call witnesses on their behalf.

21 (5) Permit the recording of proceedings.

22 (6) After a reasonable period for deliberation, require a
23 final determination be made and conveyed in writing to the
24 holders of the charter.

25 (7) If an authorizer revokes or does not renew a charter,
26 clearly state, in a resolution of its governing board, the
27 reasons for the revocation or nonrenewal.

28 (l) Within thirty (30) days of taking action, the authorizer
29 shall report to the department the action taken, and shall
30 provide a copy of the report to the public charter school at the
31 same time that the report is submitted to the department. The
32 report shall include a copy of the authorizer governing board's
33 resolution setting forth the action taken and reasons for the
34 decision and assurances as to compliance with all of the
35 requirements of this section.

36 (m) Prior to any public charter school closure decision, an
37 authorizer shall have developed a public charter school closure
38 protocol to ensure timely notification to parents, orderly
39 transition of students and student records to new schools and
40 proper disposition of school funds, property and assets in
41 accordance with the requirements of this section. The protocol
42 shall specify tasks, timelines and responsible parties,
43 including delineating the respective duties of the school and
44 the authorizer. In the event of a public charter school closure
45 for any reason, the authorizer shall oversee and work with the
46 closing school to ensure a smooth and orderly closure and
47 transition for students and parents, as guided by the closure
48 protocol. In the event of a public charter school closure for
49 any reason, the assets of the school shall be distributed first
50 to satisfy outstanding payroll obligations for employes of the
51 school, then to creditors of the school and then to the State

1 Treasury to the credit of the General Fund. If the assets of the
2 school are insufficient to pay all parties to whom the school
3 owes compensation, the prioritization of the distribution of
4 assets may be determined by decree of a court of law.

5 (n) The Public Charter School Commission is established in
6 the Commonwealth. The commission shall authorize high-quality
7 public charter schools in this Commonwealth consistent with this
8 section. The commission shall consist of eleven (11)
9 geographically diverse residents of this Commonwealth, no more
10 than six (6) of whom shall be members of the same political
11 party, who shall be appointed as follows:

12 (1) Three (3) members shall be appointed by the Governor.

13 (2) Three (3) members shall be appointed by the President
14 pro tempore of the Senate and one (1) member by the Minority
15 Leader of the Senate.

16 (3) Three (3) members shall be appointed by the Speaker of
17 the House of Representatives and one (1) member by the Minority
18 Leader of the House of Representatives.

19 (o) Members appointed to the commission shall collectively
20 possess experience and expertise in public and nonprofit
21 governance, management and finance, public school leadership,
22 assessment, curriculum and instruction and public education law.
23 All members of the commission shall have demonstrated
24 understanding of and commitment to charter schooling as a
25 strategy for strengthening public education by providing
26 additional high-quality choices.

27 (p) The first appointment of the Governor, the first
28 appointment of the President pro tempore of the Senate and the
29 first appointment of the Speaker of the House of Representatives
30 shall serve an initial term of four (4) years. The second
31 appointment by the Governor and the first appointment of the
32 Minority Leader of the Senate and the first appointment of the
33 Minority Leader of the House of Representatives shall serve an
34 initial term of three (3) years. All remaining appointments
35 shall serve an initial term of two (2) years. The initial
36 appointments shall be made no later than thirty (30) days after
37 the effective date of this section. A member may
38 be reappointed, however no member may be appointed to a new term
39 after the member has served seven (7) consecutive years.

40 (q) A member of the commission may be removed for
41 any cause that renders the member incapable or unfit to
42 discharge the duties of the office. If a vacancy on the
43 commission exists, the original appointing authority shall
44 appoint a member for the remaining portion of the term.

45 (r) The members of the commission shall annually elect one
46 individual from its membership to serve as chairperson after
47 members of the commission have been appointed to fill any
48 vacancies caused by the regular expiration of previous members'
49 terms, or when requested by a majority vote of the members of
50 the commission. A majority of the members of the commission
51 shall constitute a quorum. The commission shall meet at the call

1 of the chairperson, subject to any hearing requirements of the
2 commission.

3 (s) Members of the commission shall serve without pay,
4 but may receive reimbursement for any reasonable and necessary
5 expenses incurred by reason of service on the commission.

6 (t) Subject to any rules as may be promulgated by the
7 commission, the chairperson shall have the authority to appoint,
8 terminate and fix the pay of an executive director and other
9 personnel of the commission as the chairperson deems
10 necessary. The commission shall be authorized to use the
11 services, personnel and facilities of the department. Any start-
12 up expenses of the commission shall be paid from funds available
13 to the department. Within forty-five (45) days of the effective
14 date of this section, the department shall make available no
15 less than one hundred fifty thousand dollars (\$150,000) to the
16 commission.

17 (u) The commission shall provide for an audit of the
18 financial statements of the commission by an independent
19 certified public accountant in accordance with auditing
20 standards for financial audits issued by the Comptroller General
21 of the United States.

22 (v) The sum of three hundred thousand dollars (\$300,000) may
23 be appropriated to the commission for fiscal year 2023 and such
24 sums as may be necessary for each of the three (3) succeeding
25 fiscal years. This appropriation shall not lapse.

26 (w) The Commonwealth shall remit to each authorizer under
27 subsection (a) an oversight fee for each public charter school
28 the authorizer approves. The oversight fee shall be drawn from
29 and calculated as a uniform percentage of the per-student
30 operational funding allocated to each public charter school, not
31 to exceed three per centum of each public charter school's per-
32 student funding in a single school year. The department shall
33 establish a Statewide formula for authorizer funding, which
34 shall apply uniformly to every authorizer in this Commonwealth.
35 The General Assembly may establish a sliding scale for
36 authorizer funding, with the funding percentage decreasing after
37 the authorizer has achieved a threshold determined by the
38 General Assembly. An authorizer's oversight fee may not include
39 any costs incurred in delivering services that a public charter
40 school may purchase at its discretion from the authorizer. The
41 authorizer shall use funding provided under this section
42 exclusively for the purpose of fulfilling authorizing
43 obligations in accordance with this section.

44 (x) The commission shall operate with dedicated resources
45 and staff qualified to execute the day-to-day responsibilities
46 of a public charter school authorized in accordance with this
47 section.

48 (y) The commission shall annually submit a report to the
49 General Assembly summarizing:

50 (1) The academic and financial performance of all operating
51 public charter schools overseen by the commission, according to

1 the performance expectations for public charter schools set
2 forth in this section.

3 (2) The status of the commission's public charter school
4 portfolio, identifying all public charter schools in each of the
5 following categories:

6 (i) approved but not yet open;

7 (ii) operating;

8 (iii) renewed;

9 (iv) transferred;

10 (v) revoked;

11 (vi) not renewed;

12 (vii) voluntarily closed; or

13 (viii) never opened.

14 (3) The authorizing functions provided by the commission to
15 the public charter schools under its purview, including its
16 operating costs and expenses detailed in annual audited
17 financial statements that conform with generally accepted
18 accounting principles.

19 (z) As used in this section, the term "commission" means the
20 Public Charter School Commission established under subsection
21 (n).

22 Section 6. Section 1715-A of the act is amended to read:

23 Section 1715-A. Charter School Entity Requirements.--(a)
24 Charter [schools] school entities shall be required to comply
25 with the following provisions:

26 (1) Except as otherwise provided in this article, a charter
27 school entity is exempt from statutory requirements established
28 in this act, from regulations of the State board and the
29 standards of the secretary not specifically applicable to
30 charter [schools] school entities. Charter [schools] school
31 entities are not exempt from statutes applicable to public
32 schools other than this act.

33 (2) A charter school entity shall be accountable to the
34 parents, the public and the Commonwealth, with the delineation
35 of that accountability reflected in the charter. Strategies for
36 meaningful parent and community involvement shall be developed
37 and implemented by each school.

38 (3) A charter school entity shall not unlawfully
39 discriminate in admissions, hiring or operation.

40 (4) A charter school entity shall be nonsectarian in all
41 operations.

42 (5) [A] (i) Subject to subclause (ii), a charter school
43 entity shall not provide any religious instruction, nor shall it
44 display religious objects and symbols on the premises of the
45 charter school entity.

46 (ii) It shall not be a violation of this clause for a
47 charter school entity to utilize a sectarian facility:

48 (A) if the charter school entity provides for discrete and
49 separate entrances to buildings utilized for school purposes
50 only;

51 (B) if the religious objects and symbols within the portions

1 of the facility utilized by the school are covered or removed to
2 the extent reasonably feasible; or

3 (C) in which the unused portion of the facility or its
4 common areas contain religious symbols and objects.

5 (6) A charter school entity shall not advocate unlawful
6 behavior.

7 (7) A charter school entity shall only be subject to the
8 laws and regulations as provided for in section 1732-A, or as
9 otherwise provided for in this article.

10 (8) A charter school entity shall participate in the
11 Pennsylvania State Assessment System as provided for in 22 Pa.
12 Code Ch. 5 (relating to curriculum), or subsequent regulations
13 promulgated to replace 22 Pa. Code Ch. 5, in the manner in which
14 the school district in which the charter school entity is
15 located is scheduled to participate.

16 (9) A charter school entity shall provide a minimum of one
17 hundred eighty (180) days of instruction or nine hundred (900)
18 hours per year of instruction at the elementary level, or nine
19 hundred ninety (990) hours per year of instruction at the
20 secondary level. Nothing in this clause shall preclude the use
21 of computer and satellite linkages for delivering instruction to
22 students.

23 (10) Boards of trustees and contractors of charter [schools]
24 school entities shall be subject to the following statutory
25 requirements governing construction projects and construction-
26 related work:

27 (i) The following provisions of this act:

28 (A) Sections 751 and 751.1.

29 (B) Sections 756 and 757 insofar as they are consistent with
30 the act of December 20, 1967 (P.L.869, No.385), known as the
31 "Public Works Contractors' Bond Law of 1967."

32 (ii) Section 1 of the act of May 1, 1913 (P.L.155, No.104),
33 entitled "An act regulating the letting of certain contracts for
34 the erection, construction, and alteration of public buildings."

35 (iii) The act of August 11, 1961 (P.L.987, No.442), known as
36 the "Pennsylvania Prevailing Wage Act."

37 (iv) The "Public Works Contractors' Bond Law of 1967."

38 (v) The act of March 3, 1978 (P.L.6, No.3), known as the
39 "Steel Products Procurement Act."

40 (11) Trustees of a charter school entity shall be public
41 officials[.]

42 (12) A person who serves as an administrator for a charter
43 school shall not receive compensation from another charter
44 school or from a company that provides management or other
45 services to another charter school. The term "administrator"
46 shall include the chief executive officer of a charter school
47 and all other employees of a charter school who by virtue of
48 their positions exercise management or operational oversight
49 responsibilities. A person who serves as an administrator for a
50 charter school shall be a public official under 65 Pa.C.S. Ch.
51 11 (relating to ethics standards and financial disclosure). A

1 violation of this clause shall constitute a violation of 65
2 Pa.C.S. § 1103(a) (relating to restricted activities), and the
3 violator shall be subject to the penalties imposed under the
4 jurisdiction of the State Ethics Commission.] for the purposes
5 of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial
6 disclosure) and shall file a statement of financial interests
7 for the preceding calendar year with the State Ethics Commission
8 and either the local board of school directors in the case of a
9 charter school or regional charter school, or the department in
10 the case of a cyber charter school, not later than May 1 of each
11 year that members hold the position and of the year after a
12 member leaves the position. All members of the board of trustees
13 of a charter school entity shall take the oath of office as
14 required under section 321 before entering upon the duties of
15 their office.

16 (b) An individual who serves as an administrator for a
17 charter school entity shall be a public employe for the purposes
18 of 65 Pa.C.S. Ch. 11 and shall file a statement of financial
19 interests for the preceding calendar year with the board of
20 trustees not later than May 1 of each year that the person holds
21 the position and of the year after the person leaves the
22 position.

23 (c) (1) No individual who serves as an administrator for a
24 charter school entity may receive compensation from another
25 charter school entity or from an educational management service
26 provider, unless:

27 (i) The administrator has submitted a sworn statement to the
28 board of trustees of the charter school entity and the sworn
29 statement details the work for the other entity and includes the
30 projected number of hours, rate of compensation and projected
31 duration.

32 (ii) The board of trustees of the charter school entity has
33 reviewed the sworn statement under subclause (i) and agreed, by
34 resolution, to grant permission to the administrator.

35 (2) A copy of the sworn statement under clause (1)(i) and
36 the resolution by the board of trustees granting the permission
37 under clause (1)(ii) shall be provided to, and kept on file
38 with, the charter school entity and the local board of school
39 directors or, in the case of a cyber charter school, the
40 department.

41 (3) No administrator of a charter school entity or immediate
42 family member of the administrator may serve as a voting member
43 of the board of trustees of the charter school entity that
44 employs the administrator.

45 (4) (i) No administrator of a charter school entity may
46 participate in the selection, award or administration of a
47 contract if the person has a conflict of interest as that term
48 is defined in 65 Pa.C.S. § 1102 (relating to definitions).

49 (ii) An administrator who knowingly violates this clause
50 commits a violation of 65 Pa.C.S. § 1103(a) (relating to
51 restricted activities) and shall be subject to the penalties

1 imposed under the jurisdiction of the State Ethics Commission.

2 (iii) Any contract made in violation of this clause shall be
3 voidable by the board of trustees of the charter school entity.

4 (5) An administrator shall be immediately dismissed upon
5 conviction for an offense graded as a felony, an infamous crime,
6 an offense pertaining to fraud, theft or mismanagement of public
7 funds or any crime involving moral turpitude.

8 Section 7. Sections 1716-A(c) and 1722-A(a), (b) and (d) of
9 the act are amended and the sections are amended by adding
10 subsections to read:

11 Section 1716-A. Powers of Board of Trustees.--* * *

12 (b.1) (1) For a charter school or regional charter school
13 chartered after the effective date of this subsection, an
14 individual shall be prohibited from serving as a voting member
15 of the board of trustees of the charter school or regional
16 charter school if the individual or an immediate family member
17 receives compensation from or is employed by or is a member of
18 the local board of school directors who participated in the
19 initial review, approval, oversight, evaluation or renewal
20 process of the charter school or regional charter school
21 chartered by that board.

22 (2) An employe of the school district that chartered a
23 charter school or regional charter school may serve as a member
24 of the board of trustees of the charter school or regional
25 charter school without voting privileges.

26 (b.2) (1) No member of the board of trustees of a charter
27 school entity may participate in the selection, award or
28 administration of any contract if the member has a conflict of
29 interest as that term is defined in 65 Pa.C.S. § 1102 (relating
30 to definitions).

31 (2) Any member of the board of trustees of a charter school
32 entity who in the discharge of the person's official duties
33 would be required to vote on a matter that would result in a
34 conflict of interest shall abstain from voting and follow the
35 procedures required under 65 Pa.C.S. § 1103(j) (relating to
36 restricted activities).

37 (3) A member of the board of trustees of a charter school
38 entity who knowingly violates this subsection commits a
39 violation of 65 Pa.C.S. § 1103(a) and shall be subject to the
40 penalties imposed under the jurisdiction of the State Ethics
41 Commission.

42 (4) A contract made in violation of this subsection shall be
43 voidable by a court of competent jurisdiction if the suit is
44 commenced within ninety (90) days of the discovery of the
45 violation.

46 (5) No member of the board of trustees of a charter school
47 entity shall be compensated for duties on the board of trustees.

48 (b.3) A member of the board of trustees of a charter school
49 entity shall be automatically disqualified and immediately
50 removed from the board of trustees upon conviction for an
51 offense graded as a felony, an infamous crime, an offense

1 pertaining to fraud, theft or mismanagement of public funds, any
2 offense pertaining to the member's official capacity as a member
3 of the board of trustees or any crime involving moral turpitude.

4 (c) The board of trustees shall comply with [the act of July
5 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."] 65
6 Pa.C.S. Ch. 7 (relating to open meetings).

7 (d) (1) (i) The board of trustees of a charter school
8 entity shall consist of a minimum of five (5) nonrelated voting
9 members.

10 (ii) If a charter school entity has fewer than five (5)
11 nonrelated voting members serving on its board of trustees on
12 the effective date of this subsection, the charter school entity
13 shall, within sixty (60) days, appoint additional members to the
14 board of trustees to meet the minimum requirements of this
15 section.

16 (2) Within one (1) year of the effective date of this
17 subsection, at least one member of the board of trustees of a
18 charter school entity shall be a parent of a child currently
19 attending the charter school entity. The board of trustees
20 member provided for under this clause shall be eligible to serve
21 only so long as the child attends the charter school entity.
22 This clause shall not apply to a charter school that primarily
23 serves adjudicated youth.

24 (e) (1) A majority of the voting members of the board of
25 trustees shall constitute a quorum. If less than a majority is
26 present at any meeting, no business may be transacted at the
27 meeting.

28 (2) The affirmative vote of a majority of all the voting
29 members of the board of trustees, duly recorded, shall be
30 required in order to take official action on the subjects
31 enumerated under subsection (a).

32 (f) A charter school entity shall form an independent audit
33 committee of its board of trustees members which shall review at
34 the close of each fiscal year a complete certified audit of the
35 operations of the charter school entity. The audit shall be
36 conducted by a qualified independent certified public
37 accountant. The audit shall be conducted under generally
38 accepted audit standards of the Governmental Accounting
39 Standards Board and shall include the following:

40 (1) An enrollment test to verify the accuracy of student
41 enrollment and reporting to the Commonwealth.

42 (2) Full review of expense reimbursements for board of
43 trustees members and administrators, including sampling of all
44 reimbursements.

45 (3) Review of internal controls, including review of
46 receipts and disbursements.

47 (4) Review of annual Federal and State tax filings,
48 including the Internal Revenue Service Form 990, Return of
49 Organization Exempt from Income Tax and all related schedules
50 and appendices for the charter school entity and charter school
51 foundation, if applicable.

1 (5) Review of the financial statements of any charter school
2 foundation.

3 (6) Review of the selection and acceptance process of all
4 contracts publicly bid pursuant to section 751.

5 (7) Review of all board policies and procedures with regard
6 to internal controls, code of ethics, conflicts of interest,
7 whistle-blower protections, complaints from parents or the
8 public, compliance with 65 Pa.C.S. Ch. 7, finances, budgeting,
9 audits, public bidding and bonding.

10 (g) The certified audit under subsection (f) and the annual
11 budget under subsection (i) are public documents and shall be
12 made available on the charter school entity's publicly
13 accessible Internet website, if available, and, in the case of a
14 charter school or regional charter school, on the school
15 district's publicly accessible Internet website.

16 (h) A charter school entity may be subject to an annual
17 audit by the Auditor General, in addition to any other audits
18 required by Federal law or this act.

19 (i) A charter school entity shall annually provide the
20 department and, in the case of a charter school or regional
21 charter school, shall annually provide the school district with
22 a copy of the annual budget for the operation of the charter
23 school entity that identifies the following:

24 (1) The source of funding for all expenditures.

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

28 (3) The salaries of all administrators of the charter school
29 entity.

30 (4) All expenditures to an educational management service
31 provider.

32 (j) (1) Notwithstanding any other provision of law, a
33 charter school entity and any affiliated charter school
34 foundation shall make copies of its annual Federal and State tax
35 filings available upon request and on the charter school
36 entity's or foundation's publicly accessible Internet website,
37 if available, including Internal Revenue Service Form 990,
38 Return of Organization Exempt from Income Tax and all related
39 schedules and appendices.

40 (2) The charter school foundation shall also make copies of
41 its annual budget available upon request and on the foundation's
42 or the charter school entity's publicly accessible Internet
43 website within thirty (30) days of the close of the foundation's
44 fiscal year.

45 (3) The annual budget shall include the salaries of all
46 employees of the charter school foundation.

47 Section 1722-A. Facilities.--(a) A charter school entity
48 may be located in an existing public school building, in a part
49 of an existing public school building, in space provided on a
50 privately owned site, in a public building or in any other
51 suitable location.

1 (b) The charter school [facility] entity shall be exempt
2 from public school facility regulations except those pertaining
3 to the health or safety of [the pupils.] students.

4 (b.1) (1) A charter school entity shall have the right of
5 first refusal to purchase or lease, for educational purposes
6 only, a public school building or a part of a public school
7 building that is no longer in use by a school entity which is
8 the property titleholder, at the price of one of the following:

9 (i) The last best offer above fair market value received in
10 the ninety (90) days preceding the charter school entity's
11 offer.

12 (ii) Fair market value, if no offer has been received in the
13 ninety (90) days preceding the charter school entity's offer.

14 (iii) Below fair market value, upon the mutual agreement of
15 the school entity and the charter school entity.

16 (2) A school entity shall accept an offer from a charter
17 school entity that conforms to the provisions of clause (1).

18 (3) The department shall provide a page on its publicly
19 accessible Internet website on which school entities are
20 required to post a notice for each public school building or
21 part of a public school building that is available for purchase
22 or lease. A school entity shall submit a notice to the
23 department on a form developed by the department. The department
24 shall post the notice within five (5) days of receiving the
25 form.

26 (4) The following shall apply to the sale or lease of a
27 public school building or a part of a public school building by
28 a school entity:

29 (i) A school entity may not enter into a contract to sell or
30 lease a building or part of a building until at least thirty
31 (30) days after the posting of a notice as required under
32 paragraph (3).

33 (ii) If two or more charter school entities make offers on
34 the same building or part of a building that conforms to the
35 provisions of this subsection, the school entity shall:

36 (A) Accept the first offer, if the offers are equal in
37 dollar amount.

38 (B) Accept the best offer, if the offers differ in dollar
39 amount.

40 (d) Notwithstanding any other provision of this act, [a
41 school district of the first class may, in its discretion,
42 permit a charter school to operate its school at more than one
43 location.] a charter school or regional charter school that does
44 not have in the written charter any limits on student enrollment
45 or caps is permitted to operate the school at more than one
46 location within the district that authorized the charter.

47 * * *

48 (f) School districts, intermediate units, community colleges
49 and institutions under Article XX-A shall provide a cyber
50 charter school with reasonable access to their facilities for
51 the administration of standardized testing as follows:

1 (1) A cyber charter school shall provide an intermediate
2 unit, school district, community college or institution under
3 Article XX-A with at least sixty (60) days' notice of the need
4 for facilities to be used for the administration of standardized
5 tests.

6 (2) Within thirty (30) days of the cyber charter school's
7 request, the intermediate unit, school district, community
8 college or institution under Article XX-A shall notify the cyber
9 charter school of the location of the facilities that will be
10 provided, which shall be a quiet, separate location in which
11 cyber charter school students will not be commingled with
12 students of the intermediate unit, school district, community
13 college or institution under Article XX-A.

14 (3) An intermediate unit, school district of residence,
15 community college or institution under Article XX-A shall not be
16 required to make facilities available to a cyber charter school
17 on dates and at times that may cause undue interference with the
18 educational programs of the intermediate unit, school district,
19 community college or institution under Article XX-A.

20 (4) Any facilities rental fee charged to the cyber charter
21 school and the payment thereof shall be in compliance with the
22 facility rental policy of the intermediate unit, school
23 district, community college or institution under Article XX-A
24 that applies generally to all organizations and community
25 groups.

26 (g) As used in this section, "charter school entity" shall
27 mean a charter school, regional charter school or cyber charter
28 school.

29 Section 8. The act is amended by adding a section to read:
30 Section 1731.1-A. Fund Balance Limits.--Fund balance limits
31 shall be as follows:

32 (1) For the 2023-2024 school year and each school year
33 thereafter, a charter school entity shall not accumulate an
34 unassigned fund balance greater than the charter school entity
35 unassigned fund balance limit, which will be determined as
36 follows:

<u>Charter School Entity</u>	<u>Maximum Unassigned Fund</u>
<u>Total Budgeted Expenditures</u>	<u>Balance as Percentage of</u>
<u>Total Budgeted Expenditures</u>	<u>Total 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>

49 (2) For the 2023-2024 school year and each school year
50 thereafter, any unassigned fund balance in place on June 30,
51 2022, and on June 30 of each year thereafter in excess of the

1 charter school entity unassigned fund balance limit shall be
2 refunded on a pro rata basis within ninety (90) days to all
3 school districts that paid tuition to the charter school entity
4 in the prior school year, based upon the number of students for
5 whom each school district paid tuition to the charter school
6 entity multiplied by the school district's per student payment
7 under section 1725-A.

8 (3) By October 31, 2023, and by October 31 of each year
9 thereafter, each charter school entity shall provide the
10 department and all school districts that paid tuition to the
11 charter school entity in the prior school year with information
12 certifying compliance with this section. The information shall
13 be provided in a form and manner prescribed by the department
14 and shall include information on the charter school entity's
15 estimated ending unassigned fund balance expressed as a dollar
16 amount and as a percentage of the charter school entity's total
17 budgeted expenditures for that school year.

18 (4) Unassigned funds of the charter school entity in excess
19 of the unassigned fund balance limit may not be used to pay
20 bonuses to any administrator, board of trustees member, employe,
21 staff member or contractor and may not be transferred to a
22 charter school foundation. If a charter school entity uses funds
23 in excess of the unassigned fund balance limit to pay bonuses to
24 any administrator, board of trustees member, employe, staff
25 member or contractor or transfers such funds to a charter school
26 foundation, the value of the bonus payment or fund transfer
27 shall be refunded on a pro rata basis to all school districts
28 that paid tuition to the charter school entity in the prior
29 school year, based upon the number of students for whom each
30 school district paid tuition to the charter school entity
31 multiplied by the school district's per student payment under
32 section 1725-A.

33 (5) As used in this section, "unassigned fund balance" shall
34 mean that portion of the fund balance of a charter school entity
35 that provides funding that serves to support the charter school
36 entity that is:

37 (i) available for expenditure or not legally or otherwise
38 segregated for a specific or tentative future use; and

39 (ii) held in the General Fund accounts of the charter school
40 entity.

41 Section 9. Section 1744-A(2) of the act is amended to read:

42 Section 1744-A. School district and intermediate unit
43 responsibilities.

44 An intermediate unit or a school district in which a student
45 enrolled in a cyber charter school resides shall do all of the
46 following:

47 * * *

48 [(2) Provide the cyber charter school with reasonable
49 access to its facilities for the administration of
50 standardized tests required under this subdivision.]

51 * * *

1 Section 10. Section 2006-B of the act is amended by adding
2 subsections to read:

3 Section 2006-B. Limitations.

4 * * *

5 (a.1) Amount.--

6 (1) Notwithstanding the provisions of subsection (a),
7 the total aggregate amount of all tax credits approved for
8 contributions from business firms to scholarship
9 organizations, educational improvement organizations and pre-
10 kindergarten scholarship organizations shall not exceed
11 \$250,000,000 in fiscal year 2023-2024.

12 (i) No less than \$185,000,000 shall be used to
13 provide tax credits for contributions from business firms
14 to scholarship organizations.

15 (ii) No less than \$50,000,000 shall be used to
16 provide tax credits for contributions from business firms
17 to educational improvement organizations.

18 (iii) The total aggregate amount of all tax credits
19 approved for contributions from business firms to pre-
20 kindergarten scholarship organizations shall not exceed
21 \$15,000,000 or 10% of the total aggregate amount under
22 this paragraph.

23 (2) The total aggregate amount of all tax credits
24 approved for contributions from business firms to opportunity
25 scholarship organizations shall not exceed \$150,000,000 in a
26 fiscal year.

27 (a.2) Increases.--

28 (1) Beginning in fiscal year 2023-2024, in any fiscal
29 year in which the total aggregate amount of tax credits
30 approved under subsection (a)(1) for the prior fiscal year is
31 equal to or greater than 90% of the total aggregate amount of
32 all tax credits available under subsection (a)(1) for the
33 prior fiscal year, the total aggregate amount of all tax
34 credits available under subsection (a)(1) shall increase by
35 25%. The department shall publish on its publicly accessible
36 Internet website the total aggregate amount of all tax
37 credits available when the amount is increased under this
38 paragraph.

39 (2) Beginning in fiscal year 2023-2024, in any fiscal
40 year in which the total aggregate amount of tax credits
41 approved under subsection (a)(2) for the prior fiscal year is
42 equal to or greater than 90% of the total aggregate amount of
43 all tax credits available under subsection (a)(2) for the
44 prior fiscal year, the total aggregate amount of all tax
45 credits available under subsection (a)(2) shall increase by
46 25%. The department shall publish on its publicly accessible
47 Internet website the total aggregate amount of all tax
48 credits available when the amount is increased under this
49 paragraph.

50 * * *

51 Section 11. The act is amended by adding an article to read:

1 the Commonwealth to work with school-age children.

2 (vi) A provider of home education services or
3 curriculum that adheres to education laws of the
4 Commonwealth.

5 (2) The term does not include a parent of a school-age
6 child to the extent that the parent provides educational
7 services directly to the school-age child.

8 "Program." The Education Opportunity Account Program
9 established under section 2003-L(a).

10 "Public school." A school district, charter school, cyber
11 charter school, regional charter school, intermediate unit or
12 area career and technical school.

13 "Receiving school district." A school district in which a
14 potential transfer student does not reside and a potential
15 transfer student would like to attend.

16 "Resident school district." The school district in which a
17 school-age child resides.

18 "School-age child." A child enrolled in kindergarten through
19 grade 12 and who resides in this Commonwealth.

20 "Sending school district." The school district in which a
21 potential transfer student resides.

22 "Student with special needs." A child who:

23 (1) is subject to an individualized education program
24 under 20 U.S.C. Ch. 33 Subch. I (relating to general
25 provisions) and 22 Pa. Code Ch. 14 (relating to special
26 education services and programs);

27 (2) is subject to a section 504 service agreement under
28 29 U.S.C. Ch. 16 (relating to vocational rehabilitation and
29 other rehabilitation services) and 22 Pa. Code Ch. 15
30 (relating to protected handicapped students);

31 (3) is subject to a gifted individualized education plan
32 under 22 Pa. Code Ch. 16 (relating to special education for
33 gifted students);

34 (4) is eligible for early intervention services under 55
35 Pa. Code § 4226.22 (relating to eligibility for early
36 intervention services); or

37 (5) meets the definition of "child with a disability"
38 under 20 U.S.C. Ch. 33 Subch. I or who meets the definition
39 of a "handicapped person" under 29 U.S.C. Ch. 16 and its
40 implementing regulations under 34 CFR 104.3(j) (relating to
41 definitions). The term includes a student for whom an
42 evaluation is pending under either 20 U.S.C. Ch. 33 Subch. I
43 or 29 U.S.C. Ch. 16.

44 Section 2003-L. Establishment, application and agreement.

45 (a) Establishment.--The Education Opportunity Account
46 Program is established as a program of the department.

47 (b) Individuals who may apply.--A parent may apply for an
48 education opportunity account for any school-age child in this
49 Commonwealth.

50 (c) Application form.--The form may not exceed one page that
51 measures 8.5 inches by 11 inches and may be filled out and

1 submitted through the department's publicly accessible Internet
2 website.

3 (d) Review and approval.--The department shall review the
4 application to determine if the applicant meets the requirements
5 under subsection (b). If the requirements have been met, the
6 department shall approve the application and enter into an
7 agreement with the applicant. The agreement shall provide that:

8 (1) The school-age child:

9 (i) withdraw from public school; and

10 (ii) receive instruction in this Commonwealth from a
11 participating entity or enroll in a home education
12 program as provided in section 1327.1 for the school year
13 for which the agreement applies.

14 (2) The school-age child shall not accept a scholarship
15 in the educational improvement tax credit program under
16 Article XX-B or the opportunity scholarship tax credit
17 program under Article XX-B.

18 (3) The parent receive a grant on behalf of the school-
19 age child, in the form of money deposited under section 2004-
20 L in the education opportunity account.

21 (4) The money in the education opportunity account be
22 expended only as authorized under this article.

23 (e) Education opportunity account.--The following shall
24 apply:

25 (1) If an agreement is entered into under subsection
26 (d), an education opportunity account shall be established.
27 The education opportunity account shall be administered by
28 the State Treasury under this article.

29 (2) Failure of a parent to enter into an agreement under
30 subsection (d) for a school year shall not preclude the
31 parent from entering into an agreement for a subsequent
32 school year if the school-age child is eligible under
33 subsection (b).

34 (f) Term of agreement.--Except as otherwise provided under
35 this article, an agreement entered into under subsection (d)
36 shall be valid for one school year.

37 (g) Termination.--The following shall apply:

38 (1) Notwithstanding subsection (h), an agreement entered
39 into under subsection (d) may be terminated early.

40 (2) If an agreement is terminated early by either the
41 parent or the department, all available money in the
42 education opportunity account shall revert to the State
43 Treasury and be used in the resident school district.

44 (h) Automatic termination.--The following shall apply:

45 (1) An agreement entered into under subsection (d) shall
46 terminate automatically if the school-age child no longer
47 resides in this Commonwealth.

48 (2) The parent shall notify the department if the child
49 no longer resides in this Commonwealth within 15 days of the
50 change of residence. After the child's parent has notified
51 the department, money remaining in the education opportunity

1 account shall revert to the State Treasury and be used in the
2 resident school district.

3 (i) Renewal.--The following shall apply:

4 (1) Subject to subsection (l), an agreement entered into
5 under subsection (d) may be renewed for each school year for
6 the school-age child.

7 (2) Failure of a parent to renew an agreement for a
8 school year shall not preclude a parent from renewing the
9 agreement for a subsequent school year if the school-age
10 child remains eligible under subsection (b).

11 (j) Number.--A parent may enter into separate agreements
12 under subsection (d) for each school-age child of the parent.
13 Not more than one education opportunity account may be
14 established for a school-age child.

15 (k) Explanation.--Upon entering into an agreement under
16 subsection (d) or renewing an agreement under subsection (i),
17 the department shall provide the parent with a written
18 explanation of the authorized uses of the money in the education
19 opportunity account and the responsibilities of the parent, the
20 department and the State Treasury under the agreement and this
21 article.

22 (l) Application and renewal period.--The following shall
23 apply:

24 (1) A parent may apply or seek renewal between January 1
25 and April 1 for the following school year.

26 (2) The department shall notify parents and school
27 districts of approved applications by April 30.
28 Section 2004-L. Amount.

29 (a) General rule.--If a parent of an eligible student enters
30 into or renews an agreement under section 2003-L with the
31 department for a school year, the State Treasury shall deposit a
32 grant for that school year in the education opportunity account
33 of the eligible student. The amount of the grant shall be as
34 follows:

35 (1) For an eligible student who does not have a
36 disability, the grant amount shall be equal to the State
37 revenue received by school districts minus the State revenue
38 received for transportation divided by the State total
39 average daily membership.

40 (2) For an eligible student with special needs, the
41 grant amount shall be based on the category of disability by
42 which the resident school district is required to categorize
43 the eligible student for the purpose of the report required
44 under section 1372(8) as follows:

45 (i) For an eligible student in Category 1, multiply
46 the grant amount in paragraph (1) by 1.51.

47 (ii) For an eligible student in Category 2, multiply
48 the grant amount in paragraph (1) by 3.77.

49 (iii) For an eligible student in Category 3A and 3B,
50 multiply the grant amount in paragraph (1) by 7.46.

51 (3) For an eligible student receiving a grant, the

1 amount of basic education funding and other subsidies paid by
2 the department to the resident school district shall be
3 reduced by the grant amount calculated for the student.

4 (4) If a school district's basic education funding and
5 other subsidies are reduced under this section, the resident
6 school district shall include the grant recipient in the
7 resident school district's average daily membership for the
8 purpose of calculating school subsidies.

9 (b) Installments.--The State Treasury shall deposit the
10 money for each grant in quarterly installments under a schedule
11 determined by the State Treasury.

12 (c) Disposition.--The following shall apply to money
13 remaining in an education opportunity account:

14 (1) For money remaining in an education opportunity
15 account at the end of a school year, the money may be carried
16 forward to any other school year of the eligible student if
17 the agreement entered into under section 2003-L(d) is renewed
18 for the other school year.

19 (2) Subject to paragraph (3), money remaining in an
20 education opportunity account when an agreement entered into
21 under section 2003-L(d) is not renewed or is terminated shall
22 revert to the State Treasury and be used in the resident
23 school district.

24 (3) Money remaining in an education opportunity account
25 after the school-age child graduates from high school may be
26 used for qualified education expenses under section 2005-L
27 for up to two years after the date of high school graduation.
28 After the two-year time period under this paragraph has
29 expired, money remaining in the education opportunity account
30 shall revert to the General Fund.

31 Section 2005-L. Qualified education expenses.

32 (a) General rule.--Money deposited in an education
33 opportunity account may be used to pay for any of the following
34 expenses incurred by or associated with the school-age child:

35 (1) Tuition, fees and uniforms required by a
36 participating entity.

37 (2) Textbooks or uniforms required by a participating
38 entity.

39 (3) Fees for tutoring or other teaching services
40 provided by a participating entity.

41 (4) Fees for a nationally norm-referenced test, advanced
42 placement or similar examination or standardized examination
43 required for admission to an institution of higher education
44 and career and technical education examination fees.

45 (5) Curriculum, textbooks or other instructional
46 materials.

47 (6) Hardware, software and Internet connectivity
48 associated with instruction or any of the qualifying expenses
49 described in this subsection.

50 (7) If the eligible student is a student with a
51 disability, fees for special instruction or special services

1 provided to the eligible student, including occupational,
2 physical, speech and behavioral therapies.

3 (8) Costs associated with evaluation and identification
4 of special needs.

5 (9) Other valid educational expenses approved by the
6 department.

7 (b) Prohibitions.--A participating entity that receives a
8 payment for qualified education expenses authorized under
9 subsection (a) may not:

10 (1) Refund a portion of the payment directly to the
11 parent who made the payment.

12 (2) Rebate or otherwise directly share a portion of the
13 payment with the parent who made the payment.

14 (c) Refund.--A participating entity shall deposit a refund
15 for an item that is being returned or an item or service that
16 has not been provided directly to the education opportunity
17 account of the school-age child from which payment for the item
18 or service was made.

19 (d) Payment system.--The following shall apply:

20 (1) The State Treasury shall develop a system that
21 enables a parent to pay for services provided by
22 participating entities under the program by electronic money
23 transfer, including electronic payment systems or other means
24 of electronic payment that the State Treasury determines to
25 be commercially viable and cost effective.

26 (2) The State Treasury may not adopt a system that
27 exclusively requires a parent to be reimbursed for out-of-
28 pocket expenses.

29 (e) Source of payment.--The following shall apply:

30 (1) An individual may not deposit personal money into or
31 otherwise make gifts or contributions of private money to an
32 education opportunity account.

33 (2) Nothing in this section shall be construed to
34 prohibit a parent or school-age child from paying for
35 qualified education expenses from a source other than the
36 education opportunity account.

37 Section 2006-L. Audits and penalties.

38 (a) Audit.--The State Treasury may provide for audits of an
39 education opportunity account as the State Treasury determines
40 necessary.

41 (b) Penalties.--If the State Treasury determines that money
42 in an education opportunity account has been expended for an
43 expense other than a qualified education expense under section
44 2005-L(a), the State Treasury may do any of the following:

45 (1) Freeze or dissolve the education opportunity
46 account, subject to regulations adopted by the State Treasury
47 providing for notice of the action and opportunity to respond
48 to the notice.

49 (2) Refer the matter to the Attorney General or district
50 attorney of the county in which the parent resides for
51 investigation and criminal prosecution, if appropriate.

1 (3) Impose a civil penalty equal to 300% of the amount
2 in the education opportunity account prior to the fraudulent
3 use.

4 (4) Disqualify the parent from future participation in
5 the program.

6 Section 2007-L. Accountability standards for a participating
7 entity.

8 (a) General rule.--A participating entity shall:

9 (1) Comply with all health and safety laws or codes that
10 apply to the participating entity.

11 (2) Hold a valid occupancy permit if required by the
12 municipality in which the participating entity is located.

13 (3) Comply with the nondiscrimination policies set forth
14 in 42 U.S.C. § 1981 (relating to equal rights under the law)
15 and with section 1521.

16 (4) Comply with the provisions of sections 111 and
17 111.1.

18 (b) Financial accountability standards.--The following shall
19 apply:

20 (1) A participating entity shall provide parents with a
21 receipt for all qualifying expenses incurred by the
22 participating entity.

23 (2) The department may require a participating entity
24 that expects to receive at least \$10,000 in payments from
25 education opportunity accounts during the school year to file
26 financial viability documentation. The financial viability
27 documentation may include:

28 (i) a surety bond payable to the Commonwealth in an
29 amount equal to the aggregate amount of money from the
30 education opportunity accounts expected to be paid during
31 the school year on behalf of eligible students admitted
32 at the participating entity; or

33 (ii) financial information that demonstrates that
34 the participating entity has the ability to pay an
35 aggregate amount equal to the amount of money from the
36 educational opportunity accounts expected to be paid
37 during the school year on behalf of eligible students
38 admitted to the participating entity.

39 (c) Academic accountability standards.--The following shall
40 apply:

41 (1) A parent of an eligible student shall ensure that
42 the department is informed of the eligible student's
43 graduation from high school.

44 (2) The department shall:

45 (i) Ensure compliance with all student privacy laws,
46 including 20 U.S.C. § 1232g (relating to family
47 educational and privacy rights).

48 (ii) Administer an annual parental satisfaction
49 survey that shall ask parents of eligible students
50 participating in the program to express:

51 (A) The parent's satisfaction with the program.

1 (B) The number of years the eligible student has
2 participated in the program.

3 (C) The parent's opinions on other topics, items
4 or issues that the department determines would elicit
5 information about the effectiveness of the program.

6 (d) Participating entity autonomy.--The following shall
7 apply:

8 (1) A participating entity shall be autonomous and may
9 not be an agent of the department or the Commonwealth.

10 (2) The department or any other State agency may not
11 regulate the educational program of a participating entity
12 that accepts money from an education opportunity account.

13 (3) The establishment of the program may not be
14 construed to expand the regulatory authority of the
15 Commonwealth, the officers of the Commonwealth or any school
16 district to impose any additional regulation of a
17 participating entity beyond those necessary to enforce the
18 requirements of the program.

19 Section 2008-L. Bar of certain participating entities.

20 (a) General rule.--The department may bar a participating
21 entity from participation in the program if the department
22 establishes that the participating entity has:

23 (1) routinely failed to comply with the accountability
24 standards established in section 2007-L; or

25 (2) failed to provide an eligible student with the
26 educational services funded by the eligible student's
27 education opportunity account.

28 (b) Notice.--If the department bars a participating entity
29 from participation in the program, the department shall post the
30 decision on the department's publicly accessible Internet
31 website. A participating entity may appeal the department's
32 decision under this section.

33 Section 2009-L. Duties of resident school districts.

34 (a) School records.--A resident school district shall
35 provide a participating entity that has admitted an eligible
36 student participating in the program with a complete copy of the
37 student's school records immediately upon the student's
38 enrollment or when services in the participating entity begin,
39 subject to 20 U.S.C. § 1232g (relating to family educational and
40 privacy rights).

41 (b) Transportation.--A resident school district shall
42 provide transportation for an eligible student to and from the
43 participating entity under the same conditions as the resident
44 school district provides transportation of other resident
45 students to nonpublic schools under section 1361. The resident
46 school district shall qualify for State transportation
47 reimbursement for each eligible student transported.

48 Section 2010-L. Legal proceedings.

49 (a) Liability.--No liability shall arise on the part of the
50 agency, the Commonwealth or a public school or school district
51 based on the award or use of an education opportunity account

1 under this article.

2 (b) Challenges.--If any part of this article is challenged
3 in a State court as violating either the Constitution of the
4 United States or the Constitution of Pennsylvania, parents of
5 eligible students and students who previously had an education
6 opportunity account shall be permitted to intervene as of right
7 in the lawsuit for the purposes of defending the program's
8 constitutionality. For the purposes of judicial administration,
9 a court may require that all parents file a joint brief but may
10 not require all parents to join a brief filed on behalf of a
11 named State defendant.

12 (c) Severability.--If any provision of this article or the
13 application thereof to any person or circumstance is held
14 invalid, the invalidity shall not affect other provisions or
15 applications of this article which can be given effect without
16 the invalid provision or application, and to this end the
17 provisions of this article are declared to be severable.
18 Section 2011-L. Listing of participating entities.

19 The department shall annually post on the department's
20 publicly accessible Internet website a listing of all
21 participating entities.

22 Section 2012-L. Regulations.

23 The State Treasury and the department shall jointly develop
24 guidelines as necessary for the administration of this article
25 within 60 days of the effective date of this section.

26 Section 12. All acts and parts of acts are repealed insofar
27 as they are inconsistent with this act.

28 Section 13. This act shall take effect as follows:

29 (1) The addition of section 131 of the act shall take
30 effect in 180 days.

31 (2) The amendment of sections 1715-A, 1722-A and 1744-A
32 of the act shall take effect in 60 days.

33 (3) The remainder of this act shall take effect
34 immediately.