

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 759 Session of 2013

INTRODUCED BY REESE, BENNINGHOFF, EVANKOVICH, EVERETT, FLECK, GROVE, MICOZZIE, MOUL, MUNDY, MURT, REED, SACCONI, SAYLOR, TOBASH AND SWANGER, FEBRUARY 25, 2013

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 25, 2013

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
 2 act relating to the public school system, including certain
 3 provisions applicable as well to private and parochial
 4 schools; amending, revising, consolidating and changing the
 5 laws relating thereto," providing for payment of indebtedness
 6 by charter school entities; and further providing for
 7 contents of application and for funding for charter schools,
 8 for term and form of charter, for funding for charter school
 9 entities, for annual reports and assessments, for assessment
 10 and evaluation and for establishment of cyber charter school.

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

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

16 Section 1716.1-A. Payment of Indebtedness by Charter School
 17 Entities.--(a) The board of trustees of a charter school entity
 18 shall supply the secretary and, in the case of a charter school
 19 or regional charter school, the local board of school directors
 20 a list of the amount of rental payments which are guarantees for
 21 school building debt or bonds that become due during the fiscal

1 year together with the amount paid on each item of indebtedness.
2 Any charter school entity that elects to issue debt shall hold
3 in escrow an amount sufficient to pay the annual amount of the
4 sum of the principal maturing or subject to mandatory redemption
5 and interest owing by the charter school entity or sinking fund
6 deposit due by the charter school entity.

7 (b) (1) In any case where the board of trustees of a
8 charter school entity fails to pay or to provide for the payment
9 of:

10 (i) any indebtedness at date of maturity or date of
11 mandatory redemption or on any sinking fund deposit date; or

12 (ii) any interest due on such indebtedness on any interest
13 payment date or on any sinking fund deposit date in accordance
14 with the schedule under which the bonds were issued,
15 the bank or trustee for the bonds shall notify the board of
16 trustees of its obligation and shall immediately notify the
17 secretary and, in the case of a charter school or regional
18 charter school, the local board of school directors.

19 (2) The secretary shall withhold any payment due the charter
20 school entity in any amount necessary to fully fund the amount
21 held in escrow by the charter school entity which shall be equal
22 to the sum of the principal amount maturing or subject to
23 mandatory redemption and interest owing by the charter school
24 entity or sinking fund deposit due by the charter school entity
25 and shall require payover of the amount withheld to the bank or
26 trustee acting as the sinking fund depository for the bond issue
27 from the escrow account.

28 (c) As used in this section, "charter school entity" shall
29 mean a charter school, cyber charter school or regional charter
30 school.

1 Section 2. Section 1719-A of the act, added June 19, 1997
2 (P.L.225, No.22), is amended to read:

3 Section 1719-A. Contents of Application.--An application to
4 establish a charter school shall include all of the following
5 information:

6 (1) The identification of the charter applicant.

7 (2) The name of the proposed charter school.

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

9 (4) The proposed governance structure of the charter school,
10 including a description and method for the appointment or
11 election of members of the board of trustees.

12 (5) The mission and education goals of the charter school,
13 the curriculum to be offered and the methods of assessing
14 whether students are meeting educational goals.

15 (6) The admission policy and criteria for evaluating the
16 admission of students which shall comply with the requirements
17 of section 1723-A.

18 (7) Procedures which will be used regarding the suspension
19 or expulsion of pupils. Said procedures shall comply with
20 section 1318.

21 (8) Information on the manner in which community groups will
22 be involved in the charter school planning process.

23 (9) The financial plan for the charter school and the
24 provisions which will be made for auditing the school under
25 section 437.

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

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

1 thereof and any lease arrangements.

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

5 (13) The proposed faculty and a professional development
6 plan for the faculty of a charter school.

7 (14) Whether any agreements have been entered into or plans
8 developed with the local school district regarding participation
9 of the charter school students in extracurricular activities
10 within the school district. Notwithstanding any provision to the
11 contrary, no school district of residence shall [prohibit]:

12 (i) Prohibit a student of a charter school from
13 participating in any extracurricular activity of that school
14 district of residence: Provided, That the student is able to
15 fulfill all of the requirements of participation in such
16 activity and the charter school does not provide the same
17 extracurricular activity.

18 (ii) Impose any activity fee on charter or cyber charter
19 school students unless the school district imposes the same
20 activity fee on students enrolled in the school district.

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

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

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

1 employes and the board of trustees of the charter school.

2 Section 3. Section 1720-A of the act, amended July 9, 2008,
3 (P.L.846, No.61), is amended to read:

4 Section 1720-A. Term and Form of Charter.--(a) Upon
5 approval of a charter application under section 1717-A, a
6 written charter shall be developed which shall contain the
7 provisions of the charter application and which shall be signed
8 by the local board of school directors of a school district, by
9 the local boards of school directors of a school district in the
10 case of a regional charter school or by the chairman of the
11 appeal board pursuant to section 1717-A(i) (5) and the board of
12 trustees of the charter school. This written charter, when duly
13 signed by the local board of school directors of a school
14 district, or by the local boards of school directors of a school
15 district in the case of a regional charter school, and the
16 charter school's board of trustees, shall act as legal
17 authorization for the establishment of a charter school. This
18 written charter shall be legally binding on both the local board
19 of school directors of a school district and the charter
20 school's board of trustees. Except as otherwise provided in
21 subsection (b), the charter shall be for a period of [no less
22 than three (3) nor more than] five (5) years and may be renewed
23 for [five (5)] ten (10) year periods upon reauthorization by the
24 local board of school directors of a school district or the
25 appeal board. A charter will be granted only for a school
26 organized as a public, nonprofit corporation.

27 (b) (1) Notwithstanding subsection (a), [a] the following
28 shall apply:

29 (i) An initial charter granted by a school district of the
30 first class shall be for a period of no less than three (3) nor

1 more than five (5) years and may be renewed for five (5) year
2 periods upon reauthorization by the governing board of the
3 school district or the appeal board.

4 (ii) A governing board of a school district of the first
5 class may renew a charter for a period of one (1) year if the
6 [board of school directors] governing board determines that
7 there is insufficient data concerning the charter school's
8 academic performance to adequately assess that performance and
9 determines that an additional year of performance data would
10 yield sufficient data to assist the governing board in its
11 decision whether to renew the charter for a period of five (5)
12 years.

13 (2) A one-year renewal pursuant to paragraph (1) shall not
14 be considered an adjudication and may not be appealed to the
15 State Charter School Appeal Board.

16 (3) A governing board of a school district of the first
17 class does not have the authority to renew a charter for
18 successive one (1) year periods.

19 Section 4. Section 1725-A of the act, amended or added June
20 19, 1997 (P.L.225, No.22), June 22, 2001 (P.L.530, No.35) and
21 June 29, 2002 (P.L.524, No.88), is amended to read:

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

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

27 (2) For non-special education students, the charter school
28 shall receive for each student enrolled no less than the
29 budgeted total expenditure per average daily membership of the
30 prior school year, as defined in section 2501(20), minus the

1 budgeted expenditures of the district of residence for nonpublic
2 school programs; adult education programs; community/junior
3 college programs; student transportation services; for special
4 education programs; facilities acquisition, construction and
5 improvement services; and other financing uses, including debt
6 service and fund transfers as provided in the Manual of
7 Accounting and Related Financial Procedures for Pennsylvania
8 School Systems established by the department. This amount shall
9 be paid by the district of residence of each student.

10 (3) For special education students, the charter school shall
11 receive for each student enrolled the same funding as for each
12 non-special education student as provided in clause (2), plus an
13 additional amount determined by dividing the district of
14 residence's total special education expenditure by the product
15 of multiplying the combined percentage of section 2509.5(k)
16 times the district of residence's total average daily membership
17 for the prior school year. This amount shall be paid by the
18 district of residence of each student.

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

27 (5) Payments shall be made to the charter school in twelve
28 (12) equal monthly payments, by the fifth day of each month,
29 within the operating school year. A student enrolled in a
30 charter school shall be included in the average daily membership

1 of the student's district of residence for the purpose of
2 providing basic education funding payments and special education
3 funding pursuant to Article XXV. If a school district fails to
4 make a payment to a charter school as prescribed in this clause,
5 the secretary shall deduct the estimated amount, as documented
6 by the charter school, from any and all State payments made to
7 the district after receipt of documentation from the charter
8 school.

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

19 (b) The Commonwealth shall provide temporary financial
20 assistance to a school district due to the enrollment of
21 students in a charter school who attended a nonpublic school in
22 the prior school year in order to offset the additional costs
23 directly related to the enrollment of those students in a public
24 charter school. The Commonwealth shall pay the school district
25 of residence of a student enrolled in a nonpublic school in the
26 prior school year who is attending a charter school an amount
27 equal to the school district of residence's basic education
28 subsidy for the current school year divided by the district's
29 average daily membership for the prior school year. This payment
30 shall occur only for the first year of the attendance of the

1 student in a charter school, starting with school year 1997-
2 1998. Total payments of temporary financial assistance to school
3 districts on behalf of a student enrolling in a charter school
4 who attended a nonpublic school in the prior school year shall
5 be limited to funds appropriated for this program in a fiscal
6 year. If the total of the amount needed for all students
7 enrolled in a nonpublic school in the prior school year who
8 enroll in a charter school exceeds the appropriation for the
9 temporary financial assistance program, the amount paid to a
10 school district for each qualifying student shall be pro rata
11 reduced. Receipt of funds under this subsection shall not
12 preclude a school district from applying for a grant under
13 subsection (c).

14 (c) The Commonwealth shall create a grant program to provide
15 temporary transitional funding to a school district due to the
16 budgetary impact relating to any student's first-year attendance
17 at a charter school. The department shall develop criteria which
18 shall include, but not be limited to, the overall fiscal impact
19 on the budget of the school district resulting from students of
20 a school district attending a charter school. The criteria shall
21 be published in the Pennsylvania Bulletin. This subsection shall
22 not apply to a public school converted to a charter school under
23 section 1717-A(b). Grants shall be limited to funds appropriated
24 for this purpose.

25 (d) It shall be lawful for any charter school to receive,
26 hold, manage and use, absolutely or in trust, any devise,
27 bequest, grant, endowment, gift or donation of any property,
28 real or personal and/or mixed, which shall be made to the
29 charter school for any of the purposes of this article.

30 (e) It shall be unlawful for any trustee of a charter school

1 or any board of trustees of a charter school or any other person
2 affiliated in any way with a charter school to demand or
3 request, directly or indirectly, any gift, donation or
4 contribution of any kind from any parent, teacher, employe or
5 any other person affiliated with the charter school as a
6 condition for employment or enrollment and/or continued
7 attendance of any pupil. Any donation, gift or contribution
8 received by a charter school shall be given freely and
9 voluntarily.] Funding for a charter school entity shall be
10 provided in the following manner and shall not be in violation
11 of any applicable Federal or State law, regulation or agreement:

12 (1) There shall be no tuition charge for a resident or
13 nonresident student attending a charter school entity.

14 (2) For non-special education students, the charter school
15 entity shall receive for each student enrolled the following,
16 which shall be paid by the district of residence of each
17 student:

18 (i) Through and including the 2012-2013 school year, no less
19 than the budgeted total expenditure per average daily membership
20 of the prior school year, as defined in section 2501(20), minus
21 the budgeted expenditures of the district of residence for
22 nonpublic school programs; adult education programs;
23 community/junior college programs; student transportation
24 services; for special education programs; facilities
25 acquisition, construction and improvement services; and other
26 financing uses, including debt service and fund transfers as
27 provided in the Manual of Accounting and Related Financial
28 Procedures for Pennsylvania School Systems established by the
29 department.

30 (ii) Beginning in the 2013-2014 school year, the following:

1 (A) For each student enrolled in a brick and mortar charter
2 school, no less than the budgeted total expenditure per average
3 daily membership of the prior school year, as defined in section
4 2501(20), minus the budgeted expenditures of the district of
5 residence for nonpublic school programs; adult education
6 programs; community/junior college programs; student
7 transportation services; special education programs; facilities
8 acquisition, construction and improvement services; and other
9 financing uses, including debt service and fund transfers as
10 provided in the Manual of Accounting and Related Financial
11 Procedures for Pennsylvania School Systems established by the
12 department.

13 (B) For each student enrolled in a cyber charter school, no
14 less than the budgeted total expenditure per average daily
15 membership of the prior school year, as defined in section
16 2501(20), minus the following: the budgeted expenditures of the
17 district of residence for nonpublic school programs; adult
18 education programs; community/junior college programs; student
19 transportation services; special education programs; facilities
20 acquisition, construction and improvement services; and debt
21 service and fund transfers as provided in the Manual of
22 Accounting and Related Financial Procedures for Pennsylvania
23 School Systems established by the department; a cyber program
24 deduction; a district pupil services deduction; and an
25 extracurricular activities deduction.

26 (iii) The amount under subclause (ii) shall be calculated by
27 each school district on a form prescribed by the secretary in
28 accordance with this section. The secretary, upon receipt of a
29 district's calculation, shall review the district's calculation
30 and may request supporting documentation from the district

1 regarding its calculation. If the secretary finds an error or
2 discrepancy in a district's calculation, the secretary shall
3 require the district to correct the calculation and require the
4 school district to notify affected charter school entities.

5 (iv) The following apply:

6 (A) The amount under subclause (ii) shall be paid by the
7 school district of residence of each student by deduction and
8 transfer from all State payments due to the district as provided
9 under clause (5).

10 (B) If a charter school entity disputes the accuracy of a
11 district's calculation under this clause, the charter school
12 entity shall file a notice of the dispute with the secretary,
13 who shall hold a hearing to determine the accuracy of the
14 district's calculation within thirty (30) days of the notice.

15 (C) The secretary shall determine the accuracy of the
16 district's calculation within thirty (30) days of the hearing.

17 (D) The district shall bear the burden of production and
18 proof with respect to its calculation under this clause.

19 (E) The district shall be liable for the reasonable legal
20 fees incurred by a charter school entity if the charter school
21 entity is the substantially prevailing party after a hearing
22 under this section. The charter school entity shall be liable
23 for the reasonable legal fees incurred by the district if the
24 district is the substantially prevailing party after a hearing
25 under this section.

26 (F) All decisions of the secretary under this clause shall
27 be subject to appellate review by Commonwealth Court.

28 (3) The following apply:

29 (i) For special education students, the charter school
30 entity shall receive for each student enrolled the same funding

1 as for each non-special education student as provided under
2 clause (2), plus an additional amount determined by dividing the
3 total special education expenditure of the school district of
4 residence by the product of:

5 (A) the combined percentage of section 2509.5(k) applicable
6 to the school year; and

7 (B) the total average daily membership of the school
8 district of residence for the prior school year.

9 (ii) The amount under subclause (i) shall be paid by the
10 school district of residence of each student by deduction and
11 transfer from all State payments due to the district as provided
12 under clause (5).

13 (iii) If a charter school entity disputes the accuracy of a
14 district's calculation under this clause, the charter school
15 entity shall file a notice of the dispute with the secretary,
16 who shall hold a hearing to determine the accuracy of the
17 district's calculation within thirty (30) days of the notice.

18 (iv) The secretary shall determine the accuracy of the
19 district's calculation within thirty (30) days of the hearing.

20 (v) The district shall bear the burden of production and
21 proof with respect to its calculation under this clause.

22 (vi) The district shall be liable for the reasonable legal
23 fees incurred by a charter school entity if the charter school
24 entity is the substantially prevailing party after a hearing
25 under this section. The charter school entity shall be liable
26 for the reasonable legal fees incurred by the school district if
27 the district is the substantially prevailing party after a
28 hearing under this section.

29 (vii) All decisions of the secretary under this section
30 shall be subject to appellate review by Commonwealth Court.

1 (4) A charter school entity may request the intermediate
2 unit or school district in which the charter school entity is
3 located to provide services to assist the charter school entity
4 to address the specific needs of non-special education and
5 special education students. The intermediate unit or school
6 district shall assist the charter school entity and bill the
7 charter school entity for the services. The intermediate unit
8 may not charge the charter school entity more for any service
9 than it charges the constituent districts of the intermediate
10 unit. Nothing under this clause shall preclude an intermediate
11 unit or school district from contracting with a charter school
12 entity to provide the intermediate unit or school district with
13 services to assist the intermediate unit or school district to
14 address specific needs of non-special education and special
15 education students.

16 (5) The following apply:

17 (i) Payments shall be made to the charter school entity in
18 twelve (12) equal monthly payments, according to the established
19 monthly unipay schedule within the operating school year or any
20 subsequent school year.

21 (ii) Except as provided for in subclause (v), payments shall
22 be made directly by the secretary deducting and paying to the
23 charter school entity the estimated amount, as documented by the
24 charter school entity, from:

25 (A) all State payments due to the school district of
26 residence; or

27 (B) if no payments are due to the school district of
28 residence, from all State payments reasonably expected to be due
29 in the next established monthly unipay schedule,
30 after receipt of documentation from the charter school entity as

1 to its enrollment.

2 (iii) The secretary's obligation to make payments under this
3 section is mandatory and ministerial, except that payments made
4 pursuant to this section shall not be given priority over
5 payments required pursuant to sections 633 and 785 and 53
6 Pa.C.S. § 8125(b) (relating to security for tax anticipation
7 notes and sinking fund), or an agreement pursuant to which the
8 Commonwealth is required to make payment to a holder of debt
9 issued by or on behalf of a school entity. If payments required
10 under sections 633 and 785 and 53 Pa.C.S. § 8125(b) preclude the
11 timely payment of funds to a charter school entity under section
12 1725-A or will cause the board of school directors of a school
13 district to fail to pay or provide for payment under this
14 subsection, nothing shall preclude the secretary from
15 withholding funds from any and all State payments made to the
16 district for the operating school year or for any subsequent
17 operating school year.

18 (iv) If there are insufficient State payments due to a
19 school district in the established monthly unipay schedule to
20 cover all charter school entity deductions and transfers, the
21 school district shall be responsible for paying the unpaid
22 balance directly to the charter school entity not more than
23 seven (7) days following the established monthly unipay
24 schedule.

25 (v) The board of trustees of a charter school entity may
26 elect on an annual basis to be paid directly from the school
27 district of residence. Any board of trustees of a charter school
28 entity that elects to be paid directly by the school district of
29 residence shall notify the department in accordance with the
30 timelines established in the department guidelines. The school

1 district of residence shall provide for payment to the charter
2 school entity as follows:

3 (A) Payments shall be made to the charter school entity in
4 twelve (12) equal monthly payments, according to the established
5 monthly unipay schedule, within the operating school year.

6 (B) Payments shall be made directly by the school district
7 of residence paying to the charter school entity the estimated
8 amount, as documented by the charter school entity, after
9 receipt of documentation from the charter school entity as to
10 its enrollment.

11 (C) If a school district of residence fails to make a
12 payment to a charter school entity as prescribed in this clause,
13 the secretary shall deduct the estimated amount, as documented
14 by the charter school entity, from any and all State payments
15 made to the school district of residence for the operating
16 school year or any subsequent school year after receipt of
17 documentation from the charter school entity.

18 (vi) A student enrolled in a charter school entity shall be
19 included in the average daily membership of the student's school
20 district of residence for the purpose of providing basic
21 education funding payments and special education funding under
22 Article XXV.

23 (6) The following apply:

24 (i) Within thirty (30) days after the payment is made to the
25 charter school entity as described under clause (5), a school
26 district may notify the secretary that the estimated amount, as
27 documented by the charter school entity, is inaccurate.

28 (ii) The secretary shall provide the school district with an
29 opportunity to be heard concerning whether the charter school
30 entity documented that students were enrolled in the charter

1 school entity, the period of time during which each student was
2 enrolled in the charter school entity, the school district of
3 residence of each student enrolled in the charter school entity
4 and whether the amounts deducted from or paid by the school
5 district were accurate.

6 (iii) The burden of proof and production at the hearing
7 shall be on the school district. A hearing shall not be held
8 before the secretary deducts and transfers to the charter school
9 entity the amount estimated by the charter school entity.

10 (iv) The district shall be liable for the reasonable legal
11 fees incurred by a charter school entity if the charter school
12 entity is the substantially prevailing party after a hearing
13 under this section. The charter school entity shall be liable
14 for the reasonable legal fees incurred by the district if the
15 district is the substantially prevailing party after a hearing
16 under this section.

17 (v) All decisions of the secretary under this section shall
18 be subject to appellate review by Commonwealth Court.

19 (vi) Supersedeas shall not be granted to the secretary or
20 any party to the proceeding on an appeal from the decision of
21 the secretary under this section; and, absent a court order, the
22 secretary shall not hold any payments in escrow.

23 (b) It shall be lawful for any charter school entity to
24 receive, hold, manage and use, absolutely or in trust, any
25 devise, bequest, grant, endowment, gift or donation of any
26 property, real or personal and mixed, which shall be made to the
27 charter school entity for any purpose of this article.

28 (c) It shall be unlawful for any trustee of a charter school
29 entity or any board of trustees of a charter school entity or
30 any other person affiliated in any way with a charter school

1 entity to demand or request, directly or indirectly, any gift,
2 donation or contribution of any kind from any parent, teacher,
3 employe or any other person affiliated with the charter school
4 entity as a condition for employment or enrollment and continued
5 attendance of any student. Any donation, gift or contribution
6 received by a charter school entity must be given freely and
7 voluntarily.

8 (d) A cyber charter school may not provide discounts to a
9 school district or waive payments under this section for any
10 student.

11 (e) For the 2013-2014 school year, and each year thereafter,
12 a claim filed by either a school district or a charter school
13 entity may relate to the operating school year immediately
14 preceding the current operating school year, however,
15 notwithstanding any other provision of this act, if challenged,
16 claims related to the operating school year immediately
17 preceding the current operating school year shall proceed
18 through the administrative hearing process in accordance with 2
19 Pa.C.S. (relating to administrative law and procedure) prior to
20 the secretary withholding or paying any estimated amount due to
21 either the school district or the charter school entity.

22 (f) The department shall develop a transition procedure to
23 be able to recoup in subsequent fiscal years any payments made
24 in error to a charter school entity as a result of direct
25 payment by the department to the charter school entity.

26 (g) As used in this section,
27 "Brick and mortar charter school" shall mean a charter school
28 as defined in section 1703-A which is not a cyber charter school
29 as defined in this subsection.

30 "Charter school entity" shall mean a brick and mortar charter

1 school or cyber charter school.

2 "Cyber charter school" shall mean a charter school as defined
3 in section 1703-A which uses technology in order to provide a
4 significant portion of its curriculum and delivers a significant
5 portion of its instruction to students through the Internet or
6 other electronic means.

7 "Cyber program deduction" shall mean an amount equal to fifty
8 per centum of the expenditure per average daily membership for a
9 cyber education program offered by the district of residence,
10 including a cyber education program offered in conjunction with
11 an intermediate unit.

12 "District pupil services deduction" shall mean an amount
13 equal to one hundred per centum of the expenditure per average
14 daily membership for student health services, food services and
15 library services offered by the district of residence.

16 "Extracurricular activities deduction" shall mean an amount
17 equal to fifty per centum of the expenditure per average daily
18 membership for extracurricular activities offered by the
19 district of residence.

20 Section 5. Section 1728-A of the act, added June 19, 1997,
21 (P.L.225, No.22), is amended to read:

22 Section 1728-A. Annual Reports and Assessments.--(a) The
23 local board of school directors shall annually assess whether
24 each charter school is meeting the goals of its charter and
25 shall conduct a comprehensive review prior to granting a [five
26 (5)] ten (10) year renewal of the charter or, in the case of a
27 school district of the first class, a five (5) year renewal of
28 the charter. The local board of school directors shall have
29 ongoing access to the records and facilities of the charter
30 school to ensure that the charter school is in compliance with

1 its charter and this act and that requirements for testing,
2 civil rights and student health and safety are being met.

3 (b) In order to facilitate the local board's review and
4 secretary's report, each charter school shall submit an annual
5 report no later than August 1 of each year to the local board of
6 school directors and the secretary in the form prescribed by the
7 secretary.

8 (c) Five (5) years following the effective date of this
9 article, the secretary shall contract with an independent
10 professional consultant with expertise in public and private
11 education. The consultant shall receive input from members of
12 the educational community and the public on the charter school
13 program. The consultant shall submit a report to the secretary,
14 the Governor and the General Assembly and an evaluation of the
15 charter school program, which shall include a recommendation on
16 the advisability of the continuation, modification, expansion or
17 termination of the program and any recommendations for changes
18 in the structure of the program.

19 Section 6. Sections 1742-A and 1745-A of the act, added June
20 29, 2002 (P.L.524, No.88), are amended to read:

21 Section 1742-A. Assessment and evaluation.

22 The department shall:

23 (1) Annually assess whether each cyber charter school is
24 meeting the goals of its charter and is in compliance with
25 the provisions of the charter and conduct a comprehensive
26 review prior to granting a [five-year] ten-year renewal of
27 the charter.

28 (2) Annually review each cyber charter school's
29 performance on the Pennsylvania System of School Assessment
30 test, standardized tests and other performance indicators to

1 ensure compliance with 22 Pa. Code Ch. 4 (relating to
2 academic standards and assessment) or subsequent regulations
3 promulgated to replace 22 Pa. Code Ch. 4.

4 (3) Have ongoing access to all records, instructional
5 materials and student and staff records of each cyber charter
6 school and to every cyber charter school facility to ensure
7 the cyber charter school is in compliance with its charter
8 and this subdivision.

9 Section 1745-A. Establishment of cyber charter school.

10 (a) Establishment.--A cyber charter school may be
11 established by an individual; one or more teachers who will
12 teach at the proposed cyber charter school; parents or guardians
13 of students who will enroll in the cyber charter school; a
14 nonsectarian college, university or museum located in this
15 Commonwealth; a nonsectarian corporation not-for-profit as
16 defined in 15 Pa.C.S. § 5103 (relating to definitions); a
17 corporation, association or partnership; or any combination of
18 the foregoing. Section 1327.1 shall not apply to a cyber charter
19 school established under this subdivision.

20 (b) Sectarian entities.--No cyber charter school shall be
21 established or funded by and no charter shall be granted to a
22 sectarian school, institution or other entity.

23 (c) Attendance.--Attendance at a cyber charter school shall
24 satisfy requirements for compulsory attendance.

25 (d) Application.--An application to establish a cyber
26 charter school shall be submitted to the department by October 1
27 of the school year preceding the school year in which the cyber
28 charter school proposes to commence operation.

29 (e) Grant or denial.--Within 120 days of receipt of an
30 application, the department shall grant or deny the application.

1 The department shall review the application and shall hold at
2 least one public hearing under 65 Pa.C.S. Ch. 7 (relating to
3 open meetings). At least 30 days prior to the hearing, the
4 department shall publish in the Pennsylvania Bulletin and on the
5 department's World Wide Web site notice of the hearing and the
6 purpose of the application.

7 (f) Evaluation criteria.--

8 (1) A cyber charter school application submitted under
9 this subdivision shall be evaluated by the department based
10 on the following criteria:

11 (i) The demonstrated, sustainable support for the
12 cyber charter school plan by teachers, parents or
13 guardians and students.

14 (ii) The capability of the cyber charter school
15 applicant, in terms of support and planning, to provide
16 comprehensive learning experiences to students under the
17 charter.

18 (iii) The extent to which the programs outlined in
19 the application will enable students to meet the academic
20 standards under 22 Pa. Code Ch. 4 (relating to academic
21 standards and assessment) or subsequent regulations
22 promulgated to replace 22 Pa. Code Ch. 4.

23 (iv) The extent to which the application meets the
24 requirements of section 1747-A.

25 (v) The extent to which the cyber charter school may
26 serve as a model for other public schools.

27 (2) Written notice of the action of the department shall
28 be sent by certified mail to the applicant and published on
29 the department's World Wide Web site. If the application is
30 denied, the reasons for denial, including a description of

1 deficiencies in the application, shall be clearly stated in
2 the notice.

3 (3) Upon approval of a cyber charter school application,
4 a written charter shall be developed which shall contain the
5 provisions of the charter application and be signed by the
6 secretary and each member of the board of trustees of the
7 cyber charter school. The charter, when duly signed, shall
8 act as legal authorization of the establishment of a cyber
9 charter school. The charter shall be legally binding on the
10 department, the cyber charter school and its board of
11 trustees. The charter shall be for a period of [no less than
12 three years nor more than] five years and may be renewed for
13 a period of [five] ten years by the department.

14 (4) The decision of the department to deny an
15 application may be appealed to the appeal board.

16 (g) Denied application.--A cyber charter school applicant
17 may revise and resubmit a denied application to the department.
18 The department shall grant or deny the revised application
19 within 60 days after its receipt.

20 (h) Appeal.--If the department fails to hold the required
21 public hearing or to approve or disapprove the charter, the
22 applicant may file its application as an appeal to the appeal
23 board. The appeal board shall review the application and make a
24 decision to approve or disapprove the charter based on the
25 criteria in subsection (f).

26 Section 7. This act shall take effect in 60 days.