

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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Augusta, Maine
1995

CHAPTER 445

S.P. 511 - L.D. 1370

**An Act to Promote Long-term
Economic Development through the
Establishment of the Maine
Technology Investment Fund**

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

Sec. 1. 5 MRSA §13122-I is enacted to read:

§13122-I. Plan

The foundation shall develop and submit to the Governor and the Legislature by January 1, 1996 and the first day of the first legislative session of each biennium thereafter:

1. Action plan. An action plan for the application of science and technology to improve the State's position in the global economy. The plan must be based on the State's overall economic development strategy as determined by the Commissioner of Economic and Community Development. The action plan must identify specific steps that public and private institutions must implement to improve the State's science and technology infrastructure. The plan must also identify action steps that could be implemented immediately without new state appropriations and resources and action steps that will require new state appropriations or major reallocation of state appropriations and resources.

The action plan must include numerical objectives, costs and an evaluation protocol. The plan must also include a provision for assigning and ensuring accountability for those who receive state funds through the foundation. In the preparation of this plan, the foundation shall seek the advice of state agencies, the Maine Economic Growth Council, the University of Maine System and the business, education and research communities; and

2. Report card. A report card that:

A. Compares the State's science and technology infrastructure standing to that of other states, based on the results of all independent organizations or reports that make such comparisons and on any other appropriate comparisons as determined by the foundation and those agencies with which the foundation is directed by this section to consult;

B. Assesses the performance of the State and those who receive state funds in meeting the goals, objectives and action steps outlined in the action plan; and

C. Makes recommendations for improving the results shown on the report card.

Sec. 2. 5 MRSA §13131 is enacted to read:

§13131. Establishment of the Maine Technology Investment Fund

The Maine Technology Investment Fund is established within the Maine Science and Technology Foundation to strengthen employment opportunities in the State by increasing the science and technology investment level through partnerships among the State Government, private enterprise, the Federal Government and private and public research institutions. The fund may be used to match federal, foundation or other grants and to invest directly in market-oriented technology extension, commercialization and development opportunities.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Enterprise" means a firm doing business in this State that is engaged or proposes to be engaged in this State in value-added agricultural, natural resource-based or other manufacturing, research and development, or in the provision of knowledge-based services.

B. "Fund" means the Maine Technology Investment Fund.

C. "Intellectual property" means any legal protectable materials, including any new information, technologies, inventions, designs, works of authorship, any strain, variety or culture of an organism, or any portion, modification, translation or extension of these items, any processes, mineral discoveries and other legally protectable materials, including know-how and trade secrets, that are generated as a direct and indirect result of investments made by the foundation through contracts, grants or any other legal agreement.

D. "Protection of intellectual property rights" means protecting the foundation's rights to intellectual property through intellectual property protection mechanisms, including, but not limited to, patents, copyrights, trademarks, trade secrets and licensing rights.

E. "Technology commercialization" means the process of bringing an investment-grade technology out of an enterprise or a private or public laboratory for first-run application in the marketplace.

F. "Technology development" means strategically focused research aimed at developing

investment-grade technologies essential to market competitiveness. "Technology development" does not refer to basic research, but rather to products, devices, techniques or processes that have advanced beyond the theoretical stage and are in a prototype or industry practice stage.

G. "Technology extension" means the introduction and adaptation of off-the-shelf technologies and state-of-the-art management practices to the specific circumstances of individual firms.

2. Organization. The board of directors of the foundation has all the powers and authority, not explicitly prohibited by law, necessary or convenient to carry out and effectuate the functions, duties and responsibilities of the fund, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

(1) Increase the rate of technology extension across manufacturing and other knowledge-based firms throughout the State;

(2) Increase the amount of technology development occurring in the State; and

(3) Increase the rate at which technologies with potential commercial application are moved out of private and public laboratories into the marketplace;

B. Soliciting, borrowing, accepting and receiving money from any public or private source to augment state contributions to the fund;

C. Approving an annual budget for the fund and investing and expending money from within the fund;

D. Contracting with public entities as necessary to further the directives of this section;

E. Carrying forward any unexpended state appropriations into succeeding fiscal years;

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature within the annual report of the foundation, setting forth:

(1) The operations and accomplishments of the fund during the fiscal year;

(2) A capitalization target for the fund to enable the State to achieve and maintain competitiveness with other states;

(3) The assets and liabilities of the fund at the end of its most recent fiscal year; and

(4) The operations, costs and net income or loss of the direct investment pool as described in subsection 3 and federal and nonstate matching funds;

G. Owning intellectual property, licensing intellectual property, and negotiating for and collecting royalty rights or otherwise realizing a return on investment made under the fund and all programs of the foundation when appropriate in order to promote the interests and investments of the State in furthering science and technology; and

H. Protecting all proprietary information contained in proposals, contracts and grants or any other legal agreement only when such information is likely to involve patentable material that loses its protectable nature when presented in a public forum.

3. Authorized activities. The board of directors of the foundation shall allocate the resources of the fund to, and has the power to transfer resources between:

A. Matching grants activities, including, but not limited to, federal, private and foundation awards for technology extension, science and technology development and technology commercialization activities that require state funding matches and are considered consistent with the purposes of the fund. Focus areas for investment include, but are not limited to: marine sciences and technologies; environmental sciences, technologies and engineering; sensor and materials sciences and technologies; wood science and engineering; genetics and immunology; and metals and electronics; and

B. Direct investment activities that demonstrate and develop effective approaches to commercially oriented science and technology development and commercialization efforts conducted collaboratively among the State Government, as represented by the fund, private enterprise, the Federal Government and private and public research institutions in accordance with the following:

(1) The board of directors of the foundation shall direct funds to commercial activities with high growth potential, including, but not limited to, agriculture, food processing and sustainable fisheries, including aquaculture; electronics and metals manufacturing; energy and environmental technologies; biotechnology,

biomedicine and biomaterials from the sea; and forest products;

(2) Separate accounts must be established by the foundation for the direct investment pool. The board of directors of the foundation shall endeavor to maintain the resources dedicated to direct investment activities as a self-supporting pool once the pool and the overall fund have been sufficiently capitalized as reflected in the annual report;

(3) The foundation shall limit its direct investment activities to qualified securities in private enterprises or public or private laboratories in this State. Qualified securities include loans, royalty agreements or any other contractual arrangement allowed by law between the foundation and a federal, state, county or municipal agency, or any individual, corporation, enterprise, association or other entity involving technology development; and

(4) The foundation shall, from time to time, release a program solicitation that describes eligible activities and eligible organizations. All proposal and review criteria, procedures and schedules must be included in the program solicitation.

4. Guidelines. The board of directors of the foundation shall establish guidelines for:

A. The amounts of the revenues generated by the investment of money contained in the fund that may be used to pay the foundation's operating expenses associated with the operation of the fund. The operating expenses may not exceed the indirect cost rate negotiated between the foundation and its cognizant federal agency; and

B. Cash and in-kind match requirements based on the activities to be supported with the fund. The foundation shall strive to achieve a minimum match of 1:1, on an annual basis, for matching grant activities supported under the fund.

5. Liquidation and dissolution. In the event of liquidation or dissolution of the foundation or the fund, any rights or interests in a qualified security or portion of a qualified security purchased with money invested by the State vest in the State. The State is entitled to, in proportion to the amount of investment in the fund by the State, any balance of money remaining in the fund after payment of all debts and

obligations upon liquidation or dissolution of the foundation or the fund.

See title page for effective date.

CHAPTER 446

H.P. 802 - L.D. 1119

An Act to Increase the Formula Used for ATV's and Snowmobile Reimbursement

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

Sec. 1. 36 MRSA §2903-B, as amended by PL 1987, c. 772, §28, is further amended by inserting at the end a new paragraph to read:

In addition to the set aside of .5% of the total excise tax on internal combustion fuel sold or used within this State, the Legislature finds that an additional percentage of .17% must be paid to the Treasurer of State to be made available to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Recreation, established under Title 12, section 7824.

Sec. 2. 36 MRSA §2903-C is enacted to read:

§2903-C. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the all-terrain vehicle user, is estimated to be not less than .045% of the total "gasoline tax" revenue. Based on this estimate, there is set aside .045% of the total excise tax on internal combustion engine fuel sold within this State, not including internal combustion fuel sold for use in the propulsion of aircraft. This .045% allocation must be expended for the purposes required by Title 12, section 7854, subsection 4, paragraph B. The State Tax Assessor shall certify to the State Controller by the 15th day of each month the amounts to be credited under this section as of the close of the State Controller's records for the previous month.

Sec. 3. Allocation. The following funds are allocated from tax revenues on internal combustion engine fuel to carry out the purposes of this Act.

1995-96 1996-97

CONSERVATION,
DEPARTMENT OF