



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 477

S.P. 141

In Senate, January 29, 2019

An Act To Provide Relief to Federal Employees Affected by the Federal Shutdown

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Speaker GIDEON of Freeport.

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,** Maine has many residents who are employees of the Federal Government;
4 and

5 **Whereas,** due to the partial shutdown of the Federal Government, these federal
6 employees are not being paid, regardless of whether they are working, which is causing
7 enormous stress, both fiscal and emotional, on those employees; and

8 **Whereas,** in addition to the assistance already being provided by the banks and
9 credit unions in Maine, it is imperative that the State respond quickly and in an
10 appropriate manner to the needs of its residents; and

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

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

16 **Sec. 1. 5 MRSA §157** is enacted to read:

17 **§157. Federal Shutdown Loan Guarantee Program Fund established**

18 The Federal Shutdown Loan Guarantee Program Fund, referred to in this section as
19 "the fund," is established as a nonlapsing, Other Special Revenue Funds account within
20 the Office of the Treasurer of State. All money received by the fund from any source,
21 including any transfers from the General Fund unappropriated surplus, must be credited
22 to the fund. Money credited to the fund must be used to guarantee the repayment of loans
23 made by an eligible financial institution to an eligible affected employee pursuant to Title
24 10, chapter 110, subchapter 13.

25 **Sec. 2. 10 MRSA c. 110, sub-c. 13** is enacted to read:

26 **SUBCHAPTER 13**

27 **FEDERAL SHUTDOWN LOAN GUARANTEE PROGRAM**

28 **§1100-AA. Definitions**

29 As used in this subchapter, unless the context otherwise indicates, the following
30 terms have the following meanings.

31 **1. Affected employee.** "Affected employee" means a federal employee who, during
32 the shutdown, is:

33 A. A resident of this State; and

1 B. Required to work as a federal employee without pay or furloughed as a federal
2 employee without pay.

3 **2. Bureau.** "Bureau" means the Department of Professional and Financial
4 Regulation, Bureau of Financial Institutions.

5 **3. Credit union.** "Credit union" has the same meaning as in Title 9-B, section 131,
6 subsection 12-A.

7 **4. Eligible affected employee.** "Eligible affected employee" means an affected
8 employee who is eligible to receive a loan as determined pursuant to section 1100-CC,
9 subsection 1.

10 **5. Eligible financial institution.** "Eligible financial institution" means a credit
11 union or financial institution that is in good standing as determined by the bureau
12 pursuant to section 1100-BB, subsection 2.

13 **6. Financial institution.** "Financial institution" has the same meaning as in Title
14 9-B, section 131, subsection 17-A.

15 **7. Good standing.** "Good standing," with respect to a credit union or financial
16 institution, means that the credit union or financial institution is not subject to:

17 A. A formal agreement with the bureau;

18 B. A consent order or a cease and desist order issued by the Federal Deposit
19 Insurance Corporation;

20 C. A consent order or a cease and desist order issued by the bureau;

21 D. A letter of understanding and agreement or a consent order issued by the National
22 Credit Union Administration; or

23 E. A finding by the bureau that the credit union or financial institution has failed to
24 comply with a provision of section 1100-CC.

25 **8. Grace period.** "Grace period" means the 90-day period after an affected
26 employee's federal agency is funded.

27 **9. Loan guarantee payment.** "Loan guarantee payment" means the amount paid by
28 the Treasurer of State in satisfaction of a claim filed by an eligible financial institution
29 pursuant to section 1100-DD.

30 **10. Program.** "Program" means the Federal Shutdown Loan Guarantee Program
31 established in section 1100-BB.

32 **11. Shutdown.** "Shutdown" means the federal fiscal year 2019 partial shutdown of
33 the Federal Government that began on December 22, 2018.

34 **§1100-BB. Federal Shutdown Loan Guarantee Program established**

35 **1. Establishment; purpose.** The Federal Shutdown Loan Guarantee Program is
36 established within and administered by the authority. The authority shall guarantee the

1 repayment of loans made by an eligible financial institution to an eligible affected
2 employee pursuant to section 1100-CC. The authority shall submit all approved claims to
3 the Treasurer of State, who shall pay from the Federal Shutdown Loan Guarantee
4 Program Fund, established in Title 5, section 157, any claims submitted by the authority
5 pursuant to the program.

6 **2. Application process for credit unions and financial institutions.** A credit union
7 or financial institution may apply to the bureau to participate in the program. Not later
8 than one business day after receiving the application, the bureau shall determine whether
9 the credit union or financial institution is an eligible financial institution and immediately
10 notify the credit union or financial institution and the authority of that determination. An
11 eligible financial institution may make loans to eligible affected employees in accordance
12 with section 1100-CC.

13 **3. Notification of loan and borrower information.** Each eligible financial
14 institution that makes a loan pursuant to section 1100-CC shall notify the authority in
15 writing not later than one business day after making the loan, specifying such information
16 about the borrower as the authority may request.

17 **§1100-CC. Eligibility of affected employees; loan terms; process**

18 **1. Determination of eligibility of affected employee.** An eligible financial
19 institution may make a loan to an affected employee who meets the following eligibility
20 requirements.

21 A. An affected employee shall provide the eligible financial institution proof of the
22 employee's employment status, income and residence in this State. An affected
23 employee may meet the requirements of this paragraph by providing to the eligible
24 financial institution proof such as a pay stub or bank statement, a federal employee
25 identification card or the federal tax identification number of the employee's
26 employer; and

27 B. In addition to the proof required in paragraph A, an affected employee shall
28 submit to the eligible financial institution a sworn affidavit from the affected
29 employee stating:

30 (1) The affected employee is currently a federal employee residing in this State;

31 (2) The affected employee is eligible to receive back pay when the shutdown
32 ends;

33 (3) The affected employee is not receiving a loan from any other financial
34 institution pursuant to this subchapter; and

35 (4) The amount per week of unemployment compensation benefits pursuant to
36 Title 26, chapter 13:

37 (a) Received by the employee, if any, during the shutdown; and

38 (b) The affected employee is eligible to receive, if any, during the shutdown.

39 **2. Loan amount.** The amount of the loan may not exceed, after subtracting 4 times
40 the amount, if any, the affected employee has reported to the eligible financial institution

1 under subsection 1, paragraph B, subparagraph (4), division (a) or (b) or both, whichever
2 is greatest, the lesser of:

3 A. Five thousand dollars; and

4 B. The affected employee's most recent monthly after-tax pay.

5 **3. Standards for issue of loan; creditworthiness.** An eligible financial institution
6 shall make a loan pursuant to this subchapter in accordance with the eligible financial
7 institution's underwriting policy and standards, except that the affected employee's
8 creditworthiness may not be a factor used for the purposes of determining eligibility.

9 **4. Terms of loan agreement.** The following terms apply to a loan issued pursuant
10 to this subchapter.

11 A. A loan agreement may not:

12 (1) Require repayment during the grace period;

13 (2) Charge interest on the principal amount before or during the grace period or
14 for 180 days after the grace period; or

15 (3) Contain a fee or penalty for the prepayment or early payment of the loan.

16 B. The loan agreement must require that the affected employee repay the loan in full
17 not later than 180 days after the end of the grace period by making at least 3 and no
18 more than 6 equal installment payments.

19 C. After 180 days have elapsed following the grace period, the eligible financial
20 institution may charge interest or fees in accordance with the financial institution's
21 lending policy and the terms of the loan agreement.

22 **5. Multiple loans to same eligible affected employee.** An eligible affected
23 employee who has received a loan pursuant to this section may apply to the same eligible
24 financial institution for an additional loan for each 30-day period that the employee
25 remains an eligible affected employee, except that an eligible affected employee may not
26 receive more than 3 loans under the program. An eligible affected employee who applies
27 for an additional loan shall provide the eligible financial institution with updated
28 information as required under subsection 1, including the amount of unemployment
29 compensation benefits the employee has been determined eligible to receive or has
30 received during the shutdown. Each additional loan must be made in accordance with this
31 section.

32 **6. Treatment of deferred interest.** Notwithstanding any provision of Title 36, Part
33 8 to the contrary, any interest deferred or not charged related to a loan issued pursuant to
34 this section is exempt from all state taxes that may be applicable to such interest amounts
35 as they relate to an affected employee. An eligible financial institution shall disclose to
36 eligible affected employee borrowers in the signed affidavit or loan documents that there
37 may be federal tax consequences to the program loans.

1 **§1100-DD. Loan guarantee**

2 **1. Claims.** No sooner than the 180th day following the end of the grace period and
3 no later than the 210th day following the end of the grace period, an eligible financial
4 institution that has made a good-faith effort to collect the outstanding principal of a loan
5 issued pursuant to section 1100-CC and has been unsuccessful may make a claim to the
6 authority for recovery of an amount equal to the outstanding principal of that loan.

7 An eligible financial institution shall demonstrate to the satisfaction of the authority that
8 the eligible financial institution has made a good-faith effort to collect the outstanding
9 principal from the eligible affected employee in accordance with the eligible financial
10 institution's loan servicing and collection policies and has been unsuccessful.

11 **2. Loan guarantee payment.** The authority, upon receipt of a properly documented
12 claim submitted by an eligible financial institution pursuant to subsection 1, shall submit
13 the claim immediately to the Treasurer of State for payment. The Treasurer of State
14 immediately shall pay to the eligible financial institution from the Federal Shutdown
15 Loan Guarantee Program Fund, established in Title 5, section 157, any claims submitted
16 by the authority pursuant to the program.

17 **3. Effect of payment of claim.** After payment of a loan guarantee payment to an
18 eligible financial institution pursuant to subsection 2:

19 A. The loan must be assigned by the eligible financial institution to the authority on
20 behalf of the State; and

21 B. The authority has the right to continue collection efforts on the loan.

22 **§1100-EE. Duties and powers of authority**

23 **1. Maintenance and review of records.** The authority shall maintain records in the
24 regular course of administration of the program, including a record of loans issued
25 pursuant to section 1100-CC and loan guarantee payments issued pursuant to section
26 1100-DD, subsection 2 to honor claims on defaulted loans. The authority shall regularly
27 review these records to monitor all the loans issued and identify duplicative applications.

28 **2. Termination of loan recovery guarantee based on misrepresentation by**
29 **financial institution.** The authority may terminate any agreement to pay the claim of an
30 eligible financial institution pursuant to section 1100-DD if the financial institution
31 misrepresents any information pertaining to the loan or fails to comply with any
32 requirements of this section or section 1100-DD in connection with the claim for the loan.

33 **3. Termination of loan recovery guarantee based on excess claims.** If the amount
34 expended for loan guarantee payments under section 1100-DD equals 10% of the total of
35 all loans issued, the authority shall immediately cease to approve claims and shall notify
36 the Treasurer of State and each eligible financial institution of the total amount of loan
37 guarantee payments made and that the authority has ceased honoring loan claims.

38 **4. Recovery of defaulted loans.** The authority, on its own or by contracting with a
39 private entity, shall make reasonable efforts to recover the amount of guaranteed loan
40 payments made pursuant to section 1100-DD, subsection 2. Any funds recovered

1 pursuant to this subsection, less reasonable administrative costs, must be deposited in the
2 Federal Shutdown Loan Guarantee Program Fund established in Title 5, section 157.

3 **§1100-FF. Termination of program; repeal**

4 **1. New loans prohibited after shutdown.** An affected employee may not apply for
5 a loan under the program after the shutdown ends. A financial institution may not
6 approve a loan under the program after the shutdown ends.

7 **2. Termination.** The program terminates upon the earlier of the:

8 A. Repayment or discharge of all loans made under the program;

9 B. Payment of all claims filed pursuant to section 1100-DD that are eligible for loan
10 guarantee payments; and

11 C. Repayment or discharge of loan guarantee payments.

12 **3. Repeal.** This subchapter is repealed upon the termination of the program.

13 **Sec. 3. Transfer.** Notwithstanding any provision of law to the contrary, the State
14 Controller shall transfer \$250,000 from the General Fund unappropriated surplus to the
15 Federal Shutdown Loan Guarantee Program Fund established within the Office of the
16 Treasurer pursuant to the Maine Revised Statutes, Title 5, section 157 no later than
17 February 15, 2019 to be used to guarantee the repayment of loans made by an eligible
18 financial institution to an eligible affected employee pursuant to Title 10, chapter 110,
19 subchapter 13.

20 **Sec. 4. Additional transfer and allocation.** The Joint Standing Committee on
21 Appropriations and Financial Affairs may report out legislation to the 129th Legislature
22 to address any funding needs of the Federal Shutdown Loan Guarantee Program
23 established in the Maine Revised Statutes, Title 10, chapter 110, subchapter 13.

24 **Sec. 5. Appropriations and allocations.** The following appropriations and
25 allocations are made.

26 **TREASURER OF STATE, OFFICE OF**

27 **Federal Shutdown Loan Guarantee Program Fund N296**

28 Initiative: Establishes the Federal Shutdown Loan Guarantee Program Fund with a
29 \$250,000 transfer from the unappropriated surplus of the General Fund.

30

31 OTHER SPECIAL REVENUE	2018-19	2019-20	2020-21
32 FUNDS			
33			
34 All Other	\$250,000	\$0	\$0
35			
36 OTHER SPECIAL REVENUE	<u>\$250,000</u>	<u>\$0</u>	<u>\$0</u>
37 FUNDS TOTAL			

