

3512

2011-2012 Regular Sessions

I N S E N A T E

February 24, 2011

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

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

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

1 Section 1. Legislative Intent. The legislature hereby recognizes that
2 supporting a statewide network of university affiliated business incuba-
3 tors, selected on a competitive basis that maintain not only physical
4 facilities but also most current industry best practice business devel-
5 opment services is a cost effective approach to supporting start-up and
6 early stage companies and helping the state's creative entrepreneurs
7 successfully transition technological breakthroughs with commercial
8 potential from the laboratory to the marketplace. This investment in
9 university affiliated business incubators will support regional develop-
10 ment and local economic diversification, job creation, and the retention
11 of the state's vast resources of intellectual capital.

12 S 2. The public authorities law is amended by adding a new section
13 3102-h to read as follows:

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

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

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

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

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

7 2. THE FOUNDATION SHALL:

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

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

16 (C) ESTABLISH CRITERIA THAT APPLICANTS MUST SATISFY FOR DESIGNATION AS
17 AN INCUBATOR, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

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

20 (II) A COMPREHENSIVE SUITE OF ENTREPRENEURIAL MENTORING PRACTICES
21 INCLUDING ADVISING, COACHING, PLANNING AND CONNECTING TO FUNDING SOURC-
22 ES;

23 (III) THE CAPACITY TO SECURE SUBSTANTIAL PRIVATE AND OTHER GOVERN-
24 MENTAL FUNDING FOR THE PROPOSED INCUBATOR, IN AMOUNTS AT LEAST EQUAL TO
25 THE TOTAL OF SUPPORT SOUGHT FROM THE STATE;

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

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

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

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

37 (F) UPON THE APPROVAL OF AN APPLICATION, CONFER AN INCUBATOR DESIG-
38 NATION UPON A SUCCESSFUL APPLICANT FOR A PERIOD OF FIVE YEARS, UNLESS
39 OTHERWISE REVOKED BY THE FOUNDATION.

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

43 3. (A) FROM SUCH FUNDS AS MAY BE APPROPRIATED FOR THIS PURPOSE BY THE
44 LEGISLATURE, THE FOUNDATION SHALL PROVIDE FINANCIAL SUPPORT, THROUGH
45 CONTRACTS OR OTHER MEANS, TO DESIGNATED INCUBATORS FOR ENTREPRENEURIAL
46 DEVELOPMENT, IN ORDER TO ENHANCE AND ACCELERATE THE DEVELOPMENT OF SUCH
47 INCUBATORS. FUNDS RECEIVED PURSUANT TO THIS SUBDIVISION MAY BE USED FOR
48 PURCHASE OF EQUIPMENT AND FIXTURES, EMPLOYMENT OF DIRECT SERVICE STAFF,
49 PROVISION OF INTERNSHIPS, AND OTHER PURPOSES APPROVED BY THE FOUNDATION,
50 BUT MAY NOT BE USED FOR CAPITAL CONSTRUCTION. IN EACH CASE, THE AMOUNT
51 PROVIDED BY THE FOUNDATION TO AN INCUBATOR SHALL BE MATCHED BY COMMIT-
52 MENTS OF SUPPORT FROM PRIVATE AND GOVERNMENTAL SOURCES OTHER THAN STATE
53 SOURCES.

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

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

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

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

(B) CONTINUED FUNDING OF THE OPERATIONS OF EACH INCUBATOR SHALL BE BASED UPON A SHOWING THAT: THE CENTER CONTINUES TO COMPLY WITH THE CRITERIA ESTABLISHED BY THE FOUNDATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION; A DEMONSTRATION OF ASSISTANCE TO EMERGING BUSINESSES IN NEW YORK STATE; COMPLIANCE WITH THE RULES, REGULATIONS AND GUIDELINES OF THE FOUNDATION; AND COMPLIANCE WITH ANY CONTRACTS BETWEEN THE FOUNDATION AND THE DESIGNATED INCUBATOR.

(C) EACH INCUBATOR SHALL REPORT ON ITS ACTIVITIES TO THE FOUNDATION BOARD IN A MANNER AND ACCORDING TO THE SCHEDULE ESTABLISHED BY THE FOUNDATION, AND SHALL PROVIDE SUCH ADDITIONAL INFORMATION AS THE FOUNDATION MAY REQUIRE. THE FOUNDATION SHALL EVALUATE INCUBATOR OPERATIONS USING METHODS SUCH AS SITE VISITS, REPORTING OF SPECIFIED INFORMATION AND REVIEW EVALUATIONS USING EXPERTS IN ENTREPRENEURIAL DEVELOPMENT. THE FOUNDATION SHALL NOTIFY EACH INCUBATOR OF THE RESULTS OF ITS EVALUATIONS AND FINDINGS OF DEFICIENCIES IN THE OPERATION OF SUCH INCUBATOR AND SHALL WORK WITH SUCH INCUBATORS TO REMEDY SUCH FINDINGS. IF SUCH FACTORS ARE NOT REMEDIED, THE FOUNDATION MAY WITHDRAW THE STATE FUNDING SUPPORT, IN WHOLE OR IN PART, OR WITHDRAW THE INCUBATOR DESIGNATION.

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

S 3. This act shall take effect immediately.