AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in preliminary provisions, providing for advertising; and, in charter schools, further providing for definitions, for charter school requirements, and for powers of board of trustees and PROVIDING for fund balance limits.

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

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

Section 128. Advertising.--(a) A paid media advertisement by a public school entity that refers to the cost of tuition or transportation shall not advertise those expenses as free, and any reference to tuition or transportation costs must stipulate that the cost is covered by taxpayer dollars. A paid media advertisement shall include a television, radio or movie theater

advertisement shall include a television, radio or movie theater...
advertisement, billboard, bus poster, newspaper, magazine, publicly accessible Internet website or any other commercial method that may promote enrollment in a public school entity.

(b) For the purposes of this section, "public school entity" shall mean a public school district, charter school, cyber charter school, regional charter school, intermediate unit or area vocational-technical school.

Section 2. Sections 1703-A and 1715-A of the act are amended to read:

Section 1703-A. Definitions.--As used in this article, "Administrator" shall include an employe of a charter school entity, including the chief administrator of a charter school entity and any other employe, who by virtue of the employe's position is responsible for taking official action of a nonministerial nature with regard to contracting or procurement, administering or monitoring grants or subsidies, managing or regulating staff, student and school activities or any activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

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

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

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

(3) for a cyber charter school, the aid ratio and market value/income aid ratio shall be that of the school district in which the administrative offices of the cyber charter school are located.
"Appeal board" shall mean the State Charter School Appeal Board established by this article.

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

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

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

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

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

"Charter school foundation" shall mean a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that provides funding, resources or otherwise serves to support a charter school entity, either directly or through an affiliated...
"Chief administrator" shall mean an individual appointed by a board of trustees to oversee and manage the operation of a charter school entity. The term shall not include a professional staff member under this article.

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

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

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

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

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

"FAMILY MEMBER" SHALL MEAN A PARENT, STEPPARENT, CHILD, STEPCHILD, SPOUSE, DOMESTIC PARTNER, BROTHER, SISTER,
STEPBROTHER, STEPSISTER, GRANDPARENT, GRANDCHILD, PARENT-IN-LAW,
BROTHER-IN-LAW, SISTER-IN-LAW, AUNT, UNCLE OR FIRST COUSIN.

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

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

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

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

"School entity" shall mean a school district, intermediate
unit, joint school or area vocational-technical school.

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

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

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

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

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

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

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

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

(5) A charter school entity shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the charter school entity.

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

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

(8) A charter school entity shall participate in the Pennsylvania State Assessment System as provided for in 22 Pa. Code Ch. 5 (relating to curriculum), or subsequent regulations promulgated to replace 22 Pa. Code Ch. 5, in the manner in which the school district in which the charter school entity is located is scheduled to participate.
(9) A charter school entity shall provide a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours per year of instruction at the elementary level, or nine hundred ninety (990) hours per year of instruction at the secondary level. Nothing in this clause shall preclude the use of computer and satellite linkages for delivering instruction to students.

(9.1) (I) A CYBER CHARTER SCHOOL SHALL ELECTRONICALLY DISTRIBUTION ON A SEMI-ANNUAL BASIS TO ADMINISTRATORS, TRUSTEES, EMPLOYEES, STAFF AND PARENTS AND GUARDIANS OF STUDENTS OF THE CYBER CHARTER SCHOOL, A SINGLE-PAGE DOCUMENT PROVIDED BY THE OFFICE OF STATE INSPECTOR GENERAL THAT DESCRIBES THE FOLLOWING:

(A) THE POWERS OF THE OFFICE OF STATE INSPECTOR GENERAL TO INVESTIGATE CLAIMS OF FRAUD, WASTE, MISCONDUCT AND ABUSE.

(B) HOW TO CONTACT OR FILE A COMPLAINT WITH THE OFFICE OF STATE INSPECTOR GENERAL.

(C) THE STATUTORY PROTECTIONS THAT NO PERSON MAY TAKE OR THREATEN TO TAKE ACTION AGAINST AN EMPLOYEE AS A REPRISAL FOR MAKING A COMPLAINT OR DISCLOSING INFORMATION TO THE OFFICE OF STATE INSPECTOR GENERAL, EXCEPT IF THE COMPLAINT WAS MADE OR THE INFORMATION WAS DISCLOSED WITH THE KNOWLEDGE THAT THE COMPLAINT OR INFORMATION WAS FALSE OR WITH WILLFUL DISREGARD FOR THE TRUTH OR FALSITY OF THE COMPLAINT OR INFORMATION.

(II) FOR PURPOSES OF THIS PARAGRAPH, A CYBER CHARTER SCHOOL SHALL BE CONSIDERED AN EXECUTIVE AGENCY FOR THE PURPOSE OF ARTICLE V-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929."

(10) Boards of trustees and contractors of charter school entities shall be subject to the following statutory requirements governing construction projects and construction-
related work:

(i) The following provisions of this act:

(A) Sections 751 and 751.1.

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

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

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


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

(11) Trustees of a charter school entity shall be public officials.

(12) A person who serves as an administrator for a charter school shall not receive compensation from another charter school or from a company that provides management or other services to another charter school. The term "administrator" shall include the chief executive officer of a charter school and all other employes of a charter school who by virtue of their positions exercise management or operational oversight responsibilities. A person who serves as an administrator for a charter school shall be a public official under 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure). A violation of this clause shall constitute a violation of 65 Pa.C.S. § 1103(a) (relating to restricted activities), and the violator shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission.}
of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) and shall file a statement of financial interests for the preceding calendar year with the State Ethics Commission and either the local board of school directors in the case of a charter school or regional charter school, or the department in the case of a cyber charter school, not later than May 1 of each year that members hold the position and of the year after a member leaves the position. All members of the board of trustees of a charter school entity shall take the oath of office as required under section 321 before entering upon the duties of their office.

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

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

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

(ii) The board of trustees of the charter school entity has reviewed the sworn statement under subclause (i) and agreed, by resolution, to grant permission to the administrator.
(2) A copy of the sworn statement under clause (1)(i) and
the resolution by the board of trustees granting the permission
under clause (1)(ii) shall be provided to, and kept on file
with, the charter school entity and the local board of school
directors or, in the case of a cyber charter school, the
department.

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

(4) (i) No administrator of a charter school entity may
participate in the selection, award or administration of a
contract if the person has a conflict of interest as that term
is defined in 65 Pa.C.S. § 1102 (relating to definitions).
(ii) An administrator who knowingly violates this clause
commits a violation of 65 Pa.C.S. § 1103(a) (relating to
restricted activities) and shall be subject to the penalties
imposed under the jurisdiction of the State Ethics Commission.
(iii) Any contract made in violation of this clause shall be
voidable by the board of trustees of the charter school entity.

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

Section 3. Section 1716-A(c) of the act is amended and the
section is amended by adding subsections to read:

Section 1716-A. Powers of Board of Trustees.--* * *
(b.1) (1) For a charter school or regional charter school
chartered after the effective date of this subsection, an
individual shall be prohibited from serving as a voting member
of the board of trustees of the charter school or regional
charters, if the individual or an immediate family member
receives compensation from or is employed by or is a member of
the local board of school directors who participated in the
initial review, approval, oversight, evaluation or renewal
process of the charter school or regional charter school
chartered by that board.

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

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

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

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

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

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

(b.3) A member of the board of trustees of a charter school entity shall be automatically disqualified and immediately removed from the board of trustees upon conviction for an offense graded as a felony, an infamous crime, an offense pertaining to fraud, theft or mismanagement of public funds, any offense pertaining to the member’s official capacity as a member of the board of trustees or any crime involving moral turpitude.

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

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

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

(2) Within one (1) year of the effective date of this subsection, at least one member of the board of trustees of a charter school entity shall be a parent of a child currently attending the charter school entity. The board of trustees member provided for under this paragraph shall be eligible to serve only so long as the child attends the charter school entity. This paragraph shall not apply to a charter school that primarily serves adjudicated youth.
(e) (1) A majority of the voting members of the board of trustees shall constitute a quorum. If less than a majority is present at any meeting, no business may be transacted at the meeting.

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

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

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

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

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

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

(5) Review of the financial statements of any charter school foundation.
(6) Review of the selection and acceptance process of all contracts publicly bid pursuant to section 751.

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

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

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

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

(1) The source of funding for all expenditures.

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

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

(4) All expenditures to an educational management service provider.
(j)  (1)  Notwithstanding any other provision of law, a charter school entity and any affiliated charter school foundation shall make copies of its annual Federal and State tax filings available upon request and on the charter school entity's or foundation's publicly accessible Internet website, if available, including Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax and all related schedules and appendices.

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

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

Section 4.  The act is amended by adding a section to read:

Section 1731.1-A.  Fund Balance Limits.--Fund balance limits shall be as follows:

(1) For the 2018-2019 school year and each school year thereafter, a charter school entity shall not accumulate an unassigned fund balance greater than the charter school entity unassigned fund balance limit, which will be determined as follows:

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

(2) For the 2018-2019 school year and each school year thereafter, any unassigned fund balance in place on June 30, 2019, and on June 30 of each year thereafter in excess of the charter school entity unassigned fund balance limit shall be refunded on a pro rata basis within ninety (90) days to all school districts that paid tuition to the charter school entity in the prior school year, based upon the number of students for whom each school district paid tuition to the charter school entity multiplied by the school district's per student payment under section 1725-A.

(3) By October 31, 2019, and by October 31 of each year thereafter, each charter school entity shall provide the department and all school districts that paid tuition to the charter school entity in the prior school year with information certifying compliance with this section. The information shall be provided in a form and manner prescribed by the department and shall include information on the charter school entity's estimated ending unassigned fund balance expressed as a dollar amount and as a percentage of the charter school entity's total budgeted expenditures for that school year.

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

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

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

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

Section 5. This act shall take effect as follows:

(1) The addition of section 128 of the act shall take
effect in 180 days.

(2) The remainder of this act shall take effect in 60
days.