

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1802

H.P. 1257

House of Representatives, March 30, 2007

### **An Act To Ensure Public Benefit from Investments in Taxpayer-funded Research**

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative TREAT of Farmingdale.  
Cosponsored by Representatives: BERRY of Bowdoinham, BRAUTIGAM of Falmouth,  
MIRAMANT of Camden, PATRICK of Rumford.

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

2 **Sec. 1. 5 MRSA §13051-A** is enacted to read:

3 **§13051-A. Provision of benefit to State**

4 **1. Reasonable pricing policies.** Research and development initiatives under this  
5 chapter that are funded all or in part with taxpayer funds that result in a patent or are  
6 otherwise commercialized must return or provide a benefit to the State and its citizens by  
7 providing the new technology or product at a reasonable price.

8 **2. Retention of interest in patents.** The State retains an interest in any patents that  
9 result from research funded in whole or in part with taxpayer funding, whether that  
10 funding is to the University of Maine System, the Maine Technology Institute or a  
11 nonprofit or other corporation or entity.

12 **3. Construction.** This section must be interpreted broadly to encompass all research  
13 funded by the State.

14 **Sec. 2. 5 MRSA §15301, sub-§5** is enacted to read:

15 **5. Taxpayer funds.** "Taxpayer funds" means any state money, including state bond  
16 funds.

17 **Sec. 3. 5 MRSA §15301, sub-§6** is enacted to read:

18 **6. Taxpayer-funded research.** "Taxpayer-funded research" means research that is  
19 funded in whole or in part by taxpayer funds.

20 **Sec. 4. 5 MRSA §15301, sub-§7** is enacted to read:

21 **7. Taxpayer-funded invention.** "Taxpayer-funded invention" means any invention  
22 conceived or first practically applied based on taxpayer-funded research.

23 **Sec. 5. 5 MRSA §15301, sub-§8** is enacted to read:

24 **8. Pricing.** "Pricing" means the pricing of a product or process in the State.

25 **Sec. 6. 5 MRSA §15302, sub-§2**, as enacted by PL 1999, c. 401, Pt. AAA, §3, is  
26 amended to read:

27 **2. Purpose.** The institute, through a public and private partnership, shall encourage,  
28 promote, stimulate and support research and development activity leading to the  
29 commercialization of new products and services in the State's technology-intensive  
30 industrial sectors to enhance the competitive position of those sectors and increase the  
31 likelihood that one or more of the sectors will support clusters of industrial activity, to  
32 promote the widest possible use of taxpayer-funded inventions and to create new jobs for  
33 Maine people. The institute is one element of the State's economic development strategy  
34 and will contribute to the long-term development of a statewide research, development  
35 and product deployment infrastructure.



1 A. Licensing agreements for the commercialization of intellectual property will  
2 presumptively be nonexclusive; and

3 B. Any exclusive licensing agreement for the commercialization of intellectual  
4 property must include the following language: "The State of Maine has an interest  
5 that there be a reasonable relationship between the pricing of a licensed product, the  
6 public investment in that product and the health and safety needs of the public. The  
7 State of Maine may require that this relationship be supported by reasonable  
8 evidence."

9 2. Reasonable pricing policies established. Reasonable pricing policies apply to all  
10 taxpayer-funded research, including, but not limited to, research conducted by or funded  
11 by the University of Maine System, the Department of Economic and Community  
12 Development and the Maine Technology Institute.

13 **Sec. 11. Study.** The Maine Technology Institute Director, referred to in this  
14 section as "the director," shall convene a working group to conduct a study and convene  
15 at least 4 meetings to develop and gather information necessary to establish reasonable  
16 pricing policies for all taxpayer-funded research and make recommendations for changes  
17 in state laws and rules to ensure that commercialization and the development of  
18 intellectual property from taxpayer-funded research is widely available to the State and its  
19 citizens at a reasonable price. The director shall seek to include in the working group  
20 representatives from the Department of Economic and Community Development, Office  
21 of Innovation; an attorney with the University of Maine School of Law's intellectual  
22 property program; consumer advocacy groups; the University of Maine System; and the  
23 business community.

24 The working group has the authority to inspect any agreement that concerns  
25 taxpayer-funded research and any agreement to which a public entity or statutorily  
26 created corporation is a party, with the proviso that all members are required to keep this  
27 information confidential. The working group shall review the following:

28 1. Addressing the extent to which taxpayer-financed research inures to the benefit of  
29 the private sector and how the State can benefit from maintaining patent rights;

30 2. Recommending favorable pricing policies for taxpayer-funded research;

31 3. Identifying differences between intellectual property policies between institutions  
32 conducting taxpayer-funded research and recommending a uniform policy to be adopted  
33 by this Legislature;

34 4. Assessing compliance with existing conflict-of-interest policies for the  
35 commercialization of intellectual property; and

36 5. Cataloging the State's intellectual property portfolio, specifically describing the  
37 relationship between the price of each taxpayer-funded invention, the public investment  
38 in the invention and the health and safety needs of the public.

39 The Maine Technology Institute Director is authorized to use any future bond  
40 proceeds to hire an expert in the field of intellectual property law and existing

1 administrative funds to fulfill the requirements of the study. The director shall provide an  
2 interim report, with any necessary proposed legislation, to the Joint Standing Committee  
3 on Business, Research and Economic Development and the Joint Standing Committee on  
4 Education and Cultural Affairs on the progress of the study and any preliminary  
5 proposals for establishing reasonable pricing policies by November 1, 2007. The director  
6 shall submit a final report to the Joint Standing Committee on Business, Research and  
7 Economic Development and the Joint Standing Committee on Education and Cultural  
8 Affairs on the progress of the study and any preliminary proposals for establishing  
9 reasonable pricing policies by February 1, 2008.

10

## SUMMARY

11 This bill establishes policies for the use of taxpayer-funded research in the private  
12 sector to maximize the return on investment for the public's benefit and to create a  
13 uniform policy for the transfer of taxpayer-funded research into the private sector. It also  
14 requires the Maine Technology Institute Director, in consultation with the Department of  
15 Economic and Community Development, Office of Innovation and an attorney with the  
16 University of Maine School of Law's intellectual property program and with participation  
17 from consumer advocacy groups, the University of Maine System and the business  
18 community, to perform a study to develop and gather information necessary to establish  
19 reasonable pricing policies for all taxpayer-funded research and make recommendations  
20 for changes in state laws and rules to ensure that commercialization and the development  
21 of intellectual property from taxpayer-funded research is widely available to the State and  
22 its citizens at a reasonable price.