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I N A S S E M B L Y

February 28, 2012

Introduced by M. of A. McENENY, REILLY, MAGNARELLI, SWEENEY, GALEF, SCHIMEL, ZEBROWSKI, ORTIZ -- Multi-Sponsored by -- M. of A. ABBATE, BARCLAY, BOYLAND, BURLING, CAHILL, CALHOUN, CASTRO, CERETTO, COLTON, CONTE, COOK, CROUCH, CURRAN, DUPREY, ESPINAL, FINCH, GIGLIO, GOTTFRIED, GRAF, GUNTHER, HAWLEY, JOHNS, KELLNER, LAVINE, LINARES, P. LOPEZ, LUPARDO, MAGEE, McKEVITT, McLAUGHLIN, MILLMAN, MONTESANO, OAKS, PEOPLES-STOKES, RA, RAIA, P. RIVERA, ROBERTS, SALADINO, SAYWARD, SCARBOROUGH, SCHIMMINGER, SIMANOWITZ, STEVENSON, THIELE, TITONE, WEISENBERG -- read once and referred to the Committee on Veterans' 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 racing, pari-mutuel wagering and breeding law, the general municipal law, the banking 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

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

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1 state procurement practices relating to minority, SERVICE CONNECTED
2 DISABLED VETERANS and women-owned business enterprises;

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

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

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

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

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

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

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

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

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

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

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

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

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

54 (I) THE INDIVIDUAL IN QUESTION WAS A RECIPIENT OF THE ARMED FORCES
55 EXPEDITIONARY MEDAL, THE NAVY EXPEDITIONARY MEDAL OR THE MARINE CORPS
56 EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATIONS IN LEBANON FROM JUNE

FIRST, NINETEEN HUNDRED EIGHTY-THREE TO DECEMBER FIRST, NINETEEN HUNDRED EIGHTY-SEVEN, IN GRENADA FROM OCTOBER TWENTY-THIRD, NINETEEN HUNDRED EIGHTY-THREE TO NOVEMBER TWENTY-FIRST, NINETEEN HUNDRED EIGHTY-THREE, OR IN PANAMA FROM DECEMBER TWENTIETH, NINETEEN HUNDRED EIGHTY-NINE TO JANUARY THIRTY-FIRST, NINETEEN HUNDRED NINETY; OR

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

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

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

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

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

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

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

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

(8) IN THE PERSIAN GULF CONFLICT FROM THE SECOND DAY OF AUGUST, NINETEEN HUNDRED NINETY TO THE END OF SUCH CONFLICT.

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

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

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

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

(e) on January first of each year report to the governor and the chairpersons of the senate finance and assembly ways and means commit-

tees on the level of minority, SERVICE CONNECTED DISABLED VETERAN and 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 1-a. The director shall ensure that each state agency has been
2 provided with a copy of the two thousand ten disparity study.

3 1-b. Each agency shall develop and adopt agency-specific goals based
4 on the findings of the two thousand ten disparity study.

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

17 2-a. The director shall promulgate rules and regulations that will
18 accomplish the following:

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

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

27 (i) the potential subcontract opportunities available in the prime
28 procurement contract; and

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

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

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

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

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

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

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

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

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

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

36 (b) implement a program that will enable the agency to evaluate each
37 contract to determine the appropriateness of the goal pursuant to subdi-
38 vision one of this section;

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

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

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

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

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

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

1 except election causes, and shall be heard and determined in preference
2 to all other civil business pending therein, except election matters,
3 irrespective of position on the calendar. Appeals taken to the court of
4 appeals of the state of New York shall be subject to the same prefer-
5 ence.

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

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

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

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

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

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

51 8. In the event that a contracting agency fails or refuses to issue a
52 waiver to a contractor as requested within twenty days after having made
53 application therefor pursuant to subdivision six of this section or if
54 the contracting agency denies such application, in whole or in part, the
55 contractor may file a complaint with the director pursuant to section
56 three hundred sixteen of this article setting forth the facts and

1 circumstances giving rise to the contractor's complaint together with a
2 demand for relief. The contractor shall serve a copy of such complaint
3 upon the contracting agency by personal service or by certified mail,
4 return receipt requested. The contracting agency shall be afforded an
5 opportunity to respond to such complaint in writing.

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

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

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

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

55 S 136-b. Selection of underwriters by state agencies. Whenever a state
56 agency, as defined in article fifteen-A of the executive law, sells its

bonds, notes or other securities at a private sale, in selecting one or more underwriters to purchase such securities the state agency shall consider, among other things, the participation of firms certified pursuant to such article as minority, SERVICE CONNECTED DISABLED VETERAN or women-owned firms and the ability of other firms under consideration to work with minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises so as to promote and assist participation by such enterprises.

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

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

(d) adopt policies to promote the participation by New York state business enterprises and New York state residents in procurement contracts, with the cooperation of the department of economic development and the community services division of the department of labor including, but not limited to, providing through cooperative efforts with contractors for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts in an amount estimated to be equal to or greater than one million dollars and for the notification of New York state residents of employment opportunities arising in New York state out of procurement contracts in an amount estimated to be equal to or greater than one million dollars; and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract, such contractors shall document their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has [(a)] (I) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business, or [(b)] (II) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or [(c)] (III) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York state, or [(d)] (IV) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent. Such contractors shall also provide notification to New York state residents of employment opportunities through listing any such positions with the community services division, or providing for such notification in such manner as is consistent with existing collective bargaining contracts or

1 agreements. On or before the effective date of this section, each state
2 agency or department shall submit such policies to the division of the
3 budget and copies thereof to the department of audit and control, the
4 department of economic development, the senate finance committee and the
5 assembly ways and means committee.

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

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

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

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

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

43 S 11. Subdivision 1 of section 218 of the state finance law, as
44 amended by chapter 424 of the laws of 2009, is amended to read as
45 follows:

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

1 section two hundred thirteen of this article or to a defense industry
2 manufacturer for a project defined in paragraph (d) of subdivision
3 twelve of section two hundred thirteen of this article shall bear inter-
4 est at a fixed rate equal to three percentage points below the fixed
5 interest rate the lender would have charged for the loan in the absence
6 of a linked deposit based on its usual credit considerations. All other
7 linked loans shall bear interest at a fixed rate equal to two percentage
8 points below the fixed interest rate the lender would have charged for
9 the loan in the absence of a linked deposit based on its usual credit
10 considerations. Lenders shall certify to the commissioner of economic
11 development that the rate to be charged on a linked loan is two percent-
12 age points or three percentage points, as the case may be, below the
13 interest rate the lender would have charged for the loan in the absence
14 of a linked deposit.

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

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

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

41 (ii) In order to implement the requirements and objectives of this
42 section, the council shall request, as appropriate, the assistance of
43 other state agencies to monitor the contractors' compliance with
44 provisions hereof, provide assistance in obtaining competing qualified
45 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business
46 enterprises to perform contracts proposed to be awarded, and take other
47 appropriate measures to improve the access of minority, SERVICE
48 CONNECTED DISABLED VETERAN and women-owned business enterprises to these
49 contracts.

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

52 2. "Technical assistance" shall mean assistance and services designed
53 to improve the efficiency, effectiveness and viability of a minority,
54 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise,
55 including, but not limited to, management assistance, problem solving,
56 the development of business and marketing plans, market analysis, finan-

cial 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 state on economic development programs administered by agencies other than the department, including, but not limited to programs administered

by the urban development corporation, the job development authority and the science and technology foundation;

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

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

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

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

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

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

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

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

(g) providing information concerning local and regional opportunities for minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises.

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

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

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

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

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

(b) to provide outreach to businesses, with attention to small and medium-sized businesses, including minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises, for financial and technical assistance offered by state economic development agencies, authorities, or other economic entities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 S 22. Subparagraph (i) of paragraph (b), the opening paragraph of
52 paragraph (c), paragraphs (f), (g), (h), (i) and (j), and subparagraphs
53 (ii) and (iii) of paragraph (n) of subdivision 3 and subdivision 6 of
54 section 2879 of the public authorities law, subparagraph (i) of para-
55 graph (b) of subdivision 3 and subdivision 6 as amended, paragraphs (f),
56 (g), (h), (i) and (j) as added and paragraph (n) of subdivision 3 as

relettered by chapter 174 of the laws of 2010, the opening paragraph of paragraph (c) of subdivision 3 as amended by chapter 564 of the laws of 1988, subparagraphs (ii) and (iii) of paragraph (n) of subdivision 3 as amended by chapter 531 of the laws of 1993, are amended and a new paragraph (e-1) is added to subdivision 3 to read as follows:

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

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

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

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

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

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

prises 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 S 27. Paragraphs (iii) and (xii) of subdivision (a) of section 963 of
56 the general municipal law, as amended by chapter 708 of the laws of 1993

1 and as further amended by section 15 of part GG of chapter 63 of the
2 laws of 2000 and such subdivision as relettered by section 7 of part S-1
3 of chapter 57 of the laws of 2009, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1 the authority to independently control the day to day business decisions
2 of the entity for at least one year.

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

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

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

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

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

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

1 the case of a publicly owned business, at least fifty-one per centum of
2 the stock of which is owned by citizens or permanent resident aliens who
3 are women, and such ownership interest is real, substantial and continu-
4 ing and have the authority to independently control the day to day busi-
5 ness decisions of the entity for at least one year.

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

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

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

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

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

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

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

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

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

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

53 (i) "minority-owned business enterprise" or "minority-owned business"
54 shall mean the same as "minority business enterprise" as defined in
55 subdivision [three] 3 of section [two hundred ten] 210 of the economic
56 development law.

1 (ii) "women-owned business enterprise" or "women-owned business" shall
2 mean the same as "women-owned business enterprise" as defined in subdi-
3 vision [five] 5 of section [two hundred ten] 210 of the economic devel-
4 opment law.

5 (iii) "SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE" SHALL
6 MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECU-
7 TIVE LAW.

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

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

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

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

17 (iii) residential construction, renovation or development
18 construction, except for assistance to minority, SERVICE CONNECTED DISA-
19 BLED VETERAN and women contractors under subdivision four of this
20 section;

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

23 (v) hospitals or residential health care facilities;

24 (vi) overnight lodging facilities;

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

27 (d) The corporation is authorized to:

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

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

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

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

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

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

50 (vii) establish a comprehensive technical assistance program in coop-
51 eration with the department of economic development to assist [minori-
52 ty-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
53 nesses and potential minority, SERVICE CONNECTED DISABLED VETERAN and
54 women-entrepreneurs.

55 (2) Minority, SERVICE CONNECTED DISABLED VETERAN and women revolving
56 loan trust fund. For the purpose of establishing programs in conjunction

1 with locally and community based entities to decentralize lending for
2 small loans and loans to start up [minority-] MINORITY, SERVICE
3 CONNECTED DISABLED VETERAN and women-owned businesses, the corporation
4 shall establish minority, SERVICE CONNECTED DISABLED VETERAN and women
5 revolving loan trust fund accounts and related administrative expenses
6 trust fund accounts.

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

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

15 (ii) community-based local development corporations or industrial
16 development agencies that serve a municipality in which an empire zone
17 has been established pursuant to article [eighteen-B] 18-B of the gener-
18 al municipal law and have as their primary purpose assistance to [minor-
19 ity-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
20 nesses located or to be located in such empire zone; or

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

24 (b) To be eligible to administer a minority, SERVICE CONNECTED DISA-
25 BLED VETERAN and women revolving loan trust fund account, the entity
26 must also: (i) have staff with sufficient expertise to analyze applica-
27 tions for financial assistance, to regularly monitor financial assist-
28 ance to clients, and to provide management or technical assistance to
29 clients; and (ii) have established a loan committee composed of six or
30 more persons experienced in business management, commercial lending or
31 in the operation of a for-profit business, at least one-half of whom
32 shall be experienced in commercial lending, at least one-third of whom
33 shall be minority persons and at least one-third of whom shall be women.
34 Such loan committee shall review every application, determine the feasi-
35 bility of the proposed project and the likelihood of repayment of the
36 requested financing and shall recommend to the governing body of the
37 entity such action on the application as the loan committee deems appro-
38 priate. The corporation shall identify entities eligible to administer
39 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan
40 trust fund accounts through a competitive statewide request for proposal
41 process.

42 (c) Any entity selected to administer a minority, SERVICE CONNECTED
43 DISABLED VETERAN and women revolving loan trust fund account shall be
44 eligible to draw funds from the account as needed to provide the follow-
45 ing types of financial assistance to [minority-] MINORITY, SERVICE
46 CONNECTED DISABLED VETERAN and women-owned businesses upon certification
47 to and acceptance by the corporation that such assistance complies with
48 rules and regulations promulgated by the corporation: (i) working capi-
49 tal loans, provided that the amount of the loan does not exceed thirty-
50 five thousand dollars and the term of the loan does not exceed five
51 years; and (ii) loans for the acquisition and/or improvement of real
52 property and for the acquisition of machinery and equipment provided
53 that the amount of the loan does not exceed fifty thousand dollars and
54 the term of the loan does not exceed the useful life of the equipment or
55 property.

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

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

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

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

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

(C) repayments of interest on loans made from the corresponding minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund account.

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

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

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

(f) The provisions of subdivisions eight, nine, and fourteen through nineteen of section sixteen-a of this act pertaining to the regional revolving loan trust fund shall also be applicable to the minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund,

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

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

(h) Notwithstanding any provision of law to the contrary, the corporation shall establish a minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund to pay into such fund any moneys made available to the corporation for such fund from any source, including moneys appropriated by the state and any income earned by, or increment to, the account due to the investment thereof, or any repayment of moneys advanced from the fund. The corporation shall not commingle the moneys of such fund with any moneys held in trust by the corporation, except for investment purposes.

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

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

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

(4) Minority, SERVICE CONNECTED DISABLED VETERAN and women contracting program. For the purpose of establishing a comprehensive program to assist minority, SERVICE CONNECTED DISABLED VETERAN and women contractors, the corporation may provide loans, loan guarantees, technical assistance and bonding assistance, the corporation may enter into cooperative agreements with cities, counties, municipalities, authorities, agencies, federally and state chartered credit unions in New York state and federally insured banking organizations and financial institutions for such purposes.

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

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

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

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

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

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

(a) Business development loans and loan guarantees pursuant to subdivision six of this section to eligible enterprises for the acquisition or improvement of real property, machinery, equipment or working capital, provided that to be eligible for a business development loan, the borrowers must have been in business for at least three years and provided that the loans must be in an amount equal to or in excess of fifty thousand dollars;

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

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

(6) Deposits and loan guarantees. For the purpose of encouraging private financial institutions to make loans to eligible enterprises pursuant to this section for any of the eligible projects pursuant to subdivisions four and five of this section, the corporation is authorized to:

1 (a) Make linked deposits of funds into federally and state chartered
2 credit unions in New York state, in order to encourage such organiza-
3 tions to make small loans to minority, SERVICE CONNECTED DISABLED VETER-
4 AN and women-owned businesses; and

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

17 (7) Minority, SERVICE CONNECTED DISABLED VETERAN and women small busi-
18 ness incubator program.

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

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

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

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

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

48 (i) public or private support and involvement sufficient to complete
49 the renovation of existing facilities or the construction of new facili-
50 ties and the acquisition of equipment;

51 (ii) significant community support for the project;

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

53 (iv) demand for such incubator space, which may include evidence of
54 the unavailability of suitable space for prospective tenants at appro-
55 priate rental or lease costs in the community in which such prospective
56 tenants are located; and

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

3 (f) The corporation shall establish criteria for eligibility for fund-
4 ing for incubator projects, including but not limited to the following:

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

8 (ii) the project sponsors must provide a management plan and a busi-
9 ness plan for operating the incubator satisfactory to the corporation;
10 and

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

16 (8) [Minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and
17 women-owned business technical assistance program. (a) The corporation
18 shall establish a comprehensive technical assistance program within the
19 minority, SERVICE CONNECTED DISABLED VETERAN and women business develop-
20 ment office, in cooperation with the department of economic develop-
21 ment's division of [minority-] MINORITY, SERVICE CONNECTED DISABLED
22 VETERAN and women-business development established pursuant to article
23 [four-A] 4-A of the economic development law, to provide technical
24 assistance to [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN
25 and women-owned business enterprises and to prospective [minority-]
26 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-business entre-
27 preneurs through third party service providers, which assistance shall
28 include, but not be limited to:

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

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

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

37 (iv) referrals to other providers of technical assistance to [minori-
38 ty-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned busi-
39 nesses and minority, SERVICE CONNECTED DISABLED VETERAN and women entre-
40 preneurs, where appropriate, including the entrepreneurial assistance
41 program established pursuant to article [nine] 9 of the economic devel-
42 opment law; and

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

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

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

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

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

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

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

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

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

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

S 36. Subparagraphs (viii) and (x) of paragraph (e) of subdivision 7 of section 16-d 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, are amended to read as follows:

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

(x) business planning, management assistance and counseling, and financial packaging assistance to small and medium-sized industrial firms, including [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses, flexible manufacturing networks, and new enterprises and small businesses, including the establishment of neighborhood-based business service centers designed to deliver comprehensive technical assistance to new and small businesses in specific communities and neighborhoods;

S 37. Clause (B) of subparagraph (i) of paragraph (h) of subdivision 8 of section 16-d 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 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

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

S 38. Subparagraph (vi) of paragraph (c) of subdivision 10 of section 16-e 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, is amended to read as follows:

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

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

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

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

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

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

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

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

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

51 (g) Assistance to local or regional organizations to facilitate
52 financing for small- and medium-sized business, including [minority-]
53 MINORITY, SERVICE CONNECTED DISABLED VETERAN and women-owned business
54 enterprises through flexible financing programs, including, but not
55 limited to, loan loss reserve and revolving loan programs, working capi-

tal 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 insured banking organizations to small business [and], minority-owned,

1 SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enter-
2 prises, shall be used to:

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

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

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

25 S 46. This act shall take effect immediately; provided, however, that
26 the amendments to article 15-A of the executive law made by sections
27 three through seven of this act shall not affect the expiration of such
28 article and shall be deemed to expire therewith; and provided, further
29 that the amendments to section 136-b of the state finance law made by
30 section eight of this act shall not affect the expiration of such
31 section and shall be deemed to expire therewith.