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

3512

2011-2012 Regular Sessions

I N S E N A T E

February 24, 2011

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

AN ACT to amend the public authorities law, in relation to the New York incubator network

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 supporting a statewide network of university affiliated business incubators, selected on a competitive basis that maintain not only physical facilities but also most current industry best practice business development services is a cost effective approach to supporting start-up and early stage companies and helping the state's creative entrepreneurs successfully 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 public authorities law is amended by adding a new section 3102-h to read as follows:

S 3102-H. NEW YORK INCUBATOR NETWORK. THE FOUNDATION IS AUTHORIZED TO DESIGNATE TEN INCUBATORS AS PART OF THE NEW YORK INCUBATOR NETWORK. SUCH DESIGNATIONS SHALL BE MADE IN ACCORDANCE WITH THE STANDARDS AND CRITERIA SET FORTH IN SUBDIVISION TWO OF THIS SECTION AND WILL LAST FOR A PERIOD OF FIVE YEARS. INCUBATORS SO DESIGNATED SHALL BE ELIGIBLE FOR SUPPORT FROM THE FOUNDATION IN THE MANNER PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION, AND FOR SUCH ADDITIONAL SUPPORT AS MAY OTHERWISE BE PROVIDED BY LAW.

1. AS USED IN THIS SECTION: (A) "INCUBATOR" OR "INCUBATE" MEANS A UNIVERSITY OR UNIVERSITY-AFFILIATED RESEARCH INSTITUTE OR A CONSORTIUM OF SUCH INSTITUTIONS, DESIGNATED BY THE FOUNDATION, WHICH PROVIDES

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

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SERVICES AND FACILITIES TO ENTREPRENEURS DURING THE START-UP PHASE OF THEIR COMPANY LIFE-CYCLE.

(B) "APPLICANT" MEANS A UNIVERSITY, A UNIVERSITY-AFFILIATED RESEARCH INSTITUTE OR INDEPENDENT NOT-FOR-PROFIT INCUBATOR ESTABLISHED FOR THE PURPOSE OF DEVELOPMENT OF ENTREPRENEURIAL COMPANIES THROUGH PROVIDING BUSINESS SUPPORT RESOURCES FOR ENTREPRENEURS DURING THE START-UP PERIOD.

2. THE FOUNDATION SHALL:

(A) IDENTIFY AREAS FOR WHICH INCUBATORS SHOULD BE DESIGNATED INCLUDING AREAS THAT ARE RELATED TO INDUSTRIES WITH SIGNIFICANT POTENTIAL FOR ECONOMIC GROWTH AND DEVELOPMENT IN NEW YORK STATE AND TECHNOLOGICAL AREAS THAT ARE RELATED TO THE ENHANCEMENT OF PRODUCTIVITY IN VARIOUS INDUSTRIES LOCATED IN NEW YORK STATE.

(B) LOCATE INCUBATORS, IN EACH OF THE TEN ECONOMIC DEVELOPMENT REGIONS TO THE EXTENT POSSIBLE IN AREAS WHERE THERE IS NOT ALREADY SIGNIFICANT SUPPORT FOR BUSINESS INCUBATION.

(C) ESTABLISH CRITERIA THAT APPLICANTS MUST SATISFY FOR DESIGNATION AS AN INCUBATOR, 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 GOVERNMENTAL FUNDING FOR THE PROPOSED INCUBATOR, IN AMOUNTS AT LEAST EQUAL TO THE TOTAL OF SUPPORT SOUGHT FROM THE STATE;

(IV) THE ABILITY AND WILLINGNESS TO COOPERATE WITH OTHER LOCAL, REGIONAL AND STATEWIDE ECONOMIC DEVELOPMENT, BUSINESS SUPPORT, VENTURES, CAPITAL, WORKFORCE AND OTHER PARTNERS;

(V) THE CAPACITY TO COLLABORATE WITH BUSINESS AND INDUSTRY.

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

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

(F) UPON THE APPROVAL OF AN APPLICATION, CONFER AN INCUBATOR DESIGNATION UPON A SUCCESSFUL APPLICANT FOR A PERIOD OF FIVE YEARS, UNLESS OTHERWISE REVOKED BY THE FOUNDATION.

(G) THE FOUNDATION BOARD SHALL APPROVE RULES AND REGULATIONS FOR SELECTION OF INCUBATORS AND SHALL MAKE FINAL DESIGNATIONS THROUGH VOTE OF MAJORITY OF APPOINTED MEMBERS OF THE FOUNDATION BOARD.

3. (A) FROM SUCH FUNDS AS MAY BE APPROPRIATED FOR THIS PURPOSE BY THE LEGISLATURE, THE FOUNDATION SHALL PROVIDE FINANCIAL SUPPORT, THROUGH CONTRACTS OR OTHER MEANS, TO DESIGNATED INCUBATORS FOR ENTREPRENEURIAL DEVELOPMENT, IN ORDER 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 DIRECT SERVICE STAFF, PROVISION OF INTERNSHIPS, 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 AN INCUBATOR SHALL BE MATCHED BY COMMITMENTS OF SUPPORT FROM PRIVATE AND GOVERNMENTAL SOURCES OTHER THAN STATE SOURCES.

(I) BEGINNING IN THE FOURTH ACADEMIC YEAR FOLLOWING THE ACADEMIC YEAR IN WHICH AN INCUBATOR IS FIRST DESIGNATED, THE FOUNDATION SHALL EVALUATE ITS PERFORMANCE.

(II) THE FOUNDATION WILL INITIATE A REDESIGNATION PROCESS IN ACCORDANCE WITH THE STANDARDS AND CRITERIA SET FORTH IN PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION AND IN ACCORDANCE WITH PARAGRAPHS (C) AND (D) OF SUBDIVISION TWO OF THIS SECTION.

(III) IN YEAR FIVE THE FOUNDATION MAY DESIGNATE, SUBJECT TO AVAILABLE APPROPRIATIONS, ADDITIONAL INCUBATORS.

IN THE EVENT A NEW INCUBATOR IS SELECTED IN THE REDESIGNATION PROCESS, THE FOUNDATION SHALL PROVIDE FUNDS TO SUCH NEW INCUBATOR IN ACCORDANCE WITH THE FUNDING MATCH REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH.

(B) CONTINUED FUNDING OF THE OPERATIONS OF EACH INCUBATOR 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 EMERGING BUSINESSES IN NEW YORK STATE; COMPLIANCE WITH THE RULES, REGULATIONS AND GUIDELINES OF THE FOUNDATION; AND COMPLIANCE WITH ANY CONTRACTS BETWEEN THE FOUNDATION AND THE DESIGNATED INCUBATOR.

(C) EACH INCUBATOR SHALL REPORT ON ITS ACTIVITIES TO THE FOUNDATION BOARD IN A MANNER AND ACCORDING TO THE SCHEDULE ESTABLISHED BY THE FOUNDATION, AND SHALL PROVIDE SUCH ADDITIONAL INFORMATION AS THE FOUNDATION MAY REQUIRE. THE FOUNDATION SHALL EVALUATE INCUBATOR OPERATIONS USING METHODS SUCH AS SITE VISITS, REPORTING OF SPECIFIED INFORMATION AND REVIEW EVALUATIONS USING EXPERTS IN ENTREPRENEURIAL DEVELOPMENT. THE FOUNDATION SHALL NOTIFY EACH INCUBATOR OF THE RESULTS OF ITS EVALUATIONS AND FINDINGS OF DEFICIENCIES IN THE OPERATION OF SUCH INCUBATOR AND SHALL WORK WITH SUCH INCUBATORS 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 INCUBATOR DESIGNATION.

4. THE FOUNDATION SHALL MAKE AN ANNUAL REPORT OF THE INCUBATORS FOR ENTREPRENEURIAL DEVELOPMENT PROGRAM TO THE GOVERNOR AND THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE LEGISLATIVE COMMITTEES ON ECONOMIC DEVELOPMENT AND TO THE FISCAL COMMITTEES NOT LATER THAN DECEMBER THIRTY-FIRST OF EACH YEAR. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, A LIST OF ACTIVE TENANTS, THE RESULTS OF THE FOUNDATION'S EVALUATION OF EACH INCUBATOR, A DESCRIPTION OF THE ACHIEVEMENTS OF EACH INCUBATOR, A COMPLETE FINANCIAL STATEMENT OF THE CORPORATION, ANY DEFICIENCIES IN THE OPERATION OF EACH INCUBATOR, REMEDIAL ACTIONS RECOMMENDED BY THE FOUNDATION, 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 FOUNDATION AND THE LEVEL OF MATCHING FUNDS PROVIDED EACH INCUBATOR AND A DESCRIPTION OF THE USE OF SUCH MONIES.

S 3. This act shall take effect immediately.