

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 837, L.D. 2243, Bill, "An Act to Encourage Accountability and Return on Investment for Maine Taxpayers from Economic Development Initiatives"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 5 MRSA §12004-I, sub-§6-E is enacted to read:

<u>6-E.</u>	<u>Economic</u>	<u>Legislative</u>	<u>5 MRSA</u>
<u>Economic</u>	<u>Development</u>	<u>per diem</u>	<u>§13070-L</u>
<u>Development</u>	<u>Incentive</u>	<u>and expenses</u>	
	<u>Commission</u>	<u>Legislators</u>	
		<u>only</u>	

Sec. 2. 5 MRSA c. 383, sub-c. II, art. 6 is enacted to read:

Article 6

Return on Public Investment From
Economic Development Incentives

§13070-J. Employer reporting associated with eligibility for
public subsidies and incentives

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

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2 A. "Commission" means the Economic Development Incentive Commission established in section 12004-I, subsection 6-E.

4 B. "Commissioner" means the Commissioner of Economic and Community Development.

6 C. "Department" means the Department of Economic and Community Development.

8 D. "Economic development incentive" means:

10 (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;

12 (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter IV;

14 (3) Municipal tax increment financing under Title 30-A, chapter 207;

16 (4) The jobs and investment tax credit under Title 36, section 5215;

18 (5) The research expense tax credit under Title 36, section 5219-K;

20 (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915; or

22 (7) Employment tax increment financing under Title 36, chapter 917.

24 2. Disclosure. Each applicant for an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (4) and (7) shall at a minimum identify in writing:

26 A. The public purpose that will be served by the employer through use of the economic development incentive and the specific uses to which the benefits will be put; and

28 B. The goals of the employer for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

30 Applications filed under this subsection are public records for purposes of Title 1, chapter 13.

32 3. Report. Annually, an employer receiving an economic development incentive, the value of which exceeds \$10,000 in one

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year, shall submit a written report to the commissioner containing but not limited to the following information:

A. The amount of assistance received by the employer in the preceding year from each economic development incentive and the uses to which that assistance has been put;

B. The total amount of assistance received from all economic assistance programs;

C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;

D. Current employment levels for the employer for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;

E. Any changes in employment levels that have occurred over the preceding year; and

F. An assessment of how the employer has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.

Reports filed under this subsection are public records for purposes of Title 1, chapter 13.

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

A. The State Tax Assessor shall submit a report by May 1st of 1999 and each odd-numbered year thereafter to the Legislature and the commission identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives. The report must identify the amount of the economic development incentives under the jurisdiction of the Bureau of Revenue Services received by each employer to the extent permitted under Title 36, section 191 and other provisions of law concerning the confidentiality of information.

B. The Commissioner of Labor shall report by May 1st annually to the Legislature and the commission on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each employer and the public benefit resulting from those economic development incentives.

2 C. The Maine Technical College System shall report by May
4 1st annually to the Legislature and the commission on the
6 amount of public funds spent on job training programs
8 directly benefiting businesses in the State. The report
 must identify the amount of economic development incentives
 under the jurisdiction of the system received by each
 employer and the public benefit resulting from those
 economic development incentives.

10 D. The department shall report by May 1st annually to the
12 Legislature and the commission on the amount of public funds
14 spent for the direct benefit of businesses in the State
16 under municipal tax increment financing, employment tax
18 increment financing and the Governor's training initiative.
 The report must identify the amount of economic development
 incentives under the jurisdiction of the department received
 by each employer and the public benefit resulting from those
 economic development incentives.

20 6. Rules. Rules adopted by the commissioner under this
22 section are routine technical rules as defined in chapter 375,
24 subchapter II-A.

26 **§13070-K. Economic development incentive contract**

28 If the commissioner enters into a contractual relationship
30 with an employer regarding the provision of an economic
32 development incentive in return for the employer's agreement to
 locate, expand or retain its facilities in the State, that
 contract must contain a statement of the State's expected public
 benefit from its investment of public funds.

34 **§13070-L. Economic Development Incentive Commission**

36 The Economic Development Incentive Commission, established
38 in section 12004-I, subsection 6-E is created to review and
40 advise the commissioner and the Legislature on public benefits
 derived from economic development incentives provided to
 employers.

42 1. Membership. The commission consists of 11 members
44 appointed as follows:

46 A. Two members of the Senate appointed by the President of
48 the Senate, at least one of whom is a member of the minority
 party:

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2 B. Two members of the House of Representatives appointed by
3 the Speaker of the House, at least one of whom is a member
4 of the minority party;

5 C. The commissioner, or the commissioner's designee,
6 appointed by the Governor;

7 D. The State Tax Assessor, or the State Tax Assessor's
8 designee, appointed by the Governor; and

9 E. Five members of the public, appointed as follows: one
10 member by the President of the Senate; one member by the
11 Speaker of the House; and 3 members by the Governor.

12 2. Appointments; first meeting. Appointments of the first
13 members of the commission must be made by August 1, 1998. The
14 State Tax Assessor or the State Tax Assessor's designee shall
15 convene the first meeting of the commission by September 30, 1998.

16 3. Terms; vacancies. Terms of the 5 public members are for
17 3 years, except that for those members first appointed, terms
18 expire on October 1, 2001. Vacancies must be filled for the
19 remainder of the term in the same manner as the original
20 appointment. Nonpublic members serve at the pleasure of the
21 appointing authority or until their term of office or employment
22 that qualified them for appointment ends. A quorum of the
23 commission is 6 members and the affirmative vote of at least 6
24 members of the commission is necessary to conduct business. Each
25 year the members shall select a chair from among the members.

26 4. Duties. The commission has the following duties:

27 A. Gathering information pertaining to economic development
28 incentives provided in the State and analyzing the
29 effectiveness of those incentives relative to alternative
30 public investment opportunities;

31 B. Making recommendations to the commissioner on additional
32 economic development incentives that should be included in
33 section 13070-J, subsection 1;

34 C. Examining and making recommendations to the Legislature
35 concerning whether economic development incentives are being
36 used by employers to relocate employees outside the State or
37 to encourage intercommunity competition for development
38 projects;

39 D. Reviewing every 2 years economic development incentives
40 provided to employers including the effect of all
41 business-related grants, subsidies, tax exemptions, tax
42 exemptions, and other incentives.

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2 credits and tax abatements made under state law on the
 3 aggregate number of jobs created, the cost to taxpayers per
 4 job created and the wages paid in those jobs; and making
 5 recommendations to the Legislature concerning the public
 6 benefit to be gained and the feasibility of applying the
 7 wage and benefit standards of Title 36, chapter 917 to other
 8 economic development incentives;

9
 10 E. Reporting biannually to the Legislature, the Governor
 11 and the commissioner on the rate of return to the State on
 12 its economic development incentives as determined by the
 13 commission; and

14 F. Examining whether economic incentive programs inhibit
 15 competition or provide preferential treatment to private
 16 employers and making recommendations to the Governor and the
 17 Legislature for improvement in the purpose, award criteria,
 18 administration, accountability and enforcement of economic
 19 development incentive programs.

20
 21 5. Staffing. The Bureau of Revenue Services shall provide
 22 staff assistance to the commission.

23 §13070-M. Repeal

24
 25 This article is repealed October 1, 2001.

26
 27 **Sec. 3. 36 MRSA §5215, sub-§3, ¶¶A and B, as amended by PL**
 28 **1993, c. 672, §1 and affected by §2, are further amended to read:**

29
 30 **A. With property considered to be qualified investment of**
 31 **at least \$5,000,000 for that taxable year with a situs in**
 32 **the State and placed in service by the taxpayer after**
 33 **January 1, 1979; and**

34
 35 **B. With payroll records and reports substantiating that at**
 36 **least 100 new jobs attributable to the operation of property**
 37 **considered to be qualified investment were created in the**
 38 **24-month period following the date the property was placed**
 39 **in service. To assess the continuing nature of the jobs,**
 40 **the taxpayer must demonstrate that the new jobs credit base**
 41 **is at least \$700,000 for the taxable year of the qualified**
 42 **federal credit or either of the next 2 calendar years. The**
 43 **\$700,000 must be adjusted proportionally for any change in**
 44 **Title 26, section 1043, subsection 2 wages from \$7,000+; and**

45
 46 **Sec. 4. 36 MRSA §5215, sub-§3, ¶C is enacted to read:**

47
 48 **C. After August 1, 1998 and before October 1, 2001, who**
 49 **demonstrate that the qualifying jobs under paragraph B are**
 50

2 covered by a retirement program subject to the Employee
 3 Retirement Income Security Act of 1974, 29 United States
 4 Code, Sections 101 to 1461, as amended; that group health
 5 insurance is provided for employees in those positions; and
 6 that the wages for those positions, calculated on a calendar
 7 year basis, are greater than the average annual per capita
 8 income in the labor market area in which the employee is
 9 employed.

10 **Sec. 5. 36 MRSA §6660** is enacted to read:

12 **§6660. Availability of information**

14 Notwithstanding section 191, information contained in
 15 applications for reimbursement, the names of persons receiving
 16 reimbursement and the amount of reimbursement paid to an
 17 applicant may be publicly disclosed by the bureau. This section
 18 does not permit the disclosure of taxpayer identification numbers.

20 **Sec. 6. Appropriation.** The following funds are appropriated
 21 from the General Fund to carry out the purposes of this Act.

22 **1998-99**

24 **ADMINISTRATIVE AND FINANCIAL SERVICES,**
 25 **DEPARTMENT OF**

28 **Bureau of Revenue Services**

30	All Other	\$25,000
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32 Provides funds for the computer programming
 33 and other costs associated with gathering
 34 information necessary to provide biannual
 35 reports to the Legislature related to
 36 economic development incentives.

38 **DEPARTMENT OF ADMINISTRATIVE AND**
 39 **FINANCIAL SERVICES**
 40 **TOTAL**

\$25,000

42 **LEGISLATURE**

44 **Economic Development Incentive**
 45 **Commission**

46	Personal Services	\$2,420
48	All Other	3,200

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2 Provides funds for the per diem and expenses
 of legislative members and miscellaneous
 4 costs, including printing, of the Economic
 Development Incentive Commission.

6 **LEGISLATURE**
TOTAL \$5,620

8 **APPROPRIATION**
 10 **TOTAL** \$30,620'

12 Further amend the bill by inserting at the end before the
 summary the following:

16 **FISCAL NOTE**

18 **1998-99**

20 **APPROPRIATIONS/ALLOCATIONS**

22 General Fund \$30,620

24 The Legislature will require a General Fund appropriation of
 \$5,620 in fiscal year 1998-99 for the per diem and expenses of
 26 legislative members and miscellaneous costs, including printing,
 of the Economic Development Incentive Commission. Additional
 28 General Fund appropriations estimated to be \$6,040 and \$1,760, in
 fiscal years 1999-2000 and 2000-01, respectively, will be
 30 required to continue to support the commission.

32 This bill also includes an additional General Fund
 appropriation of \$25,000 in fiscal year 1998-99 to the Bureau of
 34 Revenue Services for the estimated biannual costs to collect and
 report on economic development incentive data. Other additional
 36 costs associated with providing staff support to the commission
 can be absorbed by the Bureau of Revenue Services utilizing
 38 existing budgeted resources.

40 The Department of Labor, the Department of Economic and
 Community Development and the Maine Technical College System will
 42 incur some additional costs to provide annual reports to the
 Legislature on economic development incentive issues. These
 44 costs can be absorbed within the affected departments' and
 agency's existing budgeted resources.'

48 **SUMMARY**

50 This amendment is the majority report and replaces the bill.

R. & S.

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2 The amendment requires employers who are recipients of
3 specified economic development incentives to disclose to the
4 Commissioner of Economic and Community Development the public
5 purpose supported by the economic development incentive and the
6 employer's goals for the number, type and wage levels of jobs
7 that will be created. Additionally, recipients must file an
8 annual report containing more detailed information about the
9 amount of economic development assistance received and the
10 employment creation or retention experience of the employer.
11 Applications filed for business property tax reimbursement and
12 the amount of reimbursement received are removed from tax
13 confidentiality provisions.

14
15 The amendment creates an 11-member Economic Development
16 Incentive Commission to review the effectiveness of incentive
17 programs and report to the Legislature on the rate of return
18 received on public investments through economic development
19 incentives. The State Tax Assessor, the Commissioner of Labor,
20 the Maine Technical College System and the Department of Economic
21 and Community Development are required to report to the
22 Legislature regarding economic development incentives within
23 their respective jurisdictions.

24
25 The amendment makes it a condition of qualification for the
26 jobs and investment tax credit that the employer demonstrate that
27 the qualifying jobs meet the same standards for wages and
28 benefits as required for receipt of reimbursement through
29 employment tax increment financing.

30
31 The new commission and the change in the jobs and investment
32 tax credit expire October 1, 2001.

33
34 The amendment also adds an appropriation and a fiscal note
to the bill.