

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2125

H.P. 1485

House of Representatives, March 30, 1999

**An Act to Implement the Recommendations of the Target Industries
Committee to Promote Research and Development Activities in Maine.**

Reference to the Joint Select Committee on Research and Development and the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Speaker ROWE of Portland.
Cosponsored by President LAWRENCE of York and
Representatives: BELANGER of Caribou, COWGER of Hallowell, HONEY of Boothbay,
STEVENS of Orono, TESSIER of Fairfield, TOBIN of Dexter, TRIPP of Topsham, Senator:
CATHCART of Penobscot.

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

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Sec. 1. 5 MRSA §12004-G, sub-§33-D is enacted to read:

<u>33-D.</u>	<u>Maine</u>	<u>Expenses</u>	<u>5 MRSA</u>
<u>Technology</u>	<u>Technology</u>	<u>Only</u>	<u>§15201</u>
<u>Institute</u>	<u>Institute</u>		

Sec. 2. 5 MRSA c. 406 is enacted to read:

CHAPTER 406

RESEARCH AND DEVELOPMENT

§15200. Definitions

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

1. Institute. "Institute" means the Maine Technology Institute.

2. Targeted technologies. "Targeted technologies" means biotechnology, marine sciences and aquaculture, composite materials engineering, environmental sciences and technology, advanced technologies for forestry and agriculture, information sciences and technology and precision manufacturing technologies.

§15201. Establishment

The Maine Technology Institute, as established in section 12004-G, subsection 33-D, is created as a nonprofit corporation with public and charitable purposes. The duties, activities and operations of the institute are within the provisions of the federal Internal Revenue Code, Section 501(c)(3).

§15202. Purpose

The institute, through a public and private partnership, shall encourage, promote, stimulate and support research and development activity leading to the commercialization of new products and services in the State's technology-intensive industrial sectors to enhance the competitive position of those sectors and to create new jobs for Maine people.

§15203. Board of directors

The institute is governed and all of its powers exercised by a board of directors, referred to in this chapter as the "board," consisting of 11 voting members and one nonvoting member, appointed as follows:

2 1. Gubernatorial appointments. The Governor shall appoint
7 directors from the targeted technologies;

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6 2. Ex officio voting members. The Commissioner of Economic
and Community Development or the commissioner's designee, the
8 President of the Maine Science and Technology Foundation or the
president's designee, the Chancellor of the University of Maine
10 System or the chancellor's designee and the Director of the State
Planning Office or the director's designee are ex officio voting
12 directors; and

14 3. Nonvoting member. The President of the Senate and the
Speaker of the House of Representatives shall jointly appoint one
16 member of the Legislature to the board as a nonvoting director.
Notwithstanding section 12004-G, subsection 33-D, the legislative
18 director is not entitled to any compensation as a member of the
board.

20 **§15204. Terms**

22 Directors of the board appointed by the Governor are
24 appointed for 6-year terms. The initial appointments of the
Governor are staggered as follows: 3 of the directors must be
26 appointed for 2-year terms, 2 for 4-year terms and 2 for 6-year
terms. Those members may serve no more than 2 consecutive
28 terms. Directors who serve on the board by virtue of their
offices shall serve terms coincident with their terms in office.
30 The legislative member must be appointed at the start of each new
Legislature.

32 **§15205. Officers**

34 The board shall elect a chair, a vice-chair, a secretary and
36 a treasurer from among its members. Each officer serves for a
one-year term and is eligible for reelection. The president of
38 the institute is appointed by the board and serves at the
pleasure of the board. The president is a director and chief
40 executive officer of the institute. The president may not be
appointed from among the other directors.

42 **§15206. Quorum**

44 A majority of the voting directors constitutes a quorum for
46 the transaction of business.

48 **§15207. Executive committee**

50 The board may elect an executive committee of not less than
52 6 members who, in intervals between meetings of the board, may
transact such business of the institute as the board may
authorize from time to time.

2 **§15208. Report**

4 The institute shall report annually on its activities to the
6 joint select or joint standing committee of the Legislature
 having jurisdiction over research and development matters.

8 **§15209. Duties of institute**

10 The institute:

12 1. Fiscal agent for public investments in private research
14 and development. Is the fiscal agent of the State for all funds
16 appropriated to the institute. Fiscal duties include the
18 disbursement of funds through grants and the accounting,
20 evaluation and monitoring of all activities of the institute and
22 all programs funded in whole or in part by grants from the
 institute. The institute may fund necessary precursors to
 commercialization of products and services, including the
 development of new technologies and processes, the development of
 product concepts and the manufacture of prototypes;

24 2. Work with targeted industries. Shall work directly with
26 the targeted technology sectors to stimulate and manage the
28 research and development grant process in private companies
 through sector-specific boards. If the board determines it
 necessary, the institute shall provide start-up organizational
 and development grants to those technology sectors;

30 3. Support private sector boards. Shall encourage the
32 development of and support existing private sector boards
34 involved in technology development by identifying promising
36 technologies, soliciting competitive funding proposals and
 funding those proposals that are most likely to lead to
 commercialization of a new technology or product.

38 The institute shall develop quantifiable measures of performance
40 to which it will hold all grantees accountable, such as the
42 number of new jobs created by the grant, amount of sales
44 generated, number of patents produced or amount of corporate
 income taxes paid, and shall require all grantees to report
 regularly to the institute on those measures during the grant
 period and for 5 years following the end of the grant period;

46 4. Adoption of bylaws. Shall adopt bylaws, through the
48 board, consistent with this chapter for the governance of its
 affairs. The board has the general powers accorded corporations
 under Title 13-A, section 202;

50 5. Employees. Shall fix, through the board, the
52 compensation of all employees of the institute; and

2 6. Other duties. Shall do all things necessary or
3 convenient to carry out the lawful purposes of the institute
4 under this chapter.

6 **§15210. Powers**

8 The institute may:

10 1. Suit. Sue or be sued in its own name;

12 2. Application for and receipt of funds. Apply for and
13 receive funds from any private source or governmental entity,
14 whether by way of grant, donation, loan or any other manner. The
15 State Controller shall pay the institute's total state allotment
16 for each fiscal year to the institute on July 1st of that year;

18 3. Invest funds. Invest, reinvest and use on behalf of the
19 institute and for any of its purposes funds received from any
20 source for carrying out this chapter, including the use of funds
21 for program and administrative costs, and expand interest
22 earnings on those funds as appropriate to implement this chapter;

24 4. Real and personal property. Purchase, seek, receive,
25 hold, lease, acquire by foreclosure, operate, manage, license,
26 sell, convey, transfer, grant or lease real and personal
27 property, together with those rights and privileges that may be
28 incidental and appurtenant to the property and the use of the
29 property, including, but not limited to, any real or personal
30 property acquired by the institute from time to time in the
31 satisfaction of debts or enforcement of obligations;

32 5. Expenditures and obligations regarding real and personal
33 property. Make all expenditures and incur any obligations
34 reasonably required in the exercise of sound business principles
35 to secure possession of, preserve, maintain, insure and improve
36 real and personal property or interest in real and personal
37 property acquired by the institute;

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

45 7. Encumbrance of property. Mortgage, pledge or otherwise
46 encumber any property right or thing of value acquired pursuant
47 to the powers contained in subsection 3, 4 or 5 as security for
48 the payment of any part of the purchase price of the property
49 right or thing of value;

2 8. Equity investments and loans. Make direct equity
4 investments in or loans to science-oriented and
technology-oriented small businesses in the State or in joint
ventures in research and development activities in the State;

6 9. Contracts and liabilities. Make contracts, including
8 contracts for services, and incur liabilities for any of the
purposes authorized in those contracts;

10 10. Debt. Borrow money for any of the purposes authorized
12 in this chapter; incur debt, which includes the issuance of
bonds, debt, notes or other evidences of indebtedness, whether
14 secured or unsecured; and secure the same by mortgage, pledge,
deed of trust or other lien on its property, rights and
16 privileges of every kind and nature or any part of or interest in
any of them;

18 11. Seal. Have and use a corporate seal; and

20 12. Other powers. Do any act or thing necessary or useful
22 for carrying out any of its powers, duties or purposes.

24 **§15211. Limitation of powers**

26 The institute may not enter into contracts, obligations or
28 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
30 other power not provided to business corporations generally.
Bonds, notes and other evidences of indebtedness of the institute
32 may not in any way be a debt or liability of the State or
constitute a pledge of the faith and credit of the State. The
34 institute may not expend more than 7% of funds appropriated by
the State for management and related operating costs of the
institute.

36 **§15212. Liability of officers, directors and employees**

38 All officers, directors, employees and other agents of the
40 institute entrusted with the custody of the securities of the
institute or authorized to disburse the funds of the institute
42 must be bonded either by a blanket bond or by individual bonds
with a minimum limitation of \$100,000 coverage for each person
44 covered by the bond or bonds, conditioned upon the faithful
performance of their duties. The premiums for the bond or bonds
46 must be paid out of the assets of the institute.

48 **§15213. Prohibited interests of officers, directors and employees**

50 An officer, director or employee of the institute or a
spouse or dependent child of any of those individuals may not
52 receive any direct personal benefit from the activities of the
institute in assisting any private entity. This section does not

2 prohibit corporations or other entities with which an officer or
3 director is associated by reason of ownership or employment from
4 participating in science and technology activities with the
5 institute if ownership or employment is made known to the board
6 and the officer or director abstains from voting on matters
7 relating to such participation. This prohibition does not extend
8 to corporators who are not officers or directors of the institute.

10 **§15214. General conditions; dissolution**

11 The institute shall operate as a nonprofit organization
12 consistent with its composition and broad public purposes. The
13 following conditions apply to the operation or dissolution of the
14 institute.

15 1. Net earnings of institute. No part of the net earnings
16 of the institute may benefit any member, officer, director or
17 employee except that the institute may pay reasonable
18 compensation for services rendered and otherwise hold, manage and
19 dispose of its property in furtherance of the purposes of the
20 institute.

21 2. Dissolution of institute. The institute and its
22 corporate existence are terminated on December 31, 2006. On that
23 date, all property purchased with General Fund money and
24 unexpended General Fund appropriations must be transferred to the
25 State before paying or making provision for the payment of all
26 other liabilities of the institute. All other property and
27 unexpended funds must be handled according to the provisions
28 outlined in the bylaws of the institute.

30 **§15215. Liberal construction**

31 This chapter must be construed liberally to effect the
32 interest and purposes of the institute for an improved science
33 and technology capacity-building effort in the State and must be
34 broadly interpreted to effect that intent and those purposes.

35 **Sec. 3. Appropriation.** The following funds are appropriated
36 from the General Fund to carry out the purposes of this Act.

	1999-00	2000-01
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44	MAINE TECHNOLOGY INSTITUTE	
45		
46	Appropriates funds to the	
47	Maine Technology Institute	
48	for operation of the	
49	institute and grants to	
50	private entities for the	
	\$15,000,000	\$15,000,000

development and production
of new technologies in Maine.

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SUMMARY

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This bill implements the recommendations of the Target Industries Committee of the Maine Science and Technology Foundation. These recommendations were developed by the Target Industries Committee at the request of the Joint Select Committee on Research and Development and submitted to that committee in draft form on January 29, 1998.

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The bill establishes the Maine Technology Institute as a private nonprofit corporation with a public purpose. The institute is governed by a board of 7 private sector members appointed by the Governor, the Commissioner of Economic and Community Development, the Chancellor of the University of Maine System, the President of the Maine Science and Technology Foundation, the Director of the State Planning Office and one member of the Legislature appointed by the Speaker and the President who serves as a nonvoting member.

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The bill appropriates \$15,000,000 in each fiscal year of the biennium to the institute and authorizes the institute to disburse the money on a competitive basis to private sector organizations involved in the development or production of new technologies. The institute is required to report annually to the Legislature on its financial operations and on the use of funds by its grantees. The institute is also prohibited from spending more than 7% of those funds on its own operations.

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The general corporate powers and duties of the institute as a nonprofit corporation with a public purpose are modeled after those established in law for the Maine Science and Technology Foundation and include the right to hire staff and establish salaries, to sue and be sued, to enter into contracts, to incur debt and otherwise generally exercise the powers of other corporations as provided under law.

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The bill dissolves the institute after 7 years, on December 31, 2006, and on that date returns to the State all property purchased with General Fund appropriations and transfers to the General Fund all unencumbered appropriations.

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