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

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I N A S S E M B L Y

January 29, 2010

Introduced by M. of A. GABRYSZAK, SCHIMMINGER, MAGNARELLI, DelMONTE, ALESSI, LUPARDO -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the public authorities law, in relation to certain funds used by the center for advanced technology

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

Section 1. Paragraph (a) of subdivision 1 of section 3102-b of the public authorities law, as added by chapter 562 of the laws of 1982 and such section as renumbered by chapter 291 of the laws of 1990, is amended to read as follows:

(a) "center for advanced technology" or "center" means a university or university-affiliated research institute or a consortium of such institutions, designated by the foundation, which conducts a continuing program of basic and applied research, development, and technology [transfer] COMMERCIALIZATION in one or more technological areas, in collaboration with and through the support of private business and industry; and

S 2. Subdivision 3 of section 3102-b of the public authorities law, as added by chapter 562 of the laws of 1982, paragraph (a) as amended and paragraphs (b), (c) and (d) as added by chapter 828 of the laws of 1987, and such section as renumbered by chapter 291 of the laws of 1990, is amended to read as follows:

3. (a) From such funds as may be appropriated for this purpose by the legislature, the foundation may provide financial support, through contracts or other means, to designated centers for advanced technology, in order to enhance and accelerate the development of such centers. Funds received pursuant to this subdivision may be used for purchase of equipment and fixtures, employment of faculty and support staff, provision of graduate fellowships, and other purposes approved by the foundation, but may not be used for capital construction. In each case, the amount provided by the foundation to a center shall be matched by commitments of support from private and governmental other than state sources [in accordance with the following] PROVIDED THAT:

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

LBD15457-02-0

(I) FUNDS OR IN-KIND RESOURCES PROVIDED BY THE PUBLIC OR PRIVATE UNIVERSITY OF WHICH THE CENTER IS A PART MAY BE COUNTED TOWARDS THE MATCH;

(II) SUCH MATCH SHALL NOT BE REQUIRED ON A PROJECT-BY-PROJECT BASIS;

(III) MATCHING FUNDS RECEIVED FROM BUSINESSES WITH NO MORE THAN ONE HUNDRED EMPLOYEES SHALL COUNT AS DOUBLE THE ACTUAL DOLLAR AMOUNT TOWARD THE CENTER'S OVERALL MATCH REQUIREMENT;

(IV) FUNDS USED BY THE CENTER FOR ANY WORKFORCE DEVELOPMENT ACTIVITIES REQUIRED BY THE FOUNDATION SHALL NOT BE INCLUDED AS PART OF THE CENTER'S AWARD WHEN DETERMINING THE AMOUNT OF MATCHING FUNDS REQUIRED BY THE FOUNDATION. SUCH ACTIVITIES SHALL INCLUDE, BUT ARE NOT LIMITED TO, HELPING INCUMBENT WORKERS EXPAND THEIR SKILL SETS THROUGH SHORT COURSES, SEMINARS, AND WORKSHOPS; PROVIDING INDUSTRY-DRIVEN RESEARCH ASSISTANT OPPORTUNITIES FOR STUDENTS, AND AIDING IN THE DEVELOPMENT OF UNDERGRADUATE AND GRADUATE COURSES IN THE CENTER'S TECHNOLOGY FOCUS TO HELP ENSURE THAT STUDENTS ARE TRAINED TO MEET THE NEEDS OF INDUSTRY;

(V) CENTERS MAY USE NOT MORE THEN TWENTY-FIVE PERCENT OF INDIRECT COSTS TOWARDS ANY MATCH REQUIREMENTS.

(B) THE AMOUNT PROVIDED BY THE FOUNDATION SHALL BE MADE IN ACCORDANCE WITH THE FOLLOWING:

(i) for the academic year in which it is first funded as a designated center, and the five subsequent years, the amount provided by the foundation to a center shall be matched equally by the center;

(ii) beginning in the sixth academic year following the academic year in which a center is first funded as a designated center and for each academic year thereafter, amounts provided by the foundation of up to seven hundred fifty thousand dollars shall be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least the percentage set forth herein: in the sixth year, one hundred twenty percent; in the seventh year, one hundred forty percent; in the eighth year, one hundred sixty percent; in the ninth year, one hundred eighty percent; in the tenth year and each year thereafter, two hundred percent;

(iii) beginning in the ninth academic year following the academic year in which a center is first funded as a designated center, the foundation shall evaluate such center's area of advanced technology to determine whether it has continued significant potential for enhancing economic growth in New York, or whether the application of technologies in the area could significantly enhance the productivity and stability of New York businesses;

(iv) upon a finding by the foundation that an area of advanced technology has continued significant potential for enhancing economic growth in New York, or that the application of technologies in the area could significantly enhance the productivity and stability of New York businesses, the foundation will initiate a redesignation process in accordance with the standards and criteria set forth in paragraph (b) of subdivision two and in accordance with paragraphs (c) and (d) of subdivision two of this section.

(1) In the event a new center is selected in the redesignation process, the foundation shall provide funds to such new center in accordance with the funding match requirements set forth in subparagraphs (i) and (ii) of paragraph (a) of this subdivision.

(2) In the event a previously designated center is redesignated in the same area of technology, which redesignation is effective for the tenth academic year following the first academic year of both designation and funding, then, in that year and in each year thereafter, the foundation

shall provide funds of up to seven hundred fifty thousand dollars to be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least two hundred percent.

(3) In the event a currently designated center is not selected in the redesignation process for an additional term, or upon a finding by the foundation that the area of advanced technology does not have significant potential for enhancing economic growth in New York, or upon a finding that the application of technologies in that area would not significantly enhance the productivity and stability of New York businesses, then the foundation shall, in the tenth academic year following such center's first both designation and funding, which year shall be the final year of funding for such center, provide an amount of up to five hundred thousand dollars.

[(b)] (C) Continued funding of the operations of each center shall be based upon a showing that: the center continues to comply with the criteria established by the foundation pursuant to paragraph (b) of subdivision two of this section; a demonstration of assistance to small businesses in New York state through research, technology transfer or other means as approved by the foundation; EVIDENCE OF PARTNERSHIPS WITH OTHER APPROPRIATE ENTITIES TO DEVELOP OUTREACH NETWORKS AND ENSURE THAT COMPANIES RECEIVE ACCESS TO APPROPRIATE FEDERAL FUNDING FOR TECHNOLOGY DEVELOPMENT AND COMMERCIALIZATION AS WELL AS NON-RESEARCH ASSISTANCE SUCH AS GENERAL BUSINESS CONSULTING. APPROPRIATE PARTNERS ARE THOSE WITH WHICH THE CENTER DEMONSTRATES A RELATIONSHIP THAT ENHANCES AND ADVANCES THE CENTER'S ABILITY TO AID ECONOMIC GROWTH IN NEW YORK STATE; AND compliance with the rules, regulations and guidelines of the foundation; and, compliance with any contracts between the foundation and the designated center.

[(c)] (D) Each center shall report on its activities to the foundation in a manner and according to the schedule established by the foundation, and shall provide such additional information as the foundation may require PROVIDED, THAT QUANTIFIABLE ECONOMIC DEVELOPMENT IMPACT MEASURES ARE NOT RESTRICTED TO ANY PERIOD LESS THAN FIVE YEARS AND THAT CENTERS PROVIDE A FULL DESCRIPTION OF ALL NON-QUANTIFIABLE MEASURES. The foundation shall evaluate center operations using methods such as site visits, reporting of specified information and peer review evaluations using experts in the field of technology in which the center was designated. The foundation shall notify each center of the results of its evaluations and findings of deficiencies in the operation of such center or its research, education, or technology [transfer] COMMERCIALIZATION activities and shall work with such centers to remedy such findings. If such factors are not remedied, the foundation may withdraw the state funding support, in whole or in part, or withdraw the center designation.

[(d)] (E) In order to encourage that the results of center research benefit New York state, designation and continued funding of each center shall be contingent upon each center's establishing within its licensing guidelines the following: after payment of the inventor's share, a reduced payment due to the university of any royalty, income or other consideration earned from the license or sale of intellectual property rights created or developed at, or through the use of, the facilities of the center by any person or entity if the manufacturing or use resulting from such intellectual property rights occurs within New York state. The foundation shall promulgate rules and regulations regarding the provisions of the licensing guidelines described herein as they apply to

such reduced payment, and such provisions shall be subject to the approval of the foundation.

S 3. Paragraph (a) of subdivision 6 of section 3102-b of the public authorities law, as added by chapter 828 of the laws of 1987 and such section as renumbered by chapter 291 of the laws of 1990, is amended to read as follows:

(a) The foundation shall make an annual report of the centers for advanced technology program to the governor and the legislature not later than September first of each year. Such report shall include, but not be limited to, the results of the foundation's evaluation of each center, a description of the achievement of each center, any deficiencies in the operation of each center or its research, education and technology [transfer] COMMERCIALIZATION activities, remedial actions recommended by the foundation, remedial actions taken by each center, a description of the small business assistance provided by each center, a description of any incentive grant program awarded a grant by the foundation and the achievements of such program, and the amount of financial assistance provided by the foundation and the level of matching funds provided by each center and the uses of such monies.

S 4. This act shall take effect immediately.