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

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

Whereas, research has found that virtual public charter schools operated in other states have produced mixed results when using federal benchmarks to evaluate the academic performance of students enrolled in virtual public charter schools; and

Whereas, implementation of Maine's recently enacted charter school law has resulted in significant controversy over the governance and quality of virtual public charter schools; and

Whereas, this controversy demonstrates the need for a thorough review of state policy to ensure that the authorization and operation of virtual public charter schools proceed in a manner that preserves public confidence that the interests of students, school administrative units and citizens across the State have been given due consideration; and

Whereas, the protection of the public interests of students, school administrative units and citizens of the State requires that the process for authorizing virtual public charter schools be temporarily interrupted pending the necessary review of the charter school laws; and

Whereas, in order for the Maine Charter School Commission to review virtual public charter schools and prepare a report in time for submission to the 126th Legislature, the review needs to be initiated as soon as possible; 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Sec. 1. 20-A MRSA §2401, sub-§11, as enacted by PL 2011, c. 414, §5, is repealed and the following enacted in its place:

11. Virtual public charter school. "Virtual public charter school" means a public charter school that:

- A. Offers education services predominantly through an online program;
- B. Enrolls students on a part-time basis; and
- C. Provides a program of secondary education for grades 9 to 12.

Sec. 2. 20-A MRSA §2405, sub-§8, ¶E is enacted to read:

E. Notwithstanding any other provisions of this chapter, the commission may not authorize a virtual public charter school under the provisions of this chapter until this paragraph is repealed.

Sec. 3. 20-A MRSA §2406, sub-§2, ¶H, as enacted by PL 2011, c. 414, §5, is amended to read:

H. With respect to a proposed public charter school that intends to contract with an education service provider for a limited scope of education or management services, in addition to the other requirements of this subsection, the request for proposals must require applicants to:

- (1) Explain how and why the education service provider was selected;
- (2) Provide evidence of the education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions if applicable;
- (3) Provide information on the proposed duration of the service contract; roles and responsibilities; scope of services and resources to be provided by the education service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the education service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract;
- (4) Provide a draft of the proposed service contract;
- (5) Explain the relationship between the governing board, the school's leadership and management team and the education service provider, specifying how the governing board and the school's leadership and management team will monitor and evaluate the performance of the education service provider, the internal controls that will guide the relationship and how the governing board and the school's leadership and management team will ensure fulfillment of performance expectations;
- (6) Provide a statement of assurance that the governing board and the school's leadership and management team is legally and operationally independent from the education service provider; and
- (7) Disclose and explain any existing or potential conflicts of interest between the governing board, the school's leadership and management team and the education service provider or any affiliated business entities.

Nothing in this paragraph prohibits a virtual public charter school from entering into a contract with an education service provider that is a public or private nonprofit entity for education design, implementation or comprehensive management of the virtual public charter school program.

Sec. 4. 20-A MRSA §2407, sub-§3, as enacted by PL 2011, c. 414, §5, is amended to read:

3. Start-up schools; virtual public charter schools. An application for a start-up public charter school or a virtual public charter school may be submitted by a nonprofit, nonreligious organization. If the organizers of a start-up public charter school or a virtual public charter school have been affiliated with a previous school or education program, they must form a separate nonprofit organization in this State to be eligible for state and federal grants.

Sec. 5. 20-A MRSA §2408, sub-§2, as enacted by PL 2011, c. 414, §5, is amended to read:

2. Virtual public charter schools. The charter contract of a virtual public charter school must require the governing board to:

A. Provide each student enrolled in the virtual public charter school with online courses that meet or exceed state standards and all instructional materials required for the student's participation in the school;

B. Ensure that the persons who operate the virtual public charter school on a day-to-day basis comply with and carry out all applicable requirements, statutes, regulations, rules and policies of the school;

C. Ensure that a parent of each student verifies the number of hours of educational activities completed by the student each school year; and

D. Adopt a plan by which the governing board provides:

(1) Frequent, ongoing monitoring to ensure and verify that each student is participating in the virtual public charter school, including synchronous contact between teachers and students and between teachers and parents to ensure and verify student participation and learning;

(2) Regular instructional opportunities in real time that are directly related to the virtual public charter school's curricular objectives, including, but not limited to, meetings with teachers and educational field trips and outings;

(3) Verification of ongoing student attendance in the virtual public charter school;

(4) Verification of ongoing student progress and performance in each course as documented by ongoing assessments and examples of student course work; and

(5) Administration to all students in a proctored setting of all applicable assessments as required by the State.

Nothing in this subsection prohibits a virtual public charter school from reimbursing families of enrolled students for costs associated with their Internet connection for use in the program.

Only students enrolled in a virtual public charter school as ~~full-time~~part-time students may be reported in the virtual public charter school's average pupil count to the department for the purposes of receiving local, state and federal funds. The average pupil count must be based on the number of part-time students enrolled in a virtual public charter school and must be reported as the number of full-time equivalent students participating in a virtual public charter school's program.

Sec. 6. Moratorium on operations of virtual public charter schools. Notwithstanding the Maine Revised Statutes, Title 20-A, chapter 112 or any other law to the contrary and regardless of whether the Maine Charter School Commission has approved, authorized or executed a contract for a virtual public charter school prior to the effective date of this section, a virtual public charter school that has not commenced operations as of the effective date of this section may not commence operations until expressly authorized by the Legislature.

Sec. 7. Review. The Maine Charter School Commission shall review the requirements of the Maine Revised Statutes, Title 20-A, chapter 112 and the virtual public charter school models that have been implemented in other states and shall develop a model for virtual public charter schools that will best serve the academic and developmental needs of Maine students. The virtual public charter school model developed must apply only to part-time students in grades 9 to 12 and must place emphasis on effective models of blended learning for high school students that integrate online and on-site instruction. For the purposes of this section, the term "blended learning" means learning associated with a formal education program in which a student learns, at least in part, through face-to-face instruction facilitated by a teacher in a classroom setting away from the student's home and, at least in part, through the online delivery of content and instruction outside of the classroom with the student having some control over the time, place, path or pace of the student's learning.

Sec. 8. Report. The Maine Charter School Commission shall submit a report on the review of virtual public charter schools required by section 7 to the Joint Standing Committee on Education and Cultural Affairs no later than December 1, 2013. The report must include the commission's findings and recommendations and any necessary implementing legislation regarding the authorization and operation of virtual public charter schools in the State. The committee is authorized to report out a bill to the Second Regular Session of the 126th Legislature related to the recommendations included in this report.

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

SUMMARY

This emergency bill provides that the Maine Charter School Commission may not authorize the operation of any virtual public charter school until the Legislature enacts legislation that expressly authorizes the operation of virtual public charter schools in the State. The moratorium applies to the operations of any virtual public charter school that has not commenced operations as of the effective date

of this legislation, regardless of whether the commission has approved, authorized or executed a contract for the virtual public charter school.

The bill amends the definition of "virtual public charter school" to specify that virtual public charter schools provide education services through an online learning program that enrolls students on a part-time basis in grades 9 to 12. The bill also requires the Maine Charter School Commission to review the law and the virtual public charter school models that have been implemented in other states and develop a virtual public charter school model that will best serve the learning needs of students. The virtual public charter school model developed must apply only to part-time students in grades 9 to 12 and must place emphasis on blended learning models for high school students.

The Maine Charter School Commission is directed to report its findings, recommendations and any necessary implementing legislation with respect to the authorization or operation of virtual public charter schools to the Joint Standing Committee on Education and Cultural Affairs no later than December 1, 2013 and authorizes the joint standing committee to report out a bill to the Second Regular Session of the 126th Legislature related to the recommendations included in this report.