

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST SPECIAL SESSION - 1989

Legislative Document

No. 1803

S.P. 684

In Senate, August 21, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on August 17, 1989. Referred to the Committee on Education and 1,400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BOST of Penobscot.

Cosponsored by Senator GILL of Cumberland, Representative CROWLEY of Stockton Springs and Representative NORTON of Winthrop.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Establishing the Higher Education Students Financial Assistance Board.

(EMERGENCY)



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

Whereas, the Legislature recently enacted Public Law 1989, chapter 559, "An Act to Provide Comprehensive, Consolidated Student Financial Assistance Services," which established a program within the Finance Authority of Maine to administer a comprehensive, consolidated system of student financial assistance programs and created the Student Financial Aid Transition Advisory Committee to provide the Legislature with advice on implementation of the program; and

Whereas, this legislation will establish the Higher Education Students Financial Assistance Board within the Finance Authority of Maine, facilitating the nomination of members to the board and permitting the commencement of a nationwide search for a director of the newly created Division of Higher Education Students Financial Assistance; and

Whereas, the transition committee has recommended this legislation as necessary to ensure the smooth transition described in Public Law 1989, chapter 559 and provide the necessary leadership at an early date, prior to the development and implementation of all the legislation necessary to accomplish the transition; 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. 5 MRSA §12004-I, sub-§18-A is enacted to read:

<u>18-A. Education:</u>	<u>Higher Education</u>	<u>Legislative</u>	<u>10 MRSA</u>
<u>Financial Aid</u>	<u>Students Finan-</u>	<u>Per Diem for</u>	<u>§1014</u>
	<u>cial Assistance</u>	<u>Gubernatorial</u>	
	<u>Board</u>	<u>Appointees</u>	
		<u>Only</u>	

Sec. 2. 10 MRSA §964, sub-§2, ¶¶C and D, as enacted by PL 1989, c. 552, §5, are amended to read:

C. The Division of Lending; and

D. The Division of Finance; and

Sec. 3. 10 MRSA §964, sub-§2, ¶E is enacted to read:

2 E. The Division of Higher Education Students Financial
3 Assistance.

4 **Sec. 4. 10 MRSA §965, first ¶,** as amended by PL 1987, c. 403,
5 §1, is further amended to read:

6 There shall be ~~13~~ 15 voting members of the authority as
7 follows.

8 **Sec. 5. 10 MRSA §965, sub-§1,** as amended by PL 1989, c. 559,
9 §§5 to 7, is further amended to read:

10 **1. Selected board members.** ~~Four~~ Six members of the
11 authority shall consist of:

12 A. Two veterans who shall be selected by the Governor from
13 the at-large members of the Maine Veterans' Small Business
14 Loan Board;

15 B. Two members who shall be selected by the Governor from
16 the public members of the Natural Resources Resource
17 Financing and Marketing Board; and

18 C. Two members who shall be selected by the Governor from
19 the public appointed members of the ~~board-established-to~~
20 ~~advise--the--authority--on--the--administration--of--student~~
21 ~~financial--assistance--programs~~ Higher Education Students
22 Financial Assistance Board.

23 **Sec. 6. 10 MRSA §972, sub-§1,** as amended by PL 1989, c. 552,
24 §7, is further amended to read:

25 **1. Employ directors.** In accordance with procedures of the
26 authority, employ the directors of the divisions established by
27 the authority. During the selection process, the authority or
28 its designee, the chief executive officer, shall consult with the
29 Natural Resources Resource Financing and Marketing Board
30 concerning the appointment of a director of the Division of
31 Natural Resources Financing and Marketing with the Higher
32 Education Students Financial Assistance Board concerning the
33 appointment of a director of the Division of Higher Education
34 Students Financial Assistance. The directors shall serve at the
35 pleasure of the chief executive officer;

36 **Sec. 7. 10 MRSA §973,** as repealed and replaced by PL 1985, c.
37 344, §22, is amended to read:

38 **§973. Conflicts of interest**

39 Notwithstanding Title 5, section 18, subsection 1, paragraph
40 B, each member of the authority, each member of the Natural
41 Resource Financing and Marketing Board, each member of the Maine

2 Veterans' Small Business Loan Board, each member of the Higher
3 Education Students Financial Assistance Board and each employee,
4 contractor, agent or other representative of the authority is
5 deemed an "executive employee" solely for purposes of Title 5,
6 section 18, and for no other purpose, provided that the chief
7 executive officer shall in addition be deemed an executive
8 employee for purposes of Title 5, section 19. In addition, Title
9 17, section 3104, shall be applicable, in accordance with its
10 provisions, to all such representatives of the authority.

11 **Sec. 8. 10 MRSA c. 110, sub-c. I-D is enacted to read:**

12 **SUBCHAPTER I-D**

13 **HIGHER EDUCATION STUDENT FINANCIAL ASSISTANCE**

14 **§1016. Higher Education Students Financial Assistance Board**

15 **1. Membership of board.** The Higher Education Students
16 Financial Assistance Board shall consist of 7 voting members.
17 One member shall be the Commissioner of Educational and Cultural
18 Services or the commissioner's designee who shall be a person in
19 a major policy-influencing position. Six members shall be
20 appointed by the Governor subject to review by the joint standing
21 committee of the Legislature having jurisdiction over educational
22 matters and subject to confirmation by the Legislature. The
23 gubernatorial appointees shall consist of the following.

24 **A. One member shall be a trustee, director, officer or**
25 **employee of an institution of higher education in the State.**

26 **B. One member shall be a member of a statewide organization**
27 **representing the chief executive officers of public and**
28 **private post-secondary institutions in the State.**

29 **C. One member shall be a student financial aid**
30 **administrator at a post-secondary institution in the State.**

31 **D. One member shall be a guidance counselor at a high**
32 **school in the State.**

33 **E. One member shall be a representative of a state**
34 **financial institution that is active in student lending.**

35 **F. One member shall represent the interests of students,**
36 **parents and other members of the public who use the programs.**

37 **With respect to the appointees specified in paragraphs A and B,**
38 **one shall be from an institution not owned or operated by the**
39 **State or any of its political subdivisions and one shall be from**
40 **a public institution of post-secondary education.**

2 2. Conflict of interest. No member may be deemed to have a
3 conflict of interest or the appearance of a conflict of interest
4 pursuant to Title 5, section 18, solely because of that member's
5 use of the programs of or association with a post-secondary
6 educational institution, high school or financial institution,
7 provided that no member participates in an official capacity with
8 respect to any matter which has an effect, on that member or on
9 the institution with which that member is associated, that is
10 unique and distinct from the effect on the general public or
11 persons engaged in similar professions, trades, businesses or
12 employment or associated with similar institutions.

13 3. Term of office. Except for the initially appointed
14 members, members shall serve 4-year staggered terms and shall
15 serve until a successor is appointed and qualified.

16 A. Of the 6 members of the board first appointed, 2 shall
17 serve for terms expiring June 30, 1991, 2 shall serve for
18 terms expiring June 30, 1992, and 2 shall serve for terms
19 expiring June 30, 1993. All the initial appointments shall
20 be effective no later than January 15, 1990.

21 B. A member of the board shall be eligible to serve not
22 more than 2 full consecutive terms, provided that terms
23 expiring on or before June 30, 1993, are not considered full
24 terms. All full terms shall expire on June 30th of the 4th
25 year of the term.

26 C. Any member of the board may be removed by the Governor
27 for cause.

28 4. Organization. Each year the board shall elect from
29 among its members a chair, vice-chair and any other officers it
30 requires. The board shall meet at the call of the chair or at
31 the request of 3 of its members. Five members shall constitute a
32 quorum and no official action of the board may be taken unless
33 supported by at least 4 members of the board.

34 5. Compensation. Each member of the board shall be
35 compensated by the authority in accordance with Title 5, chapter
36 379, following approval of expenses by the chief executive
37 officer.

38 6. Policies. The Higher Education Students Financial
39 Assistance Board shall, from time to time, recommend to the
40 members of the authority the adoption, amendment or repeal of
41 rules, policies or administrative procedures for carrying out
42 this subchapter.

43 Sec. 9. Transition provision. Prior to the appointment and
44 qualification of a least 5 members of the Higher Education
45 Students Financial Assistance Board, hiring of a director of the

2 Division of Higher Education Students Financial Assistance of the
3 Finance Authority of Maine may be done by the chief executive
4 officer of the Finance Authority of Maine in consultation with
5 the Student Financial Aid Transition Advisory Committee
6 established by Public Law 1989, chapter 559. Subsequent
7 legislation pursuant to Public Law 1989, chapter 559 will further
8 provide protection for the jobs and benefits of current employees
9 of the Department of Educational and Cultural Services, Bureau of
10 School Management, Division of Higher Education Services, who are
11 transferred to the Finance Authority of Maine.

12 **Emergency clause.** In view of the emergency cited in the
13 preamble, this Act shall take effect when approved.
14

16 FISCAL NOTE

17 The Finance Authority of Maine will be able to absorb the
18 additional costs of this legislation within the funds
19 appropriated for this purpose during the First Regular Session of
20 the 114th Legislature.
21

24 STATEMENT OF FACT

25 This bill establishes the Division of Higher Education
26 Students Financial Assistance within the Finance Authority of
27 Maine, creates the Higher Education Students Financial Assistance
28 Board to advise the Finance Authority of Maine with respect to
29 administration of programs affecting financial assistance for
30 students in post-secondary educational institutions and enables
31 the hiring of a director of the division. As stated in the
32 emergency preamble, this bill is designed to ensure that the
33 necessary administrative structure is in place to permit a smooth
34 transition of student loan programs to the Finance Authority of
35 Maine in January 1990, as described in Public Law 1989, chapter
36 559.
37

38 Section 1 of the bill creates the board and provides for
39 compensation at the rate of the legislative per diem.
40

41 Section 3 creates the Division of Higher Education Students
42 Financial Assistance within the Finance Authority of Maine.
43

44 Section 4 of the bill pertains to the 2 members of the
45 Higher Education Students Financial Assistance Board who will
46 serve on the Finance Authority of Maine or FAME board.
47

48 Section 5 provides that the chief executive officer shall
49 consult with the Higher Education Students Financial Assistance
50 Board in the hiring of the Director of the Division of Higher
51 Education Students Financial Assistance.
52

2 Section 7 makes the provisions of the Maine Revised
4 Statutes, Title 5, section 18, pertaining to conflicts of
6 interest, apply to the new board and staff and clarifies that the
8 chief executive officer must file the personal financial
10 statement required of executive employees under Title 5, section
12 19.

14 Section 8 details the membership of the new Higher Education
16 Students Financial Assistance Board, the terms of office and
18 organizational matters and provides for policy recommendations to
20 the FAME board. Further substantive provisions regarding the new
22 board's duties and responsibilities are left for future
legislation pursuant to Public Law 1989, chapter 559.

 On an interim basis, section 9 provides that the director
may be hired in consultation with the Student Financial Aid
Transition Advisory Committee. Section 9 also indicates
legislative intent that current employees of the Department of
Educational and Cultural Services who are transferred to the
Finance Authority of Maine will retain current rights and
benefits to be provided for in future legislation.