

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2008

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Legislative Document

No. 2317

S.P. 926

April 10, 2008

### An Act Regarding the Maine Economic Development Evaluation

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Reported by Senator SCHNEIDER of Penobscot for the Joint Standing Committee on Business, Research and Economic Development pursuant to Public Law 2007, chapter 434, section 9.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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

2 **Sec. 1. 5 MRSA §13056-B**, as enacted by PL 2007, c. 434, §2, is amended to  
3 read:

4 **§13056-B. Reporting requirements of recipients of economic development funding**

5 To assist the department in preparing the comprehensive economic development  
6 evaluation pursuant to section 13056-A, a recipient of state economic development  
7 funding, including General Fund appropriations, dedicated revenue, tax expenditures as  
8 defined by section 1666 and general obligation bond proceeds for economic  
9 development, shall, in addition to any other reporting requirements required by law,  
10 collect, maintain and provide data as requested by the department.

11 **Sec. 2. 5 MRSA §13058, sub-§5**, as amended by PL 1999, c. 776, §§4 and 5, is  
12 further amended to read:

13 **5. Review of program; report to Governor and Legislature.** The commissioner  
14 shall review and evaluate the programs and functions of the department and the operation  
15 of the economic delivery system, with the information obtained from the economic  
16 development evaluation pursuant to section 13056-A. ~~The Maine Small Business~~  
17 ~~Commission, as established in section 13032, shall conduct the evaluation and review~~  
18 ~~required by this section with respect to small business programs.~~ The commissioner shall  
19 report the commissioner's findings and recommendations with respect to the issues  
20 described in this subsection to the Governor and to the Legislature no later than February  
21 1st of each first regular session of the Legislature. The commissioner shall conduct the  
22 review and evaluation with respect to the following:

- 23 A. The purpose of these programs and the degree to which the purpose is being  
24 met;
- 25 B. The degree of significance of the purpose of the programs and functions of the  
26 department;
- 27 C. The extent of the coordination of programs and services as required in  
28 subsection 4;
- 29 D. The needs, problems and opportunities that are not being met by the programs  
30 and services of the department;
- 31 E. The types of programs and services necessary to meet the needs, problems and  
32 opportunities as set out in paragraph D;
- 33 F. The problems and successes in the economic delivery system;
- 34 G. The state of small business in this State, including economic data, the  
35 effectiveness of state programs to aid small business, problems of small business that  
36 may be affected by state policies and such other information on small business as  
37 desired by the commissioner;
- 38 H. Within available resources, the extent of business growth and change, including  
39 business expansions, new businesses and business closings;

- 1 I. Within available resources, the status of investments in business in the State; and
- 2 J. The extent to which the purposes of the Maine Downtown Center are being met.

3 **Sec. 3. 5 MRSA §13063-O, sub-§1**, as enacted by PL 2003, c. 451, Pt. MMM,  
4 §1, is amended to read:

5 **1. Accounting and reporting requirements.** The department shall:

6 A. Maintain an accurate accounting of the use of all program funds as required by  
7 state procedures and program guidelines, including a detailed accounting of all  
8 program funding sources and expenditures; and

9 ~~B. Undertake an ongoing process to evaluate the impact of the projects undertaken~~  
10 ~~with program funds. The evaluation process must include benchmarks and criteria to~~  
11 ~~evaluate the success of the fund. The benchmarks and criteria must be designed by~~  
12 ~~the department to provide the following:~~

13 ~~(1) An assessment of the direct and indirect economic impact of the funded~~  
14 ~~projects; and~~

15 ~~(2) An assessment of the contribution of the fund to the creation of new~~  
16 ~~entrepreneurial opportunities; and~~

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

20 (1) An accounting of the use of all program funds received and expended since  
21 the program's inception;

22 (2) A summary of the status of any approved projects;

23 (3) A summary of the results of any completed projects;

24 (4) Evaluation data and assessment; and

25 (5) Other information required to be submitted and evaluated by the joint  
26 standing committee of the Legislature having jurisdiction over business, research  
27 and economic development matters.

28 **Sec. 4. 5 MRSA §13070-J, sub-§1, ¶D**, as amended by PL 2005, c. 519, Pt.  
29 TTT, §1, is further amended to read:

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 the  
34 following:

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

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

38 (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; or
- 8 (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z.

9 **Sec. 5. 5 MRSA §13070-J, sub-§3**, as amended by PL 2001, c. 710, §3 and  
10 affected by §4, is repealed.

11 **Sec. 6. 5 MRSA §13070-J, sub-§4, ¶D**, as amended by PL 2001, c. 642, §3 and  
12 affected by §12, is repealed.

13 **Sec. 7. 5 MRSA §13070-J, sub-§4, ¶E**, as amended by PL 2001, c. 481, §2, is  
14 further amended to read:

15 E. The department shall report by ~~October~~ January 1st annually to the State Tax  
16 Assessor a listing of businesses that have failed to submit ~~reports~~ information  
17 required under ~~subsection 3~~ section 13056-B. The report must document that each  
18 business included in the report was provided with reasonable official notification of  
19 its noncompliance and that its failure to submit the required ~~report~~ information within  
20 30 days would result in the withholding and potential forfeiture of reimbursements  
21 for which the business may be eligible under Title 36, chapter 915. The notification  
22 must be in the form of a letter posted by certified mail before ~~August~~ October 15th of  
23 the reporting year. If the department subsequently receives ~~a report~~ the information  
24 from the business, the department shall so notify the State Tax Assessor.

25 **Sec. 8. 5 MRSA §13070-J, sub-§4, ¶F**, as enacted by PL 1999, c. 768, §2, is  
26 amended to read:

27 F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the  
28 department shall make a written determination that the ~~report~~ information required by  
29 ~~subsection 3~~ section 13056-B either has not been received or is not in an acceptable  
30 form. A copy of that written determination, including the reasons for the  
31 determination, must be mailed to the claimant by certified mail. The determination  
32 made by the department constitutes final agency action that is subject to review by  
33 the Superior Court in accordance with the Maine Administrative Procedure Act,  
34 except that sections 11006 and 11007 do not apply. The Superior Court shall conduct  
35 a de novo hearing and make a de novo determination as to whether the claimant has  
36 filed a report in substantial compliance with this section. The Superior Court shall  
37 make its own determination as to all questions of fact and law. The Superior Court  
38 shall enter such orders and decrees as the case may require. In the event that the  
39 department's determination is appealed to Superior Court pursuant to this paragraph,  
40 forfeiture of the claimant's right to receive reimbursement of taxes under Title 36,

1 chapter 915 may not occur unless the Superior Court, subject to any appeal to the  
2 Law Court, finds that the claimant had not substantially complied with the reporting  
3 requirements of this section.

4 **Sec. 9. 5 MRSA §13103, sub-§2, ¶G**, as amended by PL 2003, c. 50, Pt. B, §1  
5 and affected by §2, is further amended to read:

6 G. Submit each biennium a report to the Governor, the joint standing committee of  
7 the Legislature having jurisdiction over appropriations and financial affairs and the  
8 joint standing committee of the Legislature having jurisdiction over business,  
9 research and economic development matters. The report must include detailed  
10 information on the status of the funds in the Maine Biomedical Research Fund; and a  
11 listing and explanation of each specific source of funding from grant sources for  
12 biomedical research and its use and the number of new jobs created in the State and  
13 where those jobs are located.

14 **Sec. 10. 7 MRSA §309**, as amended by PL 1999, c. 72, §6, is further amended to  
15 read:

16 **§309. Annual review**

17 The commissioner and the Agriculture Development Committee shall, on an annual  
18 basis, review the effectiveness of the programs operated under the provisions of this  
19 chapter and provide a summary of the review to the Commissioner of Economic and  
20 Community Development.

21 **Sec. 11. 36 MRSA §6652, sub-§3**, as enacted by PL 1999, c. 768, §6, is amended  
22 to read:

23 **3. Withholding for failure to report.** Provided that the Department of Economic  
24 and Community Development has complied with the notice requirements of Title 5,  
25 section 13070-J, subsection 4, paragraph E and the notice required by that provision has  
26 been received by the claimant, the State Tax Assessor shall withhold reimbursement  
27 under this chapter for a claimant listed by the department pursuant to Title 5, section  
28 13070-J, subsection 4, paragraph E as failing to submit the reports information required  
29 by Title 5, section ~~13070-J, subsection 3~~ 13056-B and who, as of the date of the claim for  
30 which payment is being withheld, has failed to submit a report information that has  
31 become due. Upon notification by the department of its receipt of the required report  
32 information in an acceptable form, the State Tax Assessor shall make the payment that  
33 was withheld. The right to receive payment is forfeited if the overdue report information  
34 is not received in an acceptable form by the department within 180 days following the  
35 date the claim for reimbursement was filed, except that a forfeiture may not occur unless  
36 and until the following requirements have been satisfied:

37 A. The assessor has notified the Department of Economic and Community  
38 Development, at least 60 days prior to the expiration of the 180 day period, of the  
39 date on which that 180 day period will expire;

40 B. The Department of Economic and Community Development has notified the  
41 claimant in writing by certified mail within 15 days of receiving the assessor's notice

1 that the department has made a determination under Title 5, section 13070-J,  
2 subsection 4, paragraph F that the ~~report~~ information filed by the claimant has not  
3 been received or is in unacceptable form and that the right to reimbursement is  
4 subject to forfeiture if a ~~report~~ the information in acceptable form is not filed within  
5 180 days following the date the claim for reimbursement was filed; and

6 C. The claimant has either not appealed the determination of the Department of  
7 Economic and Community Development to Superior Court within 30 days of receipt  
8 by the claimant of the written determination in accordance with Title 5, section  
9 13070-J, subsection 4, paragraph F or the claimant has appealed and the department's  
10 determination has been upheld on appeal.

11 **Sec. 12. Report on assessment methods.** The Office of Program Evaluation  
12 and Government Accountability, in collaboration with the Department of Administrative  
13 and Financial Services, Bureau of Revenue Services, shall develop recommendations,  
14 including a proposed methodology, for assessing economic development tax expenditures  
15 to provide funding for the comprehensive evaluation of state investments in economic  
16 development pursuant to the Maine Revised Statutes, Title 5, section 13056-A. By  
17 January 1, 2009, the Office of Program Evaluation and Government Accountability shall  
18 submit its findings and recommendations in a report to the joint standing committee of  
19 the Legislature having jurisdiction over business, research and economic development  
20 matters.

21

## SUMMARY

22 This bill implements the recommendations of the Department of Economic and  
23 Community Development relating to streamlining and improving the comprehensive  
24 economic development evaluation for the State's economic development programs and  
25 incentives. It also reduces duplicative statutory reporting requirements that will be  
26 included in the department's comprehensive evaluation process. The bill amends the  
27 definition for "economic development incentive."

FISCAL NOTE REQUIRED  
(See attached)



# 123rd MAINE LEGISLATURE

LD

LR 3592(01)

## An Act Regarding the Maine Economic Development Evaluation

### Fiscal Note for Original Bill

Committee: Business, Research and Economic Development

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund

#### Fiscal Detail and Notes :

Additional Costs to the Department of Agriculture, Food and Rural Resources can be absorbed within existing budgeted resources.

Additional costs to report on assessment methods can be absorbed by the Office of Program Evaluation and Government Accountability utilizing existing budgeted resources. This report requirement could result in diverting resources from other projects currently on OPEGA's work plan which has been approved by the Government Oversight Committee.

This legislation may result in minor savings to the Department of Economic and Community Development as a result of the elimination of certain evaluation requirements. The amount of savings is not expected to be significant.