

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



STATE OF MAINE
LEGISLATURE

124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1446

S.P. 531

In Senate, April 7, 2009

An Act To Create the Maine Online Learning Program

(EMERGENCY)

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

Handwritten signature of Joy J. O'Brien in cursive.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ALFOND of Cumberland.
Cosponsored by Representative PERCY of Phippsburg and
Senators: President MITCHELL of Kennebec, WESTON of Waldo, Representatives:
CASAVANT of Biddeford, JOHNSON of Greenville, NELSON of Falmouth, Speaker
PINGREE of North Haven, SUTHERLAND of Chapman, WAGNER of Lewiston.

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,** delivering educational programs that meet the diverse educational needs
4 of our children is of the greatest importance to the future welfare of the State; and

5 **Whereas,** closing the achievement gap between high-performing and low-
6 performing students, including the gap between economically disadvantaged students and
7 their more advantaged peers, continues to be a significant challenge; and

8 **Whereas,** providing a broader range of educational options to parents and utilizing
9 existing resources, including learning technology, will help improve the academic
10 achievement of students; and

11 **Whereas,** the State can augment the capacity of school administrative units to
12 provide public school options for those students whose educational needs are not being
13 met through the regular public school program; and

14 **Whereas,** through the use of available learning technology resources, the State can
15 create educational opportunities for students that may not exist without the use of those
16 resources; and

17 **Whereas,** this legislation is necessary to provide consistent, high-quality, public
18 education options for students through the use of available learning technology resources;
19 and

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

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

25 **Sec. 1. 20-A MRSA §5001-A, sub-§3, ¶D** is enacted to read:

26 D. A person is excused from attending a public day school if the person is enrolled
27 as a full-time student in the Maine Online Learning Program pursuant to chapter 802.

28 **Sec. 2. 20-A MRSA §15689-A, sub-§19** is enacted to read:

29 19. Maine Online Learning Program. Beginning in fiscal year 2009-10, the
30 commissioner may expend and disburse funds for the establishment and operations of the
31 Maine Online Learning Program established under chapter 802, including the annual
32 costs for the master contractual agreements established between the department and
33 online learning providers to provide online learning programs and courses approved in
34 accordance with the provisions of that chapter.

35 **Sec. 3. 20-A MRSA c. 802** is enacted to read:

1 CHAPTER 802

2 MAINE ONLINE LEARNING PROGRAM

3 §19151. Definitions

4 As used in this chapter, unless the context otherwise indicates, the following terms
5 have the following meanings.

6 1. Online learning program or course. "Online learning program or course" means
7 an interactive course or program that:

8 A. Is taught primarily by a teacher from a remote location and is delivered primarily
9 electronically using the Internet or other computer-based methods in which a student
10 enrolled in a course may have access to the teacher synchronously or asynchronously;

11 B. May be delivered to students at school as part of the regularly scheduled school
12 day or may be delivered to students, in whole or in part, independently from a regular
13 classroom schedule;

14 C. Is combined with other traditional delivery methods that include frequent student
15 assessment and may include actual teacher contact time; and

16 D. Meets or exceeds the accountability standards and parameters for essential
17 instruction established as part of the statewide system of learning results as set forth
18 in section 6209.

19 2. Online learning provider. "Online learning provider" means a private
20 organization that is approved by the department to provide online learning programs or
21 courses to one or more school administrative units for kindergarten to grade 12 students.

22 3. Proctored environment. "Proctored environment" means an environment
23 directly monitored by a teacher or administrative staff employed by an online learning
24 provider or by an adult authorized by the program.

25 4. School year. "School year" means the 175 days of student instruction or
26 equivalent hours required pursuant to section 4801.

27 §19152. Program established

28 The Maine Online Learning Program, referred to in this chapter as "the program," is
29 established to provide high-quality educational options for kindergarten to grade 12
30 students in this State using online learning programs and courses. The goals of the
31 program are to:

32 1. Create opportunity. Create educational opportunities for students in this State
33 that may not exist without such technology;

34 2. Close achievement gap. Close the achievement gap between high-performing
35 and low-performing students, including the gap between minority and nonminority
36 students and between economically disadvantaged students and their more advantaged
37 peers;

1 **3. Educational options.** Use existing educational resources, along with technology,
2 to provide parents a broader range of educational options and to help students in the State
3 improve their academic achievement; and

4 **4. Public school choice.** Increase the capacity of school administrative units to
5 provide public school choice for students whose educational needs are not being met in
6 the regular public school program.

7 **§19153. Approval of online learning providers**

8 Beginning with the 2009-2010 school year, the department shall administer the
9 operations of the program to make full-time and part-time online learning opportunities
10 available for kindergarten to grade 12 students in the State. The department, in
11 consultation with the state board, shall develop approval criteria and a process for
12 approving online learning providers to implement online learning programs and courses.

13 **1. Master contractual agreement.** The department shall enter into a master
14 contractual agreement with 2 or more online learning providers approved under
15 subsection 2 to provide online learning programs and courses, teacher professional
16 development training and other services necessary to operate the program during the
17 school year. The master contractual agreement must be in a form and containing such
18 information as required by the commissioner, including, but not limited to, the following
19 information:

20 A. The requirement that the online learning provider may only provide online
21 learning programs or courses to a school administrative unit that enters into a
22 cooperative agreement with the department as set forth in section 19155;

23 B. A standard price for each course offered for a unit of credit to a school
24 administrative unit;

25 C. The requirement that funds must be provided to the online learning provider only
26 after the school administrative unit has:

27 (1) Verified that the online learning program or course was successfully
28 completed by the student; and

29 (2) Submitted a purchase order to the department requesting that funds be
30 provided to the online learning provider for a student that has successfully
31 completed the online learning program or course;

32 D. Certification that the online learning provider must fulfill the requirements as set
33 forth in subsection 3;

34 E. The duration of the agreement, which may be from 2 to 4 years, and any
35 provisions for renewal of the agreement; and

36 F. Any other provisions that both parties consider necessary.

37 **2. Selection of online learning providers.** The department shall make a contract
38 award with an online learning provider on the basis of the online learning provider's
39 demonstrated experience in the operation and management of online learning programs
40 and courses, including the number of students served and proven academic success as

1 measured by student performance and state assessment results, as appropriate, and an
2 online learning provider's ability to satisfy the requirements under subsection 3.

3 **3. Requirements.** To be approved by the department, an online learning provider
4 must demonstrate and thereafter annually document that it meets all of the following
5 requirements:

6 A. The online learning provider must be nonsectarian in its programs, admission
7 policies, employment practices and operations;

8 B. The online learning provider must locate an administrative office or offices in the
9 State and require its administrative staff and faculty to be state residents;

10 C. Each course offered for a unit of credit must correlate with applicable state
11 adopted academic standards prior to being offered. All courses must include
12 assessments that are provided to students on a weekly basis and be available on a
13 year-round basis;

14 D. All teachers employed by the online learning provider must hold a valid teaching
15 certificate in each content area being taught or receive approval from the department
16 to teach the course;

17 E. All teachers employed by the online learning provider must receive appropriate
18 preservice and in-service training pertaining to the organization of the online
19 classroom, programs and courses, the technical aspects of online education, the
20 monitoring of student assessment and other pertinent training;

21 F. Students enrolled in the program on a full-time basis must be provided with, at a
22 minimum, a computer, a printer, Internet access and all instructional materials
23 required to participate in the program;

24 G. The online learning provider must verify ongoing student attendance and progress
25 and performance in each course or courses as documented by ongoing assessments in
26 a proctored environment and provide examples of student course work and proof of
27 having held bimonthly student-teacher conferences; and

28 H. All administrative staff and teachers employed by the online learning provider
29 must comply with the fingerprinting and national criminal history record check
30 requirements as set forth in section 6103.

31 **§19154. Enrollment and eligibility**

32 Full-time students enrolled in the program are excused from attendance at a public
33 day school as set forth in section 5001-A, subsection 3, paragraph D. The following
34 provisions apply for enrollment and eligibility.

35 **1. Full-time or part-time.** The program may enroll students on a full-time and part-
36 time basis as established by the department. If the program is oversubscribed, an online
37 learning provider shall use a random lottery to select enrolled students, subject to any
38 statutorily imposed enrollment preferences.

39 **2. Eligibility.** A public school student residing in the State who is 20 years of age or
40 younger is eligible to enroll in the program.

1 **3. Child with a disability.** A child with a disability may be eligible for enrollment
2 in an online learning program or course as long as the pupil evaluation team determines
3 that enrollment in an online learning program or course allows the student to
4 satisfactorily complete the requirements of the educational components of an
5 individualized education program and is otherwise in compliance with the individualized
6 education program.

7 **4. Application review and approval.** The following provisions apply to a student
8 whose parent submits an application requesting that the child receive instruction and
9 academic services as an enrolled student in an online learning program or course.

10 **A.** A superintendent may approve the enrollment of a student whose parent submits
11 an application requesting enrollment in an online learning program or course if the
12 superintendent finds that the enrollment is in the student's best interest.

13 **B.** The superintendent shall notify the parent in writing of the decision to enroll the
14 student in an online learning program or course within 30 days of receipt of the
15 application from the student's parent. The superintendent shall notify the
16 commissioner of any enrollment approved under this paragraph.

17 **C.** In the event that the superintendent denies the parent's application requesting
18 enrollment of a student under paragraph A and the superintendent and the student's
19 parent cannot reach an agreement on the enrollment of the student, the student's
20 parent may appeal the decision to the commissioner. The commissioner's decision in
21 such an appeal must be rendered within 60 days and is final.

22 **D.** The superintendent shall annually review any enrollment approved under this
23 subsection.

24 **5. Assessment.** Students enrolled in an online learning program or course for a unit
25 of credit shall participate in any applicable final exams, grade-level assessments and state
26 assessments in a proctored environment.

27 **§19155. Cooperative agreement to purchase online learning programs and courses;**
28 **approval**

29 A school administrative unit may enter into a cooperative agreement with the
30 department to purchase online learning programs or courses from an online learning
31 provider approved by the department in accordance with section 19153 for eligible
32 students residing in the school administrative unit. The cooperative agreement is subject
33 to a master contractual agreement between the department and an online learning
34 provider that is approved in accordance with section 19153. The cooperative agreement
35 must be in a form and containing such information as required by the commissioner,
36 including, but not limited to, the information required under section 19153, subsection 1.
37 If the commissioner approves the cooperative agreement, it is subject to approval by the
38 school board of the school administrative unit involved in the agreement. Upon approval
39 of the school board, the agreement becomes effective.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

§19156. Funding

The department shall provide payment to the online learning provider in accordance with the provisions of this chapter from the General Fund disbursed under section 15689-A, subsection 19 and from any other funds available as follows.

1. Other sources of funding. The program may receive other state and federal aid, grants and revenue through the State in the case of Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. and similar categorical funding programs. The program may be considered a local education agency for purposes of applying for competitive federal grants. The department may receive gifts and grants from private sources on behalf of the program in whatever manner is also available to school administrative units.

2. Funding for students with disabilities. Except for providing funds to an online learning provider pursuant to the master contractual agreement under section 19153, subsection 1 for a child with a disability that is eligible for enrollment in an online learning program or course, nothing in this chapter relieves the department or a school administrative unit of its legal responsibility for the education of students with disabilities under this Title.

§19157. Report

The department shall provide the Legislature annually with a report that includes, but is not limited to, the following information:

1. Programs and courses. A list of programs and courses offered through the program;

2. Students. The number of students participating in the program, including the number of full-time students, part-time students and full-time equivalent students enrolled;

3. Student performance. Student performance for students enrolled in online learning programs or courses, including the academic achievement of students enrolled in each course offered through the program;

4. Expenditures. Expenditures of state and nonstate funds made for online learning programs and courses; and

5. Limitation. The number of students who were unable to enroll in an online learning program or course because of space limitation.

Sec. 4. Department of Education review of online learning initiatives; report; additional necessary implementing legislation. In establishing the Maine Online Learning Program under the Maine Revised Statutes, Title 20-A, chapter 802, the Department of Education shall review the online learning initiatives established in other states and jurisdictions, including the best practices established by these online learning initiatives related to funding, governance, approval requirements for online learning providers, teacher quality and assessment of student performance. The department shall

1 also review the extent to which funding for existing learning technology and online
2 learning initiatives in the State, including, but not limited to, the targeted technology
3 resource funds under Title 20-A, section 15681, subsection 3, the laptop program funds
4 under Title 20-A, section 15689-A, subsection 8 and the learning through technology
5 program funds under Title 20-A, section 15689-A, subsection 12-A, may be reallocated
6 to support the establishment of the Maine Online Learning Program. No later than
7 January 1, 2010, the Commissioner of Education shall submit to the Joint Standing
8 Committee on Education and Cultural Affairs a report that contains findings,
9 recommendations and any proposed legislation necessary to further the implementation of
10 the Maine Online Learning Program. Following receipt and review of the report, the
11 Joint Standing Committee on Education and Cultural Affairs may submit a bill to the
12 Second Regular Session of the 124th Legislature.

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

15 **SUMMARY**

16 This bill directs the Department of Education to establish the Maine Online Learning
17 Program, which will provide high-quality educational options for kindergarten to grade
18 12 students using online learning programs and courses, beginning in the 2009-2010
19 school year.