



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1217

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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**

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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2 **Sec. 1. 5 MRSA §13051**, as corrected by RR 2013, c. 2, §5, is repealed.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13 **Sec. 3. 5 MRSA §13056-A**, as amended by PL 2011, c. 563, §2, is repealed.

14 **Sec. 4. 5 MRSA §13056-B**, as amended by PL 2009, c. 337, §1, is repealed.

15 **Sec. 5. 5 MRSA §13056-C**, as amended by PL 2011, c. 563, §3, is repealed.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