S T A T E O F N E W Y O R K

4437

2009-2010 Regular Sessions

I N S E N A T E

April 23, 2009

Introduced by Sen. STACHOWSKI -- 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 the preparation of performance plans and the establishment of a private industry review council; and providing for the repeal of article 7-A of such law relating to the establishment of the New York state private industry review council upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 19 of section 100 of the economic development law, as amended by chapter 839 of the laws of 1987 and paragraph (a) as amended by section 1 of part FF of chapter 59 of the laws of 2006, is amended to read as follows:

19. (a) to study changes in and to suggest policies for the [economic] development [and conservation] of the ECONOMIC resources of the state and to develop an annual statewide economic development strategic plan, IN CONSULTATION WITH THOSE ENTITIES POTENTIALLY AFFECTED OR INTERESTED IN SUCH A PLAN, INCLUDING, BUT NOT LIMITED TO, THE NEW YORK STATE PRIVATE INDUSTRY REVIEW COUNCIL. Such strategic plan, shall include but shall not be limited to, a statewide inventory of all industry associations and clusters; a list of industries that have a competitive advantage; and a list of industries that demonstrate the potential for growth. The department shall work in cooperation with the New York State Foundation for Science, Technology and Innovation in creating the strategic plan. The annual statewide economic development strategic plan shall be submitted to the temporary president of the senate and the speaker of the assembly on January first, two thousand eight and every year thereafter.

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

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(b) to cause to be prepared [program] PERFORMANCE plans for [the economic development financial] EACH FINANCIAL AND BUSINESS assistance [programs] PROGRAM of the state.

PERFORMANCE PLANS SHALL BE PREPARED, in cooperation with the agency [or], public benefit corporation, or public authority OF APPROPRIATE JURISDICTION AND THE PRIVATE INDUSTRY REVIEW COUNCIL, consistent with the legislative intent and statutory authorization for such programs. Program plans shall be derived from and shall be consistent with the annual economic development strategic plan and, accordingly, [may] SHALL be updated [as necessary] ANNUALLY. Such plans shall be transmitted to the agency [or], public authority, or public benefit corporation responsible for administering the program and to the [speaker of the assembly and the] temporary president of the senate [within ninety days of the effective date of any statute authorizing such program. With respect to existing economic development financial assistance programs, the commissioner shall transmit program plans on or before July first, nineteen hundred eighty-eight] AND THE SPEAKER OF THE ASSEMBLY.

[Program] PERFORMANCE plans shall describe the goals, objectives, and priorities of each financial AND BUSINESS assistance program, shall guide the development of operating procedures and rules and regulations governing each financial AND BUSINESS assistance program, shall set forth the manner in which the [financial assistance] program shall be coordinated with other economic development programs, and shall set forth a description of the operating relationships with relevant agencies and regional and local public and private organizations[;].

(C) IN ADDITION, PERFORMANCE PLANS SHALL:

(I) ESTABLISH GOALS TO DEFINE THE LEVEL OF PERFORMANCE TO BE ACHIEVED BY A PROGRAM ACTIVITY;

(II) EXPRESS SUCH GOALS IN AN OBJECTIVE, QUANTIFIABLE, AND MEASURABLE FORM;

(III) DESCRIBE THE OPERATIONAL PROCESSES, SKILLS AND TECHNOLOGY, AND THE HUMAN, CAPITAL, INFORMATION, AND OTHER RESOURCES REQUIRED TO MEET THE PERFORMANCE GOALS;

(IV) ESTABLISH PERFORMANCE INDICATORS TO BE USED IN MEASURING OR ASSESSING THE EFFECTIVENESS, SERVICE LEVELS, AND OUTCOMES OF EACH PROGRAM ACTIVITY;

(V) PROVIDE A BASIS FOR COMPARING ACTUAL PROGRAM RESULTS WITH THE ESTABLISHED PERFORMANCE GOALS;

(VI) DESCRIBE THE MEANS TO BE USED TO VERIFY AND VALIDATE MEASURED VALUES; AND

(VII) INCLUDE AN EVALUATION COMPONENT, WHICH DESCRIBES HOW THE DEPARTMENT WILL MONITOR THE DELIVERY OF SERVICES UNDER THE PROGRAM AND WHICH SETS FORTH THE MEASURE OF EFFECTIVENESS OF THE SERVICES BEING PROVIDED. THE EVALUATION COMPONENT OF EACH PLAN SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING:

(1) A STATEMENT ON LEGISLATIVE HISTORY AND INTENT, IF ANY;

(2) A STATEMENT OF PROGRAM OBJECTIVES, WHICH IDENTIFIES OUTCOMES ATTRIBUTABLE TO THE PROGRAM, ANTICIPATED PERFORMANCE LEVELS, AND INDICATORS OF THE EFFECTIVENESS OF THE PROGRAM;

(3) DEFINED QUANTITATIVE MEASURES, WHICH WILL BE INCLUDED AS PART OF THE EVALUATION REPORT INCLUDING, BUT NOT LIMITED TO, A DESCRIPTION OF THE TARGETED POPULATION, CRITERIA FOR PARTICIPANT SELECTION, DEMOGRAPHICS ON PARTICIPANTS, MEASURES OF PROGRAM ACTIVITY, INVENTORY OF SERVICES PROVIDED, AND BUDGET INFORMATION ON PROGRAMS AND ADMINISTRATIVE EXPENDITURES INCLUDING, BUT NOT LIMITED TO, COSTS PER PARTICIPANT. FOR THOSE PROGRAMS WHERE AN OBJECTIVE IS JOB PLACEMENT, DATA SHALL INCLUDE INFOR-

MATION ON THE OCCUPATIONS WHICH PARTICIPANTS ENTER, THE RATE OF JOB RETENTION, PRE-PROGRAM WAGE EARNINGS AND POST-PROGRAM WAGE EARNINGS, AS WELL AS OTHER APPROPRIATE MEASURES WHICH INDICATE THE EXTENT TO WHICH PROGRAM ACTIVITIES MEET PROGRAM OBJECTIVES. OTHER PERFORMANCE INDICATORS THAT APPROPRIATELY DESCRIBE THE EFFECT OF THE PROGRAM AND DATA AND WHICH REFLECT FOLLOW-UP ACTIVITY APPROPRIATE TO THE SERVICES PROVIDED SHALL ALSO BE INCLUDED AS PART OF THE EVALUATION REPORT;

(4) A STATEMENT OF METHODOLOGY, WHICH WILL RESULT IN A COMPARISON OF PROGRAM OUTCOMES AGAINST PROGRAM OBJECTIVES; AND

(5) ANY ADDITIONAL EVALUATION INFORMATION AS MAY BE REQUIRED BY LAW.

NO LATER THAN MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, AND NO LATER THAN MARCH THIRTY-FIRST OF EACH YEAR THEREAFTER, THE COMMISSIONER SHALL CAUSE TO BE PREPARED AND SUBMIT TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, A REPORT ON PROGRAM PERFORMANCES FOR EACH OF THE PROGRAMS FOR WHICH PERFORMANCE PLANS HAVE BEEN PREPARED FOR THE PREVIOUS FISCAL YEAR.

EACH PERFORMANCE REPORT SHALL SET FORTH THE PERFORMANCE INDICATORS ESTABLISHED IN THE DEPARTMENTAL OR OTHER PERFORMANCE PLAN, ALONG WITH THE ACTUAL PROGRAM PERFORMANCE ACHIEVED COMPARED WITH THE PERFORMANCE GOALS EXPRESSED IN THE PLAN FOR THAT FISCAL YEAR. IN ADDITION, EACH REPORT SHALL:

(A) REVIEW THE SUCCESS OF ACHIEVING THE PERFORMANCE GOALS FOR THE FISCAL YEAR;

(B) EVALUATE THE PERFORMANCE PLAN FOR THE CURRENT FISCAL YEAR RELATIVE TO THE PERFORMANCE ACHIEVED IN THE FISCAL YEAR COVERED BY THE REPORT;

(C) EXPLAIN AND DESCRIBE, WHERE A PERFORMANCE GOAL HAS NOT BEEN MET:

(I) WHY THE GOAL WAS NOT MET;

(II) THOSE PLANS AND SCHEDULES FOR ACHIEVING THE ESTABLISHED PERFORMANCE GOAL; AND

(III) IF THE PERFORMANCE GOAL IS IMPRACTICAL OR INFEASIBLE, WHY THAT IS THE CASE AND WHAT ACTION IS RECOMMENDED.

S 2. The economic development law is amended by adding a new article 7-A to read as follows:

ARTICLE 7-A
NEW YORK STATE PRIVATE INDUSTRY REVIEW COUNCIL

SECTION 198. NEW YORK STATE PRIVATE INDUSTRY REVIEW COUNCIL ESTABLISHED.
198-A. PURPOSE OF THE COUNCIL.
198-B. POWERS OF THE COUNCIL.
198-C. REPORTS.

S 198. NEW YORK STATE PRIVATE INDUSTRY REVIEW COUNCIL ESTABLISHED. 1. THERE IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT THE NEW YORK STATE PRIVATE INDUSTRY REVIEW COUNCIL, WHICH SHALL COMPRISE TWELVE MEMBERS APPOINTED BY THE GOVERNOR, FOUR ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE; ONE ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE; FOUR ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; AND ONE ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY. THE MEMBERS OF THE COUNCIL SHALL SERVE FOR TERMS OF TWO YEARS. THE CHAIRPERSON AND VICE CHAIRPERSON SHALL BE ELECTED FROM AMONG THE MEMBERS OF THE COUNCIL BY THE MEMBERS OF SUCH COUNCIL.

2. IN APPOINTING THE MEMBERS OF THE COUNCIL, IT SHALL BE THE RESPONSIBILITY OF THE GOVERNOR TO ENSURE, TO THE MAXIMUM EXTENT FEASIBLE, THE REPRESENTATION OF DIVERSE PRIVATE INDUSTRY AND ECONOMIC DEVELOPMENT RELATED INTERESTS INCLUDING, BUT NOT LIMITED TO, SMALL AND MEDIUM SIZE BUSINESSES, MANUFACTURING, HIGH TECHNOLOGY AND OTHER CRITICAL SECTORS OF

THE STATE ECONOMY, INDUSTRIAL DEVELOPMENT AGENCIES, CHAMBERS OF COMMERCE, TECHNOLOGY DEVELOPMENT ORGANIZATIONS, OTHER ECONOMIC DEVELOPMENT ORIENTED ENTITIES, AND A REPRESENTATIVE OF ORGANIZED LABOR, APPOINTED UPON RECOMMENDATION OF THE NEW YORK STATE AMERICAN FEDERATION OF LABOR - CONGRESS OF INDUSTRIAL ORGANIZATIONS.

3. THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES AS COUNCIL MEMBERS.

4. THE COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR, AT THE CALL OF THE COMMISSIONER OR THE CHAIRPERSON OF THE COUNCIL.

5. UNLESS A MEMBER HAS BEEN EXCUSED FROM ATTENDANCE AT SUCH MEETINGS BY THE CHAIRPERSON OR VICE CHAIRPERSON UPON GOOD CAUSE BEING SHOWN, ANY MEMBER WHO FAILS TO ATTEND THREE CONSECUTIVE MEETINGS SHALL BE DEEMED TO HAVE RESIGNED. ANY VACANCY ON THE COUNCIL SHALL BE FILLED FOR THE REMAINING TERM OF THE INDIVIDUAL REPLACED. THE APPOINTMENT TO FILL SUCH VACANCY SHALL BE MADE IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT WAS MADE.

6. THE DEPARTMENT SHALL PROVIDE NECESSARY TECHNICAL AND STAFF ASSISTANCE TO THE COUNCIL.

S 198-A. PURPOSE OF THE COUNCIL. THE COUNCIL SHALL UNDERTAKE A THOROUGH AND COMPLETE REVIEW OF EACH EXISTING FINANCIAL AND BUSINESS ASSISTANCE PROGRAM FUNDED OR ADMINISTERED BY THE DEPARTMENT, THE URBAN DEVELOPMENT CORPORATION, THE NEW YORK JOB DEVELOPMENT AUTHORITY, THE NEW YORK STATE OFFICE OF SCIENCE, TECHNOLOGY AND ACADEMIC RESEARCH, AND OTHER AGENCIES, PUBLIC AUTHORITIES, AND PUBLIC BENEFIT CORPORATIONS ADMINISTERING SUCH PROGRAMS AND SHALL SUBMIT A DETAILED REPORT TO THE GOVERNOR AND THE LEGISLATURE RECOMMENDING APPROPRIATE CHANGES AS MAY BE NECESSARY TO ELIMINATE DUPLICATION, WHETHER IN PROGRAM DELIVERY OR ADMINISTRATION, AND REORGANIZE AND STREAMLINE ECONOMIC DEVELOPMENT DELIVERY MECHANISMS TO PROVIDE THE MOST DIRECT, COST-EFFICIENT, AND EFFECTIVE MEANS FOR PROVIDING STATE ECONOMIC DEVELOPMENT PROGRAMS AND SERVICES.

S 198-B. POWERS OF THE COUNCIL. 1. THE COUNCIL IS HEREBY AUTHORIZED TO REQUEST, AND THE DEPARTMENT, THE URBAN DEVELOPMENT CORPORATION, THE NEW YORK JOB DEVELOPMENT AUTHORITY, THE NEW YORK STATE OFFICE OF SCIENCE, TECHNOLOGY AND ACADEMIC RESEARCH, AND OTHER AGENCIES, PUBLIC AUTHORITIES, AND PUBLIC BENEFIT CORPORATIONS WHICH ADMINISTER PROGRAMS SUBJECT TO REVIEW BY THE COUNCIL SHALL, WHEN REQUESTED, PROVIDE ALL INFORMATION AND ASSISTANCE WHICH MAY BE NECESSARY OR APPROPRIATE TO ENABLE THE COUNCIL TO CARRY OUT THE PURPOSES SET FORTH IN SECTION ONE HUNDRED NINETY-EIGHT-A OF THIS ARTICLE.

2. THE COUNCIL SHALL HAVE THE POWER TO ADMINISTER OATHS OR AFFIRMATIONS, TAKE TESTIMONY, SUBPOENA WITNESSES, REQUIRE THE PRODUCTION OF BOOKS, RECORDS, DOCUMENTS, AND PAPERS, AND HOLD PUBLIC AND PRIVATE HEARINGS.

S 198-C. REPORTS. THE COUNCIL SHALL TRANSMIT TO THE GOVERNOR AND THE LEGISLATURE, ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, FINDINGS AND RECOMMENDATIONS REGARDING REFORMS TO THE ORGANIZATION, OPERATIONS, PROGRAMS, AND SERVICES OF THE DEPARTMENT, THE URBAN DEVELOPMENT CORPORATION, THE NEW YORK JOB DEVELOPMENT AUTHORITY, THE NEW YORK STATE OFFICE OF SCIENCE, TECHNOLOGY AND ACADEMIC RESEARCH, AND OTHER AGENCIES, PUBLIC AUTHORITIES, AND PUBLIC BENEFIT CORPORATIONS WHICH ADMINISTER PROGRAMS SUBJECT TO REVIEW BY THE COUNCIL THAT WOULD IMPROVE THE EFFECTIVENESS OF PROGRAM FUNDING AND SERVICE DELIVERY. SUCH REPORT SHALL IDENTIFY, DESCRIBE, AND EVALUATE THE EFFECTIVENESS OF EACH PROGRAM CURRENTLY FUNDED OR ADMINISTERED BY THE DEPARTMENT OR THE URBAN DEVELOPMENT CORPORATION, THE NEW YORK JOB DEVELOPMENT AUTHORITY, THE NEW YORK

STATE OFFICE OF SCIENCE, TECHNOLOGY AND ACADEMIC RESEARCH, AND OTHER AGENCIES, PUBLIC AUTHORITIES, AND PUBLIC BENEFIT CORPORATIONS WHICH ADMINISTER PROGRAMS SUBJECT TO REVIEW BY THE COUNCIL AND INCLUDE RECOMMENDATIONS REGARDING THE RETENTION, MODIFICATION, CONSOLIDATION, OR ELIMINATION OF EACH SUCH PROGRAM. SUCH REPORT SHALL, FURTHER, INCLUDE RECOMMENDATIONS WHICH PROMOTE ECONOMY, EFFICIENCY, AND IMPROVED SERVICE DELIVERY AND SHALL INCLUDE WAYS TO:

1. REFORM PERSONNEL AND MANAGEMENT SYSTEMS SO AS TO IMPROVE MORALE, INSPIRE INITIATIVE, MAXIMIZE PRODUCTIVITY AND EFFECTIVENESS, PROMOTE PERSONAL ACCOUNTABILITY, AND REWARD EXCELLENCE;

2. INCREASE PROGRAM RESPONSIVENESS BY REDUCING PAPERWORK AND PROCEDURAL REQUIREMENTS;

3. CONSOLIDATE AND STREAMLINE PROGRAMS SO AS TO REDUCE COSTS, MINIMIZE HIERARCHY, AND FOCUS RESPONSIBILITY;

4. PROMOTE THE APPLICATION OF NEW INFORMATION TECHNOLOGIES TO IMPROVE MANAGEMENT AND REDUCE ADMINISTRATIVE COSTS;

5. CONSOLIDATE GOVERNMENTAL ADMINISTRATION OF PROGRAMS AND SERVICES TO IMPROVE AND ENHANCE PROGRAM AND SERVICE DELIVERY;

6. DEVELOP PROCEDURES FOR THE SUBSTANTIVE REVIEW AND REAUTHORIZATION OF EACH PROGRAM OR SERVICE AT LEAST ONCE EVERY FIVE YEARS; AND

7. DEVELOP MECHANISMS TO PROMOTE GREATER COOPERATION AND COORDINATION AMONG THE DEPARTMENT, THE URBAN DEVELOPMENT CORPORATION, THE NEW YORK JOB DEVELOPMENT AUTHORITY, AND THE NEW YORK STATE OFFICE OF SCIENCE, TECHNOLOGY AND ACADEMIC RESEARCH AND THE PRIVATE SECTOR TO ENSURE THE PRESENT AND FUTURE EFFECTIVENESS OF ECONOMIC DEVELOPMENT PROGRAMS AND SERVICES.

S 3. Subdivision 1 of section 196 of the economic development law, as amended by chapter 524 of the laws of 2005, is amended to read as follows:

1. The commissioner shall submit to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee an evaluation of the success of the industrial effectiveness program prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such evaluation shall determine whether OR NOT the services provided have helped client firms to succeed, based on a comparison of the performance of client firms to the norms of their specific industry, and shall assess the effect, if any, of the program on the continued location and growth of industrial firms within the state. Such an evaluation shall be submitted by September first, two thousand [five] TEN and by September first every four years thereafter. SUCH REPORT SHALL INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER.

S 4. Paragraph (b) of subdivision 7 of section 202 of the economic development law, as amended by chapter 524 of the laws of 2005, is amended to read as follows:

(b) The department shall submit to the director of the division of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee an evaluation of this program prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR

PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such evaluation shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL be submitted by September first, two thousand [five] TEN and by September first every four years thereafter.

S 5. The opening paragraph of subdivision 2 and paragraph (a) of subdivision 3 of section 213 of the economic development law, the opening paragraph of subdivision 2 as added by chapter 839 of the laws of 1987 and paragraph (a) of subdivision 3 as amended by chapter 524 of the laws of 2005, are amended to read as follows:

[evaluate] SUBMIT AN EVALUATION OF the entrepreneurial assistance programs established under this article, PREPARED BY AN ENTITY INDEPENDENT OF THE DEPARTMENT, and report, on or before October first, [nineteen hundred eighty-eight] TWO THOUSAND TEN, and on or before each October first thereafter, and submit the results of such evaluation to the governor and the legislature. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such report shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL discuss:

(a) submit to the director of the division of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee an evaluation of the effectiveness of the programs established under this article prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such evaluation shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL be submitted by September first, two thousand [five] TEN and by September first every four years thereafter.

S 6. Paragraph (a) of subdivision 3 of section 223 of the economic development law, as amended by chapter 524 of the laws of 2005, is amended to read as follows:

(a) Submit to the director of the division of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee an evaluation of program effectiveness prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such an evaluation shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL be submitted on or before September first, two thousand [five] TEN and on or before September first every four years thereafter.

S 7. Subdivisions 9 and 10 of section 224 of the economic development law, as added by chapter 291 of the laws of 1990, are amended to read as follows:

9. Reporting. On or before October first, [nineteen hundred ninety-one] TWO THOUSAND TEN and on or before October first of each year thereafter, the commissioner shall report to the governor and the legislature on the operation and accomplishments of the export diagnostic and market development program, including but not limited to the number of firms assisted, the number of export diagnostic assessments and export market development plans completed, the degree to which productivity and export activity of participants were increased, the total costs per project [and], the number of jobs created due to state assistance, AND THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER.

10. Evaluation. The commissioner shall submit to the director of the division of the budget, the [chairman] CHAIRPERSON of the senate finance committee, and the [chairman] CHAIRPERSON of the assembly ways and means committee an evaluation of the export diagnostic and market development program prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such [an] evaluation shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL be submitted on or before September first, [nineteen hundred ninety-two] TWO THOUSAND TEN and on or before September first every two years thereafter.

S 8. Subdivisions 4 and 5 of section 225 of the economic development law, as added by chapter 291 of the laws of 1990, are amended to read as follows:

4. Reporting. On or before October first, [nineteen hundred ninety-one] TWO THOUSAND TEN and on or before October first of each year thereafter, the commissioner shall report to the governor and the legislature on the operation and accomplishments of the export finance service. SUCH REPORT SHALL INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER.

5. Evaluation. The commissioner shall submit to the director of the division of the budget, the [chairman] CHAIRPERSON of the senate finance committee, and the [chairman] CHAIRPERSON of the assembly ways and means committee an evaluation of the export finance service prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such [an] evaluation shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL be submitted on or before September first, [nineteen hundred ninety-two] TWO THOUSAND TEN and on or before September first every two years thereafter.

S 9. Paragraph (a) of subdivision 9 of section 250 of the economic development law, as amended by chapter 524 of the laws of 2005, is amended to read as follows:

(a) The department shall submit to the director of the division of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee, an evaluation of program effectiveness prepared by an entity independent of the department. THE DEPARTMENT SHALL SELECT THE PROGRAM EVALUATOR THROUGH A REQUEST FOR PROPOSAL PROCESS AND SHALL NOT REQUEST OR DIRECT THE PROGRAM EVALUATOR TO ALTER THE CONTENT OF ANY EVALUATION SUBMITTED OR PROPOSED TO BE SUBMITTED. THE DEPARTMENT MAY PREPARE A TIMELY WRITTEN RESPONSE TO THE EVALUATION FINDINGS, WHICH THE EVALUATOR SHALL ATTACH TO THE EVALUATION. Such an evaluation shall INCLUDE THE INFORMATION REQUIRED FOR PERFORMANCE REPORTS CONTAINED IN SUBDIVISION NINETEEN OF SECTION ONE HUNDRED OF THIS CHAPTER AND SHALL be submitted on or before September first, two thousand [five] TEN, and on or before September first every four years thereafter.

S 10. This act shall take effect immediately; provided that the provisions of article 7-A of the economic development law, added by section two of this act, shall take effect on the first of September next succeeding the date on which it shall have become a law and shall expire and be deemed repealed 2 years after such effective date; and provided further that, insofar as the amendment of sections 223, 224, and 225 of the economic development law made by sections six, seven, and eight, respectively, of this act pertain to the port authority of New York and New Jersey, each shall respectively apply to such port authority only upon the enactment into law by the state of New Jersey of legislation having an identical effect with sections six, seven, and eight of this act, respectively, but if the state of New Jersey shall have already enacted such legislation, the corresponding section of this act shall apply to such port authority immediately provided that the commissioner of economic development shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in sections six, seven and eight of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.