

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Econ. Development

the

LE
Shelf
1982

STANDARD LIBRARY
AUGUST 12, 1982
AUGUSTA, MAINE

C.1

REPORT OF THE JOINT STANDING
COMMITTEE ON TAXATION
ON ITS STUDY OF THE MAINE
DEVELOPMENT FOUNDATION

110TH LEGISLATURE
COMMITTEE ON TAXATION

SENATE MEMBERS

THOMAS M. TEAGUE, SOMERSET, CHAIRMAN
JEROME A. EMERSON, PENOBSCOT
FRANK P. WOOD, YORK

HOUSE MEMBERS

BONNIE POST, OWL'S HEAD, HOUSE CHAIRMAN
R. DONALD TWITCHELL, NORWAY
EDWARD J. KANE, SOUTH PORTLAND
KAREN L. BROWN, BETHEL
JOHN E. MASTERMAN, MILBURN
THOMAS A. KILCOYNE, GARDINER
RUSSELL R. DAY, WESTERBROOK
MARTIN HAYDEN, DURHAM
H. CRAIG HIGGINS, PORTLAND
GENNETTE M. INGRAHAM, HOULTON

C

TABLE OF CONTENTS

STATE LAW LIBRARY
AUGUSTA, MAINE

	<u>PAGE</u>
I. Summary.....	1
II. Introduction and Background.....	2
III. Findings.....	4
A. Chronology of Foundation events.....	4
B. Major programs and projects.....	4
C. Financial data relating to the Foundation.....	6
D. Comparison of programs with statutory purposes...	11
IV. Recommendations.....	12
 Appendix 1 -- The text of the law requiring this study (P.L. 1977, Chapter 548, Section 2).....	 13
Appendix 2 -- The text of the Law establishing the Maine Development Foundation (10 MRSA, Chapter 107).....	 14
Appendix 3 -- Preliminary Report of the Maine Development Foundation and Maine Capital Corporation Submitted to the Joint Standing Committee on Taxation.....	 24
Appendix 4 -- Legislation to implement the Committee's recommendation.....	 35

I. SUMMARY

The Maine Development Corporation was established in Law in 1977, in response to unfavorable economic conditions and unrealized economic opportunities, as a not-for-profit corporation that is a partnership of the public and private sectors with a public purpose.

The Committee has an operational history of about 2 years, following a period of organization. During the operational period, the Foundation worked on "major projects " (activities with widespread economic impact affecting an entire industry or a major facility, including assistance to establish the Maine Capital Corporation; and on assistance to individual companies, communities, and development groups.

The Foundation has operated on a combination of public and private funds. The State has appropriated \$550,000, of which about \$318,000 was used through 1981. The State funds are used to match fees paid by corporators of the Foundation. In addition, funds have been earned through grants and contracts with Federal and State governments and private organizations.

On the basis of its study, the Committee recommends:
(1) that the Maine Capital Corporation and its related tax legislation be subject to legislative review during the same period as the Legislature's "sunset" review of the Maine Development Foundation; and (2) that the Foundation's statutory purpose of "...promotion of an improved climate for economic development in the State..." be changed to regulate the use of State or other funds available to the Foundation to lobby the Legislature or to advocate to the public a position on initiative and referendum questions.

II. INTRODUCTION AND BACKGROUND

Public Law 1977, Chapter 548 enacted the Maine Development Foundation (MDF). Section 2 of that Law required that a Joint Standing Committee of the Legislature assigned by the Legislative Council prepare and submit to the Legislature not later than January 15, 1982, an evaluation report on the Maine Development Foundation (the text of the Section 2 requirement is at Appendix 1). The study was assigned to the Joint Standing Committee on Taxation and this is the evaluation report of that Committee.

The MDF was established in response to the State's "...long ...serious condition of unemployment, underemployment, low per capital [sic] income and resource underutilization..." It was to "...establish a new basis for a creative partnership of the private and public sectors for economic development, a partnership which can capitalize on the interests, resources, and efforts of each sector, but which does not compromise the public interest or the profit motive..." (10 MRSA §915).1/

It was to be a "...not-for-profit corporation with a public purpose... [carrying out powers deemed to be]...an essential governmental function..." MDF was to "...carry out its purposes in complement to and in coordination with the economic development activities of the private sector, community and regional agencies and State Government..." (10 MRSA §916).

MDF was to "...provide services to the State and to quasi-public, public and private entities, and to foster, assist and participate in efforts for economic growth and revitalization, including, but not limited to, providing for stimulating the provision of ...[:]"

1. Management and technical assistance;
2. Debt and equity capital;
3. New product development and marketing;
4. Industrial land and buildings;
5. Economic opportunities;
6. A climate for economic development; and
7. Coordination of development efforts (10 MRSA §917).

1/ The text of the Law establishing the Maine Development Foundation is at Appendix 2.

The MDF has private, public, and ex officio corporators; a board of directors; and a president who is the chief executive officer of the Foundation (30 MRSA §918-919).

The powers of the Foundation are broad, and include powers to:

1. Sue and contract;
2. Use grants, donations, and loans from, and fees charged for services provided to, public and private entities;
3. Acquire and dispose of real and personal property, including equity investments; and
4. Borrow and lend (10 MRSA §920).

III. FINDINGS

The Committee took up the MDF Study at several of its meetings. It requested written material and oral testimony from officers and directors of the Foundation. In addition, individual committee members attended meetings and held discussions relating to the study. On the basis of these efforts, the Committee presents to the Legislature findings of 4 kinds:

- A. A chronology of Foundation events since its establishment;
- B. A description of the major programs and projects undertaken by the Foundation;
- C. Financial data relating to the Foundation; and
- D. A comparison of major programs and projects with statutory purposes.

A. Chronology of Foundation events -- The MDF was authorized by law 4 years ago, but has an operational history only of slightly more than 2 years (since October, 1979). The concept of a development foundation was proposed by Governor Longley's Economic Advisory Committee in 1975. Legislation establishing the MDF was passed in June, 1977. During the Winter of 1977 and 1978 a committee appointed by Governor Longley completed the organizing work, appointing the first President of the Foundation in October, 1978. Four months later the President resigned for family medical reasons. In June of 1979 the current President, Nathaniel Bowditch, was appointed. In October, 1979 was held the first meeting of the MDF corporators, at which the first Board of Directors was elected. This marked the beginning of the operational history of the Foundation. Appendix 3 contains a Preliminary Report... to the Taxation Committee, which includes a more detailed chronology.

B. Major programs and projects -- The Maine Development Foundation has conducted 2 types of activities during the roughly 2 years of operating history: (1) "major projects," which MDF identifies as activities with a widespread economic impact, concerning an entire industry or the development of a major facility; and (2) assistance to individual companies, communities, and development groups. Illustrations of these activities are described below:

1) Major projects

- a) Paper and wood converting industries -- MDF, in corporation with State government agencies, investigated the prospect of increasing the value added to wood fiber before it is shipped out of State, resulting in identification of industries and companies representing opportunities for expansion.

b) Fishing industry -- Working with the fishing industry and State agencies, worked on projects to improve marketing and processing activities.

c) Poultry industry -- In corporation with the industry and State agencies, the MDF evaluated the feasibility of the industry and centralized feed grain facilities.

d) Port development -- In cooperation with port development interests and State agencies, the Foundation worked on projects to secure financing for development of Searsport Island as a cargo port and industrial complex.

e) Maine Capital Corporation -- The MDF participated in implementing the Maine Capital Corporation, including the sale of \$1 million in stock, and provided the staff services for the Corporation during its first year's existence (until September, 1981). The Capital Corporation now has its own staff.

2) Assistance to individual companies, communities, and development groups

a) Trade adjustment assistance -- The MDF helped secure \$8 million in technical and financial assistance from State and regional agencies under a Federal program to assist industries damaged by imports.

b) Client services -- In conjunction with private and public development and business organizations, assisted individual companies, communities, and development organizations, usually to obtain public or private financing for projects or to promote industrial property.

c) World trade -- Provided administrative support services for U.S. Department of Commerce export development activities in Maine.

The above description of programs and projects is summarized from a more detailed description that is provided in Appendix 3.

C. Financial data relating to the Foundation -- Table 1 shows the source of funds and application of funds by program, by the Maine Development Foundation.

As Table 1 indicates, there are 3 major "sources of funds": State appropriations (called "State match" on the Table), corporators fees, and grants and contracts.

The State has appropriated \$550,000 for the MDF, as follows:

FY 1977-1978	\$100,000
FY 1978-1979	250,000
FY 1980-1981	200,000
Total	<u>\$550,000</u>

It is estimated that \$318,427 of that amount has been spent through 1981 (i.e., the sum of the entries on top line 4 on Table 1), leaving an unused balance of roughly \$241,573 at January 1, 1982.

Corporation fees are paid according to a schedule in the statutes (see 10 MRSA §918). The State matches this amount from the State appropriation -- that is the reason that the amounts on lines 2 and 4 at the top of Table 1 are the same.

Funds from "grant and contract" are shown in Table 1 on the basis of the basis of amounts "earned" in each year, rather than the amount "available". The amount available would be equal to, or greater than, the amount earned. Table 2 shows each grant and contract source, and is reconciled to line 3 at the top of Table 1. Through 1981, the Maine Development Foundation earned funds through grants and contracts with:

1. The New England Regional Commission;
2. The U.S. Department of Commerce's Trade Adjustment Program;
3. Maine State Government; and
4. The Maine Capital Corporation.

Table 1 also shows the application of those funds by programs, and an indication of the total financial level of programs conducted by MDF. Table 3 shows the sources of funds for each of the programs on Table 1. Not every program uses fees from each major source: some programs were conducted entirely with contract or grant funds -- the poultry industry study in 1980, and the trade adjustment assistance program, for example.

TABLE 1

MAINE DEVELOPMENT FOUNDATION
Source and Application of Funds

Line Number	ITEM	CALENDAR YEARS			
		1978	1979	1980	1981 Estimated
<u>Source of Funds</u>					
1	Carried in from previous yr.	--	13,637	51,869	61,196
2	Corporator Fees	6,083	91,521	105,985	114,838
3	Grants & Contracts	38,247	26,589	163,569	191,875
4	State Match	6,083	91,521	105,985	114,838
5	Other	--	1,280	2,713	4,152
6	Interest	--	1,005	1,155	1,768
7	Total	50,413	225,553	431,276 ¹	488,667 ¹
<u>Application of Funds by Program</u>					
1	Maine Capital Corporation	1,839	22,064	58,371 ²	45,602
2	Industrial/Commercial Development	1,839	29,419	30,327	40,253
3	Business Assistance	3,678	36,774	22,263	12,751
4	Paper/Wood	-	-	37,736	36,852
5	Fishing Industry Development	-	-	61,587	48,477
6	Poultry Industry Development	-	-	22,022	49,382
7	Port Development	-	-	6,651	35,982
8	Trade Adjustment Assistance	-	26,589	43,272	47,911
9	Fund Raising/Corporator Relations	18,338	29,419	32,599	52,707
10	503 Finance	-	-	-	2,466
11	Program Development	6,649	17,641	38,689	41,316
12	General Administration	4,433	11,778	16,563	13,772
	Sub Total	36,776	173,684	370,080	427,471
13	Carried Forward	13,637	51,869	61,196	61,196
14	TOTAL	50,413	225,553	431,276 ¹	488,667

¹These totals include flow-through contract revenues and expenses.
Flow-through amounts are dollars used exclusively for sub-contracting services and are broken down in Table 2.

²Includes organizational (start-up) and business services (operational).

TABLE 2

MAINE DEVELOPMENT FOUNDATION

Source of Program Funds from Grants & Contracts

Line Number	ITEM	CALENDAR YEARS			
		1978	1979	1980	1981 Estimated
	<u>Grants & Contracts</u>				
	NERCOM	38,247		23,884	31,062
	Trade Adjustment		26,589	43,272	47,911
	State *			71,991	67,300
	MCC			24,422	45,602
	TOTAL (Agrees with Table 1, line 3)	38,247	26,589	163,569	191,875
	 *Source of State Contracts				
	State Development Office			28,955	28,570
	Department of Marine Resources			37,703	33,397
	Department of Transportation			5,333	
	Department of Agriculture				5,333
				71,991	67,300

TABLE 3 (page 1)

MAINE DEVELOPMENT FOUNDATION

Application of Funds by Program and Source
(Including amount brought forward from preceding year)

Line Number	PROGRAM Source of Funds	CALENDAR YEARS			
		1978	1979	1980	1981 Estimated
1	<u>Maine Capital Corporation</u>				
	State Appropriation	920	11,032	16,975	--
	Corporator Fees	919	11,032	16,974	--
	Contract (MCC)			24,422	45,602
2	<u>Industrial-Commercial Development</u>				
	State Appropriation	919	14,709	15,164	20,127
	Corporator Fees	920	14,710	15,163	20,126
3	<u>Business Assistance</u>				
	State Appropriation	1,839	18,387	11,132	6,376
	Corporator Fees	1,839	18,387	11,131	6,375
4	<u>Paper Converting</u>				
	State Appropriation	--	--	12,735	14,559
	Corporator Fees	--	--	12,735	14,559
	Contract (State)	--	--	12,266	7,734
5	<u>Fishing Industry</u>				
	State Appropriation				
	Corporator Fees				
	Contract (State)	--	--	12,933	14,549
	Contract (NERCOM)	--	--	23,884	15,080
	Sub-contract (State)	--	--	24,770	18,848
6	<u>Poultry Industry</u>				
	State Appropriation	--	--	--	11,607
	Corporator Fees	--	--	--	11,606
	Contract (State)	--	--	5,333	3,528
	Sub-contract (State)	--	--	16,689	22,641
7	<u>Port Development</u>				
	State Appropriation	--	--	3,326	10,000
	Corporator Fees	--	--	3,325	10,000
	Sub-contract (NERCOM)				15,082

TABLE 3 (page 2)

MAINE DEVELOPMENT FOUNDATION
Application of Funds by Program and Source
(Including amount brought forward from preceding year)

Line Number	PROGRAM Source of Funds	CALENDAR YEARS			
		1978	1979	1980	1981 Estimated
8	<u>TAAC</u>				
	State Appropriation				
	Corporator Fees				
	NE TAAC	--	26,589	43,272	47,911
9	<u>Fund Raising/Corporation Relations</u>				
	State Appropriation	9,169	14,710	16,299	26,354
	Corporator Fees	9,169	14,709	16,300	26,353
10	<u>503 Finance</u>				
	State Appropriation	--	--	--	1,233
	Corporator Fees	--	--	--	1,233
11	<u>Program Development</u>				
	State Appropriation	3,324	8,821	19,345	20,658
	Corporator Fees	3,325	8,820	19,344	20,658
12	<u>General Administration</u>				
	State Appropriation	2,217	5,889	8,281	6,886
	Corporator Fees	2,216	5,889	8,282	6,886
13	<u>Amount Carried Forward</u>				
	State Appropriation	6,818	25,934	30,598	30,598
	Corporator Fees	6,819	25,935	30,598	30,598
14	TOTAL (Agrees with line 14, Table 1)	50,413	225,553	431,276	488,667

D. Comparison of programs with statutory purpose -- The 7 statutory purposes of the Foundation are set out at 10 MRSA §917. Below are listed each purpose and a brief comment on MDF's response to that purpose.

Purpose 1. "Management and technical assistance. Management and technical assistance to businesses, and to communities for economic growth and revitalization, with a particular concern for assistance to the state's existing small and medium size businesses".

MDF response: business and community development services programs.

Purpose 2. "Debt and equity capital. Debt and equity capital, with a particular concern for assistance to the state's small and medium size businesses".

MDF response: involvement with Maine Capital Corporation, and business and community development services.

Purpose 3. "New product development and marketing. New product development and marketing, with a particular concern for the most productive use of the state's human and natural resources".

MDF response: forestry and fishing industry projects.

Purpose 4. "Industrial land and buildings. The development of industrial land and buildings".

MDF response: MDF has had no activities in this area because, at the moment, more is not needed.

Purpose 5. "Economic opportunities. Identification and development of specific economic opportunities in the States".

MDF response: Several projects, most notably the forest products project.

Purpose 6. "Climate for economic development. Promotion of an improved climate for economic development in the State".

MDF response: The Foundation told the committee that it has done nothing directly in this area in the past, but is considering expanding activities here in the future. This was an area of interest to, and controversy for, the Committee. It is discussed briefly below.

Purpose 7. "Coordination of development efforts. Coordination of development efforts for more successful project development through serving as a broad liaison with diverse groups and parties in all sectors and bringing together needed resources for particular projects".

MDF response: Several projects most notably the poultry industry project.

IV. RECOMMENDATIONS

There were 3 areas in which the Committee discussed possible changes to the Foundation:

1. Whether there should be a statutory requirement that the Foundation be "sunsetting" (i.e., be automatically terminated by statute) or that it be studied, as in this study;
2. Whether the Legislature should exercise some form of supervision over the expenditure of Foundation funds, especially administrative funds; and
3. Whether and to what extent the Foundation ought to be able to implement the statutory purpose of "...promotion of an improved climate for economic development in the State..." (10 MRSA §917, sub-§6), and especially the extent to which the Foundation should be permitted to use State funds or any other resources available to it to lobby the Legislature or to publicly or privately promote its position on a major, controversial issue.

The Committee recommends legislation in the first and third areas (a text of the recommended legislation is Appendix 4):

1. The Committee believes that the legislative "sunset" review of the Foundation now required by statute to begin in 1983 is sufficient for the Foundation. It recommended, however, that a simultaneous review of the Maine Capital Corporation and its related statutory provisions be conducted by it.
2. The Committee recommends repeal of the liberal construction clause and revision of the Foundation's purpose clause relating to "creating a climate for economic development." This is to clarify that the Foundation, in creating a climate for economic development, may conduct objective analyses and attempt to develop broad consensus on issues of significance to the economic health of Maine, provided that its activities do not require it to register with the State as a lobbyist employer and that it does not advocate to the public a position on an initiative or referendum question.

APPENDIX 1

The text of the law requiring this study (P.L. 1977,
Chapter 548, Section 2)

"The Joint Standing Committee on Performance Audit, or another joint standing committee of the Legislature assigned by the Legislative Council, shall prepare and submit to the Legislature, not later than January 15, 1982, an evaluation report on the Maine Development Foundation. The Maine Development Foundation and state departments and agencies shall cooperate in the conduct of the evaluation to the extent requested by the reviewing committee. At a minimum, the evaluation shall include the following:

"1. A description and evaluation of the extent to which the statutory purposes of the Maine Development Foundation were achieved in its first 4 years of operation; and

"2. Recommendations as to whether the foundation shall be terminated, modified or continued, together with any legislation necessary to accomplish the recommendations."

APPENDIX 2

The text of the Law establishing the Maine Development Foundation (10 MRSA Chapter 107)

Title 10

Ch. 107

Ther
nership c
ment, a
sources a
mise the
tary bur
involving

1977,

1 So in e

CHAPTER 107

MAINE DEVELOPMENT FOUNDATION

Section

- 915. Legislative findings and intent.
- 916. Establishment.
- 917. Purpose.
- 918. Corporators.
- 919. Board of directors; officers.
- 920. General powers.
- 921. Limitation of powers.
- 922. Liability of officers, directors.
- 923. Prohibited interests of officers, directors and employees.
- 924. Donations to the State.
- 925. Annual report, audit.
- 926. General conditions; dissolution.
- 927. Liberal construction.
- 928. Initial organization.

Chapter 107, Maine Development Authority, was enacted by Laws 1977, c. 548, § 1.

§ 915. Legislative findings and intent

The State of Maine has long had serious conditions of unemployment, underemployment, low per capital¹ income and resource underutilization which cause substantial hardships to many individuals and families, impede the economic and physical development of various regions of the State, and adversely affect the general welfare and prosperity of the State.

Terminat
1977, c. 548
"The Joi
Performan
standing c
ture assign
Council, sh
the Legisla
ary 15, 198
the Maine
The Maine
and state
shall coope
evaluation

States &

§ 916.

The
foster, su
Maine.
ment to
tivities o
and State

The
with a pu
powers c
an essent

1977,

§ 917.

The
rected to

There is a need to establish a new basis for a creative partnership of the private and public sectors for economic development; a partnership which can capitalize on the interests, resources and efforts of each sector, but which does not compromise the public interest or the profit motive. The state's solitary burden to provide for development should lessen through involving the private sector in a leadership role.

1977, c. 548, § 1.

¹ So in enrolled bill; probably should read "per capita".

Historical Note

Termination. Section 2 of Laws 1977, c. 548, provided:

"The Joint Standing Committee on Performance Audit, or another joint standing committee of the Legislature assigned by the Legislative Council, shall prepare and submit to the Legislature, not later than January 15, 1982, an evaluation report on the Maine Development Foundation. The Maine Development Foundation and state departments and agencies shall cooperate in the conduct of the evaluation to the extent requested by

the reviewing committee. At a minimum, the evaluation shall include the following:

"1. A description and evaluation of the extent to which the statutory purposes of the Maine Development Foundation were achieved in its first 4 years of operation; and

"2. Recommendations as to whether the foundation shall be terminated, modified or continued, together with any legislation necessary to accomplish the recommendations."

Library References

States ~~84~~.

C.J.S. States §§ 141 to 143, 165, 202.

§ 916. Establishment

The Maine Development Foundation is hereby established to foster, support and assist economic growth and revitalization in Maine. The foundation shall carry out its purposes in complement to and in coordination with the economic development activities of the private sector, community and regional agencies and State Government.

The foundation shall exist as a not-for-profit corporation with a public purpose, and the exercise by the foundation of the powers conferred by this chapter shall be deemed and held to be an essential governmental function.

1977, c. 548, § 1.

§ 917. Purpose

The Maine Development Foundation is authorized and directed to provide services to the State and to quasi-public, public

and private entities, and to foster, assist and participate in efforts for economic growth and revitalization, including, but not limited to, providing for or stimulating the provision of:

1. **Management and technical assistance.** Management and technical assistance to businesses, and to communities for economic growth and revitalization, with a particular concern for assistance to the state's existing small and medium size businesses;

2. **Debt and equity capital.** Debt and equity capital, with a particular concern for assistance to the state's small and medium size businesses;

3. **New product development and marketing.** New product development and marketing, with a particular concern for the most productive use of the state's human and natural resources;

4. **Industrial land and buildings.** The development of industrial land and buildings;

5. **Economic opportunities.** Identification and development of specific economic opportunities in the State;

6. **Climate for economic development.** Promotion of an improved climate for economic development in the State; and

7. **Coordination of development efforts.** Coordination of development efforts for more successful project development through serving as a broad liaison with diverse groups and parties in all sectors and bringing together needed resources for particular projects.

1977, c. 548, § 1.

§ 918. Corporators

Corporators, who shall elect members of the board of directors as provided in section 919, shall consist of individuals and organizations classified as private sector corporators, public sector corporators and ex officio corporators.

1. **Private sector corporators.** Private sector corporators shall be those individuals, partnerships, firms, corporations and other organizations providing support of at least \$250 annually to the foundation.

Title 10

date in ef-
g, but not
of:

management
unities for
r concern
size busi-

pital, with
and medi-

w product
n for the
resources;

f in-

develop-

on of an
ate; and

nation of
elopment
and par-
urces for

of direc-
tuals and
ublic sec-

porators
ions and
annually

2. **Public sector corporators.** Public sector corporators shall be those agencies of government and other organizations providing support of at least \$50 annually to the foundation. For the purposes of this chapter, public sector corporators shall include: Municipal and county government; councils of government; local and area development corporations; regional planning commissions; development districts; state agencies; higher educational facilities, including the components of the state university system, the Maine Maritime Academy, private colleges and post-secondary schools, and vocational-technical institutes; and such other public or quasi-public entities as may be approved by the directors of the foundation.

3. **Ex officio corporators.** Ex officio corporators shall consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine. State department and agency heads shall include the following:

- Treasurer of State;
- Director of the State Planning Office;
- Director of the State Development Office;
- Commissioner of Agriculture;
- Commissioner of Business Regulation;
- Commissioner of Conservation;
- Commissioner of Educational and Cultural Services;
- Commissioner of Environmental Protection;
- Commissioner of Finance and Administration;
- Commissioner of Human Services;
- Commissioner of Indian Affairs;
- Commissioner of Inland Fisheries and Wildlife;
- Commissioner of Manpower Affairs;
- Commissioner of Marine Resources;
- Commissioner of Mental Health and Corrections;
- Commissioner of Transportation;
- Manager of the Maine Guarantee Authority;
- Executive Director of the Maine Municipal Bond Bank; and
- Executive Director of the Maine State Housing Authority.

4. **Voting rights.** Each corporator shall have a vote in such affairs of the foundation as may involve the corporators,

provided that, in the case where the corporator is an organization and not an individual, the governing body of that organization shall designate the individual who is to exercise the voting right.

1977, c. 548, § 1.

§ 919. Board of directors; officers

The Board of Directors of the Maine Development Foundation shall consist of 15 directors. The corporators shall elect 12 directors from among the corporators, provided that 7 directors shall be elected from among the private sector corporators and 5 directors shall be elected from among the public sector corporators. The Governor shall appoint 2 directors from among the ex officio corporators. No person shall serve as a director for more than 5 years in succession. There shall be a chairman, a vice chairman and a treasurer elected by the corporators from among the board of directors. The president of the foundation shall be appointed by the directors so elected or appointed and shall become a director and chief executive officer of the foundation. The president shall not be appointed from among the other directors.

1977, c. 548, § 1.

§ 920. General powers

The Maine Development Foundation is empowered to:

1. **Suit.** Sue or be sued in its own name;
2. **Application for and receipt of funds.** Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation or loan or any other manner;
3. **Economic development services; fees.** Provide services to public or private entities to assist their efforts in economic development in Maine and to charge such fees for these services as it may deem appropriate;
4. **Real and personal property.** Purchase, receive, hold, lease or acquire by foreclosure, and operate, manage, license and sell, convey, transfer, grant or lease real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the

Title 10

in organiza-
at organiza-
the voting

nt Founda-
all elect 12
7 directors
ators and 5
or corpora-
long the ex
irector for
hairman, a
ators from
lation
and and
the foun-
among the

o:

or and re-
al entity,
r manner;
e services
economic
e services

ve, hold,
ense and
property,
cidental
but not
by the

Ch. 107

DEVELOPMENT FOUNDATION

10 § 920

foundation from time to time in the satisfaction of debts or enforcement of obligations;

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

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

7. **Encumbrance of property.** Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsections 4, 5 or 6 as security for the payment of any part of the purchase price thereof;

8. **Equity investments and loans.** Make direct equity investments in or loans to local and regional economic development corporations and to small and medium size businesses;

9. **Contracts and liabilities.** Make contracts, including contracts for services and incur liabilities for any of the purposes authorized therein;

10. **Debt.** Borrow money for any of the purposes authorized herein; incur debt, including the power to issue therefor 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 thereof, or interest therein;

11. **Cooperation with agencies and organizations.** Cooperate with and avail itself of the services of governmental agencies and the University of Maine; 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 the business prosperity and economic welfare of such communities and the State; and

12. Bylaws. Adopt bylaws not inconsistent herewith for the governance of its affairs, to have the general powers accorded corporations under Title 13-A, section 202, and do all other things necessary or convenient to carry out the lawful purposes of the foundation.

1977, c. 548, § 1.

Library References

States ⇨67.

C.J.S. States §§ 120, 121, 136 to 138, 140.

§ 921. Limitation of powers

The foundation, notwithstanding the foregoing, shall have no power or authority to enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor shall it have the power of eminent domain or any other power not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the foundation shall not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State.

1977, c. 548, § 1.

§ 922. Liability of officers, directors

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

1977, c. 548, § 1.

Library References

States ⇨77.

C.J.S. States §§ 122, 125.

§ 923. Prohibited interests of officers, directors and employees

No officer, director or employee of the foundation or their spouses or dependent children shall receive any direct personal

benefit fr
vate enti
other ent
reason of
nomic de
such own
the office
to such p
porators

1977,

§ 924.

The
nations,
ture on b
ty or oth

1977,

States ⇨

§ 925.

The
pendent
its corpo
to such
Governor

1977,

§ 926.

The
not-for-p
broad pu
the oper

1.

earnings
porator,
shall be

Title 10

herewith for
wers accord-
do all other
ful purposes

121, 136 to

shall have
ligations or
any of its
main or any
s generally.
founda-
he State or

ents of the
es of or au-
be bonded,
h a surety
0 coverage
he faithful
h shall be

s and em-

n or their.
t personal

Ch. 107

DEVELOPMENT FOUNDATION

10 § 926

benefit from the activities of the foundation in assisting any private entity. This provision shall not prohibit corporations or other entities with which an officer or director is associated by reason of ownership or employment from participating in economic development activities with the foundation, provided that such ownership or employment is made known to the board, and the officer or director abstains from voting on matters relating to such participation. This prohibition does not extend to corporators who are not officers or directors of the foundation.

1977, c. 548, § 1.

§ 924. Donations to the State

The State of Maine, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the foundation and transfer such funds, property or other interests to the foundation.

1977, c. 548, § 1.

Library References

States 85.

C.J.S. States § 145.

§ 925. Annual report, audit

The foundation shall provide an annual report and an independent audit of its activities to the Governor, the Legislature, its corporators and members. The foundation shall be subject to such further audit and review as deemed necessary by the Governor or the Legislative Council at the expense of the State.

1977, c. 548, § 1.

§ 926. General conditions; dissolution

The Maine Development Foundation shall operate as a not-for-profit organization consistent with its composition and broad public purposes. The following conditions shall apply to the operation or dissolution of the foundation.

1. Net earnings of the foundation. No part of the net earnings of the foundation shall inure to the benefit of any corporator, officer, director or employee except that the foundation shall be authorized and empowered to pay reasonable compensa-

tion for services rendered, and otherwise hold, manage and dispose of its property in furtherance of the purposes of the foundation.

2. **Dissolution of foundation.** Upon dissolution of the foundation, the incorporators shall, after paying or making provision for the payment of all liabilities of the foundation, cause all of the remaining assets of the foundation to be transferred to the State.

1977, c. 548, § 1.

§ 927. Liberal construction

This chapter shall be construed liberally to effect the interest and purposes of the foundation for an improved economic development effort in the State and shall be broadly interpreted to effect such intent and purposes and not as a limitation of powers.

1977, c. 548, § 1.

§ 928. Initial organization

In order to provide for the initial organization of the foundation, the Governor shall appoint an organizing committee of 14 persons, 7 of whom shall be eligible to be private sector incorporators, 5 of whom shall be eligible to be public sector incorporators and 2 of whom shall be state department and agency heads from among the list set forth in section 918, subsection 3. The Governor shall designate the chairman of the committee. The organizing committee shall solicit individuals and corporations from the private and public sectors as described in this chapter to be incorporators of the Maine Development Foundation.

The committee shall call and hold an initial meeting of the incorporators no later than 6 months from the effective date of this Act. The initial meeting shall be for the election of directors and officers of the foundation. The committee shall prepare an agenda for and the chairman shall chair the initial meeting. The committee shall serve as the nominating committee for the initial election only, and may submit suggested bylaws and procedures for consideration by the incorporators.

After the initial meeting of the incorporators, the organizing committee shall be dissolved and its members shall serve the foundation only as they may be qualified as incorporators. The

Title 10

ge and dis-
f the foun-

on of the
ing provi-
i, cause all
isferred to

the inter-
nomic de-
rpreted to
n of pow-

the foun-
mittee of
ector cor-
or corpo-
d agency
section 3.
mmittee.
corpora-
d in this
ndation.
g of the
date of
of direc-
ial pre-
e initial
commit-
ted by-

ganizing
rve the
ie

Ch. 108

CAPITAL CORPORATION

10 § 950

State Development Office and the State Planning Office may provide assistance to the organizing committee in the initial development of the foundation.

1977, c. 548, § 1; 1979, c. 127, § 57, eff. April 23, 1979.

Historical Note

The 1979 amendment, in the first sentence substituted "section 918, subsection 3" for "section 3".

APPENDIX 3

Preliminary Report on the Maine Development Foundation
and the Maine Capital Corporation Submitted to the Joint Stand-
ing Committee on Taxation.



The Maine Development Foundation

ONE MEMORIAL CIRCLE, AUGUSTA, MAINE 04330 207/622-6345

September 25, 1981

OFFICERS:

Chairman
Hon. E. Menardo, President
Environmental Services, Inc.

Vice Chairman
Hon. G. Pierce, Director
Washington County Vocational
Technical Institute

Treasurer
Hon. J. Leonard, Treasurer
B. B. B. Inc.

Chief Executive Officer
Nathaniel H. Bowditch

BOARD OF DIRECTORS:

Hon. A. Barnes, Executive Director
Maine Maine Regional
Planning Commission

Hon. W. Bruce, Chairman
United Communications

Hon. W. Bush, Commissioner
Maine Department of Personnel

Hon. J. Cole, President
Equi

Hon. J. O'Brien, Director
Maine Investment Office

Hon. A. Casano, Div. Vice President
Maine Operations
Off Paper Co.

Hon. D. Duggan, President
Northern Corporation

Hon. G. McKinnon
Maine Development Director
Maine

Hon. A. Morrison, City Manager
City of Auburn

Hon. A. Threlow, President
Maine Power Co.

Hon. J. Woodbury, President
University of Southern Maine

Senator Thomas M. Teague
Representative Bonnie Post
Co-Chairs
Joint Standing Committee on Taxation
State House
Augusta, ME 04333

Dear Senator Teague and Representative Post:

Enclosed please find a summary and a variety
of related materials about the Maine Development
Foundation (MDF) and the Maine Capital Corporation
(MCC).

I believe the activities of both organizations,
over the course of the two years the Foundation has
been in business and the one year for which MCC has
been operating, are exciting in their own right and
hold great promise for the future. The respective
stories are complicated, and the related materials
voluminous; therefore we have tried to present a
cogent summary, especially about the Maine Development
Foundation, in the covering report.

We assume you will want additional information
and we will be pleased to respond, either in writing
or personally. I would welcome the opportunity to
elaborate directly.

Very truly yours,

Nathaniel H. Bowditch
President

NHB:scc
Enclosures



The Maine Development Foundation

ONE MEMORIAL CIRCLE BOX #4 AUGUSTA, MAINE 04330 207/622-6345

Preliminary Report on the Maine Development Foundation and the Maine Capital Corporation

Submitted to the Joint Standing
Committee on Taxation

The purpose of this report is to provide preliminary information about the Maine Development Foundation as required by its enabling legislation. Although the Maine Capital Corporation is a separate entity, it is our understanding that the Committee would like information on that company also, so it is included.

The Maine Development Foundation

An innovation of the 108th Legislature, the Maine Development Foundation (MDF) is an independent, non-profit corporation designed to help solve Maine's economic problems and seize growth opportunities through joint action of the private and public sectors. The Foundation operates according to the following Statement of Operating Philosophy as adopted by its Board of Directors.

"As specified in its enabling legislation, the mission of the Maine Development Foundation is to foster, support and assist economic growth and revitalization in Maine... in complement to and in coordination with the economic development activities of the private sector, community and regional agencies and State government."

"This Foundation is a private, not-for-profit state-wide development corporation, supported financially by both private and public sources of funds, and operated under the direction of a Board of Directors drawing upon the leadership of the business, government, and education sectors. It was formed and is operated on the premise that an effective, goal-oriented partnership between private and public forces is an essential ingredient in successful economic development. The key words are:

CONCENTRATED ACTION -- As a development corporation, the Foundation allocates much of its energies and resources to a few projects, and concentrates on results, "making things happen".

BROAD PERSPECTIVE -- While focusing its resources, the Foundation operates with a state-wide perspective and sense of responsibility for advocating policies and actions generally supportive of business and economic development.

PARTNERSHIP -- The Foundation mobilizes private and public resources and seeks to accomplish its objectives through a helping relationship with private interests, communities, and State, regional, and local development organizations.

"Beyond encouraging a partnership approach; the Maine Development Foundation seeks to bring continuity to the economic development effort in Maine, by virtue of its independence, corporate character, and close ties with the private sector. While the Foundation is accountable to the people of Maine and believes in the principle of public reporting to the extent consistent with its character and the accomplishment of its mission, its success is closely tied to its legislative mandate to operate outside the governmental system in the pursuit of its economic development mission."

"The Foundation commits its resources in two basic ways: (a) to major products (activities with widespread economic impact, such as whole industry or facilities development), and (b) to individual companies, communities, or development groups ("clients") seeking some specific result. Many companies and communities become clients as a direct result of major projects so to some degree the distinction between "projects" and "clients" is artificial. In either case we try to commit resources where:

- The objective(s) can be reached; economic development and business growth can happen.
- The Maine Development Foundation can make a contribution not readily available from some other source."

Before describing the activities of the Foundation in some detail, it might be useful to outline the chronological history of the Maine Development Foundation.

November 1975	Concept of a "Maine Development Corporation" proposed by the Governor's Economic Advisory Committee, a group of thirty-two (32) business executives and state officials advising Governor Longley.
---------------	--

October 1976	Legislation for a "Maine Development Corporation" proposed by the Governor's Task Force on Economic Development, a six (6) person offshoot of the earlier advisory committee.
June 1977	Legislation enacted authorizing the formation of the Maine Development Foundation (copy of the enabling legislation attached as Appendix A).
Winter 1977-78	Fourteen (14) member Organizing Committee appointed by Governor Longley. Work initiated to organize the Foundation by this group with principle staff assistance from the State Planning Office.
October 1978	First President of the Foundation, Frederick Webber reported to work. Major fund-raising and strategic planning activities intensified.
February 1979	First President resigned due to family medical reasons, which precluded moving his family to Maine. Organizing Committee launched search for a new President.
June 1979	New President of the Foundation, Nathaniel H. Bowditch, reported to work. Major fund-raising and operational planning activities resumed in earnest.
October 1979	Meeting of the Corporators of the Maine Development Foundation to formally establish the Maine Development Foundation as an operating entity, and elect its first Board of Directors, although fund-raising and related organizational work continued for several more months.
November 1980	First Annual Meeting of the Corporators of the Maine Development Foundation, to review progress of the Foundation during its first year (annual report to the corporators).
November 1981	Second Annual Meeting of the Corporators of the Maine Development Foundation (scheduled for November 5, 1981).

As can be seen from this outline, the operational history of the Foundation extends over less than two years (since October 1979), although its origins go back to 1975 and its enabling statute was passed in 1977.

Over its extended organization, the Foundation's Organizational Committee and management had to adjust to the loss of the Foundation's first President and a new Governor, while pursuing the partnership approach envisioned by its originators and the Legislature. A great deal of attention went to developing cooperative working relationships with other organizations --- public, private, Federal, State, regional, and local --- an emphasis which continues today. For example, considerable attention went to defining a productive, efficient understanding about the respective roles of the State Development office, the State Planning Office, and the Maine Development Foundation in economic development. The result of this effort is attached as Appendix B, titled The Maine Economic Development Team.

As noted earlier, during its two-year operating history the Foundation has concentrated in two areas: major projects (activities with widespread economic impact, such as whole industry or facilities development) and assistance to individual companies, communities, and development groups. A brief synopsis of these two activities follows:

Major Projects

1. Growth in the Paper & Wood Converting Industries. In cooperation with the State Development Office, the State Planning Office, and the Department of Conservation, the Foundation looked into the prospect of encouraging paper converting and wood processing activities which add as much value as possible to wood fiber before it is shipped out of state. Project complete, except for publication and release of final report (scheduled for October 1981).

Results: Identified 17 target industries for intensive economic development work. Provided industrial recruiting program materials to the State Development Office. Identified 40 companies that represent opportunities for expansion in these industries. Initiated work with many of these companies, in cooperation with the State Development Office.

2. Fishing Industry Development. In cooperation with the fishing industry and the Department of Marine Resources, the Foundation undertook a major project to improve marketing practices in this industry and accelerate the development of fish processing activities (so groundfish landed in Maine will not be shipped out of state before it is processed).

Results: Reached basic agreement with the industry and the Department of Marine Resources about the elements of an overall development strategy. Initiated demonstration marketing program in the greater Portland area. Work continuing on market development and the responsibilities and format of cooperative industry promotional activities.
3. Poultry Industry. In cooperation with the industry, the State Development Office, the Department of Agriculture, and the Department of Transportation, the Foundation initially undertook an evaluation of the feasibility of a centralized grain storage facility to reduce the costs of feed grain. When the industry fell on hard times, the Foundation expanded the work to evaluate the viability of the boiler industry in Maine and then to seek new investors (corporate and/or individual) to acquire the facilities not now in operation.

Results: Demonstrated the need for a centralized grain storage terminal. Helped secure passage of \$3 million bonding proposal for such a facility. Documented the financial viability of the broiler industry in Maine, provided certain key conditions are met. Cooperated in an on-going effort to secure new investment for the industry.
4. Port Development (Sears Island Development). In cooperation with port development interests, the State Development Office, and the Department of Transportation, the Foundation has undertaken a project to secure financing for the development of Sears Island as a cargo port/industrial complex and to promote the use of the industrial land.

Results: Major \$13 million bond issue authorized by the Legislature. Negotiations continuing with various Federal agencies to secure funding commitments. Marketing program developed. Work continuing into 1981.
5. Maine Capital Corporation. Major project undertaken to put the Maine Capital Corporation (MCC) in business through the sale of \$1 million in stock to 32 financial institutions, corporations, and individual investors and to provide staff assistance to operate this corporation as Maine's first venture-oriented Small Business Investment Company (SBIC).

Results: Sold out the stock issue, raising \$1 million in

private capital. Conducted search for initial management for the Corporation. Provided staff services for the first year of MCC's operation (August 7, 1980-September 21, 1981) during which time MCC made one investment.

Business, Industrial & Community Development Assistance

1. Trade Adjustment Assistance. In cooperation with the Economic Development Administration and the Trade Adjustment Assistance Center in Boston (a regional entity designed to bring this federal program for companies damaged by imports closer to the States), the Foundation operated an outreach program to implement this federal program in Maine.

Results: Made the benefits and requirements of this program widely known among import damaged industries in Maine. Helped secure technical and financial assistance for ten companies totalling \$8,776,907.

2. Client Services. Provided direct professional assistance to individual companies, communities, and other development organizations, usually in the area of securing public and/or private financing for important projects or in the case of development organizations to promote industrial property.

Results: Provided assistance to over 200 "clients" (no fees charged), often in conjunction with other development or business organizations, private and public.

3. World Trade. Provided administrative support services (space and secretarial services) to the Department of Commerce, International Trade Administration, for its export development activities in Maine, so that an individual from ITA could be located in Maine.

Results: Through the Department of Commerce, ITA, provided counseling services to over 200 Maine companies regarding export business development.

This is just a brief summary. More information about the Foundation's activities can be obtained from its statements of goals and objectives for 1980 and 1981 (attached as Appendix C), its newsletters (Appendix D), and its bulletins to Corporators (Appendix E). Even further information about the Paper and Wood project, the Fishing Industry Project and the Poultry Industry Project can be obtained from

individual reports that were prepared in these cases.

Financially the Foundation is sound and has leveraged the general appropriations made to it substantially. By law, the MDF can requisition against its appropriation only to the extent that it can demonstrate "matching and equal fiscal support from its private and public corporators and members". Therefore the Foundation provides at least \$2 of services for every \$1 of legislative appropriation used. In addition, the Foundation has operated with a substantial amount of its total budget coming from third-party grants and contracts.

Since the beginning, and through August 1981, the Foundation has spent \$822,234 from all sources, as shown below:

<u>Calendar Year</u>	<u>Expenditures</u>
1978	\$ 46,276
1979	173,684
1980	370,078*
1981	<u>232,196</u>
	\$822,234

Of this aggregate total, the sources are shown below:

<u>Source</u>	<u>Amount</u>
Corporator Revenues	
Private	\$248,458
Public	7,000
State Match	252,792
Contract Revenues	362,575
Other Revenue	<u>7,539</u>
	\$878,364
FUND BALANCE	<u>\$ 56,130</u>

Additional financial information is shown at Appendix F, which includes audited financial statements for calendar years 1978, 1979, and 1980 and unaudited statements for 1981 to date (through August). At Appendix G the flow of legislative appropriations and state funds is shown, according to the State of Maine's fiscal year (July through June).

*As per audited statements. Includes flow-through expenses to outside consultants.

Explanation of Relationship Between the Maine Development Foundation and the Maine Capital Corporation

The Maine Development Foundation (MDF) and the Maine Capital Corporation (MCC) are separate entities in every way. MDF is a non-profit economic development corporation; MCC is a for-profit investment company. Each has its own Board of Directors. To date, however, they have been closely linked, during two distinct phases: (a) until August 7, 1980 when MCC closed on its \$1 million of private capital and (b) after August 7, 1980.

- Prior to August 7, 1980. The Maine Capital Corporation was not an operating entity until August 7, 1980. Until then an Organizing Committee was in control. In its own right the Maine Development Foundation determined that it was an important economic development objective to get MCC operational. MDF therefore took on this job (which consisted primarily of selling MCC's stock) as a development project, funded by MDF resources and a small start-up grant (\$15,000) from the New England Regional Commission. This project was completed successfully when on August 7, 1980 MCC closed on the private capital and began operations.
- Post August 7, 1980. MCC then determined that it wanted to hire MDF to provide management and administrative services to it. In essence, the Foundation was engaged to find investments for MCC. A contract to this effect was negotiated and approved by both the MDF and the MCC Board of Directors. Under this contract, the Foundation has been reimbursed for the full cost of all services it has provided to MCC. Under this contract, MCC's Board of Directors retained exclusive authority to commit MCC's funds. For the year ended June 30, 1981 MDF billings under this contract were \$45,095.00. Great care was taken in the language of the contract and the billing procedures to make sure the MDF made no profit on this contract and the MCC received no subsidy.

It seems likely that the relationship between MDF and MCC will change substantially in the future. MCC is in the final stages of an executive search process, at the conclusion of which MCC intends to hire its own Executive Vice President. This will alter MCC's continuing relationship with MDF substantially, since MCC will no longer need management services from the Foundation.

Tax Consequences (MDF)

As a non-profit development corporation, the net effect of the

Foundation's operations on State tax revenues is indirect and probably positive. MDF operates as a 501(c)(3) non-profit organization under federal tax law, consistent with its enabling legislation, public purpose, and operating character. Corporator fees paid to the Foundation by private corporators are deductible as either charitable contributions or business expenses. With individual private corporator fees ranging from \$250 (the legislative minimum) to \$5,000 (in only rare cases), and total private corporator fees totalling \$103,235.00 in 1980, the negative tax impact of the MDF is incidental and insignificant. In a practical sense it is probably zero because the Foundation's corporator fees usually come from fixed total corporate allocations for social good works.

On the positive side, development obviously creates new State tax revenues. Although it would be impossible to make exact calculations, it is safe to say the Foundation's net impact on State tax revenues has been positive.

Participation in the Maine Development Foundation basically has nothing to do with tax law. Corporators provide funds if they believe the Foundation is doing an effective job, and the corporator wants to support economic development in Maine. Were the IRS to disallow corporator fees as business expenses, however, this would have a negative impact on the Foundation.

The Maine Capital Corporation

The Maine Capital Corporation (MCC) is a private, for-profit investment corporation authorized by the Legislature under Title 13-A. The original enabling legislation, passed in 1977, was later amended to broaden the purpose of the Corporation and clarify its ability to use a wide range of investment instruments. The enabling legislation for Maine Capital Corporation is attached as Appendix II.

As noted earlier, the organizational phase of MCC extended over a long period of time, primarily due to the challenge of selling its 10,000 shares of common stock (\$1,000,000) to private investors. MCC has never received a direct State appropriation and this meant it had to find other means for covering its organizational expenses. The stock issue was marketed by the firm of Burgess & Leith Incorporated for the modest commission of \$20,000 plus a \$5,000 expense fee. Burgess and Leith was assisted by the Maine Development Foundation,

which was not compensated for its efforts. A copy of the Offering Prospectus is attached as Appendix I.

MCC has just finished its first year of operation, which was a difficult year by any measure. A copy of MCC's Annual Report, which covers activities of that year, is attached as Appendix J. This report also includes an explanation of the current investment policies of the Corporation.

The Board of Directors of MCC believes that it has navigated the typically difficult early days of a Small Business Investment Company. After having lost its Vice President and Director of Finance through resignation early in the summer, it is in the final stages of securing the services of a new Executive Vice President. The Board therefore believes it is poised for additional investment activity and success during the coming year.

Tax Consequences (MCC)

Tax factors related to MCC were detailed on pp. 34-35 of the Offering Memorandum (see Appendix I). The major provision that would affect State tax revenues was the Maine income tax credit of fifty percent (50%) spread over a minimum of five (5) years available to investors in MCC's stock. We have no knowledge of which investors have availed themselves of this credit and to what degree. We do know it was instrumental in mobilizing the capital, as intended by the legislature.

This tax credit is capped by a number of features, all included in the legislation. At a maximum it would be \$500,000 spread out, over at least five (5) years. As MCC makes more investments, with positive economic consequences, tax benefits to the State will accrue which sooner or later will surpass the costs.

Appendix 4 -- Legislation to implement the
Committee's recommendation

[Taxation Committee Study Bill, pursuant to
PL 1977 chapter 548, section 2]

AN ACT to Amend Laws Relating to the Maine Development
Foundation and Economic Development

Sec. 1. 10 MRSA §917, sub-§6 is repealed and replaced to
read:

6. Climate for economic development. Promotion of an improved climate for economic development in the State through judicious use of the public/private nature of the foundation to provide objective analysis and develop broad consensus on issues of significance to the economic health of Maine; provided that such promotion does not require the foundation to register as a lobbyist employer pursuant to Title 3, Chapter 15; and further provided that the foundation does not advocate to the general public a position on a question as defined in Title 21, Section 1, subsection 30.

Sec. 2. 10 MRSA §927 is repealed.

Sec. 3. Study. The Joint Standing Committee on Taxation shall prepare and submit to the Legislature, not later than December 31, 1983, an evaluation report on the Maine Capital Corporation and any tax legislation that relates directly to it. At a minimum, the evaluation shall include the following:

1. A description and evaluation of the extent to which the statutory purposes of the Maine Capital Corporation and related tax legislation were achieved; and
2. Recommendations as to whether the Maine Capital Corporation and related tax legislation ought to be terminated, modified or continued, together with any legislation

necessary to accomplish the recommendations.

The inquiry of the Committee shall include, but need not be limited to, the following authorities:

1. The Maine Capital Corporation -- 10 MRSA chapter 108;
and
2. Tax legislation relating to the Maine Capital Corporation -- Title 36 sections 5129, 5167, 5202, and 5206.

The Maine Capital Corporation, the Department of Finance and Administration, and any other State department or agency shall cooperate to the extent requested by the Committee.

STATEMENT OF FACT .

This legislation is the result of a study conducted by the Committee on Taxation pursuant to the law that established the Maine Development Foundation (see P.L. 1977, chapter 548, section 2). That law required that a legislative Committee review the Foundation and recommend to the Legislature.

This Bill contains 2 recommendations:

1. Sections 1 and 2 of the Bill repeal the liberal construction clause and re-write the Foundation's purpose clause relating to "creating a climate for economic development." This is to clarify that the Foundation, in creating a climate for economic development, may conduct objective analyses and attempt to develop broad consensus on issues of significance to the economic health of Maine, provided that its activities do not require it to register with the State as a lobbyist employer and that it does not advocate to the public a position or on initiative or referendum question;

2. Section 3 of the Bill requires that the Taxation Committee conduct a study of the Maine Capital Corporation and its related tax legislation at the same time that the Maine Development Foundation is reviewed under the existing provision of the "sunset" law.