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An Act To Create the Maine Online Learning Program

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

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

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

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

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

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

Whereas, this legislation is necessary to provide consistent, high-quality, public education options for students through the use of available learning technology resources; 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 §5001-A, sub-§3, ¶D is enacted to read:

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

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

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

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

CHAPTER 802

MAINE ONLINE LEARNING PROGRAM

§ 19151. Definitions

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

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

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

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

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

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

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

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

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

§ 19152. Program established

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

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

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

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

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

§ 19153. Approval of online learning providers

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

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

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

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

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

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

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

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

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

F. Any other provisions that both parties consider necessary.

2. Selection of online learning providers. The department shall make a contract award with an online learning provider on the basis of the online learning provider's demonstrated experience in the operation and management of online learning programs and courses, including the number of students served and proven academic success as measured by student performance and state assessment results, as appropriate, and an online learning provider's ability to satisfy the requirements under subsection 3.

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

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

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

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

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

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

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

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

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

§ 19154. Enrollment and eligibility

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

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

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

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

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

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

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

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

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

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

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

A school administrative unit may enter into a cooperative agreement with the department to purchase online learning programs or courses from an online learning provider approved by the department in accordance with section 19153 for eligible students residing in the school administrative unit. The cooperative agreement is subject to a master contractual agreement between the department and an online learning provider that is approved in accordance with section 19153. The cooperative agreement must be in a form and containing such information as required by the commissioner, including, but not limited to,

the information required under section 19153, subsection 1. If the commissioner approves the cooperative agreement, it is subject to approval by the school board of the school administrative unit involved in the agreement. Upon approval of the school board, the agreement becomes effective.

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

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

SUMMARY

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