

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1173

H.P. 871

House of Representatives, March 17, 2011

### An Act To Make Changes to the Maine College Savings Program

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Submitted by the Treasurer of State pursuant to Joint Rule 204.  
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative RICHARDSON of Carmel.  
Cosponsored by Senator LANGLEY of Hancock.

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

2 **Sec. 1. 20-A MRSA §11473, sub-§1**, as enacted by PL 1997, c. 732, §4, is  
3 amended to read:

4 **1. Creation.** The Maine College Savings Program Fund, referred to in this chapter  
5 as ~~the~~ "the program fund," is established as a nonlapsing fund to be held, directed and  
6 administered by the authority ~~and held by the Treasurer of State~~. The ~~Treasurer of State~~  
7 authority shall keep the program fund segregated from all other funds held by the  
8 ~~Treasurer of State~~ authority and shall invest and reinvest, or cause to be invested and  
9 reinvested, the program fund for the benefit of the program under the direction of and  
10 with the advice of the advisory committee. The program fund so administered is a fund  
11 held on behalf of participants and beneficiaries who are deemed specifically named  
12 persons for the purposes of Title 5, section 135-A.

13 **Sec. 2. 20-A MRSA §11473, sub-§5**, as enacted by PL 1997, c. 732, §4, is  
14 amended to read:

15 **5. Common investment of funds.** The authority may commingle, or cause or allow  
16 to be commingled, amounts credited to some or all accounts for investment purposes and  
17 may provide for the application of program earnings to pay any administrative costs of  
18 the program fund prior to crediting program earnings to participants' accounts.

19 **Sec. 3. 20-A MRSA §11474, sub-§2**, as enacted by PL 1997, c. 732, §4, is  
20 amended to read:

21 **2. Invest funds.** With the advice of the advisory committee, ~~direct the Treasurer of~~  
22 ~~State to~~ invest and reinvest, or cause to be invested and reinvested, money in the program  
23 fund in any investments determined by the authority to be appropriate, notwithstanding  
24 any general statutory limitations on investments of public funds specifically determined  
25 to be inapplicable to the program fund. The authority must invest, or cause to be invested,  
26 money from the program fund in financial institutions located in the State to the extent  
27 determined reasonable by the authority;

28 **Sec. 4. 20-A MRSA §11476**, as enacted by PL 1997, c. 732, §4, is amended to  
29 read:

30 **§11476. Investment options and parameters**

31 The authority, with the advice of the advisory committee, may provide investment  
32 options for a participant within the program fund to the extent permitted by Internal  
33 Revenue Code provisions addressing qualified state tuition programs. The authority, with  
34 the advice of the advisory committee, shall invest, or cause to be invested, the amounts on  
35 deposit in the program fund in a reasonable manner to achieve the objectives of each  
36 fund, exercising the discretion and care of a prudent person in similar circumstances with  
37 similar objectives. A participant or designated beneficiary may not direct the investment  
38 of any amounts on deposit in the program fund, except to the extent allowed pursuant to  
39 provisions of the Internal Revenue Code addressing qualified state tuition programs. The  
40 authority shall give due consideration to rate of return, term or maturity, diversification

1 and liquidity of investments within the program fund or any account in the program fund  
2 pertaining to the projected disbursements and expenditures from the program fund and  
3 the expected payments, deposits, contributions and gifts to be received.

4 **Sec. 5. 20-A MRSA §11484, sub-§1, ¶B-1**, as enacted by PL 2001, c. 417, §19,  
5 is repealed.

6 **Sec. 6. 20-A MRSA §11484, sub-§1, ¶B-2**, as enacted by PL 2001, c. 417, §19,  
7 is amended to read:

8 B-2. ~~One member~~ Two members appointed by the Governor from at large;

9 **Sec. 7. 20-A MRSA §11484, sub-§1, ¶D**, as enacted by PL 1997, c. 732, §4, is  
10 repealed.

11 **Sec. 8. 20-A MRSA §11484, sub-§1, ¶E** is enacted to read:

12 E. Two members representing institutions with experience in and knowledge of  
13 higher education financial and investment matters. One member must be a member  
14 appointed by the Governor with experience in and knowledge of institutional  
15 investment of funds. One member must be appointed by the chair of the authority's  
16 board of directors who is a member of the authority's board of directors other than  
17 the Treasurer of State.

18 **Sec. 9. Effective date.** Those sections of this Act that amend the Maine Revised  
19 Statutes, Title 20-A, section 11473, subsections 1 and 5; section 11474, subsection 2; and  
20 section 11476 take effect on June 30, 2012. That section of this Act that repeals Title  
21 20-A, section 11484, subsection 1, paragraph B-1 and that section of this Act that amends  
22 Title 20-A, section 11484, subsection 1, paragraph B-2 take effect at the expiration of the  
23 term of the member with knowledge of student financial assistance or when the position  
24 is vacant. That section of this Act that repeals Title 20-A, section 11484, subsection 1,  
25 paragraph D and that section of this Act that enacts Title 20-A, section 11484, subsection  
26 1, paragraph E take effect at the expiration of the terms of the member representing  
27 public institutions of higher education and the member representing private institutions of  
28 higher education or when the positions are vacant.

## 29 SUMMARY

30 This bill makes changes to the Maine College Savings Program, also known as  
31 NextGen or the NextGen College Investing Plan, by vesting the act of "holding" the  
32 program fund in the authority and not the Treasurer of State; by clarifying that in holding  
33 the program fund, the authority may invest, reinvest or commingle the assets in the  
34 program fund as authorized or may cause such assets to be invested, reinvested or  
35 commingled. The bill alters the composition of the Advisory Committee on College  
36 Savings by changing the position held by a member with knowledge of student financial  
37 assistance to an at-large position and by changing the Governor-appointed positions held  
38 by 2 members representing institutions of higher education with experience in and  
39 knowledge of higher education financial and investment matters to one  
40 Governor-appointed member with experience in and knowledge of institutional

1 investment of funds and one member appointed by the chair of the authority's board of  
2 directors who is a member of the authority's board of directors, other than the Treasurer  
3 of State.