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

4006--A

2011-2012 Regular Sessions

I N S E N A T E

March 12, 2011

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the legislative law, in relation to establishing the New York state legislative budget office; to amend the state finance law and the legislative law, in relation to enacting a balanced budget requirement; and to amend the state finance law, in relation to budget reform and enacting performance budgets

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

Section 1. The legislative law is amended by adding a new article 4-B to read as follows:

ARTICLE 4-B

NEW YORK STATE LEGISLATIVE BUDGET OFFICE

SECTION 75. POWERS AND DUTIES OF THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE.

76. DIRECTOR OF THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE.

S 75. POWERS AND DUTIES OF THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE. THERE SHALL HEREBY BE ESTABLISHED AN OFFICE OF THE NEW YORK STATE LEGISLATURE TO BE KNOWN AS THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE. 1. IT SHALL BE THE PRIMARY DUTY AND FUNCTION OF THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE TO PROVIDE THE MEMBERS AND COMMITTEES OF THE LEGISLATURE WITH INFORMATION WHICH WILL ASSIST SUCH OFFICIALS AND BODIES IN THE DISCHARGE OF MATTERS WITHIN THEIR JURISDICTION PERTAINING TO THE BUDGETARY PROCESS INCLUDING:

(A) INFORMATION WITH RESPECT TO THE BUDGET, APPROPRIATIONS BILLS AND OTHER BILLS AUTHORIZING OR PROVIDING FOR EXPENDITURES FROM GOVERNMENT-WIDE FUNDS OR REVENUES TO THOSE FUNDS; INCLUDING ANY BILLS THAT HAVE A DIRECT OR INDIRECT FISCAL IMPACT IN TERMS OF SPENDING OR REVENUE;

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

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(B) INFORMATION WITH RESPECT TO ESTIMATED REVENUES AND RECEIPTS, AND CHANGING REVENUE CONDITIONS;

(C) INFORMATION WITH RESPECT TO THE PERFORMANCE AND EFFECTIVENESS OF STATE AGENCIES AND PROGRAMS; AND

(D) TO THE EXTENT PRACTICABLE, SUCH OTHER INFORMATION OR ANALYSES AS MAY BE REQUESTED BY SUCH OFFICIALS AND BODIES, AND THE GENERAL PUBLIC.

REQUESTS MADE BY THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE BUDGET, REVENUES AND EXPENDITURES SHALL RECEIVE PRIORITY ATTENTION.

2. THE LEGISLATIVE BUDGET OFFICE SHALL COMPLETE A FISCAL IMPACT STATEMENT: (A) FOR ANY BILL BEING CONSIDERED ON AN ASSEMBLY WAYS AND MEANS COMMITTEE AGENDA OR A SENATE FINANCE COMMITTEE AGENDA, TO THE EXTENT POSSIBLE; (B) FOR ANY BILL AT THE REQUEST OF THE SPEAKER OR MINORITY LEADER OF THE ASSEMBLY OR THE TEMPORARY PRESIDENT OR MINORITY LEADER OF THE SENATE; AND (C) AT THE REQUEST OF A COMMITTEE CHAIR OR RANKING MEMBER OF A COMMITTEE FOR ANY BILL REFERRED TO THEIR RESPECTIVE COMMITTEE. FISCAL IMPACT STATEMENTS SHALL ESTIMATE THE IMPACT ON STATE REVENUES OR EXPENDITURES.

3. THE LEGISLATIVE BUDGET OFFICE SHALL SUBMIT AN ANALYSIS OF THE EXECUTIVE BUDGET BY MARCH FIRST OF EACH YEAR TO THE MEMBERS OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE SENATE FINANCE COMMITTEE, AND MAKE COPIES OF SUCH ANALYSIS AVAILABLE TO ALL OTHER MEMBERS OF THE LEGISLATURE AND ALL OTHER INDIVIDUALS, UPON REQUEST. THE LEGISLATIVE BUDGET OFFICE SHALL ALSO SUBMIT AN ANALYSIS OF AGENCY STRATEGIC AND PERFORMANCE PLANS DEVELOPED PURSUANT TO SECTION TWENTY-EIGHT OF THE STATE FINANCE LAW.

4. THE LEGISLATIVE BUDGET OFFICE SHALL, TO THE EXTENT PRACTICABLE, DEVELOP PROPOSALS FOR COST EFFECTIVE ALTERNATIVE APPROACHES TO MEET THE FINANCIAL OBLIGATIONS OF THE STATE, INCLUDING BUT NOT LIMITED TO, REVIEWING BOND REQUIREMENTS AND DEBT OBLIGATIONS OF THE STATE AND PUBLIC AUTHORITIES.

5. THE LEGISLATIVE BUDGET OFFICE SHALL PUBLISH A REPORT WITH RESPECT TO THE EXPECTED LEVELS OF STATE REVENUES BY THE FIRST DAY OF JANUARY, THE FIRST DAY OF APRIL, THE FIRST DAY OF JULY AND THE FIRST DAY OF OCTOBER OF EACH YEAR.

6. THE LEGISLATIVE BUDGET OFFICE SHALL PUBLISH BY DECEMBER FIRST OF EACH YEAR A REPORT ANALYZING THE FISCAL OUTLOOK OF THE STATE FOR THE NEXT FIVE YEARS.

7. AT THE REQUEST OF ANY MEMBER OR COMMITTEE OF THE SENATE OR THE ASSEMBLY, THE LEGISLATIVE BUDGET OFFICE SHALL, TO THE EXTENT PRACTICABLE, CONSULT WITH AND ASSIST SUCH COMMITTEE IN ANALYZING THE BUDGETARY OR FINANCIAL IMPACT OF ANY PROPOSED LEGISLATION THAT MAY HAVE:

(A) A SIGNIFICANT BUDGETARY IMPACT ON LOCAL OR TRIBAL GOVERNMENTS;

(B) A SIGNIFICANT FINANCIAL IMPACT ON THE PRIVATE SECTOR; OR

(C) A SIGNIFICANT EMPLOYMENT IMPACT ON THE PRIVATE SECTOR.

8. (A) THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE SHALL CONDUCT CONTINUING STUDIES ON FISCAL MATTERS INCLUDING WAYS TO ENHANCE COMPARISONS OF BUDGET AUTHORITY AND OUTLAYS, DEBT AUTHORITY, AND TAX POLICY.

(B) (1) AT THE REQUEST OF ANY CHAIR OR RANKING MEMBER OF THE MINORITY OF A COMMITTEE OF THE SENATE OR THE ASSEMBLY, THE DIRECTOR SHALL, TO THE EXTENT PRACTICABLE, CONDUCT A STUDY OF A LEGISLATIVE PROPOSAL CONTAINING A STATE MANDATE.

(2) IN CONDUCTING A STUDY ON INTERGOVERNMENTAL MANDATES UNDER THIS PARAGRAPH, THE DIRECTOR SHALL:

(I) SOLICIT AND CONSIDER INFORMATION OR COMMENTS FROM ELECTED OFFICIALS (INCLUDING THEIR DESIGNATED REPRESENTATIVES) OF STATE, LOCAL, OR TRIBAL GOVERNMENTS AS MAY PROVIDE HELPFUL INFORMATION OR COMMENTS;

(II) CONSIDER ESTABLISHING ADVISORY PANELS OF ELECTED OFFICIALS OR THEIR DESIGNATED REPRESENTATIVES, OF LOCAL OR TRIBAL GOVERNMENTS IF THE DIRECTOR DETERMINES THAT SUCH ADVISORY PANELS WOULD BE HELPFUL IN PERFORMING RESPONSIBILITIES OF THE DIRECTOR UNDER THIS SECTION; AND

(III) IF, AND TO THE EXTENT THAT THE DIRECTOR DETERMINES THAT ACCURATE ESTIMATES ARE REASONABLY FEASIBLE, INCLUDE ESTIMATES OF:

(A) THE FUTURE DIRECT COST OF THE STATE MANDATE TO THE EXTENT THAT SUCH COSTS SIGNIFICANTLY DIFFER FROM OR EXTEND BEYOND THE FIVE-YEAR PERIOD AFTER THE MANDATE IS FIRST EFFECTIVE; AND

(B) ANY DISPROPORTIONATE BUDGETARY EFFECTS OF STATE MANDATES UPON PARTICULAR INDUSTRIES OR SECTORS OF THE ECONOMY, REGIONS, AND URBAN OR RURAL OR OTHER TYPES OF COMMUNITIES, AS APPROPRIATE.

(3) IN CONDUCTING A STUDY ON STATE MANDATES UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH, THE DIRECTOR SHALL PROVIDE ESTIMATES, IF AND TO THE EXTENT THAT THE DIRECTOR DETERMINES THAT SUCH ESTIMATES ARE REASONABLY FEASIBLE, OF:

(I) FUTURE COSTS OF STATE MANDATES ON PRIVATE SECTOR ENTITIES AND LOCAL GOVERNMENTS TO THE EXTENT THAT SUCH MANDATES DIFFER SIGNIFICANTLY FROM OR EXTEND BEYOND THE FIVE-YEAR TIME PERIOD REFERRED TO IN ITEM (A) OF CLAUSE (III) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH;

(II) ANY DISPROPORTIONATE FINANCIAL EFFECTS OF STATE PRIVATE SECTOR MANDATES AND OF ANY STATE FINANCIAL ASSISTANCE IN THE BILL OR JOINT RESOLUTION UPON ANY PARTICULAR INDUSTRIES OR SECTORS OF THE ECONOMY, REGIONS, AND URBAN OR RURAL OR OTHER TYPES OF COMMUNITIES; AND

(III) THE EFFECT OF STATE MANDATES IN THE BILL OR JOINT RESOLUTION ON THE ECONOMY OF THE STATE, INCLUDING THE EFFECT ON PRODUCTIVITY, ECONOMIC GROWTH, FULL EMPLOYMENT, CREATION OF PRODUCTIVE JOBS, AND COMPETITIVENESS OF GOODS AND SERVICES.

9. THE LEGISLATIVE BUDGET OFFICE SHALL, FROM TIME TO TIME, PUBLISH SUCH REPORTS AS MAY BE APPROPRIATE TO ENHANCE THE OFFICIAL AND PUBLIC UNDERSTANDING OF THE BUDGETARY PROCESS AND OF THE BUDGET DOCUMENTS. SUCH OFFICE SHALL, FROM TIME TO TIME, PUBLISH SUCH REPORTS AS MAY BE NECESSARY OR APPROPRIATE TO PROVIDE SUCH INFORMATION, DATA AND ANALYSIS AS WILL ENHANCE OFFICIAL AND PUBLIC UNDERSTANDING OF MATTERS RELATING TO STATE REVENUES, EXPENDITURES, MANAGEMENT PRACTICES AND RELATED MATTERS.

10. ALL INFORMATION, DATA, ESTIMATES AND STATISTICS, AND ALL STUDIES AND REPORTS PREPARED BY THE LEGISLATIVE BUDGET OFFICE SHALL BE MADE AVAILABLE TO THE PUBLIC AND SHALL ALSO BE MADE AVAILABLE BY ELECTRONIC MEANS TO THE EXTENT PRACTICABLE OVER THE INTERNET.

11. NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE THE DISCLOSURE OF INFORMATION THAT IS OTHERWISE PROTECTED AS CONFIDENTIAL BY OTHER PROVISIONS OF STATE OR FEDERAL LAW.

S 76. DIRECTOR OF THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE. 1. THE NEW YORK STATE LEGISLATIVE BUDGET OFFICE SHALL BE HEADED BY A DIRECTOR WHO SHALL BE APPOINTED, FROM ONE OR MORE CANDIDATES RECOMMENDED BY THE LEGISLATIVE BUDGET OFFICE BOARD OF DIRECTORS (ALSO REFERRED TO INTERCHANGEABLY AS THE "BOARD"), BY THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE. THE RECOMMENDATIONS FOR THE INITIAL APPOINTMENT OF SUCH DIRECTOR SHALL BE MADE NO LATER THAN JANUARY FIFTEENTH, TWO THOUSAND TWELVE TO THE SPECIAL COMMITTEE. SUBSEQUENT RECOMMENDATIONS SHALL BE MADE BETWEEN JANUARY SECOND AND JANUARY FIFTEENTH EVERY SIXTH YEAR THEREAFTER. THE SPEAKER OF THE ASSEMBLY AND TEMPORARY PRESIDENT OF THE SENATE SHALL APPOINT THE INITIAL DIRECTOR NO

LATER THAN FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE AND SUCH INITIAL DIRECTOR SHALL TAKE OFFICE BEGINNING APRIL FIRST, TWO THOUSAND TWELVE. SUBSEQUENT APPOINTMENTS SHALL BE MADE NO LATER THAN FEBRUARY FIFTEENTH EVERY SIXTH YEAR THEREAFTER.

2. (A) THERE SHALL BE A LEGISLATIVE BUDGET OFFICE BOARD OF DIRECTORS CONSISTING OF (1) ONE PERSON APPOINTED BY EACH OF THE FOLLOWING OFFICIALS AND WHO SHALL SERVE AT THE PLEASURE OF SUCH OFFICIALS; THE CHAIR AND RANKING MEMBER OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE CHAIR AND RANKING MEMBER OF THE SENATE FINANCE COMMITTEE, AND (2) SIX OTHER MEMBERS JOINTLY APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE, WHO SHALL SERVE FOR SIX YEAR TERMS, PROVIDED, HOWEVER THAT OF THE MEMBERS FIRST APPOINTED, TWO SHALL SERVE FOR TERMS EXPIRING ON MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN; TWO SHALL SERVE FOR TERMS EXPIRING ON MARCH THIRTY-FIRST, TWO THOUSAND FIFTEEN; AND TWO SHALL SERVE FOR TERMS EXPIRING ON MARCH THIRTY-FIRST, TWO THOUSAND SEVENTEEN. THE MEMBERS SHALL ALL BE INDIVIDUALS WITH EXTENSIVE EXPERIENCE AND KNOWLEDGE IN THE FIELDS OF FINANCE, ECONOMICS, ACCOUNTING, PUBLIC ADMINISTRATION AND PUBLIC POLICY ANALYSIS INCLUDING AT LEAST ONE NATIONALLY RECOGNIZED EXPERT IN THE FIELDS OF BUDGET THEORY AND THE BUDGET PROCESS; ONE DEAN OR DIRECTOR OR FORMER DEAN OR DIRECTOR OF A GRADUATE SCHOOL OF BUSINESS ADMINISTRATION, PUBLIC AFFAIRS OR PUBLIC ADMINISTRATION LOCATED IN NEW YORK STATE; ONE OFFICER OR FORMER OFFICER OR ECONOMIC ADVISOR OF A LABOR UNION; ONE OFFICER OR FORMER OFFICER OR ECONOMIC ADVISOR TO A BUSINESS CORPORATION; ONE OFFICER OR FORMER OFFICER OF A CITY WITH A POPULATION OF ONE MILLION OR MORE, ONE OFFICER OR FORMER OFFICER OF A COUNTY; AND ONE OFFICER OR FORMER OFFICER OF A CIVIC OR PUBLIC INTEREST ADVOCACY ORGANIZATION DIRECTLY INVOLVED IN BUDGET MATTERS. NO INDIVIDUAL SHALL SERVE CONSECUTIVE TERMS.

(B) THE LEGISLATIVE BUDGET OFFICE BOARD OF DIRECTORS SHALL DEVELOP GUIDELINES FOR THE BEST PRACTICES OF THE LEGISLATIVE BUDGET OFFICE. THE LEGISLATIVE BUDGET OFFICE BOARD OF DIRECTORS SHALL MEET ANNUALLY WITH THE DIRECTOR TO REVIEW SUCH GUIDELINES AND TO MAKE COMMENTS AND SUGGESTIONS ON THE OVERALL PRACTICES OF THE OFFICE. IN DEVELOPING GUIDELINES FOR BEST PRACTICES, SUCH STANDARDS SHALL BE IN COMPLIANCE WITH STANDARDS PROMULGATED BY THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD OR ANOTHER COMPARABLE STANDARD SETTING ENTITY WHEN PRACTICABLE. NOTHING IN THIS SECTION SHALL PRECLUDE THE BOARD FROM USING PRONOUNCEMENTS; STANDARDS AND OTHER OTHER DOCUMENTS DEVELOPED AND PUBLISHED BY ORGANIZATIONS THAT ARE NATIONALLY RECOGNIZED AUTHORITIES IN MATTERS PERTAINING TO PUBLIC FINANCE EXCEPT THAT THE BOARD SHALL DEVELOP SUCH BEST PRACTICES WITH THE INTENT OF COMPLYING WITH THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD WHERE PRACTICABLE AND APPLICABLE.

(C) MEMBERS OF THE BOARD OF DIRECTORS SHALL RECEIVE NO COMPENSATION BUT SHALL BE REIMBURSED FOR REASONABLE EXPENSES INCURRED IN CONNECTION WITH THEIR DUTIES.

3. THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE SHALL BE APPOINTED WITHOUT REGARD TO POLITICAL AFFILIATION AND SOLELY ON THE BASIS OF FITNESS TO PERFORM THE DUTIES ASSIGNED BY THIS ARTICLE. THE TERM OF OFFICE OF THE DIRECTOR FIRST APPOINTED SHALL EXPIRE ON FEBRUARY FIFTEENTH, TWO THOUSAND EIGHTEEN, AND THE TERMS OF OFFICE OF DIRECTORS SUBSEQUENTLY APPOINTED SHALL EXPIRE ON SUCH DATE IN EACH SIXTH YEAR THEREAFTER. ANY INDIVIDUAL APPOINTED TO FILL A VACANCY PRIOR TO THE EXPIRATION OF A TERM SHALL SERVE ONLY FOR THE UNEXPIRED PORTION OF SUCH TERM. AN INDIVIDUAL SERVING AS DIRECTOR AT THE EXPIRATION OF THE TERM MAY CONTINUE TO SERVE UNTIL A SUCCESSOR IS APPOINTED. ANY DIRECTOR SERVING CONSECUTIVE TERMS SHALL BE RECOMMENDED BY THE LEGISLATIVE BUDGET

OFFICE BOARD OF DIRECTORS AND APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE FOR THE SECOND TERM. NO DIRECTOR SHALL SERVE MORE THAN TWO TERMS CONSECUTIVELY.

4. TWENTY PERCENT OF THE APPROPRIATIONS MADE TO THE DIVISION OF THE BUDGET SHALL BE AVAILABLE TO PAY FOR THE EXPENSES OF THE LEGISLATIVE BUDGET OFFICE DURING EACH FISCAL YEAR BEGINNING WITH THE FIRST DAY OF APRIL AFTER THIS SECTION SHALL HAVE BECOME A LAW. THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE SHALL APPOINT SUCH PERSONNEL AND PROCURE THE SERVICES OF SUCH EXPERTS AND CONSULTANTS, WITHIN THE APPROPRIATIONS AVAILABLE THEREFOR, AS MAY BE NECESSARY FOR SUCH DIRECTOR TO CARRY OUT THE DUTIES AND FUNCTIONS ASSIGNED PURSUANT TO THIS ARTICLE. SUCH PERSONNEL AND EXPERTS SHALL PERFORM SUCH DUTIES AS MAY BE ASSIGNED TO THEM BY THE DIRECTOR.

5. THE DIRECTOR MAY BE REMOVED BY EITHER A JOINT RESOLUTION OF THE SENATE AND ASSEMBLY OR BY A VOTE OF SEVEN OUT OF TEN MEMBERS OF THE BOARD.

6. (A) THE DIRECTOR AND DEPUTY DIRECTOR SHALL RECEIVE COMPENSATION IN AN AMOUNT TO BE DETERMINED PURSUANT TO A CHAPTER OF THE LAWS OF TWO THOUSAND ELEVEN.

(B) THE DIRECTOR SHALL APPOINT AND FIX THE COMPENSATION OF SUCH PERSONNEL AS MAY BE NECESSARY TO CARRY OUT THE DUTIES AND FUNCTIONS OF THE OFFICE. ALL PERSONNEL OF THE OFFICE SHALL BE APPOINTED WITHOUT REGARD TO POLITICAL AFFILIATION AND SOLELY ON THE BASIS OF THEIR FITNESS TO PERFORM THEIR DUTIES. THE DIRECTOR MAY PRESCRIBE THE DUTIES AND RESPONSIBILITIES OF THE PERSONNEL OF THE OFFICE, AND DELEGATE TO THEM AUTHORITY TO PERFORM ANY OF THE DUTIES, POWERS, AND FUNCTIONS IMPOSED ON THE OFFICE OR ON THE DIRECTOR. FOR PURPOSES OF PAY AND EMPLOYMENT BENEFITS, RIGHTS, AND PRIVILEGES, ALL PERSONNEL OF THE OFFICE SHALL BE TREATED AS IF THEY WERE EMPLOYEES OF NEW YORK STATE.

7. THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE SHALL HAVE ACCESS AT ALL REASONABLE TIMES TO OFFICES OF STATE DEPARTMENTS, COMMISSIONS, BOARDS, BUREAUS AND OFFICES, TO INSTITUTIONS AND TO ALL STATE AUTHORITIES AND PUBLIC WORKS OF THE STATE AND THEY MAY, FOR THE PURPOSE OF OBTAINING INFORMATION AS TO THE METHOD OF OPERATION, GENERAL CONDITION, MANAGEMENT AND NEEDS THEREOF, EXAMINE THE BOOKS, PAPERS AND PUBLIC RECORDS THEREIN. NOTWITHSTANDING ANY OTHER PROVISION OF LAW SUCH STATE DEPARTMENTS, COMMISSIONS, BOARDS, BUREAUS, DIVISIONS, OFFICES, STATE AUTHORITIES AND OTHER INSTITUTIONS SHALL, THROUGH THEIR PROPER OFFICERS OR DEPUTIES, FURNISH TO THE DIRECTOR SUCH DATA, INFORMATION OR STATEMENTS AS MAY BE NECESSARY FOR THE PROPER EXERCISE OF HIS OR HER POWERS AND DUTIES AND FOR THE PURPOSE OF CARRYING INTO EFFECT THE PROVISIONS OF THIS ARTICLE.

8. FOR THE PURPOSES OF REVENUE LEGISLATION WHICH IS INCOME, ESTATE AND GIFT, EXCISE, AND PAYROLL TAXES, CONSIDERED OR ENACTED IN ANY SESSION OF THE LEGISLATURE, THE LEGISLATIVE BUDGET OFFICE SHALL CONSIDER DURING THAT LEGISLATIVE SESSION REVENUE ESTIMATES PROVIDED TO IT BY THE OFFICE OF THE STATE COMPTROLLER. DURING THAT SESSION OF THE LEGISLATURE SUCH REVENUE ESTIMATES SHALL BE TRANSMITTED BY THE LEGISLATIVE BUDGET OFFICE TO ANY COMMITTEE OF THE ASSEMBLY OR THE SENATE REQUESTING SUCH ESTIMATES, AND SHALL BE USED BY SUCH COMMITTEES IN DETERMINING SUCH ESTIMATES. THE FISCAL COMMITTEES OF THE SENATE AND ASSEMBLY SHALL DETERMINE ALL ESTIMATES WITH RESPECT TO THE EXECUTION OF THE PURPOSES OF THIS ARTICLE. THIS SUBDIVISION SHALL NOT REQUIRE NOR PRECLUDE THE LEGISLATIVE BUDGET OFFICE FROM USING ESTIMATES OF THE STATE COMPTROLLER IN THE CALCULATION OF THE REVENUE FORECAST AS STIPULATED IN SUBDIVISION FIVE OF SECTION SEVENTY-FIVE OF THIS ARTICLE.

S 2. Section 22 of the state finance law is amended by adding two new subdivisions 17 and 18 to read as follows:

17. DEVELOPMENT OF THE EXECUTIVE BUDGET SUBMISSION AND ENACTED BUDGET. FOR FISCAL YEARS BEGINNING ON AND AFTER APRIL FIRST, TWO THOUSAND TWELVE, THE EXECUTIVE BUDGET SUBMISSION AND THE ENACTED BUDGET COVERING ALL EXPENDITURES OTHER THAN CAPITAL ITEMS SHALL BE PREPARED AND BALANCED SO THE RESULTS THEREOF WOULD NOT SHOW A DEFICIT WHEN REPORTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN SECTION TWO OF THIS CHAPTER.

18. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUDGETS SUBMITTED PURSUANT TO THIS SECTION SHALL INCLUDE:

A. A DESCRIPTION OF ALL OF THE EXPENDITURES ESTIMATED TO BE MADE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN SECTION TWO OF THIS CHAPTER; AND

B. A DESCRIPTION OF ALL THE REVENUES ESTIMATED TO ACCRUE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR, INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED LEGISLATION WHICH THE GOVERNOR DEEMS NECESSARY TO PROVIDE RECEIPTS SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN SECTION TWO OF THIS CHAPTER.

S 3. Paragraph (a) of subdivision 2 of section 54 of the legislative law, as added by chapter 1 of the laws of 2007, is amended to read as follows:

(a) The legislature shall enact a budget for the upcoming fiscal year that it determines is balanced [in the] ON A general fund, STATE FUNDS AND ALL FUNDS BASIS. THE LEGISLATURE SHALL MAKE THIS DETERMINATION IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN SECTION TWO OF THE STATE FINANCE LAW.

S 4. Subdivision 2 of section 54 of the legislative law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUDGETS SUBMITTED PURSUANT TO THIS SECTION SHALL INCLUDE:

(I) ALL OF THE EXPENDITURES ESTIMATED TO BE MADE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN SECTION TWO OF THE STATE FINANCE LAW; AND

(II) A DESCRIPTION OF ALL OF THE REVENUES ESTIMATED TO ACCRUE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR, INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED LEGISLATION WHICH THE LEGISLATURE DEEMS NECESSARY TO PROVIDE RECEIPTS SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN SECTION TWO OF THE STATE FINANCE LAW.

S 5. Section 22 of the state finance law is amended by adding a new subdivision 19 to read as follows:

19. THE DIVISION OF THE BUDGET SHALL PREPARE THE REPORTS, SCHEDULES, AND OTHER INFORMATION DESCRIBED BELOW IN THIS SUBDIVISION. TO THE EXTENT PRACTICABLE, SUCH REPORTS, SCHEDULES, AND INFORMATION SHALL BE IN A FORM, AND PRESENTED AT A LEVEL OF DETAIL, THAT FACILITATES COMPARISON ON AN ANNUAL BASIS AND AGAINST ACTUAL RESULTS, AS APPROPRIATE, AND IN A MANNER CONSISTENT WITH THE OTHER REPORTING REQUIREMENTS ENUMERATED IN THIS SECTION. THE REPORTS, SCHEDULES, AND OTHER INFORMATION REQUIRED BY

THIS SUBDIVISION SHALL BE SUBMITTED TO THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE MINORITY LEADERS OF BOTH HOUSES, AND THE COMPTROLLER ACCORDING TO THE SCHEDULES SET FORTH IN THIS SUBDIVISION. IN DETERMINING THE FINAL CONTENT AND FORMAT OF THE INFORMATION REQUIRED BY THIS SECTION, THE DIVISION SHALL CONSULT ANNUALLY WITH THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE, THE DESIGNEES OF THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADERS OF BOTH HOUSES, AND THE COMPTROLLER. ALL INFORMATION DESCRIBED IN THIS SUBDIVISION SHALL BE MADE AVAILABLE TO THE PUBLIC.

A. THE SUMMARY FINANCIAL PLAN SUBMITTED BY THE GOVERNOR TO THE LEGISLATURE, IN ADDITION TO THE INFORMATION DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, SHALL INCLUDE:

(1) A SCHEDULE OF RECEIPTS FOR THE PRIOR, CURRENT, AND NEXT FIVE FISCAL YEARS. SUCH SCHEDULE SHALL PRESENT THE MAJOR REVENUE SOURCES FOR EACH FUND, INCLUDING DETAIL FOR EACH MAJOR TAX AND MAJOR COMPONENTS OF MISCELLANEOUS RECEIPTS.

(2) A DESCRIPTION OF EMPLOYMENT LEVELS FOR EACH STATE DEPARTMENT, DIVISION OR OFFICE FOR THE PRIOR, CURRENT, AND NEXT ENSUING FISCAL YEAR CONTAINING (A) SEPARATE SCHEDULES FOR EACH FUND TYPE AND (B) AN ALL FUNDS SUMMARY. SUCH INFORMATION SHALL BE PRESENTED IN A FORM THAT FACILITATES COMPARISONS AMONG AGENCIES AND ACROSS FISCAL YEARS, AND SHALL INCLUDE (I) ACTUAL AND PROJECTED FULL-TIME EQUIVALENTS AND (II) PROPOSED CHANGES TO THE WORKFORCE IN THE EXECUTIVE BUDGET, INCLUDING NEW POSITIONS, LAYOFFS, ATTRITIONS, AND CHANGES IN FUNDING SOURCES. TO THE EXTENT PRACTICABLE, THE DIVISION OF THE BUDGET SHALL FACILITATE THE PROVISION OF OTHER RELEVANT INFORMATION ON EMPLOYMENT TO THE LEGISLATURE IN A TIMELY MANNER DURING THE STATE FISCAL YEAR.

B. THE EXECUTIVE BUDGET, THE ENACTED BUDGET REPORT AND EACH QUARTERLY UPDATE TO THE FINANCIAL PLAN SHALL INCLUDE THE FOLLOWING INFORMATION, IN ADDITION TO THE INFORMATION REQUIRED ELSEWHERE IN THIS SECTION AND OTHER SECTIONS OF LAW.

(1) AN UPDATED GENERAL FUND FORECAST OF RECEIPTS AND DISBURSEMENTS FOR THE CURRENT AND FIVE SUCCEEDING FISCAL YEARS. SUCH UPDATED FORECAST SHALL CLEARLY IDENTIFY AND EXPLAIN THE REVISIONS TO THE RECEIPTS AND DISBURSEMENTS PROJECTIONS FROM THE MOST RECENT PRIOR UPDATE TO THE FINANCIAL PLAN, AND ANY SIGNIFICANT REVISIONS TO THE UNDERLYING FACTORS AFFECTING RECEIPTS AND DISBURSEMENTS BY MAJOR FUNCTION, AND MAY INCLUDE, BUT NOT BE LIMITED TO: CASELOAD, SERVICE, AND UTILIZATION RATES; DEMOGRAPHIC TRENDS; ECONOMIC VARIABLES; PENSION FUND PERFORMANCE; INCARCERATION RATES; PRESCRIPTION DRUG PRICES; HEALTH INSURANCE PREMIUMS; INFLATION; CONTRACTUAL OBLIGATIONS; LITIGATION; AND STATE EMPLOYMENT TRENDS.

(2) A REVISED MONTHLY GENERAL FUND CASH FLOW PROJECTION OF RECEIPTS AND DISBURSEMENTS FOR THE CURRENT FISCAL YEAR THAT (A) COMPARES ACTUAL RESULTS TO (I) ACTUAL RESULTS THROUGH THE SAME PERIOD FOR THE PRIOR YEAR AND (II) THE MOST RECENT PRIOR UPDATE TO THE FINANCIAL PLAN AND TO THE ENACTED BUDGET FINANCIAL PLAN, (B) SUMMARIZES THE REASONS FOR ANY VARIANCES, AND (C) DESCRIBES THE REVISIONS TO THE CASH FLOW PROJECTIONS. THE MONTHLY GENERAL FUND CASH FLOW PROJECTION SHALL BE STATED BY MAJOR CATEGORY OF LOCAL ASSISTANCE, PERSONAL SERVICE, NONPERSONAL SERVICE, GENERAL STATE CHARGES, AND DEBT SERVICE, AND BY MAJOR CATEGORY OF REVENUE.

C. THE CAPITAL PROGRAM AND FINANCING PLAN SUBMITTED PURSUANT TO SECTION TWENTY-TWO-C OF THIS ARTICLE, AND THE UPDATE THERETO REQUIRED PURSUANT TO SECTION TWENTY-THREE OF THIS ARTICLE, SHALL INCLUDE A REPORT ON THE MANAGEMENT OF STATE-SUPPORTED DEBT. SUCH REPORT MAY INCLUDE, BUT

IS NOT LIMITED TO: (1) AN ASSESSMENT OF THE AFFORDABILITY OF STATE DEBT, INCLUDING DEBT AS A PERCENT OF PERSONAL INCOME, DEBT PER CAPITA, AND DEBT SERVICE COSTS AS A PERCENT OF THE BUDGET, (2) A SUMMARY AND ANALYSIS OF THE INTEREST RATE EXCHANGE AGREEMENTS AND VARIABLE RATE EXPOSURE, AND (3) AN ASSESSMENT OF FINANCING OPPORTUNITIES RELATED TO THE STATE'S DEBT PORTFOLIO.

S 6. The state finance law is amended by adding a new section 28 to read as follows:

S 28. AGENCY STRATEGIC AND PERFORMANCE PLANS AND PERFORMANCE BUDGETING REQUIREMENTS. 1. DEFINITIONS. WHEN USED IN THIS SECTION:

(A) "AGENCY" MEANS AND INCLUDES "STATE AGENCY" AND "COVERED AUTHORITY" AS DEFINED IN SECTION TWO-A OF THIS CHAPTER;

(B) "OUTCOME MEASURE" MEANS AN ASSESSMENT OF THE RESULTS OF A PROGRAM ACTIVITY COMPARED TO ITS INTENDED PURPOSE;

(C) "OUTPUT MEASURE" MEANS THE TABULATION, CALCULATION, OR RECORDING OF ACTIVITY OR EFFORT AND CAN BE EXPRESSED IN A QUANTITATIVE OR QUALITATIVE MANNER;

(D) "PROGRAM ASSESSMENT RATING TOOL" MEANS A TOOL DEVELOPED BY THE DIVISION OF THE BUDGET TO EVALUATE THE EFFECTIVENESS OF PROGRAMS AND PROGRAM ACTIVITY;

(E) "PERFORMANCE GOAL" MEANS A TARGET LEVEL OF PERFORMANCE EXPRESSED AS A TANGIBLE, MEASURABLE OBJECTIVE, AGAINST WHICH ACTUAL ACHIEVEMENT CAN BE COMPARED, INCLUDING A GOAL EXPRESSED AS A QUANTITATIVE STANDARD, VALUE, OR RATE;

(F) "PERFORMANCE INDICATOR" MEANS A PARTICULAR VALUE OR CHARACTERISTIC USED TO MEASURE OUTPUT OR OUTCOME;

(G) "PROGRAM ACTIVITY" MEANS A SPECIFIC ACTIVITY OR PROJECT OF THE PROGRAM AND MEANS AND INCLUDES ANY EXPENDITURE FOR ANY PURPOSE TO ANY CLASS OR GROUPING OF VENDORS THAT INCLUDES MORE THAN ONE VENDOR; AND

(H) "PROGRAM EVALUATION" MEANS AN ASSESSMENT, THROUGH OBJECTIVE MEASUREMENT AND SYSTEMATIC ANALYSIS, OF THE MANNER AND EXTENT TO WHICH PROGRAMS ACHIEVE INTENDED OBJECTIVES.

2. STRATEGIC PLAN. (A) NOT LATER THAN THE START OF THE FISCAL YEAR BEGINNING IN TWO THOUSAND TWELVE EACH AGENCY SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET AND TO THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE A STRATEGIC PLAN FOR PROGRAM ACTIVITIES. SUCH PLAN SHALL INCLUDE:

(1) A COMPREHENSIVE MISSION STATEMENT COVERING THE MAJOR FUNCTIONS AND OPERATIONS OF THE AGENCY;

(2) GENERAL GOALS AND OBJECTIVES, INCLUDING OUTCOME-RELATED GOALS AND OBJECTIVES, FOR THE MAJOR FUNCTIONS AND OPERATIONS OF THE AGENCY;

(3) A DESCRIPTION OF HOW THE GOALS AND OBJECTIVES ARE TO BE ACHIEVED, INCLUDING A DESCRIPTION OF THE OPERATIONAL PROCESSES, SKILLS AND TECHNOLOGY, AND THE HUMAN, CAPITAL, INFORMATION, AND OTHER RESOURCES REQUIRED TO MEET THOSE GOALS AND OBJECTIVES;

(4) A DESCRIPTION OF HOW THE PERFORMANCE GOALS INCLUDED IN THE PERFORMANCE PLAN REQUIRED BY THIS SECTION SHALL BE RELATED TO THE GENERAL GOALS AND OBJECTIVES IN THE STRATEGIC PLAN;

(5) AN IDENTIFICATION OF KEY FACTORS EXTERNAL TO THE AGENCY AND BEYOND ITS CONTROL THAT COULD SIGNIFICANTLY AFFECT THE ACHIEVEMENT OF THE GENERAL GOALS AND OBJECTIVES; AND

(6) A DESCRIPTION OF THE PROGRAM EVALUATIONS USED IN ESTABLISHING OR REVISING GENERAL GOALS AND OBJECTIVES, WITH A SCHEDULE FOR FUTURE PROGRAM EVALUATIONS.

(B) THE STRATEGIC PLAN SHALL COVER A PERIOD OF NOT LESS THAN FIVE YEARS FORWARD FROM THE FISCAL YEAR IN WHICH IT IS SUBMITTED, AND SHALL BE UPDATED AND REVISED AT LEAST EVERY THREE YEARS.

(C) WHEN DEVELOPING A STRATEGIC PLAN, THE AGENCY SHALL CONSULT WITH THE APPROPRIATE COMMITTEE OR COMMITTEES OF THE LEGISLATURE, INCLUDING COMMITTEES WHICH OVERSEE THEIR AREA OF OPERATIONS PROGRAMMATICALLY OR FISCALLY, AND SHALL SOLICIT AND CONSIDER THE VIEWS OF ENTITIES POTENTIALLY AFFECTED BY OR INTERESTED IN SUCH A PLAN.

3. PERFORMANCE PLANS AND REPORTS. (A) ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, BEGINNING WITH FISCAL YEAR TWO THOUSAND TWELVE, THE DIRECTOR OF THE BUDGET SHALL INCLUDE A PERFORMANCE PLAN AS PART OF THE BUDGET SUBMITTED ANNUALLY BY THE GOVERNOR TO THE LEGISLATURE, IN ACCORDANCE WITH ARTICLE SEVEN OF THE CONSTITUTION. IN SUCH SUBMISSION, THE DIRECTOR SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE CONCERNING ANY SIGNIFICANT DIFFICULTIES EXPERIENCED BY AGENCIES IN PREPARING PLANS AND REPORTS AND SET FORTH ANY RECOMMENDED CHANGES IN THE REQUIREMENTS OF THIS SECTION. THE DIRECTOR OF THE BUDGET MAY EXEMPT FROM THE REQUIREMENTS OF THIS SECTION ANY AGENCY WITH AN ALL-FUNDS ANNUAL BUDGET OF TEN MILLION DOLLARS OR LESS.

(B) THE PERFORMANCE PLAN SUBMITTED BY EACH AGENCY SHALL BE CONSISTENT WITH THE AGENCY'S STRATEGIC PLAN. A PERFORMANCE PLAN MAY NOT BE SUBMITTED FOR A FISCAL YEAR NOT COVERED BY A CURRENT STRATEGIC PLAN UNDER THIS SECTION. IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS SECTION, THE PERFORMANCE PLAN SHALL USE THE PROGRAM ASSESSMENT RATING TOOL TO EVALUATE ITS PROGRAMS.

(C) ON AND AFTER FISCAL YEAR TWO THOUSAND TWELVE, THE DIRECTOR OF THE BUDGET SHALL REQUIRE EACH AGENCY TO PREPARE AN ANNUAL PERFORMANCE PLAN COVERING EACH PROGRAM ACTIVITY SET FORTH IN THE BUDGET OF SUCH AGENCY. SUCH PLAN SHALL:

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

(2) EXPRESS SUCH GOALS IN AN OBJECTIVE, QUANTIFIABLE, AND MEASURABLE FORM UNLESS AUTHORIZED TO BE IN AN ALTERNATIVE FORM PURSUANT TO THIS SUBDIVISION;

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

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

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

(6) DESCRIBE THE MEANS TO BE USED TO VERIFY AND VALIDATE MEASURED VALUES.

(D) IF AN AGENCY, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, DETERMINES THAT IT IS NOT FEASIBLE TO EXPRESS THE PERFORMANCE GOALS FOR A PARTICULAR PROGRAM ACTIVITY IN AN OBJECTIVE, QUANTIFIABLE, AND MEASURABLE FORM, THE DIRECTOR MAY AUTHORIZE AN ALTERNATIVE FORM. SUCH ALTERNATIVE SHALL BE IN A FORM AUTHORIZED BY THE DIRECTOR, AND

(1) SHALL HAVE SUFFICIENT PRECISION AND BE IN TERMS THAT ALLOW FOR AN ACCURATE, INDEPENDENT DETERMINATION OF WHETHER THE PROGRAM ACTIVITY'S PERFORMANCE MEETS THE CRITERIA OF THE DESCRIPTION; OR

(2) BE A STATEMENT AS TO WHY IT IS INFEASIBLE OR IMPRACTICAL FOR THE AGENCY TO EXPRESS A PERFORMANCE GOAL IN ANY FORM FOR THE PROGRAM ACTIVITY.

(E) FOR THE PURPOSE OF COMPLYING WITH THIS SECTION, AN AGENCY MAY AGGREGATE, DISAGGREGATE, OR CONSOLIDATE PROGRAM ACTIVITIES, EXCEPT THAT ANY AGGREGATION OR CONSOLIDATION MAY NOT OMIT OR MINIMIZE THE SIGNIF-

ICANCE OF ANY PROGRAM ACTIVITY CONSTITUTING A MAJOR FUNCTION OR OPERATION FOR THE AGENCY.

(F) ON A DATE SET BY THE DIRECTOR OF THE BUDGET, EACH AGENCY SHALL PREPARE AND SUBMIT TO THE DIRECTOR A REPORT ON PROGRAM PERFORMANCE FOR THE PREVIOUS FISCAL YEAR FOR INCLUSION IN THE STATE BUDGET SUBMITTED ANNUALLY BY THE GOVERNOR TO THE LEGISLATURE, IN ACCORDANCE WITH ARTICLE SEVEN OF THE CONSTITUTION.

(G) EACH PROGRAM PERFORMANCE REPORT SHALL SET FORTH THE PERFORMANCE INDICATORS ESTABLISHED IN THE AGENCY PERFORMANCE PLAN, ALONG WITH THE ACTUAL PROGRAM PERFORMANCE ACHIEVED COMPARED WITH THE PERFORMANCE GOALS EXPRESSED IN THE PLAN FOR THE PRECEDING FISCAL YEAR.

(H) IF PERFORMANCE GOALS ARE SPECIFIED IN AN ALTERNATIVE FORM AS AUTHORIZED BY THIS SECTION, THE RESULTS OF SUCH PROGRAM SHALL BE DESCRIBED IN RELATION TO SUCH SPECIFICATIONS.

(I) THE REPORT FOR FISCAL YEAR TWO THOUSAND TWELVE SHALL INCLUDE ACTUAL RESULTS FOR THE PRECEDING FISCAL YEAR, THE REPORT FOR FISCAL YEAR TWO THOUSAND THIRTEEN SHALL INCLUDE ACTUAL RESULTS FOR THE TWO PRECEDING FISCAL YEARS, AND THE REPORT FOR FISCAL YEAR TWO THOUSAND FOURTEEN AND ALL SUBSEQUENT REPORTS SHALL INCLUDE ACTUAL RESULTS FOR THE THREE PRECEDING FISCAL YEARS.

4. EACH REPORT SHALL: (A) REVIEW THE SUCCESS OF ACHIEVING THE PERFORMANCE GOALS OF THE FISCAL YEAR;

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

(C) EXPLAIN AND DESCRIBE, WHERE A PERFORMANCE GOAL HAS NOT BEEN MET WHY THE GOAL WAS NOT MET, PLANS AND SCHEDULES FOR ACHIEVING THE ESTABLISHED PERFORMANCE GOAL, AND IF THE PERFORMANCE GOAL IS IMPRACTICAL OR INFEASIBLE, WHY THAT IS THE CASE AND WHAT ACTION IS RECOMMENDED; AND

(D) INCLUDE THE SUMMARY FINDINGS OF THOSE PROGRAM EVALUATIONS COMPLETED DURING THE FISCAL YEAR COVERED BY THE REPORT.

5. MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY. (A) ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, PERFORMANCE PLANS REQUIRED HEREUNDER MAY INCLUDE PROPOSALS TO WAIVE ADMINISTRATIVE PROCEDURAL REQUIREMENTS AND CONTROLS IN RETURN FOR SPECIFIC INDIVIDUAL OR ORGANIZATION ACCOUNTABILITY TO ACHIEVE A PERFORMANCE GOAL. IN PREPARING AND SUBMITTING THE PERFORMANCE PLAN THE DIRECTOR OF THE BUDGET SHALL REVIEW AND MAY APPROVE ANY PROPOSED WAIVERS. A WAIVER SHALL TAKE EFFECT AT THE BEGINNING OF THE FISCAL YEAR FOR WHICH THE WAIVER IS APPROVED.

(B) ANY SUCH PROPOSAL FOR WAIVER SHALL DESCRIBE THE ANTICIPATED EFFECTS ON PERFORMANCE RESULTING FROM GREATER MANAGERIAL OR ORGANIZATIONAL FLEXIBILITY, DISCRETION, AND AUTHORITY, AND SHALL QUANTIFY THE EXPECTED IMPROVEMENTS IN PERFORMANCE RESULTING FROM ANY WAIVER. THE EXPECTED IMPROVEMENTS SHALL BE COMPARED TO CURRENT ACTUAL PERFORMANCE, AND TO THE PROJECTED LEVEL OF PERFORMANCE THAT WOULD BE ACHIEVED INDEPENDENT OF ANY WAIVER.

(C) A PROPOSED WAIVER OF PROCEDURAL REQUIREMENTS OR CONTROLS IMPOSED SHALL NOT BE INCLUDED IN A PERFORMANCE PLAN UNLESS IT IS ENDORSED BY THE AGENCY THAT ESTABLISHED THE REQUIREMENT, AND THE ENDORSEMENT INCLUDED IN THE PROPOSING AGENCY'S PERFORMANCE PLAN.

(D) A WAIVER SHALL BE IN EFFECT FOR ONE OR TWO YEARS AS SPECIFIED BY THE DIRECTOR OF THE BUDGET IN APPROVING THE WAIVER. A WAIVER MAY BE RENEWED FOR A SUBSEQUENT YEAR. AFTER A WAIVER HAS BEEN IN EFFECT FOR THREE CONSECUTIVE YEARS, THE PERFORMANCE PLAN MAY PROPOSE THAT A WAIVER BE MADE PERMANENT.

(E) THE DIRECTOR SHALL NOT BE EMPOWERED TO WAIVE ANY STATUTORY REQUIREMENT, BUT MAY SUBMIT LEGISLATION WITH THE BUDGET ALLOWING FOR SUCH WAIVER.

6. PERFORMANCE BUDGETING. (A) THE DIRECTOR OF THE BUDGET, AFTER CONSULTATION WITH EACH AGENCY AND THE DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE, SHALL DESIGNATE NOT LESS THAN FIVE AGENCIES AS PILOT PROJECTS IN PERFORMANCE BUDGETING FOR FISCAL YEARS TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN. THE AGENCIES SHALL REFLECT A REPRESENTATIVE RANGE OF GOVERNMENT FUNCTIONS AND CAPABILITIES IN MEASURING AND REPORTING PROGRAM PERFORMANCE.

(B) PILOT PROJECTS IN THE DESIGNATED AGENCIES SHALL COVER THE PREPARATION OF PERFORMANCE BUDGETS. SUCH BUDGETS SHALL PRESENT, FOR ONE OR MORE OF THE MAJOR FUNCTIONS AND OPERATIONS OF THE AGENCY, THE VARYING LEVELS OF PERFORMANCE, INCLUDING OUTCOME-RELATED PERFORMANCE, THAT WOULD RESULT FROM DIFFERENT BUDGETED AMOUNTS.

(C) THE DIRECTOR OF THE BUDGET SHALL INCLUDE, AS AN ALTERNATIVE BUDGET PRESENTATION IN THE BUDGET SUBMITTED FOR FISCAL YEAR TWO THOUSAND THIRTEEN, THE PERFORMANCE BUDGETS OF THE DESIGNATED AGENCIES FOR THIS FISCAL YEAR.

(D) NO LATER THAN MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, THE DIRECTOR OF THE BUDGET SHALL TRANSMIT A REPORT TO THE GOVERNOR, THE LEGISLATURE AND THE LEGISLATIVE BUDGET OFFICE ON PERFORMANCE BUDGETING. SUCH REPORT SHALL:

(1) ASSESS THE FEASIBILITY AND ADVISABILITY OF INCLUDING A PERFORMANCE BUDGET AS PART OF THE ANNUAL BUDGET;

(2) DESCRIBE ANY DIFFICULTIES ENCOUNTERED IN PREPARING A PERFORMANCE BUDGET;

(3) RECOMMEND WHETHER LEGISLATION REQUIRING PERFORMANCE BUDGETS SHOULD BE PROPOSED AND THE GENERAL PROVISIONS OF ANY LEGISLATION; AND

(4) SET FORTH ANY RECOMMENDED CHANGES IN THE OTHER REQUIREMENTS OF THIS SECTION.

7. REPORT BY THE DIVISION OF THE BUDGET. THE DIRECTOR OF THE BUDGET, AFTER CONSULTATION WITH EACH AGENCY, SHALL ESTABLISH TIMELINES, PROCEDURES, FORMS AND OTHER NECESSARY MEASUREMENTS AND DOCUMENTATION REQUIRED BY THIS SECTION NOT LATER THAN SEPTEMBER FIRST, TWO THOUSAND ELEVEN, AND SHALL SHARE SUCH SCHEDULES AND DATA WITH THE FISCAL COMMITTEES OF THE LEGISLATURE AND THE LEGISLATIVE BUDGET OFFICE. SUCH REPORT SHALL INCLUDE THE PROGRAM ASSESSMENT RATING TOOL.

8. TRAINING. THE DIRECTOR OF THE BUDGET AFTER CONSULTATION WITH THE OFFICE OF EMPLOYEE RELATIONS, THE DEPARTMENT OF CIVIL SERVICE, AND THE DEPARTMENT OF LABOR, SHALL DEVELOP A STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT TRAINING COMPONENT FOR MANAGEMENT TRAINING PROGRAMS AND OTHERWISE PROVIDE MANAGERS WITH AN ORIENTATION ON THE DEVELOPMENT AND USE OF STRATEGIC PLANNING AND PROGRAM PERFORMANCE MEASUREMENT.

9. APPLICATION. NO PROVISION OR AMENDMENT MADE BY THIS SECTION SHALL BE CONSTRUED AS CREATING ANY RIGHT, PRIVILEGE, BENEFIT, OR ENTITLEMENT FOR ANY PERSON WHO IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OF NEW YORK ACTING IN SUCH CAPACITY, AND NO PERSON WHO IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OF NEW YORK ACTING IN SUCH CAPACITY SHALL HAVE STANDING TO FILE ANY CIVIL ACTION IN A COURT OF THIS STATE TO ENFORCE ANY PROVISION OR AMENDMENT MADE BY THIS SECTION.

S 7. This act shall take effect immediately.