



**Testimony by William Norbert
Governmental Affairs and Communications Manager**

in Support of L.D. 19

An Act to Amend the Maine Education Savings Program

February 9, 2021

**Joint Standing Committee on Innovation, Development,
Economic Advancement, and Business**

Senator Curry, Representative Roberts, and Distinguished Members of the Joint Standing Committee on Innovation, Development, Economic Advancement, and Business:

My name is Bill Norbert. I am the Governmental Affairs and Communications Manager at the Finance Authority of Maine (FAME). I live in Brunswick and am here to testify in support of L.D. 19, *An Act to Amend the Maine Education Savings Program*.

FAME would like to thank Senator Daughtry, the former House chair of this committee, for sponsoring the bill. Erin Herbig, the former Senate chair of this committee, last year sponsored a virtually identical bill for us, which was on its way to enactment when the Legislature adjourned in mid-March due to the COVID pandemic. We hope to finish the job this session with your help.

This bill amends and updates certain portions of the Maine Education Savings Program statute following recent federal and state law changes to so-called Section 529 savings plans. It also makes certain other needed updates to the program and makes permissive rather than mandatory the investment of program fund dollars by FAME in state-based financial institutions.

The Legislature established the Maine Education Savings Program, now known as NextGen 529™, in 1999 as Maine's Section 529 education savings plan to be administered by FAME. NextGen 529 provides an opportunity for Maine residents to save and invest for eligible education expenses while realizing potential tax advantages. We are proud to note that it is now the sixth or seventh-largest 529 plan in the nation, with over \$12.5 billion in assets under management. Earnings grow and withdrawals are federal and Maine state income tax-free when used for qualified education expenses. Assets can be used for eligible K-12 tuition purposes, for rollovers to ABLE accounts, and at eligible U.S.-accredited postsecondary institutions, including graduate schools, trade schools and some foreign institutions.

The aim of this bill is to update the governing program statute in light of Maine's decision a couple of years ago to conform to federal law regarding the expansion of uses permissible for 529 plans. About four years ago, Congress rewrote the tax code, allowing parents and other account owners to use 529 plans to cover tuition not only at colleges and universities, but also at private elementary and high schools. Additional changes have been made by Congress since then, including allowing 529s to cover some expenses related to apprenticeships and student loan repayments for an account beneficiary and their siblings. Maine previously conformed with the federal law tax changes, but some language in the NextGen statute remains inconsistent with those federal changes and thus needs to be updated. This bill seeks clarification and consistency in the governing program statute for the benefit of Maine taxpayers. We are also taking the opportunity to make a few long overdue clean-ups.

Finally, we wish to make permissive rather than mandatory the investment of program fund dollars by FAME in state-based financial institutions. A portion of the current statute states that FAME “*must* invest, or cause to be invested, money from the program fund in financial institutions located in the state *to the extent determined reasonable by the authority* (emphases added).” We simply wish to change the “*must*” to a “*may*” in order to provide us flexibility and to recognize the practical realities of how investing program funds in financial institutions works. The statute allows us discretion in the event of unreasonable circumstances, but given the overall mandatory proscription, we must engage in periodic analyses to determine “*reasonableness*.” We have exercised this option more often than not in recent years.

Program investments in financial institutions (by way of certificate of deposit auctions) have in recent years been impractical due to historically low interest rates and a lack of meaningful participation by Maine financial institutions. For many years now, it has not been reasonable to conduct an auction due to low participation rates, low returns, and the expenses associated with it. Going forward, we seek to be relieved of the periodic exercise of determining whether an auction is reasonable in order to forego an auction, while still retaining the ability to participate in one if and when we determine that it would be worthwhile.

Thank you for your consideration of the bill. I will be happy to answer any questions you have.