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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 605 Session of  
2021

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INTRODUCED BY AUMENT, ARGALL, SCHWANK, BROWNE, PHILLIPS-HILL AND  
PITTMAN, APRIL 27, 2021

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REFERRED TO EDUCATION, APRIL 27, 2021

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AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," providing for supplemental online  
6 course initiative; and establishing the Online Course  
7 Clearinghouse Restricted Account.

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

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

13 ARTICLE XV-K

14 SUPPLEMENTAL ONLINE COURSE INITIATIVE

15 Section 1501-K. Definitions.

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

19 "Account." The Online Course Clearinghouse Restricted  
20 Account established under section 1502-K(g).

1 "Assessment." As defined in section 1138.1.

2 "Asynchronous learning." Student participation in cyber  
3 courses at the student's own pace.

4 "Blended-learning." The delivery of instruction in a  
5 combination of time in a supervised physical location away from  
6 home and online delivery whereby the student has some element of  
7 control over time, place, path or pace of learning.

8 "Clearinghouse." The central online clearinghouse  
9 established under section 1502-K.

10 "Department." The Department of Education of the  
11 Commonwealth.

12 "Home education program." A program conducted in compliance  
13 with section 1327.1.

14 "Institution of higher education." The term includes any of  
15 the following:

16 (1) A community college operating under Article XIX-A.

17 (2) A university within the State System of Higher  
18 Education.

19 (3) The Pennsylvania State University.

20 (4) The University of Pittsburgh.

21 (5) Temple University.

22 (6) Lincoln University.

23 (7) A rural regional college.

24 (8) Any other institution that is designated as "State-  
25 related" by the Commonwealth.

26 (9) The Thaddeus Stevens College of Technology.

27 (10) Any accredited private or independent college or  
28 university.

29 "Nonpublic school." A school, other than a public school,  
30 located within this Commonwealth where a Commonwealth resident

1 may legally fulfill the compulsory school attendance  
2 requirements of this act and that meets the applicable  
3 requirements of Title VI of the Civil Rights Act of 1964 (Public  
4 Law 88-352, 78 Stat. 241).

5 "Online course." A course of study that uses technology to  
6 provide asynchronous learning, blended-learning or synchronous  
7 learning to students through the Internet or other electronic  
8 means. The term may include supporting materials related to the  
9 course. The term does not include a platform that offers free  
10 lectures, language lessons and audiobooks from universities and  
11 museums.

12 "Provider." A nonprofit or for-profit organization,  
13 business, institution of higher education or school entity which  
14 has submitted one or more online courses to the department for  
15 inclusion in the clearinghouse established under this article.

16 "School entity." A school district, joint school district,  
17 charter school, regional charter school, cyber charter school,  
18 intermediate unit or area career and technical school.

19 "Secretary." The Secretary of Education of the Commonwealth.

20 "Synchronous learning." Student participation in a cyber  
21 course at the same time, but in a different location, as the  
22 instructor and other students.

23 Section 1502-K. Clearinghouse for online course offerings.

24 (a) Duty to establish.--The department shall establish a  
25 central online clearinghouse which shall at a minimum include an  
26 online database of kindergarten through grade 12 online courses  
27 and shall be accessible by school entities, nonpublic schools,  
28 home education programs and the general public. The  
29 clearinghouse shall offer the following:

30 (1) Beginning with the 2021-2022 school year and each

1 school year thereafter, online courses for all content areas  
2 assessed by an assessment, as well as online courses which  
3 provide supplementary instruction relating to an assessment,  
4 free of charge to school entities. The department may utilize  
5 any existing online courses it has already developed for  
6 content areas assessed by an assessment in meeting the  
7 requirements of this paragraph.

8 (2) Beginning with the 2022-2023 school year and each  
9 school year thereafter, online courses aligned with the State  
10 academic standards for education provided in 22 Pa. Code Ch.  
11 4 (relating to academic standards and assessment) from  
12 providers that have been approved under subsection (c).  
13 Online courses included in the clearinghouse from providers  
14 under this paragraph may be free of charge or subject to  
15 purchase under the provisions of subsection (f).

16 (b) Responsibilities of department.--The department shall:

17 (1) Create an online database that catalogs those online  
18 courses for which an existing online course or an application  
19 was approved under subsection (c) and make the database  
20 available to school entities, nonpublic schools, home  
21 education programs and the general public.

22 (2) Construct the database under paragraph (1) to:

23 (i) Provide information on each online course listed  
24 in the database, including a description of the content  
25 and applicable grade levels of each online course.

26 (ii) Provide each school entity, nonpublic school or  
27 home education program which has utilized an online  
28 course from the clearinghouse the opportunity to present  
29 feedback and rate the online course which the school  
30 entity, nonpublic school or home education program has

1 utilized. In providing feedback, each school entity,  
2 nonpublic school or home education program may, with  
3 discretion and in compliance with all applicable Federal  
4 and State laws, share on the database personal comments  
5 received by the school entity, nonpublic school or home  
6 education program from parents and students about the  
7 online course.

8 (iii) Display feedback and a cumulative rating of an  
9 online course as a part of the information provided about  
10 the online course.

11 (iv) Provide contact information to school entities,  
12 nonpublic schools and home education programs of  
13 providers of online courses cataloged in the  
14 clearinghouse to expedite the purchasing of those online  
15 courses.

16 (3) At least annually, or at any time the provider  
17 notifies the department of updates of an online course  
18 changes, update the database provided for under paragraph  
19 (1).

20 (4) Collect application fees provided for in subsection  
21 (d) and deposit the fees into the account.

22 (5) Utilize the money in the account, including interest  
23 on the money, to pay expenses incurred by the department in  
24 carrying out its duties under this article.

25 (6) Explore the possibility for Federal and private  
26 funding to support the clearinghouse.

27 (7) Upon request, provide assistance to school districts  
28 which have been declared to be in financial recovery status  
29 or identified for financial watch status under Article VI-A  
30 by facilitating the school districts' search for low-cost or

1 no-cost online course options.

2 (c) Applications.--The department shall develop an  
3 application and an application review and approval process that  
4 specify the time, form and manner by which providers may submit  
5 their online course offerings to the department for inclusion in  
6 the clearinghouse. The department shall approve applications  
7 under the following procedures:

8 (1) In the case of an online course which does not  
9 provide instruction in a content area assessed by an  
10 assessment and which is not used to provide supplementary  
11 instruction relating to an assessment, a provider may submit  
12 an application to the department for approval of the online  
13 course through a certification process that the online course  
14 being submitted for inclusion in the clearinghouse is aligned  
15 to the State academic standards for education provided for in  
16 22 Pa. Code Ch. 4. The application for the process under this  
17 paragraph shall include:

18 (i) Evidence that the online course being submitted  
19 for inclusion in the clearinghouse fulfills at least one  
20 of the following criteria:

21 (A) has been approved by another state for use  
22 by its public schools;

23 (B) has been developed by a provider that has  
24 been accredited by a national accreditation body  
25 recognized by the United States Department of  
26 Education; or

27 (C) has been designed by a school entity that  
28 utilizes the online course or provides the online  
29 course to another school entity for its use.

30 (ii) Evidence that the online course being submitted

1 for inclusion in the clearinghouse includes an assessment  
2 component for determining student performance.

3 (iii) Evidence that the online course being  
4 submitted for inclusion in the clearinghouse:

5 (A) Provides a detailed and quality curriculum  
6 and accountability plan.

7 (B) Includes an assessment component for  
8 determining student proficiency.

9 (C) Is adapted to the age, development and needs  
10 of the students.

11 (2) In the case of an online course which does not  
12 provide instruction in a content area assessed by an  
13 assessment and which is not used to provide supplementary  
14 instruction relating to an assessment, a provider may  
15 voluntarily submit an application to the department for  
16 approval of the online course through the department review  
17 process established under paragraph (1).

18 (d) Fees, application review and approval.--The following  
19 shall apply to the establishment of fees and the review and  
20 approval of applications:

21 (1) The department may establish a nonrefundable  
22 administrative fee not to exceed \$75 for the purpose of  
23 reviewing each application submitted by a school entity under  
24 subsection (c)(1).

25 (2) The department may establish a nonrefundable  
26 administrative fee not to exceed \$750 for the purpose of  
27 reviewing each application submitted by a provider other than  
28 a school entity under subsection (c)(2) or (3).

29 (3) If, after a review of an application, the department  
30 determines that the application meets the applicable

1 requirements under subsection (c), the department shall  
2 approve the application, notify the provider of the approval  
3 and include the online course in the database provided for  
4 under subsection (b)(1) until the provider requests that the  
5 online course be removed or the department removes the online  
6 course under the provisions of paragraph (5).

7 (4) If, after a review of an application, the department  
8 determines that the application does not meet the applicable  
9 requirements under subsection (c), the department shall  
10 notify the provider of the reason approval was withheld so  
11 that the provider may revise and resubmit the application.  
12 Any application that has been resubmitted for review shall be  
13 subject to the associated administrative fee authorized by  
14 this subsection.

15 (5) The department may revisit and review any approved  
16 application at any time and remove the associated online  
17 course from the database under subsection (b)(1) if the  
18 department determines that:

19 (i) the information contained in the application was  
20 false or misleading or is no longer accurate;

21 (ii) the online course has been materially changed  
22 or revised so that the approval previously granted for  
23 the online course should not apply and the provider of  
24 the online course has not submitted an application to the  
25 department seeking approval of the revisions to the  
26 online course in accordance with the application and fee  
27 requirements of this section; or

28 (iii) the standards applicable to the course have  
29 materially changed so that the approval previously  
30 granted for the online course should not apply and the

1 provider of the online course has not submitted an  
2 application to the department within 30 days seeking  
3 approval of the online course with revisions to address  
4 the revised standards in accordance with the application  
5 and fee requirements of this section.

6 (e) Appeal.--A determination by the department that an  
7 online course which provides instruction in a content area  
8 assessed by an assessment or which is used to provide  
9 supplementary instruction relating to an assessment does not  
10 meet the criteria under subsection (c)(2) shall be appealable  
11 under 2 Pa.C.S. (relating to administrative law and procedure).

12 (f) Contracts for the provision of courses cataloged in the  
13 clearinghouse.--The following shall apply to contracts entered  
14 into by school entities, nonpublic schools or home education  
15 programs and providers of online courses cataloged in the  
16 clearinghouse:

17 (1) The purchase price and other payment and contract  
18 terms of an online course cataloged in the clearinghouse  
19 shall be determined by direct negotiations between a school  
20 entity, nonpublic school or home education program and a  
21 provider.

22 (2) Immediately upon commencing negotiations of the  
23 terms of a contract for an online course, a provider shall  
24 provide the school entity, nonpublic school or home education  
25 program with information regarding refund policies and the  
26 process for contesting payment amounts.

27 (g) Online Course Clearinghouse Restricted Account.--The  
28 Online Course Clearinghouse Restricted Account is established as  
29 a restricted revenue account in the General Fund. The following  
30 shall apply:

1           (1) The account shall consist of application fees  
2 collected under subsection (d), fines collected under section  
3 1504-K and any interest generated by money in the account.

4           (2) The money in the account is appropriated to the  
5 department on a continuing basis for the purposes of paying  
6 expenses incurred by the department in carrying out its  
7 duties relating to the administration of the clearinghouse  
8 under this article.

9 Section 1503-K. School entities.

10 A school entity may utilize any online course made available  
11 through a school entity, through the clearinghouse or through  
12 any other source. A school entity that offers online courses to  
13 students shall:

14           (1) Determine how instruction relating to an online  
15 course shall be delivered.

16           (2) Establish policies and procedures for student  
17 eligibility and participation, including a policy on the  
18 selection of online courses made available to students by the  
19 school entity. The policies and procedures shall be made  
20 accessible to parents and students and posted on the school  
21 entity's publicly accessible Internet website.

22           (3) Ensure that parents and students are made aware of  
23 the opportunity for online learning and make information  
24 about available online courses easily accessible to parents  
25 and students.

26 Section 1504-K. Penalties.

27           (a) Participation prohibited.--If the department determines  
28 that a provider intentionally submitted false or misleading  
29 information on an application, the provider shall be prohibited  
30 from participating in the clearinghouse for a period of five

1 years.

2 (b) Fine.--In addition to the penalty provided under  
3 subsection (a), a provider may be assessed a fine of up to  
4 \$1,000 for each application on which the provider was found by  
5 the department to have intentionally submitted false or  
6 misleading information.

7 (c) Deposit of fines.--Any fines assessed in accordance with  
8 this section shall be deposited into the account.

9 (d) Appeal.--A determination by the department that a  
10 provider intentionally submitted false or misleading information  
11 on an application shall be appealable under 2 Pa.C.S. (relating  
12 to administrative law and procedure).

13 Section 1505-K. Report.

14 The secretary shall submit a report to the Governor, the  
15 chairperson and minority chairperson of the Education Committee  
16 of the Senate and the chairperson and minority chairperson of  
17 the Education Committee of the House of Representatives and post  
18 the report on the department's publicly accessible Internet  
19 website no later than June 30, 2025. The report shall at a  
20 minimum include all of the following information:

21 (1) The number of students participating in online  
22 courses.

23 (2) The number of students participating in online  
24 courses from the clearinghouse.

25 (3) The number of online courses available through the  
26 clearinghouse.

27 (4) A description of the types of online courses  
28 available through the clearinghouse.

29 (5) An assessment of the academic impact of online  
30 courses on the participating students.

1           (6) Recommendations for improving the clearinghouse.

2 Section 1506-K. Construction.

3 Nothing in this article shall be construed to:

4           (1) Prevent a school entity from establishing and  
5 offering its own online course or program.

6           (2) Prevent a school entity or school entity personnel  
7 from:

8                   (i) supplementing an online course;

9                   (ii) providing assistance, tutoring or enrichment to  
10 a student enrolled in an online course;

11                   (iii) using the content of an online course in  
12 instruction delivered by school district personnel; or

13                   (iv) monitoring a student's progress and attention  
14 to instruction in an online course.

15           (3) Require a student to participate in an online course  
16 offered by a school entity.

17           (4) Supersede or preempt the rights, remedies and  
18 procedures afforded to school employees or labor  
19 organizations under Federal or State law, including the act  
20 of July 23, 1970 (P.L.563, No.195), known as the Public  
21 Employe Relations Act, or any provision of a collective  
22 bargaining agreement negotiated between a school entity and  
23 an exclusive representative of the employees under the Public  
24 Employe Relations Act.

25 Section 1507-K. Guidelines.

26           The department shall develop guidelines necessary to  
27 implement this article.

28           Section 2. This act shall take effect in 60 days.