

4205

2013-2014 Regular Sessions

I N   S E N A T E

March 14, 2013

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, the state finance law, the arts and cultural affairs law, the economic development law, the energy law, the environmental conservation law, the labor law, the public authorities law, the general municipal law, the banking law, the racing, pari-mutuel wagering and breeding law, the facilities development corporation act, the New York state medical care facilities finance agency act and the New York state urban development corporation act, in relation to promoting service connected disabled veteran owned business enterprises

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "service connected disabled veteran owned business enterprise act".  
3     S 2. Subdivisions 1, 5, 6 and 7 of section 4-a of the executive law,  
4     as added by chapter 175 of the laws of 2010, are amended to read as  
5     follows:  
6     1. Advise and assist the governor in formulating policies relating to  
7     workforce diversity and minority, SERVICE CONNECTED DISABLED VETERANS  
8     and women's business enterprises;  
9     5. Serve as the governor's liaison with organizations representing  
10    minority, SERVICE CONNECTED DISABLED VETERANS and women-owned business  
11    enterprises and other organizations related to diversity in the state  
12    workforce and in state contracting;  
13    6. Serve as the governor's liaison to the small business advisory  
14    council for issues related to the creation of a diverse workforce and  
15    state procurement practices relating to minority, SERVICE CONNECTED  
16    DISABLED VETERANS and women-owned business enterprises;

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

LBD04501-01-3

1 7. Review and consult with the director of minority and women's busi-  
2 ness development regarding policies relating to minority, SERVICE  
3 CONNECTED DISABLED VETERANS and women-owned business enterprise contract  
4 specialists at state agencies; and

5 S 3. The article heading of article 15-A of the executive law, as  
6 added by chapter 261 of the laws of 1988, is amended to read as follows:

7 PARTICIPATION BY MINORITY GROUP MEMBERS, SERVICE CONNECTED DISABLED  
8 VETERANS AND WOMEN WITH RESPECT TO STATE CONTRACTS

9 S 4. Subdivisions 1 and 9 of section 310 of the executive law, as  
10 added by chapter 261 of the laws of 1988, are amended and a new subdivi-  
11 sion 23 is added to read as follows:

12 1. "Certified business" shall mean a business verified as a minority,  
13 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise  
14 pursuant to section three hundred fourteen of this article.

15 9. "Utilization plan" shall mean a plan prepared by a contractor and  
16 submitted in connection with a proposed state contract. The utilization  
17 plan shall identify certified minority, SERVICE CONNECTED DISABLED  
18 VETERAN or women-owned business enterprises, if known, that have commit-  
19 ted to perform work in connection with the proposed state contract as  
20 well as any such enterprises, if known, which the contractor intends to  
21 use in connection with the contractor's performance of the proposed  
22 state contract. The plan shall specifically contain a list, including  
23 the name, address and telephone number, of each certified enterprise  
24 with which the contractor intends to subcontract.

25 23. "SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE"  
26 SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PART-  
27 NERSHIP OR CORPORATION THAT IS:

28 (A) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE UNITED STATES  
29 CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE SERVICE CONNECTED DISABLED  
30 VETERANS;

31 (B) AN ENTERPRISE IN WHICH THE OWNERSHIP INTEREST OF SUCH SERVICE  
32 CONNECTED DISABLED VETERANS IS REAL, SUBSTANTIAL AND CONTINUING;

33 (C) AN ENTERPRISE IN WHICH SUCH SERVICE CONNECTED DISABLED VETERAN'S  
34 OWNERSHIP HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE  
35 DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

36 (D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDE-  
37 PENDENTLY OWNED AND OPERATED.

38 (E) SERVICE CONNECTED DISABLED VETERAN SHALL MEAN A PERSON (I) WHO  
39 SERVED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE DURING A PERIOD OF  
40 WAR AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVISION, OR WHO WAS A RECIP-  
41 IENT OF THE ARMED FORCES EXPEDITIONARY MEDAL, NAVY EXPEDITIONARY MEDAL,  
42 MARINE CORPS EXPEDITIONARY MEDAL, OR GLOBAL WAR ON TERRORISM EXPEDITION-  
43 ARY MEDAL, AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER OTHER THAN  
44 DISHONORABLE CONDITIONS, (II) HAS BEEN AWARDED A DISABILITY RATING OF  
45 FORTY PERCENT OR HIGHER FROM THE FEDERAL VETERAN'S ADMINISTRATION OR  
46 FROM THE UNITED STATES DEPARTMENT OF DEFENSE, WHERE THAT DISABILITY WAS  
47 INCURRED IN LINE OF DUTY IN THE ACTIVE MILITARY, NAVAL OR AIR SERVICE,  
48 AS DOCUMENTED ACCORDING TO RULES AND REGULATIONS OF THE DIVISION OF  
49 MILITARY AND NAVAL AFFAIRS.

50 (F) FOR THE PURPOSES OF THIS ARTICLE, SERVICE DURING TIME OF WAR IS  
51 DEFINED AS FOLLOWS:

52 (I) THE INDIVIDUAL IN QUESTION WAS A RECIPIENT OF THE ARMED FORCES  
53 EXPEDITIONARY MEDAL, THE NAVY EXPEDITIONARY MEDAL OR THE MARINE CORPS  
54 EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATIONS IN LEBANON FROM JUNE  
55 FIRST, NINETEEN HUNDRED EIGHTY-THREE TO DECEMBER FIRST, NINETEEN HUNDRED  
56 EIGHTY-SEVEN, IN GRENADA FROM OCTOBER TWENTY-THIRD, NINETEEN HUNDRED

1 EIGHTY-THREE TO NOVEMBER TWENTY-FIRST, NINETEEN HUNDRED EIGHTY-THREE, OR  
2 IN PANAMA FROM DECEMBER TWENTIETH, NINETEEN HUNDRED EIGHTY-NINE TO JANU-  
3 ARY THIRTY-FIRST, NINETEEN HUNDRED NINETY; OR

4 (II) THE INDIVIDUAL SERVED ON ACTIVE DUTY FOR NINETY DAYS OR MORE IN  
5 THE ARMED FORCES OF THE UNITED STATES DURING ANY ONE OF THE FOLLOWING  
6 WARS OR HOSTILITIES:

7 (1) IN THE SPANISH-AMERICAN WAR FROM THE TWENTY-FIRST DAY OF APRIL,  
8 EIGHTEEN HUNDRED NINETY-EIGHT TO THE ELEVENTH DAY OF APRIL, EIGHTEEN  
9 HUNDRED NINETY-NINE, INCLUSIVE;

10 (2) IN THE PHILIPPINE INSURRECTION OR THE CHINA RELIEF EXPEDITION FROM  
11 THE ELEVENTH DAY OF APRIL, EIGHTEEN HUNDRED NINETY-NINE TO THE FOURTH  
12 DAY OF JULY, NINETEEN HUNDRED TWO, INCLUSIVE;

13 (3) IN THE MEXICAN BORDER CAMPAIGN FROM THE NINTH DAY OF MAY, NINETEEN  
14 HUNDRED SIXTEEN, TO THE FIFTH DAY OF APRIL, NINETEEN HUNDRED SEVENTEEN,  
15 INCLUSIVE;

16 (4) IN WORLD WAR I FROM THE SIXTH DAY OF APRIL, NINETEEN HUNDRED  
17 SEVENTEEN TO THE ELEVENTH DAY OF NOVEMBER, NINETEEN HUNDRED EIGHTEEN,  
18 INCLUSIVE;

19 (5) IN WORLD WAR II FROM THE SEVENTH DAY OF DECEMBER, NINETEEN HUNDRED  
20 FORTY-ONE TO THE THIRTY-FIRST DAY OF DECEMBER, NINETEEN HUNDRED  
21 FORTY-SIX, INCLUSIVE;

22 (6) IN THE KOREAN HOSTILITIES FROM THE TWENTY-SEVENTH DAY OF JUNE,  
23 NINETEEN HUNDRED FIFTY TO THE THIRTY-FIRST DAY OF JANUARY, NINETEEN  
24 HUNDRED FIFTY-FIVE, INCLUSIVE;

25 (7) IN THE VIETNAM CONFLICT FROM THE TWENTY-SECOND DAY OF DECEMBER,  
26 NINETEEN HUNDRED SIXTY-ONE TO THE SEVENTH DAY OF MAY, NINETEEN HUNDRED  
27 SEVENTY-FIVE, INCLUSIVE; OR

28 (8) IN THE PERSIAN GULF CONFLICT FROM THE SECOND DAY OF AUGUST, NINE-  
29 TEEN HUNDRED NINETY TO THE END OF SUCH CONFLICT.

30 S 5. Subdivision 1 and paragraphs (a), (d), (e) and (f) of subdivision  
31 3 of section 311 of the executive law, subdivision 1 and paragraphs (d)  
32 and (e) of subdivision 3 as amended by chapter 55 of the laws of 1992  
33 and paragraphs (a) and (f) of subdivision 3 as added by chapter 261 of  
34 the laws of 1988, are amended to read as follows:

35 1. The head of the division of minority and women's business develop-  
36 ment shall be the director who shall be appointed by the governor and  
37 hold office at the pleasure of the commissioner. It shall be the duty of  
38 the director of the division of minority and women's business develop-  
39 ment to assist the governor in the formulation and implementation of  
40 laws and policies relating to minority, SERVICE CONNECTED DISABLED  
41 VETERAN and women-owned business enterprises.

42 (a) to encourage and assist contracting agencies in their efforts to  
43 increase participation by minority, SERVICE CONNECTED DISABLED VETERAN  
44 and women-owned business enterprises on state contracts and subcontracts  
45 so as to facilitate the award of a fair share of such contracts to them;

46 (d) to review periodically the practices and procedures of each  
47 contracting agency with respect to compliance with the provisions of  
48 this article, and to require them to file periodic reports with the  
49 division of minority and women's business development as to the level of  
50 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
51 enterprises participation in the awarding of agency contracts for goods  
52 and services;

53 (e) on January first of each year report to the governor and the  
54 chairpersons of the senate finance and assembly ways and means commit-  
55 tees on the level of minority, SERVICE CONNECTED DISABLED VETERAN and  
56 women-owned business enterprises participating in each agency's

contracts for goods and services and on activities of the office and effort by each contracting agency to promote employment of minority group members, SERVICE CONNECTED DISABLED VETERANS and women, and to promote and increase participation by certified businesses with respect to state contracts and subcontracts so as to facilitate the award of a fair share of state contracts to such businesses. The comptroller shall assist the division in collecting information on the participation of certified business for each contracting agency. Such report may recommend new activities and programs to effectuate the purposes of this article;

(f) to prepare and update periodically a directory of certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises which shall, wherever practicable, be divided into categories of labor, services, supplies, equipment, materials and recognized construction trades and which shall indicate areas or locations of the state where such enterprises are available to perform services;

S 6. Section 313 of the executive law, as amended by chapter 175 of the laws of 2010, is amended to read as follows:

S 313. Opportunities for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises. 1. Goals and requirements for agencies and contractors. Each agency shall structure procurement procedures for contracts made directly or indirectly to minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises, in accordance with the findings of the two thousand ten disparity study, consistent with the purposes of this article, to attempt to achieve the following results with regard to total annual statewide procurement:

(a) construction industry for certified minority-owned business enterprises: fourteen and thirty-four hundredths percent;

(b) construction industry for certified women-owned business enterprises: eight and forty-one hundredths percent;

(c) construction related professional services industry for certified minority-owned business enterprises: thirteen and twenty-one hundredths percent;

(d) construction related professional services industry for certified women-owned business enterprises: eleven and thirty-two hundredths percent;

(e) non-construction related services industry for certified minority-owned business enterprises: nineteen and sixty hundredths percent;

(f) non-construction related services industry for certified women-owned business enterprises: seventeen and forty-four hundredths percent;

(g) commodities industry for certified minority-owned business enterprises: sixteen and eleven hundredths percent;

(h) commodities industry for certified women-owned business enterprises: ten and ninety-three hundredths percent;

(i) overall agency total dollar value of procurement for certified minority-owned business enterprises: sixteen and fifty-three hundredths percent;

(j) overall agency total dollar value of procurement for certified women-owned business enterprises: twelve and thirty-nine hundredths percent; and

(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises: twenty-eight and ninety-two hundredths percent.

1-a. The director shall ensure that each state agency has been provided with a copy of the two thousand ten disparity study.

1 1-b. Each agency shall develop and adopt agency-specific goals based  
2 on the findings of the two thousand ten disparity study.

3 2. The director shall promulgate rules and regulations pursuant to the  
4 goals established in subdivision one of this section that provide meas-  
5 ures and procedures to ensure that certified minority, SERVICE CONNECTED  
6 DISABLED VETERAN and women-owned businesses shall be given the opportu-  
7 nity for maximum feasible participation in the performance of state  
8 contracts and to assist in the agency's identification of those state  
9 contracts for which minority, SERVICE CONNECTED DISABLED VETERAN and  
10 women-owned certified businesses may best bid to actively and affirma-  
11 tively promote and assist their participation in the performance of  
12 state contracts so as to facilitate the agency's achievement of the  
13 maximum feasible portion of the goals for state contracts to such busi-  
14 nesses.

15 2-a. The director shall promulgate rules and regulations that will  
16 accomplish the following:

17 (a) provide for the certification and decertification of minority,  
18 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises  
19 for all agencies through a single process that meets applicable require-  
20 ments;

21 (b) require that each contract solicitation document accompanying each  
22 solicitation set forth the expected degree of minority, SERVICE  
23 CONNECTED DISABLED VETERAN and women-owned business enterprise partic-  
24 ipation based, in part, on:

25 (i) the potential subcontract opportunities available in the prime  
26 procurement contract; and

27 (ii) the availability, as contained within the study, of certified  
28 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
29 enterprises to respond competitively to the potential subcontract oppor-  
30 tunities;

31 (c) require that each agency provide a current list of certified  
32 minority business enterprises to each prospective contractor;

33 (d) allow a contractor that is a certified minority-owned, SERVICE  
34 CONNECTED DISABLED VETERAN-OWNED or women-owned business enterprise to  
35 use the work it performs to meet requirements for use of certified  
36 minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned  
37 business enterprises as subcontractors;

38 (e) provide for joint ventures, which a bidder may count toward meet-  
39 ing its minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
40 business enterprise participation;

41 (f) consistent with subdivision six of this section, provide for  
42 circumstances under which an agency may waive obligations of the  
43 contractor relating to minority, SERVICE CONNECTED DISABLED VETERAN and  
44 women-owned business enterprise participation;

45 (g) require that an agency verify that minority, SERVICE CONNECTED  
46 DISABLED VETERAN and women-owned business enterprises listed in a  
47 successful bid are actually participating to the extent listed in the  
48 project for which the bid was submitted;

49 (h) provide for the collection of statistical data by each agency  
50 concerning actual minority, SERVICE CONNECTED DISABLED VETERAN and  
51 women-owned business enterprise participation; and

52 (i) require each agency to consult the most current disparity study  
53 when calculating agency-wide and contract specific participation goals  
54 pursuant to this article.

55 3. Solely for the purpose of providing the opportunity for meaningful  
56 participation by certified businesses in the performance of state

1 contracts as provided in this section, state contracts shall include  
2 leases of real property by a state agency to a lessee where: the terms  
3 of such leases provide for the construction, demolition, replacement,  
4 major repair or renovation of real property and improvements thereon by  
5 such lessee; and the cost of such construction, demolition, replacement,  
6 major repair or renovation of real property and improvements thereon  
7 shall exceed the sum of one hundred thousand dollars. Reports to the  
8 director pursuant to section three hundred fifteen of this article shall  
9 include activities with respect to all such state contracts. Contracting  
10 agencies shall include or require to be included with respect to state  
11 contracts for the acquisition, construction, demolition, replacement,  
12 major repair or renovation of real property and improvements thereon,  
13 such provisions as may be necessary to effectuate the provisions of this  
14 section in every bid specification and state contract, including, but  
15 not limited to: (a) provisions requiring contractors to make a good  
16 faith effort to solicit active participation by enterprises identified  
17 in the directory of certified businesses provided to the contracting  
18 agency by the office; (b) requiring the parties to agree as a condition  
19 of entering into such contract, to be bound by the provisions of section  
20 three hundred sixteen of this article; and (c) requiring the contractor  
21 to include the provisions set forth in paragraphs (a) and (b) of this  
22 subdivision in every subcontract in a manner that the provisions will be  
23 binding upon each subcontractor as to work in connection with such  
24 contract. Provided, however, that no such provisions shall be binding  
25 upon contractors or subcontractors in the performance of work or the  
26 provision of services that are unrelated, separate or distinct from the  
27 state contract as expressed by its terms, and nothing in this section  
28 shall authorize the director or any contracting agency to impose any  
29 requirement on a contractor or subcontractor except with respect to a  
30 state contract.

31 4. In the implementation of this section, the contracting agency shall  
32 (a) consult the findings contained within the disparity study evidencing  
33 relevant industry specific availability of certified businesses;

34 (b) implement a program that will enable the agency to evaluate each  
35 contract to determine the appropriateness of the goal pursuant to subdivi-  
36 sion one of this section;

37 (c) consider where practicable, the severability of construction  
38 projects and other bundled contracts; and

39 (d) consider compliance with the requirements of any federal law  
40 concerning opportunities for minority, SERVICE CONNECTED DISABLED VETER-  
41 AN and women-owned business enterprises which effectuates the purpose of  
42 this section. The contracting agency shall determine whether the imposi-  
43 tion of the requirements of any such law duplicate or conflict with the  
44 provisions hereof and if such duplication or conflict exists, the  
45 contracting agency shall waive the applicability of this section to the  
46 extent of such duplication or conflict.

47 5. (a) Contracting agencies shall administer the rules and regulations  
48 promulgated by the director in a good faith effort to meet the maximum  
49 feasible portion of the agency's goals adopted pursuant to this article  
50 and the regulations of the director. Such rules and regulations: shall  
51 require a contractor to submit a utilization plan after bids are opened,  
52 when bids are required, but prior to the award of a state contract;  
53 shall require the contracting agency to review the utilization plan  
54 submitted by the contractor and to post the utilization plan and any  
55 waivers of compliance issued pursuant to subdivision six of this section  
56 on the website of the contracting agency within a reasonable period of

1 time as established by the director; shall require the contracting agen-  
2 cy to notify the contractor in writing within a period of time specified  
3 by the director as to any deficiencies contained in the contractor's  
4 utilization plan; shall require remedy thereof within a period of time  
5 specified by the director; shall require the contractor to submit peri-  
6 odic compliance reports relating to the operation and implementation of  
7 any utilization plan; shall not allow any automatic waivers but shall  
8 allow a contractor to apply for a partial or total waiver of the minori-  
9 ty, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-  
10 prise participation requirements pursuant to subdivisions six and seven  
11 of this section; shall allow a contractor to file a complaint with the  
12 director pursuant to subdivision eight of this section in the event a  
13 contracting agency has failed or refused to issue a waiver of the minori-  
14 ty, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-  
15 prise participation requirements or has denied such request for a waiv-  
16 er; and shall allow a contracting agency to file a complaint with the  
17 director pursuant to subdivision nine of this section in the event a  
18 contractor is failing or has failed to comply with the minority, SERVICE  
19 CONNECTED DISABLED VETERAN and women-owned business enterprise partic-  
20 ipation requirements set forth in the state contract where no waiver has  
21 been granted.

22 (b) The rules and regulations promulgated pursuant to this subdivision  
23 regarding a utilization plan shall provide that where enterprises have  
24 been identified within a utilization plan, a contractor shall attempt,  
25 in good faith, to utilize such enterprise at least to the extent indi-  
26 cated. A contracting agency may require a contractor to indicate, within  
27 a utilization plan, what measures and procedures he or she intends to  
28 take to comply with the provisions of this article, but may not require,  
29 as a condition of award of, or compliance with, a contract that a  
30 contractor utilize a particular enterprise in performance of the  
31 contract.

32 (c) Without limiting other grounds for the disqualification of bids or  
33 proposals on the basis of non-responsibility, a contracting agency may  
34 disqualify the bid or proposal of a contractor as being non-responsible  
35 for failure to remedy notified deficiencies contained in the contrac-  
36 tor's utilization plan within a period of time specified in regulations  
37 promulgated by the director after receiving notification of such defi-  
38 ciencies from the contracting agency. Where failure to remedy any noti-  
39 fied deficiency in the utilization plan is a ground for disqualifica-  
40 tion, that issue and all other grounds for disqualification shall be  
41 stated in writing by the contracting agency. Where the contracting agen-  
42 cy states that a failure to remedy any notified deficiency in the utili-  
43 zation plan is a ground for disqualification the contractor shall be  
44 entitled to an administrative hearing, on a record, involving all  
45 grounds stated by the contracting agency. Such hearing shall be  
46 conducted by the appropriate authority of the contracting agency to  
47 review the determination of disqualification. A final administrative  
48 determination made following such hearing shall be reviewable in a  
49 proceeding commenced under article seventy-eight of the civil practice  
50 law and rules, provided that such proceeding is commenced within thirty  
51 days of the notice given by certified mail return receipt requested  
52 rendering such final administrative determination. Such proceeding shall  
53 be commenced in the supreme court, appellate division, third department  
54 and such proceeding shall be preferred over all other civil causes  
55 except election causes, and shall be heard and determined in preference  
56 to all other civil business pending therein, except election matters,

1 irrespective of position on the calendar. Appeals taken to the court of  
2 appeals of the state of New York shall be subject to the same prefer-  
3 ence.

4 6. Where it appears that a contractor cannot, after a good faith  
5 effort, comply with the minority, SERVICE CONNECTED DISABLED VETERAN and  
6 women-owned business enterprise participation requirements set forth in  
7 a particular state contract, a contractor may file a written application  
8 with the contracting agency requesting a partial or total waiver of such  
9 requirements setting forth the reasons for such contractor's inability  
10 to meet any or all of the participation requirements together with an  
11 explanation of the efforts undertaken by the contractor to obtain the  
12 required minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
13 business enterprise participation. In implementing the provisions of  
14 this section, the contracting agency shall consider the number and types  
15 of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
16 enterprises located in the region in which the state contract is to be  
17 performed, the total dollar value of the state contract, the scope of  
18 work to be performed and the project size and term. If, based on such  
19 considerations, the contracting agency determines there is not a reason-  
20 able availability of contractors on the list of certified business to  
21 furnish services for the project, it shall issue a waiver of compliance  
22 to the contractor. In making such determination, the contracting agency  
23 shall first consider the availability of other business enterprises  
24 located in the region and shall thereafter consider the financial abili-  
25 ty of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-  
26 nesses located outside the region in which the contract is to be  
27 performed to perform the state contract.

28 7. For purposes of determining a contractor's good faith effort to  
29 comply with the requirements of this section or to be entitled to a  
30 waiver therefrom the contracting agency shall consider:

31 (a) whether the contractor has advertised in general circulation  
32 media, trade association publications, and minority-focus, SERVICE  
33 CONNECTED DISABLED VETERAN-FOCUS and women-focus media and, in such  
34 event, (i) whether or not certified minority, SERVICE CONNECTED DISABLED  
35 VETERAN or women-owned businesses which have been solicited by the  
36 contractor exhibited interest in submitting proposals for a particular  
37 project by attending a pre-bid conference; and

38 (ii) whether certified businesses which have been solicited by the  
39 contractor have responded in a timely fashion to the contractor's solici-  
40 tations for timely competitive bid quotations prior to the contracting  
41 agency's bid date; and

42 (b) whether there has been written notification to appropriate certi-  
43 fied businesses that appear in the directory of certified businesses  
44 prepared pursuant to paragraph (f) of subdivision three of section three  
45 hundred eleven of this article; and

46 (c) whether the contractor can reasonably structure the amount of work  
47 to be performed under subcontracts in order to increase the likelihood  
48 of participation by certified businesses.

49 8. In the event that a contracting agency fails or refuses to issue a  
50 waiver to a contractor as requested within twenty days after having made  
51 application therefor pursuant to subdivision six of this section or if  
52 the contracting agency denies such application, in whole or in part, the  
53 contractor may file a complaint with the director pursuant to section  
54 three hundred sixteen of this article setting forth the facts and  
55 circumstances giving rise to the contractor's complaint together with a  
56 demand for relief. The contractor shall serve a copy of such complaint



1 upon the contracting agency by personal service or by certified mail,  
2 return receipt requested. The contracting agency shall be afforded an  
3 opportunity to respond to such complaint in writing.

4 9. If, after the review of a contractor's minority, SERVICE CONNECTED  
5 DISABLED VETERAN and [women owned] WOMEN-OWNED business utilization plan  
6 or review of a periodic compliance report and after such contractor has  
7 been afforded an opportunity to respond to a notice of deficiency issued  
8 by the contracting agency in connection therewith, it appears that a  
9 contractor is failing or refusing to comply with the minority, SERVICE  
10 CONNECTED DISABLED VETERAN and women-owned business participation  
11 requirements as set forth in the state contract and where no waiver from  
12 such requirements has been granted, the contracting agency may file a  
13 written complaint with the director pursuant to section three hundred  
14 sixteen of this article setting forth the facts and circumstances giving  
15 rise to the contracting agency's complaint together with a demand for  
16 relief. The contracting agency shall serve a copy of such complaint  
17 upon the contractor by personal service or by certified mail, return  
18 receipt requested. The contractor shall be afforded an opportunity to  
19 respond to such complaint in writing.

20 S 7. Section 317 of the executive law, as added by chapter 261 of the  
21 laws of 1988, is amended to read as follows:

22 S 317. Superseding effect of article with respect to state law. The  
23 provisions of this article shall supersede any other provision of state  
24 law, which expressly implements or mandates an equal employment opportu-  
25 nity program or a program for securing participation by minority,  
26 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises,  
27 concerning action to be taken by any party to a state contract, to which  
28 the provisions of this article apply; provided, however, that the  
29 provisions of any state law, not as hereinabove superseded, which  
30 expressly implement or mandate such programs shall remain unimpaired by  
31 the provisions of this article, except that the provisions of any such  
32 law shall be construed as if the provisions of subdivisions five, six,  
33 seven and eight of section three hundred thirteen and section three  
34 hundred sixteen of this article were fully set forth therein and made  
35 applicable only to complaints of violations under such provisions of law  
36 occurring on or after September first, nineteen hundred eighty-eight;  
37 provided, further, that nothing contained in this article shall be  
38 construed to limit, impair, or otherwise restrict any state agency's  
39 authority or discretionary power in effect prior to the enactment of  
40 this article to establish or continue, by rule, regulation or resol-  
41 ution, an equal opportunity program or a program for securing partic-  
42 ipation of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
43 business enterprises with regard to banking relationships, the issuance  
44 of insurance policies or contracts for the sale of bonds, notes or other  
45 securities; and, provided further, that nothing contained in the imme-  
46 diately preceding proviso shall be construed to create, impair, alter,  
47 limit, modify, enlarge, abrogate or restrict any agency's authority or  
48 discretionary power with respect to an equal opportunity program or a  
49 program for securing participation of minority, SERVICE CONNECTED DISA-  
50 BLED VETERAN and women-owned enterprises.

51 S 8. Section 136-b of the state finance law, as added by chapter 261  
52 of the laws of 1988, is amended to read as follows:

53 S 136-b. Selection of underwriters by state agencies. Whenever a state  
54 agency, as defined in article fifteen-A of the executive law, sells its  
55 bonds, notes or other securities at a private sale, in selecting one or  
56 more underwriters to purchase such securities the state agency shall

1 consider, among other things, the participation of firms certified  
2 pursuant to such article as minority, SERVICE CONNECTED DISABLED VETERAN  
3 or women-owned firms and the ability of other firms under consideration  
4 to work with minority, SERVICE CONNECTED DISABLED VETERAN and women-  
5 owned business enterprises so as to promote and assist participation by  
6 such enterprises.

7 S 9. Paragraphs (b) and (d) of subdivision 2 of section 139-i of the  
8 state finance law, as amended by chapter 531 of the laws of 1993, are  
9 amended to read as follows:

10 (b) include in all bid documents provided to potential bidders a  
11 statement that information concerning the availability of New York state  
12 subcontractors and suppliers is available from the New York state  
13 department of economic development, which shall include the directory of  
14 certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
15 businesses, and it is the policy of New York state to encourage the use  
16 of New York state subcontractors and suppliers, and to promote the  
17 participation of minority, SERVICE CONNECTED DISABLED VETERAN and  
18 women-owned businesses, where possible, in the procurement of goods and  
19 services.

20 (d) adopt policies to promote the participation by New York state  
21 business enterprises and New York state residents in procurement  
22 contracts, with the cooperation of the department of economic develop-  
23 ment and the community services division of the department of labor  
24 including, but not limited to, providing through cooperative efforts  
25 with contractors for the notification of New York state business enter-  
26 prises of opportunities to participate as subcontractors and suppliers  
27 on procurement contracts in an amount estimated to be equal to or great-  
28 er than one million dollars and for the notification of New York state  
29 residents of employment opportunities arising in New York state out of  
30 procurement contracts in an amount estimated to be equal to or greater  
31 than one million dollars; and promulgating procedures which will assure  
32 compliance by contractors with such notification. Once awarded the  
33 contract, such contractors shall document their efforts to encourage the  
34 participation of New York state business enterprises as suppliers and  
35 subcontractors on procurement contracts equal to or greater than one  
36 million dollars. Documented efforts by a successful contractor shall  
37 consist of and be limited to showing that such contractor has [(a)] (I)  
38 solicited bids, in a timely and adequate manner, from New York state  
39 business enterprises including certified minority, SERVICE CONNECTED  
40 DISABLED VETERAN and women-owned business, or [(b)] (II) contacted the  
41 New York state department of economic development to obtain listings of  
42 New York state business enterprises, or [(c)] (III) placed notices for  
43 subcontractors and suppliers in newspapers, journals and other trade  
44 publications distributed in New York state, or [(d)] (IV) participated  
45 in bidder outreach conferences. If the contractor determines that New  
46 York state business enterprises are not available to participate on the  
47 contract as subcontractors or suppliers, the contractor shall provide a  
48 statement indicating the method by which such determination was made. If  
49 the contractor does not intend to use subcontractors on the contract,  
50 the contractor shall provide a statement verifying such intent. Such  
51 contractors shall also provide notification to New York state residents  
52 of employment opportunities through listing any such positions with the  
53 community services division, or providing for such notification in such  
54 manner as is consistent with existing collective bargaining contracts or  
55 agreements. On or before the effective date of this section, each state  
56 agency or department shall submit such policies to the division of the

1 budget and copies thereof to the department of audit and control, the  
2 department of economic development, the senate finance committee and the  
3 assembly ways and means committee.

4 S 10. Subdivision 5, paragraph (e) of subdivision 11, paragraph (e) of  
5 subdivision 12 and paragraph (a) of subdivision 16 of section 213 of the  
6 state finance law, subdivision 5, paragraph (e) of subdivision 11 and  
7 paragraph (e) of subdivision 12 as added by chapter 705 of the laws of  
8 1993 and paragraph (a) of subdivision 16 as amended by chapter 424 of  
9 the laws of 2009, are amended to read as follows:

10 5. "Certified [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN  
11 or women-owned business" means any [minority-] MINORITY, SERVICE  
12 CONNECTED DISABLED VETERAN or women-owned business enterprise as defined  
13 in section three hundred ten of the executive law and certified pursuant  
14 to section three hundred fourteen of the executive law.

15 (e) any certified [minority-] MINORITY, SERVICE CONNECTED DISABLED  
16 VETERAN or women-owned business seeking financing necessary to carry out  
17 a procurement contract with an agency or authority or other entity of  
18 the state or federal government; or

19 (e) for certified [minority-] MINORITY, SERVICE CONNECTED DISABLED  
20 VETERAN and women-owned businesses, projects to provide financing neces-  
21 sary to carry out a procurement contract with an agency or authority or  
22 other entity of the state or federal government.

23 (a) for a linked deposit made in connection with a linked loan to a  
24 certified business in an empire zone or to an eligible business located  
25 in a highly distressed area or to an eligible business that is defined  
26 in paragraph (b-1) of subdivision eleven of this section that is located  
27 in a renewal community or defined in paragraph (b-2) of such subdivision  
28 that is located in an empowerment zone or defined in paragraph (b-3) of  
29 such subdivision that is located in an enterprise community, respective-  
30 ly for eligible projects defined in paragraph (c) of subdivision twelve  
31 of this section or a certified [minority-] MINORITY, SERVICE CONNECTED  
32 DISABLED VETERAN or women-owned business enterprise for an eligible  
33 project defined in paragraph (e) of subdivision twelve of this section  
34 or to a defense industry manufacturer for a project defined in paragraph  
35 (d) of subdivision twelve of this section, a fixed rate of interest  
36 which is three hundred basis points below the lender's posted four year  
37 certificate of deposit rate or, if the lender does not offer a four year  
38 certificate of deposit, is three hundred basis points below the average  
39 statewide rate for four year certificates of deposit as determined by  
40 the commissioner of economic development;

41 S 11. Subdivision 1 of section 218 of the state finance law, as  
42 amended by section 1 of part U of chapter 58 of the laws of 2012, is  
43 amended to read as follows:

44 1. Linked loans made to certified businesses in empire zones or to  
45 eligible businesses in highly distressed areas or to eligible businesses  
46 that are defined in paragraph (b-1) of subdivision eleven of section two  
47 hundred thirteen of this article that are located in a renewal community  
48 or defined in paragraph (b-2) of such subdivision that are located in an  
49 empowerment zone or defined in paragraph (b-3) of such subdivision that  
50 are located in an enterprise community, respectively for eligible  
51 projects defined in paragraph (c) of subdivision twelve of section two  
52 hundred thirteen of this article or to [minority-] MINORITY, SERVICE  
53 CONNECTED DISABLED VETERAN or women-owned business enterprises for an  
54 eligible project defined in paragraph (e) of subdivision twelve of  
55 section two hundred thirteen of this article or to a defense industry  
56 manufacturer for a project defined in paragraph (d) of subdivision

12 twelve of section two hundred thirteen of this article or to an eligible  
13 business pursuant to paragraph (a) of subdivision eleven of section two  
14 hundred thirteen of this article that produces products defined in  
15 subdivision two of section three hundred one of the agriculture and  
16 markets law for an eligible project as defined in paragraph (b) of  
17 subdivision twelve of section two hundred thirteen of this article shall  
18 bear interest at a fixed rate equal to three percentage points below the  
19 fixed interest rate the lender would have charged for the loan in the  
20 absence of a linked deposit based on its usual credit considerations.  
21 All other linked loans shall bear interest at a fixed rate equal to two  
22 percentage points below the fixed interest rate the lender would have  
23 charged for the loan in the absence of a linked deposit based on its  
24 usual credit considerations. Lenders shall certify to the commissioner  
25 of economic development that the rate to be charged on a linked loan is  
26 two percentage points or three percentage points, as the case may be,  
27 below the interest rate the lender would have charged for the loan in  
28 the absence of a linked deposit.

29 S 12. Paragraph (c) of subdivision 12 of section 3.07 of the arts and  
30 cultural affairs law, as amended by chapter 255 of the laws of 1988, is  
31 amended to read as follows:

32 (c) (i) In the performance of projects pursuant to this section,  
33 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
34 enterprises shall be given the opportunity for meaningful participation.  
35 For purposes hereof, minority business enterprise shall mean any busi-  
36 ness enterprise which is at least fifty-one per centum owned by, or in  
37 the case of a publicly owned business, at least fifty-one per centum of  
38 the stock or other voting interest is owned by citizens or permanent  
39 resident aliens who are Black, Hispanic, Asian, American Indian, Pacific  
40 Islander, or Alaskan native, and such ownership interest is real,  
41 substantial and continuing and has the authority to independently  
42 control the day to day business decisions of the entity for at least one  
43 year; SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE SHALL  
44 MEAN THE SAME AS PROVIDED IN SUBDIVISION TWENTY-THREE OF SECTION THREE  
45 HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business enterprise  
46 shall mean any business enterprise which is at least fifty-one per  
47 centum owned by, or in the case of a publicly owned business, at least  
48 fifty-one per centum of the stock to other voting interests of which is  
49 owned by citizens or permanent resident aliens who are women, and such  
50 ownership interest is real, substantial and continuing and has the  
51 authority to independently control the day to day business decisions of  
52 the entity for at least one year.

53 The provisions of this subdivision shall not be construed to limit the  
54 ability of any minority business enterprise to bid on any contract.

55 (ii) In order to implement the requirements and objectives of this  
56 section, the council shall request, as appropriate, the assistance of  
57 other state agencies to monitor the contractors' compliance with  
58 provisions hereof, provide assistance in obtaining competing qualified  
59 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
60 enterprises to perform contracts proposed to be awarded, and take other  
61 appropriate measures to improve the access of minority, SERVICE  
62 CONNECTED DISABLED VETERAN and women-owned business enterprises to these  
63 contracts.

64 S 13. Subdivision 2 of section 115 of the economic development law, as  
65 added by chapter 55 of the laws of 1992, is amended to read as follows:

66 2. "Technical assistance" shall mean assistance and services designed  
67 to improve the efficiency, effectiveness and viability of a minority,

SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise, including, but not limited to, management assistance, problem solving, the development of business and marketing plans, market analysis, financial planning, regulatory compliance, safety and security measures, export assistance, procurement assistance, application assistance, state program assistance, referral to private and public financing sources, contracting assistance, and other forms of assistance which the commissioner deems necessary and appropriate.

S 14. Section 118 of the economic development law, as added by chapter 55 of the laws of 1992 and subdivision 7 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

S 118. Power and duties. In addition to the power and duties conferred by section one hundred sixteen of this article, the division shall have the additional power and duty to:

1. Coordinate with all state agencies performing functions affecting the operations of minority business enterprises, SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISES and women-owned business enterprises, as such terms are defined in section two hundred ten of this chapter;

2. Receive complaints and inquiries of operators of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises and refer them to the appropriate federal, state or local agency for appropriate action on such complaints;

3. Solicit recommendations from the operators of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises for improving existing state programs and refer such recommendations to the governor, the legislature and appropriate state agencies or authorities;

4. Advise and make recommendations to the commissioner and the legislature on matters affecting the minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises of the state and promote and encourage the protection of the legitimate interests of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises within the state;

5. Conduct investigations, research, studies and analyses of matters affecting the interests of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises;

6. Study the implementation of the laws affecting minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises and recommend to the commissioner new laws and amendments of laws for the benefit of minority, SERVICE RELATED DISABLED VETERAN and women-owned business enterprises; and review pending legislation affecting minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises and report its findings to the commissioner;

7. Provide technical assistance and information to minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises in the state on economic development programs administered by the department, including, but not limited to: (a) the empire zones program, established pursuant to article eighteen-B of the general municipal law, (b) the industrial effectiveness program, established pursuant to article seven of this chapter, (c) the economic development skills training program, established pursuant to article eight of this chapter, and (d) the entrepreneurial assistance program, established pursuant to article nine of this chapter;

8. Provide technical assistance and information to minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises in the

1 state on economic development programs administered by agencies other  
2 than the department, including, but not limited to programs administered  
3 by the urban development corporation, the job development authority and  
4 the science and technology foundation;

5 9. Be responsible for conducting minority, SERVICE CONNECTED DISABLED  
6 VETERAN and women-owned business enterprise assistance programs and for  
7 coordinating the activities of all other state agencies acting within  
8 the scope of this section; and

9 10. Carry out the activities to implement the minority, SERVICE  
10 CONNECTED DISABLED VETERAN and women-owned business enterprise assist-  
11 ance programs, to the extent practicable, within amounts appropriated  
12 therefor by[;]:

13 (a) collecting and maintaining information identifying certified  
14 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
15 enterprises within New York state;

16 (b) collecting, maintaining, and providing information to potential  
17 users identifying existing contracting and procurement opportunities  
18 within and outside New York state;

19 (c) maintaining, providing and marketing a compilation of existing  
20 programs providing assistance for minority, SERVICE CONNECTED DISABLED  
21 VETERAN and women-owned business enterprises;

22 (d) identifying special needs and problems facing minority, SERVICE  
23 CONNECTED DISABLED VETERAN and women-owned business enterprises within  
24 New York state;

25 (e) contacting institutions, organizations and commercial enterprises  
26 that are potential consumers of minority, SERVICE CONNECTED DISABLED  
27 VETERAN and women-owned business products and services; urging their  
28 expanded consumption of such goods and services;

29 (f) facilitating the establishment of minority, SERVICE CONNECTED  
30 DISABLED VETERAN and women-owned business enterprises; and

31 (g) providing information concerning local and regional opportunities  
32 for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-  
33 ness enterprises.

34 S 15. Subdivision 5 of section 145 of the economic development law, as  
35 added by chapter 137 of the laws of 2008, is amended to read as follows:

36 5. additional information to be included to increase the transparency  
37 and utility of the system, including without limitation, notices by the  
38 comptroller of progress payments made to prime contractors, and  
39 minority, SERVICE CONNECTED DISABLED VETERANS and women-owned business  
40 enterprises utilization plans and waivers granted pursuant to article  
41 fifteen-A of the executive law.

42 S 16. Section 210 of the economic development law is amended by  
43 adding a new subdivision 6 to read as follows:

44 6. "SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE"  
45 MEANS THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION THREE  
46 HUNDRED TEN OF THE EXECUTIVE LAW.

47 S 17. Paragraphs (b) and (i) of subdivision 1 of section 231 of the  
48 economic development law, as amended by chapter 352 of the laws of 2009,  
49 are amended to read as follows:

50 (b) to provide outreach to businesses, with attention to small and  
51 medium-sized businesses, including minority, SERVICE CONNECTED DISABLED  
52 VETERAN and women-owned business enterprises, for financial and techni-  
53 cal assistance offered by state economic development agencies, authori-  
54 ties, or other economic entities;

1 (i) to provide information and assistance in the certification of  
2 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
3 enterprises;

4 S 18. Subdivision 6 of section 6-102 of the energy law, as added by  
5 chapter 433 of the laws of 2009, is amended to read as follows:

6 6. The board shall require any contractor or subcontractor awarded a  
7 contract pursuant to the provisions of this article to comply, and  
8 otherwise exercise all of its responsibilities and conduct all of its  
9 activities consistent with the provisions of article fifteen-A of the  
10 executive law with regards to the utilization and participation of  
11 certified minority, SERVICE CONNECTED DISABLED VETERANS and women-owned  
12 business enterprises.

13 S 19. Section 52-0113 of the environmental conservation law, as added  
14 by chapter 512 of the laws of 1986, is amended to read as follows:

15 S 52-0113. Minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
16 business enterprise program.

17 1. a. In the performance of projects pursuant to this article  
18 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
19 enterprises shall be given the opportunity for meaningful participation.  
20 The department or the office shall establish measures and procedures to  
21 secure meaningful participation and identify those contracts and items  
22 of work for which minority, SERVICE CONNECTED DISABLED VETERAN and  
23 women-owned business enterprises may best bid to actively and affirma-  
24 tively promote and assist their participation in the projects, so as to  
25 facilitate the award of a fair share of contracts to such enterprises;  
26 provided, however, that nothing in this article shall be construed to  
27 limit the ability of the department or office to assure that qualified  
28 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
29 enterprises may participate in the program.

30 For purposes [hereof] OF THIS ARTICLE, minority business enterprise  
31 shall mean any business enterprise which is at least fifty-one per  
32 centum owned by, or in the case of a publicly owned business, at least  
33 fifty-one per centum of the stock of which is owned by citizens or  
34 permanent resident aliens who are Black, Hispanic, Asian or American  
35 Indian, Pacific Islander or Alaskan natives and such ownership interest  
36 is real, substantial and continuing and have the authority to independ-  
37 ently control the day to day business decisions of the entity for at  
38 least one year; SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTER-  
39 PRISE SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF  
40 SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW; and women-owned business  
41 enterprise shall mean any business enterprise which is at least fifty-  
42 one per centum owned by, or in the case of a publicly owned business, at  
43 least fifty-one per centum of the stock of which is owned by citizens or  
44 permanent resident aliens who are women, and such ownership interest is  
45 real, substantial and continuing and have the authority to independently  
46 control the day to day business decisions of the entity for at least one  
47 year. The provisions of this paragraph shall not be construed to limit  
48 the ability of any minority, SERVICE CONNECTED DISABLED VETERAN or  
49 women-owned business enterprise to bid on any contract.

50 b. In the implementation of this section, the department or the office  
51 shall consider compliance by any contractor with the requirements of any  
52 federal, state, or local law concerning minority, SERVICE CONNECTED  
53 DISABLED VETERAN and women-owned business enterprises, which may effec-  
54 tuate the requirements of this section. If the department or the office  
55 determines that by virtue of the imposition of the requirements of any  
56 such law, in respect to capital project contracts, the provisions there-

1 of duplicate or conflict with such law, the department may waive the  
2 applicability of this section to the extent of such duplication or  
3 conflict.

4 c. Nothing in this section shall be deemed to require that overall  
5 state and federal requirements for participation of minority, SERVICE  
6 CONNECTED DISABLED VETERAN and women-owned business enterprises in  
7 programs authorized under this article be applied without regard to  
8 local circumstances to all projects or in all communities.

9 2. In order to implement the requirements and objectives of this  
10 section, the department and the office shall establish procedures to  
11 monitor the contractors' compliance with provisions hereof, provide  
12 assistance in obtaining competing qualified minority, SERVICE CONNECTED  
13 DISABLED VETERAN and women-owned business enterprises to perform  
14 contracts proposed to be awarded, and take other appropriate measures to  
15 improve the access of minority, SERVICE CONNECTED DISABLED VETERAN and  
16 women-owned business enterprises to these contracts.

17 S 20. Paragraph (e) of subdivision 2 of section 222 of the labor law,  
18 as added by section 18 of part MM of chapter 57 of the laws of 2008, is  
19 amended to read as follows:

20 (e) Any contract, subcontract, lease, grant, bond, covenant, or other  
21 agreement for construction, reconstruction, demolition, excavation,  
22 rehabilitation, repair, renovation, alteration, or improvement with  
23 respect to each project undertaken pursuant to this section, the entity  
24 shall consider the financial and organizational capacity of contractors  
25 and subcontractors in relation to the magnitude of work they may  
26 perform, the record of performance of contractors and subcontractors on  
27 previous work, the record of contractors and subcontractors in complying  
28 with existing labor standards and maintaining harmonious labor  
29 relations, and the commitment of contractors to work with minority,  
30 SERVICE CONNECTED DISABLED VETERANS and women-owned business enterprises  
31 pursuant to article fifteen-A of the executive law through joint  
32 ventures of subcontractor relationships. With respect to any contract  
33 for construction, reconstruction, demolition, excavation, rehabili-  
34 tation, repair, renovation, alteration, or improvement in excess of  
35 three million dollars in the counties of the Bronx, Kings, New York,  
36 Queens, and Richmond; one million five hundred thousand dollars in the  
37 counties of Nassau, Suffolk and Westchester; and five hundred thousand  
38 dollars in all other counties within the state; the entity shall further  
39 require that each contractor and subcontractor shall participate in  
40 apprentice training programs in the trades of work it employs that have  
41 been approved by the department for not less than three years and shall  
42 have graduated at least one apprentice in the last three years and shall  
43 have at least one apprentice currently enrolled in such apprenticeship  
44 training program. In addition, it must be demonstrated that the program  
45 has made significant efforts to attract and retain minority apprentices,  
46 as determined by affirmative action goals established for such program  
47 by the department.

48 S 21. Paragraph e of subdivision 2 of section 1269-e of the public  
49 authorities law, as added by section 13 of part H of chapter 25 of the  
50 laws of 2009, is amended to read as follows:

51 e. the extent of participation by minority, SERVICE CONNECTED DISABLED  
52 VETERANS and women owned enterprises in authority contracts and services  
53 in accordance with article fifteen-A of the executive law; and

54 S 22. Subparagraph (i) of paragraph (b), the opening paragraph of  
55 paragraph (c), paragraphs (f), (g), (h), (i) and (j), and subparagraphs  
56 (ii) and (iii) of paragraph (n) of subdivision 3 and subdivision 6 of



1 section 2879 of the public authorities law, subparagraph (i) of para-  
2 graph (b) of subdivision 3 and subdivision 6 as amended, paragraphs (f),  
3 (g), (h), (i) and (j) as added and paragraph (n) of subdivision 3 as  
4 relettered by chapter 174 of the laws of 2010, the opening paragraph of  
5 paragraph (c) of subdivision 3 as amended by chapter 564 of the laws of  
6 1988, subparagraphs (ii) and (iii) of paragraph (n) of subdivision 3 as  
7 amended by chapter 531 of the laws of 1993, are amended and a new para-  
8 graph (e-1) is added to subdivision 3 to read as follows:

9 (i) for the selection of such contractors on a competitive basis, and  
10 provisions relating to the circumstances under which the board may by  
11 resolution waive competition, including, notwithstanding any other  
12 provision of law requiring competition, the purchase of goods or  
13 services from small business concerns or those certified as minority,  
14 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprises,  
15 or goods or technology that are recycled or remanufactured, in an amount  
16 not to exceed two hundred thousand dollars without a formal competitive  
17 process;

18 An identification of those areas or types of contracts for which  
19 minority, SERVICE CONNECTED DISABLED VETERAN or women-owned business  
20 enterprises may best bid so as to promote and assist participation by  
21 such enterprises and facilitate a fair share of the awarding of  
22 contracts to such enterprises. For the purposes of this section, a  
23 minority business enterprise means any business enterprise, including a  
24 sole proprietorship, partnership or corporation that is:

25 (E-1) FOR PURPOSES OF THIS SECTION, "SERVICE CONNECTED DISABLED VETER-  
26 AN OWNED BUSINESS ENTERPRISE" MEANS THE SAME AS DEFINED IN SUBDIVISION  
27 TWENTY-THREE OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

28 (f) Requirements for the designation of one or more senior staff of  
29 the corporation to oversee the corporation's programs established to  
30 promote and assist: (i) participation by certified minority, SERVICE  
31 CONNECTED DISABLED VETERAN or women-owned business enterprises in the  
32 corporation's procurement opportunities and facilitation of the award of  
33 procurement contracts to such enterprises; (ii) the utilization of  
34 certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
35 business enterprises as subcontractors and suppliers by entities having  
36 procurement contracts with the corporation; and (iii) the utilization of  
37 partnerships, joint ventures or other similar arrangements between  
38 certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
39 business enterprises and other entities having procurement contracts  
40 with the corporation. Such staff shall be familiar with the procurement  
41 of the types of construction, financial, legal or professional services  
42 utilized by the corporation, report directly to the corporation's execu-  
43 tive director, president or chief executive officer and either directly  
44 or through their designees participate in the procurement process.

45 (g) Requirements for providing notice, in addition to any other notice  
46 of procurement opportunities required by law, to professional and other  
47 organizations that serve minority, SERVICE CONNECTED DISABLED VETERAN  
48 and women-owned business enterprises providing the types of services  
49 procured by the corporation.

50 (h) Procedures for maintaining lists of qualified certified minority,  
51 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises,  
52 including professional firms that have expressed an interest in doing  
53 business with the corporation and ensuring that such lists are updated  
54 regularly. The corporation shall also consult the lists of certified  
55 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business

enterprises maintained by the department of economic development pursuant to article fifteen-A of the executive law.

(i) The establishment of appropriate goals for participation by minority, SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprises in procurement contracts awarded by the corporation and for the utilization of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation. Statewide numerical participation target goals shall be established by each authority based on the findings of the two thousand ten disparity study.

(j) Requirements to conduct procurements in a manner that will enable the corporation to achieve the maximum feasible portion of the goals established pursuant to paragraph (i) of this subdivision and that eliminates barriers to participation by minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises in the corporation's procurements. Such procurement requirements shall include the following:

(A) Measures and procedures to ensure that certified businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the corporation's identification of those state contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the corporation's achievement of the maximum feasible portion of the goals for state contracts to such businesses;

(B) Provisions designating the division of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business development to certify and decertify minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises for all corporations through a single process that meets applicable state and federal requirements;

(C) A requirement that each contract solicitation document accompanying each solicitation set forth the expected degree of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprise participation based, in part, on:

I. the potential subcontract opportunities available in the prime procurement contract; and

II. the availability of certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(D) A requirement that each corporation provide a current list of certified minority business enterprises to each prospective contractor;

(E) Provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprise portion of the joint venture;

(F) Provisions under which the corporation may waive obligations of the contractor relating to minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprise participation after a showing of good faith efforts to comply with the requirements of this act pursuant to the waiver provisions contained in subdivision six of section three hundred thirteen of the executive law;

(G) A requirement that the corporation verify that minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(H) In the implementation of this section, the contracting corporation shall:

1 I. consider, where practicable, the severability of construction  
2 projects and other bundled contracts;

3 II. implement a program that will enable the corporation to evaluate  
4 each contract to determine the appropriateness of the goal pursuant to  
5 paragraph (i) of this subdivision;

6 III. consider compliance with the requirements of any federal law  
7 concerning opportunities for minority, SERVICE CONNECTED DISABLED VETER-  
8 AN and women-owned business enterprises which effectuates the purpose of  
9 this section; and

10 IV. consult the most recent disparity study pursuant to article  
11 fifteen-A of the executive law.

12 (ii) with the cooperation of the department of economic development  
13 and through cooperative efforts with contractors, providing for the  
14 notification of New York state business enterprises of opportunities to  
15 participate as subcontractors and suppliers on procurement contracts let  
16 by the corporation in an amount estimated to be equal to or greater than  
17 one million dollars and promulgating procedures which will assure  
18 compliance by contractors with such notification. Once awarded the  
19 contract such contractors shall document their efforts to encourage the  
20 participation of New York state business enterprises as suppliers and  
21 subcontractors on procurement contracts equal to or greater than one  
22 million dollars. Documented efforts by a successful contractor shall  
23 consist of and be limited to showing that such contractor has (a) solic-  
24 ited bids, in a timely and adequate manner, from New York state business  
25 enterprises including certified minority, SERVICE CONNECTED DISABLED  
26 VETERAN and women-owned business, or (b) contacted the New York state  
27 department of economic development to obtain listings of New York state  
28 business enterprises, or (c) placed notices for subcontractors and  
29 suppliers in newspapers, journals and other trade publications distrib-  
30 uted in New York state, or (d) participated in bidder outreach confer-  
31 ences. If the contractor determines that New York state business enter-  
32 prises are not available to participate on the contract as  
33 subcontractors or suppliers, the contractor shall provide a statement  
34 indicating the method by which such determination was made. If the  
35 contractor does not intend to use subcontractors on the contract, the  
36 contractor shall provide a statement verifying such intent; and

37 (iii) except for procurement contracts for which the corporation would  
38 be expending funds received from another state, the corporation shall  
39 include in all bid documents provided to potential bidders a statement  
40 that information concerning the availability of New York state subcon-  
41 tractors and suppliers is available from the New York state department  
42 of economic development, which shall include the directory of certified  
43 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses,  
44 and it is the policy of New York state to encourage the use of New York  
45 state subcontractors and suppliers, and to promote the participation of  
46 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses  
47 where possible, in the procurement of goods and services; and

48 6. Each corporation, as part of the guidelines established pursuant to  
49 subdivision three of this section, shall establish policies regarding  
50 the preparation of publicly available reports on procurement contracts  
51 entered into by such corporation. Such policies shall provide, at the  
52 minimum, for the preparation of a report no less frequently than annual-  
53 ly, summarizing procurement activity by such corporation for the period  
54 of the report, including a listing of all procurement contracts entered  
55 into, all contracts entered into with New York state business enter-  
56 prises and the subject matter and value thereof, all contracts entered

1 into with certified minority, SERVICE CONNECTED DISABLED VETERAN or  
2 women-owned business enterprises and the subject matter and value there-  
3 of, all referrals made and all penalties imposed pursuant to section  
4 three hundred sixteen of the executive law, all contracts entered into  
5 with foreign business enterprises, and the subject matter and value  
6 thereof, the selection process used to select such contractors, all  
7 procurement contracts which were exempt from the publication require-  
8 ments of article four-C of the economic development law, the basis for  
9 any such exemption and the status of existing procurement contracts.

10 S 23. Section 957 of the general municipal law is amended by adding a  
11 new subdivision (u) to read as follows:

12 (U) "SERVICE CONNECTED DISABLED VETERAN OWNED BUSINESS ENTERPRISE"  
13 SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION  
14 THREE HUNDRED TEN OF THE EXECUTIVE LAW.

15 S 24. Subdivisions (g) and (t) of section 959 of the general municipal  
16 law, as amended by section 3 of part S-1 of chapter 57 of the laws of  
17 2009, are amended to read as follows:

18 (g) Coordinate, with the local empire zone administrative board and  
19 state agencies and authorities, the provision of business development  
20 programs and services for each empire zone in order to stimulate the  
21 creation and development of new small businesses, including new small  
22 minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned  
23 business enterprises, and may request and shall receive from any depart-  
24 ment, division, board, bureau, commission, agency or public authority of  
25 the state such assistance as may be necessary;

26 (t) Coordinate with the urban development corporation the creation of  
27 a special category of assistance for zones within the regional economic  
28 development partnership program, which will make available economic  
29 development assistance grants for zone programs and activities, includ-  
30 ing, but not limited to, planning, service coordination, and local  
31 institutional capacity building for human resource development necessary  
32 for economic revitalization; planning and development of small business  
33 incubators; job placement and preparedness programs for zones residents;  
34 education and training programs for zone businesses; child care programs  
35 and projects supportive of business development; technical assistance  
36 for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-  
37 ness development; training for zone officials; business and tourism  
38 development and marketing programs; and other innovative programs and  
39 activities in support of economic and community development within the  
40 zones;

41 S 25. Paragraph (x) of subdivision (b) of section 961 of the general  
42 municipal law, as added by chapter 708 of the laws of 1993, is amended  
43 to read as follows:

44 (x) identify financial commitments the applicant will make to the zone  
45 for activities, including, but not limited to, marketing of the zone for  
46 business development, human resource services for zone residents and  
47 businesses, and services for small [and], minority, SERVICE CONNECTED  
48 DISABLED VETERAN and women-owned businesses;

49 S 26. Subdivision (j) of section 962 of the general municipal law, as  
50 amended by chapter 624 of the laws of 1990 and as further amended by  
51 section 15 of part GG of chapter 63 of the laws of 2000, is amended to  
52 read as follows:

53 (j) a description of activities designed to ensure the meaningful  
54 participation of minority-owned, SERVICE CONNECTED DISABLED  
55 VETERAN-OWNED and women-owned business enterprises in empire zone devel-  
56 opment activities;

1 S 27. Paragraphs (iii) and (xii) of subdivision (a) of section 963 of  
2 the general municipal law, as amended by chapter 708 of the laws of 1993  
3 and as further amended by section 15 of part GG of chapter 63 of the  
4 laws of 2000 and such subdivision as relettered by section 7 of part S-1  
5 of chapter 57 of the laws of 2009, are amended to read as follows:

6 (iii) undertake efforts to ensure meaningful participation by minori-  
7 ty-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned busi-  
8 ness enterprises in empire zone activities;

9 (xii) provide within the zone, or contract with a new or existing  
10 community-based local development corporation or entity to provide,  
11 strategic economic development planning for the zone, marketing and  
12 promotion of the zone, assistance to companies in applying for available  
13 benefits, preparation of applications for financing assistance and other  
14 technical assistance services; coordination of the delivery of state and  
15 local programs within the zones; and operation of such other economic  
16 development assistance programs in furtherance of the empire zone devel-  
17 opment plan as may be appropriate. Provided, however, within the amount  
18 appropriated therefor and allocated by the director of the budget, the  
19 commissioner, through annual administrative contracts, shall, to the  
20 maximum extent feasible, make equally available financial support,  
21 through contracts or other means, to assist with the administrative  
22 expenses of the local zone administrative bodies or community-based  
23 development organizations. No funds shall be made available for this  
24 purpose unless the amount to be provided has been matched by private or  
25 governmental sources, other than state sources, in amounts at least  
26 equalling that to be provided by the state. Such matching funds shall be  
27 earmarked and used exclusively for the local administration of the zone  
28 program or for activities of the zone program. At least fifty percent of  
29 such matching funds shall be in cash, provided that the commissioner may  
30 waive this requirement for communities with populations of twenty-five  
31 thousand or less, and provided, further, that any amounts appropriated  
32 for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-  
33 ness development within the zones shall be distributed by the commis-  
34 sioner pursuant to a competitive proposal solicitation process.

35 S 28. Subdivision (c) of section 964 of the general municipal law, as  
36 amended by chapter 708 of the laws of 1993 and as further amended by  
37 section 15 of part GG of chapter 63 of the laws of 2000, is amended to  
38 read as follows:

39 (c) Each empire zone capital corporation shall, to the maximum extent  
40 feasible, undertake measures and procedures to ensure meaningful partic-  
41 ipation by minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and  
42 women-owned business enterprises in the activities and investments of  
43 such corporation. Each such corporation shall additionally, to the maxi-  
44 mum extent feasible, undertake measures and procedures to ensure mean-  
45 ingful participation by locally owned business enterprises in the activ-  
46 ities and investments of such corporation.

47 S 29. Subparagraph 7 of paragraph f of subdivision 3 of section 970-r  
48 of the general municipal law, as amended by section 1 of part F of chap-  
49 ter 577 of the laws of 2004, is amended to read as follows:

50 (7) the financial commitments the applicant will make to the brown-  
51 field opportunity area for activities including, but not limited to,  
52 marketing of the area for business development, human resource services  
53 for residents and businesses in the brownfield opportunity area, and  
54 services for small [and], minority, SERVICE CONNECTED DISABLED VETERAN  
55 and women-owned businesses.

1 S 30. Subdivision 33 of section 454 of the banking law, as amended by  
2 chapter 679 of the laws of 2003, is amended to read as follows:

3 33. Notwithstanding any other provision of this article to the contra-  
4 ry, to participate in the [minority -] MINORITY, SERVICE CONNECTED DISA-  
5 BLED VETERAN and women-owned business development and lending program,  
6 as established in section 16-c of section 1 of chapter 174 of the laws  
7 of 1968, constituting the urban development corporation act, to the  
8 extent that such program allows participation by credit unions.

9 S 31. Paragraph (e) of subdivision 2 of section 213 of the racing,  
10 pari-mutuel wagering and breeding law, as added by chapter 18 of the  
11 laws of 2008, is amended to read as follows:

12 (e) Whenever the franchise oversight board enters into a contract,  
13 subcontract, lease, grant, bond, covenant or other agreement for  
14 construction, reconstruction, demolition, excavation, rehabilitation,  
15 repair, renovation, alteration, or improvement with respect to each  
16 project undertaken pursuant to this chapter, the franchise oversight  
17 board shall consider the financial and organizational capacity of  
18 contractors and subcontractors in relation to the magnitude of work they  
19 may perform, the record of performance of contractors and subcontractors  
20 on previous work, the record of contractors and subcontractors in  
21 complying with existing labor standards and maintaining harmonious labor  
22 relations, and the commitment of contractors to work with minority,  
23 SERVICE CONNECTED DISABLED VETERANS and women owned business enterprises  
24 pursuant to article fifteen-A of the executive law through joint  
25 ventures or subcontractor relationships.

26 S 32. Section 9-b of section 1 of chapter 359 of the laws of 1968,  
27 constituting the facilities development corporation act, as added by  
28 chapter 58 of the laws of 1987, is amended to read as follows:

29 S 9-b. Minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
30 business enterprise program. 1. (a) Minority, SERVICE CONNECTED DISABLED  
31 VETERAN and women-owned business enterprises shall be given the opportu-  
32 nity for meaningful participation in all contracts executed by the  
33 corporation pursuant to the provisions of this act other than contracts  
34 the cost of which is borne solely by a municipality or municipalities.  
35 The corporation shall establish measures and procedures to secure mean-  
36 ingful participation and identify those contracts and items of work for  
37 which minority, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-  
38 ness enterprises may best bid to actively and affirmatively promote and  
39 assist their participation in the projects, so as to facilitate the  
40 award of a fair share of contracts to such enterprises; provided, howev-  
41 er, that nothing in this act shall be construed to limit the ability of  
42 the corporation to assure that qualified minority, SERVICE CONNECTED  
43 DISABLED VETERAN and women-owned business enterprises may participate in  
44 the program. For purposes hereof, minority business enterprise shall  
45 mean any business enterprise which is at least fifty-one per centum  
46 owned by, or in the case of a publicly owned business, at least fifty-  
47 one per centum of the stock of which is owned by citizens or permanent  
48 resident aliens who are Black, Hispanic, Asian or American Indian,  
49 Pacific Islander or Alaskan natives and such ownership interest is real,  
50 substantial and continuing and have the authority to independently  
51 control the day to day business decisions of the entity for at least one  
52 year; SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE SHALL MEAN  
53 THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE  
54 LAW; and women-owned business enterprise shall mean any business enter-  
55 prise which is at least fifty-one per centum owned by, or in the case of  
56 a publicly owned business, at least fifty-one per centum of the stock of

1 which is owned by citizens or permanent resident aliens who are women,  
2 and such ownership interest is real, substantial and continuing and have  
3 the authority to independently control the day to day business decisions  
4 of the entity for at least one year.

5 The provisions of this paragraph shall not be construed to limit the  
6 ability of any minority, SERVICE CONNECTED DISABLED VETERAN or women-  
7 owned business enterprise to bid on any contract.

8 (b) In the implementation of this section, the corporation shall  
9 consider compliance by any contractor with the requirements of any  
10 federal, state, or local law concerning minority, SERVICE CONNECTED  
11 DISABLED VETERAN and women-owned business enterprises, which may effec-  
12 tuate the requirements of this section. If the corporation determines  
13 that by virtue of the imposition of the requirements of any such law, in  
14 respect to contracts, the provisions thereof duplicate or conflict with  
15 this section, the corporation may waive the applicability of this  
16 section to the extent of such duplication or conflict.

17 (c) Nothing in this section shall be deemed to require that overall  
18 state and federal requirements for participation of minority, SERVICE  
19 CONNECTED DISABLED VETERAN and women-owned business enterprises in  
20 programs authorized under this act be applied without regard to local  
21 circumstances to all projects or in all communities.

22 2. In order to implement the requirements and objectives of this  
23 section, the corporation shall establish procedures to monitor the  
24 contractors' compliance with provisions hereof, provide assistance in  
25 obtaining competing qualified minority, SERVICE CONNECTED DISABLED  
26 VETERAN and women-owned business enterprises to perform contracts  
27 proposed to be awarded, and take other appropriate measures to improve  
28 the access of minority, SERVICE CONNECTED DISABLED VETERAN and women-  
29 owned business enterprises to these contracts.

30 S 33. Section 16-b of section 1 of chapter 392 of the laws of 1973,  
31 constituting the New York state medical care facilities finance agency  
32 act, as added by chapter 58 of the laws of 1987, is amended to read as  
33 follows:

34 S 16-b. Minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
35 business enterprise program. 1. a. In the performance of projects pursu-  
36 ant to this act minority, SERVICE CONNECTED DISABLED VETERAN and women-  
37 owned business enterprises shall be given the opportunity for meaningful  
38 participation. The agency shall establish measures and procedures to  
39 secure meaningful participation and identify those contracts and items  
40 of work for which minority, SERVICE CONNECTED DISABLED VETERAN and  
41 women-owned business enterprises may best bid to actively and affirma-  
42 tively promote and assist their participation in the projects, so as to  
43 facilitate the award of a fair share of contracts to such enterprises;  
44 provided, however, that nothing in this act shall be construed to limit  
45 the ability of the agency to assure that qualified minority, SERVICE  
46 CONNECTED DISABLED VETERAN and women-owned business enterprises may  
47 participate in the program. For purposes hereof, minority business  
48 enterprise shall mean any business enterprise which is at least fifty-  
49 one per centum owned by, or in the case of a publicly owned business, at  
50 least fifty-one per centum of the stock of which is owned by citizens or  
51 permanent resident aliens who are Black, Hispanic, Asian or American  
52 Indian, Pacific Islander or Alaskan natives and such ownership interest  
53 is real, substantial and continuing and have the authority to independ-  
54 ently control the day to day business decisions of the entity for at  
55 least one year; SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE  
56 SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE

EXECUTIVE LAW; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority, SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise to bid on any contract.

b. In the implementation of this section, the agency shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises, which may effectuate the requirements of this section. If the department or the office determines that by virtue of the imposition of the requirements of any such law, in respect to contracts, the provisions thereof duplicate or conflict with this act, the agency may waive the applicability of this section to the extent of such duplication or conflict.

c. Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises in programs authorized under this act be applied without regard to local circumstances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the agency shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises to these contracts.

S 34. Paragraph (c) of subdivision 10 of section 16-a of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 477 of the laws of 2002, is amended to read as follows:

(c) of minority, SERVICE CONNECTED DISABLED VETERAN or women-owned enterprises or enterprises owned by dislocated workers, such workers as defined in the Workforce Investment Act (P.L. 105-220); and

S 35. Section 16-c of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by chapter 169 of the laws of 1994, subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

S 16-c. [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business development and lending program.

(1) [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business development and lending program. (a) There is hereby created a [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business development and lending program for the purpose of providing financial and technical assistance to minority, SERVICE CONNECTED DISABLED VETERAN and women-entrepreneurs.

(b) For the purposes of this section the following words or terms shall mean as follows:

(i) "minority-owned business enterprise" or "minority-owned business" shall mean the same as "minority business enterprise" as defined in



subdivision [three] 3 of section [two hundred ten] 210 of the economic development law.

(ii) "women-owned business enterprise" or "women-owned business" shall mean the same as "women-owned business enterprise" as defined in subdivision [five] 5 of section [two hundred ten] 210 of the economic development law.

(iii) "SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE" SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW.

(IV) "incubator" shall mean a facility providing low-cost space, technical assistance and support services, including, but not limited to, central services shared by tenants of the facility, to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises.

(c) Assistance shall not be provided under this section for:

(i) the purchase or rehabilitation of real property for speculative purposes;

(ii) payment of any tax or employee benefit arrearage;

(iii) residential construction, renovation or development construction, except for assistance to minority, SERVICE CONNECTED DISABLED VETERAN and women contractors under subdivision four of this section;

(iv) educational institutions and proprietary education firms, except licensed child care facilities;

(v) hospitals or residential health care facilities;

(vi) overnight lodging facilities;

(vii) refinancing of debt or equity invested in an enterprise or project.

(d) The corporation is authorized to:

(i) establish programs in conjunction with locally, and community based entities to decentralize lending for small loans and loans to start up [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses;

(ii) establish a comprehensive program for minority, SERVICE CONNECTED DISABLED VETERAN and women contractors, which may include assistance through loans, bonding assistance and technical assistance;

(iii) establish a program to provide loans to established [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses and for [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses, including loans to such businesses seeking to acquire or expand a franchise;

(iv) provide loan guarantees to financial institutions and make linked deposits into federally and state chartered credit unions for the purpose of encouraging private financial institutions to make loans to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses;

(v) establish a program to create incubators to assist small and high risk [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses to grow and prosper;

(vi) promote equity investment in [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses; and

(vii) establish a comprehensive technical assistance program in cooperation with the department of economic development to assist [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses and potential minority, SERVICE CONNECTED DISABLED VETERAN and women-entrepreneurs.

(2) Minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund. For the purpose of establishing programs in conjunction with locally and community based entities to decentralize lending for small loans and loans to start up [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses, the corporation shall establish minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund accounts and related administrative expenses trust fund accounts.

(a) Each minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund account shall be administered by one or more of the following types of entities that provide services to community businesses and have as one of their primary purposes the provision of services and assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses:

(i) empire zone capital corporations established pursuant to section [nine hundred sixty-four] 964 of the general municipal law;

(ii) community-based local development corporations or industrial development agencies that serve a municipality in which an empire zone has been established pursuant to article [eighteen-B] 18-B of the general municipal law and have as their primary purpose assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses located or to be located in such empire zone; or

(iii) local and community development corporations, industrial development agencies, or other not-for-profit entities, representative of the community.

(b) To be eligible to administer a minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund account, the entity must also: (i) have staff with sufficient expertise to analyze applications for financial assistance, to regularly monitor financial assistance to clients, and to provide management or technical assistance to clients; and (ii) have established a loan committee composed of six or more persons experienced in business management, commercial lending or in the operation of a for-profit business, at least one-half of whom shall be experienced in commercial lending, at least one-third of whom shall be minority persons and at least one-third of whom shall be women. Such loan committee shall review every application, determine the feasibility of the proposed project and the likelihood of repayment of the requested financing and shall recommend to the governing body of the entity such action on the application as the loan committee deems appropriate. The corporation shall identify entities eligible to administer minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund accounts through a competitive statewide request for proposal process.

(c) Any entity selected to administer a minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund account shall be eligible to draw funds from the account as needed to provide the following types of financial assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses upon certification to and acceptance by the corporation that such assistance complies with rules and regulations promulgated by the corporation: (i) working capital loans, provided that the amount of the loan does not exceed thirty-five thousand dollars and the term of the loan does not exceed five years; and (ii) loans for the acquisition and/or improvement of real property and for the acquisition of machinery and equipment provided that the amount of the loan does not exceed fifty thousand dollars and

1 the term of the loan does not exceed the useful life of the equipment or  
2 property.

3 (d) (i) Notwithstanding any provision of law to the contrary, the  
4 corporation may establish an administrative expenses trust fund account  
5 for the benefit of each entity selected to administer a minority,  
6 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund  
7 account. The initial deposit of funds to an administrative expenses  
8 trust fund account shall be an amount determined by the corporation but  
9 shall not exceed twenty-five thousand dollars.

10 (ii) An entity selected to administer a minority, SERVICE CONNECTED  
11 DISABLED VETERAN and women revolving loan trust fund account may use the  
12 funds in the administrative expenses trust fund account for costs  
13 incurred by it in the start up and administration of the financial  
14 assistance program authorized pursuant to this subdivision.

15 (iii) The corporation shall deposit into each administrative expenses  
16 trust fund account:

17 (A) all income earned from the moneys on deposit in the corresponding  
18 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan  
19 trust fund account during the first year of the entity's administration  
20 of said account; and

21 (B) beginning with its second year in administering a minority,  
22 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund  
23 account, said amounts may be used for costs incurred by the entity in  
24 administering the minority, SERVICE CONNECTED DISABLED VETERAN and women  
25 revolving loan trust fund account; and

26 (C) repayments of interest on loans made from the corresponding minor-  
27 ity, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust  
28 fund account.

29 (iv) Funds from the administrative expenses trust fund account may be  
30 used for costs incurred at any time by an administering entity in its  
31 administration of a minority, SERVICE CONNECTED DISABLED VETERAN and  
32 women revolving loan trust fund account pursuant to this section.

33 (v) Funds deposited in an administrative expenses trust fund account  
34 shall be disbursed by the corporation to the entity that administers the  
35 corresponding minority, SERVICE CONNECTED DISABLED VETERAN and women  
36 revolving loan trust fund account on a periodic basis and shall be  
37 expended by the entity in accordance with an annual budget and any  
38 updates of same, approved by the corporation.

39 (e) Any entity selected to administer a minority, SERVICE CONNECTED  
40 DISABLED VETERAN and women revolving loan trust fund account shall pay  
41 to the corporation for deposit any repayments received in connection  
42 with financial assistance provided from its account. Payments consisting  
43 of the repayment of the principal amount of a loan shall be deposited by  
44 the corporation into the minority, SERVICE CONNECTED DISABLED VETERAN  
45 and women revolving loan trust fund account from which the loan was  
46 made. The interest earned by the corporation from the investment of  
47 moneys in each minority, SERVICE CONNECTED DISABLED VETERAN and women  
48 revolving loan trust fund account during and after the second year of a  
49 selected entity's administration of said account shall be deposited by  
50 the corporation into the corresponding minority, SERVICE CONNECTED DISA-  
51 BLED VETERAN and women revolving loan trust fund account and used to  
52 provide the financial assistance to [minority-] MINORITY, SERVICE  
53 CONNECTED DISABLED VETERAN and women-owned businesses as authorized  
54 pursuant to this section.

55 (f) The provisions of subdivisions eight, nine, and fourteen through  
56 nineteen of section sixteen-a of this act pertaining to the regional

1 revolving loan trust fund shall also be applicable to the minority,  
2 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund,  
3 provided that: where the term "regional corporation" appears therein it  
4 shall be interpreted to mean an entity selected to administer a  
5 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan  
6 trust fund account, and "regional revolving [loans] LOAN trust fund"  
7 shall mean a minority, SERVICE CONNECTED DISABLED VETERAN and women  
8 revolving loan trust fund, and where the term "this section" appears  
9 therein it shall mean this section sixteen-c.

10 (g) The corporation may provide funds from an appropriation for the  
11 [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned  
12 business development and lending program to any entity selected to  
13 administer a minority, SERVICE CONNECTED DISABLED VETERAN and women  
14 revolving loan trust fund for the purposes of recapitalizing such  
15 account and the entity's corresponding administrative expenses trust  
16 fund account following an evaluation by the corporation of the entity's  
17 administration and use of such accounts.

18 (h) Notwithstanding any provision of law to the contrary, the corpo-  
19 ration shall establish a minority, SERVICE CONNECTED DISABLED VETERAN  
20 and women revolving loan trust fund to pay into such fund any moneys  
21 made available to the corporation for such fund from any source, includ-  
22 ing moneys appropriated by the state and any income earned by, or incre-  
23 ment to, the account due to the investment thereof, or any repayment of  
24 moneys advanced from the fund. The corporation shall not commingle the  
25 moneys of such fund with any moneys held in trust by the corporation,  
26 except for investment purposes.

27 (3) Micro-loan program. (a) For the purposes of this subdivision  
28 "micro-loan" shall mean a loan of under seven thousand five hundred  
29 dollars.

30 (b) The corporation shall, pursuant to requests for proposals, enter  
31 into agreements for other types of locally, community or regionally  
32 administered loan programs than those set forth in subdivision two of  
33 this section, including micro-loan programs to be administered by local  
34 development corporations, local industrial development organizations,  
35 municipalities and not-for-profit organizations, to provide micro-loans  
36 to small and high risk [minority-] MINORITY, SERVICE CONNECTED DISABLED  
37 VETERAN and women-owned businesses located within their respective  
38 service areas, provided that loan review committees are established by  
39 such administering entity, including women, SERVICE CONNECTED DISABLED  
40 VETERAN and minority persons experienced in business management, busi-  
41 ness development, commercial lending, entrepreneurship, or in the opera-  
42 tion of a for-profit business.

43 (c) Agreements entered into pursuant to paragraph (b) of this subdivi-  
44 sion shall be governed by paragraphs (d) through (h) of subdivision two  
45 of this section, and minority, SERVICE CONNECTED DISABLED VETERAN and  
46 women revolving loan trust fund accounts and administrative expenses  
47 trust fund accounts shall be established in a similar fashion for enti-  
48 ties selected to administer micro-loan funds pursuant to this subdivi-  
49 sion.

50 (4) Minority, SERVICE CONNECTED DISABLED VETERAN and women contracting  
51 program. For the purpose of establishing a comprehensive program to  
52 assist minority, SERVICE CONNECTED DISABLED VETERAN and women contrac-  
53 tors, the corporation may provide loans, loan guarantees, technical  
54 assistance and bonding assistance, the corporation may enter into coop-  
55 erative agreements with cities, counties, municipalities, authorities,  
56 agencies, federally and state chartered credit unions in New York state

1 and federally insured banking organizations and financial institutions  
2 for such purposes.

3 (a) To be eligible for a contractor loan, the borrower must have  
4 either (i) a construction contract with, or a contract to provide goods  
5 or services to, a governmental entity or authority, (ii) a subcontract  
6 on a government-sponsored construction contract, (iii) a contract or  
7 subcontract on a [government sponsored] GOVERNMENT-SPONSORED residential  
8 project, or (iv) a contract or subcontract on a construction project  
9 previously approved by the corporation pursuant to section ten of this  
10 act.

11 (b) The corporation shall provide technical assistance specifically  
12 oriented to minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
13 government contractors as part of its comprehensive technical assistance  
14 program.

15 (c) The corporation is authorized to provide assistance through the  
16 creation of, or assistance to, a minority, SERVICE CONNECTED DISABLED  
17 VETERAN and women bonding guarantee program to enable minority, SERVICE  
18 CONNECTED DISABLED VETERAN and women contractors and subcontractors to  
19 meet payment or performance bonding requirements.

20 (i) Through such program, assistance in the form of working capital  
21 loans and loan guarantees pursuant to subdivision six of this section  
22 may also be provided to minority, SERVICE CONNECTED DISABLED VETERAN and  
23 women contractors and subcontractors who have secured contracts by  
24 participating in the program.

25 (ii) The corporation shall either establish criteria for the bonding  
26 guarantee program and for any required escrow funds which shall include  
27 detailed provisions for eligibility; or if the corporation is providing  
28 assistance to a program other than one established by the corporation,  
29 review and approve the criteria established for such other program.

30 (5) Direct financial assistance for [minority-] MINORITY, SERVICE  
31 CONNECTED DISABLED VETERAN and women-owned businesses. For the purpose  
32 of establishing a program to provide direct financial assistance to  
33 [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned  
34 businesses, the corporation is authorized to provide assistance in the  
35 form of:

36 (a) Business development loans and loan guarantees pursuant to subdi-  
37 vision six of this section to eligible enterprises for the acquisition  
38 or improvement of real property, machinery, equipment or working capi-  
39 tal, provided that to be eligible for a business development loan, the  
40 borrowers must have been in business for at least three years and  
41 provided that the loans must be in an amount equal to or in excess of  
42 fifty thousand dollars;

43 (b) Franchise loans to eligible enterprises seeking to acquire or  
44 expand franchises of nationally recognized corporations, provided that  
45 disbursements by the corporation of such loans shall be conditioned on  
46 obtaining such franchises;

47 (c) Equity assistance for eligible minority, SERVICE CONNECTED DISA-  
48 BLED VETERAN and women-owned enterprises to match equity contributions  
49 to such enterprises by financial institutions and community development  
50 equity capital funds, provided, however, that such assistance shall be  
51 targeted to start-up and early stage enterprises in the manufacturing,  
52 retail and service sectors located in economically distressed areas.

53 (6) Deposits and loan guarantees. For the purpose of encouraging  
54 private financial institutions to make loans to eligible enterprises  
55 pursuant to this section for any of the eligible projects pursuant to

subdivisions four and five of this section, the corporation is authorized to:

(a) Make linked deposits of funds into federally and state chartered credit unions in New York state, in order to encourage such organizations to make small loans to minority, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses; and

(b) Provide loan guarantees to private financial institutions for loans made to eligible [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses pursuant to this subdivision for eligible projects, provided that the guarantee shall be at least fifty percent backed by funds of the corporation. Any such loan guaranteed by the corporation shall be made to borrowers that are approved by the corporation and substantially meet the underwriting criteria the credit union or financial institution customarily applies to similar borrowers for similar loans supported by similar guarantees, and no guaranteed loan funds shall be disbursed until the corporation has received, reviewed and concurred, in writing, with the recommendation of the credit union or banking or financial institution to make a loan.

(7) Minority, SERVICE CONNECTED DISABLED VETERAN and women small business incubator program.

(a) The corporation shall establish a minority, SERVICE CONNECTED DISABLED VETERAN and women small business incubator program for the purpose of providing financial support for the creation of incubators to nurture minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises with growth potential.

(b) Under this subdivision the corporation is authorized to provide low-interest loans and grants for construction financing and permanent financing of up to seventy-five percent of project costs up to a maximum of six hundred fifty thousand dollars per project, provided that the total amount of grant assistance provided pursuant to this paragraph shall not exceed twenty percent of an appropriation provided for the purposes of this section.

(c) Incubator projects eligible for such assistance shall involve the renovation or reconstruction of existing facilities or the acquisition of equipment, except that construction shall be allowable in cases in which an applicant can demonstrate to the satisfaction of the corporation that an existing facility is unavailable in the area to be served by the new incubator facility.

(d) Incubator projects are not eligible to receive loans for the purpose of covering operating costs or supplying incubator support services, except that incubators in their first eighteen months of operation may receive one-time grants not to exceed forty thousand dollars, which costs may include administrative costs of employing a resident administrator/advisor to the incubator, provided that the corporation shall not expend a sum greater than two hundred fifty thousand dollars in any one state fiscal year, or so much as may be specifically appropriated for this purpose.

(e) Eligible incubator projects shall be required to demonstrate to the corporation's satisfaction:

(i) public or private support and involvement sufficient to complete the renovation of existing facilities or the construction of new facilities and the acquisition of equipment;

(ii) significant community support for the project;

(iii) the existence of prospective tenants for such incubator space;

(iv) demand for such incubator space, which may include evidence of the unavailability of suitable space for prospective tenants at appro-

private rental or lease costs in the community in which such prospective tenants are located; and

(v) the inability of the project to occur without financial assistance from the corporation.

(f) The corporation shall establish criteria for eligibility for funding for incubator projects, including but not limited to the following:

(i) the project must be designed to provide low-cost space and support services to incubator tenants, coordination with other sources of assistance and flexible leasing arrangements for tenants;

(ii) the project sponsors must provide a management plan and a business plan for operating the incubator satisfactory to the corporation; and

(iii) the project gives preference for incubator space and assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses which currently receive, or have received, assistance from the corporation pursuant to this section and to incubator projects proposed to be located in economically distressed areas.

(8) [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business technical assistance program. (a) The corporation shall establish a comprehensive technical assistance program within the minority, SERVICE CONNECTED DISABLED VETERAN and women business development office, in cooperation with the department of economic development's division of [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-business development established pursuant to article [four-A] 4-A of the economic development law, to provide technical assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises and to prospective [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-business entrepreneurs through third party service providers, which assistance shall include, but not be limited to:

(i) technical assistance in development and execution of business plans, including the formation of, acquisition of, management of, or diversification of a [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise;

(ii) technical assistance with applications for obtaining funds from public and private financing sources;

(iii) technical assistance in the development of a working capital budget;

(iv) referrals to other providers of technical assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses and minority, SERVICE CONNECTED DISABLED VETERAN and women entrepreneurs, where appropriate, including the entrepreneurial assistance program established pursuant to article [nine] 9 of the economic development law; and

(v) technical assistance through education programs directed primarily at women, SERVICE CONNECTED DISABLED VETERAN and minority entrepreneurs.

(b) Technical assistance may be provided through direct corporate support, through grants to or contracts with service providers or governmental entities, and [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises and individuals.

(9) Priorities. The corporation shall give priority to applications for assistance pursuant to this section in which the business seeking such assistance indicates a commitment to first consider persons eligible to participate in federal job training partnership act (P.L. 97-300) programs.

1 (10) Non-application of certain provisions. The provisions of section  
2 ten and subdivision two of section sixteen of this act shall not apply  
3 to assistance or projects authorized pursuant to this section.

4 (11) Rules and regulations. The corporation shall, assisted by the  
5 commissioner of economic development and in consultation with the  
6 department of economic development, promulgate rules and regulations in  
7 accordance with the state administrative procedure act. Such rules and  
8 regulations shall be consistent with the program plan required by subdivi-  
9 sion [nineteen] 19 of section [one hundred] 100 of the economic devel-  
10 opment law. No funds shall be disbursed under this program until such  
11 rules and regulations have been reviewed and approved by the corpo-  
12 ration. All assistance and projects funded under this program shall be  
13 funded in accordance with the rules and regulations in effect on the  
14 date the completed application for such assistance shall be received by  
15 the corporation.

16 (12) Minority, SERVICE CONNECTED DISABLED VETERAN and women business  
17 development and lending account. Notwithstanding any provision of law  
18 to the contrary, the corporation shall establish within the treasury of  
19 the corporation a minority, SERVICE CONNECTED DISABLED VETERAN and women  
20 business development and lending account, and shall pay into such  
21 account any moneys which may be made available to the corporation for  
22 this purpose from any source including, but not limited to, moneys  
23 appropriated by the state and any repayment of principal and interest on  
24 loans made by the corporation pursuant to the [minority-] MINORITY,  
25 SERVICE CONNECTED DISABLED VETERAN and women-owned business development  
26 and lending program. Funds in the minority, SERVICE CONNECTED DISABLED  
27 VETERAN and women business development and lending account, including  
28 funds from the repayment of principal and interest on loans made by the  
29 corporation, may be used for any form of assistance authorized here-  
30 under. The amounts deposited in the minority, SERVICE CONNECTED DISABLED  
31 VETERAN and women business development and lending account may not be  
32 interchanged with any other account, but may be commingled with any  
33 other account for investment purposes. All loans disbursed by the corpo-  
34 ration shall be repaid into the account. The corporation shall enter  
35 into a written agreement with the director of the budget for repayment,  
36 to the state comptroller to the credit of the capital projects fund, of  
37 all moneys in the account after a period of time to be determined by the  
38 corporation and the director of the budget. The corporation shall  
39 transfer to the minority, SERVICE CONNECTED DISABLED VETERAN and women  
40 business development and lending account: all moneys appropriated or  
41 reappropriated by New York state for the minority, SERVICE CONNECTED  
42 DISABLED VETERAN and women revolving loan trust fund that have not been  
43 committed prior to the effective date of the appropriation for the  
44 program in the current fiscal year, or become uncommitted subsequent to  
45 the effective date of the program's appropriation for the current fiscal  
46 year; and all repayments of principal and interest on loans made by the  
47 corporation which are currently on deposit in, or payable to, the minor-  
48 ity, SERVICE CONNECTED DISABLED VETERAN and women business development  
49 and lending account.

50 (13) Standardization. The corporation shall streamline the review and  
51 approval process for projects and wherever possible standardize all  
52 relevant attendant documentation and legal documents.

53 (14) Approval cycle. The corporation shall approve eligible loans or  
54 grants on at least a four-month cycle and shall give priority consider-  
55 ation to the comparative degree of economic distress within the areas in  
56 which the project is located. Other factors to be considered by the



1 corporation shall include the impact of the project on the employment  
2 and economic condition of the community and the financial feasibility of  
3 the project.

4 (15) Repayment. Notwithstanding the provisions of section [forty-a]  
5 40-A of the state finance law and any other general or special law, no  
6 written agreement under this program shall require repayment at any time  
7 or on any terms inconsistent with the provisions of this act or the New  
8 York state project finance agency act; except, however, that the corpo-  
9 ration may make grants to projects using funds appropriated for this  
10 purpose and that the repayment provision may not apply to such grants.

11 (16) Reports. The chairman of the corporation shall submit to the  
12 director of the budget, the speaker of the assembly and the temporary  
13 president of the senate an evaluation of the effectiveness of the  
14 program prepared by an entity independent of the corporation. The corpo-  
15 ration shall select the program evaluator through a request for proposal  
16 process. Such evaluation shall determine whether the assistance provided  
17 has enhanced the economic condition of assisted companies or communi-  
18 ties, and shall make recommendation for improvements which would make  
19 the program more effective. Such evaluation shall be submitted by  
20 September first, nineteen hundred ninety-five and September first every  
21 two years thereafter.

22 S 36. Subparagraphs (viii) and (x) of paragraph (e) of subdivision 7  
23 of section 16-d of section 1 of chapter 174 of the laws of 1968, consti-  
24 tuting the New York state urban development corporation act, as added by  
25 chapter 169 of the laws of 1994, are amended to read as follows:

26 (viii) export, marketing, procurement and subcontracting assistance to  
27 small and medium-sized industrial firms, including [minority-] MINORITY,  
28 SERVICE CONNECTED DISABLED VETERAN and women-owned businesses, and to  
29 flexible manufacturing networks, and programs to assist regional and  
30 multi-county business marketing and procurement programs;

31 (x) business planning, management assistance and counseling, and  
32 financial packaging assistance to small and medium-sized industrial  
33 firms, including [minority-] MINORITY, SERVICE CONNECTED DISABLED VETER-  
34 AN and women-owned businesses, flexible manufacturing networks, and new  
35 enterprises and small businesses, including the establishment of neigh-  
36 borhood-based business service centers designed to deliver comprehensive  
37 technical assistance to new and small businesses in specific communities  
38 and neighborhoods;

39 S 37. Clause (B) of subparagraph (i) of paragraph (h) of subdivision 8  
40 of section 16-d of section 1 of chapter 174 of the laws of 1968, consti-  
41 tuting the New York state urban development corporation act, as added by  
42 chapter 169 of the laws of 1994 and as further amended by section 15 of  
43 part GG of chapter 63 of the laws of 2000, is amended to read as  
44 follows:

45 (B) community based local development corporations, industrial devel-  
46 opment agencies, or other not-for-profit entities which serve a munici-  
47 pality in which an empire zone has been established and which, as one of  
48 their primary purposes, provide services and assistance to business  
49 enterprises located or to be located in such empire zone, including  
50 [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned  
51 businesses;

52 S 38. Subparagraph (vi) of paragraph (c) of subdivision 10 of section  
53 16-e of section 1 of chapter 174 of the laws of 1968, constituting the  
54 New York state urban development corporation act, as added by chapter  
55 169 of the laws of 1994, is amended to read as follows:

1 (vi) management and procurement assistance to small business, includ-  
2 ing [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-  
3 owned businesses;

4 S 39. Paragraph (d) of subdivision 18 of section 16-e of section 1 of  
5 chapter 174 of the laws of 1968, constituting the New York state urban  
6 development corporation act, as added by chapter 169 of the laws of  
7 1994, is amended to read as follows:

8 (d) The participation of [minority-] MINORITY, SERVICE CONNECTED DISA-  
9 BLED VETERAN and women-owned businesses;

10 S 40. The opening paragraph, paragraph (a) and the opening paragraph  
11 and subparagraph (iv) of paragraph (b) of subdivision 1 of section 16-f  
12 of section 1 of chapter 174 of the laws of 1968, constituting the New  
13 York state urban development corporation act, as added by chapter 169 of  
14 the laws of 1994, are amended to read as follows:

15 There is hereby created a state bonding guarantee assistance program  
16 to enable small businesses, [and] minority-owned, SERVICE CONNECTED  
17 DISABLED VETERAN-OWNED and women-owned business enterprises, certified  
18 as a minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-  
19 owned business enterprise pursuant to article [fifteen-A] 15-A of the  
20 executive law, to meet payment and/or performance bonding requirements  
21 by providing additional financial backing needed to induce a surety  
22 company to issue a bond for construction projects, including but not  
23 limited to, government sponsored, transportation related construction  
24 projects. For purposes of this section, the term small business shall  
25 have the same meaning as defined in section [one hundred thirty-one] 131  
26 of the economic development law. Such program shall give preference to  
27 minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned  
28 business enterprises and shall:

29 (a) Make available funds to surety companies providing bonds to small  
30 businesses [and minority- owned], MINORITY-OWNED, SERVICE CONNECTED  
31 DISABLED VETERAN-OWNED or women-owned business enterprises in an amount  
32 equal to a percentage not to exceed fifty percent of the face value of  
33 bonds issued by the surety.

34 Provide technical assistance in completing bonding applications for  
35 small businesses [and], minority-owned, SERVICE CONNECTED DISABLED  
36 VETERAN-OWNED or women-owned business enterprises seeking to become  
37 eligible for bonding in preparation for bidding on construction  
38 projects, including transportation related projects. The corporation  
39 shall provide and may refer such businesses to the department of econom-  
40 ic development for technical assistance as such businesses may need,  
41 including but not limited to:

42 (iv) assistance from the regional offices of the department of econom-  
43 ic development, pursuant to article [eleven] 11 of the economic develop-  
44 ment law, and the entrepreneurial assistance program, pursuant to arti-  
45 cle [nine] 9 of such law, and any other such program receiving state  
46 funds from this act or the department of economic development or any  
47 other state agency that is intended to provide technical assistance to  
48 small businesses [and], minority-owned, SERVICE CONNECTED DISABLED  
49 VETERAN-OWNED and women-owned small business enterprises.

50 S 41. Paragraph (g) of subdivision 1 of section 16-i of section 1 of  
51 chapter 174 of the laws of 1968, constituting the New York state urban  
52 development corporation act, as amended by chapter 471 of the laws of  
53 2001, is amended to read as follows:

54 (g) Assistance to local or regional organizations to facilitate  
55 financing for small- and medium-sized business, including [minority-]  
56 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business

enterprises through flexible financing programs, including, but not limited to, loan loss reserve and revolving loan programs, working capital loans, working capital loan guarantees, or other flexible financing programs that leverage traditional financing;

S 42. Subparagraph (i) of paragraph (c) of subdivision 2 of section 16-k of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 103 of the laws of 2011, is amended to read as follows:

(i) provide a plan to the corporation or its agent for the marketing of the capital access program to small businesses, including those in highly distressed areas and to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses, with appropriate lending objectives identified by the financial institution for such areas and businesses;

S 43. Paragraph 1 of subdivision (c) of section 30 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 732 of the laws of 1990, is amended to read as follows:

(1) In addition to any other requirements imposed by the act or otherwise regarding evaluations of programs administered by the corporation, each evaluation shall include an analysis of the job creation effect of such program, the number of small businesses that received assistance, the number of minority, SERVICE CONNECTED DISABLED VETERAN and women-owned firms that received assistance, the number of projects undertaken in distressed and highly distressed communities, and, if applicable, the repayment experience of borrowers of funds from the corporation.

S 44. Paragraph 2 of subdivision (e) of section 30-a of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 2 of part M1 of chapter 62 of the laws of 2003, is amended to read as follows:

(2) require projects to be financed out of the empire state economic development fund be approved generally in amounts which are proportional to amounts appropriated for the urban and community development program, and the minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business development and lending program;

S 45. The section heading, the opening paragraph of subdivision 1, the opening paragraph of subdivision 2, paragraph (a) of subdivision 3 and subdivisions 4 and 5 of section 38 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 169 of the laws of 1994, are amended to read as follows:

Small business [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises transportation capital assistance and guaranteed loan program.

To provide financial assistance to small business [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises engaged in government sponsored, transportation related construction projects, the corporation shall establish a small business [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprise transportation capital assistance revolving loan fund which shall provide loans or loan guarantees to small business [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises. For purposes of this section:

Such loans, or loan guarantees for loans made by federally and state chartered credit institutions, financial institutions, and federally

1 insured banking organizations to small business [and], minority-owned,  
2 SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enter-  
3 prises, shall be used to:

4 (a) To be eligible for such loans or loan guarantees (i) a minority-  
5 owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned business  
6 enterprise must be certified as a minority-owned, SERVICE CONNECTED  
7 DISABLED VETERAN-OWNED or women-owned business enterprise pursuant to  
8 article 15-A of the executive law; and (ii) a small business or a minor-  
9 ity-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned busi-  
10 ness enterprise shall have a contract or sub-contract to provide goods  
11 or services related to a government sponsored, transportation related  
12 construction project.

13 4. The corporation shall give preference to minority-owned, SERVICE  
14 CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises in  
15 making such loans and loan guarantees and shall establish such other  
16 criteria as it may deem necessary for this program and for any required  
17 amount that shall be held in reserve for any guarantees made under this  
18 program.

19 5. Notwithstanding any inconsistent provision of law, general, special  
20 or local, including pursuant to capital projects budget appropriations  
21 or reappropriations, where applicable, the corporation is hereby author-  
22 ized to enter into such agreements as may be necessary for the operation  
23 and administration of a small business [and], minority-owned, SERVICE  
24 CONNECTED DISABLED VETERAN-OWNED and women-owned business enterprises  
25 transportation capital assistance and guaranteed loan program.

26 S 46. This act shall take effect immediately; provided, however, that  
27 the amendments to article 15-A of the executive law made by sections  
28 three, four, five, six and seven of this act shall not affect the expi-  
29 ration of such article and shall be deemed to expire therewith; and  
30 provided, further that the amendments to section 136-b of the state  
31 finance law made by section eight of this act shall not affect the expi-  
32 ration of such section and shall be deemed to expire therewith; and  
33 provided, further that the amendments to section 16-i of section 1 of  
34 chapter 174 of the laws of 1968, constituting the New York state urban  
35 development corporation act, made by section forty-one of this act,  
36 shall not affect the expiration of such section 16-i and shall expire  
37 therewith.