

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)



118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1338

S.P. 417

In Senate, March 4, 1997

An Act to Restructure Public Higher Education.

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

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator AMERO of Cumberland.
Cosponsored by Representative BUCK of Yarmouth and
Senators: BUTLAND of Cumberland, CAREY of Kennebec, HARRIMAN of Cumberland,
Representatives: KERR of Old Orchard Beach, MARVIN of Cape Elizabeth, OTT of York.

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

4 **Sec. 1. P&SL 1865, c. 532, §1, as amended by PL 1985, c. 779,**
§87, is repealed.

6 **Sec. 2. P&SL 1865, c. 532, §§2 and 3** are repealed.

8 **Sec. 3. P&SL 1865, c. 532, §§3-A to 3-E** are enacted to read:

10 **Section 3-A. Board of Review of the University of Maine**
System.

12 **1. Membership; establishment.** The Board of Review of the
14 University of Maine System, referred to in this chapter as the
"board of review," is established pursuant to this section.

16 A. The board of review consists of 7 members: 4 members of
18 the public to be appointed by the Governor with the advice
and consent of the Senate; 2 members of the public to be
20 appointed by the Governor, one upon the recommendation of
22 the President of the Senate and one upon the recommendation
24 of the Speaker of the House, both with the advice and
consent of the Senate; and the chair of the Education
26 Coordinating Committee as established in the Maine Revised
Statutes, Title 20-A, section 9, ex officio. The public
28 members must reflect the diversity of the State. In
addition, the Governor shall appoint 2 students in
30 attendance at public institutions of higher education in the
State from recommendations submitted by student government
32 associations of public institutions of higher education. A
student member serves a one-year term on the board of review
as a nonvoting member.

34 B. Public members of the board of review serve for a term
36 of 5 years from the date of appointment or until successors
are appointed and qualified, except that of the initial
38 appointees: one serves a term of one year; one serves a
term of 2 years; one serves a term of 3 years; one serves a
40 term of 4 years; and 2 serve terms of 5 years. Any vacancy
must be filled in the same manner as the original
42 appointment only for the remainder of the unexpired term.
The board of review members serve without compensation but
44 are entitled to reimbursement for necessary expenses
incurred in the performance of their duties. A board of
46 review member may not be appointed for more than 2
consecutive 5-year terms.

48 C. The board of review shall hold its first meeting within
50 30 days of the appointment and qualification in office of
its members.

2 D. The board of review shall appoint an executive director
4 and other personnel as necessary. The executive director
6 and professional staff serve at the pleasure of the board of
 review and receive compensation as determined by the board
 of review.

8 E. The Attorney General shall provide legal representation
 to the board of review.

10 2. Responsibilities of board of review. The board of
12 review has the following powers and responsibilities:

14 A. The administration of central services provided by the
 University of Maine System to institutions within the system
16 as of the effective date of this section and those central
 services that may be economically provided in the future;

18 B. The administration, care, management and disposition of
20 property that is not transferred from the system on the
 effective date of this section; and

22 C. All powers and responsibilities relating to the
24 administration of central services that are held by the
 University of Maine Board of Trustees on the effective date
26 of this section.

28 3. Powers of executive director. The executive director
 shall exercise the powers and fulfill the responsibilities
30 delegated to the executive director by the board of review.

32 Section 3-B. Independent governing boards of public
 institutions of higher education established.

34 1. Body corporate and politic. Each institution of public
36 higher education within the University of Maine System on the
 effective date of this section is a body corporate and politic,
38 having the same rights, privileges and powers as have
 corporations organized under the general law, with the right to
40 adopt a common seal and to establish by-laws and rules of the
 management of its affairs not repugnant to its charter and the
42 laws of the State and with the principal location of its school
 in the State.

44 2. Independent governing boards established. The affairs
46 of each public institution of higher education within the
 University of Maine System on the effective date of this section
48 are controlled by separate independent governing boards each of
 12 members, all residents of the State, who, together with their
50 successors, are appointed by the Governor with the advice and

2 consent of the Senate. Members serve for terms of 5 years or
3 until their successors are duly appointed and qualified. Any
4 vacancy in the board must be filled by appointment by the
5 Governor for the remainder of the unexpired term, but the
6 majority of the board shall carry on business during the
7 existence of any vacancy on the board.

8 3. Powers and duties of independent governing boards. The
9 governing board of each public institution of higher education
10 within the University of Maine System on the effective date of
11 this section has the following general powers and duties to
12 fulfill its mission and the statewide goals in cooperation with
13 other institutions and state coordinating structures:

14
15 A. To develop an institutional plan and to determine the
16 programs and degree levels to be offered by the institution;

17 B. To have authority over all matters concerning the
18 supervision and operations of the institution including:

19 (1) Fiscal affairs;

20 (2) The employment and compensation of staff; and

21 (3) Capital improvements in accordance with law;

22
23 C. To set and receive tuition fees. Notwithstanding this
24 paragraph, before the date of the adoption of a tuition or
25 fee schedule or an overall institutional budget, the
26 governing board shall provide reasonable notice of and
27 conduct a public hearing at a time and a place that will
28 provide those members of the college community who wish to
29 testify with an opportunity to be heard;

30 D. To establish admission standards and requirements and
31 standards for granting diplomas, certificates and degrees;

32 E. To recommend, for appointment by the Governor, members
33 to the institution's governing board. The recommendation
34 must be made with regard to the mission of the institution
35 and the diversity of the community to be served;

36 F. To invest and reinvest the funds of the institution;

37 G. To retain legal counsel of the institution's choosing.
38 State entities may choose representation by the Attorney
39 General; however, as to claims of a tortious nature, the
40 institution shall elect within 180 days of the effective
41 date of this section whether it and its employees must be
42 represented in all such matters by the Attorney General;
43

- 2 H. To be accountable to the public for fulfillment of the
4 institution's mission and the statewide goals and for
 effective management of the institution;
- 6 I. To submit a request for state support in accordance with
8 the provisions of this Act;
- 10 J. To prepare and make available to the public an annual
12 financial statement and a statement setting forth generally
 the money expended for government relations, public
 relations and legal costs;
- 14 K. To prepare an annual independent financial audit. The
16 audit and any management letters regarding that audit are
 deemed public documents;
- 18 L. To set and receive all charges, including charges for
20 board and lodging of the students while those students are
 attending the school or any of its activities;
- 22 M. To receive on behalf of the school grants from any
24 federal government agency, from any of the several states or
 from any other source; and
- 26 N. All powers relating to the governance of the particular
28 institution that were held by the former University of Maine
 System Board of Trustees.

30 **Section 3-C. Maine Higher Education Foundation established;**
32 **responsibilities; membership.** There is established a nonprofit
34 foundation to be known as the "Maine Higher Education
36 Foundation," which is governed by 15 trustees, all of whom must
38 be residents of the State. The trustees are appointed by the
40 Governor with the advice and consent of the Senate for terms of 5
42 years or until their successors are appointed and qualified,
 except that of the initial appointees: 5 serve terms of 3 years;
 5 serve terms of 4 years; and 5 serve terms of 5 years. Any
 vacancy must be filled by appointment by the Governor for the
 remainder of the unexpired term, but the majority of the board
 shall carry on business during the existence of any vacancy on
 the board.

44 The foundation shall accept the assets transferred to it by
46 section 3-D and shall assume the care, control and power to
48 dispose of those assets. The foundation may make grants from the
 income granted by its holdings to any institution within the
 University of Maine System for financial aid, research, public
 service and other campus purposes.

50

Section 3-D. Properties, assets and liabilities.

2
4 **1. Distribution.** Thirty days after the effective date of
6 this section all assets, tangible or intangible, real, personal
8 and mixed, of or used in connection with any public institution
10 of higher education within the University of Maine System on the
effective date of this section, except those that are in trust or
are subject to limitations purporting to restrict their
transferability or assignability, must be distributed in the
following manner:

12 **A.** All of the property and assets, tangible or intangible,
14 real, personal and mixed, of or used exclusively by a
16 particular public institution of higher education within the
18 University of Maine System on the effective date of this
20 section, except those that are in trust or are subject to
limitations purporting to restrict their transferability or
assignability, become the property of that institution; all
remaining property and assets remain under the care and
control of the board of review;

22 **B.** Any gift, bequest, devise or other transfer or
24 conveyance to the University of Maine System that takes
26 effect after the effective date of this section becomes the
property of and remains under the control of the Maine
Higher Education Foundation; and

28 **C.** Any endowment of the University of Maine System becomes
30 the property of and remains under the control of the Maine
Higher Education Foundation.

32 **2. Role of Attorney General.** The Attorney General shall
34 execute in the name of the State any documents necessary to
36 effect the transfers designated in subsection 1. The Attorney
General shall institute any court actions necessary to effectuate
the transfer of properties held in trust or subject to any
limitations purporting to affect their transferability.

38 **3. Purpose limitations.** To the extent possible, any
40 property received by the University of Maine System that is
42 designated or limited for particular purposes or uses may be used
only for those purposes.

44 **Section 3-E. Annual report; contents.** Each public
46 institution of higher education within the University of Maine
48 System on each anniversary of the effective date of this section
shall prepare and make available to the public an annual report
50 on the condition of the institution. The report must include,
but is not limited to, a profile of the student body including
graduation rates, SAT or other test scores and the percentage of

2 Maine residents in the student body; a profile of the faculty,
4 including the ratio of full-time to part-time faculty members and
6 major research and public service activities; a profile of the
8 trustees or governors as applicable; and a profile of the
10 institution, including degree and certificate programs, status of
12 accreditation, major capital projects and any other information
14 the board of review and the institution determine appropriate.
16 The form and general content of the report must be established by
18 the Education Coordinating Committee.

20 **Sec. 4. P&SL 1865, c. 532, §4,** as amended by PL 1991, c. 147,
22 §2, is repealed.

24 **Sec. 5. P&SL 1865, c. 532, §4-A,** as amended by PL 1987, c. 20,
26 §3, is repealed.

28 **Sec. 6. P&SL 1865, c. 532, §4-B,** as amended by PL 1987, c. 769,
30 Pt. A, §§189 and 190, is repealed.

32 **Sec. 7. P&SL 1865, c. 532, §4-C,** as amended by PL 1985, c. 779,
34 §93, is repealed.

36 **Sec. 8. P&SL 1865, c. 532, §4-D,** as amended by PL 1985, c. 779,
38 §§94 and 95, is repealed.

40 **Sec. 9. P&SL 1865, c. 532, §4-F,** as amended by PL 1985, c. 779,
42 §96, is repealed.

44 **Sec. 10. P&SL 1865, c. 532, §7** is amended to read:

46 **Section 7. Site for college, how to be procured.** It shall
48 be the duty of the original trustees, as soon as may be, after
50 their organization, to procure a tract of land suitable as a site
for the establishment of the college. If no other provision
shall be made therefor, there shall be placed at the disposal of
the trustees for this purpose, such proportion as the governor
and council may deem suitable, of that part of the fund, which is
authorized by the fifth section of the act of congress to be
expended for the purchase of lands for sites or experimental
farms.

Sec. 11. P&SL 1865, c. 532, §8-A, as amended by PL 1991, c. 548,
Pt. A, §36, is further amended to read:

Section 8-A. ~~The trustees of the University of Maine~~
~~System, or such administrators of the University of Maine System~~
~~as the trustees may designate for this purpose,~~ independent
governing board of a public institution of higher education
within the University of Maine System may appoint persons to act
as police officers who, within the limits of the property owned

2 by or under the control of ~~the--University--of--Maine~~
3 ~~System that particular institution~~, possess all of the powers of
4 police officers in criminal cases and civil violations.

5
6 The trustees independent governing board of a public
7 institution of higher education within the University of Maine
8 System may make rules and regulations for the control, movement
9 and parking of vehicles within the limits of the property owned
10 by or under the control of ~~the--University--of--Maine--System that~~
11 particular institution. The rules and regulations have the same
12 force and effect as municipal ordinances and District Courts are
13 authorized to impose fines not to exceed \$50 for each parking
14 violation. ~~The--trustees~~ Each independent governing board of a
15 public institution of higher education within the University of
16 Maine System, by resolution, may adopt the provisions of the
17 Maine Revised Statutes, Title 30-A, section 3009, relating to
18 prima facie evidence, the establishment of a waiver of court
19 action by payment of specified fees and the establishment and
20 policing of parking spaces for handicapped persons.
21 Notwithstanding this paragraph, speed limits within the limits of
22 the property owned by or under the control of the ~~University--of--~~
23 ~~Maine--System~~ independent governing board of each public
24 institution of higher education within the University of Maine
25 System must be established by the Department of Transportation
26 and the Maine State Police as provided in the Maine Revised
27 Statutes, Title 29, section 1251 and the speed limits must be
28 posted by the ~~University--of--Maine--System~~ independent governing
29 board of each public institution of higher education within the
30 University of Maine System in accordance with written directions
31 or policies of the Department of Transportation. The violation
32 of any rules and regulations relating to the movement of vehicles
33 is deemed to be a traffic infraction unless defined as a felony
34 or misdemeanor under Title 29.

35 **Sec. 12. P&SL 1865, c. 532, §9-A**, as amended by PL 1985, c. 779,
36 §98, is repealed.

37 **Sec. 13. P&SL 1865, c. 532, §12** is amended to read:

38 **Section 12. What students entitled to testimonials, etc.**
39 Students who satisfactorily complete any one or more of the
40 prescribed courses of study, may receive public testimonials
41 thereof, under the direction of the ~~trustees~~ independent
42 governing board of a public institution of higher education
43 within the University of Maine System, stating their proficiency.

44
45 **Sec. 14. P&SL 1865, c. 532, §13**, as amended by P&SL 1891, c.
46 284, is repealed.

47
48 **Sec. 15. P&SL 1865, c. 532, §14** is repealed.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. 16. P&SL 1865, c. 532, §18 is amended to read:

Section 18. Rights of the Legislature reserved. The ~~legislature--shall--have~~ Legislature has the right to grant any further powers, to alter, limit or restrain any of the powers vested in the ~~trustees--of--the--college~~ Board of Review of the University of Maine System or an independent governing board of a public institution of higher education within the University of Maine System established by this act, as ~~shall--be~~ judged necessary to promote the best interests thereof. And this act ~~shall--take~~ takes effect upon its approval by the ~~governor~~ Governor.

Sec. 17. Study by Education Coordinating Committee.

1. Study components. The Education Coordinating Committee, established under the Maine Revised Statutes, Title 20-A, section 9 and referred to in this section as the "committee," shall conduct a study and make recommendations to the Legislature and the Governor regarding:

A. Articulation between higher education and elementary and secondary education;

B. The manner in which the administration of student assistance programs may be modernized and made more efficient;

C. The manner in which the transferability of credits among public institutions of higher education may be made more equitable and efficient; and

D. The methods of financing for public higher education and possible alternatives to the current financial arrangement by which the institutions receive a lump sum from the State's General Fund, including the following:

(1) A model of funding in which students pay the full cost of attending a public college or university in the State, with the General Fund appropriation allocated to the student based upon need; and

(2) A model of funding in which students receive funds for their tuition directly from the State, based upon criteria including need and academic merit, to be used to pay tuition and fees charged at an institution within the University of Maine System and under which participating students who do not receive a baccalaureate degree within 6 years of the date of

2 initial enrollment are obligated to reimburse the State
for all or a portion of the funding received.

4 2. **Reports.** The committee shall submit an interim report
to the Governor and the Legislature on or before January 1, 1998
6 with an assessment of the restructuring of higher education
embodied in this Act and recommendations concerning the
8 modification of this structure. The committee shall submit its
final report, including any necessary implementing legislation,
10 to the Governor and the Legislature within one year of the
effective date of this Act.

12
14 **Sec. 18. Appointments to the Board of Review of the University of
Maine System.** The Governor shall make the necessary initial
16 appointments to the Board of Review of the University of Maine
System within 90 days of the effective date of this Act.

18
20 **SUMMARY**

This bill accomplishes the following.

22
24 1. It provides for the administration of central services
by creating the Board of Review of the University of Maine System.

26
28 2. It transfers certain powers of governance from the
University of Maine System to the institutions of public higher
education within the University of Maine System by creating an
individual governing board for each institution.

30
32 3. It creates a nonprofit foundation to be known as the
"Maine Higher Education Foundation" for the purpose of assuming
34 care, control and the power to dispose of assets held by the
University of Maine System on the effective date of this Act,
36 including the power to make grants to institutions within the
University of Maine System for financial aid, research, public
service and other campus purposes.

38
40 4. It requires the Education Coordinating Committee to
conduct a study addressing the methods of financing for public
42 higher education and possible alternatives to the current
financial arrangement.