

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2684

S.P. 1079

In Senate, April 7, 2000

**An Act to Improve Oversight and Accountability of Student Loan  
Programs Funded with an Allocation of the State Ceiling on Private  
Activity Tax-exempt Bonds.**

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Reported by the Joint Standing Committee on Business and Economic Development  
pursuant to Public Law 1999, chapter 443, section 15 and ordered printed pursuant to Joint  
Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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

2           **Sec. 1. 10 MRSA §363, sub-§1-A**, as amended by PL 1999, c. 443,  
4 §1, is further amended to read:

6           **1-A. Procedure.** For each calendar year, the Legislature  
8 may establish a procedure for allocation of the entire amount of  
10 the state ceiling by allocating an amount of the state ceiling to  
12 the specific issuers designated in this section for further  
14 allocation by each specific issuer to itself or to other issuers  
16 for specific bond issues requiring an allocation of the state  
18 ceiling or for carryforward. This procedure supersedes the  
20 federal formula to the full extent that the United States Code,  
22 Title 26, authorizes the Legislature to vary the federal  
24 formula. Allocations may be reviewed by the Legislature  
26 periodically and unused allocations may be reallocated to other  
28 issuers; however, notwithstanding the existence of legislation  
30 allocating or reallocating all or any portion of the state  
32 ceiling, at any time during the period from September 1st to and  
34 including December 31st of any calendar year, and at any other  
36 time that the Legislature is not in session, a group consisting  
38 of a representative of each of the issuers specifically  
40 identified in subsections 4 ~~to~~, 6 and 7; a representative of a  
42 corporation created pursuant to the former Title 20, section 2237  
44 and Title 20-A, section 11407; and a representative of the  
46 Governor designated each year by the Governor may, by written  
agreement executed by no fewer than 5 4 of the 6 5 voting  
representatives, allocate amounts not previously allocated and  
reallocate unused allocations from one of the specific issuers  
designated in this section to another specific issuer for further  
allocation or carryforward, with respect to the state ceiling for  
that calendar year only. The issuer specifically identified in  
subsection 5 and a representative of the Department of Economic  
and Community Development designated each year by the  
Commissioner of Economic and Community Development shall  
participate as nonvoting members of the group of representatives  
described in this subsection with respect to agreements or  
recommendations for allocation or reallocation of the state  
ceiling. Except for records containing specific and identifiable  
personal information acquired from applicants for or recipients  
of financial assistance, the records of the group of  
representatives described in this subsection are public records  
and the meetings of the group of representatives described in  
this subsection are public proceedings within the meaning of  
Title 1, chapter 13, subchapter I.

48           **Sec. 2. 10 MRSA §363, sub-§2-A**, as amended by PL 1993, c. 671,  
§1, is further amended to read:

2           **2-A. Recommendation of Governor and issuers.** At any time  
3 action of the Legislature under subsection 1-A is necessary or  
4 desirable, the Governor shall recommend to the appropriate  
5 committee of the Legislature a proposed allocation or  
6 reallocation of all or part of the state ceiling. To assist the  
7 Governor in making a recommendation of proposed allocations of  
8 the ~~federal~~ state ceiling on private activity bonds, the ~~Finance~~  
9 ~~Authority of Maine shall conduct an annual survey of the State's~~  
10 ~~pulp and paper companies during the years 1994 through 2000 to~~  
11 ~~determine what projects they are considering that are eligible~~  
12 ~~for tax exempt financing~~ the group of 7 representatives described  
13 in subsection 1-A shall make a recommendation regarding  
14 allocation or reallocation of the state ceiling. The results of  
15 this survey must be taken into consideration in the Governor's  
16 recommendation. This recommendation must, including the results  
17 of the survey, be considered by the Legislature prior to taking  
18 any such action. In order to assist the group in making its  
19 recommendation and to assist the Governor and the Legislature,  
20 the State Planning Office shall prepare an annual analysis of the  
21 State's economic outlook, prevailing interest rate forecasts  
22 related to tax-exempt financing by the issuers specifically  
23 identified in subsections 4 to 8, the availability to those  
24 issuers of alternative financing from sources that do not require  
25 an allocation of the state ceiling and the relationship of these  
26 factors and various public policy considerations to the  
27 allocation or reallocation of the state ceiling. In recommending  
28 any allocation or reallocation of the state ceiling to the  
29 Legislature, the Governor shall consider the requests and  
30 recommendations of those issuers of bonds within the State  
31 designated in this section and shall explain the basis of any  
32 recommendation that varies from the requests and recommendation  
33 of those issuers, the recommendations of the group of  
34 representatives described in subsection 1-A and the annual  
35 analysis of the State Planning Office.

36           **Sec. 3. 10 MRSA §363, sub-§§4 and 5,** as repealed and replaced  
37 by PL 1987, c. 413, §4, are amended to read:

38           **4. Allocation to Maine State Housing Authority.** That  
39 portion of the state ceiling allocated under this section to the  
40 category of bonds for housing or housing-related purposes shall  
41 must be allocated to the Maine State Housing Authority, which may  
42 further allocate that portion of the state ceiling to bonds for  
43 housing-related projects which that require an allocation in  
44 order to qualify as tax-exempt bonds. Any further allocation or  
45 reallocation of any portion of the state ceiling from the Maine  
46 State Housing Authority to another specific issuer designated in  
47 this section must be done in accordance with the requirements in  
48 subsection 1-A.

50

2           **5. Allocation to the Treasurer of State.** That portion of  
the state ceiling allocated under this section to the category of  
4           general obligations obligation bonds of the State shall must be  
allocated to the Treasurer of State, who may further allocate  
6           that portion of the state ceiling to bonds of the State requiring  
an allocation in order to qualify as tax-exempt bonds. Any  
8           further allocation or reallocation of any portion of the state  
ceiling from the Treasurer of State to another specific issuer  
10           designated in this section must be done in accordance with the  
requirements in subsection 1-A.

12           **Sec. 4. 10 MRSA §363, sub-§6,** as amended by PL 1991, c. 603,  
§2, is further amended to read:

14           **6. Allocation to the Finance Authority of Maine.** That  
16           portion of the state ceiling allocated to the category of bonds  
which that are limited obligations of the issuer payable solely  
18           from the revenues of the projects financed with the proceeds of  
the bonds, other than for housing-related projects or issues  
20           included in an issue of the Maine Municipal Bond Bank, as well as  
that portion of the state ceiling allocated to bonds authorized  
22           to be issued by the Finance Authority of Maine pursuant to Title  
20-A, chapter 417-B, must be allocated to the Finance Authority  
24           of Maine, which may further allocate that portion of the state  
ceiling to bonds requiring an allocation in order to qualify as  
26           tax-exempt bonds. Any further allocation or reallocation of any  
portion of the state ceiling from the Finance Authority of Maine  
28           to another specific issuer designated in this section must be  
done in accordance with the requirements in subsection 1-A.

30           **Sec. 5. 10 MRSA §363, sub-§7,** as amended by PL 1989, c. 224,  
32           §1, is further amended to read:

34           **7. Allocation to the Maine Municipal Bond Bank.** That  
portion of the state ceiling allocated to the category of bonds  
36           which that are general obligations of issuers within the State,  
other than the State; which that are included in bond issues of  
38           the Maine Municipal Bond Bank; which that are included in bond  
issues of the Maine Public Utility Financing Bank; or which that  
40           are qualified redevelopment bonds as defined in the United States  
Code, Title 26, shall must be allocated to the Maine Municipal  
42           Bond Bank, which may further allocate that portion of the state  
ceiling to bonds requiring an allocation in order to qualify as  
44           tax-exempt bonds. Any further allocation or reallocation of any  
portion of the state ceiling from the Maine Municipal Bond Bank  
46           to another specific issuer designated in this section must be  
done in accordance with the requirements in subsection 1-A.

48           **Sec. 6. 10 MRSA §363, sub-§8,** as amended by PL 1999, c. 443,  
50           §2, is further amended to read:

2           **8. Allocations for educational bonds.** That portion of the  
4 state ceiling allocated to the categories of bonds providing  
6 funds for the purposes of a corporation created pursuant to the  
8 former Title 20, section 2237, and Title 20-A, section 11407, or  
10 of the Maine Educational Loan Authority must be allocated to that  
12 corporation or to the Maine Educational Loan Authority, or both,  
14 and each may further allocate the portion of the state ceiling  
16 allocated to it to bonds requiring an allocation to qualify as  
18 tax-exempt bonds. ~~That portion of the state ceiling allocated to~~  
the--issuance--of--bonds--for--education--loans--for--the--Loans--to  
Lenders--Pilot--Program--must--be--allocated--to--the--Finance--Authority  
of--Maine. Any further allocation or reallocation of any portion  
of the state ceiling from the Maine Educational Loan Authority or  
a corporation created pursuant to former Title 20, section 2237  
and Title 20-A, section 11407 to each other or to another  
specific issuer designated in this section must be done in  
accordance with the requirements in subsection 1-A.

20           A. Prior to ~~receiving~~ issuing loans funded through an  
22 allocation of the state ceiling for the issuance of  
24 education loans, an issuer or lender must provide to the  
26 appropriate agency within the Department of Professional and  
28 Financial Regulation examples of the disclosures to be made  
30 to loan recipients or obligors. The information must be  
32 provided to the Bureau of Banking if the issuer or lender is  
34 a financial institution or credit union established pursuant  
36 to state or federal law or to the Office of Consumer Credit  
38 Regulation for all other issuers or lenders. This  
40 information must be provided to the appropriate agency  
42 within the Department of Professional and Financial  
44 Regulation upon request, or in the course of an examination  
46 of the issuer or lender by the agency, and must include a  
48 description of any interest rate or other discounts offered  
50 that clearly identifies all of the terms and conditions of  
obtaining any discount, a projection of the approximate  
number or percentage of loan obligors who are likely to  
benefit from the discounts and any other disclosures  
pursuant to guidelines established by the Bureau of Banking  
and the Office of Consumer Credit Regulation for the  
issuance of education loans that would benefit from an  
allocation of the state ceiling. The Bureau of Banking and  
the Office of Consumer Credit Regulation shall jointly  
adopt, to the extent allowed by law, rules to carry out the  
provisions of this paragraph by establishing uniform  
disclosure requirements and sanctions for noncompliance.  
Rules adopted pursuant to this paragraph are routine  
technical rules, as defined in Title 5, chapter 375,  
subchapter II-A. All information provided to the  
appropriate agencies within the Department of Professional

2 and Financial Regulation must include the source of the  
information and the basis for any projections.

4 B. All education loans made under the federal Higher  
6 Education Act of 1965, 20 United States Code, Chapter 28  
8 that are purchased or originated with proceeds of tax-exempt  
10 bonds using a portion of the state ceiling on private  
12 activity bonds must be guaranteed by the state agency  
14 designated as administrator of federal guaranteed student  
16 loan programs pursuant to Title 20-A, chapter 417,  
18 subchapter I, provided that this requirement does not apply  
to serial loans of a borrower that are guaranteed by a  
different guarantee agency and acquired or financed with  
tax-exempt bond proceeds prior to the effective date of this  
paragraph. The state agency designated as administrator of  
federal guaranteed student loan programs pursuant to Title  
20-A, chapter 417, subchapter I shall use its best efforts  
to provide competitive rates for the guarantee function.  
This paragraph is repealed on July 15, 2000.

20 B-1. All education loans made under the federal Higher  
22 Education Act of 1965, 20 United States Code, Chapter 28  
24 that are purchased or originated with proceeds of tax-exempt  
26 bonds using a portion of the state ceiling on private  
28 activity bonds must be guaranteed by the state agency  
30 designated as administrator of federal guaranteed student  
32 loan programs pursuant to Title 20-A, chapter 417,  
34 subchapter I, provided that this requirement does not apply  
to serial loans of a borrower that are guaranteed by a  
different guarantee agency and acquired or financed with  
tax-exempt bond proceeds prior to the effective date of this  
paragraph. The state agency designated as administrator of  
federal guaranteed student loan programs pursuant to Title  
20-A, chapter 417, subchapter I shall use its best efforts  
to provide competitive rates for the guarantee function.

36 **Sec. 7. 10 MRSA §363, sub-§9**, as amended by PL 1999, c. 443,  
38 §3, is further amended to read:

40 **9. Use of carryforward.** In the event that any issuer has  
42 made a carryforward election under the United States Code, Title  
26, Section 146(f), as amended, the issuer shall use, to the  
44 extent possible and consistent with the purpose for which the  
carryforward was elected, the carryforward for issues subject to  
46 the state ceiling prior to allocating any portion of the state  
ceiling for the applicable calendar year to the issue. To the  
48 extent permitted by federal law, a group consisting of a  
representative of each of the issuers specifically identified in  
subsections 4 to 7; a representative of a corporation created  
50 pursuant to former Title 20, section 2237 and Title 20-A, section

11407; and a representative of the Governor designated each year  
2 by the Governor may reallocate, by written agreement executed by  
no fewer than 5 4 of the 6 5 voting representatives, carryforward  
4 amounts from one of the specific issuers designated in this  
section to another specific issuer.

6  
8 **Sec. 8. 10 MRSA §363, sub-§11**, as enacted by PL 1999, c. 443,  
§4, is amended to read:

10 **11. Annual review.** By March 15th of each year, each issuer  
12 identified in subsections 4 to 8 shall deliver a report to the  
Governor, the group of representatives described in subsection  
14 1-A and the joint standing committee of the Legislature having  
jurisdiction over business and economic development matters.  
16 Each report must include, without limitation, a review of what  
bonds have been issued in the most recent year, how the state  
18 ceiling was allocated or carried forward and who has benefited  
from the proceeds of the tax exempt bonds in that year, a  
20 demonstration of the benefits to the State of the allocation of  
the state ceiling to such issuer for the most recent year and a  
22 demonstration that allocation of the state ceiling is necessary  
to fulfill an unmet need for financing by the private sector. In  
24 addition, each report must be accompanied by the most recent  
annual audited financial statements of the issuer and by a letter  
26 from an independent accountant addressing the savings  
attributable to the use of tax-exempt financing and how that  
28 savings was passed on to the entities or individuals benefiting  
from the bond proceeds.

30 **Sec. 9. 10 MRSA §965, sub-§4-A** is enacted to read:

32 **4-A. Director; serving on more than one board.** With the  
34 exception of a member serving in an ex officio capacity pursuant  
to subsection 4, a member may not serve at the same time as a  
36 director or officer of the Maine Educational Loan Authority, of  
any nonprofit corporation formed pursuant to the former Title 20,  
38 section 2237 and Title 20-A, section 11407 or of any entity that  
has a contract to provide a significant level of administrative  
40 services to the authority, to the Maine Educational Loan  
Authority or to any nonprofit corporation formed pursuant to the  
former Title 20, section 2237 and Title 20-A, section 11407.

42  
44 **Sec. 10. 20 MRSA §2237**, as amended by PL 1989, c. 812, §2, is  
repealed.

46 **Sec. 11. 20-A MRSA §11407**, as amended by PL 1999, c. 443, §5,  
is further amended to read:

48  
50 **§11407. Authorization for Governor to request organizations of  
corporations to acquire loan notes**



2 To the extent and for the purposes contemplated by the  
4 federal Internal Revenue Code of 1954, Section 103(e), as  
6 amended, and successor provisions thereto, including without  
8 limitation the federal Internal Revenue Code of 1986, Section  
10 150(d), as amended, the Governor may on behalf of the State  
12 request the organization of one or more nonprofit corporations to  
14 operate exclusively for the purpose of acquiring student loan  
16 notes incurred under the federal Higher Education Act of 1965, 20  
18 United States Code, Chapter 28, Title IV, Part B, as amended. ~~A  
20 nonprofit corporation formed under this section shall report  
22 annually on its activities during the previous fiscal year to the  
24 joint standing committee of the Legislature having jurisdiction  
26 over economic development matters, the joint standing committee  
28 of the Legislature having jurisdiction over appropriation matters  
30 and the joint standing committee of the Legislature having  
32 jurisdiction over education matters. That report must include a  
34 listing of the current directors and officers of the corporation,  
36 a summary of the corporation's purchases of loans in the  
38 secondary market during the previous fiscal year, a listing of  
40 the institutions from which loans were purchased during the  
previous fiscal year, a summary of the organization's direct  
student loans and a complete financial statement of the  
corporation's operations for the previous fiscal year, including  
a breakdown of income and costs, a breakdown of the  
administrative and operating costs of the corporation, a  
breakdown of the assets and liabilities of the corporation, total  
excess revenues over expenditures for the previous fiscal year  
and the total accumulation of these revenues, total income  
derived from investments during the previous fiscal year and a  
breakdown showing the disposition and use of excess revenues and  
the proceeds from investments. That report must include similar  
information on all affiliated entities. That report must be  
provided annually in writing to the committee by December 1st.  
Notwithstanding the requirements of this section, if a nonprofit  
corporation formed under this section does not comply with the  
requirements of this section, the Governor may request on behalf  
of the State that one or more state agencies acquire student loan  
notes incurred under the federal Higher Education Act of 1965, 20  
United States Code, Chapter 28, Title IV, Part B, as amended.~~

42 All education loan notes incurred under the federal Higher  
44 Education Act of 1965, 20 United States Code, Chapter 28 by a  
46 nonprofit corporation formed under this section that are acquired  
48 with proceeds of tax-exempt bonds using a portion of the state  
50 ceiling on private activity bonds must be guaranteed by the state  
agency designated as administrator of federal guaranteed student  
loan programs pursuant to Title 20-A, chapter 417, subchapter I,  
provided that this requirement does not apply to serial loans of  
a borrower that are guaranteed by a different guarantee agency

2 and acquired or financed with tax-exempt bond proceeds prior to  
the effective date of this paragraph. The state agency  
4 designated as administrator of federal guaranteed student loan  
programs pursuant to Title-20-A, chapter 417, subchapter I shall  
6 use its best efforts to provide competitive rates for the  
guarantee function. This paragraph is repealed on July 15, 2000.

8 1. Origination of loans. A nonprofit corporation formed  
under this section may not originate loans or otherwise extend  
10 credit to any person. The corporation may not discriminate  
against any financial institution or credit union authorized to  
12 do business in this State or any other entity with respect to the  
acquisition of loans. The corporation shall adopt policies  
14 regarding conflict of interest.

16 2. Loan guarantee. All education loan notes incurred under  
the federal Higher Education Act of 1965, 20 United States Code,  
18 Chapter 28 by a nonprofit corporation formed under this section  
that are acquired with proceeds of tax-exempt bonds using a  
20 portion of the state ceiling on private activity bonds must be  
guaranteed by the state agency designated as administrator of  
22 federal guaranteed student loan programs pursuant to chapter 417,  
subchapter I, provided that this requirement does not apply to  
24 serial loans of a borrower that are guaranteed by a different  
guarantee agency and acquired or financed with tax-exempt bond  
26 proceeds prior to the effective date of this paragraph. The  
state agency designated as administrator of federal guaranteed  
28 student loan programs pursuant to chapter 417, subchapter I shall  
use its best efforts to provide competitive rates for the  
30 guarantee function.

32 3. Board of directors. The board of directors of a  
nonprofit corporation formed under this section consists of 7  
34 members. Four members representing the public with full voting  
rights must be appointed by the Governor, subject to review and  
36 approval by the joint standing committee of the Legislature  
having jurisdiction over business and economic development  
38 matters and confirmation by the Legislature. The initial terms  
of the members appointed by the Governor pursuant to this  
40 subsection begin on the date of the corporation's year 2000  
annual meeting or on December 31, 2000, whichever date occurs  
42 first. The terms of the initial members must be staggered: 2  
members must be appointed to 2-year terms and 2 members must be  
44 appointed to 3-year terms. On the expiration of a term of any  
member, a successor must be appointed to a 3-year term. A member  
46 serves until a successor is appointed and qualified. A member is  
eligible for reappointment. If a member is appointed to fill a  
48 vacancy in an unexpired term, that member may serve only for the  
remainder of that term until a successor is appointed. An  
50 officer, director or employee of a nonprofit corporation formed

2 under this section may not at the same time serve as an officer,  
3 director or employee of the Maine Educational Loan Authority, of  
4 the state agency designated as administrator of federal  
5 guaranteed student loan programs pursuant to chapter 417,  
6 subchapter I or of any entity that has a contract to provide a  
7 significant level of administrative services to a nonprofit  
8 corporation formed under this section, to the Maine Educational  
9 Loan Authority or to the state agency designated as administrator  
10 of federal guaranteed student loan programs pursuant to chapter  
11 417, subchapter I.

12 **4. Public meetings and records.** Except for records  
13 containing specific and identifiable personal information  
14 acquired from applicants for or recipients of financial  
15 assistance, the books and records of a nonprofit corporation  
16 formed under this section are public records and the meetings of  
17 such a corporation are public proceedings within the meaning of  
18 Title 1, chapter 13, subchapter I.

19 **5. Use of competitive bidding.** A nonprofit corporation  
20 formed under this section may enter into contracts for loan  
21 administration, loan servicing and other substantial operating  
22 contracts through an open competitive bidding process in  
23 accordance with this subsection. The corporation shall adopt  
24 rules requiring that contracts may not be entered into without  
25 prior public notice and opportunity for interested persons to  
26 make proposals, and the corporation may not adopt the rules until  
27 after providing public notice and opportunity for public comment  
28 on the proposed rules. In adopting those rules, the corporation  
29 shall consider to the extent possible the rules and procedures  
30 with respect to the competitive bidding process set forth in  
31 Title 5, chapter 155, subchapter I-A. Any contract must be  
32 approved by the board after review of the contract and an  
33 accompanying fairness opinion prepared by an independent 3rd  
34 party.

35 **6. Annual report.** A nonprofit corporation formed under  
36 this section shall report annually on its activities during the  
37 previous fiscal year to the joint standing committees of the  
38 Legislature having jurisdiction over business and economic  
39 development matters, appropriations matters and education  
40 matters. The report must include a listing of the current  
41 directors and officers of the corporation; a summary of the  
42 corporation's purchases of loans in the secondary market during  
43 the previous fiscal year; a listing of the institutions from  
44 which loans were purchased during the previous fiscal year; a  
45 summary of the corporation's direct student loans; and a complete  
46 financial statement of the corporation's operations during the  
47 previous fiscal year, including a breakdown of income and costs,  
48 the administrative and operating costs of the corporation, the  
49 and the  
50 and the

2 assets and liabilities of the corporation, the total excess  
4 revenues over expenditures for the previous fiscal year and the  
6 total accumulation of these revenues, the total income derived  
8 from investments during the previous fiscal year, the disposition  
10 and use of excess revenues, the proceeds from investments and the  
12 geographic distribution and distribution between institutions of  
14 higher learning of its student loans among residents of this  
16 State. The report must demonstrate that all revenues, including  
18 reserves, that are acquired with proceeds of tax-exempt bonds  
20 using a portion of the state ceiling on private activity bonds  
22 are being used in a manner consistent with the public purpose for  
24 which the bonds are issued. The report must include similar  
26 information on all affiliated entities and must be provided  
28 annually in writing to the joint standing committees of the  
30 Legislature having jurisdiction over business and economic  
32 development matters, appropriations matters and education matters  
34 by December 1st. A nonprofit corporation formed under this  
36 section shall also file copies of the corporation's Internal  
38 Revenue Code forms and returns with the Attorney General and the  
40 joint standing committee of the Legislature having jurisdiction  
42 over business and economic development matters.

24 **Sec. 12. 20-A MRSA §11413, sub-§16** is enacted to read:

26 16. Supplemental loan. "Supplemental loan" means a loan to  
28 a student or to a parent to finance the costs of higher education  
30 other than a loan guaranteed pursuant to the federal Higher  
32 Education Act of 1965, 20 United States Code, Chapter 28.

30 **Sec. 13. 20-A MRSA §11415, sub-§2**, as enacted by PL 1987, c.  
32 807, §3, is amended to read:

34 **2. Qualifications.** Each member shall must be a resident of  
36 this State. One member shall must be the Treasurer of State, ex  
38 officio and nonvoting, or the Treasurer of State's designee. One  
40 member ~~shall be the president of the secondary market, ex~~  
42 ~~officio, or the president of the secondary market's designee.~~ Of  
44 the remaining 5 6 members to be appointed by the Governor, 2 3  
46 members shall must be trustees, directors, officers or employees  
48 of institutions of higher education, ~~at least~~ one of whom shall  
50 must be from an institution not owned or operated by the State or  
any of its political subdivisions and one of whom must be from a  
technical college owned or operated by the State. Each member of  
the authority, before entering upon that member's duties, shall  
take and subscribe the oath or affirmation required by the  
Constitution of Maine, Article IX, Section 1. A record of each  
oath shall must be filed in the office of the Secretary of  
State. With the exception of a member serving in an ex officio  
capacity, a member of the authority may not at the same time  
serve as an officer, director or employee of a nonprofit

2 corporation formed under section 11407 and former Title 20,  
3 section 2237, of the state agency designated as administrator of  
4 federal guaranteed student loan programs pursuant to chapter 417,  
5 subchapter I or of any entity that has a contract to provide a  
6 significant level of administrative services to the authority, to  
7 a nonprofit corporation formed under section 11407 and former  
8 Title 20, section 2237 or to the state agency designated as  
9 administrator of federal guaranteed student loan programs  
10 pursuant to chapter 417, subchapter I.

11 **Sec. 14. 20-A MRSA §11417, sub-§1, ¶H,** as enacted by PL 1987,  
12 c. 807, §3, is amended to read:

13 H. In accordance with the limitations and restrictions of  
14 this chapter, cause any of its powers or duties to be  
15 carried out by one or more nonprofit corporations organized  
16 and operated under Title 13-B. This paragraph is repealed  
17 on March 15, 2001;

18 **Sec. 15. 20-A MRSA §11417, sub-§4,** as enacted by PL 1987, c.  
19 807, §3, is amended to read:

20 **4. Administration.** In carrying out its powers under this  
21 chapter, the authority shall, whenever determined desirable by  
22 the authority, contract with the secondary market or other  
23 persons or entities for necessary clerical and administrative  
24 services. The contracts must be awarded by a competitive bidding  
25 process subject to approval by a vote of a majority of the  
26 members of the authority.

27 **Sec. 16. 20-A MRSA §11417, sub-§§5 to 7** are enacted to read:

28 **5. Loan origination.** The powers of the authority set forth  
29 in subsection 1, paragraph B and in subsection 2 are limited as  
30 set forth in this subsection. The authority is authorized to  
31 originate supplemental loans.

32 **6. Business plan.** Within 90 days after the effective date  
33 of this subsection and thereafter within the period set forth in  
34 Title 5, section 8060, subsection 2, the authority shall prepare  
35 and distribute to persons who request it a statement of the  
36 authority's goals and objectives for the calendar year and a  
37 regulatory agenda in accordance with Title 5, section 8060.

38 **7. Operating contracts.** The authority shall adopt rules,  
39 after notice and hearing in accordance with Title 5, section  
40 8053, providing that loan servicing and other substantial  
41 operating contracts may not be entered into without prior public  
42 notice and opportunity for interested persons to make proposals.  
43 In adopting rules, the members of the authority shall, to the  
44

2 extent possible, follow the rules and procedures with respect to  
3 the competitive bidding process set forth in Title 5, chapter  
4 155, subchapter I-A. The authority may not enter into any  
5 contract except after review of the proposals by the members and  
6 approval of the contract by the members after consideration of  
7 written recommendations of the executive director. Rules adopted  
8 pursuant to this subsection are routine technical rules as  
9 defined in Title 5, chapter 375, subchapter II-A.

10 **Sec. 17. 20-A MRSA §11427**, as enacted by PL 1987, c. 807, §3,  
11 is amended to read:

12 **§11427. Accounts and reports**

13  
14 The authority shall keep full and accurate accounts of its  
15 activities and operations and shall, within 120 days after the  
16 end of each of its fiscal years, make and deliver a report to the  
17 Governor, the Speaker of the House, the President of the Senate  
18 and the joint standing committee of the Legislature having  
19 jurisdiction over education. The report shall must cover the  
20 preceding fiscal year and shall must include a complete operating  
21 and financial statement for that year and a breakdown showing the  
22 geographic distribution and distribution between institutions of  
23 higher learning of its student loans among residents of this  
24 State. The report must demonstrate that all revenues, including  
25 reserves, that are acquired with proceeds of tax-exempt bonds  
26 using a portion of the state ceiling on private activity bonds,  
27 are being used in a manner consistent with the public purpose for  
28 which the bonds are issued. The authority shall cause an audit  
29 of its books and accounts to be made at least once each year by  
30 independent certified public accountants and the cost shall must  
31 be paid by the authority from funds available to it pursuant to  
32 this chapter.

33  
34 **Sec. 18. Study.** The members of the Maine Educational Loan  
35 Authority, referred to in this section as "MELA," shall conduct a  
36 study and make recommendations with respect to the issue of  
37 whether the Maine Educational Loan Authority should be moved  
38 under the auspices of the Finance Authority of Maine or whether  
39 other changes to the structure and governance of MELA should be  
40 made. In conducting its study, the members of MELA shall consult  
41 with the Finance Authority of Maine as to the costs and other  
42 factors involved in moving MELA under its auspices. The members  
43 of MELA shall also examine the issue of MELA's need for statutory  
44 authority to delegate its powers and duties to a nonprofit  
45 corporation and recommend whether the language in the Maine  
46 Revised Statutes, Title 20-A, section 11417, subsection 1,  
47 paragraph H should be retained. A report and recommendations,  
48 including any necessary implementing legislation, must be  
49 submitted to the joint standing committee of the Legislature  
50

2 having jurisdiction over business and economic development  
3 matters no later than January 15, 2001. The joint standing  
4 committee of the Legislature having jurisdiction over business  
5 and economic development matters may report out legislation on  
6 this issue to the First Regular Session of the 120th Legislature.

7 **Sec. 19. Existing rights and obligations.** This Act may not in any  
8 way impair the contractual rights or obligations, existing on the  
9 effective date of this Act, of the Maine Educational Loan  
10 Authority or its bondholders or the nonprofit corporation formed  
11 under the Maine Revised Statutes, Title 20-A, section 11407 and  
12 the former Title 20, section 2237 or its bondholders. This Act  
13 may not be construed to affect the exclusion from gross income of  
14 interest on any bonds that were issued by either the Maine  
15 Educational Loan Authority or the nonprofit corporation formed  
16 under Title 20-A, section 11407 and former Title 20, section 2237  
17 prior to the effective date of this Act.

18 **Sec. 20. Retroactivity.** Those sections of this Act that enact  
19 the Maine Revised Statutes, Title 10, section 363, subsection 8,  
20 paragraph B-1 and Title 20-A, section 11407, subsection 2 are  
21 retroactive to July 15, 2000.

22 **Sec. 21. Repeal of the Maine Revised Statutes, section 2237.** Upon  
23 the repeal of the Maine Revised Statutes, Title 20, section 2237,  
24 any nonprofit corporation organized at the request of the  
25 Governor pursuant to that section is deemed to have been  
26 organized at the request of the Governor pursuant to Title 20-A,  
27 section 11407.

#### 30 **FISCAL NOTE**

31  
32  
33  
34 The State Planning Office within the Executive Department  
35 will incur some minor additional costs to conduct an annual  
36 economic analysis. These costs can be absorbed within the  
37 office's existing budgeted resources.

38  
39  
40 The additional costs associated with serving as a member of  
41 the group of representatives responsible for recommendations  
42 regarding the allocation of state ceilings can be absorbed by the  
43 Department of Economic and Community Development utilizing  
44 existing budgeted resources.

45  
46 The Finance Authority of Maine will realize some minor  
47 savings from no longer being required to conduct an annual survey  
48 of the State's pulp and paper companies.

2 The additional costs associated with serving on the Maine  
Educational Loan Authority can be absorbed by the Maine Technical  
4 College System utilizing existing budgeted resources.

## 6 SUMMARY

8 This bill enacts provisions to increase the states oversight  
of student loan programs funded through an allocation of the  
10 state ceiling on private activity tax-exempt bonds.

12 The bill adds the Commissioner of Economic and Community  
Development or the commissioner's designee as a nonvoting member  
14 of the group that makes recommendations for the allocation of the  
state ceiling and provides that the Treasurer of State will no  
16 longer be a voting member of that group. It requires that bond  
cap allocation must be done with the written agreement of 4 of  
18 the 5 voting members of the bond cap allocation group. It  
requires that the State Planning Office conduct an annual  
20 analysis related to allocation of the state ceiling. It requires  
that recipients of an allocation of the state ceiling provide  
22 annual audited financial statements and demonstrate the benefits  
of their programs to the Legislature. The bill clarifies that  
24 any further allocation or reallocation of the state ceiling from  
one eligible issuer to another issuer must be done with the  
26 agreement of a super majority of the bond cap allocation group.  
The bill also makes the meetings and records of the bond  
28 allocation group subject to the freedom of access laws.

30 The bill prohibits interlocking directors between the  
Finance Authority of Maine, "FAME," the Maine Educational Loan  
32 Authority, "MELA" and the Maine Educational Loan Marketing  
Corporation, "MELMAC."

34 The bill retains the requirement that recipients of an  
36 allocation of the state ceiling for the issuance of student loans  
use FAME as the sole guarantor for student loan notes.

38 The bill prohibits MELMAC from originating student loans or  
40 extending credit and from discriminating against financial  
institutions or credit unions authorized to do business in this  
42 State with respect to the acquisition of loans. It retains the  
requirement that MELMAC use FAME as the sole guarantor for  
44 student loan notes acquired on the secondary market. It adds 4  
public members appointed by the Governor and confirmed by the  
46 Legislature to the MELMAC board. It makes MELMAC's books and  
records subject to the freedom of access laws. The bill requires  
48 MELMAC to use competitive bidding for its loan servicing and  
administrative services contracts. The bill also requires that  
50 MELMAC demonstrate that its use of bond proceeds is consistent



2 with a public purpose and submit copies of IRS files and returns  
3 with the Attorney General and the Legislature on an annual  
4 basis. The bill also adds language allowing the Governor to  
5 request that one or more state agencies acquire student loans as  
6 the secondary market if MELMAC fails to comply with the new  
7 statutory requirements.

8 The bill replaces MELMAC's president as a member of the  
9 MELA board with a representative from technical colleges  
10 appointed by the Governor. The bill provides that the Treasurer  
11 of State will no longer be a voting member of the MELA board. It  
12 requires MELA to use competitive bidding for administrative and  
13 clerical services. It adds language clarifying that MELA has  
14 authority to issue supplemental education loans only. It  
15 requires MELA to provide public notice of its activities and  
16 demonstrate that its use of bond proceeds is consistent with a  
17 public purpose. The bill adds a sunset of March 15, 2001 to the  
18 statutory provision allowing MELA to delegate its powers and  
19 duties to a nonprofit corporation and asks the MELA board to  
20 recommend whether the statutory provision should be retained.  
21 The bill also requires that the MELA board study the issue of  
22 whether to move the functions of MELA to FAME and report back to  
23 the First Regular Session of the 120th Legislature.

24 The bill removes language authorizing an allocation of the  
25 state ceiling to FAME for the Loans to Lenders Pilot Program.

26 The bill changes the timing of required disclosures to a  
27 time before any loans using bond cap money are issued.

28 The bill clarifies that the provisions in the bill are not  
29 intended to impair any outstanding bond obligations or contracts  
30 of MELMAC or MELA or adversely impact the exclusion from gross  
31 income of interest on outstanding tax-exempt bonds previously  
32 issued by MELMAC or MELA.

33 The bill also includes a fiscal note.

34