

# MAINE STATE LEGISLATURE

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October 28, 2011

Senator Brian Langley, Chair  
Joint Standing Committee on  
Education and Cultural Affairs  
100 State House Station  
Augusta, ME 04333-0100

Representative David Richardson, Chair  
Joint Standing Committee on  
Education and Cultural Affairs  
100 State House Station  
Augusta, ME 04333-0100

Dear Senator Langley and Representative Richardson:

Pursuant to the Government Evaluation Act, Title 3 of the Maine Revised Statutes, Chapter 35, enclosed is a copy of the Maine Educational Loan Authority's (MELA) Program Evaluation Report. The report, a self-assessment by MELA, addresses the required content areas outlined in Section 956 of the Act.

Please let me know if the Joint Standing Committee on Education and Cultural Affairs would like additional information about MELA prior to the formal review process. I look forward to meeting with the Committee to discuss MELA and its supplemental education loan program.

Sincerely,

Shirley M. Erickson, Ph.D.  
Executive Director

Enclosure

cc: Members of the Maine Educational Loan Authority

**MAINE EDUCATIONAL LOAN AUTHORITY**

Program Evaluation Report

Submitted to:

The Joint Standing Committee on Education and Cultural Affairs  
Maine State Legislature

October 28, 2011



Prepared by:

Shirley M. Erickson, Ph.D.  
Executive Director

MAINE EDUCATIONAL LOAN AUTHORITY

Program Evaluation Report

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# MAINE EDUCATIONAL LOAN AUTHORITY

## Program Evaluation Report

### **I. Executive Summary**

Pursuant to the Government Evaluation Act, Title 3 of the Maine Revised Statutes, Chapter 35, the Maine Educational Loan Authority (MELA) has prepared this Program Evaluation Report for the Joint Standing Committee on Education and Cultural Affairs. The report, a self-assessment by MELA, addresses the required content areas outlined in the Act.

MELA is a quasi-governmental agency that was created and established by Maine legislation in 1988 to assist students and their families in achieving their higher education goals by providing a supplemental or alternative student loan program. The Maine Loan<sup>®</sup>, MELA's primary student loan product, exists to bridge the gap between the full cost of undergraduate and graduate higher education and other traditional financial aid resources such as scholarships, grants and the Federal education loan programs. The other student loan product offered by MELA is The Maine Medical Loan<sup>sm</sup>. This medical education loan is available to assist students in financing their education for a broad spectrum of medical degree programs.

The Maine Loan and The Maine Medical Loan are available to students and their families based on the credit-worthiness of the applicant(s). Borrowers must be Maine residents attending eligible higher education institutions in the United States or Canada or out-of-state residents attending eligible Maine colleges and universities. Key features of MELA's loan program include: a fixed interest rate offered to all approved borrowers, regardless of credit history or if there are co-borrowers; no annual or aggregate borrowing limits; a range of repayment terms up to fifteen (15) years, depending on the amount borrowed; and high quality customer service located in Maine.

Since 1988, MELA has disbursed student loans totaling over \$272 million dollars. The trend over the years reveals that approximately 60% of MELA funds are disbursed to students attending Maine public and private colleges and universities.

The State of Maine's public policy decision to provide MELA with an allocation of the state ceiling on private activity bonds enables MELA to perform an essential public function by and on behalf of the State by providing a supplemental or alternative student loan program. All MELA loans are funded with the proceeds from tax-exempt bonds or obligations, and no State monies are allocated to fund the program.

Given the escalating costs of higher education coupled with the declining purchasing power of federal and state grants, Maine students continue to rely on supplemental or alternative loans to meet their educational funding gap. By providing an overall low cost alternative education loan program, MELA serves as a key partner with the State of Maine in making a college education more accessible and affordable for its residents.

## **II. Introduction and Background Information**

The Maine Educational Loan Authority (MELA) is a quasi-governmental agency that was created and established by Maine legislation in 1988 to assist students and their families in achieving their higher education goals by providing a supplemental or alternative student loan program. A supplemental or alternative student loan is designed primarily to help students and their families pay for educational expenses that exceed other available financial aid resources such as scholarships, grants, and the Federal education loan programs.

MELA functions as an administratively independent authority within the current organizational structure of State government, and receives no appropriation from the Legislature for its operation. MELA is governed by a seven-member board appointed by the Governor and confirmed by the Legislature, except for the State Treasurer who serves as an ex-officio member. Under the broad guidance of the MELA Board, a full-time Executive Director organizes and coordinates the activities of the Authority.

MELA's supplemental student loan program currently consists of The Maine Loan<sup>®</sup> and The Maine Medical Loan<sup>sm</sup>. The Maine Loan, MELA's primary student loan product, allows borrowers to borrow up to the full cost of an undergraduate or graduate education less other financial aid. This loan is available to eligible Maine residents attending approved schools in the United States and Canada, and out-of-state residents attending approved schools in Maine. In 1998, MELA introduced The Maine Medical Loan to assist Maine students pursuing a Doctor of Medicine (MD) or Doctor of Osteopathic Medicine (DO) degree. The scope of The Maine Medical Loan was expanded in 2002 to include other degrees in addition to the MD and DO such as dentistry, optometry, chiropractic, and veterinary medicine. The Maine Medical Loan allows borrowers to borrow up to the full cost of a medical degree less other financial aid. This loan is available to eligible Maine residents attending approved medical schools in the United States and Canada, and out-of-state residents attending approved medical schools in Maine. MELA loans are approved based on the creditworthiness of the applicants consistent with MELA's program rules.

The MELA Private Consolidation Loan<sup>sm</sup> was offered from 2006 to 2008, allowing borrowers with qualifying alternative education loans to consolidate these loans. Due to the difficulties in the capital markets and challenges securing funding, MELA made the decision to suspend this loan program in 2008. MELA may decide to offer a consolidation loan product at some point in the future.

All MELA loans are funded with the proceeds from tax-exempt bonds or obligations, and no State monies are allocated to fund the program. MELA secured its initial funds through a \$35 million tax-exempt bond issue in July of 1988. In May of 1992, MELA refunded its initial offering and issued \$60 million worth of tax-exempt bonds. An additional \$12.5 million, \$10 million, \$14 million, and \$10 million of tax-exempt bonds were issued in June of 1996, July of 1997, January of 1999, and September of 2000, respectively. In November of 2002, MELA issued a \$26,925,000 bond, which included \$10 million of new money and \$16,925,000 to refund the 1992 bond issue. An additional \$30 million and \$50 million of

tax-exempt bonds were issued in May of 2005 and February of 2007, respectively. In May of 2009, MELA issued a \$210 million bond, which included \$152,250,000 to refund prior tax-exempt obligations of the Authority. An additional \$15,460,000 of tax-exempt bonds were issued in July of 2010.

MELA currently has \$166,875,000 in student loan revenue and refunding bonds outstanding under a 2009 Indenture of Trust and a 2010 supplemental indenture. In lieu of a 2011 bond issue, recycling payments received on loans funded with the 2009 bond proceeds are being used to fund new loans for the 2011-2012 academic year. All of MELA's bond issues are insured by Assured Guaranty Corporation and carry the moral obligation backing of the State of Maine.

There are two primary contractual relationships MELA has at the present time for the administration of its programs and services. MELA contracts with Maine Education Services (MES) for personnel, administrative, and marketing services. MES, an independent, private non-profit corporation located in Portland, Maine, provides opportunities and resources for people to achieve higher education. In addition, MELA contracts with Nelnet, Inc. (Nelnet) for the servicing of all MELA loans since 1996. Nelnet, a publicly traded corporation based in Lincoln, Nebraska, is an integrated educational finance organization offering services in student loan origination and servicing, secondary market services, and guarantor servicing support. Firstmark Services, LLC (Firstmark), assumed loan servicing responsibilities from Nelnet under a subcontract arrangement in 2005. Firstmark, a wholly-owned subsidiary of Nelnet, specializes in the servicing of alternative education loans with offices in Woodbury, Minnesota and Lincoln, Nebraska. Firstmark currently services MELA alternative student loans totaling approximately \$143 million, representing the majority of MELA's outstanding loan portfolio. In addition, there is approximately \$300,000 of MELA alternative student loans, originated prior to June 1996, being serviced by AES Services via a life of loan agreement.

In summary, MELA's alternative student loan program has been an important safety net for many Maine students and their families in meeting the full cost of higher education. Since 1988, MELA has disbursed student loans totaling over \$272 million dollars. MELA's student loan program will remain an important financial aid resource for Maine students and families.

### **III. Enabling or Authorizing Law, Including Any Federal Mandates**

The Maine Educational Loan Authority (MELA) is a quasi-governmental agency that was created and established by Maine legislation, "An Act to Create the Maine Educational Loan Authority," in April of 1988 (20-A M.R.S.A., Section 11414). MELA was created to provide a supplemental or alternative education loan program for students and their families to enable them to borrow beyond the loan limits established for the Federal education loan programs. Based on credit-worthiness versus financial need, MELA's loan program exists to bridge the gap between the full cost of a higher education and traditional financial aid resources.

#### **IV. Comparison of Agency-Relevant Federal Laws/Rules and State Laws/ Agency Rules**

The agency-relevant Federal and State laws for the Maine Educational Loan Authority (MELA), a provider of supplemental education loans, are primarily consumer protection related. The majority of the agency-relevant Federal laws can be found under the Federal Consumer Credit Protection Act (U.S.C. Title 15, Chapter 41), while the majority of the agency-relevant State laws can be found under the Maine Consumer Credit Code (Title 9-A), Commerce and Trade (Title 10), and Professions and Occupations (Title 32). The consumer protected rights are similar at the Maine State and Federal levels, with the Federal laws typically being more stringent. In addition to the general consumer protection laws, Federal laws also include additional specific regulations in regard to non-federal student loans. MELA ensures compliance with both Federal and State agency-relevant laws.

A comparison of agency-related Federal laws with comparable State laws follows.

##### Federal Laws

- Federal Consumer Credit Protection Act (U.S.C. Title 15, Chapter 41) :
  - Equal Credit Opportunity Act (Sec. 1691, commonly referred to as Regulation B)
  - Truth in Lending Act (Title I, commonly referred to as Regulation Z)
  - Fair Credit Reporting Act (FCRA), as amended by the Fair and Accurate Credit Transaction Act (FACTA) (Sec. 1681)
  - Fair Debt Collection Practices Act (Sec. 1692)
- Federal Electronic Signatures in Global and National Commerce Act (U.S.C. Title 15, Chapter 96, commonly referred to as the E-Sign Act)

##### State Laws

- Administrative Procedures and Services (M.R.S. Title 5)
  - A Fair Credit Extension, Human Rights Act (Chapter 337, Subchapter 5-A)
- Maine Consumer Credit Code (M.R.S. Title 9-A)
  - Truth In Lending (Article 8)
- Commerce and Trade (M.R.S. Title 10)
  - Fair Credit Reporting Act (Chapter 210)
  - Notice of Risk to Personal Data (Chapter 210-B)
  - Maine Digital Signature Act (Chapter 1053)
- Professions and Occupations (M.R.S. Title 32)
  - Maine Fair Debt Collection Practices Act (Chapter 109-A)

**V. A Detailed Performance Assessment of Each Program Administered by the Agency**

The Maine Educational Loan Authority's (MELA) supplemental student loan program consists of The Maine Loan and The Maine Medical Loan. Following is a description of each of these loan programs.

The Maine Loan, developed and implemented in 1988, is a supplemental or alternative education loan program that allows borrowers to borrow up to the full cost of an undergraduate or graduate education less other financial aid. Students and their families are eligible for The Maine Loan based on their credit-worthiness. This loan is available to Maine residents, 18 years of age and older, attending approved schools in the United States and Canada, and to out-of-state students attending approved schools in Maine. Present key attributes of The Maine Loan program include:

- A fixed interest rate of 7.75%, providing consistent monthly payments for the life of the loan
- The same interest rate is offered to all approved borrowers, regardless of credit history or if there are co-borrowers
- The option to defer principal while in school and during the six (6) month grace period after the student leaves school (interest payments are required)
- A minimum loan amount of \$1,000
- No annual or aggregate borrowing limits
- Maximum loan amount is the cost of education minus other financial aid
- Up to three (3) disbursements per academic year
- A range of repayment terms up to fifteen (15) years, depending on the amount borrowed
- A six (6) month grace period
- A guarantee fee of four (4%) percent is added to the principal balance at the time of loan disbursement
- On-line application process including E-signature capability
- Automated credit decisions
- No pre-payment penalty

In 1998, MELA introduced The Maine Medical Loan, a supplemental or alternative medical education loan program to assist students pursuing a Doctor of Medicine (MD) or Doctor of Osteopathic Medicine (DO) degree. In 2002, MELA expanded the scope of its medical loan to include other degrees in addition to the MD and DO such as dentistry, optometry, chiropractic, and veterinary medicine. This loan is available to Maine residents attending approved medical schools in the United States and Canada, and to out-of-state students attending approved medical schools in Maine. Students and their families are eligible for The Maine Medical Loan based on their credit-worthiness. Present key attributes of The Maine Medical Loan program include:

- A fixed interest rate of 7.75%, providing consistent monthly payments for the life of the loan
- The same interest rate is offered to all approved borrowers, regardless of credit history or if there are co-borrowers
- The option to defer both principal and interest while in school and up to four (4) years while in residency or internship
- A minimum loan amount of \$1,000
- No annual or aggregate borrowing limits
- Maximum loan amount is the cost of education minus other financial aid
- Up to three (3) disbursements per academic year
- A range of repayment terms up to fifteen (15) years, depending on the amount borrowed
- A six (6) month grace period
- A guarantee fee of four (4%) percent is added to the principal balance at the time of loan disbursement
- On-line application process including E-signature capability
- Automated credit decisions
- No pre-payment penalty
- Interest is capitalized once at repayment or at the end of any forbearance/deferment

MELA's overarching goal and primary mission is to provide a supplemental or alternative education loan program for Maine students and their families funded with the proceeds from the issuance of tax-exempt bonds or obligations. MELA's major priorities and key goals for its supplemental education loan program are listed below.

1. To provide a high-quality, low cost supplemental education loan program for Maine students and their families that offers good economic value.
2. To secure the continuity of funding to ensure the availability of funds to assist Maine students and their families with their supplemental education financing needs.
3. To deliver exceptional, Maine based customer service to students, families, financial aid administrators, and others in the higher education community.
4. To maintain a low average annual default rate, by using sound credit underwriting criteria.
5. To establish and maintain strong relationships with Maine's financial aid administrators, members of the higher education community, high school guidance counselors, legislators, and other public officials.

MELA has achieved its goals while faced with numerous external challenges coupled with tremendous change in the student loan industry in recent years. The most significant of these challenges are listed below.

- The unprecedented turbulence in the capital markets and on-going liquidity crisis since late 2007 has resulted in few financing options for MELA and other student loan issuers to provide for a stable and economical form of funding. As a result of the inability to access capital, many student loan issuers have discontinued their

alternative education loan programs. Of those student loan providers remaining in the marketplace, several have significantly tightened their credit underwriting criteria and increased their interest rates for borrowers without stellar credit.

- The enactment of the Higher Education Opportunity Act (HEOA) in 2008 which reauthorized the Higher Education Act of 1965 (HEA), as amended, made several changes to existing programs under the HEA, authorized new programs, and made changes to other laws. The most significant change impacting MELA was the new requirements governing preferred or recommended lender lists provided by institutions of higher education. Historically, MELA had been on preferred lender lists at Maine colleges and universities which resulted in financial aid administrators directly referring students and families to the Authority.
- The Federal Family Education Loan Program (FFELP) was eliminated in 2010 following the passage of the Health Care and Education Reconciliation Act. The FFELP program was a public-private partnership of private, non-profit, and state-related lenders making Federal education loans to students and parents. Since July 1, 2010, all new Federal education loans are provided through the William D. Ford Federal Direct Loan (Direct Loan) program. The loans are made through college and university financial aid offices with funds provided by the U.S. Department of Education. This change has resulted in many students and families choosing to apply for both Federal Stafford and PLUS loans through the Direct Loan program to simplify the financial aid process. The PLUS loan is often utilized as a supplemental education financing option for parents versus the alternative education loan for the gap between the full cost of higher education and traditional financial aid resources.
- There are some national lenders currently offering alternative education loans with a wide-range of interest rates tied to Prime or LIBOR. While Prime and LIBOR rates have been historically low in recent years, these rates fluctuate with market conditions and some lenders adjust their interest rates monthly or quarterly. Although some of these national lenders offer low starting interest rates to the most credit-worthy borrowers, the range of variable interest rates currently offered by other lenders is between 5.49% and 16.25%.
- The prolonged economic conditions have resulted in fewer borrowers being eligible for alternative education loans due to their debit-to-income ratio and/or credit score.

MELA has worked diligently for over two decades to offer the lowest interest rates possible to borrowers. Due to the issuance of tax-exempt bonds or obligations, MELA has historically been able to offer interest rates below the average in the marketplace. In response to requests from borrowers wanting more stability with respect to their supplemental education financing costs coupled with the lack of availability of tax-exempt variable rate financing, MELA began offering fixed rate loans at 7.75% in August of 2010. This interest rate compares favorably with the Federal PLUS loan with a fixed rate of 7.90%. For MELA loans disbursed prior to August of 2010, the interest rate was variable. The average variable interest rate for The Maine Loan from 2000 to 2010 was 6.40%, which was lower than the average interest rates on most other alternative education loans and Federal PLUS loans during this time period.

There will be times when the interest rates for MELA's loan program are not the lowest rates available due mainly to volatile interest rate markets or when variable rate loans tied to indices like Prime or LIBOR are low. These situations have historically been short-term and over the life of the loan, average interest rates on MELA loans will be some of the lowest rates available in the country.

MELA and most student loan providers in the country have historically funded the origination of their student loans through debt issuances in the capital markets in the form of Asset Back Securities (ABS). The volatility in the capital markets and continuing credit crisis due in large part to the high rate of defaults from sub-prime mortgages closed down the ABS markets in late 2007. This disruption in the capital markets resulted in investors moving away from ABS to safer investments such as treasuries or money markets. Like many student loan providers, the interest rates on MELA's ABS reset based on auction results where investors bid on the securities based on the interest rate they are willing to accept. These securities are commonly referred to as Auction Rate Securities (ARS). Lack of investor interest in ARS, resulted in the need for MELA and other student loan issuers to refinance their ARS into a different structure and issue new bonds in an alternate form more attractive to investors.

MELA had planned to do a bond issue in the Spring of 2008, but was unable to do so due to the turbulence in the capital markets. In order to fund 2008-2009 academic year student loan disbursements, MELA secured interim financing in the form of a \$20,000,000 million tax-exempt line of credit through TD Bank, N.A. The line, with a January 2010 maturity date, was intended to be a short-term bridge until MELA could access the capital markets. The transaction took approximately five (5) months to complete and was the first student loan financing transaction for TD Bank.

In late 2008, MELA was faced with significant challenges including the need to stabilize its capital structure and to secure funds for new education loans for the 2009-2010 academic year and beyond. It was imperative for MELA to refinance \$136,500,000 in ARS debt into a new structure as a more favorable mode of debt to investors. Also, it was necessary to refinance \$15,750,000 outstanding from the \$20,000,000 million revenue note with TD Bank prior to the due date in January 2010. Finally, MELA needed to issue new student loan revenue bonds to ensure the continuity of funding for new student loans.

MELA recognized that in order to have a successful bond issue in the Spring of 2009, the Authority would need additional credit enhancement in view of the prolonged difficult economic environment and capital market conditions. With this mind, MELA pursued and secured an increase from \$50 million to \$300 million in the State of Maine's moral obligation backing of the Authority's debt through emergency legislation submitted during the 124<sup>th</sup> First Regular Session of the Maine Legislature, L.D. 856 "An Act to Ensure the Availability of Supplemental Educational Loans." The final legislation included a termination date of June 30, 2011 for the Authority to issue student loan revenue bonds secured by a capital reserve fund.

In May of 2009, MELA issued a \$210 million bond, which included \$152,250,000 to refund prior tax-exempt obligations of the Authority. This bond issue enabled MELA to refinance both its ARS debt and the outstanding balance from the revenue note with TD Bank. The remaining amount provided MELA with funds for new student loans.

From the time of MELA's 2009 legislation into 2010, the municipal bond market conditions remained very challenging. MELA issued an additional \$15,460,000 million of tax-exempt bonds in July of 2010, in a transaction that took over six (6) months to complete. The State of Maine's moral obligation pledge continued to be a critically important form of credit enhancement, which was absolutely essential in the rating process and marketing of the bonds to investors. A significant feature of MELA's 2010 bond issue was the moral obligation backing of the State of Maine. Although MELA structured a financially sound transaction, achieving the required ratings would not have been possible without the moral obligation. This bond issue provided funding for MELA to begin offering fixed interest rate loans.

As MELA prepared to issue new bonds in the Spring of 2011, the Authority found it necessary to submit legislation to remove the sunset provision in order to continue to issue student loan revenue bonds with the moral obligation backing of the State of Maine after June 30, 2011. MELA's legislation submitted during the 125<sup>th</sup> First Regular Session of the Maine Legislature, L.D. 66 "An Act to Amend the Laws Governing the Capital Reserve Funds of the Maine Educational Loan Authority," was passed as emergency legislation. The final legislation reduced the cap from \$300 million to \$225 million in the State of Maine's moral obligation backing of the Authority's debt and extended the sunset provision from June 30, 2011 to June 30, 2017 for the Authority to issue student loan revenue bonds secured by a capital reserve fund.

While L.D. 66 was pending, Governor Paul LePage announced that he would not approve the issuance of any tax-exempt bonds with the moral obligation backing of the State of Maine unless there had been voter approval of these bonds. There is a requirement under the Internal Revenue Code that the issuance of tax-exempt private activity bonds must be approved by the highest elected official of the jurisdiction in which the proceeds of the bonds will be used. MELA worked with several Legislators to secure Governor LePage's approval on a one-time basis for the Authority to issue bonds in the Spring until his proposed voter approval process for all bonds was in place. Governor LePage granted his approval in recognition of the immediate impact that his position regarding agency debt would have on Maine students and families seeking supplemental education financing for the 2011-2012 academic year.

In lieu of a 2011 bond issue, recycling payments received on loans funded with the 2009 bond proceeds are being used to fund new loans for the 2011-2012 academic year. MELA found that the pricing for a new bond issue was significantly higher than in 2010 due primarily to weaker bond markets and the expiration of the Alternative Minimum Tax holiday. The increased financing costs would have translated into a higher interest rate on MELA's loans for Maine students and families.

As an alternative, MELA worked with its bond insurer Assured Guaranty Corporation to amend the Authority's existing Indenture of Trust to allow the use of recycling payments received on loans funded with the 2009 bond proceeds to fund new loans for the 2011-2012 academic year. The approval to allow the use of recycling payments enables MELA to recycle these bond proceeds through March 31, 2012 or until the date that an aggregate of \$15 million in new loans is disbursed, if sooner. This recycling option allows MELA to continue to offer Maine students and families the same 7.75% fixed interest rate that was available during the 2010-2011 academic year.

A hallmark of MELA's loan program is providing Maine based exceptional, personalized customer service to all borrowers and campus partners. Customer service representatives are well-trained and have significant industry experience. They are highly responsive to the needs of borrowers plus have a great deal of familiarity with the financial aid staff and procedures at Maine colleges and universities.

In addition to providing high-quality customer service to borrowers throughout the loan application process, customer service representatives work closely with borrowers in repayment. A financial literacy program was implemented in early 2010 to address the specific needs of MELA borrowers who needed additional resources while in repayment. Customized, borrower-specific education on budgeting, alternative payment options, and the costs associated with pursuing various loan repayment plans are just a few of the topics covered during a no cost session offered to borrowers experiencing financial hardship.

MELA's outstanding loan portfolio as of September 30, 2011 was approximately \$143 million, which represents 7,344 borrowers. MELA is a self-guaranty agency. All MELA borrowers are currently assessed a four (4%) percent guarantee fee (percentage of loan amount), which is added to the loan balance at the time of disbursement. MELA's guarantee fee fund balance as of September 30, 2011 was approximately \$4.5 million. The primary purpose of this fund is to cover outstanding principal and interest when MELA borrowers default on their loans. MELA's total cumulative default rate of 2.38% is reflective of a well-managed program with sound credit underwriting and due diligence processes in place. MELA's current annual default rate is 0.98%, which is low when compared with the industry standard for alternative education loans of 5.40%.

MELA has established and maintained positive and strong relationship with Maine's financial aid administrators, members of the higher education community, high school guidance counselors, legislators, and other public officials. These relationships have been cultivated over the years through on-going communication and involvement including campus visits and correspondence, participation in conferences such as those sponsored by the Maine Association of Student Financial Aid Administrators and Maine Counseling Association, meetings with legislators, and reports to legislative committees and other public officials.

In summary, MELA has persevered to ensure the continued fulfillment of its mission of providing a supplemental student loan program for Maine students and families. During these difficult times, MELA's 23 years of experience in administering an alternative

student loan program in a specialized area of higher education finance has proven to be helpful in sustaining the program while faced with unique challenges and unprecedented economic conditions.

#### **VI. Organizational Structure, Position Count, Job Classes, Organizational Flow Chart**

The Maine Educational Loan Authority (MELA) is a quasi-governmental agency that was created and established by Maine legislation in April of 1988. MELA functions as an administratively independent authority within the current organizational structure of state government, and receives no appropriation from the Legislature for its operation. MELA is governed by a seven-member board appointed by the Governor and confirmed by the Legislature, except for the State Treasurer who serves as an ex-officio member.

In October of 2001, MELA hired its first full-time Executive Director. Under the broad guidance of the Authority, the Executive Director organizes and coordinates the activities of MELA. The Executive Director is MELA's only employee. This position is not part of the State's job classification system.

#### **VII. Compliance with Federal and State Safety and Health Laws**

The Maine Educational Loan Authority (MELA) is in full compliance with Federal and State safety and health laws, including the Americans with Disabilities Act, the Federal Occupational Safety and Health Act, affirmative action requirements, and workers' compensation.

#### **VIII. 10-Year Financial Summary**

The Maine Educational Loan Authority's (MELA) basic financial statements are audited on an annual basis by an independent certified public accounting firm. In reviewing the financial statements, it is clear that the funds MELA has acquired with the proceeds from tax-exempt bonds or obligations are being solely utilized for its supplemental student loan program. Attachment A provides a ten (10) year summary of MELA's financial history.

The 2010 financial loss included on the attached summary was attributable to the negative carry on the reinvestment of the 2009 bond proceeds. As indicated in Section V. above, in 2009 MELA needed to issue new bonds in order to refinance its existing Auction Rate Securities and a short-term line of credit as well as to provide funding for new loans for the 2009-2010 academic year. Although MELA was successful in meeting these goals with the 2009 bond issue, the difficult market conditions at the time resulted in a bond yield significantly higher than that of any authorized investment vehicle. The proceeds from the 2009 bond issue intended to fund new loans plus the additional payments received from borrowers on existing loans being invested at historically low reinvestment rates, created the negative carry during 2010. MELA began redeeming bonds with any unspent proceeds and additional loan repayments at the earliest permissible time, beginning in October 2010. Since these redemptions have occurred, the negative carry has been significantly reduced

and the current financial results are positive. The 2010 financial loss did not cause cash flow issues or require any reserve funds to be drawn upon to meet debt service requirements.

## **IX. Regulatory Agenda and Summary of Rules Adopted**

The Maine Educational Loan Authority (MELA) prepares an annual regulatory agenda. Attachment B is a copy of MELA's 2011-2012 Regulatory Agenda. In 2011-2012, MELA may or may not pursue the rule-making activities listed.

Since MELA's 2003 Program Evaluation Report, no new rules have been adopted. Following is a summary of amendments to MELA's existing rules.

Chapter 1: Supplemental Education Loan Program Rule (Program Rules)-Adopted in 1988

### Amended on December 27, 2003

Summary: Amended the existing Program Rules to make revisions to the credit underwriting and loan approval decision process, minimum loan amounts, finance charges, and repayment terms for the Authority's loan programs.

### Amended on December 27, 2005

Summary: Amended the existing Program Rules to make substantial revisions to the loan consolidation guidelines, and minor revisions to the sections involving eligible students and borrowers, credit underwriting, loan amounts, finance charges, repayment terms, forbearance, and the medical loan program.

### Amended on June 25, 2008 (Emergency)

Summary: Amended the existing Program Rules to make revisions to the eligible students and borrowers, credit underwriting, finance charges, and repayment terms of the Authority's loan programs. In addition, a revision was made to the aggregate balance for non-MELA loans consolidated under the consolidation loan program.

The amended Program Rules were necessary due to the difficulties student loan lenders were experiencing in accessing capital which required the need to modify the credit criteria for making supplemental education loans. In order to ensure the continuity of the Authority's loan programs, MELA needed to make immediate changes to the terms of its loan programs prior to the disbursing of funds for the 2008-2009 academic year.

### Amended on August 24, 2008

Summary: MELA amended its Program Rules on an emergency basis as described above. Then, MELA immediately engaged in the regular rule-making process for these same changes.

### Amended on August 3, 2009

Summary: Amended the existing Program Rules to revise the sections involving eligible students and borrowers and credit underwriting to clarify the definition of a co-signor for

The Maine Loan program and to revise the finance charges to reflect the guarantee fee assessed to borrowers would be added to the principal balance of the loan at the time of disbursement for The Medical Loan program.

Amended on July 11, 2010

Summary: Amended the Program Rules to make revisions to the eligible schools, finance charges, repayment terms, and forbearance sections for the Authority's loan programs. The rule amendment clarified the definition of eligible schools, provided increased flexibility to allow for future fixed interest rate loan programs, removed the loan repayment term tables to enable the Authority to modify the repayment terms for loans funded from the proceeds of future bond issuances to match the repayment schedule for the bonds, and allowed for an extended period of forbearance in certain extenuating circumstances.

Chapter 2: Bylaws Governing the Administration of the Maine Educational Loan Authority-Adopted in 2001

Amended on December 27, 2003

Summary: Amended MELA's Bylaws to include rules governing ad hoc or standing committees established by the Authority.

**X. Efforts to Coordinate with Other State and Federal Agencies in Achieving Program Objectives**

The Maine Educational Loan Authority (MELA) is the only quasi-governmental or governmental agency in the State of Maine offering a supplemental or alternative education loan program. Over the years, MELA has worked cooperatively with the Finance Authority of Maine on their medical education and College Goal Maine programs.

MELA looks forward to working closely with other agencies in the future on projects, initiatives, and strategies to make a college education more accessible and affordable for Maine residents.

MELA regularly consults with its counterparts primarily in the New England states to ensure best practices. These agencies include the Connecticut Higher Education Supplemental Loan Authority, Massachusetts Educational Financing Authority, and Rhode Island Student Loan Authority.

There are no Federal agencies currently offering supplemental or alternative education loan programs.

**XI. Identification of Constituencies Served, Noting Any Changes or Projected Changes**

The Maine Educational Loan Authority serves three (3) primary constituencies: students and their families, institutions of higher education, and legislators and other public

officials. It is not anticipated that there will be any future changes in MELA's constituencies.

## **XII. Use of Alternative Delivery Systems, Including Privatization, in Meeting Goals and Objectives**

The Maine Educational Loan Authority (MELA) has one (1) employee, a full-time Executive Director, and has contractual agreements for administrative services and loan servicing. MELA has found its minimal administrative structure coupled with the outsourcing of certain functions to organizations with the necessary expertise has proven to be cost effective and efficient. These contracts are the result of a competitive bidding process.

There are two primary contractual relationships MELA has at the present time for the administration of its programs and services. MELA contracts with Maine Education Services (MES) for personnel, administrative, and marketing services. MES, an independent, private non-profit corporation located in Portland, Maine, provides opportunities and resources for people to achieve higher education. The current administrative services agreement is for the period of October 1, 2009 to September 30, 2014. In addition, MELA contracts with Nelnet, Inc. (Nelnet) for the servicing of all MELA loans since 1996. Nelnet, a publicly traded corporation based in Lincoln, Nebraska, is an integrated educational finance organization offering services in student loan origination and servicing, secondary market services, and guarantor servicing support. Firstmark Services, LLC (Firstmark), assumed loan servicing responsibilities from Nelnet under a subcontract arrangement in 2005. Firstmark, a wholly-owned subsidiary of Nelnet, specializes in the servicing of alternative education loans with offices in Woodbury, Minnesota and Lincoln, Nebraska. Firstmark currently services MELA alternative student loans totaling approximately \$143 million, representing the majority of MELA's outstanding loan portfolio. The current loan servicing agreement expires on April 30, 2012 and MELA is in the process of issuing a Request for Proposals for Alternative Student Loan Servicing. In addition, there is approximately \$300,000 of MELA alternative student loans, originated prior to June 1996, being serviced by AES Services via a life of loan agreement.

## **XIII. Identification of Emerging Issues**

The Maine Educational Loan Authority (MELA) has identified a key emerging issue to be Governor Paul LePage's position with respect to the issuance of agency debt. Governor LePage has stated that he does not plan to approve the issuance of tax-exempt bonds with the moral obligation backing of the State of Maine unless there has been voter approval of these bonds at a statewide election. There is a requirement under the Internal Revenue Code that the issuance of tax-exempt private activity bonds must be approved by the highest elected official of the jurisdiction in which the proceeds of the bonds will be used.

MELA believes that it should be exempt from the voter approval process since the Authority's bonds are moral versus general obligation bonds and do not carry the full faith

and credit pledge of the State. MELA's bonds are repaid from the revenue streams from the student loans issued with the bond proceeds and not from tax revenues. In MELA's 23 years of existence there has never been a call on the moral obligation pledge and no State funds have been used to replenish any capital reserve funds in connection with the Authority's debt.

**XIV. Policies on Managing Personal Information, Implementation of Information Technology, and Adherence to the Fair Information Practice Principles**

The Maine Educational Loan Authority (MELA) is in full compliance with the Gramm–Leach–Bliley Act, “Red Flags” Rule, Maine State Notice of Risk to Personal Data Act, Maine Freedom of Access Act, the Fair Credit Reporting Act, Regulation P: Privacy of Consumer Financial Information, Disposal Rule under the Fair Credit Reporting Act, and Electronic Signatures in Global and National Commerce Act in order to manage and protect personal information and adhere to the fair information practice principles.

**XV. Detailed Information on Paperwork Required to be Filed with the Agency by the Public and Paperwork Reduction Efforts**

The Maine Educational Loan Authority (MELA) has the statutory authority under 20-A M.R.S.A. §11417 to exercise all powers of a lender or creditor. The paperwork required to be filed with MELA relates to the loan application process and primarily includes an annual Application and Promissory Note with required disclosures. In order to reduce paperwork, MELA has an online application process where E-correspondence (including E-signature) is accepted for applicants over the age of 18. MELA accepts and processes paper applications from borrowers who prefer this method of submission.

In addition to retaining a paper copy of the Application and Promissory Note, MELA collects an ink signature on the Application Disclosure for any borrower who opts out of the E-correspondence option online. If a borrower is flagged for income verification, the information may be submitted by the borrower(s) electronically, by facsimile or via regular mail. Electronic copies are maintained on a secure server and all original paper is shredded upon completion of the loan origination process.

Borrowers requesting forbearance due to financial hardship or other extenuating circumstances are required to provide a written request and attach income verification documents for review. Upon completion of the review process, the documents are scanned and forwarded to MELA's loan servicer for the borrowers' files.

For identity theft prevention and “Red Flags” Rule adherence, there are times when a copy of a driver's license, Social Security Card or other identifying documents may be requested via paper.

## **XVI. Summary**

The Maine Educational Loan Authority (MELA) was created and established to assist students and their families to achieve their higher education goals by providing a supplemental student loan program. Over the past 23 years, MELA has provided over \$272 million in student loan disbursements.

The State of Maine's public policy decision to provide MELA with an allocation of the state ceiling on private activity bonds enables the Authority to perform an essential public function by and on behalf of the State by providing a supplemental or alternative student loan program. All MELA loans are funded with the proceeds from tax-exempt bonds or obligations, and no State monies are allocated to fund the program. As the State of Maine continues to work to increase the percentage of its residents possessing college degrees, MELA's student loan program will remain an important financial aid resource for Maine students and families.

MELA looks forward to continuing to fulfill its mission of providing affordable supplemental education financing to assist Maine students and families in achieving their higher education goals. The prolonged difficult economic conditions have resulted in declining state revenues, weaker endowments for colleges and universities, declining home values and home equity, and a reduction in wealth while at the same time the cost of college attendance has continued to increase, all contributing to the need for supplemental or gap higher education financing. MELA considers it to be a privilege to continue to partner with the State of Maine in making a college education more accessible and affordable for its residents.

MELA  
FINANCIAL HISTORY

Year of Operation	Cumulative Balance										TOTALS	
	12/31/2000	2001	2002	2003	2004	2005	2006	2007	2008	2009		2010
<b>Bonds Issued for Student Loans:</b>												
Bond Issuances, net of discount	141,224,920	-	26,763,725	-	-	29,889,000	-	49,510,600	-	206,291,649	15,305,400	471,235,665
Advances on Line of Credit	-	-	-	-	-	-	-	-	12,500,000	3,250,000	-	-
Less: Refunding Portion	(35,000,000)	-	(16,925,000)	-	-	-	-	-	-	(152,250,000)	-	(204,175,000)
Issuance Costs	(784,368)	-	(187,641)	-	-	(223,014)	-	(284,963)	(222,500)	(590,653)	(382,827)	(2,475,986)
Call Premium	-	-	(309,900)	-	-	-	-	-	-	-	-	(309,900)
Net Proceeds from Bond Issue	105,440,552	-	9,541,184	-	-	29,666,986	-	49,525,637	12,277,500	58,701,187	15,122,573	264,314,999
Loans disbursed to eligible borrowers	99,506,093	5,963,989	5,178,978	7,411,449	12,606,515	17,932,666	23,967,109	32,246,333	34,958,058	23,235,622	13,566,418	267,513,232
<b>Revenues:</b>												
Interest on loans	29,905,857	3,299,182	2,614,987	2,143,485	2,217,821	3,179,535	4,587,612	6,920,649	7,702,293	10,131,276	11,368,021	83,182,739
Interest on investments	17,470,225	1,264,253	928,166	548,815	614,029	1,214,158	1,332,741	2,475,211	1,101,653	399,062	213,174	27,561,961
Other	2,093,780	659,305	675,401	361,451	318,801	352,591	491,111	585,489	640,567	717,846	720,619	7,561,551
<b>Funds Provided by the State of Maine:</b>												
Appropriations	-	-	-	-	-	-	-	-	-	-	-	-
Loans for operations	-	-	-	-	-	-	-	-	-	-	-	-
Other State funds	-	-	-	-	-	-	-	-	-	-	-	-
	49,469,862	5,214,240	4,248,628	2,993,751	3,159,741	4,737,285	6,411,464	9,081,549	9,452,533	11,248,184	12,301,214	118,209,251
<b>Expenses:</b>												
Financing expense	39,171,694	3,156,924	2,228,691	1,323,021	1,447,580	2,681,262	3,719,679	5,657,695	5,760,292	8,972,382	10,589,005	84,711,136
Loan program operating expenses	8,252,225	1,155,057	1,188,491	1,351,179	1,319,402	1,653,425	2,066,092	2,656,871	2,887,174	3,543,671	3,619,549	29,674,767
Arbitrage expense	677,704	97,217	507,159	(35,207)	561,863	74,419	423,482	292,285	189,933	(1,666,345)	-	1,122,510
	48,101,623	4,411,298	3,924,341	2,618,984	3,319,845	4,419,106	6,209,253	8,398,762	8,637,499	10,849,706	14,209,484	115,508,413
Excess (Deficiency) of Revenue over expenses	1,366,239	802,442	324,287	374,767	(169,104)	318,179	202,211	474,587	615,034	398,476	(1,908,220)	2,868,836
Fund balance at end of year	1,366,239	2,170,681	2,494,968	2,869,735	2,700,631	3,018,810	3,221,021	3,695,608	4,310,642	4,709,118	2,800,836	2,800,836

**2011-2012 REGULATORY AGENDA**

AGENCY UMBRELLA-UNIT NUMBER: **94-434**

AGENCY NAME: **Maine Educational Loan Authority**

CONTACT PERSON: Shirley M. Erickson, Executive Director, Maine Educational Loan Authority, 131 Presumpscot Street, Portland, Maine 04103 Telephone: (207) 400-3011 or (207) 255-4063

E-mail: [serickson@mela.net](mailto:serickson@mela.net)

**EMERGENCY RULES ADOPTED SINCE LAST REGULATORY AGENDA:** None

**EXPECTED 2011-2012 RULE-MAKING ACTIVITY:**

**1. Chapter 1: Supplemental Education Loan Program Rules**

STATUTORY BASIS: 20-A M.R.S.A. § 11417(1)(N), 10 M.R.S.A. § 363.

PURPOSE: To amend the credit underwriting, finance charges, and repayment terms of supplemental education loans to participants in The Maine Loan<sup>®</sup>, The Maine Medical Loan<sup>sm</sup>, and MELA Private Consolidation Loan<sup>sm</sup> programs.

SCHEDULE FOR ADOPTION: Approval for rule-making by MELA Board: October 2011; Public Participation: January 2012; Adoption Date: April 2012. This rule-making activity may or may not be pursued.

AFFECTED PARTIES: Maine residents entering institutions of higher education or who are currently enrolled in an approved educational program, college or university and non-resident students who are entering or currently enrolled in an approved educational program, college or university in Maine. Maine residents entering medical school or who are currently enrolled in an approved medical school in the United States or Canada, and non-resident students who are entering or currently enrolled in an approved medical school in Maine. Maine residents, existing Maine Educational Loan Authority borrowers, and students who attended an approved Maine higher educational institution with private or supplemental loans, which have been fully disbursed and are in repayment or grace status.

CONSENSUS-BASED RULE DEVELOPMENT: The Authority does not intend to employ consensus-based rule development.

**2. Chapter 2: Bylaws Governing the Administration of the Maine Educational Loan Authority**

STATUTORY BASIS: 20-A M.R.S.A. § 11417(1)(N).

PURPOSE: To amend and/or revise the bylaws that govern the administration of the Maine Educational Loan Authority.

SCHEDULE FOR ADOPTION: Approval for rule-making by MELA Board: October 2011; Public Participation: January 2012; Adoption Date: April 2012. This rule-making activity may or may not be pursued.

AFFECTED PARTIES: Board Members and Executive Director of the Maine Educational Loan Authority, contractors, and other interested parties conducting business with the Authority.

CONSENSUS-BASED RULE DEVELOPMENT: The Authority does not intend to employ consensus-based rule development.