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H.P. 849

House of Representatives, March 28, 2017

**An Act To Implement the Recommendations of the Government
Oversight Committee To Improve the Efficiency and Effectiveness
of Evaluations of the State's Investments in Economic Development**

Reported by Representative MASTRACCIO of Sanford for the Government Oversight Committee pursuant to the Maine Revised Statutes, Title 3, section 997, subsection 2.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 5 MRSA §13051**, as corrected by RR 2013, c. 2, §5, is repealed.

3 **Sec. 2. 5 MRSA §13053, first ¶**, as amended by PL 1987, c. 816, Pt. P, §6, is
4 further amended to read:

5 The Department of Economic and Community Development is established to
6 encourage economic and community planning and development policies and programs of
7 the State and to coordinate these programs and policies within the context of a state
8 economic development ~~strategy plan and the long-term economic plan for the State~~
9 developed pursuant to Title 10, section 929-A, subsection 1. The department is also
10 established to work with municipalities and regional planning and economic development
11 organizations to build strong local and regional economics and to implement programs
12 and services through these local and regional organizations.

13 **Sec. 3. 5 MRSA §13056-A**, as amended by PL 2011, c. 563, §2, is repealed.

14 **Sec. 4. 5 MRSA §13056-B**, as amended by PL 2009, c. 337, §1, is repealed.

15 **Sec. 5. 5 MRSA §13056-C**, as amended by PL 2011, c. 563, §3, is repealed.

16 **Sec. 6. 5 MRSA §13058, sub-§5**, as amended by PL 2009, c. 337, §3, is further
17 amended to read:

18 **5. Review of program; report to Governor and Legislature.** The commissioner
19 shall review and evaluate the programs and functions of the department and the operation
20 of the economic delivery system using the information available from the long-term
21 economic plan for the State pursuant to Title 10, section 929-A, subsection 1, the
22 evaluation of state economic development ~~evaluation~~ investments pursuant to section
23 13056-A 13070-P and the evaluations of tax expenditures pursuant to Title 3, section 999.
24 The commissioner shall report the commissioner's findings and recommendations with
25 respect to the issues described in this subsection to the Governor and to the Legislature no
26 later than February 1st of each first regular session of the Legislature. The commissioner
27 shall conduct the review and evaluation with respect to the following:

28 A. The purpose of these programs and the degree to which the purpose is being met;

29 B. The degree of significance of the purpose of the programs and functions of the
30 department;

31 C. The extent of the coordination of programs and services as required in subsection
32 4;

33 D. The needs, problems and opportunities that are not being met by the programs and
34 services of the department;

35 E. The types of programs and services necessary to meet the needs, problems and
36 opportunities as set out in paragraph D;

37 F. The problems and successes in the economic delivery system;

- 1 G. The state of small business in this State, including economic data, the
- 2 effectiveness of state programs to aid small business, problems of small business that
- 3 may be affected by state policies and such other information on small business as
- 4 desired by the commissioner;
- 5 H. Within available resources, the extent of business growth and change, including
- 6 business expansions, new businesses and business closings;
- 7 I. Within available resources, the status of investments in business in the State; and
- 8 J. The extent to which the purposes of the Maine Downtown Center are being met.

9 **Sec. 7. 5 MRSA §13063-O, sub-§1, ¶C**, as amended by PL 2009, c. 337, §4, is
 10 further amended to read:

11 C. Each year, submit a report to the joint standing committee of the Legislature
 12 having jurisdiction over business, research and economic development matters. The
 13 report must include:

- 14 (1) An accounting of the use of all program funds received and expended since
- 15 the program's inception;
- 16 (2) A summary of the status of any approved projects;
- 17 (3) A summary of the results of any completed projects;
- 18 (4) Evaluation data and assessment consistent with section ~~13056-A~~ 13070-P;
- 19 and
- 20 (5) Other information required to be submitted and evaluated by the joint
- 21 standing committee of the Legislature having jurisdiction over business, research
- 22 and economic development matters.

23 **Sec. 8. 5 MRSA §13070-J, sub-§1**, as amended by PL 2015, c. 494, Pt. B, §1, is
 24 further amended to read:

25 **1. Definitions.** As used in this article, unless the context otherwise indicates, the
 26 following terms have the following meanings.

27 ~~B. "Commissioner" means the Commissioner of Economic and Community~~
 28 ~~Development.~~

29 ~~C. "Department" means the Department of Economic and Community Development.~~

30 D. "Economic development incentive" means federal and state statutorily defined
 31 programs that receive state funds, dedicated revenue funds and tax expenditures as
 32 defined by section 1666 whose purposes are to create, attract or retain business
 33 entities related to business development in the State, ~~including but not limited to:~~

- 34 (1) ~~Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;~~
- 35 (2) ~~The Governor's Jobs Initiative Program under Title 26, chapter 25,~~
 36 ~~subchapter 4;~~
- 37 (3) ~~Municipal tax increment financing under Title 30-A, chapter 206;~~

- 1 ~~(4) The jobs and investment tax credit under Title 36, section 5215;~~
- 2 ~~(5) The research expense tax credit under Title 36, section 5219-K;~~
- 3 ~~(6) Reimbursement for taxes paid on certain business property under Title 36,~~
- 4 ~~chapter 915;~~
- 5 ~~(7) Employment tax increment financing under Title 36, chapter 917;~~
- 6 ~~(8) The shipbuilding facility credit under Title 36, chapter 919;~~
- 7 ~~(9) The credit for seed capital investment under Title 36, section 5216-B; and~~
- 8 ~~(11) The credit for Maine fishery infrastructure investment under Title 36,~~
- 9 ~~section 5216-D.~~

10 D-1. "Economic development investments" means commitments of state funds,
11 dedicated revenue funds and tax expenditures as defined by section 1666 for research
12 and development activities and economic development incentive programs.

13 E. "Economic development proposal" means proposed legislation that establishes a
14 new program or that expands an existing program that:

15 (1) Is intended to encourage significant business expansion or retention in the
16 State; and

17 (2) Contains a tax expenditure, as defined in section 1666, or a budget
18 expenditure with a cost that is estimated to exceed \$100,000 per year.

19 F. "Research and development activities" means activities that directly or through
20 capital investment support basic and applied scientific research and related
21 commercial development funded by state appropriations and bond proceeds.

22 G. "State strategic economic improvement plan" means the long-term economic plan
23 for the State's economy developed by the Maine Economic Growth Council pursuant
24 to Title 10, section 929-A, subsection 1.

25 **Sec. 9. 5 MRSA §13070-J, sub-§2,** as amended by PL 2001, c. 481, §2, is
26 repealed.

27 **Sec. 10. 5 MRSA §13070-J, sub-§2-A** is enacted to read:

28 **2-A. Disclosure.** The following provisions govern disclosure requirements.

29 A. An applicant for an economic development incentive shall at a minimum identify
30 in writing:

31 (1) The public purpose that will be served by the business through use of the
32 economic development incentive and the specific uses to which the benefits will
33 be put; and

34 (2) The goals of the business for the number, type and wage levels of jobs to be
35 created or retained as a result of the economic development incentive received.

36 Applications filed for economic development incentives are public records for
37 purposes of Title 1, chapter 13.

1 B. To assist the department in preparing the comprehensive evaluation of state
2 investments in economic development pursuant to section 13070-P, subsection 1, a
3 recipient of state funding for research and development activities or economic
4 development incentives, including General Fund appropriations, dedicated revenue,
5 tax expenditures as defined in section 1666 and general obligation bond proceeds for
6 economic development, shall, in addition to any other reporting requirements
7 required by law, collect, maintain and provide data as requested by the department.

8 **Sec. 11. 5 MRSA §13070-J, sub-§4**, as amended by PL 2009, c. 337, §5, is
9 further amended to read:

10 **4. Agency reports.** The following agencies shall submit the following reports.

11 A. The State Tax Assessor shall submit a report by October 1st annually to the
12 Legislature and the department identifying the amount of public funds spent and the
13 amount of revenues foregone as the result of economic development incentives. The
14 report must identify the amount of the economic development incentives under the
15 jurisdiction of the Bureau of Revenue Services received by each business to the
16 extent permitted under Title 36, section 191 and other provisions of law concerning
17 the confidentiality of information.

18 B. The Commissioner of Labor shall report by October 1st annually to the
19 Legislature and the department on the amount of public funds spent on workforce
20 development and training programs directly benefiting businesses in the State. The
21 report must identify the amount of economic development incentives under the
22 jurisdiction of the Department of Labor received by each business and the public
23 benefit resulting from those economic development incentives.

24 C. The Maine Community College System shall report by October 1st annually to
25 the Legislature and the department on the amount of public funds spent on job
26 training programs directly benefiting businesses in the State. The report must
27 identify the amount of economic development incentives under the jurisdiction of the
28 system received by each business and the public benefit resulting from those
29 economic development incentives.

30 **Sec. 12. 5 MRSA §13070-O, sub-§1, ¶J**, as enacted by PL 2007, c. 434, §8, is
31 amended to read:

32 J. Require that a business that receives benefits under the program have a business
33 statement that includes the requirements of section 13070-J, subsection 2-A.

34 **Sec. 13. 5 MRSA §13070-P** is enacted to read:

35 **§13070-P. Comprehensive evaluation of state investments in economic development**

36 **1. Conduct evaluation.** By February 1, 2021, and every 4 years thereafter, the
37 commissioner shall submit a comprehensive evaluation of state economic development
38 investments, referred to in this section as "the evaluation," not to include programs
39 subjected to independent evaluations required by federal programs, to the Governor and
40 the Legislature.

- 1 A. The scope of the evaluation must include research and development activities and
2 economic development incentives in this State.
- 3 B. The evaluation must be performed by independent, objective reviewers.
- 4 C. The evaluation objectives include, but are not limited to, an assessment of:
- 5 (1) The extent to which the State's portfolio of economic development
6 investments, particularly in terms of level and types of investments, aligns with
7 and supports the state strategic economic improvement plan;
- 8 (2) The extent to which individual activities and programs, or groups of activities
9 and programs, within the State's portfolio are contributing to the achievement of
10 particular goals, measurable objectives and performance targets associated with
11 the state strategic economic improvement plan;
- 12 (3) How the State's portfolio of economic development investments, particularly
13 in terms of level and types of investments, compares to investments in other
14 states;
- 15 (4) The effect of the State's economic development investments in improving the
16 competitiveness of the State's established and emerging technology and industry
17 sectors in regional, national and global arenas; and
- 18 (5) The extent to which the overall framework for the State's economic
19 development investments provides for sufficient transparency and accountability,
20 effective and efficient coordination among the State's activities and programs and
21 easy access for interested businesses and other entities.
- 22 D. The evaluation must include recommendations to the department, the Governor
23 and the Legislature on any identified:
- 24 (1) Opportunities to modify the current portfolio of state economic development
25 investments, particularly with regard to level of investment or types of activities
26 and programs, in order to better align resources with the state strategic economic
27 improvement plan and more cost-effectively support achievement of goals,
28 objectives and performance targets associated with the plan;
- 29 (2) Opportunities to shift investments from economic development activities and
30 programs to other state efforts in order to better align resources with the state
31 strategic economic improvement plan and more cost-effectively support
32 achievement of goals, objectives and performance targets associated with the
33 plan;
- 34 (3) Opportunities to improve transparency and accountability for state economic
35 development investments, coordination among economic activities and programs
36 in the portfolio or accessibility of business and other entities to those activities
37 and programs; and
- 38 (4) Areas for improvement.
- 39 E. In planning and conducting the evaluation, the department and independent
40 reviewers may consider pertinent information available from the Maine Economic
41 Growth Council, as established in Title 10, section 929-A, and from reviews

1 conducted by the Office of Program Evaluation and Government Accountability, as
2 established in Title 3, section 991. The independent reviewers may consult with the
3 Office of Program Evaluation and Government Accountability on accessing data,
4 confidential or otherwise, necessary for the evaluation.

5 **2. Action on evaluation recommendations.** By February 1, 2021 and every 4 years
6 thereafter, the commissioner shall present the evaluation and results from the most recent
7 evaluation required under this section to the joint standing committee of the Legislature
8 having jurisdiction over labor, commerce, research and economic development matters.
9 The commissioner shall report to the Governor and the committee on actions planned by
10 the department and other entities administering the programs to address the
11 recommendations made. The committee shall also consider the independent reviewers'
12 recommendations and may submit a bill to the Legislature to implement
13 recommendations.

14 By February 1, 2023 and by February 1st every 4 years thereafter, the commissioner shall
15 submit to the Governor and the joint standing committee of the Legislature having
16 jurisdiction over labor, commerce, research and economic development matters a
17 progress report related to the evaluation required under this section that describes the
18 implementation status of the planned actions to address the recommendations from the
19 prior evaluation.

20 **Sec. 14. 5 MRSA §13070-Q** is enacted to read:

21 **§13070-Q. Maine Economic Development Evaluation Fund**

22 **1. Fund established.** The Maine Economic Development Evaluation Fund, referred
23 to in this section as "the fund," is established as a nonlapsing Other Special Revenue
24 Funds account administered by the department for the purposes of funding the
25 comprehensive economic development investments evaluation required pursuant to
26 section 13070-P, subsection 1.

27 **2. Fund sources.** The fund receives money deposited by the Treasurer of State
28 pursuant to this section and any other gift, grant or other source of revenue deposited for
29 funding the comprehensive economic development investments evaluation required
30 pursuant to section 13070-P, subsection 1.

31 **3. Payments to fund.** Notwithstanding section 1585 or any other provision of law:

32 A. The department shall assess agencies or private entities that receive General Fund
33 appropriations or general obligation bonds for economic development incentives an
34 amount for contribution to the fund that is not to exceed 0.8% of General Fund
35 appropriations received by or general obligation bonds issued to an agency or entity
36 for economic development incentives. Private entities that receive funds from general
37 obligation bonds for economic development incentives shall pay to the Treasurer of
38 State in the fiscal year in which the general obligation bond was issued an assessment
39 amount determined by the department that is not to exceed 0.8% of the proceeds from
40 the bond issue in any fiscal year, which payment must be made from available
41 resources other than bond proceeds. Only those programs that receive \$250,000 or
42 more in economic development appropriations in any fiscal year or those entities that

1 receive funds from a general obligation bond issue of \$250,000 or more for economic
2 development incentives in any fiscal year, as identified and certified by the
3 department and the Office of Fiscal and Program Review, may be assessed pursuant
4 to this subsection. The department shall provide to each agency or private entity that
5 is assessed a payment under this paragraph an annual budget for the fund and a
6 detailed account of each institution's required assessment. Total payments made
7 pursuant to this paragraph may not exceed \$200,000 in any fiscal year; and

8 B. Agencies or private entities that receive General Fund appropriations or general
9 obligation bonds for research and development activities shall contribute to the fund
10 an amount not to exceed 0.8% of General Fund appropriations received by and
11 general obligation bonds issued to an agency or entity for research and development
12 activities. Private entities that receive funds from general obligation bonds for
13 research and development activities shall pay to the Treasurer of State in the fiscal
14 year in which the general obligation bond was issued an amount not to exceed 0.8%
15 of the proceeds from the bond issue in any fiscal year, which payment must be made
16 from available resources other than bond proceeds. Only those programs that receive
17 \$500,000 or more in research and development appropriations in any fiscal year, or
18 those entities that receive funds from a general obligation bond issue of \$500,000 or
19 more for research and development activities in any fiscal year, as identified and
20 certified by the Office of Innovation, established pursuant to section 13105, and the
21 Office of Fiscal and Program Review, may be assessed. The Office of Innovation
22 shall provide to each agency or private entity that is assessed a payment under this
23 paragraph an annual budget for the fund and a detailed account of each institution's
24 required assessment. Total payments made pursuant to this paragraph may not exceed
25 \$200,000 in any fiscal year.

26 **Sec. 15. 5 MRSA §13107**, as amended by PL 2011, c. 563, §§8 and 9 and c. 655,
27 Pt. EE, §10 and affected by §30, is repealed.

28 **Sec. 16. 5 MRSA §13108**, as enacted by PL 2003, c. 673, Pt. M, §8, is repealed.

29 **Sec. 17. 5 MRSA §13109**, as amended by PL 2009, c. 337, §7, is repealed.

30 SUMMARY

31 This bill implements changes in the efficiency and effectiveness of statutorily
32 required independent evaluations of research and development activities and economic
33 development incentives that are the responsibility of the Department of Economic and
34 Community Development. The Government Oversight Committee identified these
35 changes in its ongoing follow-up of the recommendations included in the Office of
36 Program Evaluation and Government Accountability's 2006 report on economic
37 development programs in Maine. Current law requires the department to conduct an
38 independent evaluation of research and development activities and a separate evaluation
39 of economic development incentives that are not covered in the research and development
40 evaluation. Since the primary purpose of research and development activities is to support
41 economic development, this bill combines the statutory provisions related to both these
42 evaluations into a requirement for conducting and funding one independent evaluation

1 that encompasses both. The bill also changes the required cycle for evaluation from every
2 2 years, with results reported to the Legislature during second regular sessions, to every 4
3 years, with results reported during first regular sessions. This is intended to allow the
4 Legislature more time to consider the recommendations from evaluation reports and
5 allow for recommendations to be implemented in between evaluation periods.
6 Additionally, this bill establishes the objectives for the evaluation and ties those
7 objectives and any recommendations made to the State's long-term economic plan
8 developed by the Maine Economic Growth Council pursuant to the Maine Revised
9 Statutes, Title 10, section 929-A, subsection 1. There is currently a separate bill,
10 Legislative Document 367, before the 128th Legislature addressing the Maine Economic
11 Growth Council's responsibilities for that plan. Lastly, this bill seeks to ensure that
12 evaluation results are considered and acted on, as appropriate, by assigning responsibility
13 for review and action to both the Department of Economic and Community Development
14 and the joint standing committee of the Legislature having jurisdiction over labor,
15 commerce, research and economic development matters.