

## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FIFTEEN

—  
H.P. 89 - L.D. 131

**An Act To Amend the Laws Related to Public Funding of 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,** 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 2015-2016 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 MRS §2405, sub-§4,** as amended by PL 2011, c. 570, §§5 and 6, is further amended to read:

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

- A. The authorizer's strategic vision for chartering and progress toward achieving that vision;
- B. The performance of all operating public charter schools overseen by the authorizer, according to the performance measures and expectations specified in the charter contracts;
- C. The status of the authorizer's public charter school portfolio of approved charter applications, identifying all public charter schools within that portfolio as:
  - (1) Approved, but not yet open;
  - (2) Operating;
  - (3) Renewed;
  - (4) Transferred;
  - (5) Terminated;
  - (6) Closed; or
  - (7) Never opened;
- D. The oversight and services provided by the authorizer to the public charter schools under the authorizer's purview; and
- E. The total amount of funds collected from each public charter school the authorizer authorized pursuant to subsection 5, paragraph B and the costs incurred by the authorizer to oversee each public charter school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) For transportation expenses, the transportation operating allocation must be the statewide per-pupil essential programs and services transportation operating allocation multiplied by pupil counts determined under section 15683-B, subsection 2, paragraph A multiplied by the percentage established by the commission for the public charter school based on the cost of transportation services provided by the public charter school to the student, but not to exceed 100%.

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

B. The following provisions govern special education funding.

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

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

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

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

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

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

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

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

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

H. A public charter school may receive payment pursuant to paragraph A for students residing in the unorganized territory based on the state average EPS per-pupil rate as defined in section 15672, subsection 7-A. A special education student residing in the unorganized territory must be treated the same as a resident student from a school administrative unit for special education costs pursuant to paragraph B. The responsibility for providing a free, appropriate public education for a special education student passes to the charter school in which the student enrolls. As with other resident school administrative units in accordance with section 15681-A, subsection 2, paragraph B, the department shall pay for high-cost in-district students.

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

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

Beginning with fiscal year 2015-16, this section applies to public charter schools authorized by the Maine Charter School Commission, established under Title 5, section 12004-G, subsection 10-D, in accordance with the funding provisions established in section 2413-A.

**1. Calculation of EPS per-pupil rates.** If there is only one school administrative unit sending students to a public charter school in a school year, the commissioner shall use that resident school administrative unit's EPS per-pupil rate. If there is more than one school administrative unit sending students to the public charter school, the commissioner shall calculate a public charter school's EPS per-pupil rate for each year as follows.

A. When there are elementary students from outside of a single resident school administrative unit sending students to an elementary public charter school, the EPS per-pupil rate for elementary grades is calculated by multiplying the number of students from a resident school administrative unit attending the public charter school by that resident school administrative unit's elementary EPS per-pupil rate to find the total cost for elementary students enrolled in the public charter school in that resident school administrative unit, then adding the total cost for elementary students enrolled in the public charter school from each resident school administrative unit. The result is divided by the total number of elementary students in the public charter school.

B. When there are secondary students from outside of a single resident school administrative unit sending students to a secondary public charter school, the EPS per-pupil rate for secondary grades is calculated by multiplying the number of students from a resident school administrative unit attending the public charter school by that resident school administrative unit's secondary EPS per-pupil rate to find the total cost for secondary students enrolled in the public charter school in that resident school administrative unit, then adding the total cost for secondary students enrolled in the public charter school from each resident school administrative unit. The result is divided by the total number of secondary students in the public charter school.

**2. Pupil counts.** Notwithstanding section 15674, the commissioner shall determine a public charter school's student counts for each year as follows.

A. The basic student count for a public charter school is the pupil count for October 1st of the most recent calendar year prior to the year of funding.

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

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

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

**3. Operating allocation.** The commissioner shall determine a public charter school's operating allocation for each year as the sum of:

A. The base allocation, which is the pupil count pursuant to subsection 2, paragraph A multiplied by the public charter school's EPS per-pupil rates calculated pursuant to subsection 1;

B. The economically disadvantaged student allocation, which is the pupil count determined pursuant to subsection 2, paragraph B multiplied by the additional weight for each economically disadvantaged student pursuant to section 15675, subsection 2;

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

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

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

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

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

**4. Other subsidizable costs allocation.** The commissioner shall determine a public charter school's other subsidizable costs allocation for each year as the sum of:

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

B. The special education allocation pursuant to section 2413-A, subsection 2, paragraph B. The special education allocation may not be less than 90% of the public charter school base year expenditures for special education; and

C. The transportation operating allocation, which is the statewide per-pupil essential programs and services transportation operating allocation multiplied by a percentage established by the Maine Charter School Commission for that public charter school based on the cost of transportation services provided by the public charter school to

the student but not to exceed 100% multiplied by the pupil count in subsection 2, paragraph A.

A public charter school is not entitled to career and technical education funding. The school administrative unit in which the public charter school student resides must pay the cost of attendance for the student at a career and technical education program.

**5. Total allocation and state contribution.** The commissioner shall determine a public charter school's total allocation as the sum of the school's operating allocation under subsection 3 and other subsidizable costs allocation under subsection 4. That total allocation is the state contribution, except that up to 3% of this amount must be withheld in accordance with section 2405, subsection 5, paragraph B and transferred to the Maine Charter School Commission.

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

**7. MaineCare seed.** The commissioner may deduct from a public charter school's state subsidy and pay on behalf of the public charter school allowable school-based costs that represent the public charter school's portion of MaineCare payments. A transfer of payment by the department to the Department of 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 shall enroll new students no later than August 1st in a student information system maintained by the department.

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

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

public charter school pursuant to section 15683-B and post these estimated contributions on the department's publicly accessible website.

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

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

**Sec. 9. 20-A MRSA §15689-D**, as amended by PL 2013, c. 368, Pt. C, §18, is further 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, 15683-B, 15688-A, 15689 and 15689-A and the amount for any other components of the total cost of funding public education from kindergarten to grade 12 pursuant to this chapter. 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 and these recommendations must be posted on the department's publicly accessible website. 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~~ allocations pursuant to section 15683 including the total allocation pursuant to section 15683-B, the total of other subsidizable costs pursuant to section 15681-A, the total debt service allocation pursuant to section 15683-A, the total costs of enhancing student performance and opportunity pursuant to section 15688-A, the total adjustments pursuant to section 15689, the total miscellaneous costs pursuant to section 15689-A, the amount for any other components of the total cost of funding public education from kindergarten to grade 12 and the total cost of funding public education from kindergarten to grade 12 pursuant to this chapter. The Governor's recommendations regarding the adjustments and miscellaneous costs components also must delineate each amount that is recommended for each subsection and paragraph under sections 15689 and 15689-A and the purposes for each cost in these sections. For each amount shown in the Governor's recommendations, the Governor's recommendations must also show the amount for the same component or purpose that is included in the most recently approved state budget, the differences between the amounts in the most recently approved state budget and the Governor's recommendations and the reasons for the changes. These computations must be posted on the department's publicly accessible website.

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



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

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

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