

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 821

S.P. 316

In Senate, March 20, 1989

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

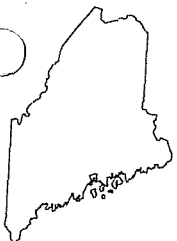
Presented by Senator CLARK of Cumberland.

Cosponsored by Senator PERKINS of Hancock, Representative KILKELLY of Wiscasset and Representative NADEAU of Lewiston.

STATE OF MAINE

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

An Act Providing for the 1989 Amendments Pertaining to the Finance Authority of Maine Act.



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

3 **Sec. 1. 10 MRSA §351, sub-§3,** as enacted by PL 1985, c. 468,
4 §2, is amended to read:

5
6 **3. Qualifying small business.** "Qualifying small business"
7 means a business employing 30 or fewer employees and having a net
8 worth which shall have the meaning accorded to it under generally
9 accepted accounting principles, with such exclusions as the board
10 may establish by rule, not exceeding \$250,000.

11
12 **Sec. 2. 10 MRSA §355,** as enacted by PL 1985, c. 468, §2, is
13 amended to read:

14 **§355. Grants**

15
16 The board may enter into matching grant agreements with any
17 qualifying small business. No grant may be given to any one
18 qualifying small business in excess of ~~\$5,000~~ \$15,000 in any
19 year. Grants shall be awarded upon the condition that an amount
20 equal to or in excess of the amount of the grant will be
21 dedicated by the business receiving the grant. In awarding
22 grants under this chapter, the board shall give preference to
23 qualifying small businesses which employ 20 or fewer employees.
24 The board may accept a royalty or equity interest in a product or
25 entity in connection with a grant, which rights shall lapse to
26 the State upon repeal of this chapter.

27
28 **Sec. 3. 10 MRSA §357,** as enacted by PL 1985, c. 468, §2 is
29 amended to read:

30 **§357. Repeal**

31
32 This chapter is repealed December 31, 1990 1992.

33
34 **Sec. 4. 10 MRSA §964, sub-§1,** as amended by PL 1985, c. 344,
35 §§8 and 9, is repealed and the following enacted in its place:

36
37 **1. Finance Authority of Maine.** The Finance Authority of
38 Maine is established as a body corporate and politic and a public
39 instrumentality of the State, and the exercise by the authority
40 of the powers conferred by this chapter shall be deemed and held
41 to be the performance of essential governmental functions.

42
43 The Finance Authority of Maine shall be responsible for the
44 administration of all programs which the authority may by law be
45 authorized to administer, including, without limitation, all
46 programs established pursuant to this chapter.

1 **Sec. 5. 10 MRSA §964, sub-§2**, as enacted by PL 1983, c. 519,
2 §6, is amended to read:

3
4 **2. Divisions.** The Finance Authority of Maine shall consist
5 of 2 contain such divisions as may be of assistance to implement
6 the programs and perform the duties as defined in this chapter
7 and as required by the authority. The divisions shall be
8 entitled include:

9 A. The Division of Maine Business Development ~~and Finance~~;
10 and

11 B. The Division of Natural Resources Financing and
12 Marketing;

13 C. The Division of Lending; and

14 D. The Division of Finance.

15 **Sec. 6. 10 MRSA §969-A, sub-§6-A** is enacted to read:

16 **6-A. Matching service.** Subject to the requirements and
17 limitations of applicable law, establish and implement a program
18 to assist the growth of business within the State by matching
19 businesses seeking investment capital with investors seeking
20 investment opportunities;

21 **Sec. 7. 10 MRSA §972, sub-§1**, as amended by PL 1985, c. 344,
22 §21, is further amended to read:

23 **1. Employ directors.** In accordance with procedures of the
24 authority, employ the directors of the ~~Division of Business~~
25 ~~Development and Finance and the Division of Natural Resources~~
26 ~~Financing and Marketing~~ divisions established by the authority.
27 During the selection process, the authority or its designee, the
28 chief executive officer, shall consult with the Natural Resources
29 Financing and Marketing Board concerning the appointment of a
30 director of the Division of Natural Resources Financing and
31 Marketing. The directors shall serve at the pleasure of the
32 chief executive officer;

33 **Sec. 8. 10 MRSA §972, sub-§7**, as amended by PL 1987, c. 534,
34 Pt. B, §§8 and 23, is further amended to read:

35 **7. Maintain a liaison with other state agencies.** Maintain
36 a close liaison with the Department of Economic and Community
37 Development; Department of Agriculture, Food and Rural Resources;
38 Department of Conservation; and Department of Marine Resources;
39 ~~and Maine Natural Resource Capital Corporation~~ and provide
40 assistance to facilitate the planning and financing of eligible
41 projects;

1 **Sec. 9. 10 MRSA §974, sub-§1**, as amended by PL 1987, c. 697,
3 §2, is further amended to read:

5 **1. Report.** The authority shall submit to the Governor, the
7 Speaker of the House of ~~Representatives~~, the President of the
9 Senate and the joint standing committee of the Legislature having
11 jurisdiction over ~~State--Government~~ housing and economic
13 development, not later than 120 days after the close of its
15 fiscal year, a complete report on the activities of the
17 authority. The report may also be provided to any other member of
19 the Legislature and to any other person. The report shall include
21 all of the following:

23 A. A description of its operations, including a description
25 of projects assisted under this chapter;

27 B. An accounting of its receipts and expenditures, assets
29 and liabilities at the end of its fiscal year;

31 C. A schedule of the bonds and notes outstanding at the end
33 of its fiscal year and a statement of the amounts redeemed
35 and issued during its fiscal year, including a report on its
37 reserve funds;

39 D. A statement of its proposed and projected activities for
41 the ensuing year and the relationship of these activities to
43 the state's State's economic development policies;

45 E. Recommendations as to further actions which may be
47 suitable for achieving the purposes of this chapter;

49 F. A statement of the defaults, if any, of persons, firms,
51 corporations and other organizations receiving assistance
53 under this chapter in those cases where substantial
55 liquidation of collateral has taken place, a statement of
57 the total amount of mortgage insurance payments made during
59 the fiscal year and a statement of the percentage derived by
61 dividing the amount of the mortgage insurance payments
63 during the fiscal year into the outstanding principal
65 balance as of the fiscal year end of the authority's unpaid
67 obligations pursuant to mortgage insurance contracts;

69 G. A summary of the actual and potential employment
71 opportunities reported on employment plans pursuant to
73 section 979;

75 H. A separate section pertaining to the activities of the
77 authority carried out pursuant to subchapter I-A, which
79 shall provide the following:

81 (1) A description of the operations of the authority
83 pursuant to subchapter I-A, including a description of

1 the progress toward the accomplishment of the purposes
of section 982;

3
5 (2) An analysis of the needs of the natural
resource-based sector in the State and a statement of
7 the authority's proposed and projected activities for
the ensuing year to meet these needs; and

9 (3) Recommendations as to further actions which may be
suitable for achieving the purposes of subchapter I-A;
11 and

13 I. A description of any financial assistance provided for
energy conservation purposes, the success of various energy
15 saving techniques assisted and the overall energy benefits
achieved by the financial assistance; and

17
19 ~~J. A financial statement of the Maine Natural Resource
Capital Company prepared in accordance with section 957,
subsection 6; and~~

21
23 K. A description of the operations of the authority
pursuant to section 980-A for the most recent calendar year
and of its plans, if any, for revising any allocation system
25 established pursuant to section 980-A.

27 **Sec. 10. 10 MRSA 975-A, sub-§2, ¶¶E and F,** as enacted by PL
1985, c. 344, §25, are amended to read:

29
31 E. Any record obtained or developed by the authority which
contains an assessment by a person who is not employed by
33 the authority of the credit worthiness or financial
condition of any person or project; and

35 F. Any financial statement or business and marketing plan
in connection with any project receiving or to receive
37 financial assistance from the authority pursuant only to
subchapters III or IV, except section 1053, subsection 5, if
39 a person to whom the statement or plan belongs or pertains
has requested that the record be designated confidential.;
41 and

43 **Sec. 11. 10 MRSA §975-A, sub-§2, ¶G** is enacted to read:

45 G. Any record, including any financial statement, business
47 plan or tax return obtained or developed by the authority in
connection with the matching of potential investors with Maine
49 businesses by the authority through its maintenance of a data
base or other record keeping system. For purposes of this
51 section, an application by a potential investor shall not be
deemed to be an application for financial assistance.

1 Sec. 12. 10 MRSA §988-A, 988-B, 1023-F and 1026-H are enacted
to read:

3 §988-A. Natural Resources Capital Investment Fund

5 1. Creation. The Natural Resources Capital Investment Fund
7 is created and established under the jurisdiction and control of
9 the authority.

11 2. Sources of money. There shall be paid into the fund the
following:

13 A. All money appropriated for inclusion in the fund;

15 B. Subject to any pledge, contract or other obligation, all
17 interest, dividends or other pecuniary gains from investment
of money of the fund;

19 C. Subject to any pledge, contract or other obligation, any
21 money which the authority receives in repayment of advances
from the fund; and

23 D. Any other money available to the authority and directed
25 by the authority to be paid into the fund.

27 3. Application of fund. Money in the fund may be applied
to carry out any power of the authority under or in connection
29 with section 988-B, including, without limitation, to pledge or
transfer and deposit money in the fund as security for and to
31 apply money in the fund in payment of principal, interest,
dividends and other amounts due on secured loans or equity
33 interests. Money in the fund may be used for direct loans in
connection with a project eligible under section 988-B. The
35 authority, pursuant to the Maine Administrative Procedure Act,
Title 5, chapter 375, subchapter II, shall adopt rules for
37 determining eligibility, feasibility, terms, conditions and
security for direct loans or secured loans or investments. Money
39 in the fund not needed currently to meet the obligations of the
authority as provided in this section may be invested in a manner
41 permitted by law.

43 4. Accounts within fund. The authority may divide the fund
into separate accounts as it determines necessary or convenient
45 for carrying out this section, including, but not limited to,
accounts reserved for direct loan funds.

47 5. Revolving fund. The fund shall be a nonlapsing,
revolving fund. All money in the fund shall be continuously
49 applied by the authority to carry out this section and section
988-B.

51 §988-B. Natural resources capital investment program

1
3 1. Purpose. The purpose of this section is to establish a
5 program to provide assistance in the financing and development of
7 natural resource projects designed to increase the State's
9 capacity to produce, harvest, store, process, distribute, market
and improve the quality of its natural resource products. The
goal is to expand the opportunities for natural resource
enterprises and promote the quality of Maine products nationally
and internationally.

11 2. Eligible projects. To be eligible for assistance under
13 the program, projects must be located in the State and must
15 consist of the construction, renovation or acquisition of land,
17 buildings, equipment, docks, wharves, piers or vessels used in
19 connection with a commercial natural resource enterprise, as that
term is defined in section 963-A, subsection 41. Financing
assistance may be provided with respect to the soft costs
associated with eligible projects, but not for working capital.

21 3. Eligible borrowers. Eligible borrowers shall include
23 profit and nonprofit businesses, producer groups, cooperatives
and governmental entities.

25 4. Assistance provided. The authority is authorized to
27 provide assistance in the form of direct loans or security for
commercial loans or equity investments, subject to the following
limitations.

29 A. In the case of direct loans, funds may be provided from
31 the fund established under section 988-A for up to 45% of
33 total project costs. Borrowers must contribute at least 10%
35 of total project costs in equity or the equivalent and the
37 balance of project costs may be financed by a lender. The
39 authority may provide that repayment of loans from the fund
41 and the security therefor may be subordinate to the lender
43 loan. The interest rate, other loan terms and conditions
and fees to the authority may be established by the
authority by rulemaking pursuant to the Maine Administrative
Procedure Act, Title 5, chapter 375, subchapter II, provided
that the interest rate is not less than 5% per year and loan
terms do not exceed 10 years for equipment, 20 years for
vessels and 25 years for real estate.

45 B. In the case of security for commercial loans, funds may
47 be provided from the fund established under section 988-A to
49 the lender as collateral for the loan on terms and
51 conditions established by the authority by rulemaking
pursuant to the Maine Administrative Procedure Act, Title 5,
chapter 375, subchapter II, provided that funds deposited
with the lender do not exceed 45% of the total loan. The
authority may also provide funds to a lender as a deposit in
the name of the authority at a reduced rate of interest

1 provided that the interest savings to the lender is passed
3 on to the borrower in the form of a lower interest rate on
4 the loan.

5 C. In the case of security for equity investments, the
6 authority may pledge or deposit money from the fund
7 established under section 988-A as security for up to 30% of
8 a direct equity investment in an eligible borrower on terms
9 and conditions established by the authority by rulemaking
10 pursuant to the Maine Administrative Procedure Act, Title 5,
11 chapter 375, subchapter II.

12 D. Assistance from the fund pursuant to this section may
13 not exceed in aggregate 45% of total project costs of an
14 eligible project. The authority may establish a mechanism
15 for reserving funds for or giving priority to projects in
16 industries or areas of the State deemed to require special
17 assistance.

18 E. Each applicant must demonstrate a reasonable likelihood
19 that it would not be able to obtain financing or investment
20 sufficient for the project's needs on reasonable terms
21 without assistance from the fund, that there is a reasonable
22 likelihood that it will be able to repay the loan or secured
23 investment and that the project will assist in accomplishing
24 the purposes of this subchapter.

25 **§1023-G. Innovation Finance Fund**

26 1. Creation. The Innovation Finance Fund is created and
27 established under the jurisdiction and control of the authority.

28 2. Sources of money. There shall be paid into the fund the
29 following:

30 A. All money appropriated for inclusion in the fund;

31 B. Subject to any pledge, contract or other obligation, all
32 interest, dividends or other pecuniary gains from investment
33 of money of the fund;

34 C. Subject to any pledge, contract or other obligation, any
35 money which the authority receives in repayment of advances
36 from the fund; and

37 D. Any other money available to the authority and directed
38 by the authority to be paid into the fund.

39 3. Application of fund. Money in the fund may be applied
40 to carry out any power of the authority under or in connection
41 with section 1026-H, including, without limitation, to pledge or
42 transfer and deposit money in the fund as security for and to

1 apply money in the fund in payment of principal, interest,
2 dividends and other amounts due on secured loans or equity
3 interests. Money in the fund may be used for direct loans for
4 all or part of a project eligible under section 1026-H. The
5 authority, pursuant to the Maine Administrative Procedure Act,
6 Title 5, chapter 375, subchapter II, shall adopt rules for
7 determining eligibility, feasibility, terms, conditions and
8 security for direct loans or secured loans or investments. Money
9 in the fund not needed currently to meet the obligations of the
10 authority as provided in this section may be invested in a manner
11 permitted by law.

13 4. Accounts within fund. The authority may divide the fund
14 into separate accounts it determines necessary or convenient for
15 carrying out this section, including, but not limited to,
16 accounts reserved for direct loan funds.

17 5. Revolving fund. The fund shall be a nonlapsing,
18 revolving fund. All money in the fund shall be continuously
19 applied by the authority to carry out this section and section
20 1026-H.

23 §1026-H. Innovation finance program

25 1. Purpose. The purpose of this section is to establish a
26 program to provide assistance to credit worthy businesses in the
27 financing and development of new or higher quality products and
28 services, new production and delivery mechanisms and new markets
29 for products and services. The assistance is designed to provide
30 an inducement to businesses to undertake research and
31 development activities to better enable Maine businesses to
32 participate in the new global economy and to be prepared to adapt
33 to changes in the competitive marketplace.

35 2. Eligible projects. To be eligible for assistance under
36 the program, projects must pertain to manufacturing, industrial,
37 recreational or natural resource enterprises, must be located in
38 the State and must consist of research and development associated
39 with new or higher quality products and services, new production
40 and delivery mechanisms and new markets for products and
41 services. Financing assistance may be provided with respect to
42 all costs associated with eligible projects, including working
43 capital.

45 3. Eligible borrowers. To be eligible for assistance under
46 the program, borrowers must be for-profit or nonprofit businesses
47 and must have 50 or fewer employees or annual sales of \$5,000,000
48 or less.

49 4. Assistance provided. The authority may provide
50 assistance in the form of direct loans or security for commercial
51 loans or equity investments, subject to the following limitations:

1
3 A. In the case of direct loans, the authority shall seek to
5 leverage funds from other sources to the extent reasonably
7 possible. Borrowers must obtain or contribute at least 10%
9 of total project costs in equity or the equivalent and the
11 balance of project costs may be financed by a lender. The
13 authority may provide that repayment of loans from the fund
15 and the security therefor may be subordinate to the lender
loan. The interest rate, fees to the authority and other
loan terms and conditions may be established by the
authority by rulemaking pursuant to the Maine Administrative
Procedure Act, Title 5, chapter 375, subchapter II, provided
that the loan amount does not exceed \$200,000 per borrower,
the interest rate is not less than 5% per year and the loan
term does not exceed 10 years.

17 B. In the case of security for commercial loans, funds may
19 be provided from the fund established under section 1026-G
21 to the lender as collateral for the loan on such terms and
23 conditions as may be established by the authority by
25 rulemaking pursuant to the Maine Administrative Procedure
27 Act, Title 5, chapter 375, subchapter II, provided that
29 funds deposited with the lender do not exceed 45% of the
31 total loan. The authority may provide that the lender may
apply the deposited money from the fund to the loan in the
event of default prior to application of collateral to the
loan. The authority may also provide funds to a lender as a
deposit in the name of the authority at a reduced rate of
interest provided that the interest savings to the lender is
passed on to the borrower in the form of a lower interest
rate on the loan.

33 C. In the case of security for equity investments, the
35 authority may pledge or deposit money from the fund
37 established under section 1026-G as security for up to 30%
39 of a direct equity investment in an eligible borrower on
terms and conditions established by the authority by
rulemaking pursuant to the Maine Administrative Procedure
Act, Title 5, chapter 375, subchapter II.

41 D. The authority may establish a mechanism for reserving
43 funds for or giving priority to projects in industries or
areas of the State deemed to require special assistance.

45 E. Each applicant must demonstrate a reasonable likelihood
47 that it would not have been able to conduct the project at
49 the same level without assistance from the fund, that there
51 is a reasonable likelihood that it will be able to repay the
loan or secured investment from current operations and not
from the income anticipated from the project and that the
project will likely result in significant public benefit in
the form of increased opportunities for employment,

1 particularly skilled employment, enhanced markets outside
2 the State for Maine products and services, benefits to the
3 industry of which the borrower is a part or a material
4 contribution to a business with an above average rate of
5 growth.

7 **Sec. 13. 10 MRSA §1032, sub-§6**, as enacted by PL 1987, c. 697,
8 §9, is amended to read:

9
10 6. **Obligations outstanding.** The authority shall not have
11 at any one time outstanding obligations to which this section is
12 stated in any agreement of the authority to apply in principal
13 amount exceeding \$50,000,000 \$75,000,000, less the amount of
14 revenue obligation securities to which section 1053 is stated in
15 the trust agreement or other document to apply. Amounts of
16 revenue obligations securities which are not taken into account
17 pursuant to section 1053, subsection 6, shall not be taken into
18 account for purposes of determining the amount which may be
19 outstanding under this section.

21 **Sec. 14. 10 MRSA §1053, sub-§6**, as amended by PL 1987, c. 697,
22 §13, is further amended to read:

23
24 6. **Securities outstanding.** The authority shall not have at
25 any one time outstanding revenue obligation securities to which
26 subsection 5 is stated in the trust agreement or other document
27 to apply in principal amount exceeding an amount equal to
28 \$50,000,000 \$75,000,000 less the aggregate outstanding balance of
29 mortgage loans secured by capital reserve funds pursuant to
30 section 1032. The amount of revenue obligation securities issued
31 to refund securities previously issued shall not be taken into
32 account in determining the principal amount of securities
33 outstanding, provided that proceeds of the refunding securities
34 are applied as promptly as possible to the refunding of the
35 previously issued securities. In computing the total amount of
36 revenue obligation securities of the authority which may at any
37 time be outstanding for any purpose, the amount of the
38 outstanding revenue obligation securities that have been issued
39 as capital appreciation bonds or as similar instruments shall be
40 valued as of any date of calculation at their then current
41 accreted value rather than their face value.

43 **Sec. 15. Appropriation.** The following funds are appropriated
44 from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
47		
48		
49		
50		
51		

FINANCE AUTHORITY OF MAINE
Pine Tree Partnership
Fund Board

1			
3	All Other	\$250,000	
5	Natural Resources Capital Investment Fund		
7	All Other	\$1,000,000	\$1,000,000
9	Innovation Finance Fund		
11	All Other	\$500,000	\$500,000
13			
15	FINANCE AUTHORITY OF MAINE TOTAL	<u>\$1,750,000</u>	<u>\$1,500,000</u>

17

19

STATEMENT OF FACT

21

The purpose of this bill is primarily to improve the operation of the programs of the Finance Authority of Maine and the Pine Tree Partnership Fund Board. The bill would establish two major new programs within the Finance Authority of Maine to provide needed financing assistance to Maine businesses, with an emphasis on equipping them for the challenges of international trade and the global economy. The bill also clarifies the Finance Authority of Maine Act in certain respects.

29

Sections 1 through 3 of the bill pertain to the Pine Tree Partnership Fund, a technology development grant program administered by the Pine Tree Partnership Fund Board with the assistance of the Finance Authority of Maine. Section 1 would allow the board some flexibility in establishing some exclusions from the eligibility limitation on net worth. Section 2 would increase maximum grant size from \$5,000 to \$15,000. Section 3 would extend the program from December 31, 1990, to December 31, 1992. Finally, the bill would appropriate an additional \$250,000 for the program in the current fiscal year.

41

Sections 4 and 5 of the bill make some clarifying changes regarding the programs administered by the Finance Authority of Maine and the divisions within the authority. Sections 7 through 10 make technical conforming changes and eliminate references to the Maine Natural Resource Capital Corporation which has been eliminated.

47

Sections 6 and 11 pertain to the authority's matching service for investors and businesses seeking investors. Section 6 explicitly confirms that the authority has the power to provide the service, and section 11 provides that records in possession

51

1 of the authority in connection with participants in the service
are confidential.

3

5 The natural resources capital investment program is
7 established in section 12. Section 12 establishes a separate
9 fund under jurisdiction of the Finance Authority of Maine and
11 authorizes money in the fund to be used for direct loans, as
13 security for loans by other lenders and as security for equity
15 investments. Section 12 also establishes eligibility criteria.
17 Modeled on the Potato Marketing Improvement Fund, the natural
resources capital investment program provides assistance to
natural resources enterprises for capital investment projects
designed to increase the State's capacity to produce, harvest,
store, process, distribute and market quality Maine produce.
Money from the fund must not exceed 45% of total project costs.
The bill provides for appropriations of \$1,000,000 per year in
both this fiscal year and next.

19 Section 12 also establishes the Innovation Finance Fund and
21 a separate fund, designed to provide financial assistance to
23 credit worthy Maine businesses to encourage the development of
25 new products and services, higher quality products, new markets,
27 both nationally and internationally, and increased productivity.
29 In order to survive and thrive in the global economy, Maine
31 businesses must continue to undertake research and development
33 and continually seek and develop new, international markets for
their products and services. The Innovation Finance Fund will
provide some necessary assistance and an incentive to undertake
such activities. Assistance from the fund may be in the form of
direct loans, security for loans from other lenders or security
for portions of equity investments. The bill provides for
appropriations of \$500,000 each in fiscal years 1989-90 and
1990-91 to capitalize the fund.

35 Sections 13 and 14 increase from \$50,000,000 to \$75,000,000
37 the amount of moral obligation credit enhancement available to
the authority for its loan guarantee and SMART-E tax-exempt and
taxable bond programs.

39

41 Finally, section 15 provides for appropriations to the Pine
43 Tree Partnership Fund, the Natural Resources Capital Investment
Fund and the Innovation Finance Fund to permit or continue the
programs established by the bill.