

DRAFT as of 2-14-17

Act, To Implement Recommendations of the Government Oversight Committee to Improve the Efficiency and Effectiveness of Evaluations of the State's Investments in Economic Development

Submitted by the Government Oversight Committee pursuant to Title 3, §997, sub-§2

Maine Revised Statutes

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

Subchapter 1: GENERAL DEPARTMENT STRUCTURE AND AUTHORITY

Article 1: DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:
GENERAL ORGANIZATION MISSION AND RESPONSIBILITIES

Sec. 1. 5 MRSA §13051 is repealed.

Sec. 2. 5 MRSA §13053 is amended to read:

§13053. ESTABLISHMENT

The Department of Economic and Community Development is established to encourage economic and community planning and development policies and programs of the State and to coordinate these programs and policies within the context of a state economic development strategy plan and the long-range state strategic economic improvement plan developed pursuant 10 MRSA section 929. The department is also established to work with municipalities and regional planning and economic development organizations to build strong local and regional economics and to implement programs and services through these local and regional organizations.

The department shall encourage the creation and retention of quality jobs through increased private sector investment and to enhance the quality of life for all by assisting local governments to plan and implement comprehensive community planning and development strategies.

Sec. 3. 5 MRSA §13056-A is repealed.

Sec. 4. 5 MRSA §13056-B is repealed.

Sec. 5. 5 MRSA §13056-C is repealed.

Sec. 6. 5 MRSA §13058 sub-§5 is amended to read:

5. Review of program; report to Governor and Legislature. The commissioner shall review and evaluate the programs and functions of the department and the operation of the economic delivery system using the information available from the state strategic economic improvement plan pursuant to 10 MRSA section 929, the evaluation of state economic development investments evaluation pursuant to section 13056-A 13070-P and the evaluations of economic development incentive programs pursuant to 3 MRSA section 999. The commissioner shall report the commissioner's findings and recommendations with respect to the issues described in this subsection to the Governor and to the Legislature no later than **February 1st** of each first regular session of the Legislature. The commissioner shall conduct the review and evaluation with respect to the following:

- A. The purpose of these programs and the degree to which the purpose is being met;
- B. The degree of significance of the purpose of the programs and functions of the department;
- C. The extent of the coordination of programs and services as required in subsection 4;
- D. The needs, problems and opportunities that are not being met by the programs and services of the department;
- E. The types of programs and services necessary to meet the needs, problems and opportunities as set out in paragraph D;
- F. The problems and successes in the economic delivery system;
- G. The state of small business in this State, including economic data, the effectiveness of state programs to aid small business, problems of small business that may be affected by state policies and such other information on small business as desired by the commissioner;
- H. Within available resources, the extent of business growth and change, including business expansions, new businesses and business closings;
- I. Within available resources, the status of investments in business in the State; and
- J. The extent to which the purposes of the Maine Downtown Center are being met.

Article 6: RETURN ON PUBLIC INVESTMENT FROM ECONOMIC DEVELOPMENT INCENTIVES

Sec. 7. 5 MRSA §13070-J is amended to read:

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

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

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

Believe the above are not needed as these definitions are in 5 MRSA §13054 which applies to the whole chapter. Check with Revisor's Office.

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section

1666 whose purposes are to create, attract or retain business entities related to business development in the State, ~~including but not limited to:~~

- ~~(1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;~~
- ~~(2) The Governor's Jobs Initiative Program under Title 26, chapter 25, subchapter 4;~~
- ~~(3) Municipal tax increment financing under Title 30-A, chapter 206;~~
- ~~(4) The jobs and investment tax credit under Title 36, section 5215;~~
- ~~(5) The research expense tax credit under Title 36, section 5219-K;~~
- ~~(6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;~~
- ~~(7) Employment tax increment financing under Title 36, chapter 917;~~
- ~~(8) The shipbuilding facility credit under Title 36, chapter 919;~~
- ~~(9) The credit for seed capital investment under Title 36, section 5216-B; and~~

- ~~(11) The credit for Maine fishery infrastructure investment under Title 36, section 5216-D.~~

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

- (1) Is intended to encourage significant business expansion or retention in the State; and
- (2) Contains a tax expenditure, as defined in section 1664, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year.

F. "Economic development investments" means commitments of state funds, dedicated revenue funds and tax expenditures as defined by section 1666 for research and development activities and economic development incentive programs.

G. "Research and development activities" means activities that directly or through capital investment support basic and applied scientific research and related commercial development funded by state appropriations and bond proceeds.

H. "State strategic economic improvement plan" means the long-range strategic plan for the state's economy developed by the Maine Economic Growth Council pursuant to 10 MRSA §929.

2. Disclosure.

A. 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:

~~A.~~(1) The public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and

~~B.~~(2) The goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

Applications filed ~~under this subsection~~ for economic development incentives are public records for purposes of Title 1, chapter 13.

B. To assist the department in preparing the comprehensive evaluation of state investments in economic development pursuant to section §13070-P.1, a recipient of state funding for research and development activities or economic development incentives, including General Fund appropriations, dedicated revenue, tax expenditures as defined in section 1666 and general obligation bond proceeds for economic development, shall, in addition to any other reporting requirements required by law, collect, maintain and provide data as requested by the department.

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 Department 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 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 Department 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 business and the public benefit resulting from those economic development incentives.

C. The Maine Community College System shall report by October 1st annually to the Legislature and the Department 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 business and the public benefit resulting from those economic development incentives.

Sec. 8. 5 MRSA §13070-P is enacted to read:

§13070-P. COMPREHENSIVE EVALUATION OF STATE INVESTMENTS IN ECONOMIC DEVELOPMENT

1. Conduct Evaluation. By February 1, 2021, and every four years thereafter, the commissioner shall submit a comprehensive evaluation of state economic development investments, not to include programs subjected to independent evaluations required by federal programs, to the Governor and the Legislature. Note that this timing would allow for a strategic plan to be in place (by Dec. 31, 2018) and put the report out in a first regular session when the biennial budget would be considered.

A. Programs identified for evaluation. The scope of the evaluation shall include research and development activities and economic development incentives in this State.

B. Reviewers. The evaluation shall be performed by independent, objective reviewers.

C. Evaluation objectives. The evaluation objectives shall include, but not be limited to, an assessment of:

- (1) the extent to which the state's portfolio of economic development investments, particularly in terms of level and types of investments, aligns with and supports the state strategic economic improvement plan;
- (2) the extent to which individual activities and programs, or groups of activities and programs, within the state's portfolio are contributing to the achievement of particular goals, measurable objectives and performance targets associated with the state strategic economic improvement plan;
- (3) how the state's portfolio of economic development investments, particularly in terms of level and types of investments, compares to investments in other states;
- (4) the impact of the state's economic development investments in improving the competitiveness the state's established and emerging technology and industry sectors in regional, national and global arenas; and
- (5) the extent to which the overall framework for the state's economic development investments provides for sufficient transparency and accountability, effective and efficient coordination among the state's activities and programs, and easy access for interested businesses and other entities.

D. Recommendations. The evaluation report shall include recommendations to the Department, Governor and Legislature on any identified:

- (1) opportunities to modify the current portfolio of state economic development investments, particularly with regard to level of investment or types of activities and programs, in order to better align resources with the state strategic economic improvement plan; more cost-effectively support achievement of goals, objectives and performance targets associated with the plan;
- (2) opportunities to shift investments from economic development activities and programs to other state efforts in order to better align resources with the state strategic economic improvement plan; more cost-effectively support achievement of goals, objectives and performance targets associated with the plan;
- (3) opportunities to improve transparency and accountability for state economic development investments, coordination among economic activities and programs in the portfolio, or accessibility of business and other entities to those activities and programs; and
- (4) any other areas for improvement.

E. Resources and Assistance. In planning and conducting the evaluation, the Department and independent reviewers should consider pertinent information available from the Maine Economic Growth Council and from reviews conducted by the Office of Program Evaluation and Government Accountability. The independent reviewers may consult with the Office of Program Evaluation and Government Accountability on accessing data, confidential or otherwise, necessary for the evaluation.

3. Action on Evaluation Reports and Recommendations. By February 1, 2020 and every four years thereafter, the Commissioner shall present the report and results from the most recent evaluation required under this section to the joint standing committee having jurisdiction over labor, commerce, research and economic development. The Commissioner shall report to the Governor and the committee on actions planned by the Department and other entities administering the programs to address the recommendations made. The committee shall also consider the independent reviewer's recommendations and may submit a bill to the Legislature to implement recommendations.

By February 1, 2022 and by February 1st every four years thereafter, the Commissioner shall submit to the Governor and the committee having jurisdiction over labor, commerce, research and economic development a progress report related to evaluation required under this section that describes the implementation status of the recommendations and planned actions from the prior evaluation.

Consider adding unallocated language to the bill that would require the Commissioner to do the same progress reports in 2017 and 2019 on the recommendations made in the 2016 evaluations or do we want to wait and start with an evaluation that uses MEGC's strategy? (perhaps also 2014)

Sec. 9. 5 MRSA §13070-Q is enacted to read:

§13070-Q. MAINE ECONOMIC DEVELOPMENT EVALUATION FUND

1. Fund established. The Maine Economic Development Evaluation Fund, referred to in this section as "the fund," is established as a nonlapsing Other Special Revenue Funds account administered by the department for the purposes of funding the comprehensive economic development evaluation required pursuant to section §13070-P.1.

2. Fund sources. The fund receives money deposited by the Treasurer of State pursuant to this section and any other gift, grant or other source of revenue deposited for funding the comprehensive economic development evaluation required pursuant to section §13070-P.1.

3. Payments to fund. Notwithstanding section 1585 or any other provision of law:

A. Economic development incentives. The department shall assess agencies or private entities that receive General Fund appropriations or general obligation bonds for economic development incentives, as defined in §13070-P.1.A, an amount for contribution to the

fund that is not to exceed 0.8% of General Fund appropriations received by or general obligation bonds issued to an agency or entity for economic development efforts. Private entities that receive funds from general obligation bonds for economic development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an assessment amount determined by the department that is not to exceed 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive \$250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of \$250,000 or more for economic development efforts in any fiscal year, as identified and certified by the department and the Office of Fiscal and Program Review, may be assessed pursuant to this subsection. The department shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed \$200,000 in any fiscal year.

B. Research and development activities. Agencies or private entities that receive General Fund or general obligation bonds for research and development activities, as defined in §13070-P.1.B, shall contribute to the fund an amount not to exceed 0.8% of General Fund appropriations received by and general obligation bonds issued to an agency or entity for research and development efforts. Private entities that receive funds from general obligation bonds for research and development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an amount not to exceed 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive \$500,000 or more in research and development appropriations in any fiscal year, or those entities that receive funds from a general obligation bond issue of \$500,000 or more for research and development efforts in any fiscal year, as identified and certified by the Office of Innovation and the Office of Fiscal and Program Review, may be assessed. The Office of Innovation shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed \$200,000 in any fiscal year.

Sec. 10. 5 MRSA §13108 is repealed.

Sec. 11. 5 MRSA §13109 is repealed.

Summary

The purpose of this bill is to implement opportunities for improvement in the efficiency and effectiveness of statutorily-required independent evaluations of research and development activities and economic development incentives that are the responsibility of the Department of Economic and Community Development. The Government Oversight Committee identified these opportunities in its ongoing follow up of the recommendations included in the Office of Program Evaluation and Government Accountability's 2006 report on Economic Development Programs in Maine. Currently, statute requires the Department to conduct an independent evaluation of research and development activities, and then a separate evaluation of economic development

incentives that are not covered in the research and development evaluation. Since the primary purpose of research and development activities is to support economic development, this bill combines the statutory provisions related to both these evaluations into a requirement for conducting and funding one, independent evaluation that encompasses both. The bill also changes the required cycle for evaluation from every 2 years, with results reported to the Legislature during second regular sessions, to every 4 years, with results reported during first regular sessions. This is intended to allow the Legislature more time to consider the recommendations from evaluation reports and allow for recommendations to be implemented in between evaluation periods. Additionally, this bill establishes the objectives for the evaluation and ties those objectives and any recommendations made to the State's long-range strategic economic improvement plan developed by the Maine Economic Growth Council pursuant to 10 MRSA section 929. There is currently a separate bill, LD 367, before the 128th Legislature with addressing the Growth Council's responsibilities for that Plan. Lastly, this bill seeks to ensure that evaluation results are considered and acted on, as appropriate, by assigning responsibility for review and action to both DECD and the joint standing committee on labor, commerce, research and economic development.