
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1

Session of
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INTRODUCED BY LEWIS, KAIL, LEWIS DELROSSO, KAUFFMAN, RYAN,
ZIMMERMAN, OWLETT, ROWE, KEEFER, ORTITAY, PENNYCUICK,
ROTHMAN, M. MACKENZIE, BERNSTINE, DOWLING, METCALFE, JONES
AND GROVE, JULY 19, 2021

REFERRED TO COMMITTEE ON EDUCATION, JULY 19, 2021

AN ACT

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

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

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

25 Section 129. Learning pod protection.--(a) Notwithstanding

1 any other provision of law to the contrary, a learning pod shall
2 be exempt from the following provisions:

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

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

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

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

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

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

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

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

28 (e) No State agency, local government or school district may
29 require that any learning pod be in any manner required to
30 register or otherwise report any information related to the

1 operation of the learning pod.

2 (f) This section shall not alter the regulation of any day-
3 care center, child-care center or home-day-care center related
4 to any operations or other matters not directly related to the
5 operation of a learning pod.

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

8 (1) Compliance of this section with any State or local law,
9 regulations, guidelines or school district guideline or other
10 action shall be a judicial question and determined without
11 regard to any assertion of compliance with this section.

12 (2) Any State or local law, regulation, guideline or school
13 district guidelines or other action shall be required to
14 establish by clear and convincing evidence that law, regulation,
15 guideline or action:

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

18 (ii) Does not single out educational activities while
19 similar gatherings of children for recreational or social
20 activities remain unregulated.

21 (iii) Is narrowly tailored to protect the public health and
22 safety.

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

25 "Learning pod." A group of children who otherwise meet the
26 compulsory attendance requirements under Article XIII and meet
27 at various times or places to participate in educational
28 activities. The term shall include payment for any services
29 provided to the children participating in a learning pod by a
30 parent.

1 "Operation of a learning pod." Any actions taken by a parent
2 or individual assisting a parent while engaged in any actions
3 taken to organize, facilitate or operate a learning pod at any
4 facility, home or other structure utilized by a learning pod.

5 Section 130. Advertising.--(a) A paid media advertisement
6 by a public school entity that refers to the cost of tuition or
7 transportation shall not advertise those expenses as free, and
8 any reference to tuition or transportation costs must stipulate
9 that the cost is covered by taxpayer dollars.

10 (b) As used in this section, the following words and phrases
11 shall have the meanings given to them in this subsection:

12 "Paid media advertisement." The term includes a television,
13 radio or movie theater advertisement, billboard, bus poster,
14 newspaper, magazine, publicly accessible Internet website or any
15 other commercial method that may promote enrollment in a public
16 school entity.

17 "Public school entity." A public school district, charter
18 school, cyber charter school, regional charter school,
19 intermediate unit or area vocational-technical career and
20 technical school.

21 Section 2. Section 1525 of the act is amended to read:

22 Section 1525. Agreements with Institutions of Higher
23 Education.--Notwithstanding any other provision of law to the
24 contrary, a school district, charter school, regional charter
25 school, cyber charter school or area career and technical school
26 may enter into an agreement with one or more institutions of
27 higher education approved to operate in this Commonwealth in
28 order to allow [resident] students to attend such institutions
29 of higher education while the [resident] students are enrolled
30 in the school district, charter school, regional charter school,

1 cyber charter school or area career and technical school. The
2 agreement may be structured so that high school students may
3 receive credits toward completion of courses at the school
4 district, charter school, regional charter school, cyber charter
5 school or area career and technical school and at institutions
6 of higher education approved to operate in this Commonwealth.

7 Section 3. The definitions of "concurrent student" and
8 "school entity" in section 1602-B of the act are amended to
9 read:

10 Section 1602-B. Definitions.

11 The following words and phrases when used in this article
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 * * *

15 "Concurrent student." A student who is enrolled in a school
16 district, a charter school, a regional charter school, a cyber
17 charter school, an area career and technical school, a nonpublic
18 school, a private school or a home education program under
19 section 1327.1 and who takes a concurrent course through a
20 concurrent enrollment program.

21 * * *

22 "School entity." A school district, a charter school, a
23 regional charter school, a cyber charter school or an area
24 career and technical school.

25 * * *

26 Section 4. Sections 1611-B and 1613-B of the act are amended
27 by adding subsections to read:

28 Section 1611-B. Responsibilities of school entities.

29 * * *

30 (g) Revenue received by school district.--Notwithstanding

1 any provision of law to the contrary, the revenues received by a
2 school district under section 1603-B shall not be included in
3 the school district's budgeted total expenditure per average
4 daily membership used to calculate the amount to be paid to a
5 charter school entity under section 1725-A(a)(2) and (3).

6 Section 1613-B. Concurrent enrollment agreements.

7 * * *

8 (c) Charter schools, regional charter schools and cyber
9 charter schools.--Charter schools, regional charter schools and
10 cyber charter schools shall have the power and authority to
11 enter into a concurrent enrollment agreement with an institution
12 of higher education, and appropriate credit shall be awarded to
13 students concurrently enrolled under the agreement.

14 Section 5. Section 1703-A of the act is amended to read:

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

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

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

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

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

1 charter; or

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

6 "Appeal board" shall mean the State Charter School Appeal
7 Board established by this article.

8 "Assessment" shall mean the Pennsylvania System of School
9 Assessment test, the Keystone Exam or another test established
10 or approved by the State board or the General Assembly to meet
11 the requirements of section 2603-B or 2604-B or 22 Pa. Code §
12 4.51 (relating to State assessment system) or required under the
13 Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802)
14 or its successor Federal statute.

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

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

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

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

1 "Charter school foundation" shall mean a nonprofit
2 organization under section 501(c)(3) of the Internal Revenue
3 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that
4 provides funding, resources or otherwise serves to support a
5 charter school entity, either directly or through an affiliated
6 entity.

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

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

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

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

24 "Educational management service provider" shall mean a
25 nonprofit charter management organization, for-profit education
26 management organization, school design provider, business
27 manager or any other partner entity with which a board of
28 trustees of a charter school entity contracts to provide
29 educational design, business services, comprehensive management
30 or personnel functions or to implement the charter. The term

1 shall not include a charter school foundation.

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

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

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

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

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

20 "School entity" shall mean a school district, intermediate
21 unit, joint school or area career and technical school.

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

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

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

29 Section 6. The act is amended by adding a section to read:

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

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

4 (1) The elected governing authority of a county
5 or municipality.

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

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

8 (4) The State Board of Education.

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

11 (6) The Public Charter School Commission established in
12 subsection (c).

13 (b) Public university authorizers are established in this
14 Commonwealth. A public university authorizer shall be
15 responsible for sponsoring a charter school. The responsibility
16 for maintaining sponsorship shall rest with the university's
17 board of trustees. The university's board of trustees may vote
18 to assign sponsorship authority and sponsorship responsibilities
19 to another person or entity that functions under the direction
20 of the university's board. Prior to a university sponsoring a
21 charter school, the university must conduct a public meeting
22 with public notice in the county where the charter school will
23 be located. A charter authorizer shall:

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

27 (2) Execute contracts, incorporating and consistent with
28 approved applications, between the authorizer and public charter
29 schools detailing the rights and responsibilities of the
30 authorizer and the charter school and setting forth the academic

1 and operational performance expectations and measures by which
2 the charter school will be judged. The authorizer may choose to
3 make the approved application the charter contract.

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

6 (4) Establish, through formal rulemaking, renewal and
7 revocation criteria and processes for the charter schools it
8 oversees.

9 (c) In reviewing and evaluating charter applications,
10 authorizers shall employ procedures, practices and criteria
11 consistent with this section. The application review process
12 shall include thorough evaluation of each written charter
13 application, an in-person interview with the applicant group and
14 an opportunity in a public forum for local residents to learn
15 about and provide input on each application. The authority shall
16 provide each applicant with a detailed analysis of the
17 application and grant the applicant a reasonable time to provide
18 additional materials and amendments to an application to address
19 any identified deficiencies. In deciding whether to approve
20 charter applications, an authorizer shall:

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

25 (2) Base decisions on documented evidence collected through
26 the application review process.

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

30 (d) No later than thirty (30) days after the filing of a

1 charter application, the authorizer shall decide to approve or
2 deny the charter application. The authorizer shall adopt by
3 resolution all charter approval or denial decisions in an open
4 meeting of the authorizer's governing board. An approval
5 decision may include, if appropriate, reasonable conditions that
6 the charter applicant must meet before a charter contract may be
7 executed under this section. Conditions under this subsection
8 may not include enrollment caps or operational requirements that
9 in any manner contradict this section. For any charter denial,
10 the authorizer shall clearly state, for public record, any
11 reasons for denial. A denied applicant may subsequently reapply
12 to any authorizer in this Commonwealth.

13 (e) Within fifteen (15) days of an action to approve or deny
14 a charter application, the authorizer shall report the action to
15 the Department of Education. The authorizer shall provide a copy
16 of the report to the charter applicant at the same time that the
17 report is submitted to the Department of Education. The report
18 shall include a copy of the authorizer governing board's
19 resolution setting forth the action taken and reasons for the
20 decision and assurances as to compliance with all of the
21 procedural requirements and application elements set forth in
22 this section.

23 (f) A charter may be renewed for successive ten-year terms
24 of duration, although the authorizer may vary the term based on
25 the performance, demonstrated capacities and particular
26 circumstances of each public charter school. An authorizer may
27 grant renewal with specific conditions for necessary
28 improvements to a public charter school, but may not impose
29 conditions inconsistent with this section. No later than July 30
30 of each year, the authorizer shall issue a public charter school

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

12 (g) The renewal application guidance shall:

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

14 (i) Present additional evidence, beyond the data contained
15 in the performance report, supporting its case for
16 charter renewal.

17 (ii) Describe improvements undertaken or planned for the
18 school.

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

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

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

1 authorizer shall:

2 (1) Ground its decisions in evidence of the school's
3 performance over the term of the charter contract in accordance
4 with the performance framework set forth in the charter
5 contract.

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

8 (3) Provide a public report summarizing the evidence basis
9 for each decision.

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

14 (1) commits a material and substantial violation of any of
15 the terms, conditions, standards or procedures required under
16 this section or the charter contract, and has persistently
17 failed to correct the violation after fair and specific notice
18 from the authorizer;

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

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

24 (4) substantially violates any material provision of law
25 from which the public charter school was not exempted and has
26 failed to correct the violation after fair and specific notice
27 from the authorizer.

28 (j) In the case of a violation that threatens the health and
29 safety of the students of any public charter school or if
30 members of the public charter school committed a material

1 violation of the law, the authorizer may take immediate action.

2 (k) An authorizer must develop revocation and nonrenewal
3 processes that:

4 (1) Provide the holders of the charter with a timely
5 notification of the prospect of revocation or nonrenewal and of
6 the reasons for possible closure.

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

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

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

15 (5) Permit the recording of proceedings.

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

19 (7) If an authorizer revokes or does not renew a charter,
20 clearly states, in a resolution of its governing board, the
21 reasons for the revocation or nonrenewal.

22 (1) Within thirty (30) days of taking action, the authorizer
23 shall report to the Department of Education the action taken,
24 and shall provide a copy of the report to the public charter
25 school at the same time that the report is submitted to the
26 Department of Education. The report shall include a copy of the
27 authorizer governing board's resolution setting forth the action
28 taken and reasons for the decision and assurances as to
29 compliance with all of the requirements of this section.

30 (m) Prior to any public charter school closure decision, an

1 authorizer shall have developed a public charter school closure
2 protocol to ensure timely notification to parents, orderly
3 transition of students and student records to new schools, and
4 proper disposition of school funds, property and assets in
5 accordance with the requirements of this section. The protocol
6 shall specify tasks, timelines and responsible parties,
7 including delineating the respective duties of the school and
8 the authorizer. In the event of a public charter school closure
9 for any reason, the authorizer shall oversee and work with the
10 closing school to ensure a smooth and orderly closure and
11 transition for students and parents, as guided by the closure
12 protocol. In the event of a public charter school closure for
13 any reason, the assets of the school shall be distributed first
14 to satisfy outstanding payroll obligations for employes of the
15 school, then to creditors of the school, and then to the State
16 Treasury to the credit of the General Fund. If the assets of the
17 school are insufficient to pay all parties to whom the school
18 owes compensation, the prioritization of the distribution of
19 assets may be determined by decree of a court of law.

20 (n) The Public Charter School Commission is established in
21 the Commonwealth. The commission shall authorize high-quality
22 public charter schools in this Commonwealth consistent with this
23 section. The commission shall consist of eleven (11)
24 geographically diverse citizens of this Commonwealth, no more
25 than six (6) of whom shall be members of the same political
26 party, who shall be appointed as follows:

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

28 (2) Three (3) members shall be appointed by the President
29 pro tempore of the Senate and one (1) member by the Minority
30 Leader of the Senate.

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

4 (o) Members appointed to the commission shall collectively
5 possess experience and expertise in public and nonprofit
6 governance, management and finance, public school leadership,
7 assessment, curriculum and instruction and public education law.
8 All members of the commission shall have demonstrated
9 understanding of and commitment to charter schooling as a
10 strategy for strengthening public education by providing
11 additional high-quality choices.

12 (p) The first appointment of the Governor, the first
13 appointment of the President pro tempore of the Senate and the
14 first appointment of the Speaker of the House of Representatives
15 shall serve an initial term of four (4) years. The second
16 appointment by the Governor and the first appointment of the
17 Minority Leader of the Senate and the Minority Leader of the
18 House of Representatives shall serve an initial term of three
19 (3) years. All remaining appointments shall serve an initial
20 term of two (2) years. The initial appointments shall be made no
21 later than thirty (30) days after the effective date of this
22 section. A member may be reappointed, however no member may be
23 appointed to a new term after the member has served seven (7)
24 consecutive years.

25 (g) A member of the commission may be removed for
26 any cause that renders the member incapable or unfit to
27 discharge the duties of the office. If a vacancy on the
28 commission exists, the original appointing authority shall
29 appoint a member for the remaining portion of the term.

30 (r) The members of the commission shall annually elect one

1 individual from its membership to serve as chairperson after
2 members of the commission have been appointed to fill any
3 vacancies caused by the regular expiration of previous members'
4 terms, or when requested by a majority vote of the members of
5 the commission. A majority of the members of the commission
6 shall constitute a quorum. The commission shall meet at the call
7 of the chairperson, subject to any hearing requirements of the
8 commission.

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

12 (t) Subject to any rules as may be promulgated by the
13 commission, the chairperson shall have the authority to appoint,
14 terminate and fix the pay of an executive director and other
15 personnel of the commission as the chairperson deems
16 necessary. The commission shall be authorized to use the
17 services, personnel and facilities of the Department of
18 Education. Any start-up expenses of the commission shall be paid
19 from funds available to the Department of Education. Within
20 forty-five (45) days of the effective date of this section, the
21 Department of Education shall make available no less than
22 \$150,000 to the commission.

23 (u) The commission shall provide for an audit of the
24 financial statements of the commission by an independent
25 certified public accountant in accordance with auditing
26 standards for financial audits issued by the Comptroller General
27 of the United States.

28 (v) The sum of \$300,000 may be appropriated to the
29 commission for fiscal year 2021 and such sums as may be
30 necessary for each of the three (3) succeeding fiscal years.

1 This appropriation shall not lapse.

2 (w) The Commonwealth shall remit to each authorizer under
3 subsection (a) an oversight fee for each public charter school
4 the authorizer approves. The oversight fee shall be drawn from
5 and calculated as a uniform percentage of the per-student
6 operational funding allocated to each public charter school, not
7 to exceed three per centum of each public charter school's per-
8 student funding in a single school year. The Department of
9 Education shall establish a Statewide formula for authorizer
10 funding, which shall apply uniformly to every authorizer in this
11 Commonwealth. The General Assembly may establish a sliding scale
12 for authorizer funding, with the funding percentage decreasing
13 after the authorizer has achieved a threshold determined by the
14 General Assembly. An authorizer's oversight fee may not include
15 any costs incurred in delivering services that a public charter
16 school may purchase at its discretion from the authorizer. The
17 authorizer shall use funding provided under this section
18 exclusively for the purpose of fulfilling authorizing
19 obligations in accordance with this section.

20 (x) The commission shall operate with dedicated resources
21 and staff qualified to execute the day-to-day responsibilities
22 of a public charter school authorized in accordance with this
23 section.

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

26 (1) The academic and financial performance of all operating
27 public charter schools overseen by the commission, according to
28 the performance expectations for public charter schools set
29 forth in this section.

30 (2) The status of the commission's public charter school

1 portfolio, identifying all public charter schools in each of the
2 following categories:

3 (i) approved but not yet open;

4 (ii) operating;

5 (iii) renewed;

6 (iv) transferred;

7 (v) revoked;

8 (vi) not renewed;

9 (vii) voluntarily closed; or

10 (viii) never opened.

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

16 (z) As used in this section, the term "commission" means the
17 Public Charter School Commission established under subsection
18 (c).

19 Section 7. Section 1715-A of the act is amended to read:

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

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

30 (2) A charter school entity shall be accountable to the

1 parents, the public and the Commonwealth, with the delineation
2 of that accountability reflected in the charter. Strategies for
3 meaningful parent and community involvement shall be developed
4 and implemented by each school.

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

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

9 (5) [A] (i) Subject to subparagraph (ii), a charter school
10 entity shall not provide any religious instruction, nor shall it
11 display religious objects and symbols on the premises of the
12 charter school entity.

13 (ii) It shall not be a violation of this paragraph for a
14 charter school entity to utilize a sectarian facility:

15 (A) if the charter school entity provides for discrete and
16 separate entrances to buildings utilized for school purposes
17 only;

18 (B) if the religious objects and symbols within the portions
19 of the facility utilized by the school are covered or removed to
20 the extent reasonably feasible; or

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

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

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

28 (8) A charter school entity shall participate in the
29 Pennsylvania State Assessment System as provided for in 22 Pa.
30 Code Ch. 5 (relating to curriculum), or subsequent regulations

1 promulgated to replace 22 Pa. Code Ch. 5, in the manner in which
2 the school district in which the charter school entity is
3 located is scheduled to participate.

4 (9) A charter school entity shall provide a minimum of one
5 hundred eighty (180) days of instruction or nine hundred (900)
6 hours per year of instruction at the elementary level, or nine
7 hundred ninety (990) hours per year of instruction at the
8 secondary level. Nothing in this clause shall preclude the use
9 of computer and satellite linkages for delivering instruction to
10 students.

11 (10) Boards of trustees and contractors of charter [schools]
12 school entities shall be subject to the following statutory
13 requirements governing construction projects and construction-
14 related work:

15 (i) The following provisions of this act:

16 (A) Sections 751 and 751.1.

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

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

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

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

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

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

30 (12) A person who serves as an administrator for a charter

1 school shall not receive compensation from another charter
2 school or from a company that provides management or other
3 services to another charter school. The term "administrator"
4 shall include the chief executive officer of a charter school
5 and all other employees of a charter school who by virtue of
6 their positions exercise management or operational oversight
7 responsibilities. A person who serves as an administrator for a
8 charter school shall be a public official under 65 Pa.C.S. Ch.
9 11 (relating to ethics standards and financial disclosure). A
10 violation of this clause shall constitute a violation of 65
11 Pa.C.S. § 1103(a) (relating to restricted activities), and the
12 violator shall be subject to the penalties imposed under the
13 jurisdiction of the State Ethics Commission.] for the purposes
14 of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial
15 disclosure) and shall file a statement of financial interests
16 for the preceding calendar year with the State Ethics Commission
17 and either the local board of school directors in the case of a
18 charter school or regional charter school, or the department in
19 the case of a cyber charter school, not later than May 1 of each
20 year that members hold the position and of the year after a
21 member leaves the position. All members of the board of trustees
22 of a charter school entity shall take the oath of office as
23 required under section 321 before entering upon the duties of
24 their office.

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

1 position.

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

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

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

14 (2) A copy of the sworn statement under clause (1)(i) and
15 the resolution by the board of trustees granting the permission
16 under clause (1)(ii) shall be provided to, and kept on file
17 with, the charter school entity and the local board of school
18 directors or, in the case of a cyber charter school, the
19 department.

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

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

28 (ii) An administrator who knowingly violates this clause
29 commits a violation of 65 Pa.C.S. § 1103(a) (relating to
30 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 8. 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).

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

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

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

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

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

25 (c) The board of trustees shall comply with [the act of July
26 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."] 65
27 Pa.C.S. Ch. 7 (relating to open meetings).

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

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

7 (2) Within one (1) year of the effective date of this
8 subsection, at least one member of the board of trustees of a
9 charter school entity shall be a parent of a child currently
10 attending the charter school entity. The board of trustees
11 member provided for under this paragraph shall be eligible to
12 serve only so long as the child attends the charter school
13 entity. This paragraph shall not apply to a charter school that
14 primarily serves adjudicated youth.

15 (e) (1) A majority of the voting members of the board of
16 trustees shall constitute a quorum. If less than a majority is
17 present at any meeting, no business may be transacted at the
18 meeting.

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

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

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

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

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

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

13 (5) Review of the financial statements of any charter school
14 foundation.

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

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

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

29 (h) A charter school entity may be subject to an annual
30 audit by the Auditor General, in addition to any other audits

1 required by Federal law or this act.

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

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

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

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

13 (4) All expenditures to an educational management service
14 provider.

15 (j) (1) Notwithstanding any other provision of law, a
16 charter school entity and any affiliated charter school
17 foundation shall make copies of its annual Federal and State tax
18 filings available upon request and on the charter school
19 entity's or foundation's publicly accessible Internet website,
20 if available, including Internal Revenue Service Form 990,
21 Return of Organization Exempt from Income Tax and all related
22 schedules and appendices.

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

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

30 Section 1722-A. Facilities.--(a) A charter school entity

1 may be located in an existing public school building, in a part
2 of an existing public school building, in space provided on a
3 privately owned site, in a public building or in any other
4 suitable location.

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

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

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

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

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

20 (2) A school entity shall accept an offer from a charter
21 school entity that conforms to the provisions of paragraph (1).

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

30 (4) The following shall apply to the sale or lease of a

1 public school building or a part of a public school building by
2 a school entity:

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

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

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

12 (B) Accept the best offer, if the offers differ in dollar
13 amount.

14 (d) Notwithstanding any other provision of this act, [a
15 school district of the first class may, in its discretion,
16 permit a charter school to operate its school at more than one
17 location.] a charter school or regional charter school that does
18 not have in the written charter any limits on student enrollment
19 or caps is permitted to operate the school at more than one
20 location within the district that authorized the charter.

21 * * *

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

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

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

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

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

21 (g) As used in this section, "charter school entity" shall
22 mean a charter school, regional charter school or cyber charter
23 school.

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

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

27 (1) For the 2021-2022 school year and each school year
28 thereafter, a charter school entity shall not accumulate an
29 unassigned fund balance greater than the charter school entity
30 unassigned fund balance limit, which will be determined as

1 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>

14 (2) For the 2021-2022 school year and each school year
15 thereafter, any unassigned fund balance in place on June 30,
16 2020, and on June 30 of each year thereafter in excess of the
17 charter school entity unassigned fund balance limit shall be
18 refunded on a pro rata basis within ninety (90) days to all
19 school districts that paid tuition to the charter school entity
20 in the prior school year, based upon the number of students for
21 whom each school district paid tuition to the charter school
22 entity multiplied by the school district's per student payment
23 under section 1725-A.

24 (3) By October 31, 2020, and by October 31 of each year
25 thereafter, each charter school entity shall provide the
26 department and all school districts that paid tuition to the
27 charter school entity in the prior school year with information
28 certifying compliance with this section. The information shall
29 be provided in a form and manner prescribed by the department
30 and shall include information on the charter school entity's

1 estimated ending unassigned fund balance expressed as a dollar
2 amount and as a percentage of the charter school entity's total
3 budgeted expenditures for that school year.

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

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

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

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

27 Section 10. Section 1744-A(2) of the act is amended to read:

28 Section 1744-A. School district and intermediate unit
29 responsibilities.

30 An intermediate unit or a school district in which a student

1 enrolled in a cyber charter school resides shall do all of the
2 following:

3 * * *

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

7 * * *

8 Section 11. Section 2006-B of the act is amended by adding
9 subsections to read:

10 Section 2006-B. Limitations.

11 * * *

12 (a.1) Amount.--

13 (1) Notwithstanding the provisions of subsection (a),
14 the total aggregate amount of all tax credits approved for
15 contributions from business firms to scholarship
16 organizations, educational improvement organizations and pre-
17 kindergarten scholarship organizations shall not exceed
18 \$250,000,000 in fiscal year 2020-2021.

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

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

25 (iii) The total aggregate amount of all tax credits
26 approved for contributions from business firms to pre-
27 kindergarten scholarship organizations shall not exceed
28 \$15,000,000 or 10% of the total aggregate amount under
29 this paragraph.

30 (2) The total aggregate amount of all tax credits

1 approved for contributions from business firms to opportunity
2 scholarship organizations shall not exceed \$150,000,000 in a
3 fiscal year.

4 (a.2) Increases.--

5 (1) Beginning in fiscal year 2021-2022, in any fiscal
6 year in which the total aggregate amount of tax credits
7 approved under subsection (a)(1) for the prior fiscal year is
8 equal to or greater than 90% of the total aggregate amount of
9 all tax credits available under subsection (a)(1) for the
10 prior fiscal year, the total aggregate amount of all tax
11 credits available under subsection (a)(1) shall increase by
12 25%. The department shall publish on its publicly accessible
13 Internet website the total aggregate amount of all tax
14 credits available when the amount is increased under this
15 paragraph.

16 (2) Beginning in fiscal year 2021-2022, in any fiscal
17 year in which the total aggregate amount of tax credits
18 approved under subsection (a)(2) for the prior fiscal year is
19 equal to or greater than 90% of the total aggregate amount of
20 all tax credits available under subsection (a)(2) for the
21 prior fiscal year, the total aggregate amount of all tax
22 credits available under subsection (a)(2) shall increase by
23 25%. The department shall publish on its publicly accessible
24 Internet website the total aggregate amount of all tax
25 credits available when the amount is increased under this
26 paragraph.

27 * * *

28 Section 12. The act is amended by adding an article to read:

29 ARTICLE XX-K

30 EDUCATION OPPORTUNITY ACCOUNTS

1 Section 2001-K. Short title.

2 This article shall be known and may be cited as the Education
3 Opportunity Account Act.

4 Section 2002-K. Definitions.

5 The following words and phrases when used in this article
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Applicant." A parent who applies for an education
9 opportunity account under section 2003-K(b) on behalf of an
10 eligible student.

11 "Average per pupil expenditure." The aggregate current
12 expenditures of the school district divided by the total number
13 of children enrolled in the district for whom they provide free
14 public education.

15 "Department." The Department of Education of the
16 Commonwealth.

17 "Education opportunity account." A spending account
18 established and administered by the State Treasury, and
19 controlled by a parent, for a school-age child with money that
20 may be spent on a qualified education expense as provided under
21 section 2005-K.

22 "Eligible student." A school-age child who meets the
23 requirements under section 2003-K(b) and whose parent has
24 entered into an agreement under section 2003-K(d).

25 "Institution of higher education." As defined under section
26 118(c).

27 "Nonpublic school." A school, other than a public school,
28 located in this Commonwealth where a Commonwealth resident may
29 legally fulfill the compulsory attendance requirements of this
30 act, that complies with section 1521 and meets the applicable

1 requirements of Title VI of the Civil Rights Act of 1964 (Public
2 Law 88-352, 78 Stat. 241).

3 "Parent." An individual who:

4 (1) is a resident of this Commonwealth; and

5 (2) either:

6 (i) has legal custody or guardianship of a student;

7 or

8 (ii) keeps in the individual's home a student and

9 supports the student gratis as if the student were a

10 lineal descendant of the individual.

11 "Participating entity." The following:

12 (1) Any of the following where a school-age child

13 receives instruction or support under section 2003-K(d):

14 (i) A nonpublic school for grades kindergarten

15 through 12, or a combination of grades.

16 (ii) An institution of higher education.

17 (iii) A distance learning program.

18 (iv) A tutor who is a teacher licensed in any state,

19 has tutored or taught at an eligible postsecondary

20 institution, has tutored or taught at an eligible

21 nonpublic school or is a subject matter expert or a tutor

22 or tutoring agency otherwise approved by the department.

23 (v) A counselor who is licensed or accredited by the

24 the Commonwealth to work with school-age children.

25 (vi) A provider of home education services or

26 curriculum that adheres to education laws of the

27 Commonwealth.

28 (2) The term does not include a parent of a school-age

29 child to the extent that the parent provides educational

30 services directly to the school-age child.

1 "Program." The Education Opportunity Account Program
2 established under section 2003-K(a).

3 "Public school." A school district, charter school, cyber
4 charter school, regional charter school, intermediate unit or
5 area career and technical school.

6 "Receiving school district." A school district in which a
7 potential transfer student does not reside and a potential
8 transfer student would like to attend.

9 "Resident school district." The school district in which a
10 school-age child resides.

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

13 "Sending school district." The school district in which a
14 potential transfer student resides.

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

16 (1) is subject to an individualized education program
17 under the Individuals with Disabilities Education Act (Public
18 Law 91-230, 20 U.S.C. § 1400 et seq.) and 22 Pa. Code Ch. 14
19 (relating to special education services and programs);

20 (2) is subject to a section 504 service agreement under
21 section 504 of the Rehabilitation Act of 1973 (Public Law 93-
22 112, 29 U.S.C. § 701 et seq.) and 22 Pa. Code Ch. 15
23 (relating to protected handicapped students);

24 (3) is subject to a gifted individualized education plan
25 under 22 Pa. Code Ch. 16 (relating to special education for
26 gifted students);

27 (4) is eligible for early intervention services under 55
28 Pa. Code § 4226.22 (relating to eligibility for early
29 intervention services; or

30 (5) meets the definition of "child with a disability"

1 under the Individuals with Disabilities Education Act or who
2 meets the definition of a "handicapped person" under section
3 504 of the Rehabilitation Act of 1973 and its implementing
4 regulations under 34 CFR 104.3(j) (relating to definitions).
5 The term includes a student for whom an evaluation is pending
6 under either the Individuals with Disabilities Education Act
7 or Rehabilitation Act of 1973.

8 Section 2003-K. Establishment, application and agreement.

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

11 (b) Individuals who may apply.--A parent may apply for an
12 education opportunity account for any school-age child in this
13 Commonwealth.

14 (c) Application form.--The form may not exceed one page that
15 measures 8.5 inches by 11 inches and may be filled out and
16 submitted through the department's publicly accessible Internet
17 website.

18 (d) Review and approval.--The department shall review the
19 application to determine if the applicant meets the requirements
20 under subsection (b). If the requirements have been met, the
21 department shall approve the application and enter into an
22 agreement with the applicant. The agreement shall provide that:

23 (1) The school-age child:

24 (i) withdraw from public school; and

25 (ii) receive instruction in this Commonwealth from a
26 participating entity and/or enroll in a home education
27 program as provided in section 1327.1 for the school year
28 for which the agreement applies.

29 (2) The school-age child shall not accept a scholarship
30 in the educational improvement tax credit program under

1 Article XX-B or the opportunity scholarship tax credit
2 program under Article XX-B.

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

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

8 (e) Education opportunity account.--The following shall
9 apply:

10 (1) If an agreement is entered into under subsection
11 (d), an education opportunity account shall be established.
12 The education opportunity account shall be administered by
13 the State Treasury under this article.

14 (2) Failure of a parent to enter into an agreement under
15 subsection (d) for a school year shall not preclude the
16 parent from entering into an agreement for a subsequent
17 school year if the school-age child is eligible under
18 subsection (b).

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

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

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

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

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

30 (1) An agreement entered into under subsection (d) shall

1 terminate automatically if the school-age child no longer
2 resides in this Commonwealth.

3 (2) The parent shall notify the department if the child
4 no longer resides in this Commonwealth within 15 days of the
5 change of residence. After the child's parent has notified
6 the department, money remaining in the education opportunity
7 account shall revert to the State Treasury and be used in the
8 resident school district.

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

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

13 (2) Failure of a parent to renew an agreement for a
14 school year shall not preclude a parent from renewing the
15 agreement for a subsequent school year if the school-age
16 child remains eligible under subsection (b).

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

21 (k) Explanation.--Upon entering into an agreement under
22 subsection (d) or renewing an agreement under subsection (i),
23 the department shall provide the parent with a written
24 explanation of the authorized uses of the money in the education
25 opportunity account and the responsibilities of the parent, the
26 department and the State Treasury under the agreement and this
27 article.

28 (l) Application and renewal period.--The following shall
29 apply:

30 (1) A parent may apply or seek renewal between January 1

1 and April 1 for the following school year.

2 (2) The department shall notify parents and school
3 districts of approved applications by April 30.

4 Section 2004-K. Amount.

5 (a) General rule.--If a parent of an eligible student enters
6 into or renews an agreement under section 2003-K with the
7 department for a school year, the Secretary of Education shall
8 deposit a grant for that school year in the education
9 opportunity account of the eligible student. The amount of the
10 grant shall be as follows:

11 (1) For an eligible student who does not have a
12 disability, the grant amount shall be equal to the State
13 revenue received by school districts minus the State revenue
14 received for transportation divided by the State total
15 average daily membership.

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

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

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

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

27 (3) For an eligible student receiving a grant, the
28 amount of basic education funding and other subsidies paid by
29 the department to the resident school district shall be
30 reduced by the grant amount calculated for the student.

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

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

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

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

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

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

28 Section 2005-K. Qualified education expenses.

29 (a) General rule.--Money deposited in an education
30 opportunity account may be used to pay for any of the following

1 expenses incurred by or associated with the school-age child:

2 (1) Tuition, fees and uniforms required by a
3 participating entity.

4 (2) Textbooks or uniforms required by a participating
5 entity.

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

8 (4) Fees for a nationally norm-referenced test, advanced
9 placement or similar examination or standardized examination
10 required for admission to an institution of higher education
11 and career and technical education examination fees.

12 (5) Curriculum, textbooks or other instructional
13 materials.

14 (6) Hardware, software and Internet connectivity
15 associated with instruction or any of the qualifying expenses
16 described in this subsection.

17 (7) If the eligible student is a student with a
18 disability, fees for special instruction or special services
19 provided to the eligible student, including occupational,
20 physical, speech and behavioral therapies.

21 (8) Costs associated with evaluation and identification
22 of special needs.

23 (9) Other valid educational expenses approved by the
24 department.

25 (b) Prohibitions.--A participating entity that receives a
26 payment for qualified education expenses authorized under
27 subsection (a) may not:

28 (1) Refund a portion of the payment directly to the
29 parent who made the payment.

30 (2) Rebate or otherwise directly share a portion of the

1 payment with the parent who made the payment.

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

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

8 (1) The State Treasury shall develop a system that
9 enables a parent to pay for services provided by
10 participating entities under the program by electronic money
11 transfer, including electronic payment systems or other means
12 of electronic payment that the State Treasury determines to
13 be commercially viable and cost effective.

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

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

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

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

25 Section 2006-K. Audits and penalties.

26 (a) Audit.--The State Treasury may provide for audits of an
27 education opportunity account as the State Treasury determines
28 necessary.

29 (b) Penalties.--If the State Treasury determines that money
30 in an education opportunity account has been expended for an

1 expense other than a qualified education expense under section
2 2005-K(a), the State Treasury may do any of the following:

3 (1) Freeze or dissolve the education opportunity
4 account, subject to regulations adopted by the State Treasury
5 providing for notice of the action and opportunity to respond
6 to the notice.

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

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

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

15 Section 2007-K. Accountability standards for a participating
16 entity.

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

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

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

22 (3) Comply with the nondiscrimination policies set forth
23 in section 1977 of the Civil Rights Act of 1991 (Public Law
24 102-166, 105 Stat. 1071) and with section 1521.

25 (4) Comply with the provisions of sections 111 and
26 111.1.

27 (b) Financial accountability standards.--The following shall
28 apply:

29 (1) A participating entity shall provide parents with a
30 receipt for all qualifying expenses incurred by the

1 participating entity.

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

7 (i) a surety bond payable to the Commonwealth in an
8 amount equal to the aggregate amount of money from the
9 education opportunity accounts expected to be paid during
10 the school year on behalf of eligible students admitted
11 at the participating entity; or

12 (ii) financial information that demonstrates that
13 the participating entity has the ability to pay an
14 aggregate amount equal to the amount of money from the
15 educational opportunity accounts expected to be paid
16 during the school year on behalf of eligible students
17 admitted to the participating entity.

18 (c) Academic accountability standards.--The following shall
19 apply:

20 (1) A parent of an eligible student shall ensure that
21 the department is informed of the eligible student's
22 graduation from high school.

23 (2) The department shall:

24 (i) Ensure compliance with all student privacy laws,
25 including the Family Educational Rights and Privacy Act
26 of 1974 (Public Law 90-247, 20 U.S.C. § 1232g).

27 (ii) Administer an annual parental satisfaction
28 survey that shall ask parents of eligible students
29 participating in the program to express:

30 (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-K. 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-K; 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

1 website. A participating entity may appeal the department's
2 decision under this section.

3 Section 2009-K. Duties of resident school districts.

4 (a) School records.--A resident school district shall
5 provide a participating entity that has admitted an eligible
6 student participating in the program with a complete copy of the
7 student's school records immediately upon the student's
8 enrollment or when services in the participating entity begin,
9 subject to the Family Educational Rights and Privacy Act of 1974
10 (Public Law 90-247, 20 U.S.C. § 1232g).

11 (b) Transportation.--A resident school district shall
12 provide transportation for an eligible student to and from the
13 participating entity under the same conditions as the resident
14 school district provides transportation of other resident
15 students to nonpublic schools under section 1361. The resident
16 school district shall qualify for State transportation
17 reimbursement for each eligible student transported.

18 Section 2010-K. Legal proceedings.

19 (a) Liability.--No liability shall arise on the part of the
20 agency, the Commonwealth or a public school or school district
21 based on the award or use of an education opportunity account
22 under this article.

23 (b) Challenges.--If any part of this article is challenged
24 in a State court as violating either the Constitution of the
25 United States or the Constitution of Pennsylvania, parents of
26 eligible students and students who previously had an education
27 opportunity account shall be permitted to intervene as of right
28 in the lawsuit for the purposes of defending the Education
29 Opportunity Account Program's constitutionality. For the
30 purposes of judicial administration, a court may require that

1 all parents file a joint brief but may not require all parents
2 to join a brief filed on behalf of a named State defendant.

3 (c) Severability.--If any provision of this article or the
4 application thereof to any person or circumstance is held
5 invalid, the invalidity shall not affect other provisions or
6 applications of this article which can be given effect without
7 the invalid provision or application, and to this end the
8 provisions of this article are declared to be severable.

9 Section 2011-K. Listing of participating entities.

10 The department shall annually post on the department's
11 publicly accessible Internet website a listing of all
12 participating entities.

13 Section 2012-K. Regulations.

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

17 Section 13. All acts and parts of acts are repealed insofar
18 as they are inconsistent with this act.

19 Section 14. This act shall take effect as follows:

20 (1) The addition of section 130 of the act shall take
21 effect in 180 days.

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

24 (3) The remainder of this act shall take effect
25 immediately.