

# MAINE STATE LEGISLATURE

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L.D. 995

Date: 4/15/14

(Filing No. S- 526)

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STATE OF MAINE  
SENATE  
126TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "D" to S.P. 340, L.D. 995, Bill, "An Act To Establish a Moratorium on the Approval and Operation of Virtual Public Charter Schools"

Amend the bill by striking out the title and substituting the following:

**'An Act To Establish a Moratorium on the Approval and Operation of Virtual Public Charter Schools and To Amend the Laws Related to Public Funding of Charter Schools'**

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**'Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** implementation of Maine's recently enacted charter school law has resulted in substantial budgetary challenges for certain school administrative units that are located within the catchment areas of public charter schools recently approved by the Maine Charter School Commission; and

**Whereas,** these challenges demonstrate the need for more timely and transparent funding provisions enacted as part of the education statutes related to public charter schools authorized and approved by the Maine Charter School Commission; and

**Whereas,** the funding mechanism proposed by this Act must be initiated as soon as possible in order to enable school boards to make practicable budgetary decisions that will not be constrained by funding reductions that result from students enrolling in public charter schools after school administrative units have approved their budgets for the 2014-2015 school year; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 20-A MRSA §2413, sub-§3** is enacted to read:

1        **3. Funding for public charter schools authorized by the commission.** Beginning  
2        with fiscal year 2014-15, this section no longer applies to public charter schools  
3        authorized by the commission.

4        **Sec. 2. 20-A MRSA §2413-A** is enacted to read:

5        **§2413-A. Funding for public charter schools authorized by the commission**

6        Beginning with fiscal year 2014-15, this section applies to public charter schools  
7        authorized by the commission.

8        **1. Pupil count.** Students enrolled in and attending public charter schools must be  
9        reported to the department, for attendance and funding purposes, as provided in section  
10       15683-B, subsection 2 and department rules amended or adopted pursuant to this chapter.

11       **2. Revenue provisions.** State allocation funds follow each student to the public  
12       charter school attended by the student.

13       A. For each public charter school, the total allocation must be determined as follows.

14           (1) The total allocation must be calculated pursuant to section 15683-B, based on  
15           the student's grade level and adjusted as appropriate for economically  
16           disadvantaged students and limited English proficiency students pursuant to  
17           section 15675, subsections 1 and 2. Debt service and capital outlays may not be  
18           included in the calculation of these allocations. The department shall adopt rules  
19           governing how to calculate per-pupil allocations, including those for targeted  
20           funds for assessment technology and kindergarten to grade 2 programs.

21           (2) For students attending public charter schools, the payments for public charter  
22           schools must be made pursuant to section 15683-B, subsection 6.

23           (3) For transportation expenses, the transportation operating allocation must be  
24           the statewide per-pupil essential programs and services transportation operating  
25           allocation multiplied by pupil counts under section 15683-B, subsection 2,  
26           paragraph A multiplied by the percentage established by the commission for the  
27           public charter school but not to exceed 100%.

28           (4) The department shall pay to the public charter school any additional  
29           allocation assigned to the public charter school for gifted and talented students  
30           pursuant to section 15681-A, subsection 5 in the year in which the allocation is  
31           assigned.

32       B. The following provisions govern special education funding.

33           (1) For each enrolled special education pupil, a public charter school must  
34           receive the average additional allocation calculated by the department under  
35           section 15681-A, subsection 2 for its special education students. These  
36           allocations must be paid on the same basis as the per-pupil allocations for  
37           operating funds.

38           (2) The department shall pay directly to the public charter school any federal or  
39           state aid attributable to a student with a disability attending the public charter

1 school in proportion to the level of services for the student with a disability that  
 2 the public charter school provides directly or indirectly.

3 (3) The department shall pay to the public charter school any additional  
 4 allocation assigned to the public charter school because of a high-cost in-district  
 5 special education placement in accordance with section 15681-A, subsection 2,  
 6 paragraph B in the year in which the allocation is assigned as an adjustment to  
 7 the public charter school's state contribution.

8 (4) The department shall pay to the public charter school any additional  
 9 allocation assigned to the school administrative unit because of a high-cost out-  
 10 of-district special education placement in accordance with section 15681-A,  
 11 subsection 2, paragraph C in the year in which the allocation is assigned.

12 C. Except as otherwise provided in this chapter, the State shall send applicable  
 13 federal funds directly to public charter schools attended by eligible students. Public  
 14 charter schools with students eligible for funds under Title I of the federal Elementary  
 15 and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.  
 16 must receive and use these funds in accordance with federal and state law. During  
 17 the first year of operation, a public charter school must receive Title I funds on the  
 18 basis of an estimated enrollment of eligible students, as agreed with its authorizer.

19 D. A public charter school may receive gifts and grants from private sources in any  
 20 manner that is available to a school administrative unit.

21 E. A public charter school may not levy taxes or issue bonds secured by tax  
 22 revenues.

23 F. Any money received by a public charter school from any source and remaining in  
 24 the school's accounts at the end of any budget year remains in the school's accounts  
 25 for use by the school during subsequent budget years and may not revert to the  
 26 authorizer or to the State.

27 G. Nothing in this chapter may be construed to prohibit any person or organization  
 28 from providing funding or other assistance for the establishment or operation of a  
 29 public charter school. The governing board of a public charter school may accept  
 30 gifts, donations or grants of any kind made to the school and expend or use such gifts,  
 31 donations or grants in accordance with the conditions prescribed by the donor except  
 32 that a gift, donation or grant may not be accepted if subject to a condition that is  
 33 contrary to any provision of law or term of the charter contract.

34 **Sec. 3. 20-A MRSA §15683-B is enacted to read:**

35 **§15683-B. Public charter schools; calculation of total allocation and state**  
 36 **contribution**

37 Beginning with fiscal year 2014-15, this section applies to public charter schools  
 38 authorized by the Maine Charter School Commission in accordance with the funding  
 39 provisions established in section 2413-A.

40 **1. Calculation of EPS per-pupil rates.** For public charter schools, the  
 41 commissioner shall calculate that school's EPS per-pupil rate for each year as follows.

1 A. The EPS per-pupil rate for elementary grades is calculated by multiplying the  
 2 number of students from the resident school administrative unit by the resident school  
 3 administrative unit's elementary EPS per-pupil rate; then the total elementary cost for  
 4 students from each resident school administrative unit is added and the result divided  
 5 by the total elementary student counts in the public charter school. The result is the  
 6 average elementary grade EPS per-pupil rate for the public charter school.

7 B. The EPS per-pupil rate for secondary grades is calculated by multiplying the  
 8 number of students from the resident school administrative unit by the resident school  
 9 administrative unit's secondary EPS per-pupil rate; then the total secondary cost for  
 10 students from each resident school administrative unit is added and the result divided  
 11 by the total secondary student counts in the public charter school. The result is the  
 12 average secondary grade EPS per-pupil rate for the public charter school.

13 **2. Pupil counts.** For public charter schools, the commissioner shall determine that  
 14 school's student counts for each year as follows.

15 A. The basic student count for a public charter school is the average of the 2 pupil  
 16 counts for the school for April 1st and October 1st of the most recent calendar year  
 17 prior to the year of funding.

18 B. The number of economically disadvantaged students for each public charter  
 19 school is determined by multiplying the number of pupils by the most recent  
 20 available elementary free or reduced-price meals percentage. The elementary free or  
 21 reduced-price meals percentage may be applied to determine the number of  
 22 economically disadvantaged students in the public charter school secondary grades. If  
 23 the public charter school does not operate elementary grades then the most recent  
 24 available secondary free or reduced-price meals percentage must be used in place of  
 25 the elementary free or reduced-price meals percentage.

26 C. The number of limited English proficiency students for each public charter school  
 27 is the number of limited English proficiency students from the most recent October  
 28 count prior to the year of funding.

29 D. The number of special education students for each public charter school is the  
 30 number of special education students from the most recent October count prior to the  
 31 year of funding.

32 **3. Operating allocation.** For public charter schools, the commissioner shall  
 33 determine that school's operating allocation for each year as the sum of:

34 A. The base allocation, which is the pupil counts in subsection 2, paragraph A  
 35 multiplied by the public charter school's EPS per-pupil rates in subsection 1;

36 B. The economically disadvantaged allocation, which is the pupil counts in  
 37 subsection 2, paragraph B multiplied by the additional weight for each economically  
 38 disadvantaged student pursuant to section 15675, subsection 2;

39 C. The limited English proficiency allocation, which is the pupil counts in subsection  
 40 2, paragraph C multiplied by the additional weight for each limited English  
 41 proficiency student pursuant to section 15675, subsection 1;

1 D. The targeted funds for standards-based system allocation, which is based on the  
 2 per-pupil amount pursuant to section 15683, subsection 1, paragraph C multiplied by  
 3 pupil counts in subsection 2, paragraph A;

4 E. The targeted funds for technology resource allocation, which is based on the per-  
 5 pupil amount pursuant to section 15683, subsection 1, paragraph D multiplied by  
 6 pupil counts in subsection 2, paragraph A; and

7 F. The targeted funds for public preschool to grade 2 student allocation, which is  
 8 based on the preschool to grade 2 pupil counts in subsection 2, paragraph A  
 9 multiplied by the public charter school's elementary EPS per-pupil rates in subsection  
 10 1.

11 The operating allocation calculated pursuant to this subsection must be adjusted by  
 12 multiplying it by the appropriate transition percentage in accordance with section 15671,  
 13 subsection 7.

14 **4. Other subsidizable costs allocation.** For public charter schools, the  
 15 commissioner shall determine that school's other subsidizable costs allocation for each  
 16 year as the sum of:

17 A. The gifted and talented allocation pursuant to section 2413-A, subsection 2,  
 18 paragraph A, subparagraph (4);

19 B. The special education allocation pursuant to section 2413-A, subsection 2,  
 20 paragraph B; and

21 C. The transportation operating allocation, which is the statewide per-pupil essential  
 22 programs and services transportation operating allocation multiplied by pupil counts  
 23 in subsection 2, paragraph A multiplied by the percentage established by the Maine  
 24 Charter School Commission for that public charter school but not to exceed 100%.

25 A public charter school does not pay for its students to attend career and technical  
 26 education programs, and therefore is not entitled to career and technical education  
 27 funding. The school administrative unit in which the public charter school student resides  
 28 must pay the cost of attendance for the student at a career and technical education  
 29 program.

30 **5. Total allocation and state contribution.** For public charter schools, the  
 31 commissioner shall determine that school's total allocation as the sum of the school's  
 32 operating allocation and other subsidizable costs allocation, and this amount is the state  
 33 contribution.

34 **6. Payment of state contribution.** For public charter schools, the commissioner  
 35 shall authorize state subsidy payments to be made in accordance with the same schedule  
 36 of payments for school administrative units pursuant to section 15689-B.

37 **7. MaineCare seed.** For public charter schools, the commissioner may deduct from  
 38 a public charter school's state subsidy and pay on behalf of the public charter school  
 39 allowable school-based costs that represent the public charter school's portion of  
 40 MaineCare payments. A transfer of payment by the department to the Department of  
 41 Health and Human Services must be made pursuant to a schedule agreed upon by the

Department of Health and Human Services and the department and based on documentation of payments made from MaineCare funds.

**8. Curtailment adjustment.** In any funding year, if general purpose aid for local schools funding is curtailed, then the public charter school state contribution under this chapter must be curtailed by the proportional percentage that school administrative units have been curtailed.

**9. Phase-in procedures for new or newly expanded public charter schools.** For new or newly expanded public charter schools, the commissioner shall make a preliminary calculation of total allocation based on the following:

A. Estimated student counts not to exceed the enrollment limit established by the Maine Charter School Commission;

B. Estimated rates and weights based on statewide averages; and

C. The preliminary calculation of total allocation, which must be replaced with actual student data once students have been enrolled for the new school year. The new or newly expanded public charter school must enroll new students no later than August 1st in the State's student information system.

**Sec. 4. 20-A MRSA §15688-A** is enacted to read:

**§15688-A. State allocation to public charter schools authorized by the Maine Charter School Commission**

Beginning in fiscal year 2014-15, the commissioner may expend and disburse funds for the public charter schools authorized by the Maine Charter School Commission in accordance with provisions of section 15683-B and chapter 112.

**Sec. 5. 20-A MRSA §15689-C, sub-§2, ¶B-1** is enacted to read:

B-1. The requested funding level for the total allocation to public charter schools authorized by the Maine Charter School Commission under section 15683-B;

**Sec. 6. 20-A MRSA §15689-D**, as repealed and replaced by PL 2009, c. 275, §3, is amended to read:

**§15689-D. Governor's recommendation for funding levels**

**1. Annual recommendations.** The Department of Administrative and Financial Services, Bureau of the Budget shall annually certify to the Legislature the funding levels that the Governor recommends under sections 15683, 15683-A, 15688-A, 15689 and 15689-A. The Governor's recommendations must be transmitted to the Legislature within the time schedules set forth in Title 5, section 1666 and in the form and manner described in subsection 2. The commissioner may adjust, consistent with the Governor's recommendation for funding levels, per-pupil amounts not related to staffing pursuant to section 15680 and targeted funds pursuant to section 15681.

**2. Funding level computations.** The Governor's recommendations under subsection 1 must specify the amounts that are recommended for the total operating allocation pursuant to section 15683, the total of other subsidizable costs pursuant to section 15681-A, the total debt service allocation pursuant to section 15683-A, the total

1 allocation to public charter schools authorized by the Maine Charter School Commission  
 2 pursuant to section 15688-A, the total adjustments pursuant to section 15689, the total  
 3 miscellaneous costs pursuant to section 15689-A, the amount for any other components  
 4 of the total cost of funding public education from kindergarten to grade 12 and the total  
 5 cost of funding public education from kindergarten to grade 12 pursuant to this chapter.  
 6 The Governor's recommendations regarding the adjustments and miscellaneous costs  
 7 components also must delineate each amount that is recommended for each subsection  
 8 and paragraph under sections 15689 and 15689-A and the purposes for each cost in these  
 9 sections. For each amount shown in the Governor's recommendations, the Governor's  
 10 recommendations must also show the amount for the same component or purpose that is  
 11 included in the most recently approved state budget, the differences between the amounts  
 12 in the most recently approved state budget and the Governor's recommendations and the  
 13 reasons for the changes.

14 **Sec. 7. 20-A MRSA §15689-E, sub-§1, ¶A,** as enacted by PL 2005, c. 2, Pt. D,  
 15 §61 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

16 A. Adjustments and miscellaneous costs described in sections 15689 and 15689-A,  
 17 including an appropriation for special education pupils placed directly by the State,  
 18 for:

19 (1) Tuition and board for pupils placed directly by the State in accordance with  
 20 rules adopted or amended by the commissioner; and

21 (2) Special education tuition and other tuition for residents of state-operated  
 22 institutions attending programs in school administrative units or private schools  
 23 in accordance with rules adopted or amended by the commissioner; and .

24 **Sec. 8. 20-A MRSA §15689-E, sub-§1, ¶C** is enacted to read:

25 C. The total allocation to public charter schools authorized by the Maine Charter  
 26 School Commission described in section 15688-A; and

27 **Sec. 9. Moratorium on operations of virtual public charter schools.**  
 28 Notwithstanding the Maine Revised Statutes, Title 20-A, chapter 112 or any other law to  
 29 the contrary, the Maine Charter School Commission may not approve, authorize or  
 30 execute a contract for a virtual public charter school during the period between the  
 31 effective date of this section and one year following the effective date of this section.  
 32 Nothing in this section may be construed to limit the operation of a virtual public charter  
 33 school that, prior to the effective date of this section, was approved or authorized by the  
 34 Maine Charter School Commission or that executed a contract with the Maine Charter  
 35 School Commission.

36 **Emergency clause.** In view of the emergency cited in the preamble, this  
 37 legislation takes effect when approved.'

## 38 SUMMARY

39 This amendment strikes the bill and replaces it with the following.

40 1. It establishes provisions to fund public charter schools that are authorized by the  
 41 Maine Charter School Commission beginning in fiscal year 2014-15. The amendment



1 establishes provisions that calculate the total allocation of funds to be provided under  
2 general purpose aid for local schools for public charter schools that are authorized by the  
3 Maine Charter School Commission and establishes that the Commissioner of Education  
4 must adjust the operating allocation calculated for public charter schools by multiplying  
5 the operating allocation by the appropriate transition percentage in accordance with the  
6 Maine Revised Statutes, Title 20-A, section 15671, subsection 7.

7 2. It also provides that, beginning in fiscal year 2014-15, the Commissioner of  
8 Education's recommendations for funding levels under the Essential Programs and  
9 Services Funding Act must include funding level computations for the total allocation of  
10 funds to public charter schools authorized by the Maine Charter School Commission.  
11 The amendment also provides that the commissioner may expend and disburse funds for  
12 the public charter schools authorized by the commission in accordance with provisions of  
13 the Maine Revised Statutes, Title 20-A, chapter 112 and Title 20-A, section 15683-B.

14 3. Like the bill, this amendment establishes a moratorium on virtual public charter  
15 schools, but the amendment changes the period during which the moratorium applies to  
16 the period between the effective date of this legislation and one year following the  
17 effective date of this legislation.

18 SPONSORED BY: 

19 (Senator MILLETT)

20 COUNTY: Cumberland

**FISCAL NOTE REQUIRED**  
(See attached)



# 126th MAINE LEGISLATURE

LD 995

LR 122(11)

**An Act To Establish a Moratorium on the Approval and Operation of Virtual Public Charter Schools**

**Fiscal Note for Senate Amendment 'D' to Original Bill**

**Sponsor: Sen. Millett of Cumberland**

**Fiscal Note Required: Yes**

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## Fiscal Note

No State fiscal impact

Undetermined impact - local school administrative units

### Fiscal Detail and Notes

This amendment will result in a redistribution of State subsidy provided to local school administrative units (SAU's) with some SAU's receiving less State subsidy for the 2014-2015 school year than would have been received had this provision not been in place and some SAU's receiving more. The impact to individual school administrative units can not be determined at this time.