

# STATE OF NEW YORK

4896

2025-2026 Regular Sessions

## IN SENATE

February 14, 2025

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

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

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

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

### ARTICLE 28

#### INCENTIVE EVALUATION ACT

5 Section 500. Short title.

6 501. Definitions.

7 502. Incentive evaluation commission.

8 503. Periodic evaluations.

9 504. Evaluation process.

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

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

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

17 2. "commission" shall mean the incentive evaluation commission estab-  
18 lished under this article.

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

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

LBD09441-02-5

1 4. "substantial interest" shall mean the ownership, directly or indi-  
2 rectly, of more than fifty percent of the equity interest with voting  
3 rights of a business entity.

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

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

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

9 (c) An auditor who is employed as an internal auditor by a company or  
10 who is employed by a private auditing firm appointed by the state comp-  
11 troller;

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

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

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

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

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

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

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

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

40 5. The office of general services shall provide staff and administra-  
41 tive support to the commission. The department and the department of  
42 taxation and finance shall assist the office of general services as  
43 needed in providing staff and administrative support to the commission.

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

1 incentive listed in the schedule, the commission shall attempt to iden-  
2 tify the goal or goals of the incentive.

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

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

19 § 504. Evaluation process. 1. The commission may contract with a  
20 private company, nonprofit, or academic institution for professional  
21 services to assist with evaluation of each incentive. The commission  
22 shall develop requirements for such professional services necessary to  
23 complete incentive evaluations pursuant to this article. Such require-  
24 ments shall include, but not be limited to, the contractor provide at  
25 least one draft report for each incentive prior to the issuance of the  
26 final report; provided, the contractor may determine the timing and  
27 frequency of draft reports based on the availability of information and  
28 the potential for draft reports to assist the commission in making a  
29 final recommendation. The cost of such contract shall be paid by the  
30 department. No recipient or potential recipient of an incentive or  
31 representative of a recipient or potential recipient shall contact the  
32 entity or individual with whom the commission contracts pursuant to this  
33 subdivision unless the entity or individual specifically requests infor-  
34 mation or documentation for purposes of the incentive evaluation proc-  
35 ess; provided, this shall not be construed to prevent participation in a  
36 public hearing conducted pursuant to subdivision two of this section.

37 2. For each year in which incentives have been scheduled to be evalu-  
38 ated under this article:

39 (a) By October first of each such year, the commission or the commis-  
40 sion's chosen contractor shall have evaluated each incentive scheduled  
41 for review that year. The commission or the commission's chosen contrac-  
42 tor shall conduct each incentive evaluation in consultation with the  
43 department using criteria developed pursuant to subdivision four of this  
44 section.

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

49 (c) By December fifteenth of each such year, the commission shall  
50 issue an annual written report which shall provide: (i) the results of  
51 each incentive evaluation; (ii) a review of prior incentive evaluation  
52 recommendations by the commission and changes to statute or incentive  
53 administration related to such recommendations; and (iii) if the commis-  
54 sion votes to modify an incentive evaluation as provided in this subdivi-  
55 sion, such modification and the original evaluation shall be docu-  
56 mented. The report shall be made publicly available on the department's

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

4 3. Each evaluation shall include the following:

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

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

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

11 (iii) a comparison to the results of other incentives or other econom-  
12 ic development strategies with similar goals.

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

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

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

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

22 (f) Recommendations for any changes to state policy, rules, or stat-  
23 utes that would allow the incentive to be more easily or conclusively  
24 evaluated in the future. These recommendations may include changes to  
25 collection, reporting, and sharing of data, and revisions or clarifica-  
26 tions to the goal of the incentive.

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

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

36 § 2. This act shall take effect immediately.