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

10399

I N A S S E M B L Y

May 25, 2012

Introduced by M. of A. KOLB -- read once and referred to the Committee on Economic Development

AN ACT to amend the economic development law, in relation to establishing the New York business incubator network; and to amend chapter 53 of the laws of 2012 appropriating money for aid to localities, in relation to providing additional funding for technology development organization matching grants

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

Section 1. Legislative intent. The legislature hereby recognizes that New York needs to support a statewide network of academic affiliated business incubators. The New York business incubator network is designed to accelerate the growth and success of entrepreneurial companies through an array of business support resources and services that include physical space, capital, coaching, common services, and networking connections. Start-up and early-stage businesses will be selected on a competitive basis to receive support under the program. Each business incubator will utilize a system of best practices as established by the division of science, technology and innovation to provide a cost effective approach to supporting start-up and early stage companies. Additional appropriation authority included in this bill will provide operational support for these incubators as well as increase funding for technology transfer officers and assist in the transition technological breakthroughs with commercial potential from the laboratory to the marketplace. This investment in university affiliated business incubators will support regional development and local economic diversification, job creation, and the retention of the state's vast resources of intellectual capital.

S 2. The economic development law is amended by adding a new section 361 to read as follows:

S 361. NEW YORK BUSINESS INCUBATOR NETWORK. THE COMMISSIONER, IN COOPERATION WITH THE DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION IS AUTHORIZED TO ACCEPT APPLICATIONS AND DESIGNATE INCUBATORS AS PART OF THE NEW YORK BUSINESS ACADEMIC INCUBATOR NETWORK. SUCH DESIGNATIONS

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

LBD15963-01-2

SHALL BE MADE IN ACCORDANCE WITH THE STANDARDS AND CRITERIA SET FORTH IN SUBDIVISION TWO OF THIS SECTION. INCUBATORS SO DESIGNATED SHALL BE ELIGIBLE FOR SUPPORT FROM THE URBAN DEVELOPMENT CORPORATION, AND FOR SUCH ADDITIONAL SUPPORT AS MAY OTHERWISE BE PROVIDED BY LAW.

1. AS USED IN THIS SECTION: (A) "INCUBATOR" MEANS AN ACADEMIC INCUBATOR FACILITY AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (E) OF SUBDIVISION TWELVE-G OF SECTION TWO HUNDRED TEN OF THE TAX LAW;

(B) "APPLICANT" MEANS A COLLEGE OR UNIVERSITY, OR COLLEGE OR UNIVERSITY-AFFILIATED RESEARCH INSTITUTE OR FOUNDATION PROVIDING A BASE FOR AN INCUBATOR; AND

(C) "DIVISION" MEANS THE DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION.

2. THE DIVISION SHALL:

(A) IDENTIFY GEOGRAPHIC AREAS WITH THE GREATEST POTENTIAL FOR GROWTH AND DEVELOPMENT IN NEW YORK STATE AND TECHNOLOGICAL AREAS THAT ARE RELATED TO THE ENHANCEMENT OF PRODUCTIVITY IN VARIOUS INDUSTRIES LOCATED THROUGHOUT NEW YORK STATE;

(B) AID IN THE ESTABLISHMENT OF INCUBATORS AT ACCREDITED UNIVERSITIES AND COLLEGES THROUGHOUT THE STATE TO THE EXTENT POSSIBLE IN AREAS WHERE THERE IS NOT ALREADY SIGNIFICANT SUPPORT FOR BUSINESS INCUBATION;

(C) PURSUANT TO THE STANDARDS ADHERING TO AN INCUBATOR, ESTABLISH CONGRUENT CRITERIA THAT APPLICANTS MUST SATISFY FOR DESIGNATION AS AN INCUBATOR FOR THE PURPOSES OF A DESIGNATION AS A MEMBER OF THE NETWORK, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

(I) AN ESTABLISHED RECORD OF, OR PLAN TO CONFORM TO, BEST PRACTICES INCLUDING CLEAR POLICIES FOR BUSINESS ENTRY AND GRADUATION;

(II) A COMPREHENSIVE SUITE OF ENTREPRENEURIAL MENTORING PRACTICES INCLUDING ADVISING, COACHING, PLANNING AND CONNECTING TO FUNDING SOURCES;

(III) THE CAPACITY TO SECURE SUBSTANTIAL PRIVATE AND OTHER NON-STATE GOVERNMENTAL FUNDING FOR THE PROPOSED INCUBATOR, NOT INCLUDING DIRECT SUPPORT FROM THE SPONSORING ACADEMIC INSTITUTION OR RELATED FOUNDATION, IN AMOUNTS AT LEAST EQUAL TO THE TOTAL OF SUPPORT SOUGHT FROM THE STATE OR ITS DIVISIONS;

(IV) THE ABILITY AND WILLINGNESS TO COOPERATE AND COORDINATE WITH SMALL BUSINESS DEVELOPMENT CENTERS AND WITH OTHER LOCAL, REGIONAL AND STATEWIDE ECONOMIC DEVELOPMENT ORGANIZATIONS, STATEWIDE BUSINESS INCUBATOR ASSOCIATIONS, BUSINESS SUPPORT NETWORKS, VENTURE AND ANGEL CAPITAL FUNDING SOURCES, AND WORKFORCE DEVELOPMENT ADVOCATES; AND

(V) THE CAPACITY TO COLLABORATE WITH BUSINESS AND INDUSTRY INDIVIDUALLY AND AS PART OF A STATEWIDE INCUBATOR ASSOCIATION;

(D) ESTABLISH SUCH REQUIREMENTS AS IT DEEMS APPROPRIATE FOR THE FORMAT, CONTENT AND FILING OF APPLICATIONS FOR DESIGNATION AS INCUBATORS;

(E) ESTABLISH SUCH PROCEDURES AS IT DEEMS APPROPRIATE FOR THE EVALUATION OF APPLICATIONS FOR DESIGNATION AS INCUBATORS, INCLUDING THE ESTABLISHMENT OF A REVIEW PANEL COMPOSED OF STATEWIDE RECOGNIZED EXPERTS IN BUSINESS INCUBATION; AND

(F) UPON THE APPROVAL OF AN APPLICATION BY THE COMMISSIONER, CONFER AN INCUBATOR DESIGNATION UPON A SUCCESSFUL APPLICANT UNLESS OTHERWISE REVOKED BY THE COMMISSIONER IN CONSULTATION WITH THE DIVISION.

3. THE COMMISSIONER SHALL APPROVE AND PROMULGATE RULES AND REGULATIONS FOR SELECTION OF INCUBATORS AND SHALL MAKE FINAL DESIGNATIONS REGARDING ALL MATTERS RELATING TO THE STATUS OF AN APPLICANT OR INCUBATOR.

4. (A) (I) FROM SUCH FUNDS AS MAY BE APPROPRIATED OR OTHERWISE AUTHORIZED FOR THIS PURPOSE BY THE LEGISLATURE, THE URBAN DEVELOPMENT CORPO-

RATION SHALL PROVIDE FINANCIAL SUPPORT, THROUGH CONTRACTS OR OTHER MEANS, TO ENHANCE AND ACCELERATE THE DEVELOPMENT OF SUCH INCUBATORS. FUNDS RECEIVED PURSUANT TO THIS SUBDIVISION MAY BE USED FOR PURCHASE OF EQUIPMENT AND FIXTURES, EMPLOYMENT OF TECHNOLOGY TRANSFER STAFF AND PROVISION OF INTERNSHIPS SERVING THE INCUBATOR, BUT NOT PRIMARILY SERVING AS EMPLOYEES OF MEMBER FIRMS LEASING SPACE IN AN INCUBATOR, AND OTHER PURPOSES APPROVED BY THE DIVISION, BUT MAY NOT BE USED FOR CAPITAL CONSTRUCTION OF REAL PROPERTY. PARTICIPATING BUSINESS INCUBATORS SHALL BE ELIGIBLE FOR COMPETITIVE GRANTS UP TO TWO HUNDRED THOUSAND ANNUALLY, IF MATCHED AT A RATE OF 1AGING BY PRIVATE INVESTMENT.

(II) BEGINNING IN THE FOURTH ACADEMIC YEAR FOLLOWING THE ACADEMIC YEAR IN WHICH AN INCUBATOR IS FIRST DESIGNATED, THE INCUBATOR SHALL PRESENT TO THE COMMISSIONER A BIANNUAL REPORT CATALOGING ITS REVENUE AND EXPENSES, THE NUMBER OF PRIVATE SECTOR FIRMS THAT HAVE LEASED SPACE IN THE INCUBATOR, THE NUMBER OF COMPANIES THAT HAVE GRADUATED FROM AN INCUBATOR, WHETHER SUCH GRADUATING COMPANIES HAVE REMAINED IN NEW YORK STATE, AND BEST ESTIMATES AS TO THE NUMBER OF FULL TIME EQUIVALENT POSITIONS CREATED BY INCUBATOR MEMBER COMPANIES AND THEIR SUCCESSORS FOR A PERIOD OF FIVE YEARS UPON GRADUATION. THE DIVISION SHALL EVALUATE SUCH INCUBATOR'S PERFORMANCE ACCORDING TO THE ABOVE LISTED CRITERIA, AND SHALL PRESENT ITS FINDINGS TO THE COMMISSIONER WHO SHALL MAKE A BINDING RECOMMENDATION WHETHER SUCH INCUBATOR SHALL RETAIN ITS STATUS AS A MEMBER OF THE NETWORK.

(III) THE DIVISION CAN RECOMMEND, SUBJECT TO THE APPROVAL OF THE COMMISSIONER, ADDITIONAL MEMBERS TO THE NETWORK ACCORDING TO THE CRITERIA ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION.

(B) ADDITIONAL FUNDING OF THE OPERATIONS OF EACH INCUBATOR RECIPIENT IN THE NETWORK SHALL BE BASED UPON A SHOWING THAT: THE INCUBATOR CONTINUES TO COMPLY WITH THE CRITERIA ESTABLISHED BY THE COMMISSIONER IN CONSULTATION WITH THE DIVISION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION; A DEMONSTRATION OF ASSISTANCE TO EMERGING BUSINESSES IN NEW YORK STATE; COMPLIANCE WITH THE RULES, REGULATIONS AND GUIDELINES OF THE URBAN DEVELOPMENT CORPORATION, IN PARTICULAR, AND THE DIVISION; AND COMPLIANCE WITH ANY CONTRACTS BETWEEN THE URBAN DEVELOPMENT CORPORATION AND THE DESIGNATED INCUBATOR.

(C) EACH INCUBATOR SHALL REPORT TO THE COMMISSIONER IN A MANNER AND ACCORDING TO THE SCHEDULE ESTABLISHED BY THE DIVISION, AND SHALL PROVIDE SUCH ADDITIONAL INFORMATION AS THE COMMISSIONER MAY REQUIRE. THE DIVISION SHALL EVALUATE INCUBATOR OPERATIONS USING METHODS SUCH AS SITE VISITS, REPORTING OF SPECIFIED INFORMATION AND REVIEW EVALUATIONS USING EXPERTS IN ENTREPRENEURIAL DEVELOPMENT. IF THE DIVISION IS UNSATISFIED WITH THE PROGRESS OF AN INCUBATOR MEMBER IT SHALL NOTIFY SUCH INCUBATOR OF THE RESULTS OF ITS EVALUATIONS AND FINDINGS OF DEFICIENCIES IN THE OPERATION OF SUCH INCUBATOR AND SHALL ALLOW AND COOPERATE WITH SUCH INCUBATORS TO REMEDY SUCH FINDINGS IN A TIMELY MANNER. IF SUCH FACTORS ARE NOT REMEDIED, THE COMMISSIONER MAY WITHDRAW THE STATE FUNDING SUPPORT, IN PART UNTIL SUCH DEFICIENCIES ARE REMEDIED, OR IN WHOLE IMMEDIATELY FOLLOWING THE WITHDRAWAL OF AN INCUBATOR NETWORK DESIGNATION.

5. BEGINNING NO LATER THAN THE END OF THE FOURTH YEAR OF THE FORMATION OF THE NETWORK, THE COMMISSIONER SHALL MAKE A BIANNUAL REPORT OF THE INCUBATOR NETWORK PROGRAM TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE LEGISLATIVE COMMITTEES ON ECONOMIC DEVELOPMENT AND TO THE FISCAL COMMITTEES NOT LATER THAN DECEMBER THIRTY-FIRST OF EACH ENUMERATED YEAR. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, A LIST OF IMMEDIATE PAST AND ACTIVE TENANTS OF THE

INCUBATORS IN THE NETWORK, THE RESULTS OF THE DIVISION'S EVALUATION OF EACH INCUBATOR, A DESCRIPTION OF THE ACHIEVEMENTS OF EACH INCUBATOR, ANY DEFICIENCIES IN THE OPERATION OF EACH INCUBATOR, REMEDIAL ACTIONS RECOMMENDED BY THE DIVISION, REMEDIAL ACTIONS TAKEN BY THE INCUBATOR, A DESCRIPTION OF BUSINESS ASSISTANCE PROVIDED BY EACH INCUBATOR, A DESCRIPTION OF ANY EXTERNAL FUNDING ATTRACTED BY THE INCUBATOR, PARTNERSHIPS ENTERED INTO BY THE INCUBATOR, THE AMOUNT OF FINANCIAL ASSISTANCE PROVIDED BY THE STATE, INCLUDING THE URBAN DEVELOPMENT CORPORATION, AND THE LEVEL OF MATCHING FUNDS PROVIDED EACH INCUBATOR, AND A DESCRIPTION OF THE USE OF SUCH MONIES TO THE EXTENT THAT SUCH DISCLOSURE DOES NOT COMPROMISE GENERALLY ACCEPTED BUSINESS CONFIDENTIALITY STANDARDS.

S 3. Section 1 of chapter 53 of the laws of 2012, enacting the aid to localities budget, is amended by repealing the items herein below set forth in brackets and by adding to such section the items underscored in this section.

DEPARTMENT OF ECONOMIC DEVELOPMENT
AID TO LOCALITIES 2012-13

HIGH TECHNOLOGY PROGRAM

General Fund
Local Assistance Account

Technology development organization matching grants, to be awarded on a competitive basis in accordance with the provisions of section 3102-d of the public authorities law. Notwithstanding any inconsistent provision of law, the director of the budget may suballocate up to the full amount of this appropriation to any department, agency or authority. No funds shall be expended from this appropriation until the director of the budget has approved a spending plan .. [1,382,000]	3,382,000

S 4. This act shall take effect immediately.