STATE OF NEW YORK

4896

2025-2026 Regular Sessions

IN SENATE

February 14, 2025

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, in relation to establishing the incentive evaluation act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The economic development law is amended by adding a new article 28 to read as follows:

ARTICLE 28

INCENTIVE EVALUATION ACT

Section 500. Short title.
501. Definitions.
502. Incentive evaluation commission.
503. Periodic evaluations.
504. Evaluation process.

§ 500. Short title. This article shall be known and may be cited as the "incentive evaluation act".

§ 501. Definitions. As used in this article, the following terms shall have the following meanings:

1. "business entity" shall mean any person, corporation, partnership, sole proprietor, limited partnership, association or any other business entity.

2. "commission" shall mean the incentive evaluation commission established under this article.

3. "incentive" shall mean a tax credit, tax exemption, tax deduction, tax expenditure, rebate, grant, or loan that is intended to encourage businesses to locate, expand, invest, or remain in New York, or to hire or retain employees in New York.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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4. "substantial interest" shall mean the ownership, directly or indirectly, of more than fifty percent of the equity interest with voting rights of a business entity.

§ 502. Incentive evaluation commission. 1. There is hereby established the incentive evaluation commission consisting of:

(a) A certified public accountant appointed by the state comptroller;

(b) A chartered financial analyst appointed by the speaker of the assembly;

(c) An auditor who is employed as an internal auditor by a company or who is employed by a private auditing firm appointed by the state comptroller;

(d) An economist from a New York college or university appointed by the temporary president of the senate;

(e) A lay person who is not an elected official appointed by the governor;

(f) The commissioner of the department of taxation and finance or their designee who is also a member of the department of taxation and finance, which shall be an ex officio and nonvoting position;

(g) The director of the authorities budget office or their designee who is an employee of the authorities budget office which shall be an ex officio and nonvoting position; and

(h) The commissioner or their designee who is an employee of empire state development which shall be an ex officio and nonvoting position.

2. Initial appointments to the commission of voting members shall occur within ninety days of the effective date of this article and such members shall have their term expire on the thirty-first of December next succeeding the ninetieth day after the effective date of this article. Thereafter, such members shall be appointed for terms of four years beginning on January first. Any vacancy shall be filled by the appointing authority for the remainder of the unexpired term.

3. No person shall serve on the commission or be appointed to the commission who is employed by a business entity that receives any incentive or who holds a substantial interest in ownership in a business entity that receives any incentive.

4. No person shall be appointed to the commission who at the time of their appointment is an elected official. Any person who is appointed to the commission who subsequently becomes an elected official during their term on the commission shall be required to vacate their position on the commission.

5. The office of general services shall provide staff and administrative support to the commission. The department and the department of taxation and finance shall assist the office of general services as needed in providing staff and administrative support to the commission.

§ 503. Periodic evaluations. 1. (a) On or before the thirty-first of December next succeeding the ninetieth day after the effective date of this article and every four years thereafter, the commission shall develop a four-year schedule for evaluating incentives. The development of the schedule for evaluating the incentives shall take into consideration fiscal impacts to revenues of this state, including but not limited to the general fund, the opportunity to group incentives with similar goals and objectives for evaluation, and the ability to obtain sufficient data related to the incentives for evaluation. Each schedule shall include a list of all incentives in the state, including any it exempts from evaluation. In determining whether a program is an incentive, the commission may consider legislative intent and may also consider whether the program is promoted as an incentive by any state agency. For each

incentive listed in the schedule, the commission shall attempt to identify the goal or goals of the incentive.

(b) Upon approval of the schedule, the commission shall provide the schedule to the governor, temporary president of the senate, and speaker of the assembly.

2. For the four calendar years following the approval of a schedule under subdivision one of this section, the commission shall ensure that each incentive in such schedule is evaluated within the four-year evaluation period unless the commission determines that the incentive is exempt from evaluation. The commission may exempt from evaluation any incentive that it concludes has a minimal fiscal impact. The commission shall determine a specific threshold amount which shall be considered as a minimal fiscal impact for the current evaluation cycle. The commission may also conduct an expedited evaluation for any incentive that has been evaluated at least twice within the previous eight years and has not had a material change to the program since its prior evaluation. The expedited evaluation will update the prior evaluation's financial and economic impacts, findings, and recommendations.

§ 504. Evaluation process. 1. The commission may contract with a private company, nonprofit, or academic institution for professional services to assist with evaluation of each incentive. The commission shall develop requirements for such professional services necessary to complete incentive evaluations pursuant to this article. Such requirements shall include, but not be limited to, the contractor provide at least one draft report for each incentive prior to the issuance of the final report; provided, the contractor may determine the timing and frequency of draft reports based on the availability of information and the potential for draft reports to assist the commission in making a final recommendation. The cost of such contract shall be paid by the department. No recipient or potential recipient of an incentive or representative of a recipient or potential recipient shall contact the entity or individual with whom the commission contracts pursuant to this subdivision unless the entity or individual specifically requests information or documentation for purposes of the incentive evaluation process; provided, this shall not be construed to prevent participation in a public hearing conducted pursuant to subdivision two of this section.

2. For each year in which incentives have been scheduled to be evaluated under this article:

(a) By October first of each such year, the commission or the commission's chosen contractor shall have evaluated each incentive scheduled for review that year. The commission or the commission's chosen contractor shall conduct each incentive evaluation in consultation with the department using criteria developed pursuant to subdivision four of this section.

(b) Between October first and November thirtieth of each such year, the commission shall hold at least one public meeting to review, allow for public comment, and vote to approve, disapprove, or modify each incentive evaluation conducted that year.

(c) By December fifteenth of each such year, the commission shall issue an annual written report which shall provide: (i) the results of each incentive evaluation; (ii) a review of prior incentive evaluation recommendations by the commission and changes to statute or incentive administration related to such recommendations; and (iii) if the commission votes to modify an incentive evaluation as provided in this subdivision, such modification and the original evaluation shall be documented. The report shall be made publicly available on the department's

website and the commission's website and shall be submitted to the governor, temporary president of the senate, and the speaker of the assembly.

3. Each evaluation shall include the following:

(a) An estimate of the economic and fiscal impact of the incentive. This estimate shall include, but not be limited to:

(i) the extent to which the incentive changes business behavior.

(ii) the results of the incentive for the economy of New York as a whole. This consideration includes both positive direct and indirect impacts and any negative effects on other New York businesses.

(iii) a comparison to the results of other incentives or other economic development strategies with similar goals.

(b) An assessment of whether adequate protections are in place to ensure the fiscal impact of the incentive does not increase substantially beyond the state's expectations in future years.

(c) An assessment of whether the incentive is being administered effectively.

(d) An assessment of whether the incentive is achieving its goals.

(e) Recommendations for how the state can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed.

(f) Recommendations for any changes to state policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future. These recommendations may include changes to collection, reporting, and sharing of data, and revisions or clarifications to the goal of the incentive.

4. Evaluation criteria shall be developed for each incentive evaluated by the commission. Each incentive shall be evaluated using criteria specific to the individual incentive.

5. The commission and any of its contractors, unless prohibited by state or federal law, may request and shall receive in a timely manner from any department, division, board, bureau, commission, agency or other political subdivision of the state, such information and assistance as shall enable it to properly carry out its powers and duties pursuant to this article.

§ 2. This act shall take effect immediately.