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STATE OF MAINE
114TH LEGISLATURE
SECOND REGULAR SESSION

Report of the
STUDENT FINANCIAL AID
TRANSITION ADVISORY COMMITTEE

December 1990

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TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY	i
I. Introduction	1
II. Counseling and Outreach Program	2
A. Background	2
B. Findings	2
C. Counseling and Outreach Recommendations	4
III. Supplemental Loan Program	5
A. Background	5
B. Findings	6
C. Supplemental Loan Recommendations	7
IV. Loan of Last Resort Program	8
A. Background	8
B. Findings	8
C. Auxiliary Loan Recommendations	9
V. Prepaid Tuition and College Savings Plans	10
A. Background	10
B. Findings	10
C. College Savings Plan Recommendations	11

	Page
VI. Trio Programs	11
A. Background	11
B. Findings	12
C. Trio Recommendation	12
VII. Maine Choice Program	13
A. Background	13
B. Findings	13
C. Choice Program Recommendations	13
VIII. Completion of Advisory Committee Charge	13
A. Background	13
B. Recommendation	14
Appendices	15
- Authorizing Legislation: PL 1989, c. 559, and c. 698	
- Suggested Legislation	

EXECUTIVE SUMMARY

The Student Financial Aid Transition Advisory Committee issued its first report in December 1989. That report contained 14 recommendations designed to accomplish the immediate transfer of all state student financial assistance programs to the Finance Authority of Maine (FAME) as provided by P.L. 1989, Chapter 558 which was enacted in June of 1989. Those recommendations were incorporated into LD 2216 and enacted as P.L. 1989, Chapter 668, effective March 16, 1990. Chapter 668 also extended the life of the advisory committee and directed it to study several additional financial aid issues.

This final report of the Student Financial Aid Transition Advisory Committee addresses the following issues: The provision of financial aid counseling and outreach services by FAME; the consolidation of the supplemental loan program which is currently offered by the Maine Educational Loan Authority (MELA) under the direction of FAME; an expansion of the supplemental loan program to meet the unmet need of certain students and families; the establishment of a college savings or tuition prepayment plan; the relationship of FAME and the existing TRIO programs; and the role of FAME in the existing Maine Choice Program.

The advisory committee recognizes the important role that financial aid information provided by **counseling and outreach** can play in the ability of many students to pursue post secondary study. Six recommendations are designed to guide FAME in establishing and operating a counseling and outreach program. No legislation will be necessary to implement the recommendations.

The **supplemental loan program** currently offered by MELA has filled an important gap in the financial aid needs of Maine families and out-of-state families with children attending Maine institutions of higher education. Approximately \$6 million in loans were made in each of the first 2 years of the program. The advisory committee's 3 recommendations are designed to encourage FAME and MELA to negotiate, if possible, FAME's immediate takeover of the program and, at least, the eventual offering of its own supplemental loan program by FAME following termination of the initial MELA bond authorization. Accomplishment of that merger would be consistent with the one-stop-shopping goal of the original legislation. Necessary implementing legislation is contained in the advisory committee's proposed legislation.

The advisory committee found several misunderstandings centered on what has been frequently called the **loan of last resort program**. In order to be financially and administratively feasible, any loan program designed to meet the needs of students and families who fall between the cracks of existing need-based and credit-based aid programs must be carefully defined as to target population, eligibility criteria and other goals. It is especially important that such a program have sound credit-based criteria for eligibility. Otherwise the default rate would be unmanageable. The advisory committee's 3 recommendations direct FAME to establish an auxiliary component of the supplemental loan program designed

to provide an additional level of review under slightly lessened credit worthiness eligibility criteria. That review is designed to serve certain Maine borrowers who fall through the eligibility cracks of other aid programs.

After reviewing various types of higher education tuition assistance, the advisory committee recommends that FAME take steps to establish and market a **Baccalaureate Bond Program** based on the sale of State issued capital appreciation (zero coupon) bonds. The bonds should be available in denominations designed to make the program attractive to families of low and moderate income as well as higher income families. Language to accomplish this recommendation is included in the advisory committee's proposed legislation.

I. Introduction

In 1989 during the First Regular Session of the 114th Legislature, Public Law Chapter 559 was enacted. That law provided for the consolidation of various existing and new student financial assistance programs and services under the authority of the Finance Authority of Maine (FAME). In addition to its various existing financial programs, FAME was to become, in effect, the "one-stop-shop" agency for student financial assistance in Maine. Chapter 559 also established the Student Financial Aid Transition Advisory Committee to study and make recommendations on several important transition issues which were not spelled out in the law. The advisory committee was to report to the Joint Standing Committee on Education which would then introduce legislation to the Second Regular Session of the 114th Legislature to address the transition issues identified in Chapter 559.

During the summer and fall of 1989, the advisory committee developed recommendations which it presented to the Education Committee in December. The report addressed several key programmatic, administrative, personnel and funding issues. Those recommendations were incorporated into LD 2216 which was considered by the Legislature in the Second Regular Session during the spring of 1990. The advisory committee's recommendations, as revised by deliberations of the Legislature, were enacted as P.L. 1989, c. 698 effective on March 16, 1990.

In addition to the substantive recommendations of the advisory committee, the Legislature also adopted a recommendation that the life of the advisory committee be extended for one year to assist FAME and the Legislature with the resolution of several remaining student financial assistance issues. The charge to the advisory committee was to issue recommendations on the role if any, which FAME should take with respect to the following: a financial aid counseling and outreach program, a supplemental loan program, a "loan of last resort" program, a prepaid tuition or college savings plan, the Trio programs, and the Maine Choice Program. The advisory committee was directed to report by December 1, 1990.

During 1990, 2 new members were appointed to the advisory committee replacing members of the original committee who had resigned. The committee met twice sitting as a full committee and 4 times in subcommittees. This report contains the advisory committee's findings and recommendations on the issues assigned to it for study by Chapter 698. Suggested legislation to implement its recommendations is attached as an appendix.

II. Counseling and Outreach Program

A. Background

In today's increasingly complex world which places a premium on post secondary academic, professional or vocational training, it is clear that students and their families operate under a severe handicap if they lack adequate information on opportunities for post secondary study. Students may be deterred from considering higher education based on the mistaken perception that the expense is too great and that they will not be able to get sufficient financial assistance. Lack of appropriate and timely information may result in enrollment in inappropriate programs or courses at the high school level foreclosing post secondary study; it may also lower aspirations for higher education altogether. Recognizing the need for such information, the Legislature, in creating FAME's one-stop-shopping financial assistance role, directed FAME to establish a counseling and outreach program for students and families.

B. Findings

1. The student financial assistance counseling and outreach component is one of the most important elements of a comprehensive financial aid program and deserves a high priority for development and implementation. The committee finds there is a sense of urgency to establish such a program in Maine because its absence contributes significantly to the waste of human talent which results when students and their families lack complete information on post secondary study options. A comprehensive counseling and outreach program will provide much needed information and support services for students and their families.
2. The legislation establishing FAME as the coordinating agency for financial assistance programs in the state, directs FAME to establish and operate a counseling and outreach program for financial aid. Implementation of that directive does not mean that FAME will replace all existing guidance and counseling services in the state. FAME does not have the resources to do so; and, in addition, most counseling and outreach responsibilities are currently well handled by school guidance counselors and college financial aid directors and their staffs. What FAME is in a unique position to do is to identify and fill the financial aid informational gaps which exist in the current system, help coordinate the activities of the existing providers and act as a clearinghouse

to direct applicants to the appropriate sources of information. FAME's counseling and outreach role should supplement, not supplant, the traditional sources of counseling such as parents, teachers, guidance counselors, placement counselors and financial aid officers.

3. The principal emphasis of FAME in financial aid counseling and outreach should necessarily be providing information on sources of post-secondary financial assistance. To the extent that other actions such as providing information on admission standards or offering career counseling are accomplished as part of FAME's counseling and outreach program, that would be useful, but is not the major goal of the program.
4. In addition to secondary students, it is critical that FAME's counseling and outreach program also target middle school students whenever possible and as resources permit. Too often decisions made by those students and their parents without full knowledge of post-secondary education opportunities and requirements, result in foreclosing opportunities for academic, vocational or professional study after high school.
5. More and more students who do not fit the traditional age group or full-time status of typical college students are seeking post-secondary educational opportunities in order to increase their skills and earning capacity and to seek personal fulfillment. These non-traditional students anticipate an enrichment of their personal lives. They also represent a potentially valuable resource to society. Most guidance and counseling programs and lines of communication exist to serve typical high school and college students, not non-traditional students. FAME must constantly and aggressively seek out opportunities to provide appropriate information to non-traditional students.
6. The necessary degree of staff time and other resources devoted to the counseling and guidance function should be determined by FAME after assessing all the recommendations of this committee, the effect of computerizing its financial aid operations (potentially freeing up existing staff for other tasks such as counseling and outreach) and further analysis of the individual talents of current staff members. The committee believes that the responsibility for providing the counseling and outreach program is clearly spelled out in the authorizing legislation and the recommendations of this committee and that the responsibility is well understood by FAME. The specifics of how to administratively implement the program within existing resources is best left to the discretion of the Maine Education Assistance Board and the FAME staff.

C. Counseling and Outreach Recommendations

1. High priority for Financial Aid Counseling and Outreach

FAME should place a very high priority on designating personnel responsible for the development and coordination of a counseling and outreach program and begin implementation as soon as possible.

2. Advisory Committee

Fame should establish a counseling and outreach liaison/advisory committee to provide input in establishing counseling and outreach strategies and programs and in evaluating those strategies and programs once established. To maximize the flexibility and usefulness of such a group, the appointments should be made as necessary by the Chief Executive Officer of FAME. The groups represented should include, but need not be limited to, the following: Maine Association of Student Financial Aid Administrators, Maine Association for Counseling and Development, New England Association of College Admissions Counselors (Maine delegate), Maine Educational Opportunity Association, Maine Occupational Information Coordinating Committee, Maine Aspirations Foundation, University of Maine Aspirations Project, Higher Education Council, and any departments of State Government serving displaced homemakers and workers, welfare recipients and other potential non-traditional students.

3. Program Coordination

FAME should function as a financial assistance coordinator by establishing a systematic and proactive counseling and outreach program and, at every opportunity during the establishment and operation of that program, seeking to foster direct contact between guidance counselors, financial aid officers and parents and students. FAME should act in a planned and coordinated way to identify and fill existing gaps in available information, policies and communication networks which inhibit the effective communication of financial aid information between any affected parties. FAME should actively seek ways to disseminate pertinent information to the appropriate parties. For the present, these activities should be undertaken with existing resources.

4. Middle School Programs

Because of the importance of the middle school years in the formation of student aspirations and in family planning for post secondary study, FAME should develop a middle school

component to the counseling and outreach program as existing resources permit.

5. Expansion of the Scope of the Financial Aid Guide to Post Secondary Education

FAME should expand the scope of the existing Financial Aid Guide to Post Secondary Education to serve as a comprehensive resource for school guidance counselors, teachers and administrators. The source book should be revised annually each fall and should include: a complete description of all financial assistance programs--federal, state and campus-based--including eligibility and filing requirements; a listing of financial aid contacts at each campus; a description of important changes in programs, application procedures and forms; and a series of questions and answers designed to address common problems faced by students and families applying for financial aid.

6. Informational Services

FAME should continue its already instituted toll free phone number (1-800-228-3734) for financial assistance information. In addition FAME should experiment to determine the need for a limited time "hotline" to answer specific questions from parents and students on filling out financial aid forms during peak times of the year. The phones might be staffed by informed volunteers from the financial assistance community. Finally FAME should develop a specific informational/advertisement program designed to reach non-traditional students.

III. Supplemental Loan Program

A. Background

In 1988 the Legislature passed legislation establishing the Maine Educational Loan Authority (MELA) to offer a supplemental loan program for students and families who do not meet the rigid need standards of existing scholarship or Stafford Loan programs, and yet, still have need for educational funds. MELA offers loans of between \$2,000 and \$20,000 per school year at reasonable interest rates from funds raised through the sale of tax exempt bonds. Borrowers must meet ordinary standards of credit worthiness and show evidence of sufficient income to make payments during the school and post graduation periods.

The 1989 law establishing FAME as the central agency for coordinating student financial assistance services and the December 1989 report of the Transition Advisory Committee direct FAME to

offer a supplemental loan program for students and their families. The Transition Advisory Committee considered the issue of what form such a program should take in its initial report, but felt there were too many outstanding questions to make a definitive recommendation at that time.

Briefly, the issues identified as needing attention were: (1) assumption of the relatively large debt obligation of the current program provided by MELA, (2) need for more information on the rate of loans originated under the MELA program and projections on payback of those loans, (3) need for agreement among the various parties with contractual relationships to the MELA program on how FAME could run the program, (4) how to structure future supplemental loan bond issues, (5) how and who would be best to service the supplemental loan program, and (6) staffing needs for FAME to run the supplemental loan program.

B. Findings

1. At present, the basic options for offering a supplemental program are to:
 - Authorize FAME, through enactment of legislation in 1991, to take over control of the existing MELA program and to run the entire supplemental loan program in the future;
 - Authorize FAME, through enactment of legislation in 1991, to implement a separate supplemental loan program which would, for the time being, operate along side the MELA program; or
 - In the short term, enact legislation authorizing FAME to contract with MELA to provide loan services (like MELMAC now does) and direct FAME to negotiate with MELA and MELMAC on how best to consolidate the supplemental loan program
2. Providing for FAME to take over the MELA program would be in line with the "one stop shopping" goal of the original legislation. On the other hand, there are several factors which dictate against legislating a takeover of the MELA program by FAME at this time. Among them are:
 - The potential disruption of existing contractual arrangements between MELA and other parties to the bond issue, such as the letter of credit bank and the loan insurer;

- The debt obligation incurred by MELA as part of its start-up costs and the cost to the State of FAME assuming those costs;
 - Although currently increasing, the demand for supplemental loans over the first 2 years of MELA's operation has been less than originally projected; and
 - Although indications are that they will be, it is not clear that the payback rate on the MELA loans will be sufficient to meet existing obligations.
3. FAME currently lacks complete information on the cash flow projections for the MELA loan program, including the impact of switching servicers from CSX to TERI and the impact of the present rate of loan originations on the rate of payback.
 4. Exercising the 3rd option described above would permit FAME to negotiate to administer the MELA supplemental loan program temporarily--probably for the duration of the original MELA bond issue (and any extension). It would also permit FAME to negotiate with the various parties regarding how best to assume full responsibility for the supplemental loan program, including the possibility of seeking IRS authorization to extend bond authorization of the original issuance. It would also enhance FAME's ability to plan how to structure future supplemental loan bond issuances.

C. Supplemental Loan Recommendations:

1. FAME contract to provide services.

The MELA statute should be amended to authorize MELA to contract with FAME to administer the supplemental loan program for the duration of the initial MELA bond authorization and any extension of the bond authorization.

2. Negotiate transfer of MELA.

At the same time, FAME and MELA should negotiate on the terms of transfer of the current MELA program to FAME to ensure that the transfer, if it is to be accomplished, is done without adversely affecting the viability of the program or the integrity of the initial bond issuance.

3. New supplemental loan program.

Following the period of the initial bond authorization, FAME should be authorized by new legislation to offer its own supplemental loan program when the details can be worked out by FAME and other involved parties.

IV. Loan of Last Resort Program

A. Background

The concept of a "loan of last resort" focuses on providing a source of additional financial aid should all other available sources be exhausted without meeting all legitimate unmet needs for post secondary study. Families with unmet needs are apt to be in the middle income range and may not qualify for sufficient need-based grant or loan assistance from the state or federal governments while also not qualifying for credit-based loans such as the MELA supplemental loan.

The 1990 legislation which centralized student financial assistance programs under the direction of FAME directed the Student Financial Aid Transition Advisory Committee to study the issue of a loan of last resort and to report to the Legislature and the Governor.

B. Findings

1. Although it is difficult to quantify the need for an auxiliary loan program precisely, there are some students who have need and who fall between the eligibility cracks of existing financial aid programs, e.g., 230 students were turned down for MELA supplemental loans this year.
2. Families may have need of auxiliary financial assistance for many reasons. Often, the need is due to failure to qualify for credit based loans, such as MELA, because of an excessive debt to income ratio or because of a poor credit history, combined with insufficient eligibility for need based grants and loans due to excessive liquid assets. In some cases, the cost of certain institutions may simply outstrip the aid that is available. Without some additional assistance, these students will either have to attend a different institution or delay attendance.
3. An auxiliary aid program cannot be all things to all people. It cannot be a grant program; nor can the State afford to back loans to all needy students regardless of credit worthiness or other factors which have been proven to limit repayment ability. To be manageable, financially and administratively, such a program must be carefully defined as to target population, eligibility criteria and other goals.
4. The term "loan of last resort" is misleading and confusing. One implication of its use is that everyone who has unmet needs can get a loan regardless of credit worthiness or ability to pay. If that were the case, the program would be prohibitively expensive and more akin to a grant program than a loan program.

C. Auxiliary Loan Program Recommendations

1. Expansion of Supplemental Loan Program

FAME should investigate the establishment of an auxiliary aid program which would provide loans to satisfy unmet needs or, in appropriate cases, family contributions of students who need additional financial assistance to attend the post secondary institution of their choice. In lieu of a separate, new "loan of last resort", that program should, if practicable, take the form of an extension of eligibility for a MELA supplemental loan with an opportunity for review of individual circumstances.

2. Eligibility

To be eligible for the auxiliary loan review process, a borrower must have (a) applied for other forms of financial aid, including a MELA supplemental loan, and been turned down or have continuing need even after aid has been awarded, (b) used all available sources of aid, (c) satisfied credit worthiness standards established by FAME which may be somewhat more relaxed than existing MELA supplemental loan standards, (d) met Maine residency requirements established by FAME and (e) been admitted to an accredited institution of post secondary study.

3. Reserve for Defaults

Because under the reduced credit worthiness standards there is an increased likelihood of defaults under the auxiliary loan review process, provision must be made to pay off any additional defaults which do occur. In negotiating to assume operation of the existing MELA supplemental loan program, FAME should also investigate the possibility of implementing this auxiliary loan review process under the provisions of the current bond issue. If it is not possible to do so under the restrictions of that bond issuance, future bond issuances should be structured to permit it. In order to permit implementation of an auxiliary loan review process before the next bond issuance, FAME should make projections on the demand for such a program, the likely default rate and the needed reserve fund to satisfy any defaults. A General Fund appropriation may be requested to establish the reserve fund. In any event, the increased risk of default must ultimately be borne largely by the state.

V. Prepaid Tuition and College Savings Plans

A. Background

In 1987, the Student Educational Enhancement Deposit Act (SEED) was created as a guaranteed prepaid tuition program for Maine families. For a number of legal and administrative reasons, SEED has not yet been put into operation. As a result of the comprehensive financial aid legislation and the recommendations of the first report of the Transition Advisory Committee, the responsibility for administering SEED was transferred to FAME in 1990. However, the report recognized the difficulties facing the program and also recommended that SEED and alternatives to it be further studied this year.

B. Findings

1. The SEED program which is currently established in law but not implemented is burdened with several difficulties. Among the more serious problems are tax disadvantages under federal law and a conflict with the Maine Constitution.
2. The committee has examined the various types of college tuition assistance programs, including SEED and other prepaid tuition plans, the federal Series EE saving plan, and various college savings programs, including savings bond plans. It is our conclusion that each of them has advantages and disadvantages. However, of all of the programs, a college savings program based on a combination of promotion of the federal Series EE Savings Bond Program and the sale of general obligation zero coupon bonds issued by the State has the most advantages and fewest disadvantages.
3. A zero coupon bond college savings program has the greatest amount of flexibility among the various types of programs reviewed by the committee and, therefore, has the greatest potential for tailoring to meet the widest range of family needs. If such a program were actively marketed by FAME, it would have wider appeal than similar privately offered investment options because of the State's endorsement of the program, double tax exemption and the fact that maturities can be selected to provide funds in the year they are likely to be needed. A zero coupon program would be easy to administer and would be cost effective.
4. A zero coupon bond program cannot easily serve the needs of low to middle income families. These families would be better served by investment in the federal Series EE savings bond program. Series EE bonds can be purchased in amounts as low as \$25 and proceeds are double tax exempt when used in compliance with federal law for post secondary education.

C. College Savings Plan Recommendations

1. Baccalaureate Bond Program

As a replacement for the SEED Plan, FAME, in cooperation with the Treasurer of the State, shall seek to develop a Baccalaureate Bond Program based on the sale of State issued zero coupon bonds. This program should be marketed in conjunction with the federal Series EE Saving Bond Program designed to appeal to all family income levels.

2. Further Research

FAME's first step in establishing the Baccalaureate Bond Program should be to work with the State Treasurer to research and investigate the likely demand for bonds, the effect on State borrowing and bond repayment, and the necessary approvals, legislative changes and other actions necessary to implement the program. Other elements to the program which FAME should examine are the desirability of establishing a layaway type payment plan for those who cannot afford the full purchase price, the usefulness of exempting some amount invested in the bond program from being counted as family assets during the determination of need for other State aid programs, and the need for a cap on the amount which can be purchased under the program. FAME should include in its annual report to the Joint Standing Committee on Education a report on its implementation of the Baccalaureate Bond Program.

3. Marketing

A critical element of the family savings bond program is the marketing of it as a student financial assistance tool to families who might not otherwise use such a method to save for college expenses. Once the program is established, FAME should concentrate on this aspect to assure the program's fullest use and to target use of the zero coupon bonds to those saving for educational expenses.

VI. Trio Programs

A. Background

The so-called Trio Program consists of the Student Support Services, Talent Search and Upward Bound programs. These 3 programs are federally funded grant programs which provide money to states for education-related services for economically and educationally disadvantaged or disabled high school and college students who are potential first generation college graduates. Each program has a different focus and method of operation; but all are designed to provide positive educational experiences which raise

educational aspirations, as well as specific educational support services such as counseling and tutoring. In some cases, the services are provided to high school age students; other times to students already in college.

In each of the last 2 legislative bienniums, bills have been introduced to appropriate state funds to supplement the federal money going to Trio. The rationale for the bills was the success of the Trio Program as measured by the rate of drop out from high school, the rate of enrollment in college and the college continuation rate. However, at the present level of federal funding, Trio serves only a small percentage of eligible students--about 5%*. In addition, there is the ongoing threat of federal cutbacks in the program. Each of the bills received preliminary approval from the Legislature, but both died for lack of funding at the end of the Session.

In its preliminary report last year, the Transition Advisory Committee recognized that if Trio were expanded by an infusion of State money, State-level administrative responsibilities would certainly increase. Were that to occur, the committee felt that FAME should be responsible for coordinating those responsibilities in conjunction with its comprehensive student financial assistance duties.

B. Findings

1. All 3 Trio programs are very successful and represent an excellent model for encouraging post secondary study among a specific population of students. Trio programs should continue to operate within their defined target population with whatever resources are available from various sources.
2. FAME's role should be to draw on the experience and expertise of Trio programs and personnel, especially in performing its counseling and outreach function.

C. Trio Recommendation

FAME should integrate and incorporate Trio personnel in developing and implementing its counseling and outreach program. That involvement could take several forms. First, Trio agencies should be considered as lead organizations where FAME desires to target disadvantaged students for counseling and outreach or other aspects of its program. Second, FAME should include representation from Trio programs, especially Talent Search and Upward Bound, on its counseling and outreach advisory group. Third, FAME should actively recruit Talent Search and other Trio counselors to be part of the counseling and outreach information network which it will establish.

* From Statement of Fact to LD 1212, introduced in 1989.

VII. Maine Choice Program

A. Background

The Maine Choice Program was established in 1989 to provide financial assistance in the form of educational loans to superior students seeking post-secondary education in the field of nursing or other allied health occupations such as physicians' assistant or nurse practitioner. An advisory board consisting of 5 ex officio and 5 public members to be appointed by the Governor was created to assist in the implementation of various aspects of the program. No money has been appropriated to fund the loan program. Beginning in January 1991, the advisory board is charged with the responsibility of advising FAME annually on the amount of money necessary to implement the program.

B. Finding

The committee finds that it has little role to play at this time in the operation of the Maine Choice Program. The authorizing legislation has been enacted, the process for its operation is in place and members are in the process of being appointed to the advisory board. When the board is fully constituted and has made its funding recommendation, FAME will forward that request to the Governor's Office and the Legislature as part of the budgetary process.

C. Choice Program Recommendation

FAME should monitor the work of the Maine Choice Program Advisory Board as appropriate. When the advisory board formulates its budget recommendation, FAME should consider that recommendation, along with those of other advisory groups, in constructing its budget request.

VIII. Completion of Advisory Committee Charge

A. Background

The committee published its first report in December 1989 to provide for the immediate transition of financial aid programs and administrative functions to FAME. That report also provided for continuation of the advisory committee to examine the additional financial aid issues addressed in this report. With the publication of this report and introduction of accompanying legislation, the Student Financial Aid Transition Advisory Committee created in 1989 has completed its work.

B. Recommendation

Any funds left in the account of the Student Financial Aid Transition Advisory Committee after all its expenses are paid should be transferred to FAME and earmarked for use in establishing the counseling and outreach program.

APPENDICES

- Authorizing Legislation : PL 1989, c. 698

- Proposed Legislation: 1991 LR #357

APPROVED

MAR 16 '90

STATE OF MAINE

BY GOVERNOR

CHAPTER

693

PUBLIC LAW

—
IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

—
S.P. 865 - L.D. 2216

**An Act to Coordinate and Consolidate Student Financial
Assistance Services under the Finance Authority of Maine**

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

Whereas, students attending or planning to attend institutions of higher education, who are residents of the State or attending these institutions in the State, and families of these students, are in need of financial assistance; and

Whereas, it is desirable for the State to improve the methods of delivery of this financial assistance; and

Whereas, it is desirable to provide a comprehensive, consolidated system of delivering this financial assistance immediately so that students and their families will have access to improved methods of delivery as soon as possible; and

Whereas, the Finance Authority of Maine has been designated in legislation enacted in the First Regular Session of the 114th Legislature as the agency responsible for providing a comprehensive, consolidated financial assistance program; and

Whereas, additional legislation is necessary for the Finance Authority of Maine to begin implementing the program as soon as possible; 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

Maine Choice Fund with adequate funds to be used for loan purposes and to maintain an adequate balance in the fund.

Sec. 72. 20-A MRSA §12660, as enacted by PL 1989, c. 579, §2, is repealed.

Sec. 73. 20-A MRSA c. 430-B is enacted to read:

CHAPTER 430-B

FINANCIAL AID AND CAREER COUNSELING

§12671. Program established

The Finance Authority of Maine shall administer an outreach program of post-secondary education information services as provided in this chapter.

1. Duties. The authority shall implement a program that:

A. Provides middle school and high school students, the parents of these students and adults seeking to acquire a post-secondary education with career and financial aid counseling;

B. Provides, to the extent of available resources, counseling services throughout the State in accessible locations to assist eligible participants; and

C. Provides to eligible participants information concerning career options, educational programs and post-secondary schools.

2. Nonlapsing fund. There is created under the jurisdiction of the authority a nonlapsing, interest-earning, revolving fund to carry out the purposes of this chapter. Any unexpended balance in the fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, in addition to money appropriated or allocated by the State. Loan repayments under this section or other repayments to the authority must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the designated purpose; interest income may be used for the designated purpose or to pay student financial assistance administrative costs incurred by the authority as determined appropriate by the authority.

Sec. 74. PL 1989, c. 559, §12 is amended by adding at the end a new subsection 7:

7. Additional issues; continuation of advisory committee. Following submission of the report to the Joint Standing Committee on Education, the Governor and the Finance Authority of Maine described in subsection 4, the transition advisory committee established in this section shall continue in existence. The committee shall continue to act in an advisory capacity and shall report to the Joint Standing Committee on Education on the following matters: the Maine Educational Loan Authority supplemental loan program, the loan of last resort program, the student financial assistance counseling and outreach program, and other financial assistance programs which may be implemented or expanded in the future such as the Student Educational Enhancement Deposit Plan, the Maine Choice Program, the Advanced Study for Educators Program and the Trio Program. The transition advisory committee may request staff assistance from the Legislative Council and shall report to the Joint Standing Committee on Education by December 1, 1990. Funds remaining in the committee's account must be carried over to fiscal year 1990-91 to accomplish that task.

Sec. 75. PL 1989, c. 559, §14, under the caption "LEGISLATURE," last sentence, is repealed and the following enacted in its place:

Funds not used for these purposes do not lapse but carry forward for use by the transition advisory committee in fiscal year 1990-91 to perform the additional tasks identified in section 12 of this Act.

Sec. 76. Transition provisions. The following provisions apply to the assumption of the responsibility of administering a consolidated, coordinated program of student financial assistance by the Finance Authority of Maine as provided in this Act.

1. Funds transferred. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances or allocations, transfers, revenues or other available funds in excess of allocations in any account or subdivision of an account of the Division of Higher Education Services of the Bureau of School Management within the Department of Educational and Cultural Services and authorized for use by or for the Finance Authority of Maine must be paid to the Finance Authority of Maine. The Commissioner of Educational and Cultural Services and the Chief Executive Officer of the Finance Authority of Maine shall jointly determine the funds, revenues, liabilities and assets to remain with the Division of Higher Education Services within the department.

2. Property and equipment transferred. The Commissioner of Educational and Cultural Services and the Chief Executive Officer

FIRST REGULAR SESSION

ONE HUNDRED AND FIFTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY ONE

AN ACT to Improve Student Financial
Assistance Services

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

Whereas, Changes in existing law recommended by the Student Financial Aid Transition Advisory Committee are necessary to provide prompt, equitable access to financial assistance programs for students and families; and

Whereas, Those changes need to be enacted before the start of the next school year in order to have the greatest impact; 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 §145-C is enacted to read:

§145-C. Capital Appreciation Bonds

1. Definitions. For the purpose of this section, "College savings bonds" means any general obligation bonds of the State which:

A. The Treasurer of State is authorized to issue and sell;

B. Are offered for initial sale at a substantial discount from face value, with some or all of the payment of principal or interest to bondholders or both deferred until maturity; and

C. Are designated by the Treasurer as college savings bonds.

2. Purpose. The purpose of this section is to provide an investment option to families seeking to save money to meet the anticipated costs of higher education. The investment option to be offered is college savings bonds, which may be exempt from federal and State income taxation, and which are designed to mature when the purchaser anticipates needing the money for higher education costs. It is the intent of the Legislature that the State make available to Maine residents a reasonable volume of college savings bonds.

3. Authorization. Any general obligation bonds of the State which the Treasurer is now or after the effective date of this subsection is authorized to issue and sell may be issued and sold by the Treasurer as college savings bonds. The Treasurer, after consultation with the advisory committee established in subsection 4, may offer college savings bonds in amounts, form and on such terms and conditions as the Treasurer deems necessary. Notwithstanding any contrary provision of any general obligation bond act, the Treasurer is authorized to issue bonds in serial or term form in the name of and on behalf of the State, in amounts that will raise usable bond proceeds equal to the total amount for the projects authorized by the general obligation bond act and approved at referendum. For purposes of determining the amount of bonds of the State being issued or outstanding as of any given time, the amount of capital appreciation bonds shall be the amount of the greater of the original issue amount or the accreted value, as determined by the Treasurer.

4. Advisory Committee. There is established an Advisory Committee on college savings bonds to advise the Treasurer on the issuance of college savings bonds. The advisory committee shall consist of the Commissioner of Finance, the Commissioner of Education, the Chief Executive Officer of the Finance

Authority of Maine, and a representative of the University of Maine System designated by the Governor for a four year term. The advisory committee shall consult with the Treasurer of State on the amount of college savings bonds to be issued by the State, their terms, maturities and structures, and the marketing and availability of the bonds.

5. Sale of college savings bonds. College savings bonds may be sold by competitive or negotiated sale, provided that the Treasurer shall determine that the underwriter or underwriters to which such bonds are sold must have sufficient capability to provide for broad retail distribution of such bonds to investors residing in the State. College savings bonds may be issued in certificate or book-entry form, in face amounts as low as \$1,000 if determined advisable by the Treasurer. The Treasurer may covenant and consent to establish any sinking funds, reserve funds or other accounts which are necessary to pay the bonds at maturity.

Sec. 2. 10 MRSA §363, sub-§6, is amended by PL 1987, c. 413, is further amended to read:

6. Allocation to the Finance Authority of Maine. That portion of the state ceiling allocated to the category of bonds which are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, as well as that portion of the state ceiling allocated to bonds authorized to be issued by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-B, shall be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds.

Sec. 3. 10 MRSA 1013, sub-§8 is amended as follows:

8. Supplemental loan program. The supplemental loan program as established in Title 20-A, chapter 417-B;

Sec. 4. 10 MRSA §1013, sub-§11 is repealed.

Sec. 5. 20-A MRSA, c. 417-B is enacted to read:

CHAPTER 417-B

SUPPLEMENTAL LOAN PROGRAM

§11441. Program established

There is established the student financial aid supplemental loan program to provide assistance to students or the families

of students who are residents of this State attending institutions of higher education within or outside of this State and to students and the families of students attending institutions of higher education within this State. The assistance provided by this chapter is intended to supplement federal guaranteed higher education loan programs, other student loan programs, grant programs, scholarship programs, programs assisting institutions of higher education and other means of assisting students and families of students.

§11442. Definitions

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

1. Authority. "Authority" means the Finance Authority of Maine established at Title 10, section 961 and its successors or assigns.

2. Authority loans. "Authority loans" means loans by the authority to institutions of higher education, students or other persons for the purpose of funding, financing or acquiring education loans.

3. Bonds. "Bonds" includes bonds, notes, refunding bonds, commercial paper, pass-through instruments or any other evidences of obligations of the authority issued under this chapter.

4. Borrower. "Borrower" means a student who has received an education loan or any parent who has received or agreed to repay an education loan.

5. Code. "Code" means the United States Internal Revenue Code of 1986, as amended, and the regulations to that Code.

6. Cost of attendance. "Cost of attendance" means the tuition and fees applicable to a student, together with an estimate of other expenses reasonably related to cost of attendance at an institution, including, without limitation, the cost of room and board, transportation, books and supplies.

7. Default insurance. "Default insurance" means insurance which insures authority loans or bonds against default.

8. Default Reserve Fund. "Default Reserve Fund" means a fund established by the authority for the purpose of securing authority loans or bonds.

9. Education loan. "Education loan" means a loan which is made by the authority or by, or on behalf of, an institution to a student or to parents of a student, or both, in amounts not

in excess of the maximum amounts specified by the authority to finance a part or all of the student's cost of attendance at an institution. An education loan shall constitute an authority loan.

10. Education loan series portfolio. "Education loan series portfolio" means all education loans made by a specific institution which are funded from or acquired by the proceeds of an authority loan to the institution of higher education out of the proceeds of a related specific bond issue through the authority.

11. Institution. "Institution" or "institution of higher education" means any public or private nonprofit educational institution within the State, any public or private nonprofit educational institution outside of the State which is attended by residents of the State, any proprietary educational institution within the State for which loan guarantee services are readily and conveniently available to the authority or any proprietary educational institution outside of the State which is attended by residents of the State and for which loan guarantee services are readily and conveniently available to the authority, which:

- A. Provides a program of education beyond the high school level;
- B. Awards an associate, bachelor or advanced degree; and
- C. Meets the other conditions established by rules of the authority.

12. Loan funding deposit. "Loan funding deposit" means money or other property deposited by an institution with the authority or a trustee or custodian, in amounts the authority determines necessary as a condition for an institution's participation in the authority's programs to:

- A. Provide security for bonds;
- B. Fund a default reserve fund;
- C. Acquire default insurance; or
- D. Defray costs of the authority.

13. Parent. "Parent" means any parent or guardian of a student at an institution of higher education.

§11443. Supplemental loans

1. Programs. The authority is authorized to carry out one or more programs making financial and other assistance available to borrowers or institutions, to finance the cost of attendance. The authority is further authorized to issue bonds, lend the proceeds of the bonds and exercise any other power set forth in this chapter for these purposes.

2. Policies. The authority shall establish rules pertaining to participation in the student financial and supplemental loan program issuing bonds and borrowing money by the authority, a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the authority pursuant to Title 10, chapter 9, servicing and collection of loans made pursuant to programs of the authority and other policies governing the operation of the authority.

§11444. Records confidential

1. Confidential information. Records containing any information acquired by the authority or a member, employee or agent of the authority from applicants for or recipients of financial assistance provided by the student financial and supplemental loan program are confidential for purposes of Title 1, section 402, subsection 3, paragraph A.

2. Wrongful disclosure prohibited. No member, employee, agent, other representative of the authority or other person may knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information;

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property;

C. To a financial institution or credit reporting service;

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;

E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of its bonds;

F. If necessary to assure collection of any obligation in which it has or may have an interest;

G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority.

§11445. Bonds

1. Issuance; purpose; payment; authorization; interim receipts or certificates. The authority may issue bonds without limitation, for the purpose of making authority loans to institutions participating in a program of the authority for the purpose of providing education loans, for acquiring existing portfolios of education loans from institutions or for financing or funding education loans directly or indirectly to borrowers. The bonds of each issue shall be payable from sources specified in the agreement with bondholders, including without limitation, principal and interest on loans; payments by institutions, banks, insurance companies or others pursuant to letters of credit or purchase agreements; investment earnings from funds or accounts maintained pursuant to a trust agreement or other document; insurance proceeds; loan funding deposits; proceeds of sales of education loans; proceeds of refunding bonds; and other fees, charges or revenues of the authority.

Bonds shall be authorized by the authority and shall:

A. Bear the date or dates, and mature at a time or times, whether as serial bonds or as term bonds, or both, determined by the authority;

B. Bear interest at a rate or rates determined by the authority, including, but not limited to, fixed, variable, floating or adjustable interest rates;

C. Be payable at a time or times, in the denominations and form, either coupon or registered or both, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost or destroyed bonds as the authority may establish;

D. Be negotiable and be payable in lawful money of the United States at a designated place or be payable in another form of currency if the authority so designates;

E. Be subject to redemption in accordance with the agreement with bondholders;

F. Be executed by the manual or facsimile signatures of the officers or designees of the authority;

G. Be sold in the manner and upon the terms determined by the authority at public or private sale, with or without public bidding;

H. Be conclusively presumed to be fully and duly authorized and issued under the laws of the State and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the authority; and

I. Be deemed to be negotiable instruments issued under the laws of the State.

Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

Bonds issued under this chapter shall not constitute or create any debt or debts, liability or liabilities on behalf of the State or of any political subdivision of the State, other than the authority, or a loan of the credit of the State or a pledge of the faith and credit of the State or of any such political subdivision, other than the authority, but shall be payable solely from the funds provided. All such bonds shall contain on the face of the bonds a statement to the effect that neither the State nor any political subdivision of the State shall be obligated to pay the same or the interest on the bonds, except from revenues derived pursuant to one or more agreements and that neither the faith and credit nor the taxing power of the State or of any political subdivision of the State is pledged to the payment of the principal of, premium, if any, or the interest on such bonds. The issuance of bonds under this chapter shall not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. Nothing in this section contained may prevent nor be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of an institution to the payment of bonds or issue of bonds authorized pursuant to this chapter.

2. Provisions in bond resolution or other document. Any bond resolution or other document may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

A. Pledging or assigning the revenues derived from authority loans, education loans or other sources with respect to which the bonds are to be issued;

B. The fees and other charges to be collected and the sums to be raised in each year, and the use, investment and disposition of such sums;

C. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment and disposition;

D. Limitations on the use of proceeds of loans;

E. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

F. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;

G. The refunding or refinancing of outstanding bonds;

H. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

I. Defining the acts or omissions which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights or remedies of such holders in the event of a default;

J. Providing for guarantees, pledges of endowments, letters of credit, property or other security, or insurance for the benefit of the holders of the bonds; and

K. Any other matter relating to the bonds which the authority determines appropriate.

3. Liability. No member or employee of the authority nor any person executing the bonds may be liable personally on the

bonds or subject to any personal liability by reason of the issuance of the bonds.

4. Purchasing, refunding or refinancing by authority. The authority may purchase its bonds out of any available funds and may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondholders. The authority may refund or refinance any of its bonds.

5. Security for series or issue of bonds. The authority may pledge the repayments of authority loans as security for a series or issue of bonds. Notwithstanding any other provision contained in this chapter, the authority may commingle and pledge as security for a series or issue of bonds, with the consent of all of the institutions which are participating in the series or issue; the education loan series portfolios and some or all future education loan series portfolios of the institutions; and the loan funding deposits of the institutions if education loan series portfolios and other security and money set aside in any fund or funds pledged for any series or issue of bonds are held for the sole benefit of the series or issue separate and apart from education loan series portfolios and other security and money pledged for any other series or issue of bonds of the authority.

The authority may provide for transfer of registration of its registered bonds by book entry on the records of the entity designated for that purpose and may enter into any agreement which it deems necessary to accomplish these purposes.

§11446. Refunding bonds

The authority may provide for issuance of refunding bonds of the authority to refund any outstanding bonds issued under this chapter, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption, and, if deemed advisable by the authority, for any other purpose of the authority. The authority may provide for the issuance of bonds of the authority for the combined purpose of refunding any outstanding bonds, including refunding bonds issued under this chapter. The issuance of the bonds, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the authority shall be governed by the provisions of this chapter insofar as they are applicable.

§11447. Loan transactions

The authority may purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, all on such terms and conditions as the authority may specify, any loan, loan pass-through certificate,

pledge, including any pledge of loan revenue, loan participation certificate or other loan-backed or loan-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a loan or of a beneficial interest or participation in a loan, the authority may enter into one or more agreements providing for the custody, control and administration of the loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to loans governed by the agreement, title to a loan, or to a beneficial interest or participation in a loan, shall be deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a loan is the same as a sale of a loan. The authority may issue or cause to be issued certificates or other instruments evidencing the holder's fractional interest in a pool of loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, Article 8, the certificates or instruments shall be and are made negotiable instruments within the meaning of and for all purposes of Title 11, Article 8, subject only to such registration requirements as the authority may establish.

§11449. Trust agreement; pledge

1. Trust agreement. Any bonds issued under this chapter may be secured by a trust agreement by and between any or all of the following: The authority, a participating institution and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the State.

2. Pledge. Any trust agreement may pledge or assign any revenues to be received by the authority or proceeds or benefits of any contract and may serve to convey or mortgage or otherwise secure any property or property rights, contain provisions for protecting and enforcing the rights and remedies of bondholders, restrict the individual right of action by bondholders and contain such other provisions as the authority deems appropriate, including the right to the appointment of a receiver and the right to the issuance of an order of specific performance by a court of competent jurisdiction.

3. Education loan program. Any expense incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of an education loan program.

4. Valid and binding. A pledge by the authority of revenues as security for an issue of bonds shall be valid and binding from the time when the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery, recording of any instrument or further act and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against the authority or any participating institution or borrower, irrespective of whether the person has notice.

No bond resolution, trust agreement or financing statement, continuation statement or other instrument adopted or entered into by the authority need be filed or recorded in any public record other than the records of the authority in order to perfect the lien against 3rd persons, regardless of any contrary provision of law.

5. Trust funds. All money received by or on behalf of the authority under this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

Any officer with whom, or any bank or trust company with which, that money is deposited shall act as trustee of the money and shall hold and apply it for the purposes provided in the chapter and any applicable bond resolution or trust agreement.

§11424. Capital reserve funds; obligation of the State

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

2. Application. Money held in any capital reserve fund, except as provided in this section, shall be used solely with respect to bonds, repayment of which is secured by any such fund and solely for the payment of principal of bonds, the purchase or redemption of those bonds, including any fees or premiums and the payment of interest on those bonds. Money in excess of the reserve requirement set forth in subsection 3 may be transferred to other funds and accounts of the authority.

3. Reserve requirement. The authority may provide that money in any such fund shall not be withdrawn at any time in such amount as would reduce the amount of any such fund to less than the maximum amount of principal and interest becoming due

by reason of maturity or a required sinking fund payment in the next succeeding 12-month period within which any such maturity occurs or any such payment is required, the amount being referred to as the "capital reserve requirement," except for the purpose of paying the amount due at any such maturity or the sinking fund payment with respect to bonds, repayment of which is secured by any such fund.

4. Issuance limit. The authority may provide that it shall not issue bonds if the capital reserve requirement with respect to bonds outstanding and then to be issued and secured by any such fund will exceed the amount of any such fund at the time of issuance, unless the authority, at the time of issuance of the bonds, shall deposit in any such fund from proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in any such fund, will not be less than the capital reserve requirement.

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund, to which this subsection is stated in the trust agreement or other document to apply, to the capital reserve requirement. The Governor shall pay directly from the Contingent Account to any such fund as much of the amount as is available in the Contingent Account and shall transmit directly to the Legislature that certification and a statement of the amount, if any, remaining to be paid and the amount certified shall be appropriated and paid to the authority during the current state fiscal year.

6. Bonds outstanding. The authority shall not have at any one time outstanding bonds to which subsection 5 is stated in the trust agreement or other document to apply in principal amount exceeding \$50,000,000. The amount of bonds issued to refund bonds previously issued shall not be taken into account in determining the principal amount of the bonds outstanding, provided that the proceeds of the refunding bonds are applied as promptly as possible to the refunding of the previously issued bonds. In computing the total amount of bonds of the authority which may at any time be outstanding for any purpose, the amount of the outstanding bonds that have been issued as capital appreciation bonds or as similar instruments shall be valued as of any date of calculation at their current accreted value rather than their face value.

§11450. Enforcement of rights and duties

Except to the extent that the rights are restricted by any applicable bond resolution or trust or other agreement, any holder of bonds issued under this chapter or a trustee under a trust agreement entered into under this chapter may, by any

suitable form of legal proceedings, protect and enforce any rights granted under the laws of the State or by any applicable bond resolution or trust or other agreement.

§11451. Bonds as legal investments

Bonds issued by the authority under this chapter are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, financial institutions, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business and all other persons whatsoever, may properly and legally invest funds, including capital in their control or belonging to them. These bonds are hereby made securities which may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

§11452. Chapter additional and supplemental

1. In general. This chapter provides a complete, additional and alternative method for carrying out the functions authorized and shall be regarded as supplemental and additional to, and the limitations imposed by this chapter do not limit or otherwise affect powers or rights conferred by other laws and the issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

2. Institutions of higher education. Notwithstanding any other provision of law or charter, institutions of higher education may borrow money from the authority, make education loans and take all other actions necessary or convenient to consummate the transactions contemplated under this chapter. The authority may establish, contract for, charge and collect any amount or rate of interest or compensation with respect to authority loans and participating institutions of higher education may contract for, charge and collect any amount or rate of interest or compensation with respect to education loans. Neither the authority nor any institution of higher education participating in a loan program under this chapter may be subject to any licensing provisions relating to financial institutions or any credit regulations of the State.

§11453. Taxable bond option

With respect to all or any portion of any issue of any bonds or any series of bonds which the authority may issue in accordance with the limitations and restrictions of this chapter, the authority may covenant, elect and consent that the interest on the bonds shall be includable, under the code or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the code or any subsequent law. Bonds issued pursuant to this section shall not be subject to any limitations or restrictions of any law which may limit the authority's power to issue those bonds. The foregoing grant of power shall not be construed as limiting the inherent power of the State or its agencies under any other provision of law to issue debt, the interest on which is includable in the gross income of the holders under the code or any subsequent law.

§11454. Agreement of the State

The State hereby pledges to and agrees with the holders of any bonds issued under this chapter and with those parties who may enter into any contract with the authority pursuant to this chapter that the State will not limit, alter, restrict or impair the rights vested in the authority and the participating institutions until the bonds, together with interest, including interest on any unpaid installment of interest and all costs and expenses in connection with any actions or proceedings by or on behalf of the bondholders, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this chapter precludes that limitation or alteration if and when adequate provision is made by law for the protection of the holders of bonds of the authority or those entering into contracts with the authority. The authority is authorized to include this pledge and undertaking for the State in those bonds or contracts.

§11455. Termination of existence of authority

No law terminating the supplemental loan program shall take effect as long as any bonds of the program are outstanding and unpaid without adequate provision for payment having been made.

§11456. Act cumulative; no notice required

Neither this chapter nor anything contained in this chapter may be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this State and this chapter is cumulative of any such powers.

Neither the making of contracts nor the issuance of bonds pursuant to this chapter need comply with the requirements of any other state law applicable to the making of contracts, the issuance of bonds or the construction, acquisition or management of any project undertaken pursuant to this chapter. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is provided in this chapter or in the code, if applicable.

§11457. Act liberally construed

This chapter being necessary for the welfare of the State and its inhabitants shall be liberally construed so as to effect its purposes.

Sec. 6. 20-A MRSA chapter 430 is repealed.

Sec. 7. 20-A MRSDA §11417, sub-§4 is amended as follows:

4. Administration. In carrying out its powers under this chapter, the authority shall, whenever determined desirable by the authority, contract with the secondary market, the Finance Authority of Maine, or other appropriate entity for necessary clerical and administrative services.

Sec. 8. Transfer of funds. Funds remaining in the account of the Student Financial Aid Transition Advisory Committee after payment of its expenses shall not lapse but shall be transferred to the account of the Finance Authority of Maine to be used to provide counseling and outreach related services.

Emergency clause. In light of the emergency cited in the preamble, this act shall take effect when approved.

STATEMENT OF FACT

This bill is submitted pursuant to PL 1989, chapter 698 to implement the unanimous report of the Student Financial Aid Transition Advisory Committee. The bill repeals the Student Educational Enhancement Deposit (SEED) Act establishing a prepaid tuition program. For various reasons that program has not been implemented. The bill replaces SEED with a college savings bond program to be run by the State Treasurer with assistance from the Finance Authority of Maine (FAME). The bill provides authority for FAME to offer a supplemental loan program, as part of a one-stop-shopping financial aid program, which is parallel to the current Maine Educational Loan Authority (MELA) loan program. The FAME supplemental loan program authorized in the bill could be expanded to provide an auxiliary program which has been referred to as a loan of last resort. The bill also authorizes MELA to contract with FAME or

other appropriate entity to provide administrative services for the current MELA supplemental loan program. Finally, the bill transfers funds remaining in the Student Financial Aid Transition Advisory Committee's account after payment of its expenses to FAME for use in providing financial aid counseling and outreach services.