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Date: (Filing No. H-)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

HOUSE AMENDMENT “ ” 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:

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

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 MRSA §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 MRSA §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 MRSA §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 **2. Funding level computations.** The Governor’s recommendations under
2 subsection 1 must specify the amounts that are recommended for the total operating
3 allocation pursuant to section 15683, the total of other subsidizable costs pursuant to
4 section 15681-A, the total debt service allocation pursuant to section 15683-A, the total
5 allocation pursuant to section 15683-B, the total costs of enhancing student performance
6 and opportunity pursuant to section 15688-A, the total adjustments pursuant to section
7 15689, the total miscellaneous costs pursuant to section 15689-A, the amount for any
8 other components of the total cost of funding public education from kindergarten to grade
9 12 and the total cost of funding public education from kindergarten to grade 12 pursuant
10 to this chapter. The Governor’s recommendations regarding the adjustments and
11 miscellaneous costs components also must delineate each amount that is recommended
12 for each subsection and paragraph under sections 15689 and 15689-A and the purposes
13 for each cost in these sections. For each amount shown in the Governor’s
14 recommendations, the Governor’s recommendations must also show the amount for the
15 same component or purpose that is included in the most recently approved state budget,
16 the differences between the amounts in the most recently approved state budget and the
17 Governor’s recommendations and the reasons for the changes.

18 **Sec. 10. 20-A MRSA §15689-E, sub-§1, ¶B,** as amended by PL 2013, c. 368,
19 Pt. C, §19, is further amended to read:

20 B. The state share of the total operating allocation and the total debt service
21 allocation described in sections 15683 ~~and~~, 15683-A and 15683-B;

22 **Sec. 11. Reports to the Legislature.** Beginning on the effective date of this
23 section and until one year after the effective date of this section, a virtual public charter
24 school shall also submit to the Legislature each report that the virtual public charter
25 school is required to submit to the Commissioner of Education or to the Department of
26 Education.

27 **Sec. 12. 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 **Sec. 13. Review.** The Maine Charter School Commission shall review the
37 requirements of the Maine Revised Statutes, Title 20-A, chapter 112 and the virtual
38 public charter school models that have been implemented in other states and shall
39 develop a model for virtual public charter schools that will best serve the academic and
40 developmental needs of Maine students. The Maine Charter School Commission shall
41 submit a report on the review of virtual public charter schools to the joint standing
42 committee of the Legislature having jurisdiction over education and cultural affairs no
43 later than December 3, 2014. The report must include the commission's findings and
44 recommendations and any necessary implementing legislation regarding the authorization
45 and operation of virtual public charter schools in the State. The committee is authorized

1 to report out a bill to the First Regular Session of the 127th Legislature related to the
2 recommendations included in this report.

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

5 **SUMMARY**

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

7 1. It establishes provisions to fund public charter schools that are authorized by the
8 Maine Charter School Commission beginning in fiscal year 2014-15. The amendment
9 establishes provisions that calculate the total allocation of funds to be provided under
10 general purpose aid for local schools for public charter schools that are authorized by the
11 Maine Charter School Commission and establishes that the Commissioner of Education
12 must adjust the operating allocation calculated for public charter schools by multiplying
13 the operating allocation by the appropriate transition percentage in accordance with the
14 Maine Revised Statutes, Title 20-A, section 15671, subsection 7.

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

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

24 4. Like the bill, this amendment requires the commission to develop a model for
25 virtual public charter schools and to submit a report, but the amendment removes the
26 requirements that the model apply only to part-time students in grades 9 to 12 and place
27 an emphasis on blended learning.

28 5. This amendment requires that virtual public charter schools and authorizers
29 include the Legislature among the recipients of certain of their reports.

30 **FISCAL NOTE REQUIRED**

31 **(See attached)**

32 SPONSORED BY: _____

33 (Representative HUBBELL)

34 TOWN: Bar Harbor