



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 131

H.P. 89

House of Representatives, January 22, 2015

### **An Act To Amend the Laws Related to Public Funding of Charter Schools**

(EMERGENCY)

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative HUBBELL of Bar Harbor.  
Cosponsored by Senator LANGLEY of Hancock.

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

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

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

10          **Whereas,** the funding mechanism proposed by this Act must be initiated as soon as  
11 possible in order to enable school boards to make practicable budgetary decisions that  
12 will not be constrained by funding reductions that result from students enrolling in public  
13 charter schools after school administrative units have approved their budgets for the  
14 2015-2016 school year; and

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

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

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

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

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

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

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

32                   (1) Approved, but not yet open;

33                   (2) Operating;

34                   (3) Renewed;

35                   (4) Transferred;

36                   (5) Terminated;

37                   (6) Closed; or

1 (7) Never opened;

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

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

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

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

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

15 **7. Notification to commissioner and the Legislature.** Within 10 days of taking  
16 action to renew, not renew or revoke a charter under this section, the authorizer shall  
17 report to the commissioner and the Legislature the action taken and shall provide a copy  
18 of the report to the public charter school at the same time that the report is submitted to  
19 the commissioner and the Legislature. The report must include a copy of the governing  
20 entity of the authorizer's resolution setting forth the action taken and reasons for the  
21 decision.

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

23 **3. Funding for public charter schools authorized by the commission.** Beginning  
24 with fiscal year 2015-16, this section no longer applies to public charter schools  
25 authorized by the commission.

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

27 **§2413-A. Funding for public charter schools authorized by the commission**

28 Beginning with fiscal year 2015-16, this section applies to public charter schools  
29 authorized by the commission.

30 **1. Pupil count.** Students enrolled in and attending public charter schools must be  
31 reported to the department, for attendance and funding purposes, as provided in section  
32 15683-B, subsection 2 and department rules amended or adopted pursuant to this chapter.

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

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

36 (1) The total allocation must be calculated pursuant to section 15683-B, based on  
37 the student's grade level and adjusted as appropriate for economically

1 disadvantaged students and limited English proficiency students pursuant to  
2 section 15675, subsections 1 and 2. Debt service and capital outlays may not be  
3 included in the calculation of these allocations. The department shall adopt rules  
4 governing how to calculate per-pupil allocations, including those for targeted  
5 funds for assessment, technology and kindergarten to grade 2 programs.

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

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

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

17 B. The following provisions govern special education funding.

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

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

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

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

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

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

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

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

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

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

17 **§15683-B. Public charter schools; calculation of total allocation and state**  
18 **contribution**

19 Beginning with fiscal year 2015-16, this section applies to public charter schools  
20 authorized by the Maine Charter School Commission in accordance with the funding  
21 provisions established in section 2413-A.

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

24 A. The EPS per-pupil rate for elementary grades is calculated by multiplying the  
25 number of students from the resident school administrative unit by the resident school  
26 administrative unit's elementary EPS per-pupil rate; then the total elementary cost for  
27 students from each resident school administrative unit is added and the result divided  
28 by the total elementary student counts in the public charter school. The result is the  
29 average elementary grade EPS per-pupil rate for the public charter school.

30 B. The EPS per-pupil rate for secondary grades is calculated by multiplying the  
31 number of students from the resident school administrative unit by the resident school  
32 administrative unit's secondary EPS per-pupil rate; then the total secondary cost for  
33 students from each resident school administrative unit is added and the result divided  
34 by the total secondary student counts in the public charter school. The result is the  
35 average secondary grade EPS per-pupil rate for the public charter school.

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

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

1 B. The number of economically disadvantaged students for each public charter  
2 school is determined by multiplying the number of pupils by the most recent  
3 available elementary free or reduced-price meals percentage. The elementary free or  
4 reduced-price meals percentage may be applied to determine the number of  
5 economically disadvantaged students in the public charter school secondary grades.  
6 If the public charter school does not operate elementary grades, the most recent  
7 available secondary free or reduced-price meals percentage must be used in place of  
8 the elementary free or reduced-price meals percentage.

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

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

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

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

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

22 C. The limited English proficiency allocation, which is the pupil counts in subsection  
23 2, paragraph C multiplied by the additional weight for each limited English  
24 proficiency student pursuant to section 15675, subsection 1;

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

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

31 F. The targeted funds for public preschool to grade 2 student allocation, which is  
32 based on the preschool to grade 2 pupil counts in subsection 2, paragraph A  
33 multiplied by the public charter school's elementary EPS per-pupil rates in subsection  
34 1.

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

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

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

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

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

9           A public charter school does not pay for its students to attend career and technical  
10           education programs and therefore is not entitled to career and technical education  
11           funding. The school administrative unit in which the public charter school student resides  
12           must pay the cost of attendance for the student at a career and technical education  
13           program.

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

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

21           **7. MaineCare seed.** For public charter schools, the commissioner may deduct from  
22           a public charter school's state subsidy and pay on behalf of the public charter school  
23           allowable school-based costs that represent the public charter school's portion of  
24           MaineCare payments. A transfer of payment by the department to the Department of  
25           Health and Human Services must be made pursuant to a schedule agreed upon by the  
26           Department of Health and Human Services and the department and based on  
27           documentation of payments made from MaineCare funds.

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

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

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

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

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

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

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

6           **Sec. 8. 20-A MRSA §15689-C, sub-§2, ¶A,** as enacted by PL 2005, c. 2, Pt. D,  
7 §61 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

8           A. The requested funding levels for the operating allocation under ~~section~~ sections  
9 15683 and 15683-B;

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

12           **§15689-D. Governor's recommendation for funding levels**

13           **1. Annual recommendations.** The Department of Administrative and Financial  
14 Services, Bureau of the Budget shall annually certify to the Legislature the funding levels  
15 that the Governor recommends under sections 15683, 15683-A, 15683-B, 15688-A,  
16 15689 and 15689-A and the amount for any other components of the total cost of funding  
17 public education from kindergarten to grade 12 pursuant to this chapter. The Governor's  
18 recommendations must be transmitted to the Legislature within the time schedules set  
19 forth in Title 5, section 1666 and in the form and manner described in subsection 2. The  
20 commissioner may adjust, consistent with the Governor's recommendation for funding  
21 levels, per-pupil amounts not related to staffing pursuant to section 15680 and targeted  
22 funds pursuant to section 15681.

23           **2. Funding level computations.** The Governor's recommendations under  
24 subsection 1 must specify the amounts that are recommended for the total operating  
25 allocation pursuant to section 15683, the total of other subsidizable costs pursuant to  
26 section 15681-A, the total debt service allocation pursuant to section 15683-A, the total  
27 allocation pursuant to section 15683-B, the total costs of enhancing student performance  
28 and opportunity pursuant to section 15688-A, the total adjustments pursuant to section  
29 15689, the total miscellaneous costs pursuant to section 15689-A, the amount for any  
30 other components of the total cost of funding public education from kindergarten to grade  
31 12 and the total cost of funding public education from kindergarten to grade 12 pursuant  
32 to this chapter. The Governor's recommendations regarding the adjustments and  
33 miscellaneous costs components also must delineate each amount that is recommended  
34 for each subsection and paragraph under sections 15689 and 15689-A and the purposes  
35 for each cost in these sections. For each amount shown in the Governor's  
36 recommendations, the Governor's recommendations must also show the amount for the  
37 same component or purpose that is included in the most recently approved state budget,  
38 the differences between the amounts in the most recently approved state budget and the  
39 Governor's recommendations and the reasons for the changes.

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

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

3 **Sec. 11. Reports to the Legislature.** Beginning on the effective date of this  
4 section and until one year after the effective date of this section, a virtual public charter  
5 school shall also submit to the Legislature each report that the virtual public charter  
6 school is required to submit to the Commissioner of Education or to the Department of  
7 Education.

8 **Sec. 12. Moratorium on operations of virtual public charter schools.**  
9 Notwithstanding the Maine Revised Statutes, Title 20-A, chapter 112 or any other law to  
10 the contrary, the Maine Charter School Commission may not approve, authorize or  
11 execute a contract for a virtual public charter school during the period between the  
12 effective date of this section and one year following the effective date of this section.  
13 Nothing in this section may be construed to limit the operation of a virtual public charter  
14 school that, prior to the effective date of this section, was approved or authorized by the  
15 Maine Charter School Commission or that executed a contract with the Maine Charter  
16 School Commission.

17 **Sec. 13. Review.** The Maine Charter School Commission shall review the  
18 requirements of the Maine Revised Statutes, Title 20-A, chapter 112 and the virtual  
19 public charter school models that have been implemented in other states and shall  
20 develop a model for virtual public charter schools that will best serve the academic and  
21 developmental needs of students in the State. The Maine Charter School Commission  
22 shall submit a report on the review of virtual public charter schools to the joint standing  
23 committee of the Legislature having jurisdiction over education and cultural affairs no  
24 later than December 3, 2015. The report must include the commission's findings and  
25 recommendations and any necessary implementing legislation regarding the authorization  
26 and operation of virtual public charter schools in the State. The committee is authorized  
27 to report out a bill to the Second Regular Session of the 127th Legislature related to the  
28 recommendations included in this report.

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

31 **SUMMARY**

32 This bill establishes provisions to fund public charter schools that are authorized by  
33 the Maine Charter School Commission beginning in fiscal year 2015-16.

34 1. The bill establishes provisions that calculate the total allocation of funds to be  
35 provided under general purpose aid for local schools for public charter schools that are  
36 authorized by the Maine Charter School Commission and establishes that the  
37 Commissioner of Education must adjust the operating allocation calculated for public  
38 charter schools by multiplying the operating allocation by the appropriate transition  
39 percentage in accordance with the Maine Revised Statutes, Title 20-A, section 15671,  
40 subsection 7.

1           2. It also provides that, beginning in fiscal year 2015-16, the Commissioner of  
2 Education's recommendations to the Governor and the Department of Administrative and  
3 Financial Services for funding levels under the Essential Programs and Services Funding  
4 Act must include funding level computations for the total operating allocation of funds to  
5 public charter schools authorized by the commission in accordance with the provisions of  
6 this legislation.

7           3. It establishes a moratorium on the approval of, authorization of and execution of  
8 contracts for virtual public charter schools by the commission, and it provides that the  
9 moratorium applies to the period between the effective date of this legislation and one  
10 year following the effective date of this legislation.

11           4. It requires the commission to review the virtual public charter school models in  
12 other states and to submit a report to the joint standing committee of the Legislature  
13 having jurisdiction over education and cultural affairs that recommends a model for  
14 virtual public charter schools that will best serve the academic and developmental needs  
15 of Maine students.

16           5. It requires that virtual public charter schools and authorizers include the  
17 Legislature among the recipients of certain of their reports.