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L.D. 1640

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DATE: (Filing No. S-)

EDUCATION AND CULTURAL AFFAIRS

Reported by:

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**STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " " to S.P. 606, L.D. 1640, Bill, "An Act To Permit Charter Schools in Maine"

Amend the bill in section 4 in §2411 by striking out all of the first indented paragraph (page 1, lines 36 to 49 in L.D.) and inserting in its place the following:

'Charter schools may be established as public schools pursuant to this chapter to provide varied learning environments and expand existing efforts to support student learning by providing different, often small, learning settings. The charter school pilot program established pursuant to section 2413, subsection 5 is authorized to provide incentives to teachers and community members to establish new kinds of public schools and to seek to improve student achievement through the use of different and innovative learning methods. Local school administrative units are encouraged to use the charter school pilot program to offer more options to students and parents, to develop complementary programs tailored to meet student needs, to collaborate with other school administrative units to offer regional programs, to increase the likelihood that students will excel in a standards-based educational system and to expand learning opportunities for disengaged students who are underserved by the current system.'

Further amend the bill in section 4 in §2412 by striking out all of subsection 2 (page 2, lines 42 to 46 in L.D.) and inserting in its place the following:

COMMITTEE AMENDMENT

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2 '2. New schools. An application for a new charter school
3 may be proposed by a school administrative unit, by a public
4 alternative education program or school approved by the
5 commissioner in accordance with section 2501 or section 7253 or
6 by a nonprofit, nonsectarian organization. An existing
7 nonprofit, nonsectarian school may apply to eligible chartering
8 authorities under section 2413 to become a charter school.'

10 Further amend the bill in section 4 by striking out all of
11 §2413 and inserting in its place the following:

12 '§2413. Chartering authorities

14 1. Eligible chartering authorities. The organizers may
15 apply to and the school may be granted a charter by:

17 A. A school board; or

19 B. An officially recognized unit of the University of Maine
20 System that is authorized to confer a baccalaureate degree
21 in education.

23 For purposes of this chapter, unless the context otherwise
24 indicates, "chartering authority" means one of the entities in
25 paragraphs A and B. If an eligible chartering authority rejects
26 a charter application, the applicant may appeal that decision to
27 the state board in accordance with major substantive rules
28 adopted by the department pursuant to Title 5, chapter 375,
29 subchapter 2-A. If the state board determines that the rejection
30 was arbitrary, capricious or without a reasonable basis, the
31 state board may approve the charter application and serve as the
32 chartering authority for that charter school.

34 2. Approval by chartering authority. A school may not
35 operate as a charter school unless approved by a chartering
36 authority. A charter must be approved for a renewable 5-year
37 term, with a major review for compliance with the terms of the
38 charter prior to each renewal. A charter may be approved for any
39 portion of a school that provides instruction in any combination
40 of grades from kindergarten to grade 12, including alternative
41 secondary programs for students requiring basic literacy training
42 up to 20 years of age. A school board may approve the conversion
43 of an existing public school to a charter school only in its own
44 jurisdiction. Only one school board may be the chartering
45 authority for a charter school that is a regional collaboration
46 between 2 or more school administrative units.

48 3. Approval criteria. A chartering authority shall
49 establish criteria for approval and a time frame for

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2 considering applications to start a charter school. Criteria
3 established by a chartering authority must include, but are not
4 limited to, statement of purpose, size, scope, funding, goals and
5 outcomes, governance and operational structure, accountability
6 for finances, accountability for academic outcomes, the manner in
7 which the charter school will complement existing public
8 education programs in the region and an indication of public
9 interest in the proposed school.

10 A chartering authority may grant a charter only to an applicant
11 whose proposal has as its primary purpose the expansion of
12 learning opportunities for disengaged students who are
13 underserved by the current system, including, without limitation,
14 students who:

15 A. Have a history of high absenteeism;

16 B. Are at least one year behind their expected grade levels
17 or who are at serious risk of academic failure; or

18 C. Have other special needs.

19 4. Oversight. A chartering authority is responsible for:

20 A. Establishing a process for receiving and reviewing
21 applications for charter schools on an annual or semiannual
22 basis, taking into account the deadlines required by the
23 United States Department of Education for applications for
24 the federal charter school grant program. A decision on a
25 charter school application must be made within 90 days of
26 receipt of the application and conveyed in writing to the
27 applicant. A decision may grant approval or conditional
28 approval, request resubmission or reject the application and
29 must include written reasons for the decisions;

30 B. Monitoring the operations of each charter school to
31 which the chartering authority has granted a charter,
32 including requiring performance plans for the education
33 programs, financial management, organizational structure and
34 governance of the proposed charter school. The chartering
35 authority is responsible for conducting an annual site visit
36 and requiring an annual report, periodic financial reports
37 and periodic enrollment reports from the charter school,
38 including a major review of the charter school prior to
39 renewal of each 5-year contract granted under subsection 2;

40 C. Ensuring that each charter school to which the
41 chartering authority has granted a charter complies with
42 applicable laws and the charter, including provisions of the
43 system of learning results established in section 6209 and
44 section 6209.

2 the federal No Child Left Behind Act of 2001, 20 United
4 States Code, Chapter 70, and that the charter school follows
6 generally accepted accounting principles as required by
8 state law or as necessary for the school to be eligible to
10 receive federal assistance;

12 D. Ensuring that each charter school to which the
14 chartering authority has granted a charter has in place a
16 policy to comply with the rules adopted by the department
18 and any federal regulations pertaining to the education of
20 children with special needs. The manner in which the
22 charter school delivers those services may be innovative and
24 its services may be integrated into services provided for
26 all children;

28 E. Monitoring the progress of each charter school to which
30 the chartering authority has granted a charter in meeting
32 student academic expectations specified in the charter; and

34 F. Placing a charter school on probation if there is
36 evidence that the school is not performing according to its
38 charter. A school must be given 30 days' notice before
40 being placed on probation, and the chartering authority
42 shall hold a public hearing within 30 days of placing a
44 school on probation.

46 The chartering authority may require a charter school to which
48 the chartering authority has granted a charter to produce any
50 book, record, paper or document the chartering authority
52 determines necessary for carrying out its functions under this
54 chapter.

56 5. Pilot program; repeal. The charter school program
58 begins with a 10-year pilot phase.

60 A. During the pilot phase the following limits apply:

62 (1) No more than 20 charter schools statewide may be
64 approved during the pilot phase, of which no more than
66 5 may be authorized by eligible units of the University
68 of Maine System; and

70 (2) A charter school may not enroll more than 10% of a
72 school administrative unit's public school students per
74 grade level unless a school board acting as the
76 chartering authority approves a different percentage
78 for students residing in the school administrative
80 unit. This provision does not apply to conversions of
82 existing public schools and public school programs.

2 B. To enforce the limits set out in paragraph A, the
3 commissioner shall register the charters granted by all
4 chartering authorities in chronological order by date of
5 approval. Each chartering authority shall forward to the
6 commissioner a copy of its official approval letter for each
7 charter school it authorizes within 10 days of such
8 approval. Once the cap of 20 charters is reached, the
9 commissioner may not accept further registrations and no
10 further charter schools may be chartered until June 30, 2016.

11 This subsection is repealed June 30, 2016.'

12
13 Further amend the bill in section 4 in §2415 by striking out
14 all of subsection 4 (page 6, lines 46 to 50 in L.D.) and
15 inserting in its place the following:

16 '4. Homeschool; Internet. Charter schools may not be
17 organized as home-based programs and may not be used as a method
18 of providing education or generating revenue for students who are
19 being homeschooled. Charter schools may not offer programs that
20 require or permit students to take more than 50% of their studies
21 via the Internet.'

22
23 Further amend the bill in section 4 in §2415 by striking out
24 all of subsection 7 (page 7, lines 14 to 19 in L.D.) and
25 inserting in its place the following:

26 '7. Tuition. A charter school may not charge tuition or
27 fees to students who are residents of this State beyond those
28 allowed in a regular public kindergarten to grade 12 program,
29 except that a charter school offering a residential component may
30 charge a fee for room and board and, if a fee is charged, shall
31 offer assistance to families needing scholarships for room and
32 board fees.'

33 Further amend the bill in section 4 by striking out all of
34 §2416 and inserting in its place the following:

35 '§2416. Charter agreement

36 1. Consideration and inclusion of major issues. Major
37 issues involving the operation of a charter school must be
38 considered and addressed in advance of the opening of the charter
39 school and written into the charter agreement, which must be
40 signed by the charter school's board of trustees and the
41 chartering authority. Each charter agreement must indicate the
42 responsibilities of the charter school for implementing the
43 charter school's programs and the responsibilities of the
44 chartering authority for monitoring the charter school's
45 operations.

2 2. Written agreement on issues; contents of charter. The
3 board of trustees of the charter school and the chartering
4 authority shall establish a written agreement on the following
5 issues and incorporate the agreement into the charter:

6
7 A. The education program, including the charter school's
8 mission, the students to be served, the student ages and
9 grade span to be included and the focus of the curriculum;

10
11 B. The outcomes to be achieved and the method of
12 measurement that will be used, including how the charter
13 school will meet any state-required outcomes such as the
14 system of learning results established in section 6209;

15 C. Procedures for the admission and dismissal of students;

16
17 D. The ways by which the charter school will try to achieve
18 a racial and ethnic balance reflective of the community it
19 serves;

20
21 E. The manner in which the charter school will comply with
22 state and federal requirements for the education of children
23 with special needs, including the delivery of appropriate
24 special education services and any innovative delivery
25 systems;

26
27 F. The manner in which financial audits will be conducted;

28
29 G. The qualifications required of the teachers in addition
30 to those required under section 2418;

31 H. The management and administration of the charter school;

32
33 I. The governance structure of the charter school;

34
35 J. The learning methods to be used;

36
37 K. A draft of a 2-year financial plan showing anticipated
38 enrollment and anticipated revenues and expenses and a
39 description of the system of internal financial controls;

40
41 L. How the charter school will be insured;

42
43 M. The facilities to be used and their locations; and

44
45 N. The arrangements for covering teachers and other staff
46 for health, retirement and other employee benefits.'

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COMMITTEE AMENDMENT " " to S.P. 606, L.D. 1640

2 Further amend the bill in section 4 in §2418 in subsection 2
in the first line (page 10, line 48 in L.D.) by striking out the
following: "At least 50% of the" and inserting in its place the
4 following: 'All full-time'

6 Further amend the bill in section 4 in §2419 in subsection 1
in the 3rd line (page 11, line 44 in L.D.) by striking out the
8 following: "student." and inserting in its place the following:
'student, except that the school administrative unit in which the
10 student resides may retain up to 2% of the per-pupil allocation
described in paragraphs A to D to cover associated administrative
12 costs. This amount must be negotiated with the charter school
prior to the student's attendance at the charter school.'

14 Further amend the bill in section 4 in §2419 in subsection 3
16 in the first line (page 12, line 32 in L.D.) by inserting after
the headnote the following: 'The funding and education
18 decision-making process for special education students attending
a charter school are the responsibility of the school
20 administrative unit in which the student resides. Special
education students attending a charter school and their parents
22 retain the same educational opportunities as special education
students and parents who receive special education services
24 through the school administrative unit in which the student
resides.'

26 Further amend the bill in section 4 in §2419 in subsection 4
28 in the last line (page 12, line 46 in L.D.) by inserting after
the following: "units." the following: 'A charter school with
30 any students eligible for Title I funds may use these the funds
during the first year of operation of the charter school. A
32 charter school may charge tuition to an out-of-state student
admitted to the school on a space-available basis.'

34 Further amend the bill in section 4 in §2424 in the first
36 paragraph in the next to the last line (page 14, line 8 in L.D.)
by striking out the following: "following" and inserting in its
38 place the following: 'of'

40 Further amend the bill in section 5 in the 4th and 5th lines
(page 14, lines 14 and 15 in L.D.) by striking out the
42 following: "2005 to the Second Regular Session of the 122nd
Legislature" and inserting in its place the following: '2006 to
44 the First Regular Session of the 123rd Legislature'

46 Further amend the bill by inserting after section 6 the
following:

48 **'Sec. 7. Appropriations and allocations.** The following
50 appropriations and allocations are made.

COMMITTEE AMENDMENT

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2 EDUCATION, DEPARTMENT OF

4 Charter School Program NEW

6 Initiative: Provides a base allocation in fiscal year 2006-07
8 for the public charter schools pilot program.

| | | | |
|----|--|----------------|----------------|
| 8 | FEDERAL EXPENDITURES FUND | 2005-06 | 2006-07 |
| 10 | All Other | \$0 | \$500 |
| 12 | FEDERAL EXPENDITURES FUND TOTAL | \$0 | \$500' |

14
16 **SUMMARY**

18 This amendment is the minority report of the Joint Standing
20 Committee on Education and Cultural Affairs. The amendment does
22 the following.

24 1. It clarifies that the central purposes of establishing
26 charter schools are to expand learning opportunities for
28 disengaged students who are underserved by the current
30 educational system and to increase the likelihood that students
32 will excel in a standards-based educational system.

34 2. It provides that a chartering authority may grant a
36 charter only to a charter school organizer whose proposal
38 includes, as the primary purpose of the charter school, the
40 intention to seek to expand learning opportunities for disengaged
42 students who are underserved by the current educational system.

44 3. It provides that only those units of the University of
46 Maine System that are authorized to confer baccalaureate degrees
48 in education, as well as school boards, are eligible to become
50 chartering authorities, and it further provides that no more than
5 charter schools may be authorized by an eligible unit of the
University of Maine System.

4. It expands the list of entities that are eligible to
apply to be charter school organizers to include school
administrative units, public alternative educational programs and
schools that are approved by the Commissioner of Education in
accordance with the Maine Revised Statutes, Title 20-A, section
2501 or section 7253.

5. It lowers the limit established in the bill for the
percentage of a school administrative unit's public school
students per grade level that a charter school may enroll from
20% to 10%.

2018

COMMITTEE AMENDMENT " " to S.P. 606, L.D. 1640

2 6. It requires that all of the full-time teachers at a
3 charter school hold an appropriate teaching certificate and meet
4 the highly qualified standards for teachers in accordance with
5 the provisions of the federal No Child Left Behind Act of 2001.

6
7 7. It provides that the school administrative unit in which
8 the student resides may retain up to 2% of the per-pupil
9 allocation, which would otherwise follow the student to the
10 charter school, to cover associated administrative costs.

11 8. It provides that charter schools may not be established
12 as home-based programs.

13 9. It makes a technical correction to change the date of
14 the Maine State Retirement System review of the laws governing
15 participating local districts' retirement plans to November 28,
16 2006.
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FISCAL NOTE REQUIRED
(See attached)

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COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 1640

LR 0136(02)

An Act To Permit Charter Schools in Maine

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Minority Report

Fiscal Note

Undetermined current biennium cost increase - General Fund

Potential current biennium revenue increase - Federal Expenditures Fund

| | 2005-06 | 2006-07 | Projections 2007-08 | Projections 2008-09 |
|-----------------------------------|---------|---------|------------------------|------------------------|
| Appropriations/Allocations | | | | |
| Federal Expenditures Fund | \$0 | \$500 | \$500 | \$500 |
| Revenue | | | | |
| Federal Expenditures Fund | \$0 | \$500 | \$500 | \$500 |

Fiscal Detail and Notes

This bill establishes a pilot program for charter schools as a new type of public school that will be part of the State's program of public education. The requirement that all except up to 2% of the state and local funding associated with operating, other subsidizable and special education costs follow each child to the charter school the child attends may result in a significant redistribution of the funds available from the General Purpose Aid for Local Schools program. The impact to individual school units can not be determined at this time. Additionally, this legislation may affect the local share of funding K-12 education. The impact can not be determined at this time and will depend on whether the per-pupil-cost to send a student to a charter school is higher or lower than sending the student to a non-charter school. The additional cost to the Department of Education and the State Board of Education associated with implementing this legislation can not be determined at this time.

This bill allows for teachers in a non-charter school who are members of the Maine State Retirement System and take a leave of absence to teach in a charter school to continue to participate in the retirement system while on leave. Although this legislation is not clear who will be responsible for the cost, the employee and employer contribution rate for those teachers must continue to be paid.

This bill includes a Federal Expenditures Fund allocation of \$500 in fiscal year 2006-07 to establish a base allocation for any federal grants that may be received by the Department of Education for the Public Charter Schools Program.

State Educational Agencies (SEAs) are eligible to compete for grants if the State has a charter school law in place. The amount of grants that may be received by the State can not be determined at this time. However, according to information at the U.S. Department of Education's website, the average award for an SEA is \$3,000,000 and ranges from approximately \$500,000 to \$8,000,000. The grants provide up to 3 years of assistance for planning and implementation and SEAs may reserve up to 5% of the grant funds for administrative expenses related to operating the charter school program.

Additional costs to the Maine State Retirement System associated with conducting the required review of retirement plans for participating local districts can be absorbed within the System's operating budget.

Additional costs to the Maine Labor Relations Board associated with this legislation can be absorbed within existing budgeted resources.