

# MAINE STATE LEGISLATURE

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PLANS

L.D. 1834

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TAXATION

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 655, L.D. 1834, Bill, "An Act to Ensure Continued Reporting of Tax Incentive Recipients"

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Sec. 1. 5 MRSA §12004-I, sub-§6-E, as enacted by PL 1997, c. 761, §1, is repealed.

Sec. 2. 5 MRSA §13070-J, as amended by PL 1999, c. 790, Pt. A, §3, is further amended to read:

§13070-J. Business 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.

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

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

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

D. "Economic development incentive" means:

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to S.P. 655, L.D. 1834

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

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

6 (3) Municipal tax increment financing under Title  
8 30-A, chapter 207;

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

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

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

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

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

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

30 (2) Contains a tax expenditure, as defined in section  
32 1664, or a budget expenditure with a cost that is  
estimated to exceed \$100,000 per year.

34 **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:

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

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

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

48 **3. Report.** Annually, an ~~employer~~ a business receiving an  
50 economic development incentive, the value of which exceeds  
\$10,000 in one year, shall submit a written report to the

commissioner no later than August 1st of the following year  
containing but not limited to the following information:

A. The amount of assistance received by the ~~employer~~  
business 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~~ business 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~~ business has performed  
with respect to the public purpose identified in subsection  
2, paragraph A, if applicable.

The department shall mail report forms by May 15th of each year  
to every ~~employer~~ business required to file a report under this  
subsection. 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 October  
1st annually to the Legislature ~~and--the--commissioner~~  
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~~  
business 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 October 1st  
annually to the Legislature ~~and--the--commissioner~~ 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 business and the public benefit resulting from those economic development incentives.

C. The Maine Technical College System shall report by October 1st annually to the Legislature ~~and the commission~~ on the amount of public funds spent on job training programs 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 business and the public benefit resulting from those economic development incentives.

D. The department shall report by October 1st annually to the Legislature ~~and the commission~~ on the amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax 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 business and the public benefit resulting from those economic development incentives.

E. The department shall report by October 1st annually to the State Tax Assessor a listing of employers businesses that have failed to submit reports required under subsection 3. The report must document that each employer business included in the report was provided with reasonable official notification of its noncompliance and that its failure to submit the required report within 30 days would result in the withholding and potential forfeiture of reimbursements for which the employer business may be eligible under Title 36, chapter 915. The notification must be in the form of a letter posted by certified mail before August 15th of the reporting year. If the department subsequently receives a report from the employer business, the department shall so notify the State Tax Assessor.

F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the report required by subsection 3 either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether

the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.

**5. Rules.** Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter II-A.

**Sec. 3. 5 MRSA §13070-K**, as enacted by PL 1997, c. 761, §2, is amended to read:

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

If the commissioner enters into a contractual relationship with an--~~employer~~ a business regarding the provision of an economic development incentive in return for the ~~employer's~~ business'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.

**Sec. 4. 5 MRSA §13070-L**, as amended by PL 1999, c. 768, §3, is repealed.

**Sec. 5. 5 MRSA §13070-M**, as amended by PL 1999, c. 768, §4, is repealed.'

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

**FISCAL NOTE**

The additional costs associated with continuing to submit a certain report and administering certain provisions of law regarding tax reimbursement can be absorbed by the Bureau of Revenue Services within the Department of Administrative and Financial Services, the Maine Technical College System, the Department of Labor and the Department of Economic and Community Development utilizing existing budgeted resources.'

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**SUMMARY**

This amendment replaces the original bill. The amendment repeals the Economic Development Incentive Commission and removes the August 1, 2002 sunset date for business and agency reporting regarding economic development incentives. The amendment also clarifies that the reporting requirements apply to businesses that are not employers. The amendment also adds a fiscal note to the bill.