

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1043

H.P. 799

House of Representatives, February 20, 2001

An Act to Increase Access to Higher Education.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Speaker SAXL of Portland.
Cosponsored by Senator CATHCART of Penobscot and
Representatives: BERRY of Livermore, BRUNO of Raymond, RICHARD of Madison,
THOMAS of Orono, WESTON of Montville, Senators: President Pro Tem BENNETT of
Oxford, President MICHAUD of Penobscot.

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

Sec. 1. 20-A MRSA c. 419-E is enacted to read:

CHAPTER 419-E

MAINE EDUCATION FOUNDATION

§11701. Establishment

The Maine Education Foundation, referred to in this chapter as the "foundation," is established to foster, support and assist qualified residents of the State with the resources necessary to participate in postsecondary education programs, including employment opportunities in this State, and to assist in economic revitalization efforts in the State. The foundation shall carry out its purposes in complement to and in coordination with the postsecondary financing, student financial assistance and educational attainment activities of State Government, the Federal Government, institutions of higher education in the State and the private sector.

The foundation exists as a nonprofit corporation with a public purpose, and the exercise by the foundation of the powers conferred by this chapter is deemed an essential governmental function.

§11702. Definitions

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

1. Academic achievement. "Academic achievement" means graduation in the top 25% of a class of graduating high school seniors or earning a grade point average of 2.5 or more, based on a 4.0 grade point system, or the equivalent, for currently enrolled college students and all other postsecondary applicants. Eligibility for applicants not currently enrolled must be based upon their most recent cumulative grade point average.

2. Board of directors; board. "Board of directors" or "board" means the board of directors of the foundation.

3. Chief executive officer. "Chief executive officer" means the chief executive officer of the foundation.

4. College students. "College students" means those students who graduated from a high school in the State or the equivalent and are residents of the State or who did not graduate

2 from a high school in this State or the equivalent but have been
4 residents of the State for at least one year and are attending an
6 institution of higher education in the State on a full-time basis
8 or a part-time basis at the time of application for program
10 participation.

12 **5. Cost of attendance.** "Cost of attendance" means the
14 tuition and required fees applicable to a student, together with
16 other educational expenses reasonably related to the cost of
18 attendance at an institution, including the cost of room and
20 board, transportation, books and supplies as defined by rules
22 adopted by the foundation.

24 **6. Duly enrolled.** "Duly enrolled" means the status of the
26 eligible college student who has attended the first class meeting.

28 **7. Education loan.** "Education loan" means a supplemental
30 loan in accordance with chapter 417-A that is made by the Finance
32 Authority of Maine or by, or on behalf of, an institution to a
34 student or to parents of a student, or both, in amounts not in
36 excess of the maximum amounts specified by the Finance Authority
38 of Maine to finance a part or all of the student's cost of
40 attendance at an institution. An education loan constitutes a
42 Finance Authority of Maine loan.

44 **8. Eligible program of study.** "Eligible program of study"
46 means a certificate program of at least one year, an associate's
48 degree program or a baccalaureate degree program.

50 **9. Endowment.** "Endowment" means the Maine Education
52 Endowment Fund established in section 11703, subsection 1.

54 **10. Foundation.** "Foundation" means the Maine Education
56 Foundation or its successors or assigns.

58 **11. Institution; institution of higher education.**
60 "Institution" or "institution of higher education" means any
62 public or private nonprofit educational institution located
64 within this State that is attended by residents of the State and
66 any proprietary educational institution within the State for
68 which loan guarantee services are readily and conveniently
70 available to the Finance Authority of Maine, both of which:

72 A. Provide a program of education beyond the high school
74 level;

76 B. Award an associate, bachelor or advanced degree; and

78 C. Meet the conditions of applicable rules adopted by the
80 foundation.

2 **12. Internship service.** "Internship service" means service
4 in a business or enterprise in the State approved by the chief
 executive officer in consultation with the commissioner for a
 full school year.

6 **13. Nonloan, student financial assistance.** "Nonloan,
8 student financial assistance" means scholarships, grants,
10 work-study programs, loan forgiveness for qualified internships
12 and all other available sources, except an education loan, as
 determined by the Finance Authority of Maine by rules adopted in
 accordance with Title 5, chapter 375.

14 **14. Qualified recipients.** "Qualified recipients" means
16 private, nonprofit organizations qualified under the United
18 States Internal Revenue Code of 1986, Section 501(c)(3) that are
20 related to public institutions of higher education in this State
22 or are not related to private institutions of higher education in
 this State and that have the principal purpose of providing
 scholarships to and otherwise enhancing the postsecondary
 educational opportunities of college students enrolled in
 eligible programs of study.

24 **15. Rule.** "Rule" means a rule adopted by the foundation
26 pursuant to section 11706, subsection 2.

28 **16. Supplemental incentive grant.** "Supplemental incentive
30 grant" means a grant of tuition assistance pursuant to section
 11714 to an eligible student by a qualified recipient on behalf
 of the State.

32 **17. Unmet need.** "Unmet need" means the difference between
34 the cost of attendance for a student for an academic year at an
36 institution of higher education and the total of all a student's
38 sources of financial assistance, including loans, grants,
 work-study programs and all other available sources, as
 determined by the foundation by rules adopted in accordance with
 section 11706, subsection 2.

40 **18. Workforce shortage area.** "Workforce shortage area"
42 means a geographic region of the State for which there is an
44 insufficient supply of qualified workers, as determined by the
 chief executive officer in consultation with the Commissioner of
 Labor and the Commissioner of Economic and Community Development.

46 **§11703. Purpose**

48 The foundation shall foster, assist and participate in
 efforts that support increased levels of enrollment in

2 postsecondary education programs and postsecondary educational
3 attainment for residents of the State, including efforts to
4 expand employment opportunities in this State and to assist in
5 economic revitalization efforts in the State, in coordination
6 with existing state, federal, regional and local agencies and
7 public and private sector institutions. The foundation shall
8 enter into a contract or contracts for services to carry out the
9 purposes described in this chapter. The foundation must operate
10 in accordance with the following provisions.

11 1. **Maine Education Endowment Fund.** The foundation shall
12 strive to expand access to and enrollment in postsecondary
13 education programs and participation in internship service
14 opportunities in this State for resident students by providing
15 for the management and governance of the Maine Education
16 Endowment Fund, which is established as a permanent endowment
17 consisting of certain funds dedicated by the Legislature and by
18 other private and public sources for the purposes described in
19 this chapter. Any unexpended funds appropriated by the
20 Legislature to carry out the purposes of the endowment do not
21 lapse, but must be carried forward for continued use in the
22 endowment.

23 2. **Analysis of postsecondary participation, educational**
24 attainment and economic development. The foundation may:

25 A. Develop, propose and recommend new ideas and changes to
26 State Government, institutions of higher education and other
27 programs and activities that can support and sustain the
28 growth of postsecondary participation and educational
29 attainment of state residents and the development of the
30 State's economy, including financing and student financial
31 assistance strategies and programs and workforce development
32 strategies and economic development programs to best meet
33 the economic needs, problems and conditions of the State;

34 B. Analyze opportunities to improve the participation and
35 enrollment of state residents in postsecondary education and
36 training programs, including participation in internship
37 service and career development activities, especially with
38 businesses and public sector organizations and agencies
39 across the State; and

40 C. Analyze opportunities to promote private sector and
41 business investment in the postsecondary education and
42 training programs offered by institutions of higher
43 education in the State.

2 3. Clearinghouse for postsecondary education programs and
student financial assistance; public, private partnerships. The
4 foundation shall strive to:

6 A. Provide a clearinghouse for all postsecondary education
programs in the State and all available public and private
8 sources of student financial assistance;

10 B. Expand the traditional government and higher education
sector partnership in providing postsecondary education
12 financing, student financial assistance and educational
attainment to include other significant public and private
14 sectors of the economy; and

16 C. Build the leadership capacity of public and private
sector agencies and organizations and the capacity of
18 institutions of higher education to accomplish the
postsecondary enrollment, educational attainment and
20 economic development goals of the State.

22 §11704. Board of directors; chief executive officer

24 The Board of Directors of the Maine Education Foundation
consists of 11 directors appointed to serve in that capacity in
26 accordance with this section. The board of directors shall elect
a vice-chair and a treasurer from among the members of the board.

28 1. Chief executive officer. The board of directors shall
appoint a chief executive officer of the foundation. The chief
30 executive officer may not be appointed from among the directors.
Upon appointment, the chief executive officer becomes a
32 nonvoting, ex officio member of the board of directors of the
foundation. The appointment and compensation of the chief
34 executive officer is subject to the civil service law. The board
of directors shall provide advice to the chief executive officer
36 on the operation and investment of the endowment.

38 2. Membership. Membership of the board of directors is as
follows:

40 A. The Treasurer of State;

42 B. Two members appointed by the Governor from the
44 membership of a statewide organization representing the
chief executive officers of public and private postsecondary
46 institutions in the State, one representing the public
institutions of higher education and one representing the
48 private institutions of higher education;

2 C. One member appointed by the Governor from the members of
the Finance Authority of Maine;

4 D. Two members appointed by the President of the Senate
representing institutions of higher education with
6 experience in and knowledge of institutional investment of
funds and higher education finance policies who must be
8 trustees, directors, officers or employees of an institution
of higher education in the State. One member must be
10 appointed to represent public institutions of higher
education and one member must be appointed to represent
12 private institutions of higher education;

14 E. Two members appointed by the Speaker of the House who
must be student financial aid administrators at
16 postsecondary institutions in the State, one representing
the public institutions of higher education and one
18 representing the private institutions of higher education;

20 F. One member appointed by the Speaker of the House who
must be a chief executive officer or serve in a leadership
22 position in a private sector partnership, firm or
corporation in the State;

24 G. One member appointed by the President of the Senate who
26 must be a representative of a state financial institution
that is active in student lending; and

28 H. One member appointed by the Speaker of the House who
30 must represent the interests of students, parents and other
members of the public who use student financial assistance
32 programs.

34 Each year the Governor, President of the Senate and Speaker of
the House shall jointly select a chair of the board from among
36 the members of the board.

38 3. Terms. Members of the board of directors are appointed
for terms as follows.

40 A. Two members appointed by the Governor, 2 members
42 appointed by the President of the Senate and 3 members
appointed by the Speaker of the House under subsection 2
44 must be appointed for initial terms of 2 years, and the
remaining members must be appointed for initial terms of 4
46 years. Thereafter, members must be appointed for terms of 4
years. Members may be removed for cause.

48 B. Except for members appointed to an initial term of 2
50 years under paragraph A, who may serve their initial term

2 plus one full term in succession, and except for the chief
3 executive officer of the foundation, a person may not serve
4 as a director for more than 4 years in succession.

5 C. Members representing state agencies and institutions of
6 higher education and the member representing a state
7 financial institution serve until their successors are
8 appointed and qualified or until their association with the
9 respective agencies or institutions ends, whichever occurs
10 first.

11 4. Appointment. In the case that a member leaves the board
12 of directors, the respective appointing authority shall appoint a
13 new member to serve out the remainder of the term.

14 5. Organization. Each year the board of directors shall
15 elect from among its members a vice-chair and any other officers
16 it requires other than the chair. The board shall meet at the
17 call of the chair or at the request of 3 of its members. Eight
18 members constitute a quorum and no official action of the board
19 may be taken unless supported by at least 5 members of the board.

20 6. Conflict of interest. The board of directors shall
21 establish conflict-of-interest provisions as part of its bylaws.
22 These provisions must include a requirement that a board member
23 is not considered to have a conflict of interest or the
24 appearance of a conflict of interest because of that member's use
25 of the programs of or association with a postsecondary
26 educational institution, high school or financial institution, as
27 long as no member participates in an official capacity with
28 respect to any matter that has an effect on that member or on the
29 institution with which that member is associated that is unique
30 and distinct from the effect on the general public or persons
31 engaged in similar professions, trades, businesses or employment
32 or associated with similar institutions.

33 7. Expenses. Members of the board of directors must be
34 compensated according to the provisions of Title 5, chapter 379,
35 subchapter I.

36 8. Staffing assistance. The Treasurer of State shall
37 provide appropriate staff support to the board of directors.

38 **§11705. General powers**

39 The foundation may:

40 1. Sue or be sued. Sue or be sued in its own name;

2 2. Apply for and receive funds. Apply for and receive
funds from any private source or governmental entity, whether by
way of grant, donation or loan or in any other manner;

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6 3. Administer programs. Administer programs and contract
for services with the Finance Authority of Maine, financial
institutions, educational institutions, business enterprises,
8 nonprofit institutions and organizations or individuals for such
assistance in administering the programs as the foundation may
10 require;

12 4. Postsecondary education participation and economic
development services; fees. Provide services to public or private
14 institutions or organizations to assist their efforts in
postsecondary education and economic development in the State and
16 to charge such fees for these services as it may consider
appropriate;

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20 5. Real and personal property. Purchase, receive, hold,
lease or acquire by foreclosure, operate, manage, license and
22 sell, convey, transfer, grant or lease real and personal
property, together with such rights and privileges as may be
24 incidental and appurtenant to that real or personal property and
the use of that real or personal property, including, but not
26 limited to, any real or personal property acquired by the
foundation from time to time in the satisfaction of debts or
28 enforcement of obligations;

30 6. Expenditures and obligations regarding real and personal
property. Make all expenditures and incur any obligations
32 reasonably required in the exercise of sound business principles
to secure possession of, preserve, maintain, insure and improve
34 real and personal property or interests in real or personal
property acquired by the foundation;

36 7. Securities. Acquire, subscribe for, own, hold, sell,
38 assign, transfer, mortgage or pledge the stock, shares, bonds,
debentures, notes or other securities and evidences of interest
40 in or indebtedness of any person, firm, corporation, joint stock
company, partnership, association or trust and, while the owner
42 or holder of such an interest or indebtedness, exercise all the
rights, powers and privileges of ownership, including the right
44 to vote;

46 8. Encumbrance of property. Mortgage, pledge or otherwise
encumber any property right or thing of value acquired pursuant
48 to the powers contained in subsection 5, 6 or 7 as security for
the payment of any part of the purchase price of such a property
50 right or thing of value;

2 9. Officers, agents and employees. Elect, appoint or hire
officers, agents and employees of the foundation and define their
duties and fix their compensation;

4
6 10. Contracts and liabilities. Make contracts and incur
liabilities for any of the purposes authorized in this chapter;

8 11. Debt. Borrow money and incur debt for any of the
purposes authorized in this chapter, including the power to issue
its bonds, debentures, notes or other evidences of indebtedness,
whether secured or unsecured; and secure the same by mortgage,
pledge, deed of trust or other lien on its property, rights and
privileges of every kind and nature, or any part of or interest
in its property, rights and privileges;

16 12. Collaborate and cooperate with agencies, organizations
and corporations. Collaborate with and avail itself of the
services of governmental agencies and instrumentalities of the
State, including the State Planning Office within the Executive
Department, the Department of Economic and Community Development,
the Finance Authority of Maine, the Maine Development Foundation
and the institutions of higher education in the State to
coordinate the programs of the foundation; and cooperate and
assist and otherwise encourage organizations, local or regional,
private or public, in the various communities of the State in the
promotion, assistance and development of individual and community
prosperity and economic welfare of citizens of the State,
communities and public and private institutions and corporations;

30 13. Bylaws. Adopt bylaws not inconsistent with this
chapter for the governance of its affairs or with the laws of
this State, have the general powers accorded corporations under
Title 13-B, section 202 and do all other things necessary or
convenient to carry out the lawful purposes of the foundation; and

36 14. Foundation costs and expenses. Fund all costs and
expenses incurred in connection with the exercise of powers
granted under this chapter as administrative costs of the
foundation and the endowment. The foundation may not assess the
endowment a fee in excess of 1% of the balance in the endowment
in any year for the administrative costs and expenses of the
foundation and the endowment.

44 §11706. Limitation of powers

46 Notwithstanding any other provision of this chapter, the
foundation does not have power or authority to enter into
contracts, obligations or commitments of any kind on behalf of
the State or any of its agencies, nor does it have the power of
eminent domain or any other power not provided to nonprofit

2 corporations generally. Bonds, notes and other evidences of
3 indebtedness of the foundation are not in any way a debt or
4 liability of the State and do not constitute a pledge of the
5 faith and credit of the State.

6 1. Public meetings and records. Except for records
7 containing specific and identifiable personal information
8 acquired from applicants for or recipients of financial
9 assistance, the books and records of the foundation are public
10 records and its meetings are public proceedings within the
11 meaning of Title 1, chapter 13, subchapter I.

12 2. Rulemaking. The foundation shall, by rulemaking,
13 establish requirements and limitations for each program governed
14 by or operated pursuant to this chapter in accordance with this
15 subsection. The foundation shall adopt rules to ensure that each
16 program maintains maximum feasible collaboration and cooperation
17 with any current or future agency, department, authority,
18 instrumentality or corporation created, designated or established
19 by the State, including, but not limited to, the State Planning
20 Office within the Executive Department, the Department of
21 Economic and Community Development, the Finance Authority of
22 Maine, the Maine Development Foundation, the University of Maine
23 System, the Maine Maritime Academy and the Maine Technical
24 College System. In adopting or amending rules, the foundation
25 shall consider to the extent possible the rule-making procedures
26 set forth in Title 5, chapter 375, subchapter II. The foundation
27 may not adopt or amend rules without providing the opportunity
28 for interested persons to make public comment on the proposed
29 rules. The foundation shall provide public notice at least 14
30 days prior to the date of a public hearing or at least 30 days
31 prior to the last date on which views and arguments may be
32 submitted to the foundation for consideration if no public
33 hearing is scheduled. Public notice must provide to the extent
34 possible the procedures for public notice set forth in Title 5,
35 section 8053. For the purposes of this subsection, the
36 foundation shall provide written notice to the State Planning
37 Office within the Executive Department, the Department of
38 Economic and Community Development, the Finance Authority of
39 Maine, the Maine Development Foundation, the University of Maine
40 System, the Maine Maritime Academy, the Maine Technical College
41 System and any other agencies, departments, authorities and
42 instrumentalities of the State identified by the board of
43 directors. Any rule must be approved by the board of directors
44 after review of the rule and an accompanying fairness opinion
45 prepared by an independent 3rd party.

46 3. Use of competitive bidding. The foundation may enter
47 into contracts for services through an open, competitive bidding
48 process in accordance with this subsection. The foundation shall
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2 adopt rules requiring that contracts may not be entered into
4 without prior public notice and opportunity for interested
6 persons to make proposals, and the foundation may not adopt the
8 rules until after providing public notice and opportunity for
10 public comment on the proposed rules in accordance with
12 subsection 2. In adopting those rules, the foundation shall
14 consider to the extent possible the rules and procedures with
16 respect to the competitive bidding process set forth in Title 5,
18 chapter 155, subchapter I-A. Any contract must be reviewed by
20 the board of directors and an accompanying fairness opinion
22 prepared by an independent 3rd party prior to board approval.

24 **§11707. Liability of officers; directors**

26 All officers, directors, employees and other agents of the
28 foundation entrusted with the custody of the securities of or
30 authorized to disburse the funds of the foundation must be
32 bonded, either by a blanket bond or by individual bonds, with a
34 surety bond or bonds with a minimum limitation of \$100,000
36 coverage for each person covered, conditioned upon the faithful
38 performance of their duties, the premiums for which must be paid
40 out of the assets of the foundation.

42 **§11708. Prohibited interests of officers, directors and employees**

44 An officer, director or employee of the foundation or the
46 spouse or dependent child of an officer, director or employee may
48 not receive any direct personal benefit from the activities of
50 the foundation in assisting any private entity. This provision
does not prohibit corporations or other entities with which an
officer or director is associated by reason of ownership or
employment from participating in educational attainment and
economic development activities with the foundation, as long as
such ownership or employment is made known to the board of
directors and the officer or director abstains from voting on
matters relating to such participation.

38 **§11709. Donations to State**

40 The State, through the Treasurer of State, may accept
42 donations, bequests, devises, grants or other interests of any
44 nature on behalf of the foundation and transfer such funds,
46 property or other interests to the foundation.

46 **§11710. Annual report; audit**

48 The foundation shall provide an annual report and an
50 independent audit of its activities to the Governor, the
Legislature and its board of directors. The foundation is
subject to further audit and review if considered necessary by

2 the Governor or the Legislative Council at the expense of the
3 State.

4 **§11711. General conditions; dissolution**

6 The foundation operates as a nonprofit organization
7 consistent with its composition and broad public purposes. The
8 following conditions apply to the operation or dissolution of the
9 foundation.

10
11 **1. Net earnings of the foundation.** No part of the net
12 earnings of the foundation inure to the benefit of any officer,
13 director or employee, except that the foundation is authorized
14 and empowered to pay reasonable compensation for services
15 rendered and otherwise hold, manage and dispose of its property
16 in furtherance of the purposes of the foundation.

17 **2. Dissolution of foundation.** Upon dissolution of the
18 foundation, the directors and chief executive officer shall,
19 after paying or making provision for the payment of all
20 liabilities of the foundation, cause all of the remaining assets
21 of the foundation to be transferred to the State.

22
23 **§11712. Liberal construction**

24
25 This chapter must be construed liberally to effect the
26 interest and purposes of the foundation for improved educational
27 attainment and economic development efforts in the State and must
28 be broadly interpreted to effect such intent and purposes and not
29 as a limitation of powers.

30
31 **§11713. Maine Education Endowment Fund; purpose**

32
33 **1. Generally.** The purpose of the endowment is to provide
34 financial assistance to and for the benefit of eligible residents
35 of the State to attend an institution of higher education in the
36 State by providing funds appropriated or allocated by the
37 Legislature for the creation and maintenance of a permanent
38 endowment to carry out the purposes of this chapter.

39
40 **2. Finances of endowment; nonlapsing fund.** The endowment
41 includes all assets, funds and holdings held in trust in the name
42 of, on behalf of or for the benefit of the endowment. This is a
43 nonlapsing fund, the sources of which include all appropriations
44 and allocations by the Legislature to the endowment; money from
45 any other source, whether public or private, designated for
46 deposit into or credited to the endowment; and interest or other
47 income or assets of the endowment. Any funds appropriated and
48 allocated by the Legislature to carry out the purposes of this

chapter may not lapse and must be carried forward for continued use in the endowment.

3. Maine Education Endowment Fund Reserve; established.

The Maine Education Endowment Fund Reserve, referred to as the "reserve" in this chapter, is established beginning the fiscal year ending June 30, 2001 and continuing in each fiscal year thereafter in the General Fund for the purpose of accumulating funds to provide student financial assistance for citizens in this State to enroll in postsecondary educational programs in this State and to continue their participation in such programs until they have attained a postsecondary education degree at an institution of higher education in this State. Subject to the requirements of this section and subsections 4, 5 and 6, funds in the reserve may be made available in fiscal year 2001-02 and each fiscal year thereafter to the General Fund Maine Education Endowment Fund program in the Maine Education Foundation through allotment by financial order, upon the recommendation of the State Budget Officer and approval of the Governor, to be used for providing student financial assistance to eligible citizens of this State pursuant to this chapter.

4. Excess General Fund revenue; transfer of funds.

Notwithstanding any other provision of law, as the first priority before any other transfer, at the close of fiscal year 2000-01 following the end of that fiscal year and at the close of each fiscal year thereafter and following the end of each fiscal year, the State Controller shall transfer any excess General Fund revenue in an amount not to exceed \$15,000,000 over accepted revenue estimates for fiscal year 2000-01 and each fiscal year thereafter to the reserve.

5. Transfer to the reserve.

Notwithstanding any other provision of law, as the next priority after any transfer pursuant to subsection 4, at the close of fiscal year 2000-01 following the end of that fiscal year and at the close of each fiscal year thereafter and following the end of each fiscal year, the State Controller shall transfer to the reserve the available balance remaining from the unappropriated surplus of the General Fund.

6. Limitation of General Fund transfers.

Beginning in the fiscal year ending June 30, 2001 and continuing in each fiscal year thereafter, the aggregate amount of transfer of General Fund available balances in subsections 4 and 5 may not exceed \$125,000,000.

7. Treasurer of State authority for deposit of state funds; interest earned on endowment; disbursement of endowment funds.

The Treasurer of State is responsible for the custodial care of

2 the endowment and may deposit into the endowment state funds
3 pursuant to Title 5, section 135. Interest earned on the
4 investment of the endowment must be credited to the qualified
5 recipients pursuant to sections 11714 and 11715 or must be
6 deposited in the endowment to be invested with other assets. The
7 Treasurer of State is responsible for disbursement of the
8 endowment assets to qualified recipients upon certification by
9 the chief executive officer that the provisions established under
10 sections 11714 and 11715 are met.

11 **8. Investment of endowment; fiduciary roles and**
12 **responsibilities.** The chief executive officer shall act as
13 fiduciary and financial agent with respect to the management and
14 administration of the endowment. The chief executive officer,
15 with the advice of the board of directors, shall direct the
16 Treasurer of State to invest endowment funds in any investments
17 determined by the foundation to be appropriate, notwithstanding
18 any general statutory limitations on investments of public
19 funds. The chief executive officer shall treat the endowment as
20 held in trust on behalf of the State only for the purposes
21 specified in this chapter and no other and shall separately
22 account for the endowment as investment assets, attributing to
23 the endowment its proportional share of investment returns and
24 investment management costs and expenses, including costs and
25 expenses of the foundation arising because of its investment of
26 the endowment.

27 **9. Annual plan; investment, administration and allocation**
28 **of endowment funds.** The use of the endowment must be based on a
29 plan developed annually by the chief executive officer, after
30 consultation with the Treasurer of State and the board of
31 directors. Prior to June 15th of each year, the chief executive
32 officer shall present the annual plan for the investment,
33 administration and allocation of the endowment and endowment
34 investment return to qualified recipients in accordance with
35 sections 11714 and 11715. The annual plan must also include the
36 related investment accounting, investment return and expense
37 attribution in accordance with section 11705, subsection 14.

38 **10. Use of endowment.** Until otherwise provided by the
39 Legislature, and subject to the limitations in section 11705,
40 subsection 14, the endowment may be used for necessary audit
41 services, legal expenses, investment management fees and services
42 and general administrative expenses related to the management and
43 administration of the endowment.

44 **11. Audit of endowment.** The chief executive officer shall
45 ensure adequate audit of the investment management of the
46 endowment and the expenditures of the endowment each state fiscal
47 year within the scope of the annual audit of the foundation or
48 the endowment.

2 through separate audit as considered appropriate by the board of
3 directors. Any separate audit must be reported to the Governor,
4 the Legislature, the chief executive officer and the State
5 Controller in as timely a manner as possible after the close of
6 each state fiscal year.

7 12. Annual report. The chief executive officer shall
8 provide an annual report of its activities related to the
9 endowment to the Governor and the Legislature. The foundation
10 activities related to the endowment are subject to further review
11 if considered necessary by the Governor or the Legislative
12 Council at the expense of the State.

13 13. Reduction prohibited. Allocations from endowment
14 assets must be in addition to any other funds appropriated to the
15 University of Maine System, the Maine Technical College System
16 and the Maine Maritime Academy and may not be used to reduce
17 appropriations for other purposes.

18 **§11714. Allocation of endowment assets; loan forgiveness**
19 **program; eligibility**

20 1. Allocation of endowment assets. In July of each year,
21 beginning in the year 2002, the Treasurer of State shall withdraw
22 at least 5% of the assets that were in the fund on the previous
23 June 30th, and in accordance with the annual plan approved by the
24 board of directors under section 11713, subsection 9, shall
25 allocate the amounts necessary to qualified recipients for the
26 purposes of providing student financial assistance in accordance
27 with the provisions of this chapter. Endowment assets must be
28 distributed to eligible students enrolled in an eligible program
29 of study in institutions of higher education as follows:

30 A. The primary disbursement of the annual withdrawal of
31 endowment assets must be distributed to eligible students
32 enrolled at institutions of higher education in this State
33 who have been approved to participate in a loan forgiveness
34 program for qualified internships as defined in section
35 11717; and

36 B. The secondary disbursement of the annual withdrawal of
37 endowment assets must be distributed to qualified
38 recipients, which must receive these funds solely for the
39 purpose of providing state matching funds as described in
40 section 11715.

41 Upon determination that the provisions under this section and
42 section 11715 have been met, the Treasurer of State shall provide
43 that endowment funds are made available to qualified recipients.
44 At least 5% of the endowment assets must be annually allocated
45 pursuant to this section, provided that the amount appropriated

2 under this allocation may not exceed an amount that would bring
3 the endowment balance below the allocation made in fiscal year
4 2002.

6 **2. Primary disbursal of endowment assets; loan forgiveness**
7 **program for qualified internships.** In accordance with the annual
8 plan approved by the board of directors under section 11713,
9 subsection 9 and upon determination that the provisions under
10 section 11717, subsection 2 have been met, the Treasurer of State
11 shall disburse the necessary amounts to qualified recipients for
12 the purposes of providing a loan forgiveness program for
13 qualified internships pursuant to section 11717.

14 **3. Eligibility.** Loan forgiveness for qualified internships
15 may be awarded only to residents of the State who:

16 A. Have graduated from an approved secondary school or
17 matriculated at a postsecondary school prior to high school
18 graduation, or have successfully completed a general
19 educational development examination or its equivalent;

22 B. Have been accepted for enrollment as full-time or
23 part-time undergraduates or are in good standing as
24 undergraduates at institutions of higher education in an
25 eligible program of study pursuant to section 11702 and have
26 not received a previous baccalaureate degree;

28 C. Have applied for a qualified student internship program
29 according to schedules and procedures and on forms developed
30 by the foundation;

32 D. Have been determined by the foundation to have satisfied
33 a financial need according to the criteria set forth in
34 rules; and

36 E. Meet the state residency requirements that must be
37 established by rules adopted by the foundation.

38 Eligible students may accept student financial assistance
39 pursuant to this section in addition to any other types of
40 student aid, except that in no case may a student receive
41 additional student financial assistance that would exceed 100% of
42 the total cost of attendance at an institution of higher
43 education. Recipients of a state student incentive scholarship
44 may be eligible to receive student financial assistance pursuant
45 to this section. The foundation shall adopt rules for awarding
46 student financial assistance and determining award amounts
47 pursuant to this section.

50 **§11715. Secondary disbursal of endowment assets; state**

matching fund program; qualified recipients;
administration of endowment allocations

2
4 1. Secondary disbursement of endowment assets. In accordance
6 with the provisions of section 11714, the secondary disbursement of
8 the annual withdrawal of endowment assets must be distributed to
10 qualified recipients for the purposes of providing state matching
12 funds to qualified institutions in accordance with the
14 requirements of subsections 2 and 3. Upon determination that the
provisions under subsection 3 have been met, the Treasurer of
State shall provide that endowment funds are made available to
qualified recipients who have had a match certified by the board
of directors.

16 2. Private, nonprofit organizations. Private, nonprofit
18 organizations that are qualified recipients may receive endowment
20 funds solely for the purpose of matching qualifying private gifts
22 or grants that must be used for providing scholarships to
eligible students pursuant to this section. A qualifying
matching grant must be a gift of \$500,000 or more from a single
donor to the qualifying private, nonprofit organization.

24 3. Administration of endowment allocations. The respective
26 governing boards of qualified recipients shall adopt criteria
28 establishing qualifications for public and private gifts and
30 grants to be matched from the endowment; and may establish any
other qualifications determined by the respective boards to
provide the greatest incentive for encouraging private endowment
gifts for scholarship or student financial assistance purposes.

32 4. Use of matching funds by qualified recipients. The
34 qualified recipients that are private, nonprofit institutions not
36 related to a private institution of higher education may
38 establish cooperative arrangements with private institutions of
40 higher education to use the funds allocated under this section to
42 provide student financial assistance to resident students of this
44 State enrolled in eligible programs of study in private
institutions of higher education consistent with the requirements
of this section. Qualified recipients that have been certified
by the board of directors to have available a qualifying matching
gift shall use the funds allocated under this section in
accordance with the terms of their scholarship program, provided
that the funds be used solely for the purposes described in this
section.

46 Funds provided to eligible students pursuant to this section must
48 be based on financial need and must be applied to the student's
unmet need for financial assistance or to replace a supplemental

2 education loan included in the student's financial assistance
3 package in accordance with rules established by the foundation.
4 An institution of higher education or a qualified recipient that
5 is a private, nonprofit institution may not supplant or reduce
6 the existing level of nonloan, student financial assistance
7 awarded to students with matching funds provided by the State.

8 **5. Eligibility.** Student financial assistance provided by
9 state matching funds may be awarded only to residents of the
10 State who meet the eligibility requirements of section 11714,
11 subsection 3. Eligible students may receive State matching funds
12 pursuant to this section in addition to any other types of
13 student financial assistance, except that in no case may a
14 student receive state matching funds that combined with the
15 student's existing financial assistance would exceed 100% of the
16 total cost of attendance at an institution of higher education.
17 Recipients of a state student incentive scholarship may also be
18 eligible to receive state matching funds pursuant to this
19 section. The foundation may adopt or amend rules for awarding
20 student financial assistance and determining supplemental
21 incentive grant award amounts pursuant to this section.
22

23 **6. Prorated grants.** A recipient of state matching funds
24 whose course load is reduced from full time must receive a
25 prorated level of student financial assistance for that term of
26 the recipient's enrollment.

27 **7. Withdrawal.** If a recipient of state matching funds
28 withdraws from an institution and the student is entitled to a
29 refund of tuition, fees or other charges, the institution shall
30 retain the amount of state matching funds awarded in accordance
31 with the institution's refund policy and shall carry such funds
32 forward for continued use in the program.
33

34 **8. Length of awards.** State matching funds are for a period
35 not to exceed one academic year. A recipient of state matching
36 funds who remains eligible must be considered in the succeeding
37 award year.
38

39 **9. Period of study.** An eligible student may receive state
40 matching funds for a period not to exceed 8 semesters or its
41 equivalent for a full-time student and 16 semesters or 120 credit
42 hours, whichever is completed first, for a part-time student.
43 The period may be extended for not more than one additional
44 academic year, if:
45

46 **A.** The student is pursuing a course of study leading to a
47 first degree in a program of study that is designed by the
48 institution offering it to extend over 5 academic years; or
49
50

2 B. The student will be unable to complete a course of study
4 within 4 academic years because of a requirement of the
6 institution that the student enroll in a noncredit remedial
8 course of study. "Noncredit remedial course of study" means
 a course of study for that no credit is given toward an
 academic degree and that is designed to increase the ability
 of the student to engage in an undergraduate course of study
 leading to that degree.

10 10. Nonlapsing funds. Any unexpended funds appropriated by
12 the Legislature to carry out the purposes of this section do not
14 lapse, but must be carried forward for continued use in the
 program.

16 §11716. Request for proposal; endowment programs

18 The foundation shall develop a process for requesting
20 proposals to provide technical assistance and operational support
22 for the development and implementation of endowment scholarship
24 and internship programs pursuant to this chapter. A proposal for
 a personal services contract or contracts must follow the
 competitive bidding procedures required in section 11706,
 subsection 3. A proposal must contain at a minimum:

26 1. Types of technical assistance, research and operational
28 support services. The types of technical assistance and
30 research, administrative and operational support services that
 can assist the foundation in fulfilling its mission to provide
 student financial assistance for students in the State through
 the development and implementation of endowment programs;

32 2. Definition of services. A clear description of how the
34 bidder will provide technical assistance and research,
36 administrative and operational support services that include, but
38 are not limited to, strategic planning for and research in
40 identifying nonstate sources of scholarship and grant aid from
42 the private and philanthropic sectors, the identification and
 recruitment strategies for private and public sector businesses
 and enterprises that may provide qualified internship
 opportunities for postsecondary education students in the State
 and the assessment of how endowment funds are used to fulfill its
 established purposes;

44 3. Student financial assistance administration services.
46 A clear description of how the bidder will provide technical
48 assistance and administrative support services to enhance the
 ability of the foundation to develop a public-private partnership
 that will implement student financial assistance programs that
 include, but are not limited to, scholarship, grant, internship,

1 service-learning, work-study, loan and loan forgiveness programs;
2 and

4 4. Assessment program. A clear description of how the
5 bidder will develop an assessment program that includes, but is
6 not limited to, tracking the outcomes of the student financial
7 assistance programs funded by the endowment on the recipients of
8 the aid, the institutions of higher education in the State and
9 businesses and economic development regions across the State.
10 The assessment program description must include estimated costs
11 of full implementation of the assessment program.

12 **§11717. Interns for Maine Program**

14
15 There is established the Interns for Maine Program to
16 provide financial assistance to full-time and part-time college
17 students pursuing an associate's degree or a baccalaureate degree
18 and who demonstrate an interest in pursuing a career in this
19 State. The program recognizes outstanding college students. The
20 chief executive officer shall administer the program and shall
21 establish by rule the rates of interest or fees to be charged.
22 The chief executive officer may contract for services with the
23 Finance Authority of Maine, financial institutions, educational
24 institutions, business enterprises, nonprofit institutions and
25 organizations or individuals for such assistance in administering
26 the programs as the foundation may require.

28 1. Nonlapsing, revolving fund. The Interns for Maine fund
29 is created as a nonlapsing, interest-earning, revolving fund to
30 carry out the purposes of this section. Any unexpended balance
31 in the Interns for Maine fund carries over for continued use
32 under this section. The foundation may receive, invest and
33 expend, on behalf of the Interns for Maine funds money from
34 gifts, grants, bequests, loans and donations, in addition to
35 money appropriated or allocated by the State. Loan repayments
36 under this section or other repayments to the foundation must be
37 invested by the foundation, as provided by law, with the earned
38 income to be added to the fund. Money received by the foundation
39 on behalf of the fund, except interest income, must be used for
40 the designated purpose; interest income may be used for the
41 designated purpose or to pay student financial assistance
42 administrative costs incurred by the foundation as determined
43 appropriate by the foundation.

44
45 2. Interns for Maine loan recipients. Each year, full-time
46 and part-time college students who show evidence of academic
47 achievement may be considered for recognition as Interns for
48 Maine loan recipients. Applications must be submitted to the
49 chief executive officer at a time and in a format to be
50 determined by rule of the foundation. The Governor, after

2 consultation with the chief executive officer, shall announce the
3 names of those individuals selected by the chief executive
4 officer to be Interns for Maine loan recipients.

6 3. Allocation of funds. The foundation shall establish by
7 rule the allocation of funds available under this section.

8 A. Interns for Maine loans of up to \$3,000 per academic
9 year or \$12,000 total may be made to eligible college
10 students pursuing a bachelor's degree.

12 B. Interns for Maine loans of up to \$3,000 per academic
13 year or \$6,000 total may be made to eligible students
14 pursuing an associate's degree.

16 C. Interns for Maine loans for undergraduate students are
17 for one academic year and are automatically renewed if the
18 recipient maintains a grade point average of 2.5 based on a
19 4.0 grade point system or the equivalent.

20 In no event may an individual receive Interns for Maine loans
21 totaling more than \$12,000.

24 4. Eligibility for postsecondary education loans. A
25 postsecondary education loan under this section may be given only
26 to a high school graduate, or the equivalent, who is a resident
27 of the State, who has been recognized as an Interns for Maine
28 loan recipient and who has met other eligibility criteria
29 established by rule of the foundation. Preference must be given
30 to students enrolled in an educational program that has been
31 determined to be in a workforce shortage area.

32 5. Payment provisions. Payment of Interns for Maine loans
33 must be made directly to the institution for credit to the
34 student's account and be made within 60 days following evidence
35 that the student has become duly enrolled at the postsecondary
36 institution. These loans may be used only to substitute or
37 replace a family contribution or interest-accruing loans. If a
38 recipient of a loan withdraws from an institution and if the
39 student is entitled to a refund of tuition, fees or other
40 charges, the institution shall pay directly to the foundation
41 from that refund a sum that represents the portion of the loan
42 paid to the student for the portion of the academic year that the
43 student did not complete.

46 6. Repayment; internship service provisions; deferment.
47 Each college student who receives an Interns for Maine loan may
48 cancel the total amount of the loan by completing one year of
49 internship services in a qualified internship project in the
50 State for each year the individual receives a loan. The

2 internship service requirement is one year of internship service
4 for every 2 years or less that the individual receives a loan if
6 the internship service is performed in a workforce shortage
8 area. Internship service for this purpose must be performed
10 during the period of time when the college student is enrolled in
12 an eligible program of study as defined in this chapter. If the
14 chief executive officer grants a deferment, the time period for
16 performance of internship service may be extended for the same
18 period as the deferment. Internship service may not be credited
20 for the same semester for which an individual receives an Interns
22 for Maine loan pursuant to this section. Failure to fulfill the
24 internship service option necessitates repayment of the loan to
26 the foundation as follows.

28 A. The debt must include the total amount of the loan and
30 interest at the rate established by rule of the foundation,
32 less the amount, if any, that has been cancelled by
34 internship service.

36 B. The total debt must be repaid to the foundation within
38 10 years of graduation from the institution of higher
40 education according to a schedule established by the chief
42 executive officer. Due dates for repayments are set by the
44 chief executive officer and may be extended for the same
46 period of any deferment granted by the chief executive
48 officer.

50 C. A recipient of a loan may seek a deferment of the annual
52 payments for a period or periods as established by rule of
54 the foundation. A request for deferment must be made to the
56 chief executive officer who shall make a determination on a
58 case-by-case basis. The chief executive officer may grant a
60 deferment in the event that a recipient of a loan evidences
62 intent to participate in a qualified internship project but
64 is unable to establish a qualified internship project
66 necessary to obtain forgiveness of the loan at the time the
68 deferment is sought. The chief executive officer shall
70 require certification of the intent annually and grant a
72 one-year deferment for each approved request for deferment.
74 A recipient may not receive more than 5 one-year
76 deferments. The decision of the chief executive officer is
78 final.

80 7. Qualified internship projects. In order for an
82 internship project to be eligible for financial assistance under
84 the program, the following criteria must be met.

86 A. The qualifying internship project must be engaged in or
88 involve at least one of the following enterprises:

- 2 (1) Marine science;
- 4 (2) Biotechnology;
- 6 (3) Manufacturing;
- 8 (4) Export of goods or services to locations outside
the State or activities that result in significant
amounts of capital being imported into the State;
- 10 (5) Software development;
- 12 (6) Provision or development of environmental services
or technologies;
- 14 (7) Provision or development of financial or insurance
products or services;
- 16 (8) Provision or development of health care products
or services;
- 18 (9) Production of value-added goods from natural
resources; or
- 20 (10) Other enterprises that the board of directors
determines will further the purposes and intent of the
program.

28 B. The qualifying internship project must have a direct
relationship to the intern's academic program, must
demonstrate the potential for the intern's skill development
and must benefit the public as determined by the chief
executive officer.

34 C. The prospective intern for the qualifying internship
project must submit to the chief executive officer an
internship project plan, including adequate mechanisms to
monitor the accomplishment of the internship project plan as
proposed.

40 D. The foundation shall require that each institution of
higher education report on the qualifying internship
projects engaged in by the institution's students at least
annually on each of the following factors:

46 (1) Enterprises providing qualifying internship
projects and their satisfaction with the projects;

48 (2) Student satisfaction with the qualifying
internship projects;

50

2 5. It authorizes the foundation to establish a request for
proposal process for administering student financial assistance
4 programs with proceeds from the endowment fund, including
researching and tracking the outcomes of the student financial
assistance programs.