

5979

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the economic development law, chapter 316 of the laws of 1997 amending the public authorities law and other laws relating to the provision of low cost power to foster statewide economic development, the tax law and chapter 645 of the laws of 2006 amending the economic development law and other laws relating to reauthorizing the New York power authority to make contributions to the general fund, in relation to extending the expiration of the power for jobs program and the energy cost savings benefits program; and to amend the public authorities law, in relation to authorizing an additional voluntary contribution into the state treasury under the power for jobs program; and to amend the public authorities law, in relation to an energy audit program

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

1 Section 1. Paragraphs 2 and 4 of subdivision (h) of section 183 of the
2 economic development law, paragraph 2 as amended by section 1 of part Y
3 of chapter 59 of the laws of 2008 and paragraph 4 as amended by chapter
4 89 of the laws of 2007, are amended to read as follows:
5 2. During the period commencing on November first, two thousand five
6 and ending on [June thirtieth] MAY FIFTEENTH, two thousand [nine] TEN
7 eligible businesses shall only include customers served under the power
8 authority of the state of New York's high load factor, economic develop-
9 ment power and other business customers served by political subdivisions
10 of the state authorized by law to engage in the distribution of electric
11 power that were authorized to be served by the authority from the
12 authority's former James A. Fitzpatrick nuclear power plant as of the
13 effective date of this subdivision whose power prices may be subject to
14 increase before [June thirtieth] MAY FIFTEENTH, two thousand [nine] TEN.
15 Provided, however, that the total amount of megawatts of replacement and

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

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1 preservation power which, due to the extension of the energy cost
2 savings benefits, are not relinquished by or withdrawn from a recipient
3 shall be deemed to be relinquished or withdrawn for purposes of offering
4 such megawatts by the authority for reallocation pursuant to subdivision
5 thirteen of section one thousand five of the public authorities law.
6 Provided, further, that for any such reallocation, the authority shall
7 maintain the same energy cost savings benefit level for all eligible
8 businesses using any available authority resources as deemed feasible
9 and advisable by the trustees pursuant to section seven of part U of
10 chapter fifty-nine of the laws of two thousand six.

11 4. Applications for an energy cost savings benefit shall be in the
12 form and contain such information, exhibits and supporting data as the
13 board may prescribe. The board shall review the applications received
14 and shall determine the applications which best meet the criteria estab-
15 lished for the benefits pursuant to this subdivision and it shall recom-
16 mend such applications to the power authority of the state of New York
17 with such terms and conditions as it deems appropriate; provided, howev-
18 er, that for energy cost savings benefits granted on or after June thir-
19 tieth, two thousand [seven] NINE through [June thirtieth] MAY FIFTEENTH,
20 two thousand [eight] TEN, the board shall expedite the awarding of such
21 benefits and shall defer the review of compliance with such criteria
22 until after the applicant has been awarded an energy cost savings bene-
23 fit. Such terms and conditions shall include reasonable provisions
24 providing for the partial or complete withdrawal of the energy cost
25 savings benefit in the event the recipient fails to maintain mutually
26 agreed upon commitments that may include, but are not limited to, levels
27 of employment, capital investment and power utilization. Recommendation
28 for approval of an energy cost savings benefit shall qualify an appli-
29 cant to receive an energy cost savings benefit from the power authority
30 of the state of New York pursuant to the terms and conditions of the
31 recommendation.

32 S 2. The opening paragraph of paragraph 5 of subdivision (a) of
33 section 189 of the economic development law, as amended by section 2 of
34 part Y of chapter 59 of the laws of 2008, is amended to read as follows:

35 "Power for jobs electricity savings reimbursements" shall mean
36 payments made by the power authority of the state of New York as recom-
37 mended by the board to recipients of allocations of power under phases
38 four and five of the power for jobs program for a period of time until
39 November thirtieth, two thousand four, subsequent to the expiration of
40 their phase four or five power for jobs contract provided however that
41 any power for jobs recipient may choose to receive an electricity
42 savings reimbursement as a substitute for a contract extension for the
43 period from the date the recipient's contract expires through [June
44 thirtieth] MAY FIFTEENTH, two thousand [nine] TEN. The "basic
45 reimbursement" is an amount that when credited against the recipient's
46 actual "unit cost of electricity" during a quarter (meaning the cost for
47 commodity and delivery per kilowatt-hour for the quantity of electricity
48 purchased and delivered under the power for jobs program during a simi-
49 lar period in the final year of the recipient's contract), results in an
50 effective unit cost of electricity during the quarter equal to the aver-
51 age unit cost of electricity such recipient paid during the final year
52 of the contract for power allocated under phase four or five of the
53 power for jobs program.

54 S 3. Subdivisions (f) and (l) of section 189 of the economic develop-
55 ment law, as amended by section 3 of part Y of chapter 59 of the laws of
56 2008, are amended to read as follows:

1 (f) Eligibility. The board shall recommend applications for allo-
2 cations of power under the power for jobs program to or for the use of
3 businesses which normally utilize a minimum peak electric demand in
4 excess of four hundred kilowatts; provided, however, that up to one
5 hundred megawatts of power available for allocation during the initial
6 three phases of the power for jobs program may be recommended for allo-
7 cations to not-for-profit corporations and to small businesses; and,
8 provided, further that up to seventy-five megawatts of power available
9 for allocation during the fourth phase of the program may be recommended
10 for allocations to not-for-profit corporations and to small businesses.
11 The board may require small businesses that normally utilize a minimum
12 peak electric demand of less than one hundred kilowatts to aggregate
13 their electric demand in amounts of no less than one hundred kilowatts,
14 for the purposes of applying to the board for an allocation of power.
15 The board shall recommend allocations of the additional three hundred
16 megawatts available during the fourth phase of the program to any such
17 eligible applicant, including any recipient of power allocated during
18 the first phase of the program. The board shall recommend allocations of
19 the additional one hundred eighty-three megawatts available during the
20 fifth phase of the program to any eligible applicant, including any
21 recipient of power allocated during the second and third phases of the
22 program; provided, however, that the term of contracts for allocations
23 under the fifth phase of the program shall in no case extend beyond
24 [June thirtieth] MAY FIFTEENTH, two thousand [nine] TEN. Notwithstand-
25 ing any provision of law to the contrary, and, in particular, the
26 provisions of this chapter concerning the terms of contracts for allo-
27 cations under the power for jobs program, the terms of any contract with
28 a recipient of power allocated under phase two of the power for jobs
29 program that has expired or will expire on or before the thirty-first
30 day of August, two thousand two, may be extended by the power authority
31 of the state of New York for an additional period of three months effec-
32 tive on the date of such expiration, pending the filing and approval of
33 an application by such recipient for an allocation under the fifth phase
34 of the program. The term of any new contract with such recipient under
35 the fifth phase of the program shall be deemed to include any three
36 month contract extension made pursuant to this subdivision and the
37 termination date of any such new contract under phase five shall be no
38 later than if such new contract had commenced upon the expiration of the
39 recipient's original phase two contract. The terms of any contract with
40 a recipient of power allocated under phase four and/or phase five of the
41 power for jobs program that has expired or will expire on or before the
42 thirty-first day of December, two thousand five, may be extended by the
43 power authority of the state of New York from a date beginning no earli-
44 er than the first day of December, two thousand four and extending
45 through [June thirtieth] MAY FIFTEENTH, two thousand [nine] TEN.

46 (1) The board shall solicit and review applications for the power for
47 jobs electricity savings reimbursements and contract extensions from
48 recipients of power for jobs allocations under phases four and five of
49 the program for the award of such reimbursements and/or contract exten-
50 sions. The board may prescribe a simplified form and content for an
51 application for such reimbursements or extensions. An applicant shall be
52 eligible for such reimbursements and/or extensions only if it is in
53 compliance with and agrees to continue to meet the job retention and
54 creation commitments set forth in its prior power for jobs contract, or
55 such other commitments as the board deems reasonable; provided, however,
56 that for the power for jobs electricity savings reimbursements and

1 contract extensions granted on or after June thirtieth, two thousand
2 [seven] NINE through [June thirtieth] MAY FIFTEENTH, two thousand
3 [eight] TEN, the board shall expedite the awarding of such reimburse-
4 ments and/or extensions and shall defer the review of compliance with
5 such commitments until after the applicant has been awarded a power for
6 jobs electricity savings reimbursement and/or contract extension. The
7 board shall review such applications and make recommendations for the
8 award: 1. of such reimbursements through the power authority of the
9 state of New York for a period of time up to November thirtieth, two
10 thousand four, and 2. of such contract extensions or reimbursements as
11 applied for by the recipient for a period of time beginning December
12 first, two thousand four and ending [June thirtieth] MAY FIFTEENTH, two
13 thousand [nine] TEN. At no time shall a recipient receive both a
14 reimbursement and extension after December first, two thousand four. The
15 power authority of the state of New York shall receive notification from
16 the board regarding the award of power for jobs electricity savings
17 reimbursements and/or contract extensions.

18 S 4. Section 9 of chapter 316 of the laws of 1997 amending the public
19 authorities law and other laws relating to the provision of low cost
20 power to foster statewide economic development, as amended by section 4
21 of part Y of chapter 59 of the laws of 2008, is amended to read as
22 follows:

23 S 9. This act shall take effect immediately and shall expire and be
24 deemed repealed [June 30] MAY 15, [2009] 2010.

25 S 5. Subdivision 9 of section 186-a of the tax law, as amended by
26 section 5 of part Y of chapter 59 of the laws of 2008, is amended to
27 read as follows:

28 9. Notwithstanding any other provision of this chapter or any other
29 law to the contrary, for taxable periods nineteen hundred ninety-seven
30 through and including two thousand [nine] TEN, any utility which deliv-
31 ers power under the power for jobs program, as established by section
32 one hundred eighty-nine of the economic development law, shall be
33 allowed a credit, subject to the limitations thereon contained in this
34 subdivision, against the tax imposed under this section equal to net
35 lost revenues from the delivery of power under such power for jobs
36 program. Net lost revenues means the "net receipts" less "net utility
37 revenue" from such delivery of power. For purposes of this subdivision,
38 "net receipts" shall mean the amount that the utility would have other-
39 wise received from customers receiving power pursuant to allocations by
40 the New York state economic development power allocation board in
41 accordance with section one hundred eighty-nine of the economic develop-
42 ment law, or from customers whose allocation has been transferred to an
43 energy service company, or from energy service companies to which such
44 allocation has been transferred, pursuant to its tariff supervised by
45 the public service commission for substantially comparable service
46 otherwise applicable to such customers or energy service companies in
47 the absence of such designation, less the utility's annual average
48 incremental short-term variable and capacity costs of providing such
49 power in the absence of such purchase. For the purposes of this subdivi-
50 sion, "net utility revenue" shall mean the revenues the utility actually
51 receives in accordance with such section one hundred eighty-nine from
52 such customers so designated by the New York state economic development
53 power allocation board or from customers whose allocation has been
54 transferred to an energy service company, or from the energy service
55 companies to which a power for jobs allocation has been transferred,
56 less the utility's cost of such power under such program. Provided,

1 however, that any credit under this section shall be used only with
2 respect to the same taxable year during which such credit arose and
3 shall not be capable of being carried forward or backward to any other
4 taxable period. Nor shall any credit be allowed to any utility for the
5 total amount of power, expressed in kilowatt hours, purchased by the
6 customers of such utility under such program during the taxable period
7 that exceeds the prorated "baseline energy use" by all customers of that
8 utility purchasing power under such program during the taxable period.
9 "Baseline energy use" with respect to each customer shall mean the larg-
10 est amount of kilowatt hours of energy used by such customer during any
11 twelve consecutive month period occurring during the preceding thirty
12 months immediately preceding the New York state economic development
13 power allocation board's recommendation of such customer's application,
14 prorated to reflect the length of time of the customer's participation
15 in such program during the taxable period. Provided further, however,
16 that in accordance with subdivision (k) of section one hundred eighty-
17 nine of the economic development law no tax credit shall be available
18 for any revenue losses when a utility has declined to purchase power
19 allocated for sale under such program. No electric corporation shall be
20 allowed the tax credit authorized by this subdivision until it shall
21 file a certificate from the department of public service for the period
22 covered by the return verifying that the calculation of such tax credit
23 complies with this subdivision and the department of public service has
24 approved such certificate and forwarded a copy of such approved certif-
25 icate to the commissioner or any amended certificate resulting from the
26 need for correction. The credit allowed by this subdivision shall not be
27 applicable in calculating any other tax imposed or authorized to be
28 imposed by this chapter or any other law, and the amount of the tax
29 surcharge imposed under section one hundred eighty-six-c of this article
30 shall be calculated and payable as if the credit provided for by this
31 subdivision were not allowed.

32 S 6. Section 11 of chapter 645 of the laws of 2006 amending the
33 economic development law and other laws relating to reauthorizing the
34 New York power authority to make contributions to the general fund, as
35 amended by section 6 of part Y of chapter 59 of the laws of 2008, is
36 amended to read as follows:

37 S 11. This act shall take effect immediately and shall be deemed to
38 have been in full force and effect on and after April 1, 2006; provided,
39 however, that the amendments to section 183 of the economic development
40 law and subparagraph 2 of paragraph g of the ninth undesignated para-
41 graph of section 1005 of the public authorities law made by sections two
42 and six of this act shall not affect the expiration of such section and
43 subparagraph, respectively, and shall be deemed to expire therewith;
44 provided further, however, that the amendments to section 189 of the
45 economic development law and subdivision 9 of section 186-a of the tax
46 law made by sections three, four, five and ten of this act shall not
47 affect the repeal of such section and subdivision, respectively, and
48 shall be deemed to be repealed therewith; provided further, however,
49 that section seven of this act shall expire and be deemed repealed [June
50 30] MAY 15, [2009] 2010.

51 S 7. Subparagraph 2 of paragraph g of the ninth undesignated para-
52 graph of section 1005 of the public authorities law, as amended by
53 section 7 of part Y of chapter 59 of the laws of 2008, is amended to
54 read as follows:

55 2. The authority, as deemed feasible and advisable by the trustees, is
56 authorized to make payments to recipients of the power for jobs elec-

1 tricity savings reimbursements and additional annual voluntary contrib-
2 utions into the state treasury to the credit of the general fund. The
3 authority shall make such contributions to the state treasury no later
4 than ninety days after the end of the calendar year in which a credit
5 under subdivision nine of section one hundred eighty-six-a of the tax
6 law is available: (a) for the additional three hundred megawatts of
7 power under the fourth phase of the program provided under chapter
8 sixty-three of the laws of two thousand and under the fifth phase for
9 the additional one hundred eighty-three megawatts provided under chapter
10 two hundred twenty-six of the laws of two thousand two; and (b) for any
11 extension of any contract for allocations under the fourth phase of the
12 program and under the fifth phase of the program. Payments for any elec-
13 tricity savings reimbursement under section one hundred eighty-nine of
14 the economic development law shall be made pursuant to such section.
15 Such annual contributions shall be equal to fifty percent of the total
16 amount of such credits available each year to all local distributors of
17 electricity. In addition, such authorization for contribution in state
18 fiscal year two thousand two--two thousand three shall be equal to the
19 total amount of credit available in two thousand one and two thousand
20 two; and such authorization for contribution in state fiscal year two
21 thousand three--two thousand four shall be equal to the total amount of
22 credit available in two thousand three; under subdivision nine of
23 section one hundred eighty-six-a of the tax law under the fourth phase
24 of the program for the additional three hundred megawatts provided under
25 chapter sixty-three of the laws of two thousand and under the fifth
26 phase for the additional one hundred eighty-three megawatts provided
27 under chapter two hundred twenty-six of the laws of two thousand two. In
28 state fiscal year two thousand four--two thousand five, such authorized
29 annual contribution shall be equal to one hundred percent of the total
30 amount of such credits available each year to all local distributors of
31 electricity. Such authorization for contribution in state fiscal years
32 two thousand four and two thousand five shall be equal to the total
33 amount of credit available in two thousand four and two thousand five;
34 under subdivision nine of section one hundred eighty-six-a of the tax
35 law under the fourth phase of the program for the additional three
36 hundred megawatts provided under chapter sixty-three of the laws of two
37 thousand and under the fifth phase for the additional one hundred eight-
38 y-three megawatts provided under chapter two hundred twenty-six of the
39 laws of two thousand two. In addition, such authorization for contrib-
40 ution for any extension of any contract for allocations under the fourth
41 phase of the program and under the fifth phase of the program in each
42 state fiscal year shall be equal to the total amount of credit or
43 reimbursement available in state fiscal year two thousand four--two
44 thousand five, state fiscal year two thousand five--two thousand six and
45 two thousand six--two thousand seven. Additionally, notwithstanding any
46 other section of law, the authority is authorized to make a contribution
47 in an amount related to total amounts of credit received under phases
48 one, two, three, four and five of the program. In no case shall the
49 contribution for state fiscal year two thousand five--two thousand six
50 be less than seventy-five million dollars. The contribution for state
51 fiscal year two thousand six--two thousand seven shall be one hundred
52 million dollars. The contribution for state fiscal year two thousand
53 seven--two thousand eight shall be thirty million dollars. The contrib-
54 ution for state fiscal year two thousand eight--two thousand nine shall
55 be twenty-five million dollars. THE CONTRIBUTION FOR STATE FISCAL YEAR
56 TWO THOUSAND NINE--TWO THOUSAND TEN SHALL BE TWELVE MILLION FIVE HUNDRED

1 THOUSAND DOLLARS. The department of public service shall estimate the
2 payment due by the end of the calendar year in which the credit is
3 available. In no case shall the amount of the total annual contributions
4 for the years during which delivery and sale of power associated with
5 all power for jobs phases and any extensions thereof takes place exceed
6 the aggregate total of four hundred [forty-nine] SIXTY-ONE million FIVE
7 HUNDRED THOUSAND dollars.

8 S 8. Section 182 of the economic development law, as amended by chap-
9 ter 289 of the laws of 2000, is amended to read as follows:

10 S 182. The New York state economic development power allocation board.
11 There is hereby created a New York state economic development power
12 allocation board, which shall possess the powers and duties herein spec-
13 ified and all the powers necessary or proper to carry out the purposes
14 of this article. The board shall consist of [four] EIGHT members, two of
15 whom shall be appointed by the governor [and one], TWO of whom shall be
16 appointed by the speaker of the assembly [and one], TWO of whom shall be
17 appointed by the president pro tempore of the senate, ONE OF WHOM SHALL
18 BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY AND ONE OF WHOM
19 SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE. Each member
20 shall be appointed for terms of three years or until a successor shall
21 have been named and qualified. The chairman shall be designated by the
22 governor from amongst the members. [Three] FIVE members shall constitute
23 a quorum for the purposes of organizing the board and conducting the
24 business thereof; and no actions of the board may be taken except upon
25 the affirmative vote of at least [three] FIVE members. Videoconferencing
26 may be used for attendance and participation by members of the board. If
27 videoconferencing is used the board shall provide an opportunity for the
28 public to attend, listen and observe at any site at which a member
29 participates. The public notice for the meeting shall inform the public
30 that [vidioconferencing] VIDEOCONFERENCING will be used, identify the
31 locations for the meeting, and state that the public has the right to
32 attend the meeting at any of the locations. Members of the board, except
33 those who are employees or officers of the state, its authorities or
34 agencies shall not receive a salary or other compensation, but shall be
35 allowed the necessary and actual expenses incurred in the performance of
36 duties under this article.

37 S 9. Section 1005 of the public authorities law is amended by adding a
38 new subdivision 16 to read as follows:

39 16. THE AUTHORITY SHALL CREATE AN ENERGY AUDIT PROGRAM FOR THE RECIPI-
40 ENTS OF THE AUTHORITY'S LOW COST POWER PROGRAMS.

41 A. TO ENSURE THE MOST JUDICIAL AND PRUDENT USE OF ENERGY RESOURCES, A
42 REQUIREMENT FOR ONGOING PARTICIPATION IN ECONOMIC DEVELOPMENT POWER,
43 EXPANSION POWER, REPLACEMENT POWER, PRESERVATION POWER, HIGH LOAD FACTOR
44 POWER, MUNICIPAL DISTRIBUTION AGENCY POWER AND THE POWER FOR JOBS
45 PROGRAMS, RECIPIENTS OF BENEFITS UNDER SUCH PROGRAMS SHALL UNDERGO ENER-
46 GY AUDITS AS DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION.

47 B. THE AUTHORITY SHALL PERFORM OR CAUSE TO BE PERFORMED ENERGY AUDITS
48 FOR ALL RECIPIENTS OF ECONOMIC DEVELOPMENT POWER, EXPANSION POWER,
49 REPLACEMENT POWER, PRESERVATION POWER, HIGH LOAD FACTOR POWER, MUNICIPAL
50 DISTRIBUTION AGENCY POWER AND POWER UNDER THE POWER FOR JOBS PROGRAMS.
51 THE AUDITS SHALL ASSESS A RECIPIENT'S ELECTRICITY USE TO DETERMINE (I)
52 POSSIBLE ENERGY CONSERVATION AND EFFICIENCY MEASURES THAT MAY BE
53 INSTALLED AND (II) THE FEASIBILITY OF ONSITE POWER GENERATION FOR
54 COMBINED HEAT AND POWER AND/OR DISTRIBUTED GENERATION PURPOSES. THE
55 AUTHORITY SHALL CONDUCT THE AUDITS IN A MANNER THAT WILL PROVIDE FOR A
56 REPRESENTATIVE SAMPLE OF THE PROGRAM RECIPIENTS, AS CATEGORIZED BY THE

PROGRAM OF ENROLLMENT, TYPE OF BUSINESS, GEOGRAPHY FOR STATEWIDE PROGRAMS AND ALLOCATION SIZE. RECIPIENTS THAT HAVE HAD AN ENERGY AUDIT PERFORMED UP TO FIVE YEARS PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION MAY BE CONSIDERED TO HAVE SATISFIED THE REQUIREMENTS OF THIS SUBDIVISION, IF THE AUTHORITY FINDS THE AUDIT TO BE SUFFICIENT. COSTS ASSOCIATED WITH PERFORMING ENERGY AUDITS SHALL BE PAID BY THE POWER AUTHORITY OF THE STATE OF NEW YORK AS DEEMED FEASIBLE AND ADVISABLE BY THE BOARD.

C. THE AUTHORITY SHALL COMPLETE AND SUBMIT AN ANNUAL PROGRESS REPORT ON THE ENERGY AUDIT PROGRAM TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, AND THE MINORITY LEADER OF THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIR OF THE ASSEMBLY ENERGY COMMITTEE AND THE CHAIR OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE AND THE STATE COMPTROLLER BY DECEMBER THIRTIETH, TWO THOUSAND NINE AND ON SUCH DATE EVERY YEAR HEREAFTER UNTIL ALL RECIPIENTS HAVE COMPLETED THE AUDIT PROGRAM.

S 10. (a) The department of economic development and the power authority of the state of New York shall complete and submit a report on the power authority's low cost power programs. The report shall examine the replacement, expansion, preservation power programs, the industrial economic development power program, the power for jobs programs, and the economic cost saving benefits power programs. Information to be presented in the report shall reflect the state of the programs as of June 30, 2009 and the year prior and shall include but not be limited to:

- i. a short history of the programs;
- ii. a complete list of all recipients of these programs grouped by program;
- iii. the city or town and county of each recipient;
- iv. the allocation allotted to each recipient;
- v. annualized retail value for each recipient's allocation;
- vi. the metric for calculating the annualized retail value;
- vii. the original employment commitment from each recipient;
- viii. the current employment level for each recipient; and
- ix. an assessment by the department of economic development of the economic benefits to New York, which shall include, but not be limited to: jobs created and retained, level of capital investment, wage and benefit levels, and the effect of regional economies; and shall include an assessment on the effect of these programs considering the ongoing economic conditions in the state.

The report shall also include a brief description of the preference power program including the total power available to the program as measured in megawatts, the total power used by the program as measured in megawatt hours for the program as a whole and by utility service area, an estimated annualized retail value for the program and the metric for calculating that value.

The report shall be submitted by September 30, 2009 to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee, the chair of the senate energy and telecommunications committee, and the state comptroller and shall be made available on the authority's website and, except for the program's summaries, the report's information shall be presented in a spreadsheet format.

1 (b) The power authority of the state of New York shall provide copies
2 of all reports required by subdivision 14 of section 1005 of the public
3 authorities law, for the year 2006, 2007, 2008 and 2009 to the governor,
4 the speaker of the assembly, the temporary president of the senate, the
5 minority leader of the senate, and the minority leader of the assembly,
6 the chair of the senate finance committee, the chair of the assembly
7 ways and means committee, the chair of the assembly energy committee and
8 the chair of the senate energy and telecommunications committee, and the
9 state comptroller by September 30, 2009.

10 (c) The power authority of the state of New York shall submit a report
11 or reports detailing in full the energy procurement practices, including
12 all supply side and demand side activities, the authority uses to meet
13 the capacity and needs of their customers, and a complete and detailed
14 report or reports on the authority's commodity pricing practices. The
15 report shall be submitted to the governor, the speaker of the assembly,
16 the temporary president of the senate, the minority leader of the
17 senate, and the minority leader of the assembly, the chair of the senate
18 finance committee, the chair of the assembly ways and means committee,
19 the chair of the assembly energy committee and the chair of the senate
20 energy and telecommunications committee, and the state comptroller by
21 September 30, 2009.

22 S 11. Severability clause. If any clause, sentence, paragraph, subdi-
23 vision, section or part of this act shall be adjudged by any court of
24 competent jurisdiction to be invalid, such judgment shall not affect,
25 impair, or invalidate the remainder thereof, but shall be confined in
26 its operation to the clause, sentence, paragraph, subdivision, section
27 or part thereof directly involved in the controversy in which such judg-
28 ment shall have been rendered. It is hereby declared to be the intent of
29 the legislature that this act would have been enacted even if such
30 invalid provisions had not been included therewith.

31 S 12. This act shall take effect immediately; provided that the amend-
32 ments to sections 183 and 189 of the economic development law, subdivi-
33 sion 9 of section 186-a of the tax law and subparagraph 2 of paragraph g
34 of the ninth undesignated paragraph of section 1005 of the public
35 authorities law, made by sections one, two, three, five and seven of
36 this act, shall not affect the expiration of such provisions and shall
37 be deemed repealed therewith.