

# MAINE STATE LEGISLATURE

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(Emergency)  
(After Deadline)  
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2616

S.P. 988 In Senate, April 4, 1988  
Approved for Introduction by a Majority of the Legislative  
Council pursuant to Joint Rule 27.  
Referred to the Committee on Education and ordered printed.  
Sent down for concurrence.  
JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator CLARK of Cumberland.  
Cosponsored by Senator GOULD of Waldo, Representative  
GWADOSKY of Fairfield, Representative DAVIS of Monmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-EIGHT

AN ACT to Create the Maine Educational Loan  
Authority.

1  
2  
3

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

7 Whereas, students who are attending institutions  
8 of higher education and who are residents of the State  
9 or are attending such institutions in the State, and

1 the families of these students, are in need of  
2 financial assistance; and

3 Whereas, it is desirable for the State to provide  
4 additional means of providing such financial  
5 assistance; and

6 Whereas, it is desirable to make such additional  
7 means available as soon as possible so that students  
8 and their families who are now beginning to plan for  
9 the 1988-89 academic year can depend on such  
10 additional means; and

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

17 Be it enacted by the People of the State of Maine as  
18 follows:

19 Sec. 1. 5 MRSA §12004, sub-§7, ¶A, sub-¶(14) is  
20 enacted to read:

21 (14) Maine Educational Legislative 20-A MRSA §11414  
22 Loan Authority Per Diem

23 Sec. 2. 10 MRSA §363, sub-§8, as enacted by PL  
24 1987, c. 3, §2, and c. 413, §4, is repealed and the  
25 following enacted in its place:

26 8. Allocations for educational bonds. That  
27 portion of the state ceiling allocated to the  
28 categories of bonds providing funds for the purposes  
29 of a corporation created pursuant to Title 20, section  
30 2237, and Title 20-A, section 11407, or of the Maine  
31 Educational Loan Authority shall be allocated to that  
32 corporation or to the Maine Educational Loan  
33 Authority, or both, and each may further allocate the  
34 portion of the state ceiling allocated to it to bonds  
35 requiring an allocation to qualify as tax-exempt bonds.

36 Sec. 3. 20-A MRSA c. 417-A is enacted to read:



1       1. Authority. "Authority" means the Maine  
2 Educational Loan Authority and its successors or  
3 assigns.

4       2. Authority loans. "Authority loans" means  
5 loans by the authority to institutions of higher  
6 education, students or other persons for the purpose  
7 of funding, financing or acquiring education loans and  
8 loans to institutions of higher education located  
9 within the State for the purpose of financing or  
10 refinancing facility loans.

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

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

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

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

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

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

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

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

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

11 11. Facilities. "Facilities" includes  
12 facilities, improvements, equipment and all other real  
13 and personal property owned or used by an institution  
14 of higher education.

15 12. Facility loan. "Facility loan" means a loan  
16 which is made by the authority to an institution  
17 within the State to finance or refinance the costs of  
18 facilities. A facility loan shall constitute an  
19 authority loan.

20 13. Institution. "Institution" or "institution  
21 of higher education" means any public or private  
22 nonprofit educational institution within the State, or  
23 such an institution outside of the State which is  
24 attended by residents of the State, which:

25 A. Provides a program of education beyond the  
26 high school level;

27 B. Awards an associate, bachelor or advanced  
28 degree; and

29 C. Meets the conditions of applicable rules.

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

36 A. Provide security for bonds;

1 B. Fund a default reserve fund;

2 C. Acquire default insurance; or

3 D. Defray costs of the authority.

4 15. Parent. "Parent" means any parent or  
5 guardian of a student at an institution of higher  
6 education.

7 16. Rule. "Rule" means a rule adopted by the  
8 authority pursuant to the Maine Administrative  
9 Procedure Act, Title 5, chapter 375, subchapter II.

10 17. Secondary market. "Secondary market" means  
11 the entity created pursuant to section 11407 prior to  
12 the enactment of this chapter.

13 §11414. Authority created

14 There is created the "Maine Educational Loan  
15 Authority," which is constituted a public body  
16 corporate and politic and a public instrumentality of  
17 the State. The exercise by the authority of the  
18 powers conferred by this chapter is the performance of  
19 an essential public function by and on behalf of the  
20 State.

21 §11415. Members

22 1. Composition. There shall be 7 voting members  
23 of the authority, 5 of whom shall be appointed by the  
24 Governor.

25 2. Qualificatons. Each member shall be a  
26 resident of this State. One member shall be the  
27 Treasurer of State, ex officio, or the Treasurer of  
28 State's designee. One member shall be the president  
29 of the secondary market, ex officio, or the president  
30 of the secondary market's designee. Of the remaining  
31 5 members to be appointed by the Governor, 2 members  
32 shall be trustees, directors, officers or employees of  
33 institutions of higher education, at least one of whom  
34 shall be from an institution not owned or operated by

1 the State or any of its political subdivisions. Each  
2 member of the authority, before entering upon that  
3 member's duties, shall take and subscribe the oath or  
4 affirmation required by the Constitution of Maine,  
5 Article IX, Section 1. A record of each oath shall be  
6 filed in the office of the Secretary of State.

7       3. Term of office. Of the 5 members of the  
8 authority first appointed, one shall serve for a term  
9 expiring June 30, 1989, 2 shall serve for terms  
10 expiring June 30, 1990, and 2 shall serve for terms  
11 expiring June 30, 1991, and until a successor is  
12 appointed and qualified. On the expiration of the  
13 term of any member, a successor shall be appointed for  
14 a term of 3 years and serve until a successor is  
15 appointed and qualified. The Governor shall appoint a  
16 qualified person to fill any vacancy. A member of the  
17 authority shall be eligible for reappointment. A  
18 member appointed to fill a vacancy in an unexpired  
19 term serves only for the remainder of that term and  
20 until a successor is appointed and qualified. After  
21 notice, any member may be removed by the Governor for  
22 misfeasance, malfeasance or willful neglect of duty or  
23 other cause.

24       4. Officers. Each year the authority shall elect  
25 from among its members a chairman, vice chairman, a  
26 secretary and any other officers it requires.

27       Each member of the authority shall be compensated  
28 by the authority in accordance with Title 5, chapter  
29 379.

30 §11416. Officers; quorum; effective actions

31       The authority shall appoint an executive  
32 director. The executive director shall serve in that  
33 capacity at the pleasure of the authority and receive  
34 compensation as fixed by the authority. The executive  
35 director need not be a full-time employee of the  
36 authority. The executive director shall keep a record  
37 of the proceedings of the authority, shall be  
38 custodian of all books, documents and papers filed  
39 with the members of the authority, the minute book or  
40 journal of the authority and its official seal and may



1 cause copies to be made of all minutes and other  
2 records and documents of the authority and may give  
3 certificates under the official seal of the authority  
4 to the effect that the copies are true copies and all  
5 persons dealing with the authority may rely upon the  
6 certificates.

7 Four members of the authority shall constitute a  
8 quorum. The affirmative vote of a majority of the  
9 members present is necessary for any action taken by  
10 the members of the authority.

11 A vacancy in the membership of the authority may  
12 not impair the right of a quorum to exercise all the  
13 rights and perform all the duties of the members of  
14 the authority.

15 Any action taken by the members of the authority  
16 under this chapter may be authorized by resolution at  
17 any regular or special meeting and, except for any  
18 rule, may take effect immediately and need not be  
19 published.

20 §11417. Powers and functions

21 1. General. The authority may, subject to any  
22 limitation of this chapter:

23 A. Borrow money or otherwise obtain credit in its  
24 own name;

25 B. Lend money or otherwise extend credit to any  
26 person and exercise all powers of a lender or  
27 creditor;

28 C. Insure or guarantee performance of any loan  
29 agreement or other obligation;

30 D. Acquire, use, manage, improve or dispose of  
31 any interest in, or type of, real or personal  
32 property, including grant, purchase, sale, borrow,  
33 loan, lease, foreclosure, mortgage, assignment or  
34 other lawful means, with or without public bidding  
35 and also including the assessment of fees, the  
36 forgiveness of indebtedness, the receipt of

- 1 reimbursements for expenses incurred in carrying  
2 out its purposes and the expenditure or investment  
3 of its funds;
- 4 E. Purchase, sell, service, pledge, invest in,  
5 hold, trade, accept as collateral or otherwise  
6 deal in, acquire or transfer, on such terms and  
7 conditions as the authority may specify, any loan,  
8 loan pass-through certificate, pledge, including  
9 any pledge of loan revenue, loan participation  
10 certificate or other loan-backed or loan-related  
11 security;
- 12 F. Obtain, develop or disseminate any information  
13 useful or convenient for carrying out any purpose  
14 or power of the authority. The authority may  
15 conduct hearings, hear testimony under oath,  
16 administer oaths, issue subpoenas requiring the  
17 attendance of witnesses or the production of  
18 records or other things and may issue commissions  
19 for the examination of witnesses who are outside  
20 of the State, unable to attend or are excused from  
21 attendance;
- 22 G. Procure insurance in aid of any of its  
23 corporate purposes;
- 24 H. In accordance with the limitations and  
25 restrictions of this chapter, cause any of its  
26 powers or duties to be carried out by one or more  
27 nonprofit corporations organized and operated  
28 under Title 13-B;
- 29 I. Obtain any certification, warranty, affidavit  
30 or other representation necessary or useful for  
31 carrying out any of its powers or duties;
- 32 J. Employ persons, including private legal  
33 counsel and financial experts, on either a  
34 temporary or permanent basis, in order to carry  
35 out any of its powers and duties. Employees of  
36 the authority shall not be subject to Title 5,  
37 chapters 71 and 372, subchapter II;
- 38 K. Sue or initiate or appear in any proceeding.

1 The authority may be sued on its written contracts  
2 or in accordance with Title 1, section 409; Title  
3 5, chapter 375; or Title 14, chapter 741;

4 L. Maintain an office at a place designated by it  
5 within the State;

6 M. Adopt an official seal and alter it at  
7 pleasure;

8 N. Pursuant to Title 5, chapter 375, subchapter  
9 II, adopt any rules, including its bylaws,  
10 necessary or useful for carrying out any of its  
11 powers or duties;

12 O. Make, modify and carry out any agreement,  
13 including issuing any bond, necessary or useful  
14 for carrying out any of its powers, duties or  
15 purposes; and

16 P. Do any act or thing necessary or useful for  
17 carrying out any of its powers, duties or purposes.

18 2. Programs. Without limiting the generality of  
19 this chapter, the authority is authorized to carry out  
20 one or more programs making financial and other  
21 assistance available to borrowers, institutions, or  
22 both, to enable borrowers to finance costs of  
23 attendance and institutions to finance the costs of  
24 facilities. The authority is further authorized to  
25 issue its bonds, lend the proceeds of the bonds and  
26 exercise any other power set forth in this chapter for  
27 these purposes.

28 3. Policies. The members of the authority shall  
29 have the power and duty to establish and revise, from  
30 time to time, rules pertaining to participation in  
31 programs of the authority, issuing bonds and borrowing  
32 money by the authority, servicing and collection of  
33 loans made pursuant to programs of the authority and  
34 other policies governing the operation of the  
35 authority. In addition, the members of the authority  
36 may, by resolution of the members, determine that the  
37 authority may borrow money in accordance with any such  
38 resolution. All other powers and duties of the

1 authority shall be vested in the executive director  
2 who shall carry out such powers and duties in  
3 accordance with this chapter and the rules of the  
4 authority.

5 4. Administration. In carrying out its powers  
6 under this chapter, the authority shall, whenever  
7 determined desirable by the authority, contract with  
8 the secondary market for necessary clerical and  
9 administrative services.

10 §11418. Records confidential

11 1. Confidential information. Records containing  
12 any information acquired by the authority or a member,  
13 officer, employee or agent of the authority from  
14 applicants for or recipients of financial assistance  
15 provided pursuant to a program administered or  
16 established by the authority shall be deemed  
17 confidential for purposes of Title 1, section 402,  
18 subsection 3, paragraph A.

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

27 A. Impersonal, statistical or general information;

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

33 C. To a financial institution or credit reporting  
34 service;

35 D. Information necessary to comply with any  
36 federal or state law or rule or with any agreement

1 pertaining to financial assistance;

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

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

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

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

19 §11419. Conflict of interest

20 Notwithstanding Title 5, section 18, subsection 1,  
21 paragraph B, each member of the authority and each  
22 employee, contractor, agent or other representative of  
23 the authority is deemed an "executive employee" solely  
24 for the purposes of Title 5, section 18. In addition,  
25 Title 17, section 3104 shall be applicable, in  
26 accordance with its provisions, to all representatives  
27 of the authority.

28 §11420. Bonds

29 1. Issuance; purpose; payment; authorization;  
30 interim receipts or certificates. The authority may,  
31 at any time and from time to time, issue bonds for any  
32 corporate purpose, including, without limitation, for  
33 the purpose of making authority loans to institutions  
34 participating in a program of the authority for the  
35 purpose of providing education loans, for acquiring  
36 existing portfolios of education loans from  
37 institutions, for financing or funding education loans

1 directly or indirectly to borrowers or for funding  
2 facility loans. The bonds of each issue shall be  
3 payable from sources specified in the agreement with  
4 bondholders, including without limitation, principal  
5 and interest on loans; payments by institutions,  
6 banks, insurance companies or others pursuant to  
7 letters of credit or purchase agreements; investment  
8 earnings from funds or accounts maintained pursuant to  
9 a trust agreement or other document; insurance  
10 proceeds; loan funding deposits; proceeds of sales of  
11 education loans; proceeds of refunding bonds; and  
12 other fees, charges or revenues of the authority.

13 Bonds shall be authorized by the authority and shall:

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

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

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

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

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

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

36 G. Be sold in the manner and upon the terms  
37 determined by the authority at public or private

1 sale, with or without public bidding;

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

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

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

13 Bonds issued under this chapter shall not constitute  
14 or create any debt or debts, liability or liabilities  
15 on behalf of the State or of any political subdivision  
16 of the State, other than the authority, or a loan of  
17 the credit of the State or a pledge of the faith and  
18 credit of the State or of any such political  
19 subdivision, other than the authority, but shall be  
20 payable solely from the funds provided. All such  
21 bonds shall contain on the face of the bonds a  
22 statement to the effect that neither the State nor any  
23 political subdivision of the State shall be obligated  
24 to pay the same or the interest on the bonds, except  
25 from revenues derived pursuant to one or more  
26 agreements and that neither the faith and credit nor  
27 the taxing power of the State or of any political  
28 subdivision of the State is pledged to the payment of  
29 the principal of, premium, if any, or the interest on  
30 such bonds. The issuance of bonds under this chapter  
31 shall not directly or indirectly or contingently  
32 obligate the State or any political subdivision of the  
33 State to levy or to pledge any form of taxation  
34 whatever or to make any appropriation for their  
35 payment. Nothing in this section contained may  
36 prevent nor be construed to prevent the authority from  
37 pledging its full faith and credit or the full faith  
38 and credit of an institution to the payment of bonds  
39 or issue of bonds authorized pursuant to this chapter.

40 2. Provisions in bond resolution or other

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

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

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

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

17 D. Limitations on the use of proceeds of loans;

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

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

27 G. The refunding or refinancing of outstanding  
28 bonds;

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

34 I. Defining the acts or omissions which shall  
35 constitute a default in the duties of the  
36 authority to holders of its obligations and



1 providing the rights or remedies of such holders  
2 in the event of a default;

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

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

9 3. Liability. No member or employee of the  
10 authority nor any person executing the bonds may be  
11 liable personally on the bonds or subject to any  
12 personal liability by reason of the issuance of the  
13 bonds.

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

19 The authority may refund or refinance any of its bonds.

20 5. Security for series or issue of bonds. The  
21 authority may pledge the repayments of authority loans  
22 as security for a series or issue of bonds.  
23 Notwithstanding any other provision contained in this  
24 chapter, the authority may commingle and pledge as  
25 security for a series or issue of bonds, with the  
26 consent of all of the institutions which are  
27 participating in the series or issue; the education  
28 loan series portfolios and some or all future  
29 education loan series portfolios of the institutions;  
30 and the loan funding deposits of the institutions if  
31 education loan series portfolios and other security  
32 and money set aside in any fund or funds pledged for  
33 any series or issue of bonds are held for the sole  
34 benefit of the series or issue separate and apart from  
35 education loan series portfolios and other security  
36 and money pledged for any other series or issue of  
37 bonds of the authority.

38 The authority may provide for transfer of

1 registration of its registered bonds by book entry on  
2 the records of the entity designated for that purpose  
3 and may enter into any agreement which it deems  
4 necessary to accomplish these purposes.

5 §11421. Refunding bonds

6 The authority may provide for issuance of  
7 refunding bonds of the authority to refund any  
8 outstanding bonds issued under this chapter, including  
9 the payment of any redemption premium and any interest  
10 accrued or to accrue to the date of redemption, and,  
11 if deemed advisable by the authority, for any other  
12 purpose of the authority. The authority may provide  
13 for the issuance of bonds of the authority for the  
14 combined purpose of refunding any outstanding bonds,  
15 including refunding bonds issued under this chapter.  
16 The issuance of the bonds, the maturities and other  
17 details, the rights and remedies of the holders and  
18 the rights, powers, privileges, duties and obligations  
19 of the authority shall be governed by the provisions  
20 of this chapter insofar as they are applicable.

21 §11422. Loan transactions

22 The authority may purchase, sell, service, pledge,  
23 invest in, hold, trade, accept as collateral or  
24 otherwise deal in, acquire or transfer, all on such  
25 terms and conditions as the authority may specify, any  
26 loan, loan pass-through certificate, pledge, including  
27 any pledge of loan revenue, loan participation  
28 certificate or other loan-backed or loan-related  
29 security. Any such transaction may be conducted by  
30 public or private offering, with or without public  
31 bidding. In connection with the purchase or sale of a  
32 loan or of a beneficial interest or participation in a  
33 loan, the authority may enter into one or more  
34 agreements providing for the custody, control and  
35 administration of the loan. Any such agreement may  
36 provide that the authority, a financial institution or  
37 other person shall act as trustor, trustee or  
38 custodian under the agreement. Any such agreement may  
39 provide that, with respect to loans governed by the  
40 agreement, title to a loan, or to a beneficial  
41 interest or participation in a loan, shall be deemed

1 to have been transferred on terms and to the extent  
2 specified in that agreement and that the effect of a  
3 sale of a beneficial interest or participation in a  
4 loan is the same as a sale of a loan. The authority  
5 may issue or cause to be issued certificates or other  
6 instruments evidencing the holder's fractional  
7 interest in a pool of loans, which interest may be  
8 undivided or limited to one or more specific loans.  
9 Whether or not the certificates or instruments are of  
10 such form or character as to be negotiable instruments  
11 under Title 11, Article 8, the certificates or  
12 instruments shall be and are made negotiable  
13 instruments within the meaning of and for all purposes  
14 of Title 11, Article 8, subject only to such  
15 registration requirements as the authority may  
16 establish.

17 §11423. Trust agreement; pledge

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

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

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

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

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

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

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

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

30 §11424. Capital reserve funds; obligation of the State

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

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

11           3. Reserve requirement. The authority may  
12 provide that money in any such fund shall not be  
13 withdrawn at any time in such amount as would reduce  
14 the amount of any such fund to less than the maximum  
15 amount of principal and interest becoming due by  
16 reason of maturity or a required sinking fund payment  
17 in the next succeeding 12-month period within which  
18 any such maturity occurs or any such payment is  
19 required, the amount being referred to as the "capital  
20 reserve requirement," except for the purpose of paying  
21 the amount due at any such maturity or the sinking  
22 fund payment with respect to bonds, repayment of which  
23 is secured by any such fund.

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

35           5. Appropriation. On or before December 1st,  
36 annually, the authority shall certify to the Governor  
37 the amount, if any, necessary to restore the amount in  
38 any capital reserve fund, to which this subsection is  
39 stated in the trust agreement or other document to  
40 apply, to the capital reserve requirement. The  
41 Governor shall pay directly from the Contingent

1 Account to any such fund as much of the amount as is  
2 available in the Contingent Account and shall transmit  
3 directly to the Legislature that certification and a  
4 statement of the amount, if any, remaining to be paid  
5 and the amount certified shall be appropriated and  
6 paid to the authority during the current state fiscal  
7 year.

8       6. Bonds outstanding. The authority shall not  
9 have at any one time outstanding bonds to which  
10 subsection 5 is stated in the trust agreement or other  
11 document to apply in principal amount exceeding  
12 \$50,000,000. The amount of bonds issued to refund  
13 bonds previously issued shall not be taken into  
14 account in determining the principal amount of the  
15 bonds outstanding, provided that the proceeds of the  
16 refunding bonds are applied as promptly as possible to  
17 the refunding of the previously issued bonds. In  
18 computing the total amount of bonds of the authority  
19 which may at any time be outstanding for any purpose,  
20 the amount of the outstanding bonds that have been  
21 issued as capital appreciation bonds or as similar  
22 instruments shall be valued as of any date of  
23 calculation at their current accreted value rather  
24 than their face value.

25 §11425. Enforcement of rights and duties

26       Except to the extent that the rights are  
27 restricted by any applicable bond resolution or trust  
28 or other agreement, any holder of bonds issued under  
29 this chapter or a trustee under a trust agreement  
30 entered into under this chapter may, by any suitable  
31 form of legal proceedings, protect and enforce any  
32 rights granted under the laws of the State or by any  
33 applicable bond resolution or trust or other agreement.

34 §11426. Bonds as legal investments

35       Bonds issued by the authority under this chapter  
36 are hereby made securities in which all public  
37 officers and public bodies of the State and its  
38 political subdivisions, all insurance companies and  
39 associations and other persons carrying on an  
40 insurance business, trust companies, banks, bankers,

1 banking associations, savings banks and savings  
2 associations, including savings and loan associations,  
3 financial institutions, credit unions, building and  
4 loan associations, investment companies, executors,  
5 administrators, trustees and other fiduciaries,  
6 pension, profit-sharing, retirement funds and other  
7 persons carrying on a banking business and all other  
8 persons whatsoever, may properly and legally invest  
9 funds, including capital in their control or belonging  
10 to them. These bonds are hereby made securities which  
11 may properly and legally be deposited with and  
12 received by any state, municipal or public officer or  
13 any agency or political subdivision of the State for  
14 any purpose for which the deposit of bonds or other  
15 obligations of the State is now or may hereafter be  
16 authorized by law.

17 §11427. Accounts and reports

18 The authority shall keep full and accurate  
19 accounts of its activities and operations and shall,  
20 within 120 days after the end of each of its fiscal  
21 years, make and deliver a report to the Governor, the  
22 Speaker of the House and the President of the Senate.  
23 The report shall cover the preceding fiscal year and  
24 shall include a complete operating and financial  
25 statement for that year. The authority shall cause an  
26 audit of its books and accounts to be made at least  
27 once each year by independent certified public  
28 accountants and the cost shall be paid by the  
29 authority from funds available to it pursuant to this  
30 chapter.

31 §11428. Chapter additional and supplemental

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

1           2.   Institutions of higher education.  
2 Institutions of higher education are authorized to  
3 borrow from the authority, make education loans,  
4 interest with respect to loans, exemptions from  
5 certain licensing provisions and credit regulations as  
6 follows.

7           A. Notwithstanding any other provision of law or  
8 charter, institutions of higher education may  
9 borrow money from the authority, make education  
10 loans and take all other actions necessary or  
11 convenient to consummate the transactions  
12 contemplated under this chapter.

13           B. The authority may establish, contract for,  
14 charge and collect any amount or rate of interest  
15 or compensation with respect to authority loans  
16 and participating institutions of higher education  
17 may contract for, charge and collect any amount or  
18 rate of interest or compensation with respect to  
19 education loans. Neither the authority nor any  
20 institution of higher education participating in a  
21 loan program under this chapter shall be subject  
22 to the licensing provisions relating to financial  
23 institutions or credit regulations of the State.

24 §11429. Tax exemption

25           The exercise of the powers granted by this chapter  
26 shall be in all respects for the benefit of the people  
27 of the State, for the increase of their commerce,  
28 welfare and prosperity and for the improvement of  
29 their health and living conditions and constitutes the  
30 performance of an essential governmental function.  
31 Neither the authority nor any of its agents may be  
32 required to pay any taxes or assessments upon or in  
33 respect of education loans or any property acquired,  
34 used by the authority or any of its agents or under  
35 the jurisdiction, control, possession or supervision  
36 of, or upon the activities of, the authority or any of  
37 its agents in the operation of any program under this  
38 chapter, or upon income or other revenues received and  
39 any bonds issued under this chapter, the transfer and  
40 the income from the bonds, including any profit made  
41 on the sale of the bonds, as well as the income and



1 property of the authority, are at all times exempt  
2 from taxation of every kind by the State and by the  
3 municipalities and all other political subdivisions of  
4 the State.

5 §11430. Taxable bond option

6 With respect to all or any portion of any issue of  
7 any bonds or any series of bonds which the authority  
8 may issue in accordance with the limitations and  
9 restrictions of this chapter, the authority may  
10 covenant, elect and consent that the interest on the  
11 bonds shall be includable, under the code or any  
12 subsequent corresponding internal revenue law of the  
13 United States, in the gross income of the holders of  
14 the bonds to the same extent and in the same manner  
15 that the interest on bills, bonds, notes or other  
16 obligations of the United States is includable in the  
17 gross income of the holders under the code or any  
18 subsequent law. Bonds issued pursuant to this section  
19 shall not be subject to any limitations or  
20 restrictions of any law which may limit the  
21 authority's power to issue those bonds. The foregoing  
22 grant of power shall not be construed as limiting the  
23 inherent power of the State or its agencies under any  
24 other provision of law to issue debt, the interest on  
25 which is includable in the gross income of the holders  
26 under the code or any subsequent law.

27 §11431. Agreement of the State

28 The State hereby pledges to and agrees with the  
29 holders of any bonds issued under this chapter and  
30 with those parties who may enter into any contract  
31 with the authority pursuant to this chapter that the  
32 State will not limit, alter, restrict or impair the  
33 rights vested in the authority and the participating  
34 institutions until the bonds, together with interest,  
35 including interest on any unpaid installment of  
36 interest and all costs and expenses in connection with  
37 any actions or proceedings by or on behalf of the  
38 bondholders, are fully met and discharged and such  
39 contracts are fully performed on the part of the  
40 authority. Nothing in this chapter precludes that  
41 limitation or alteration if and when adequate

1 provision is made by law for the protection of the  
2 holders of bonds of the authority or those entering  
3 into contracts with the authority. The authority is  
4 authorized to include this pledge and undertaking for  
5 the State in those bonds or contracts.

6 §11432. Termination of existence of authority

7 The authority in its corporate existence shall  
8 continue until terminated by law but no law  
9 terminating its existence shall take effect as long as  
10 any bonds of the authority are outstanding and unpaid  
11 without adequate provision for payment having been  
12 made. Upon termination of its existence, all rights,  
13 privileges and property of the authority shall pass to  
14 and be vested in the State or such entity as the State  
15 by proper act shall designate.

16 §11433. Act cumulative; no notice required

17 Neither this chapter nor anything contained in  
18 this chapter may be construed as a restriction or  
19 limitation upon any powers which the authority might  
20 otherwise have under any laws of this State and this  
21 chapter is cumulative of any such powers. Neither the  
22 making of contracts nor the issuance of bonds pursuant  
23 to this chapter need comply with the requirements of  
24 any other state law applicable to the making of  
25 contracts, the issuance of bonds or the construction,  
26 acquisition or management of any project undertaken  
27 pursuant to this chapter. No proceedings, notice or  
28 approval shall be required for the issuance of any  
29 bonds or any instrument as security therefor, except  
30 as is provided in this chapter or in the code, if  
31 applicable.

32 §11434. Act liberally construed

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

36 Sec. 4. Allocation to the Maine Educational Loan  
37 Authority. Thirty-five million dollars of the state

