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I N   A S S E M B L Y

May 12, 2010

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Introduced by M. of A. ESPAILLAT, DESTITO, ZEBROWSKI, SCARBOROUGH, JAFFEE, CHRISTENSEN, COLTON, MILLMAN, KOON, CRESPO, FINCH, MENG, GIBSON, AUBRY, CASTRO -- Multi-Sponsored by -- M. of A. DelMONTE, HYER-SPENCER, WRIGHT -- read once and referred to the Committee on Small Business

AN ACT to amend the economic development law, in relation to establishing entrepreneurship assistance centers; to amend the economic development law and the labor law, in relation to making technical corrections relating thereto; and to repeal article 9 of the economic development law relating thereto

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

Section 1. Article 9 of the economic development law is REPEALED and a new article 9 is added to read as follows:

ARTICLE 9

ENTREPRENEURSHIP ASSISTANCE CENTERS

SECTION 210. DEFINITIONS.

211. ENTREPRENEURSHIP ASSISTANCE CENTERS.

212. REPORTING.

S 210. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS, UNLESS THE CONTEXT INDICATES OTHERWISE, SHALL HAVE THE FOLLOWING MEANINGS:

1. "ENTREPRENEURSHIP ASSISTANCE CENTERS" SHALL MEAN THE BUSINESS DEVELOPMENT CENTERS WHICH PROVIDE ASSISTANCE TO PRIMARILY MINORITY GROUP MEMBERS, WOMEN, INDIVIDUALS WITH A DISABILITY AND DISLOCATED WORKERS AS ESTABLISHED BY THE DEPARTMENT PURSUANT TO SECTION TWO HUNDRED ELEVEN OF THIS ARTICLE.

2. "DISABILITY" SHALL MEAN, WITH RESPECT TO AN INDIVIDUAL:

(A) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF SUCH INDIVIDUAL;

(B) A RECORD OF SUCH AN IMPAIRMENT; OR

(C) BEING REGARDED AS HAVING AN IMPAIRMENT.

3. "MINORITY BUSINESS ENTERPRISE" SHALL MEAN ANY BUSINESS ENTERPRISE WHICH IS AT LEAST FIFTY-ONE PER CENTUM OWNED BY, OR IN THE CASE OF A

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

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1 PUBLICLY OWNED BUSINESS AT LEAST FIFTY-ONE PER CENTUM OF THE STOCK OF  
2 WHICH IS OWNED BY, CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE BLACK,  
3 HISPANIC, ASIAN OR AMERICAN INDIAN, PACIFIC ISLANDER OR ALASKAN NATIVE  
4 WHERE SUCH OWNERSHIP INTEREST IS REAL, SUBSTANTIAL AND CONTINUING AND  
5 WHERE SUCH PERSONS HAVE THE AUTHORITY TO INDEPENDENTLY CONTROL THE DAY-  
6 TO-DAY BUSINESS DECISIONS OF THE ENTITY.

7 4. "MINORITY GROUP MEMBER" SHALL MEAN A UNITED STATES CITIZEN OR  
8 PERMANENT RESIDENT ALIEN WHO IS AND CAN DEMONSTRATE MEMBERSHIP IN ONE OF  
9 THE FOLLOWING GROUPS:

10 (A) BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL  
11 GROUPS NOT OF HISPANIC ORIGIN;

12 (B) HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN,  
13 CENTRAL OR SOUTH AMERICAN DESCENT OF EITHER INDIAN OR HISPANIC ORIGIN,  
14 REGARDLESS OF RACE;

15 (C) ASIAN AND PACIFIC ISLANDER PERSONS HAVING ORIGINS IN THE FAR EAST,  
16 SOUTHEAST ASIA, THE INDIAN SUB-CONTINENT OR THE PACIFIC ISLANDS; OR

17 (D) AMERICAN INDIAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF  
18 THE ORIGINAL PEOPLES OF NORTH AMERICA.

19 5. "WOMEN-OWNED BUSINESS ENTERPRISE" SHALL MEAN ANY BUSINESS ENTER-  
20 PRISE WHICH IS AT LEAST FIFTY-ONE PER CENTUM OWNED BY, OR IN THE CASE OF  
21 A PUBLICLY OWNED BUSINESS AT LEAST FIFTY-ONE PER CENTUM OF THE STOCK OF  
22 WHICH IS OWNED BY, CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE WOMEN  
23 WHERE SUCH OWNERSHIP INTEREST IS REAL, SUBSTANTIAL AND CONTINUING AND  
24 WHERE SUCH PERSONS HAVE THE AUTHORITY TO INDEPENDENTLY CONTROL THE DAY-  
25 TO-DAY BUSINESS DECISIONS OF THE ENTITY.

26 S 211. ENTREPRENEURSHIP ASSISTANCE CENTERS. 1. THE DEPARTMENT SHALL  
27 ESTABLISH AND SUPPORT, WITHIN AVAILABLE APPROPRIATIONS, ENTREPRENEURSHIP  
28 ASSISTANCE CENTERS AT CAREER EDUCATION AGENCIES AND NOT-FOR-PROFIT  
29 CORPORATIONS INCLUDING, BUT NOT LIMITED TO, LOCAL DEVELOPMENT CORPO-  
30 RATIONS, CHAMBERS OF COMMERCE, COMMUNITY-BASED BUSINESS OUTREACH CENTERS  
31 AND OTHER COMMUNITY-BASED ORGANIZATIONS. THE PURPOSE OF SUCH CENTERS  
32 SHALL BE TO TRAIN MINORITY GROUP MEMBERS, WOMEN, INDIVIDUALS WITH A  
33 DISABILITY AND DISLOCATED WORKERS IN THE PRINCIPLES AND PRACTICE OF  
34 ENTREPRENEURSHIP IN ORDER TO PREPARE SUCH PERSONS TO PURSUE SELF-EMPLOY-  
35 MENT OPPORTUNITIES AND TO PURSUE A MINORITY BUSINESS ENTERPRISE OR A  
36 WOMEN-OWNED BUSINESS ENTERPRISE. SUCH CENTERS SHALL PROVIDE FOR TRAINING  
37 IN ALL ASPECTS OF BUSINESS DEVELOPMENT AND SMALL BUSINESS MANAGEMENT AS  
38 DEFINED BY THE COMMISSIONER. FOR PURPOSES OF THIS SECTION, "CAREER  
39 EDUCATION AGENCY" SHALL MEAN A COMMUNITY COLLEGE OR BOARD OF COOPERATIVE  
40 EDUCATIONAL SERVICES OPERATING WITHIN THE STATE.

41 2. THE DEPARTMENT SHALL ESTABLISH CRITERIA FOR SELECTION AND DESIG-  
42 NATION OF SUCH CENTERS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

43 (A) THE LEVEL OF SUPPORT FOR THE CENTER FROM LOCAL POST-SECONDARY  
44 EDUCATION INSTITUTIONS, BUSINESSES, AND GOVERNMENT;

45 (B) THE LEVEL OF FINANCIAL ASSISTANCE PROVIDED AT THE LOCAL AND FEDER-  
46 AL LEVEL TO SUPPORT THE OPERATIONS OF THE CENTER;

47 (C) THE APPLICANT'S UNDERSTANDING OF PROGRAM GOALS AND OBJECTIVES  
48 ARTICULATED BY THE DEPARTMENT;

49 (D) THE PLANS OF THE CENTER TO SUPPLEMENT STATE AND LOCAL FUNDING  
50 THROUGH FEES FOR SERVICES WHICH MAY BE BASED ON A SLIDING SCALE BASED ON  
51 ABILITY TO PAY;

52 (E) THE NEED FOR AND ANTICIPATED IMPACT OF THE CENTER ON THE COMMUNITY  
53 IN WHICH IT WILL FUNCTION;

54 (F) THE QUALITY OF THE PROPOSED WORK PLAN AND STAFF OF THE CENTER; AND

55 (G) THE EXTENT OF ECONOMIC DISTRESS IN THE AREA TO BE SERVED.

1 3. APPLICATION FOR GRANTS MADE PURSUANT TO THIS SECTION SHALL BE MADE  
2 IN THE MANNER AND ON FORMS PRESCRIBED BY THE DEPARTMENT. SUCH APPLICA-  
3 TION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO:

4 (A) A DESCRIPTION OF THE TRAINING PROGRAMS AVAILABLE WITHIN THE  
5 GEOGRAPHIC AREA TO BE SERVED BY THE CENTER TO WHICH ELIGIBLE CLIENTS MAY  
6 BE REFERRED;

7 (B) DESIGNATION OF A PROGRAM DIRECTOR;

8 (C) PLANS FOR PROVIDING ONGOING TECHNICAL ASSISTANCE TO PROGRAM GRADU-  
9 ATES, INCLUDING LINKAGES WITH PROVIDERS OF OTHER ENTREPRENEURIAL ASSIST-  
10 ANCE PROGRAMS AND WITH PROVIDERS OF SMALL BUSINESS TECHNICAL ASSISTANCE  
11 AND SERVICES;

12 (D) A PROGRAM BUDGET, INCLUDING MATCHING FUNDS, IN-KIND AND OTHERWISE,  
13 TO BE PROVIDED BY THE APPLICANT; AND

14 (E) SUCH OTHER REQUIREMENTS AS DEEMED NECESSARY BY THE DEPARTMENT.

15 4. EACH CENTER SHALL:

16 (A) BE OPERATED BY A BOARD OF DIRECTORS REPRESENTING COMMUNITY LEADERS  
17 IN BUSINESS, EDUCATION, FINANCE AND GOVERNMENT;

18 (B) BE INCORPORATED AS A NOT-FOR-PROFIT CORPORATION;

19 (C) BE LOCATED IN AN AREA ACCESSIBLE TO ELIGIBLE CLIENTS;

20 (D) ESTABLISH AN ADVISORY GROUP OF COMMUNITY BUSINESS EXPERTS, AT  
21 LEAST ONE-HALF OF WHOM SHALL BE REPRESENTATIVE OF THE CLIENTELE TO BE  
22 SERVED BY THE CENTER, WHICH SHALL CONSTITUTE A SUPPORT NETWORK TO  
23 PROVIDE COUNSELING AND MENTORING SERVICES TO MINORITY GROUP MEMBERS,  
24 WOMEN, INDIVIDUALS WITH A DISABILITY AND DISLOCATED WORKERS FROM THE  
25 CONCEPT STAGE OF DEVELOPMENT THROUGH THE FIRST ONE TO TWO YEARS OF  
26 EXISTENCE ON A REGULAR BASIS AND AS NEEDED THEREAFTER; AND

27 (E) ESTABLISH A REFERRAL SYSTEM AND LINKAGES TO EXISTING AREA SMALL  
28 BUSINESS ASSISTANCE PROGRAMS AND FINANCING SOURCES.

29 5. EACH ENTREPRENEURSHIP ASSISTANCE CENTER SHALL PROVIDE NEEDED  
30 SERVICES TO ELIGIBLE CLIENTS, INCLUDING, BUT NOT LIMITED TO:

31 (A) ORIENTATION AND SCREENING OF PROSPECTIVE ENTREPRENEURS;

32 (B) ANALYSIS OF BUSINESS CONCEPTS AND TECHNICAL FEASIBILITY;

33 (C) MARKET ANALYSIS;

34 (D) MANAGEMENT ANALYSIS AND COUNSELING;

35 (E) BUSINESS PLANNING AND FINANCIAL PLANNING ASSISTANCE;

36 (F) REFERRALS TO FINANCIAL RESOURCES;

37 (G) REFERRAL TO EXISTING EDUCATIONAL PROGRAMS FOR TRAINING IN SUCH  
38 AREAS AS MARKETING, ACCOUNTING AND OTHER SUCH TRAINING PROGRAMS AS MAY  
39 BE NECESSARY AND AVAILABLE; AND

40 (H) REFERRAL TO BUSINESS INCUBATOR FACILITIES, WHERE APPROPRIATE, FOR  
41 THE PURPOSE OF ENTERING INTO AGREEMENTS TO ACCESS SHARED SUPPORT  
42 SERVICES.

43 6. GRANTS MADE PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE  
44 FOLLOWING LIMITATIONS:

45 (A) NO GRANT SHALL BE MADE TO ANY ONE OR ANY CONSORTIUM OF CAREER  
46 EDUCATION AGENCIES AND NOT-FOR-PROFIT CORPORATIONS IN EXCESS OF SEVEN-  
47 TY-FIVE THOUSAND DOLLARS; AND

48 (B) EACH GRANT SHALL BE DISBURSED FOR PAYMENT OF THE COST OF SERVICES  
49 AND EXPENSES OF THE PROGRAM DIRECTOR, THE INSTRUCTORS OF THE PARTICIPAT-  
50 ING CAREER EDUCATION AGENCY OR NOT-FOR-PROFIT CORPORATION, THE FACULTY  
51 AND SUPPORT PERSONNEL THEREOF AND ANY OTHER PERSON IN THE SERVICE OF  
52 PROVIDING INSTRUCTION AND COUNSELING IN FURTHERANCE OF THE PROGRAM.

53 S 212. REPORTING. THE DEPARTMENT SHALL:

54 1. MONITOR THE PERFORMANCE OF EACH ENTREPRENEURIAL ASSISTANCE CENTER  
55 AND REQUIRE PERIODIC AND ANNUAL REPORTS FROM EACH ENTREPRENEURIAL

1 ASSISTANCE CENTER AT SUCH TIME AND IN SUCH A MANNER AS PRESCRIBED BY THE  
2 COMMISSIONER.

3 2. EVALUATE THE ENTREPRENEURIAL ASSISTANCE CENTERS ESTABLISHED UNDER  
4 THIS ARTICLE AND REPORT, ON OR BEFORE OCTOBER FIRST, TWO THOUSAND ELEV-  
5 EN, AND ON OR BEFORE EACH OCTOBER FIRST THEREAFTER, AND SUBMIT THE  
6 RESULTS OF SUCH EVALUATION TO THE GOVERNOR AND THE LEGISLATURE. SUCH  
7 REPORT SHALL DISCUSS THE EXTENT TO WHICH THE CENTERS SERVE MINORITY  
8 GROUP MEMBERS, WOMEN, INDIVIDUALS WITH A DISABILITY AND DISLOCATED WORK-  
9 ERS; THE EXTENT TO WHICH THE TRAINING PROGRAM IS COORDINATED WITH OTHER  
10 ASSISTANCE PROGRAMS TARGETED TO SMALL AND NEW BUSINESSES; THE ABILITY OF  
11 SUCH PROGRAM TO LEVERAGE OTHER SOURCES OF FUNDING AND SUPPORT; AND THE  
12 SUCCESS OF THE PROGRAM IN AIDING ENTREPRENEURS TO START UP NEW BUSI-  
13 NESSES, INCLUDING THE NUMBER OF NEW BUSINESS START-UPS RESULTING FROM  
14 THE PROGRAM. SUCH REPORT SHALL RECOMMEND CHANGES AND IMPROVEMENTS IN THE  
15 TRAINING PROGRAM AND IN THE QUALITY OF SUPPLEMENTAL TECHNICAL ASSISTANCE  
16 OFFERED TO GRADUATES OF THE TRAINING PROGRAMS.

17 3. SUBMIT TO THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE CHAIR-  
18 PERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEM-  
19 BLY WAYS AND MEANS COMMITTEE AN EVALUATION OF THE EFFECTIVENESS OF THE  
20 PROGRAMS ESTABLISHED UNDER THIS ARTICLE PREPARED BY AN ENTITY INDEPEND-  
21 ENT OF THE DEPARTMENT. SUCH EVALUATION SHALL BE SUBMITTED BY SEPTEMBER  
22 FIRST, TWO THOUSAND THIRTEEN AND BY SEPTEMBER FIRST EVERY FOUR YEARS  
23 THEREAFTER.

24 4. BETWEEN EVALUATION DUE DATES, MAINTAIN THE NECESSARY RECORDS AND  
25 DATA REQUIRED TO SATISFY SUCH EVALUATION REQUIREMENTS AND TO SATISFY  
26 INFORMATION REQUESTS RECEIVED FROM THE DIRECTOR OF THE BUDGET, THE  
27 CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE  
28 ASSEMBLY WAYS AND MEANS COMMITTEE BETWEEN SUCH EVALUATION DUE DATES.

29 S 2. Paragraph (c) of subdivision 37-b of section 100 of the economic  
30 development law, as added by chapter 524 of the laws of 2005, is amended  
31 to read as follows:

32 (c) Subdivision two of section two hundred [thirteen] TWELVE OF THIS  
33 CHAPTER, submitting the results of the annual evaluation of the entre-  
34 preneurial assistance programs established under article nine OF THIS  
35 CHAPTER.

36 S 3. Subparagraph (iii) of paragraph (c) of subdivision 2 of section  
37 591-a of the labor law, as added by chapter 413 of the laws of 2003, is  
38 amended to read as follows:

39 (iii) are participating in self-employment assistance activities  
40 approved by the department and by the department of economic development  
41 which include but need not be limited to entrepreneurial training, busi-  
42 ness counseling, and technical assistance, including financing assist-  
43 ance for qualified individuals as appropriate, offered by entrepreneur-  
44 ship [support] ASSISTANCE centers established pursuant to section two  
45 hundred [twelve] ELEVEN of the economic development law, state universi-  
46 ty of New York small business development centers, programs offered by  
47 community-based organizations, local development corporations, and  
48 boards of cooperative educational services (BOCES) as established pursu-  
49 ant to section one thousand nine hundred fifty of the education law;

50 S 4. This act shall take effect immediately; provided that the amend-  
51 ments to subparagraph (iii) of paragraph (c) of subdivision 2 of section  
52 591-a of the labor law made by section three of this act shall not  
53 affect the repeal of such section and shall be deemed to repeal there-  
54 with.