

# MAINE STATE LEGISLATURE

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*4/14/14*

Date: *4/14/14*

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STATE OF MAINE  
SENATE  
126TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "C" 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:**

11/13/13

1       **Sec. 1. 20-A MRSA §2405, sub-§4**, as amended by PL 2011, c. 570, §§5 and 6,  
2 is further amended to read:

3       **4. Reporting and evaluation.** An authorizer shall submit to the commissioner and  
4 the Legislature an annual report within 60 days of the end of each school fiscal year  
5 summarizing:

6       A. The authorizer's strategic vision for chartering and progress toward achieving that  
7 vision;

8       B. The performance of all operating public charter schools overseen by the  
9 authorizer, according to the performance measures and expectations specified in the  
10 charter contracts;

11       C. The status of the authorizer's public charter school portfolio of approved charter  
12 applications, identifying all public charter schools within that portfolio as:

13             (1) Approved, but not yet open;

14             (2) Operating;

15             (3) Renewed;

16             (4) Transferred;

17             (5) Terminated;

18             (6) Closed; or

19             (7) Never opened;

20       D. The oversight and services provided by the authorizer to the public charter  
21 schools under the authorizer's purview; and

22       E. The total amount of funds collected from each public charter school the authorizer  
23 authorized pursuant to subsection 5, paragraph B and the costs incurred by the  
24 authorizer to oversee each public charter school.

25       **Sec. 2. 20-A MRSA §2407, sub-§5, ¶C**, as amended by PL 2013, c. 272, §1, is  
26 further amended to read:

27       C. Within 10 days of rendering a decision on an application, the authorizer shall  
28 report to the commissioner and the Legislature the action it has taken. The authorizer  
29 shall provide a copy of the report to the applicant at the same time that the report is  
30 submitted to the commissioner and the Legislature.

31       **Sec. 3. 20-A MRSA §2411, sub-§7**, as enacted by PL 2011, c. 414, §5, is  
32 amended to read:

33       **7. Notification to commissioner and the Legislature.** Within 10 days of taking  
34 action to renew, not renew or revoke a charter under this section, the authorizer shall  
35 report to the commissioner and the Legislature the action taken and shall provide a copy  
36 of the report to the public charter school at the same time that the report is submitted to  
37 the commissioner and the Legislature. The report must include a copy of the governing

# SENATE AMENDMENT

1 entity of the authorizer's resolution setting forth the action taken and reasons for the  
2 decision.

3 **Sec. 4. 20-A MRSA §2413, sub-§3** is enacted to read:

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

7 **Sec. 5. 20-A MRSA §2413-A** is enacted to read:

8 **§2413-A. Funding for public charter schools authorized by the commission**

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

11 **1. Pupil count.** Students enrolled in and attending public charter schools must be  
12 reported to the department, for attendance and funding purposes, as provided in section  
13 15683-B, subsection 2 and department rules amended or adopted pursuant to this chapter.

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

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

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

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

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

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

35 **B.** The following provisions govern special education funding.

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

1           (2) The department shall pay directly to the public charter school any federal or  
2           state aid attributable to a student with a disability attending the public charter  
3           school in proportion to the level of services for the student with a disability that  
4           the public charter school provides directly or indirectly.

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

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

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

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

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

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

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

36          Sec. 6. 20-A MRSA §15683-B is enacted to read:

37          **§15683-B. Public charter schools; calculation of total allocation and state**  
38          **contribution**

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

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

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

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

15           **2. Pupil counts.** For a public charter school, the commissioner shall determine that  
16 school's student counts for each year as follows.

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

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

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

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

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

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

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

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

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

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

10 F. The targeted funds for public preschool to grade 2 student allocation, which is  
11 based on the preschool to grade 2 pupil counts in subsection 2, paragraph A  
12 multiplied by the public charter school's elementary EPS per-pupil rates in subsection  
13 1.

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

17 **4. Other subsidizable costs allocation.** For a public charter school, the  
18 commissioner shall determine that school's other subsidizable costs allocation for each  
19 year as the sum of:

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

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

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

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

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

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

40 **7. MaineCare seed.** For public charter schools, the commissioner may deduct from  
41 a public charter school's state subsidy and pay on behalf of the public charter school  
42 allowable school-based costs that represent the public charter school's portion of

1 MaineCare payments. A transfer of payment by the department to the Department of  
2 Health and Human Services must be made pursuant to a schedule agreed upon by the  
3 Department of Health and Human Services and the department and based on  
4 documentation of payments made from MaineCare funds.

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

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

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

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

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

19 **Sec. 7. 20-A MRS §15689-B, sub-§2-A** is enacted to read:

20 **2-A. Notification of state contribution to public charter schools.** The  
21 commissioner shall annually, prior to February 1st, notify the governing board of each  
22 public charter school of the estimated amount of state contribution to be allocated to the  
23 public charter school pursuant to section 15683-B.

24 **Sec. 8. 20-A MRS §15689-C, sub-§2, ¶A,** as enacted by PL 2005, c. 2, Pt. D,  
25 §61 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

26 A. The requested funding levels for the operating allocation under ~~section~~ sections  
27 15683 and 15683-B;

28 **Sec. 9. 20-A MRS §15689-D,** as amended by PL 2013, c. 368, Pt. C, §18, is  
29 further amended to read:

30 **§15689-D. Governor's recommendation for funding levels**

31 **1. Annual recommendations.** The Department of Administrative and Financial  
32 Services, Bureau of the Budget shall annually certify to the Legislature the funding levels  
33 that the Governor recommends under sections 15683, 15683-A, 15683-B, 15688-A,  
34 15689 and 15689-A and the amount for any other components of the total cost of funding  
35 public education from kindergarten to grade 12 pursuant to this chapter. The Governor's  
36 recommendations must be transmitted to the Legislature within the time schedules set  
37 forth in Title 5, section 1666 and in the form and manner described in subsection 2. The  
38 commissioner may adjust, consistent with the Governor's recommendation for funding  
39 levels, per-pupil amounts not related to staffing pursuant to section 15680 and targeted  
40 funds pursuant to section 15681.





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

6 2. It also provides that, beginning in fiscal year 2014-15, the Commissioner of  
7 Education's recommendations for funding levels under the Essential Programs and  
8 Services Funding Act must include funding level computations for the total operating  
9 allocation of funds to public charter schools authorized by the commission in accordance  
10 with the provisions of this amendment.

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

15 4. This amendment requires that virtual public charter schools and authorizers  
16 include the Legislature among the recipients of certain of their reports.

17 **FISCAL NOTE REQUIRED**

18 (See attached)

19 SPONSORED BY: 

20 (Senator LANGLEY)

21 COUNTY: Hancock



# 126th MAINE LEGISLATURE

LD 995

LR 122(10)

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

**Fiscal Note for Senate Amendment "C" to Original Bill**

**Sponsor: Sen. Langley of Hancock**

**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 placed and some SAU's receiving more. The impact to individual school administrative units can not be determined at this time.