

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2008

Legislative Document

No. 2300

S.P. 918

April 2, 2008

An Act To Facilitate the Provision of Educational Loans for Maine Students and Families

(EMERGENCY)

Reference to the Committee on Business, Research and Economic Development 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 BOWMAN of York. (GOVERNOR'S BILL)
Cosponsored by Representative NORTON of Bangor.

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

3 **Whereas,** there has been unprecedented turbulence in the capital markets that has
4 made it necessary to replace existing auction rate bond financing for federally guaranteed
5 student loans with financing supported by a capital reserve fund; and

6 **Whereas,** if financing supported by a capital reserve fund cannot be made available,
7 the availability, rates and terms of federally guaranteed student loans to Maine borrowers
8 may be adversely affected, resulting in increased costs to students and families or even
9 unavailability of federally guaranteed student loans; and

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

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

15 **Sec. 1. 20-A MRSA §11496-A** is enacted to read:

16 **§11496-A. Capital reserve funds; obligation of the State**

17 **1. Capital reserve fund.** The authority may create and establish one or more capital
18 reserve funds and may pay into any capital reserve fund any money appropriated and
19 made available by the State for the purposes of any such fund, any proceeds of the sale by
20 the authority of bonds to the extent determined by the authority and any other money
21 available to the authority.

22 **2. Application.** Money held in any capital reserve fund established pursuant to
23 subsection 1, except as provided in this subsection, must be used solely with respect to
24 bonds, the repayment of which is secured by any such fund, and solely for the payment of
25 principal of the securities, the purchase or redemption of the securities, including any fees
26 or premiums, or the payment of interest on the securities. In addition, if the authority
27 obtains a letter of credit, insurance contract, surety bond or similar financial undertaking
28 to establish and fund a capital reserve fund under subsection 1, money in that capital
29 reserve fund may be used to pay, as and when due, all reimbursement obligations of the
30 authority established in connection with that letter of credit, insurance contract, surety
31 bond or similar financial undertaking, including, but not limited to, all fees, expenses,
32 indemnities and commissions. Money in excess of the reserve requirement established
33 pursuant to subsection 3 may be transferred to other funds and accounts of the authority.

34 **3. Capital reserve requirement.** For purposes of this section, the capital reserve
35 requirement applicable to a capital reserve fund established pursuant to subsection 1 is:

36 **A.** The amount stated in the applicable trust agreement or other document used to
37 establish the capital reserve fund, with respect to any capital reserve fund established
38 before December 31, 2009; or

1 B. If paragraph A does not apply, the amount of principal of the bonds directly
2 secured by that capital reserve fund becoming due by reason of maturity or a required
3 sinking fund payment, and interest on bonds directly secured by that capital reserve
4 fund, in any succeeding 12-month period.

5 **4. Withdrawals from capital reserve fund.** Money in any capital reserve fund may
6 not be withdrawn at any time in an amount that would reduce the amount of that capital
7 reserve fund to less than the applicable capital reserve requirement under subsection 3,
8 except for the purposes of:

9 A. Paying the amounts of principal and interest due on bonds directly secured by that
10 capital reserve fund:

11 (1) At a maturity or sinking fund payment date of those bonds;

12 (2) On any date on which accelerated principal payment is required pursuant to a
13 credit facility or liquidity facility applicable to those bonds; or

14 (3) On any interest payment date with respect to those bonds; or

15 B. Paying any other amount expressly permitted by subsection 2.

16 **5. Issuance limit.** The authority may provide in the applicable trust agreement or
17 other document used to establish a capital reserve fund pursuant to subsection 1 that it
18 may not issue bonds directly secured by the capital reserve requirement under subsection
19 3 with respect to bonds outstanding and then to be issued that are or will be directly
20 secured by that capital reserve fund that will exceed the amount of that fund at the time of
21 issuance, unless the authority, at the time of issuance of the bonds, deposits in that fund
22 from proceeds of the bonds to be issued, or from other sources, an amount that, together
23 with the amount then in that fund, is not less than the capital reserve requirement.

24 **6. Appropriation.** On or before December 1st, annually, the authority shall certify
25 to the Governor the amount, if any, necessary to restore the amount in any capital reserve
26 fund established pursuant to subsection 1, in accordance with the trust agreement or other
27 document pursuant to which bonds secured by the capital reserve fund were issued, to the
28 capital reserve requirement under subsection 3. The Governor shall pay directly from the
29 State Contingent Account to any such capital reserve fund as much of the amount as is
30 available in the State Contingent Account and shall transmit directly to the Legislature
31 that certification and a statement of the amount, if any, remaining to be paid. The amount
32 certified must be appropriated and paid to the authority during that state fiscal year.

33 **7. Maturity of bonds.** Notwithstanding Title 10, section 1044, subsection 5, a series
34 of bonds that is directly secured by a capital reserve fund described in this section must
35 mature no more than 50 years from its issue date.

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

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SUMMARY

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This bill allows the Finance Authority of Maine to issue student loan bonds for the origination or purchase of federally guaranteed student loans secured by a capital reserve fund.