MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 10, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on March 10, 1983, at 10:05 a.m., in Room 405, State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL 498: An act to allow credit unions, with prior approval of the Director of the Department of Commerce, to use regular reserves to meet losses from the sale of investments or securities.

Representative Ray Peck stated this is a bipartisan bill and very simple.

PROPONENTS TO HOUSE BILL 498: Jeffry Kirkland, Vice President, Montana Credit Union's League stated they support this bill. His written testimony is attached to the minutes.

There were no further proponents and no opponents.

The hearing was closed on House Bill 498.

ACTION ON HOUSE BILL 498: Senator Dover made the motion that House Bill 498 Be Concurred In. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 498 BE CONCURRED IN.

Senator Dover will carry this bill on the floor.

CONSIDERATION OF HOUSE BILL 638: An act providing that the Insurance Commissioner may impose an administrative penalty upon an insurer for failing to pay medical or health claims in a timely manner; providing that the Commissioner may inquire into the cause of certain late payments; providing that insurers shall pay the insured interest on certain claims that are not paid in a timely manner; defining "proof of loss" and "insurer".

Representative Stella Jean Hansen stated this is a bill to allow the hospitals a vehicle for collecting a fee for late payments of insurance claims. She feels this is a tool that they really need. This will be allowed through the insurance commission. It provides for a 30-day limit and provisions for a hearing.

PROPONENTS TO HOUSE BILL 638: Chad Smith, Montana Hospital Association, stated you will notice by looking at the bill that it received a considerable amount of work in the House. The prompt collection of bills provides working capital. If you do not have this you need to borrow it. They want to maintain the lowest possible costs. This bill provides for: 1) collection of interest from the provider who is a perennial offender. If the claim is not paid promptly after all final claims have been supplied the hospital or health care provider can go to the insurance commissioner and ask for an investigation.
2) The insurance commissioner has the authority to impose an admin-

istrative penalty. They do run across a number of insurers who like to retain their working capital by not paying large claims. They support the passage of this bill so that they can get a handle on the situation.

Gary Blewett, Division of Worker's Compensation, stated as amended they support this bill. His written testimony is attached to the minutes. (Exhibit No. 2)

Bill Leary, President, Montana Hospital Association, stated in 1982 the 60 Montana hospitals charged off $11 million in bad debts. It is our contention that if all the insurance companies would pay their portion they would not, when you charge off a portion to bad debts, usually have to increase the rates to take care of it. They do cover their employees with insurance policies such as Blue Shield. Hospitals, as employers, generally pay the employee a pretty good rate. They have had some complaints from the employees in the slowness of insurance processing. We feel House Bill 638 is an expression of the hospital but is concerned for all employees who pay a significant portion of the premium. It is a start of a timely payment system in Montana.

<u>OPPONENTS TO HOUSE BILL 638:</u> Norma Seiffert, Montana Insurance Department submitted written testimony. This testimony is attached to the minutes. (Exhibit No. 3)

There were no further proponents nor opponents.

<u>QUESTIONS FROM THE COMMITTEE:</u> Senator Christiaens asked are you able to charge interest on these bills that are not paid timely? Mr. Leary stated we cannot charge interest unless we have already had an agreed to note with the patient.

Senator Christiaens asked are you then following up and charging the patient interest for the full amount not covered by the insurance company? Mr. Leary stated no, not unless we have an agreed to note signed by the hospital and the patient.

Senator Gage asked on page 5, lines 11, 12, & 13, indicates the penalty imposed may not exceed $1,000, is that for each separate claim that is not paid in a timely manner? Rep. Hansen stated yes, I think it is for each claim.

Senator Lee asked is that part of the rulemaking authority? Mr. Smith stated yes.

Senator Lee asked why are we giving the insurance commissioner authority to do all this work when we can be doing all the work here? Why are we granting this rulemaking authority? Rep. Hansen stated originally we gave this authority to the hospital. Going through the insurance commissioners was a compromise. If you were 180 days late for the claim they have to borrow money to pay that debt and pay interest charges.

In closing, Representative Hansen stated this is a good compromise that was worked out with the various insurance companies. In the Business and Industry Committee in the House this went through three subcommittees and she hoped we would concur with the House vote.

The hearing was closed on House Bill 638.

CONSIDERATION OF HOUSE BILL 685: An act promoting the availability and investment of development capital in Montana through the creation of capital companies; providing tax credits for investment in the companies; providing oversight and auditing requirements; providing that offerings of the companies are exempt from securities registration; and providing an immediate effective date.

Representative Hal Harper stated you have all heard about the economic package coming from the House. This bill fits into that package with risk and equity capital. This bill is perhaps unique in that it does not provide any direct state financing it makes $1 million in tax credits available when the business community invests and puts money into these capital companies. This bill was drafted by the subcommittee on risk and venture capital. The bill has been amended to have the credits be provided on a first-come first-serve basis. A maximum of $375,000 per capital company is allowed. No general capital company is allowed. The language in the bill refers to the Department of Commerce.

PROPONENTS TO HOUSE BILL 685: Senator Fred Van Valkenburg went through the bill for the committee stating this $1 million cap is included within the million dollar proposed budget submitted by Governor Schwinden. He went into the mechanics of the bill stating the program starts by a group of investors coming in and proposing the creation of a qualified Montana company. After given authority to seek investors they go out and must raise a minimum of $200,000 before it can begin to take investments and those people can earn tax credits. The company must then make investments in certain kinds of businesses. The essence is in primary industry. They have also attempted to include the kind of retail businesses that have the affect of making primary jobs. The feeling in the economic community is similar to agriculture, mining, and other jobs that produce a multiplier effect. There are certain penalties for failure to meet investment requirements. The Department of Revenue can assess the taxes as if the tax credits had not been granted. This would come from the capital company. There is a restriction on investments. There are also certain recording requirements that the capital company must comply with. They must make quarterly reports and show how the investments are being made. This is to make sure there is no fraud. The tax credits themselves must be taken within four years. There is a provision for examination of capital companies. There is a procedure for decertification of the capital company. There is a prohibition of conflict of interest for the directors of the capital company to be involved in any of the investments that the capital company may make. There is rulemaking authority to the Department and there is a Statement of Intent to limit that rulemaking authority and finally there is a review by the Oversight Committee so that the Legislature remains involved in this.

Senator Tom Towe stated this bill is one of a package of four bills that came out of the Development Finance Committee to set up I-95. It sets aside some of the coal tax trust for investment in Montana and secondly it sets aside a development income for various programs that are not loans but are advertising promotions. They decided we should not limit I-95 to use Montana's money in Montana but we should encourage money to come into Montana. When you talk about funding you have to talk about more than just loans and money that has to be repaid. A company cannot get that loan unless they have some equity or capital to start it going. This bill is an integral part of four bills that will be coming before us. Why is equity capital so important? Wherever you go for a loan the first thing they will ask about is a financial statement. If you don't have anything you will not likely get the loan. This bill brings in the equity capital. It is money that is not intended to be repaid as a loan but is an investment. The government is involved only to the extent that it is going to give tax credits of 25% to individuals. This allows us to encourage other private people to put equity money into these corporations. They then must invest in any venture that needs equity capital to get going.

Gary Buchanan, Department of Commerce, handed the committee two exhibits entitled "Montana Capital Companies Tax Credit" (Exhibit No. 4) and "Investing in America" (Exhibit No. 5). He stated this bill comes out of months of work from several people. He appointed a committee of about 58 people where they worked further on this concept. He mentioned in Wyoming, in cooperation with the local banks, they have created and preserved about 1400 jobs. This would allow Montana a variation of that effort to duplicate the Wyoming experience. The Department of Revenue has been assisting the proponents of the bill and the Department of Commerce on the revenue tax guides. The Committee on Financing recommended a 50% tax credit with a $3 million cap. They considered that and for revenue reasons they reduced it to $1 million cap and 25%. It is still adequate enough to provide for this kind of investment.

Dick Bourke, Vice President and Manager of Montana Development Credit Corporation, stated he had written testimony which he wanted to submit from Dick Remington. (Exhibit No. 6) He gave the committee a list of unsolicited contacts they have received about their need for money. (Exhibit No. 7) Many references were from banks in their area. There are a lot of people that need this kind of money. They are looking not only at just this but other types of ways to raise money. Venture capital is generally unavailable in Montana. He knows of one business that has been capitalized from an out-of-state but we do not have the kinds of business that they are interested in in Montana. Some people in the context of this bill will ask why do we need a tax credit? If you look at the provisions they have a half-dozen tax oriented incentives to put their money into. There are property tax credits, residential energy tax credits and others. His last point was that his perception of the bill is simply not foregone revenue, it is investment. This will be an investment the State can make through the private sector. He handed the committee an amendment which simply would change the date of commencement from March 1, 1984 to January 1, 1984. (Exhibit No. 8)

Representative Jay Fabrega stated he was one of the co-sponsors of this concept in the 1981 session. He sponsored a similar bill which gave a 50% credit. Unfortunately, that did not go through. If it had we might have lower unemployment. He attended the Small Business Administration Advicates Conference and the hottest issue was the Massachusetts approach to revitalizing their capital base. They approached the Legislature asking for a reduction in the business tax. Instead of giving them the reduction of tax rate they would allow them to collectively develop a $100 million investment company and match it dollar for dollar with tax write offs. At this time, Massachusetts has the lowest unemployment rate of any industrial state. They have created all kinds of new companies. I hope the same experience will be here in Montana although we are going at 1/4 of the rate they had in Massachusetts. He can see where a lot of small investors may get into a $25 break. We are looking at a high risk situation. Also the fact that it has leverage in order to get 25¢ back you have to put up a dollar of your own and yet you may lose it.

John Scully, Montana Independent Bankers, stated they support this bill. They have had directors working on this and think it is a good bill.

Dave Goss, Billings Chamber of Commerce, stated working for the Chamber of Commerce they have people seeking advice and help on getting a new business started. Unfortunately, they have nothing but a good idea. The investment that will be made through this bill will be paid back many times.

Carol Daly, Montana Economic Development Association, stated she supports this bill. Her written testimony is attached to the minutes. (Exhibit No. 9)

Janelle Fallon, Montana Chamber of Commerce, stated there is a great need for venture capital in Montana. They see this as an important bill and they are pleased to support it.

Casey Armeston, Bozeman, stated their business is five years old. They started out as a small company but they now have eleven employees. They are still fighting the battle of equity capital. They nearly went bankrupt but they managed to find a few investors and they have now gotten their heads above water. It has taken them five years to get where they should have been in three years because they could not find equity capital. He feels this is the most important bill of the package and he supports it.

Jack Martin, Superior Fire Apparatus, stated on January 13th a meeting was called for small manufacturers which he attended. It was obvious the need for venture and risk capital to increase the tax base and increase employment. The economic development situation shows this. The time has passed when we can sit back and depend on the large out-of-state corporations to carry the ball for us. They must look to the people in Montana. During the meeting some statistics were brought out for example in 1981 Montana's manufacturers, exclusive of the lumber industry, contributed $400 million in salaries and wages, mining contributed $327 million and farming and agriculture was $251 million.

He has a company that is small and established. They have been on a pay as you go plan and have succeeded. He urged the committee's support for this type of legislation.

Mike Fitzgerald, Montana Trade Commission, stated he supported this bill. His written testimony is attached to the minutes. (Exhibit No. 10)

Celinda Lake, Women's Lobbyist Fund, stated she supports the bill. Her written testimony is attached to the minutes. (Exhibit No. 11)

Don Reed, MEIC, stated he supports this bill. His written testimony is attached to the minutes. (Exhibit No. 12)

Clint Grimes, Mountain Consultants, submitted written testimony in support of House Bill 685. His testimony is attached to the minutes. (Exhibit No. 13)

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Gage asked you indicated at this meeting you went to there was an indication that there was something like $400 million paid in wages and salaries and about 7,000 employees which comes to approximately $57,000 per employee. Mr. Martin stated that also includes income to the company.

Senator Dover asked on this lease back on page 5, I am wondering if this is going to be setting up leaseback companies where they would invest in companies? Senator Towe stated qualified investment companies will be the recipients of tax credit funds.

Senator Dover stated the Federal Government addressed that to where there was terrific comebacks on the lease back programs. Is that going to tie into that? Senator Towe stated it could.

Senator Dover stated farmers are looking at this all the time. If they can find someone to finance that or a leaseback program they can get large grain handling facilities. Senator Towe stated we are giving tax credits for people who invest in Company A, that being the feeder company. They are not going to need a tax write off until they make some money.

Senator Dover stated in section 12 "Examination" are you saying that the department and the bank examiners are encouraged to go to the bank? Senator Towe stated the examination function would be run out of the Department of Commerce. This sets up the procedures for the state and for other financial institutions.

Senator Goodover stated he would like to go on record as in favor of this concept. He has been a small business man all his life. He participated in many seminars. Over the years he has tried to expand small farm bills to include small businesses and this concept is in line with the activity he has been participating in to provide risk capital for the proper approach.

Senator Fuller asked would you be opposed to increasing that tax credit to 50%? Mr. Buchanan stated with the need to put a million dollar cap for budget reasons they wanted to spread the impact of this credit. He thinks it is still worth a try and depending on the success of this biennium maybe next session they can come back and raise it.

Senator Fuller asked what happened to the Montana bankers? Mr. Buchanan stated my feelings are they supported it from the beginning and that they support this bill now. Mr. Fitzgerald stated he spoke for Northwestern, Banco and First National and they support this bill. Mr. Bourke stated he talked with John Cadby, Montana Bankers Association, and stated he would try to be at the meeting, but that he supported this bill.

Senator Fuller asked once we have these capital corporations what do you anticipate will be the terms of this investment? Mr. Buchanan stated if we do equity investments we can buy conversion notes which the company might issue. This will give us authority to or we can simply buy stock in the company. For us to buy stock they need a strong capital base themselves. They will not see paybacks until five to seven years. They need to make those investments from our own capital base. This is a tool to increase their capital base. We can lend money if we so choose but if they lend money they are a point or two above the commercial rate.

Senator Lee stated he has a problem with the 25%. Basically you are doing the same thing with this bill that our society has done with the small businesses. We haven't made this available to them. Now we are trying to push this program and we will expect it to work on 25% investment credit. What are these other states using like Wyoming? Mr. Buchanan stated Wyoming does not have an income tax.

Senator Lee stated he would like to see 1987 stricken and work around that. If you allowed for two bienniums you could generate $8 million in investments. Mr. Buchanan stated we feel strongly about playing cautious in this situation.

Senator Lee stated it can be brought back next biennium. Senator Towe stated I think it is important to keep it in at some level and if we want to increase it at a later date we can.

Senator Lee asked on page 16, subsection 2, talks about a committee? Representative Harper stated House Bill 100 is the bill that establishes a committee. It is composed of seven members. We would direct the Governor to appoint them. If any of those bills pass they will assume the functions of that bill. Mr. Buchanan stated there is an Economic Development Board and an Oversight Committee. If those pass there will be set up an Oversight Committee.

Senator Kolstad asked do both bills have to pass in order to make this Oversight Committee active? Mr. Buchanan stated no, either one.

Senator Goodover stated on page 13, section 11, "legislative review and oversight". This states they will report back. He wonders whether that should not be an annual but everyother year report. Senator Towe stated the committee can review the matter with an annual basis requirement.

Senator Goodover suggested the report should come from the committee that is appointed. The people responsible should be those who should report back to the Legislature. The Oversight Review Committee changes over a period of time.

Senator Boylan stated Montana is an island. We have not got transportation of getting goods in and out. The railroad won't pick up anything unless it is fifty car lots. I wonder if we are talking about a lot of "pie in the sky." It is interesting to talk with the gentleman in the House who wanted to manufacture calculators. He finally went to Hong Kong to do this. What type of industries are you talking about? Mr. Buchanan stated the people are mostly manufacturers - high tech or basic manufacturers.

Senator Christiaens asked what have we got to implement this for bringing in venture capital for equity? Do you have something planned to promote this? Mr. Buchanan stated they would charge for investments and seek investments and I can tell you there are a lot of people who are going to seek them. I think there is a demand in the state. They will agressively seek investments. Mr. Bourke stated I represent the Development Credit Corporation and they will go out to increase their capital to $1 1/2 million. They have 110 banks statewide. It is their feeling they have a good chance of raising a significant amount of capital should this bill pass. They support this bill. It is going to be pitched to everyone in the State. If we can end up with 3-5,000 shareholders in the State it is better for us. He is prepared to go out and make money. They feel it is a tool that will help make money in the private sector.

Senator Kolstad asked how long has it been since your company has been on an active basis? Mr. Bourke stated they have one active loan in Bozeman. We have repaid all loans. Right now they are looking at two investments.

Senator Kolstad asked have you done sufficient screening on these to be able to know how many of these would be possible loan risks? Mr. Bourke stated off hand he could take two out and the other eight he could look into further.

Senator Gage asked on page 5, under business engaged, line 11, I assume those kind of ventures were too risky to include in this kind of situation? Representative Harper stated yes.

Senator Gage asked how about unconventional? Representative Harper stated 1) you have to meet that criteria and 2) they have to be a small business as rules defined by the department.

The hearing was closed on House Bill 685.

ACTION ON HOUSE BILL 638: Senator Dover made the motion that House Bill 638 Be Concurred In. Senator Regan seconded the motion.

The committee voted unanimously, by voice vote, that HOUSE BILL 638 BE CONCURRED IN.

Senator Christiaens will carry this bill on the floor.

ADJOURN: There being no further business, the meeting was adjourned at 12:00 noon.

ALLEN C. KOLSTAD, CHAIRMAN

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ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983 DATE 3-10-83

NAME	PRESENT	ABSENT	EXCUSED
PAUL F. BOYLAN	✓		
B. F. CHRIS CHRISTIAENS	✓		
HAROLD L. DOVER	✓		
DAVID FULLER	✓		
DELWYN GAGE	✓		
PAT M. GOODOVER	✓		
GARY P. LEE, VICE CHAIRMAN	✓		
PAT REGAN	✓		
PAT M. SEVERSON	✓		
ALLEN C. KOLSTAD, CHAIRMAN	✓		

STANDING COMMITTEE REPORT

March 10 19 83

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 498

PECK (DOVER)

Respectfully report as follows: That HOUSE Bill No. 498

~~DO PASS~~

BE CONCURRED IN

STATE PUB. CO.
Helena, Mont.

ALLEN C. KOLSTAD, Chairman.

HOUSE BILL 498

TESTIMONY OF JEFFRY M. KIRKLAND

VICE PRESIDENT-GOVERNMENTAL RELATIONS

MONTANA CREDIT UNIONS LEAGUE

BEFORE THE SENATE BUSINESS & INDUSTRY COMMITTEE

ON THURSDAY, 10 MARCH 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD I AM JEFF KIRKLAND, VICE PRESIDENT-GOVERNMENTAL & COMMUNITY RELATIONS FOR THE MONTANA CREDIT UNIONS LEAGUE. THE LEAGUE REPRESENTS 118 OF MONTANA'S 121 CREDIT UNIONS.

HOUSE BILL 498 IS A BILL PROPOSED BY THE MONTANA CREDIT UNIONS LEAGUE AND DEVELOPED IN CONSULTATION WITH THE COMMISSIONER OF FINANCIAL INSTITUTIONS, WHO IS RESPONSIBLE FOR SUPERVISING OUR STATE-CHARTERED CREDIT UNIONS. I STRESS THE CONSULTATION WITH THE COMMISSIONER, SINCE THE BILL PROVIDES THE COMMISSIONER WITH A NEW "SAFETY AND SOUNDNESS" TOOL RATHER THAN PROVIDING CREDIT UNIONS WITH ANY NEW AUTHORITY.

THE BILL ARISES FROM A SPECIFIC SITUATION IN WHICH THE SAFETY AND SOUNDNESS OF A CREDIT UNION WAS THREATENED AND IN WHICH THE REGULATOR FELT HE HAD NO STATUTORY AUTHORITY FOR REMEDY.

CREDIT UNIONS TYPICALLY LOAN OUT THE SAVINGS DEPOSITS THEY ATTRACT TO GENERATE THE INCOME TO PAY SAVERS INTEREST (ALTHOUGH WE CALL IT "DIVIDENDS") FOR THEIR DEPOSITS. HOWEVER, WHEN LOAN DEMAND DECREASES OR WHEN THE CREDIT UNION IS ATTRACTING MORE SAVINGS DEPOSITS THAN THERE IS LOAN DEMAND FOR, IT HAS TO INVEST THOSE SURPLUS FUNDS TO GENERATE INCOME TO PAY SAVERS.

SECTION 32-3-701, MCA, VERY SPECIFICALLY LISTS PERMISSABLE INVESTMENTS FOR STATE-CHARTERED CREDIT UNIONS, PREVENTING THE POSSIBILITY OF INVESTING IN HIGH-RISK, SPECULATIVE SECURITIES. HOWEVER, EVEN WITH SECURITIES AND OBLIGATIONS ISSUED BY OR FULLY GUARANTEED BY THE U.S. GOVERNMENT OR ONE OF ITS AGENCIES, THERE IS A CHANCE OF TAKING A LOSS UPON SALE OR LIQUIDATION OF THAT INVESTMENT. AND THAT IS THE PRIMARY PROBLEM THIS BILL ADDRESSES.

A CREDIT UNION HAD INVESTED SURPLUS FUNDS IN SEVERAL AGENCY OBLIGATIONS BACK IN 1977 AND 1978 WHEN A 7.25% AND AN 8% YIELD WAS EXCELLENT INCOME. THEN, BEGINNING IN LATE 1978, CREDIT UNIONS FOUND THEMSELVES HAVING TO PAY AT LEAST 6% FOR PASSBOOK SAVINGS AND UP TO 14% FOR VARIOUS SHARE CERTIFICATES. OBVIOUSLY, A 7.25% OR 8% YIELD FROM THE INVESTMENTS WAS NOT ENOUGH TO PAY SAVERS MARKET RATES FOR THEIR SAVINGS AND STILL HAVE ENOUGH LEFT OVER TO PAY OVERHEAD AND OPERATING EXPENSES.

THE CREDIT UNION ASKED THE DEPARTMENT IF IT COULD SELL THOSE INVESTMENTS, WHICH WOULD HAVE NECESSITATED TAKING A SMALL LOSS, AND THEN MAKE UP FOR THE LOSS BY ACCESSING ITS REGULAR RESERVES. THE DEPARTMENT DENIED THE REQUEST, STATING THAT UNDER STATE CREDIT UNION LAW REGULAR RESERVES COULD ONLY BE USED FOR LOSSED INCURRED BY RISK ASSETS. UNFORTUNATELY, AGENCY OBLIGATIONS ARE NOT DEFINED BY CREDIT UNION LAW AS RISK ASSETS.

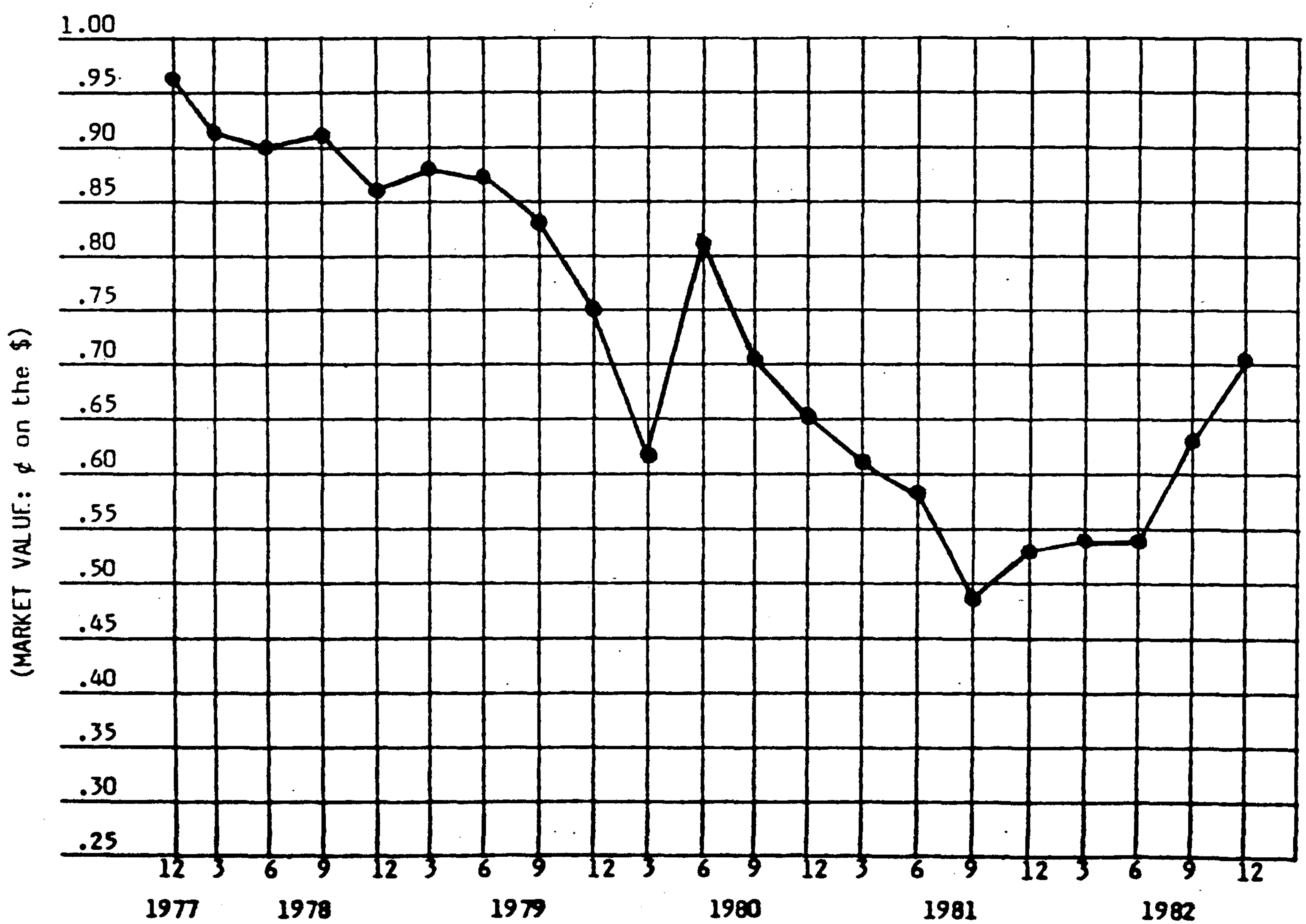
THE CREDIT UNION WATCHED THE MARKET VALUE OF THOSE INVESTMENTS PLUMMET (REFER TO ACCOMPANYING CHARTS), ALL THE WHILE EARNING LESS FROM THEM THAN ITS COST OF FUNDS AND SUSTAINING LOSSES MONTH AFTER MONTH. THOSE LOSSES BEGAN TO IMPAIR THE SAFETY AND SOUNDNESS OF THE CREDIT UNION.

FINALLY, IN CONSULTATION WITH THE NATIONAL CREDIT UNION ADMINISTRATION, THE AGENCY WHICH INSURES THE DEPOSITS IN ALL MONTANA CREDIT UNIONS, THE DEPARTMENT RELUCTANTLY ALLOWED THE CREDIT UNION TO LIQUIDATE THE INVESTMENTS AND MAKE UP FOR THE LOSS BY UTILIZING ITS REGULAR RESERVES. OF COURSE, THE CREDIT UNION HAD TO REPLENISH ITS REGULAR RESERVES TO THEIR STATUTORY REQUIREMENT BY MAKING REGULAR TRANSFERS TO THOSE RESERVES FROM SUBSEQUENT EARNINGS.

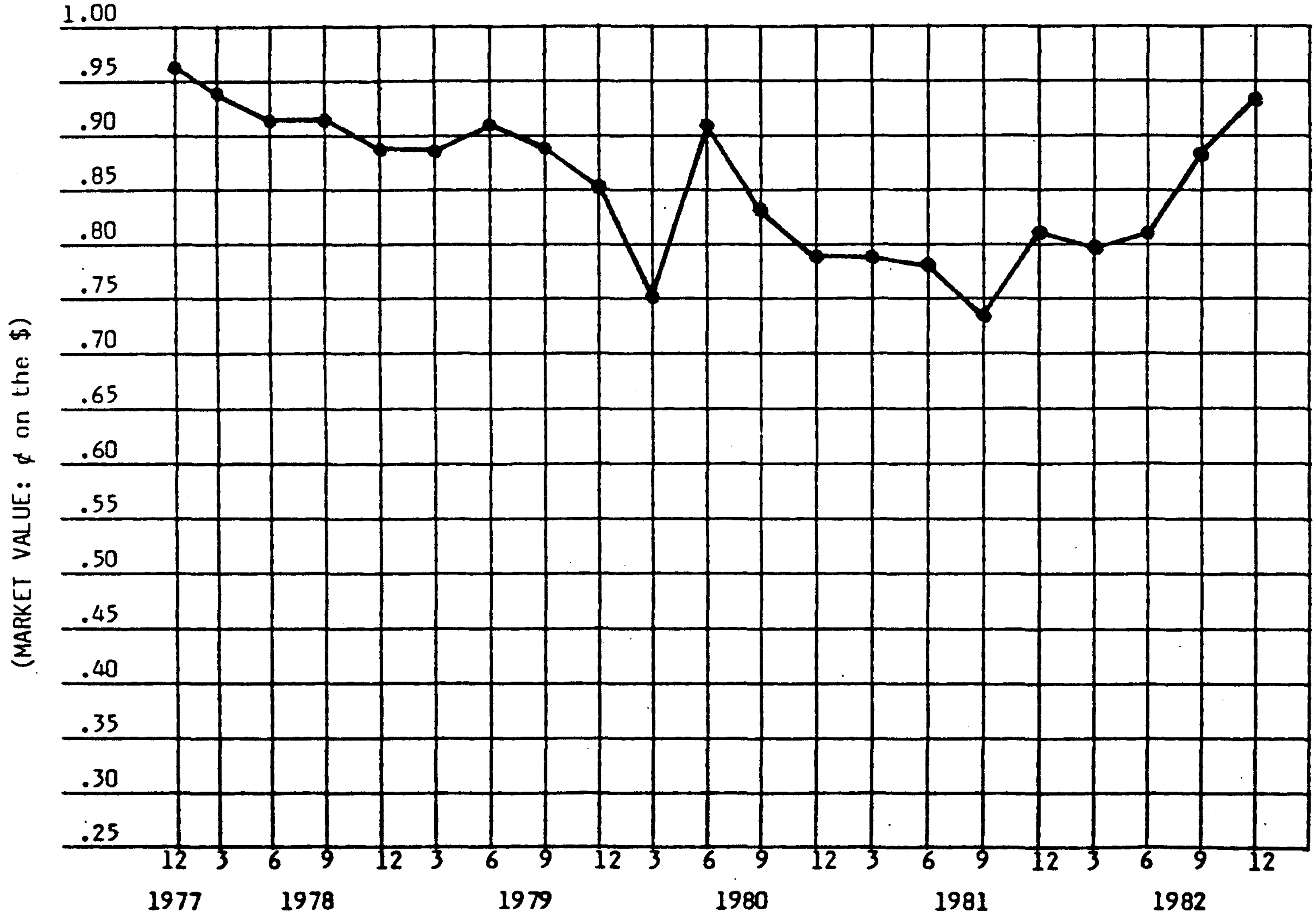
HOUSE BILL 498 GIVES THE DIRECTOR OF THE DEPARTMENT OF COMMERCE, THROUGH AUTHORITY DELEGATED TO THE COMMISSIONER OF FINANCIAL INSTITUTIONS, THE PERMISSIVE AUTHORITY ON A CASE-BY-CASE BASIS TO ALLOW CREDIT UNIONS TO USE THEIR REGULAR RESERVES TO MEET LOSSES FROM THE SALE OF INVESTMENTS OR SECURITIES. WE SEE THIS AUTHORITY BEING UTILIZED ONLY UNDER EXTRAORDINARY CONDITIONS IN WHICH THE SAFETY AND SOUNDNESS OF A CREDIT UNION IS IMPAIRED BY ITS NOT BEING ABLE TO SELL INVESTMENTS DURING PERIODS OF STRONG LIQUIDITY PRESSURE.

THE DEPARTMENT OF COMMERCE AND THE COMMISSIONER OF FINANCIAL INSTITUTIONS SUPPORTS THIS BILL, AS DOES THE MONTANA CREDIT UNIONS LEAGUE. WE URGE THAT, UPON CONSIDERATION OF THE MERITS OF THE BILL, THIS COMMITTEE RECOMMEND THAT HOUSE BILL 498 BE CONCURRED IN.

FHLMC: purchased 11-21-77, yield 8%, maturing 9-1-07, book value $907,000



FNMA: purchased 10-28-77, yield 7.25%, maturing 7-10-85, book value $944,000



(This sheet to be used by those **testifying** on a bill.)

NAME: Gary Blewett DATE: 3/10/83

ADDRESS: Helena

PHONE:

REPRESENTING WHOM? Division of Workers' Compensation

APPEARING ON WHICH PROPOSAL: HB638

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT:

As amended the bill should allow the Insurance Commission to make a finding of late payments with good ~~cause~~ reason due to budget limitation. The Division currently pays later than the law sets as a standard. The appropriation subcommittee has ~~provided~~ recommended spending authority for an automated claims payment process that ~~c~~ would let us meet this standard eventually – ~~that~~ completion is two years off however. So, in the meantime the Division would be out of compliance and ~~xxx~~ would need the "good reason" determination to avoid a penalty.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

H. B. 638

Testimony of Norma E. Seiffert, Chief Deputy
Montana Insurance Dept.
Senate B & I Committee

The bill in caption is well drafted in that it provides clear cut guidelines relative to the time limitation on payment of claims and what constitutes cause for penalty. It does not, however, make provision for other authority.

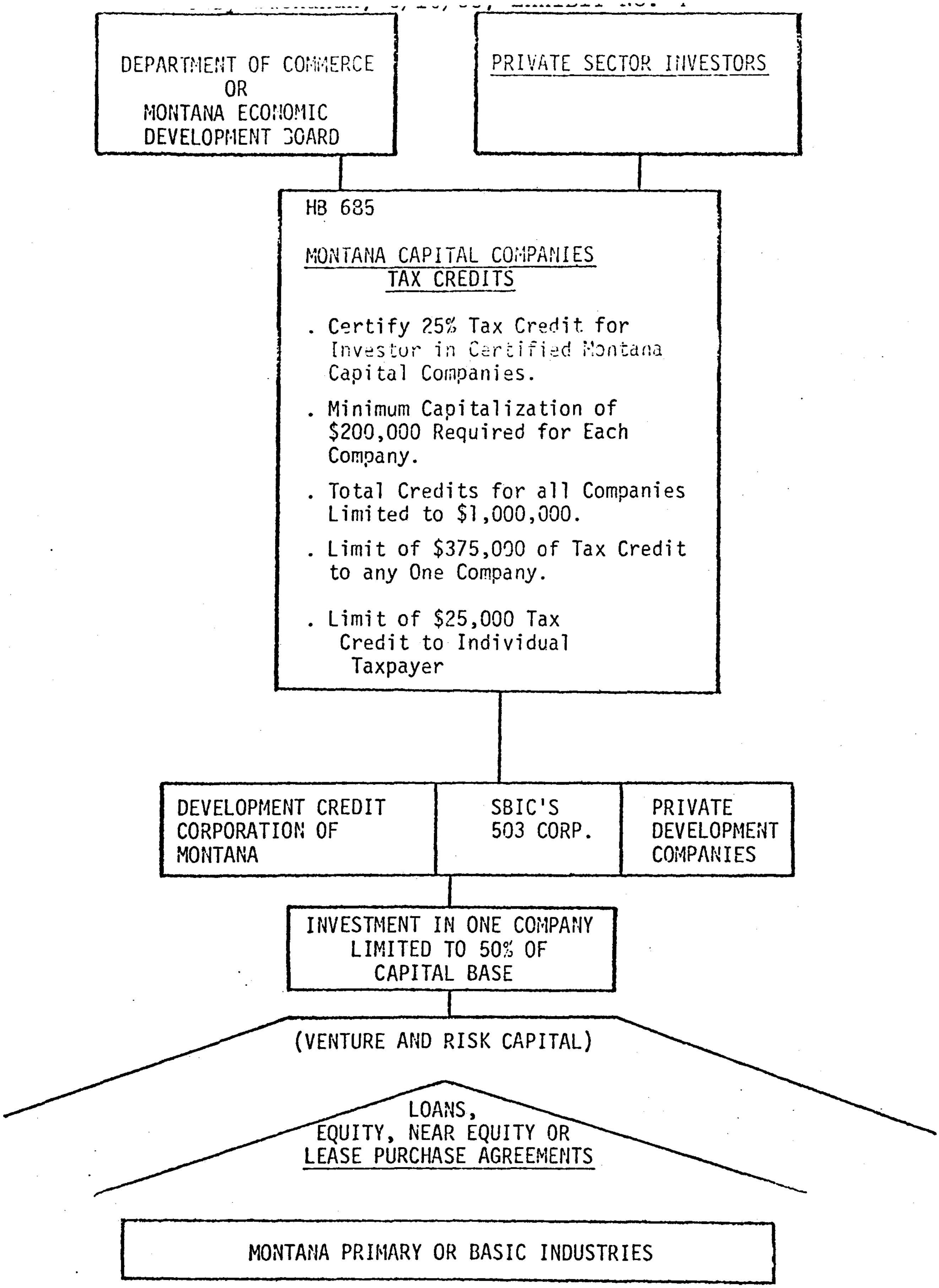
At the present time we have in Chapter 18, Title 33, the "Unfair Claim Practices " section which allows us to do essentially the same thing, when an investigation is requested by an insured.

We feel this bill will be utilized mainly by the providers of medical and hospitalization coverage and, if abused, could put the State of Montana in the position of acting as a collection agency for the providers.

We investigate the timely payment of claims when requested to do so by the insured. In fact we have a toll free telephone number into the department for this specific purpose. Any insured may contact us for information when he or she has a problem.

In spite of certain language contained in this bill it may still conflict with the privacy of the insureds if a provider has the prerogative of having the payment of their claim investigated.

If this legislation is enacted, it will generate an unpredictable amount of paper work and I feel we were more than conservative in our guestimate that one FTE could handle the additional responsibilities. You will note the criteria (or guidelines) are many. The fiscal note is essential to the responsibilites contained in this bill.


DEPARTMENT OF COMMERCE
OR
MONTANA ECONOMIC
DEVELOPMENT BOARD
PRIVATE SECTOR INVESTORS
HB 685
MONTANA CAPITAL COMPANIES
TAX CREDITS
. Certify 25% Tax Credit for Investor in Certified Montana Capital Companies.
. Minimum Capitalization of $200,000 Required for Each Company.
. Total Credits for all Companies Limited to $1,000,000.
. Limit of $375,000 of Tax Credit to any One Company.
. Limit of $25,000 Tax Credit to Individual Taxpayer
DEVELOPMENT CREDIT CORPORATION OF MONTANA
SBIC'S
503 CORP.
PRIVATE DEVELOPMENT COMPANIES
INVESTMENT IN ONE COMPANY LIMITED TO 50% OF CAPITAL BASE
(VENTURE AND RISK CAPITAL)
LOANS,
EQUITY, NEAR EQUITY OR
LEASE PURCHASE AGREEMENTS
MONTANA PRIMARY OR BASIC INDUSTRIES

SCHEDULE

Effective Date of Act (Estimate)	March 31, 1981
Adoption of Rules to (Estimate) Implementation Act	April - November 30, 1981
Application Period	November 30 - April 31
Certification of Capital Companies	March 1, 1984 - And Every Six Months Thereafter
Designation of "Qualified" Capital Companies	September 1, 1984 - And Every Six Months Thereafter

OPERATION

30% Invested Within 3 years
50% Invested Within 4 years
70% Invested Within 5 years

QUARTERLY REPORTS

ANNUAL EXAMINATION

SUBMITTED BY: Gary Buchanan, 3/10/05, EXHIBIT

INVESTING IN AMERICA

INITIATIVES FOR COMMUNITY AND ECONOMIC DEVELOPMENT

The President's Task Force on Private Sector Initiatives

6 VENTURE CAPITAL

By The National Association of Small Business Investment Companies

Atari, Federal Express, Air Florida, Pizza Time Theatres, Kentucky Fried Chicken, Hospital Corporation of America, Digital Equipment and Apple Computer all have something special in common. In addition to being highly successful companies, the development of each was financed, in part, by venture capital dollars.

Perhaps no investment area profiled in this book is as dynamic today as venture capital. For a variety of reasons, the field is rapidly changing and expanding, developing innovative financing tools and broadening the scope of venture investing.

Traditionally, venture capital has referred to the money invested by professionals in a selected few small or embryonic businesses, in the hope they will grow and become very profitable. Such investments, by nature quite risky, can mean enormous payoffs for venture capitalists with shares in the earnings of companies that become highly successful.

This classic definition still applies, but only illustrates part of the picture of venture capital investing today. After a relative pausity of activity during the mid-1970s, venture investing is booming. New financing tools are being developed; more traditional ones are seeing a resurgence and being used in new ways. Innovative venture partnerships involving public as well as private participants are greatly expanding the role of venture capital in revitalizing distressed areas and industries. Even the parameters of what constitutes venture capital are expanding: at its broadest, it may today include the dollars invested by employees in the highly risky venture of buying a plant no longer considered profitable enough by the parent owners.

Two essential elements distinguish venture capital financing from other types of business investments. First, venture capital investments usually have strong equity features. Second, venture investors generally remain involved in the management and progress of the businesses they finance, sitting on the firms' boards, almost always as a minority shareholder, and providing counseling, often without cost. These non-financial contributions are not a matter of charity; they are made because the venture capital investors will profit only if the companies grow.

Between 450 and 500 organized venture capital companies operate in the United States today, holding investments worth more than $6 billion. In addition to the organized and professionally managed venture capital funds--the subject of this chapter--there are hundreds of thousands of individuals who have made true "venture capital" investments—in the birth or growth of small family owned businesses, for example. No precise information can be collected on the magnitude of these informal venture capital flows. But it is important to mention this pool, because it is so critical in the formation of businesses and because government policies can impact heavily on capital formation through this mechanism.

Venture capital firms made record investments in 1981, some $1.4 billion in disbursements, compared with only $250 million in 1975 and $400 million in 1977. Some believe that the industry is growing so fast that there may actually be a shortage of experienced venture capitalists to manage the growing supply of available capital. But while the industry has more than doubled in size in the past five years, it still holds only a tiny percentage of the nation's capital. For comparison take pension funds, with close to $800 billion worth of investments in their portfolios. If pension fund managers were to invest just one percent of their assets in venture capital, the industry would more than double overnight. (Actually, as we shall examine later, many large capital sources, including pension funds and even foreign investors, are beginning to devote more of their assets to venture investments.)

Venture capitalists are highly selective, choosing for investment only a minute percentage of the funding requests they receive. The typical venture firm might review 200 to 300 proposed ventures annually, prepare a detailed analysis for 25 or 30, and fund five. Probably only one of those five will produce significant profits. Investors are looking for entrepreneurs who can develop a new or better product or service which has the potential to fill or create a niche in the market. They are seeking businesses with the potential to grow to a fairly large size rapidly. Key factors in making the investment decisions include technology, market, and business plan, and especially management talent. A cliche in the venture capital industry is that a company with a second rate idea and first rate management is a better investment risk than one with a first rate idea and second rate management. Among the skills the venture firm is looking for are unique technical know-how, a proven management track record, knowledge of manufacturing, marketing and finance, and a high level of commitment to the enterprise.

Since most firms receiving venture capital will not be highly successful, the venture capitalist hopes to make big profits on the 10 percent or so that are. Growth is extremely important. A critical milestone to the venture financier is the ability of a funded company to "go public": that is, to obtain further equity capital through the public sale of stock. Going public usually provides the venture investor the highest return on invested capital.

Since only a small percentage of venture funded firms actually go public, venture financiers have other means for "cashing out" their investments. The venture capitalist can sell shares in successful firms to other investors; some have even proposed creating a publicly supported secondary market to do so. Venture capitalists can cash out if a funded firm is bought by others or merged with another firm. Or the venture financier can negotiate a "put" with a funded firm—that is an agreement to sell the firm's stock or options back to the entrepreneur at some pre-determined multiple of earnings. Generally, "puts" are used when a debt financing instrument is involved. They are agreed upon at the beginning of the venture financing, but are not to be called in for at least five years, and ordinarily not until the funded firm has paid back its loan.

Although the pool of venture capital is small, many believe the industry's investments--because they are heavily weighted toward new technologies and job creating small enterprises—have a disproportionate impact on the nation's economy. The Government Accounting Office, in a 1982 report, Government Industry Cooperation Can Enhance the Venture Capital Process (GAO/AFMD-82-35, August 12, 1982), found: "...this small segment of the U.S. economy has produced disproportionately large benefits to the Nation's productivity and economic well-being." Venture capital funded firms had unusually high levels of productivity and job creation, GAO found in its evaluation of 1332 companies receiving $1.4 billion in venture investments during the 1970s. The $209 million in venture funds invested in 72 firms that eventually went public was ultimately responsible for an estimated 130,000 jobs, over $100 million in corporate tax revenues and $350 million in employee tax revenues, and $900 million in export sales, the report showed. In addition, GAO found, the products produced by venture capital funded firms tended to be productivity enhancing, contributing to the formation and development of new and economically promising industries. Other studies have tended to confirm GAO's conclusions.

Composition of Venture Capital Industry

Private venture capital firms supply about half of all the venture capital invested in enterprises. Most private venture capital firms are organized as limited partnerships. They are managed by a small team of general partners and financed by limited partners, including pension funds, insurance companies, wealthy individuals and endowments, who invest funds to make up a capital pool. Some private venture capital firms are organized in corporate form; still others are the family funds--the Rockefeller, Whitney and Phipps, for example--which are managed professionally by outsiders. As a group, the estimated 130 private venture capital firms in the United States had committed about $3.3 billion in venture investments as of July 1982.

Sources of Funds

The following table details the major sources of capital committed to the private venture capital companies from 1980 through the first half of 1982.

CAPITAL COMMITMENTS
(Independent Private Firms Only)
(millions)

				Percent of Total Capital Committed		
	1980	1981	1982 (6 mos)	1980	1981	1982
Pensions Funds	$197	$200	$228	30%	23%	32%
Individuals/Families	102	201	115	16	23	16
Insurance Companies	88	132	112	13	15	16
Foreign	55	90	107	8	10	15
Corporations	127	142	90	19	17	13
Endowments/Foundations	92	102	54	14	12	8
TOTAL	$661	$867	$706			

Source: Venture Capital Journal, July 1982.

As the table shows, both pension funds and foreign investments have increased dramatically as a source of venture capital funds, more than equalling their 1981 total in only six months of 1982.

A second category of venture capital organizations are the Small Business Investment Companies (SBICs). Although licensed and regulated by SBA, their investments and management decisions are made on a completely private basis. There is one key distinction between SBICs and other private venture capital firms: SBICs can borrow from SBA (at an interest rate somewhat above the cost of money to the U.S. Treasury) and use these funds for further investments. Minority Enterprise Small Business Investment Companies (MESBICs) provide equity and debt financing for firms owned by minorities and economically disadvantaged persons. Like SBICs, MESBICs can leverage private dollars with federal dollars creating a pool of capital several times the initial pool. SBICs vary dramatically in size. Many are owned by a relatively small group of local investors. Some are owned by corporations; 20 are publicly owned. Another 70 are owned partially or wholly by commercial banks. The nation's largest SBICs is Citicorp Venture Capital Limited, a subsidiary of Citicorp; it has over $37 million in private capital to invest. As of July 1982, there were 360 SBICs and 125 MESBICs in the United States. They had committed almost $2 billion to venture investments, financing about 1800 firms in 1981 alone.

The final type of organized venture capital firms are the corporate subsidiaries, divided into two categories: financial and industrial. The financial subsidiaries are owned primarily by banks; insurance companies, too, have formed venture capital subsidiaries. (Allstate's is one of the oldest and most successful). In the industrial sector are the venture capital firms owned by such companies as Exxon, General Electric, Xerox, Monsanto, and Emerson Electric. As of July, 1982, corporate venture capital firms had committed about $1.7 billion in investments.

Who Receives Venture Capital

Venture capitalists tend to seek out new technologies, new goods or new services to invest in, and not surprisingly, a large share of the venture capital investments today tend to be in high technology oriented businesses. But venture capitalists are not concerned solely with "growth industries:" they have also made good profits by pioneering investments in "growth companies" in non-high tech fields, or so-called "mundane" industries. Some of the most successful include nursing homes and health care companies, intrastate and regional airlines (Air Florida and Midway Airlines), cable television franchises, and commercial and financial services (Federal Express Corp. and Pandick Press).

The chart on the following page shows the distribution of venture capital investments by industry type during 1980 and 1981.

1981 Disbursements—Private Venture Capital Partnerships

	Percent of Total Number of Investments	
	1981	1980
Communications	11.4%	11.5%
Computer Related	30.0	27.4
Other Electronics Related	14.5	9.6
Genetic Engineering	6.2	4.2
Medical/Health Related	7.0	10.5
Energy	4.9	8.3
Consumer Related	4.9	7.5
Industrial Automation	6.2	4.5
Industrial Products	4.4	3.6
Other	10.5	12.9

Source: Venture Capital Journal, June 1982.

Venture Capital Financing

Venture capital is used for a wide variety of purposes: to develop the ideas for a product, to start businesses, expand them or prepare them for going public. There is no single way to structure venture capital financing. Venture capitalists often buy common stock in a business, exchanging capital for a "share" in the enterprise, usually taking a minority ownership position. Or they may purchase preferred stock, usually convertible into common stock, giving the financier a share of earnings before anyone else, but little or no voting rights. Another popular equity-type instrument in venture financing is convertible debt, where in addition to a commitment to interest and principal repayment (usually long-term), the enterprise gives the venture financier the right to convert debt notes into common stock. Subordinated long-term debentures are another common form of financing; in the event of default on this kind of loan, the lender is paid only after senior creditors, such as banks or commercial finance companies, who have prior claim on a firm's assets, are paid off. A venture firm may also assist a small business by guaranteeing loans or advances made by senior creditors. Most often, the venture capital financing is structured by using two or more of these instruments. In every case the format is different, designed to meet the specific needs of the business and the investor.

For the small firm, each type of financing has certain advantages. The sale of common stock strengthens the balance sheet of a growth firm, enabling it to borrow more from traditional lenders. But the entrepreneur must give up a larger share of the ownership of the business, than would be the case if some of the financing were in the form of debt. Preferred stock carries an obligation to pay dividends out of after-tax income when the firm is profitable. Loans from venture capital firms are almost always long-term--seven years is the average for SBICs--and ordinarily subordinated to all other borrowings of the firm, to encourage senior creditors to extend and expand their line of credit.

One increasingly popular kind of venture arrangement is the "leveraged management buy out," where the management of a corporate subsidiary or division, together with an investor or investor group, purchases the subsidiary or division. The equity contributed by the investor and management purchasers is usually only 20 to 30 percent: the remainder is borrowed from banks and other institutions. The seller is usually a large corporation which has not achieved the benefits it expected when it either formed or bought the subsidiary or operation.

Financing Stages

Venture capital may be provided to firms at varying stages of development, each carrying different risks and payoffs for the financier. Early stage money, for example, may promise the greatest profits if the firm is successful, but also carries the most risk, requiring more hands on involvement for the venture firm and the possibility of open ended financial commitments.

The following chart shows the six financing stages for a developing business. These are not rigid or fixed, however. Venture capital can be used in any stage.

Early Stage:

Seed Financing—a relatively small amount of capital provided to an investor or entrepreneur to prove a concept. It may involve product development but rarely involves initial marketing. This kind of investment is sometimes referred to as "adventure financing."

Startup--financing for use in product development and initial marketing. Companies may be in the organization process or they may have been in business a short time (one year or less), but have not sold their product commercially. Usually, such firms would have assembled the key management, prepared a business plan, made market studies, and generally prepared themselves to do business.

First Stage Financing—financing provided to companies that have expended their initial capital (often in developing a prototype) and require funds to initiate commercial manufacturing and sales.

Expansion:

Second Stage Financing--working capital for the initial expansion of a company which is producing and shipping, and has growing accounts receivable and inventories. Although the company has clearly made progress, it may not yet be showing a profit.

Third Stage Financing--funds provided for major expansion of a company whose sales volume is increasing, and that is breaking even or profitable. These funds are utilized for further plant expansion, marketing, working capital or an improved product.

Fourth Stage (Bridge) Financing--financing for a company expecting to go public within six months to a year.

The venture capital industry has gone through several swings in its financing patterns. Seed and start-up financing flourished during the 1960s, when venture firms stressed new business creation over on-going development. That reversed in the mid-1970s, when start-ups fell to only 10 percent of venture financing; today, early stage financing is again being emphasized, accounting for 52 percent of the 1981 venture dollars invested.

SBICs, which must pay interest on their loans from SBA, tend to invest in enterprises that are slightly more established. Only about one third of the firms financed by SBICs in 1981 were start-ups, while more than 13 percent were over 10 years old. More than 60 percent of SBIC dollars, however, went to firms less than three years old. Two thirds of the dollars invested by SBICs were used by recipient firms for operating capital.

Origins of Organized Venture Capital

Throughout its history, the United States has depended on venture capital to fuel its economic growth. George Washington and many others provided the funds for digging canals and building roads and railroads; later the duPonts helped finance General Motors; Mellon dollars built Gulf Oil and Alcoa; the Rockefellers took some of their oil dollars to fund Eastern Airlines. Less dramatic are the hundreds of thousands of examples of relatively small investments by family members and friends in hometown success stories in all parts of the country.

As an organized industry, venture capital was not highly visible before 1946, when the American Research and Development Corp.

(AR&D) revolutionized the nature of venture investments. Family funds, such as those organized by the Rockefellers, the Whitneys, and the Phipps were operating, but without publicity, so the typical entrepreneur had no access to these sources of venture funding.

AR&D, organized by a group of New England business leaders and headed by Gen. Georges Doriot, a Harvard Business School professor, was formed solely for the purpose of making venture investments. It supplemented its initial private capital by several public offerings of its stock; the resulting capital pool was invested heavily in high technology companies. Like the venture capital firms of today, AR&D gave managerial assistance and technical advice to its portfolio firms. In 1957, AR&D added to its portfolio a $70,000 investment to start a firm called Digital Equipment. Digital Equipment experienced early financial problems. But as the company matured, its value increased until AR&D's initial venture investment had evolved into a holding worth more than $300 million. AR&D's experiences helped convince others of the profits to be made in venture investing.

The next milestone in the development of the venture capital industry was the 1958 Small Business Investment Act, which authorized the SBIC program. Also that year, Congress took several actions in the tax field which had the effect of promoting capital formation for smaller firms and assisting in the formation of new businesses. These included: permission for closely-held corporations to elect to be taxed as partnerships; authority for losses on investments in small businesses to be written off against ordinary income; and the beginning of a graduated tax rate on corporate income.

Many SBICs were organized during the 1960s, and in the late 1960s and early 1970s, a number of venture capital firms were formed, many as partnerships but some as corporations and others as subsidiaries of major firms. In 1969, the SBIC pattern was extended to minority firms with the establishment of the MESBIC program.

After the rapid growth of the industry in the 1960s, many SBICs and venture capital firms left the business in the mid 1970s, due in part to changes in federal tax and regulatory policies and the depressed state of the over-the-counter securities market. In 1978, the industry began to revive as rates of return for venture firms improved and as new tax and other federal policies provided greater incentives for venture investments.

During the venture capital industry's relatively short existence, the highly visible success stories of venture backed firms such as Apple Computer, Control Data, Teledyne, Intel, Amdahl, Federal Express and Cray Research have continued to encourage expansion. Today venture capital companies tend to be concentrated in six or eight major metropolitan areas, including Boston, New York, Chicago, Minneapolis, Dallas, San Francisco and Los Angeles, although more geographic dispersion is occurring as new firms are established. The enterprises receiving venture investments also tend to be concentrated in a few states—California, Massachusetts, and New York, for example—where high technology firms are plentiful. Those three states accounted for 57 percent of the venture capital disbursements in 1981.

The Impacts of Federal Policy

Venture capital firms, depending on type, experience varying degrees of government regulation. SBICs and MESBICs are regulated by SBA; those that are publicly-owned are also regulated by the Securities and Exchange Commission, under either the Investment Company Act of 1940 or the Small Business Investment Incentive Act of 1980. Publicly-owned private venture capital firms are also regulated by SEC. The other segments of the venture capital community are free from any regulatory framework, but as is the case with all parts of the industry, must operate under federal and state securities laws.

Many students of the venture capital industry believe federal tax and regulatory policies have an important impact on the flow of venture capital to new enterprises. "The venture capital process is very sensitive to government policies, rules and regulations," concluded GAO in its comprehensive report. The Tax Acts of 1969 and 1976, which raised the federal tax rate on capital gains from 25 percent to 49 percent and altered the tax treatment of stock options, are frequently cited as contributing to the decline of venture investment activity in the 1970s, when disbursements dropped from nearly $500 million in 1969 to $250 million in 1975.

The federal actions may have had a ripple effect on venture financing and new enterprise formation, GAO concluded. With the perception of reduced capital availability, entrepreneurs became less inclined to pursue new business ventures. With stock options less attractive, experienced managers and technocrats became less inclined to abandon secure careers for entrepreneurial ventures. Venture capital firms tended to shift from start-ups to more short-term investments in existing businesses, and, GAO found, the number of venture firms declined.

The number of companies going public also declined significantly during the early 1970s, from an annual average of 721 from 1968 to 1972 to only 55 in 1974 and an average of 45 from 1975 to 1978. Some believe the federal tax laws and securities regulations were largely responsible for the decline in the number of new issues; others cite generally poor economic conditions during the 1973-1976 recession as the key factor. Whatever the cause, the poor securities market was an impediment to venture financing.

In 1978 Congress cut the tax rate on capital gains back to 28 percent, and venture funding, which had been increasing slowly since the lowpoint in 1975, shot up dramatically, from around $400 million in disbursements in 1977 to $1 billion in 1979. Congress lowered the rate again in 1981, to a maximum of 20 percent, and reversed the changes in stock option provisions that had been enacted in 1976. Another government regulatory action cited as having a significant impact in encouraging venture financing was the decision by officials at the Labor Department to take a more liberal view of the "prudent man" requirements of the Employee Retirement Income Security Act of 1974, governing the investment of pension fund assets, to allow for some more "risky" investing.

CASE EXAMPLES

The Private Venture Capital Firm: Oxford Partners

Like most private venture capital companies, Oxford Partners operates as a limited partnership. Oxford Partners manages the Oxford Venture Fund, a $20 million capital pool, made up of investments from pension funds, corporations, wealthy individuals, insurance companies, bank trust departments, and others.

Oxford Partners began in June 1981. It now has nine investments in its portfolio, all high technology oriented companies, with names such as Aspech, Queue Systems, RF Monolithics, Faded J, and Micro General. Oxford generally makes equity investments, usually purchasing common or preferred stock. It stresses early stage financing.

Oxford Partners will only consider business plans submitted for financing. It receives somewhere around 50 funding requests per month, from which fewer than one percent are selected.

The SBIC: Northwest Growth Fund

Founded in 1961, this Minneapolis-based company has been one of the nation's largest and most successful SBICs, investing more than $65 million in 165 companies. In the late 1970s Northwest Growth purchased two other SBICs, in Portland and Denver. In 1979 it became a wholly-owned subsidiary of Northwest Bancorporation, the 18th largest bank holding company in the U.S.

As of mid-1981, Northwest Growth Fund held over 65 companies in its portfolio: many were in high technology, but the firm's investments are quite diverse, in such areas as machining, medical products and pharmeceuticals, chemical agriculture, education and computer assisted design and manufacturing. The only kind of venture Northwest Growth will not invest in is real estate.

Between 1975 and 1980, the firm's net asset value grew at a compounded annual rate of over 50 percent. Firms funded by Northwest Growth employed 15,000.

For most of Northwest Growth's investments, the fund takes an equity position in its enterprises, using a combination of convertible debt securities and common and preferred stock. The fund also provides management assistance, and usually sits on its firms' boards of directors as a minority shareholder.

Revitalizing Distressed Areas: Kentucky Highlands Investment Corporation

Increasingly, venture capital financing tools are being used to stimulate economic activity in distressed communities. One excellent example is the Kentucky Highlands Investment Corporation, a community development corporation which has taken a venture capitalist approach to community and business development. KHIC supplies risk capital and management assistance to entrepreneurs wishing to start or expand businesses in a 12-county region of Eastern Kentucky, where per capita income is far below the national average and unemployment is high.

KHIC is nonprofit, but it has established two for-profit development subsidiaries: Mountain Ventures Inc., an SBIC, and Kentucky Highlands Real Estate Corporation, which has begun developing industrial properties.

KHIC tends to invest in manufacturing companies, generally low technology, labor intensive industries, but will also consider wholesaling and service ventures. KHIC uses many different types of financing arrangements, buying common or preferred stock, and issuing convertible and subordinated long-term loans. About two-thirds of its financing is in debt form. It also provides a wide range of management services.

Since 1971, KHIC has invested close to $5 million in 19 companies, employing nearly 500 area residents. Among KHIC supported ventures are Possom Trot Corporation in McKee, Ky., manufacturer of soft toys and tote bags, Outdoor Venture Corporation, producer of camping tents, and American Bag Co., producer of sleeping bags, in Pine Knot, Ky.

KHIC built its capital pool using a combination of public and private dollars. Initially it received federal funds primarily from the Community Services Administration, but since 1982 has been privately financed.

State Supported Venture Capital Funds

An increasing number of states are establishing venture capital type funds to help finance development within the state of new products or technologies, or to revitalize distressed communities.

+ The Connecticut Product Development Corporation, a quasi-public agency authorized by the Connecticut legislature in 1972, supplies equity capital to small enterprises within the state that wish to develop new products, expand production or diversify. In return for its investment, the CPDC receives a royalty on each product sold.

CPDC will fund up to 60 percent of the development costs of a new product: the company is expected to raise the remainder. CPDC funds may not be used for working capital or the purchase of land, equipment or buildings. If the product reaches the marketplace, CPDC receives a royalty of 5 percent of the sales until the grant has been repaid five times. One important advantage of CPDC's funding approach is that the payoff to the venture financier, in this case CPDC, depends only on the success of the product, not on the ability of the producing firm to go public or be acquired by another firm, as is normally the case in venture investing.

CPDC, modeled on the British National Research Development Corporation, established in 1948 to help speed post war recovery, was initially capitalized with $10 million in state bond funds. By June 30, 1982, the corporation had committed more than $5.3 million to 39 small firms and was collecting more than $500,000 annually in royalties. Among the 46 products financed to date are laser equipment to inspect newly manufactured machine parts, computer software packages, solar heating panels, a freezing technique to better preserve food flavors, computerized business telephones, bathroom scales and an electronic file cabinet.

+ Like CPDC, the **Massachusetts Technology Development Corporation** uses public venture financing to encourage the development of high technology companies. The corporation generally supplies seed capital in the form of subordinated debt.

Four criteria govern MTDC investments: the venture must have an innovative technology; it must have a reasonable chance of commercial success; private sector financing must be involved; and the investment should yield benefits to Massachusetts through by creating jobs and stimulating economic development.

+ Massachusetts and Louisiana are among a growing number of states which have established venture funds to stimulate economic activity in distressed areas. The Massachusetts Community Development

Finance Corporation was established in 1975 to make investments in community-based ventures in low-income areas across the state. The Louisiana Small Business Equity Corporation supplies financing for small firms that contribute to increased employment and economic activity in the state, that are owned by disadvantaged persons, or that invest in distressed areas. Recipient firms must show they are capable of providing at least $1 of private capital for every $4 they receive from the state.

Innovative Private Venture Capital Funds

\+ The Massachusetts Capital Resource Company is a partnership of nine life insurance companies in Massachusetts which, in return for tax relief granted by the state, are providing venture capital to in-state businesses. MCRC is for-profit. Now capitalized at $100 million, it supplies four basic types of investments: long-term loans to companies unable to borrow from conventional sources, subordinated debt to rapidly growing firms, investments with others to revitalize existing businesses, and growth capital to young firms. MCRC will finance all sizes of businesses, but is prohibited from investing in real estate developers, retailers, construction companies, public utilities and most financial intermediaries.

By November 9, 1982, MCRC had invested over $81.5 million in 72 firms, with individual investments ranging from $100,000 to $5 million. Its earnings exceeded $5 million in 1981.

\+ The Minnesota Seed Capital Fund was organized in 1980 by several Minnesota corporations as a for-profit venture to provide start up money, or so-called "angel funds," primarily for high technology companies in the state. Its initial corporate contributors included Control Data Corp., Dayton-Hudson Corp., Data Card Corp., Piper, Jaffray and Hopwood, Inc., Northern States Power Co., Carlson Cos. and the Minneapolis Star and Tribune Co. In 1982, two large pension funds announced their participation: Control Data pension fund committed $500,000, as did the public Minnesota Employees Retirement Fund (MERF).

The fund works closely with the Minnesota Cooperation Office, an independent, nonprofit organization formed by the business community to advise small firms. All potential recipients of Seed Capital investments must go first to the MCO, which is staffed by volunteer business professionals, to receive assistance in preparing a business plan. Once a firm receives an investment, however, the Seed Capital Fund, unlike some venture capital financiers, is not heavily involved in its management.

As of November, 1982, the Seed Capital Fund had $3.2 million in capital, of which $866,000 had been committed to seven firms. These included Audiobionics, developer of computer aided systems for the deaf; Multi-Arc Vacuum Systems, Inc., a company specializing in increasing the durability of high speed machine tools; DataText Systems, Inc., a computer graphics company; Magnetic Data Inc., which helps refurbish magnetic disks for computers; and Mid-American International Trading Co., the Fund's only non-high technology investment, which assists small Minnesota businesses in marketing products worldwide.

The Seed Capital Fund's investments generally take the form of preferred or common stock, and to date have not exceeded $250,000 to any single company.

SUBMITTED BY: Dick Bourke for Dick Remington, 3/10/83, EXHIBIT NO. 6

DEVELOPMENT CREDIT CORPORATION OF MONTANA

P. O. BOX 916
HELENA, MONTANA 59601

TELEPHONE
442-3850

March 10, 1983; Senate Business and Industry Committee
Testimony in Support of House Bill 685

Mr. Chairman and members of the committee:

My name is Dick Remington and I am the Vice-President and Montana Manager for Mountain Bell, and the President of the Development Credit Corporation of Montana.

The Development Credit Corporation is a private, for-profit business development corporation chartered under Montana state law. Our shareholders are many of the state's financial institutions, a few large corporations operating in Montana, and half a dozen rural electric cooperatives. We have an existing capitalization of about $250,000, and are the only organized financial institution in Montana capable of providing risk and equity capital to worthy Montana businesses.

We enthusiastically support the passage of House Bill 685 as a well designed and thoughtful approach to providing incentives for the private sector to meet the risk and equity capital needs of Montana's small business community. As you may know, there exists a strong consensus among Montana's financial and business community that we lack access to venture capital, and that this is likely the most serious capital problem facing our small business people.

The Development Credit Corporation is in the business of providing risk and equity capital. In simple terms, this is capital which is not available from conventional financial institutions, due to either size or term requirements, level of risk or sufficiency of equity. For example, let's assume a business is being started which needs $500,000.

The local bank may lend up to $250,000, but the owners only have $50,000 in cash. The $200,000 gap in financing may be filled by what I refer to as risk or equity capital. Types of financings which fall in this category include subordinate or convertible debt, usually of a longer term nature, purchase of preferred or common stock in the business, or purchase and leaseback of real estate and equipment.

There has been little, if any, institutional capacity to supply this kind of capital in Montana. In 1981, only four percent of the venture capital investments made nationally were made in the entire eight state Rocky Mountain region. The national venture capital industry simply grew up where the money and deals existed, namely the east and west coasts, and Minneapolis area. Our remoteness from these areas, and perceived lack of high technology and high growth businesses has kept this source of funds from being made available to our business sector.

What does this have to do with HB 685? House Bill 685 simply establishes tax credits for investors in companies like the Development Credit Corporation. We need to offer potential investors this additional financial incentive in order to raise significant amounts of new capital which will allow us to aggressively pursue venture capital investing. In Montana, it is extremely difficult to raise capital for an in-state venture capital company, particularly when the return to the investors will not be realized for at least three years, and up to seven years.

Several important points must be remembered. First, out-of-state venture capitalists are not generally interested in Montana, for reasons mentioned above. Second, we must develop an in-state private sector institutional capability to supply risk and equity financing tailored to our unique economic environment. Third, our company needs a large capital base in order to vigorously pursue venture capital investing. This bill provides a critically needed incentive to spur investment from the private sector in capital companies such as ours, and I urge you to give it a do pass recommendation.

UBMITTED BY: Dick Bourke, 3/10/83, EXHIBIT NO. 7

DEVELOPMENT CREDIT CORPORATION OF MONTANA

P. O. BOX 916
HELENA. MONTANA 59601

TELEPHONE
442-3850

Business/Individual Contacts Since 1/15/83

1. K & M Industries, Inc.
   Billings, Montana

2. Pintlar Manufacturing Corp.
   Anaconda, Montana

3. King Tool, Inc.
   Bozeman, Montana

4. Capital Courts & Health Club
   Helena, Montana

5. Bee Made Products Laboratories, Inc.
   Terry, Montana

6. CB & F Development Corp.
   Culbertson, Montana

7. Summit Products
   Bozeman, Montana

8. AE Montana
   Belgrade, Montana

9. Diversified Enterprises
   Kalispell, Montana

10. Montana Pole & Treating
    Butte, Montana

SUBMITTED BY: DICK BOURKE, 3/16/83, EXHIBIT NO. 8

DEVELOPMENT CREDIT CORPORATION OF MONTANA

P. O. BOX 916
HELENA, MONTANA 59624

TELEPHONE
442-3850

To: Members of the Senate Business and Industry Committee

Fr: Dick Bourke, Vice-President

Re: Proposed Amendment to House Bill 685

Page 6, line 14

Following: "commencing"

Strike: "March 1, 1984"

Insert: "January 1, 1984"

SUBMITTED BY: Carol Daly, 3/10/83, EXHIBIT NO. 9

MONTANA

ECONOMIC DEVELOPMENT ASSOCIATION
Post Office Box 1093 • Helena, Montana 59624 • March 10, 1983

TESTIMONY IN SUPPORT OF H.B. 685

The Montana Economic Development Association supports the creation and/or expansion of capital companies in Montana because:

1. They represent a positive private sector response to a private sector problem;
2. They would encourage and facilitate the investment of Montana capital in the state;
3. They would help fill a void in the state's business financing structure; and
4. They can be more versatile than conventional financing institutions in developing and carrying out creative solutions to a wide range of business financing needs.

Successful small businesses traditionally go through a series of growth phases. In their formational state, the firm is financed largely through the owners' personal savings and trade credit, supplemented by occasional short term bank loans. Once the firm enters a period of substantial growth, the firm should be able to draw upon internal financing (from retained earnings), trade credit, bank credit, and venture capital. Unfortunately, this has not always been the case in Montana.

When a firm is in its growth state, it may well have a difficult time obtaining equity (or long term debt) financing because it is not large enough to go public and it may be unable to identify and reach individual private investors. Even if it is able to locate persons with investment resources, those individuals may not have the time or the knowledge to be able to evaluate the potential of the business, the soundness of its management, the viability of its markets, and other considerations which must be taken into account when making an investment decision. All too often this evaluation appears too complex or too costly or too time consuming to the unsophisticated investor, so he/she puts his/her money elsewhere, somewhere "safer", opting for the security of a blue chip investment such as IBM rather than for the possibility of a higher return on investment through putting the money in a growing Montana firm.

The need for equity capital should not be considered a sign of distress, but rather as a favorable indication of growth.

At low growth rates, a firm may need no external financing. For substantial growth, however, it must raise capital from outside sources -- the faster the growth rate, the greater the capital requirements. Particularly if a firm is capital intensive, even a small growth in output may require a great deal of outside capital. Technological considerations may also dictate that if the firm is to be competitive that it add fixed assets in large, discrete units, so that even a small increase in sales might require a firm to substantially increase its plant capacity.

The availability of an equity base makes it easier and less expensive for a small firm to raise its debt capital. During periods of tight money and high interest rates, financial institutions may tighten their credit standards to ration limited affordable capital supplies. A stronger balance sheet is required to qualify for bank credit. Since financial ratios for small and growing firms tend to be less strong, such firms bear the brunt of credit restraints. Obviously if the firm has raised some equity capital it is in a better position to ride out a tight money period. It has already raised some of its needed capital, and its equity cushion enables it to present a stronger picture to conventional finacing institutions, thus helping it obtain further financing in the form of debt.

Capital companies can of course also provide debt financing, leasebacks of equipment and facilities, lease purchase packages, and numerous other financing options. The availability of those resources are sorely needed by the Montana business community, and for that reason we urge your favorable consideration of HB 685.

Thank you.

Carol Daly

Carol Daly
President

SUBMITTED BY: Mike Fitzgerald, 3/10/83, EXHIBIT NO. 10
(This sheet to be used by those **testifying** on a bill.)

NAME: Mike Fitzgerald DATE: 10 Mar 83

ADDRESS: Suite 610 Power Building

PHONE: 443-7910

REPRESENTING WHOM? Montana Trade Commission

APPEARING ON WHICH PROPOSAL: HB685

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENT:

This is one of the only private sector initiatives before the Legislature.
It will create incentives to attract investors to develop a venture capital / equity pool in Montana. There is little or no venture or equity capital in this state – This is the lifeblood of new business – HB685 is important to create new business in Montana – Any tax revenue loss by the credit will be many times recouped by the investment in new business and jobs & business + personal income taxes.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

Testimony of Celinda Lake, Women's Lobbyist Fund, in support of HB685 before Business and Industry

Mr. Chairman, the Women's Lobbyist Fund, supports HB685. We believe that it is an important tool for building Montana's economy on our own terms. HB685 is designed to help businesses which have been disadvantaged in the traditional capital market. Firms owned and operated by women certainly fit that category. The amendments added in the House will ensure that this state facilitated investment will occur in the spirit expressed by the public in their support of Initiative 95. We urge your support of HB685.

SUBMITTED BY: Don Reed, 3/10/83, EXHIBIT NO. 12

HB 685

Presented to the Senate Committee on Business and Industry
By the Montana Environmental Information Center

March 10, 1983

HB 685 is a fairly significant departure from the other bills considered by this committee. For starters, HB 685 does not directly invest any state held funds. Rather, it uses tax credits to stimulate private investment.

HB 685 is quite different from the Montana Capital Corporations bill suggested by the Temporary Committee on Development Finance. The committee's bill would have provided a 50 percent tax credit, not a 25 percent credit. The committee's bill would have provided state funds to match the capitalization of the MCC's. In that sense, the committee's bill represented more of a joint public/private venture than does HB 685. Finally, the list of "qualified investments" in the committee's bill was couched in terms of business types excluded, not in terms of eligible businesses.

As I read through HB 685, I was surprised that all of the administraive functions were to be done by the Department of Commerce and not the Economic Development Board. Section 18 finally set me straight by pointing out that if the Board is created by HB 100, then the Board will be responsible, not the Department of Commerce.

We would like to make a suggestion to the committee regarding the Economic Development Board. General citizen representation will be essential to the success and fairness of the development finance programs. The composition of the Board is one place to ensure such representation. An additional possibility is to form several regional boards to advise the main Board. This would provide a more direct link between the diverse communities in Montana and the Board. This kind of grassroots involvement would strengthen the long-term ability of the Board to meet the economic development needs and desires of all Montanans.

The list of "qualified investments" (pp. 5-6, starting at line 4) is different than the approach suggested by the temporay committee. MEIC strongly supports "(ii) agricultural, fishery, or forestry production and processing;" "(iv) recognized nonfossil forms of energy generation as defined in 15-32-102(5);" "(vii) wholesale and retail distribution activities for which products produced in Montana comprise 50% or more of the gross sales receeipts;" and "(viii) any activity conducted in the state for which 50% or more of the gross receipts are derived from the sale of products or services outside Montana."

Finally, MEIC recommends that that the preferences in HB 100, as the select committee finally determines, be inserted in HB 385. The purpose is to carefully focus the program to maximize its ultimate economic effect. As we have pointed out earlier, this does not limit the program. Rather, it provides a preference when all other factors are equal.

SUBMITTED BY: Clint Grimes, 3/10/83, EXHIBIT NO. 15

(This sheet to be used by those testifying on a bill.)

NAME: Clint Grimes DATE: ____

ADDRESS: 7132 Canyon Ferry Rd. Helena, Mont

PHONE: 475-3668

REPRESENTING WHOM? Montana Consultants

APPEARING ON WHICH PROPOSAL: HB 685

DO YOU: SUPPORT? ✓ AMEND? ____ OPPOSE? ____

COMMENT:

Capital Companies usually specialize in certain Industrial sectors because of the high risk nature of investment. Montana has none of these specialized, high risk Capital ~~Companies~~ Companies. An example is in the high tech area of the economy. We have the beginning of a high tech industry in Montana but no specialized investment facilities that understand the special risks and needs of these firms.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE ______

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Clint Grimes	Self	685		
Don Reed	MEIC	685	✓	
Joan Toole	Rep Harrison	685		
Pat Wing	Democratic Party	685		
Norma Seiffert	Mt Ins Dept	638		✓
Gordon Bruce	"	638		
Janelle Fallan	Mont Chamber	685	✓	
[illegible]	Bozeman [illegible]			
[illegible]	Mont [illegible]	685	✓	
Dave Goss	Billings Chamber of Commerce	685	X	
Celinda Lake	Women's Lobbyist Fund	685	X	
Carol Daly	Mt. Econ Dev. Assn	685	X	

(Please leave prepared statement with Secretary)

(This sheet to be used by those **testifying** on a bill.)

NAME: Jeffry M. Kirkland DATE: 3-10-83

ADDRESS: 2842 Festival Road Helena

PHONE: 227-5901

REPRESENTING WHOM? Montana Credit Unions League

APPEARING ON WHICH PROPOSAL: HB 498

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Norma E. Seiffert DATE: 3/10/83

ADDRESS: Montana Ins. Dept - 204 Mitchell Bldg

PHONE: 449-2996

REPRESENTING WHOM? same as address

APPEARING ON WHICH PROPOSAL: HB 638

DO YOU: SUPPORT? ______ AMEND? ______ OPPOSE? ______

COMMENT:

written testimony left with Committee

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME CHAD SMITH House BILL NO. 638

ADDRESS Box 604 HELENA DATE 3-10-83

WHOM DO YOU REPRESENT Mont Hospital Assn

SUPPORT ______ OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

(This sheet to be used by those testifying on a bill.)

NAME: Aron Cain DATE: 3/9/83

ADDRESS: Box 4309 Hele A

PHONE: 442-5450

REPRESENTING WHOM? MPS

APPEARING ON WHICH PROPOSAL: HB 638

DO YOU: SUPPORT? ______ AMEND? ______ OPPOSE? ______

COMMENT: ______

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: DICK REMINGTON DATE: 3/10/83

ADDRESS: V.P., MOUNTAIN BELL OF MONTANA, HELENA
PRES. DEV. CREDIT CORP OF MT.

PHONE: 449-2211

REPRESENTING WHOM? DCCM, MT. BELL

APPEARING ON WHICH PROPOSAL: HB 685

DO YOU: SUPPORT? X AMEND? ______ OPPOSE? ______

COMMENT:

SUBMITTED WRITTEN TESTIMONY

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those **testifying** on a bill.)

NAME: DICK BOURKE DATE: 3/10/83

ADDRESS: BOX 916, DEV. CREDIT CORP. OF MT., 555 FULLER AVE.

PHONE: 442-3850

REPRESENTING WHOM? DEV. CREDIT CORP. OF MT.

APPEARING ON WHICH PROPOSAL: HB 685

DO YOU: SUPPORT? X AMEND? X OPPOSE? ____

COMMENT:

(1) THIS IS THE ONLY DEVELOPMENT FINANCE INITIATIVE WHICH ADDRESSES THE EQUITY CAPITAL PROBLEM

(2) THE EQUITY CAPITAL PROBLEM IS THE MOST IMPORTANT CAPITAL ISSUE FACING MONTANA'S BUSINESSES.

(3) THIS IS STRICTLY A PRIVATE SECTOR-ORIENTED SOLUTION

(4) ~~DEB~~ THE TAX CREDITS TAKEN REPRESENT AN INVESTMENT IN THE MT. COMPANY; THIS INVESTMENT WILL GENERATE A 20% PER YEAR RETURN, AND BE COMPLETELY PAID BACK IN LESS THAN 5 YEARS

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME Dave Goss BILL NO. HB 685

ADDRESS P.O Box 2519 Billings, MT 59103 DATE

WHOM DO YOU REPRESENT Billings Chamber of Commerce

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

(This sheet to be used by those **testifying** on a bill.)

NAME: Janelle Fallan DATE: 3/10/83

ADDRESS: Box 1730, Helena 59624

PHONE: 442-2405

REPRESENTING WHOM? Montana Chamber

APPEARING ON WHICH PROPOSAL: HB 685

DO YOU: SUPPORT? X AMEND? ______ OPPOSE? ______

COMMENT: Great need for venture capital in Montana - this bill is important to help solve this problem

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those **testifying** on a bill.)

NAME: DON REED DATE: 3/9/83

ADDRESS: P.O. Box 1184

PHONE: 443-2520

REPRESENTING WHOM? MEIC

APPEARING ON WHICH PROPOSAL: HB 685

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENT: (See written comments)

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.