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I N   S E N A T E

March 26, 2012

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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  
15    state procurement practices relating to minority, SERVICE CONNECTED  
16    DISABLED VETERANS and women-owned business enterprises;  
17    7. Review and consult with the director of minority and women's busi-  
18    ness development regarding policies relating to minority, SERVICE  
19    CONNECTED DISABLED VETERANS and women-owned business enterprise contract  
20    specialists at state agencies; and

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

LBD14305-01-2

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

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

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

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

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

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

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

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

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

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

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

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

48 (I) THE INDIVIDUAL IN QUESTION WAS A RECIPIENT OF THE ARMED FORCES  
49 EXPEDITIONARY MEDAL, THE NAVY EXPEDITIONARY MEDAL OR THE MARINE CORPS  
50 EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATIONS IN LEBANON FROM JUNE  
51 FIRST, NINETEEN HUNDRED EIGHTY-THREE TO DECEMBER FIRST, NINETEEN HUNDRED  
52 EIGHTY-SEVEN, IN GRENADA FROM OCTOBER TWENTY-THIRD, NINETEEN HUNDRED  
53 EIGHTY-THREE TO NOVEMBER TWENTY-FIRST, NINETEEN HUNDRED EIGHTY-THREE, OR  
54 IN PANAMA FROM DECEMBER TWENTIETH, NINETEEN HUNDRED EIGHTY-NINE TO JANU-  
55 ARY 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 committees 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

1 promote and increase participation by certified businesses with respect  
2 to state contracts and subcontracts so as to facilitate the award of a  
3 fair share of state contracts to such businesses. The comptroller shall  
4 assist the division in collecting information on the participation of  
5 certified business for each contracting agency. Such report may recom-  
6 mend new activities and programs to effectuate the purposes of this  
7 article;

8 (f) to prepare and update periodically a directory of certified minor-  
9 ity, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-  
10 prises which shall, wherever practicable, be divided into categories of  
11 labor, services, supplies, equipment, materials and recognized  
12 construction trades and which shall indicate areas or locations of the  
13 state where such enterprises are available to perform services;

14 S 6. Section 313 of the executive law, as amended by chapter 175 of  
15 the laws of 2010, is amended to read as follows:

16 S 313. Opportunities for minority, SERVICE CONNECTED DISABLED VETERAN  
17 and women-owned business enterprises. 1. Goals and requirements for  
18 agencies and contractors. Each agency shall structure procurement  
19 procedures for contracts made directly or indirectly to minority,  
20 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises,  
21 in accordance with the findings of the two thousand ten disparity study,  
22 consistent with the purposes of this article, to attempt to achieve the  
23 following results with regard to total annual statewide procurement:

24 (a) construction industry for certified minority-owned business enter-  
25 prises: fourteen and thirty-four hundredths percent;

26 (b) construction industry for certified women-owned business enter-  
27 prises: eight and forty-one hundredths percent;

28 (c) construction related professional services industry for certified  
29 minority-owned business enterprises: thirteen and twenty-one hundredths  
30 percent;

31 (d) construction related professional services industry for certified  
32 women-owned business enterprises: eleven and thirty-two hundredths  
33 percent;

34 (e) non-construction related services industry for certified minori-  
35 ty-owned business enterprises: nineteen and sixty hundredths percent;

36 (f) non-construction related services industry for certified women-  
37 owned business enterprises: seventeen and forty-four hundredths percent;

38 (g) commodities industry for certified minority-owned business enter-  
39 prises: sixteen and eleven hundredths percent;

40 (h) commodities industry for certified women-owned business enter-  
41 prises: ten and ninety-three hundredths percent;

42 (i) overall agency total dollar value of procurement for certified  
43 minority-owned business enterprises: sixteen and fifty-three hundredths  
44 percent;

45 (j) overall agency total dollar value of procurement for certified  
46 women-owned business enterprises: twelve and thirty-nine hundredths  
47 percent; and

48 (k) overall agency total dollar value of procurement for certified  
49 minority, women-owned business enterprises: twenty-eight and ninety-two  
50 hundredths percent.

51 1-a. The director shall ensure that each state agency has been  
52 provided with a copy of the two thousand ten disparity study.

53 1-b. Each agency shall develop and adopt agency-specific goals based  
54 on the findings of the two thousand ten disparity study.

55 2. The director shall promulgate rules and regulations pursuant to the  
56 goals established in subdivision one of this section that provide meas-

ures and procedures to ensure that certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority, SERVICE CONNECTED DISABLED VETERAN and women-owned 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 agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses.

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

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

(b) require 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, as contained within the study, of certified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

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

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

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

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

(g) require that an agency 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) provide for the collection of statistical data by each agency concerning actual minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprise participation; and

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

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by

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

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

30 (b) implement a program that will enable the agency to evaluate each  
31 contract to determine the appropriateness of the goal pursuant to subdivi-  
32 sion one of this section;

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

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

43 5. (a) Contracting agencies shall administer the rules and regulations  
44 promulgated by the director in a good faith effort to meet the maximum  
45 feasible portion of the agency's goals adopted pursuant to this article  
46 and the regulations of the director. Such rules and regulations: shall  
47 require a contractor to submit a utilization plan after bids are opened,  
48 when bids are required, but prior to the award of a state contract;  
49 shall require the contracting agency to review the utilization plan  
50 submitted by the contractor and to post the utilization plan and any  
51 waivers of compliance issued pursuant to subdivision six of this section  
52 on the website of the contracting agency within a reasonable period of  
53 time as established by the director; shall require the contracting agen-  
54 cy to notify the contractor in writing within a period of time specified  
55 by the director as to any deficiencies contained in the contractor's  
56 utilization plan; shall require remedy thereof within a period of time

1 specified by the director; shall require the contractor to submit peri-  
2 odic compliance reports relating to the operation and implementation of  
3 any utilization plan; shall not allow any automatic waivers but shall  
4 allow a contractor to apply for a partial or total waiver of the minori-  
5 ty, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-  
6 prise participation requirements pursuant to subdivisions six and seven  
7 of this section; shall allow a contractor to file a complaint with the  
8 director pursuant to subdivision eight of this section in the event a  
9 contracting agency has failed or refused to issue a waiver of the minori-  
10 ty, SERVICE CONNECTED DISABLED VETERAN and women-owned business enter-  
11 prise participation requirements or has denied such request for a waiv-  
12 er; and shall allow a contracting agency to file a complaint with the  
13 director pursuant to subdivision nine of this section in the event a  
14 contractor is failing or has failed to comply with the minority, SERVICE  
15 CONNECTED DISABLED VETERAN and women-owned business enterprise partic-  
16 ipation requirements set forth in the state contract where no waiver has  
17 been granted.

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

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

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

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

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

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

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

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

46     8. In the event that a contracting agency fails or refuses to issue a  
47 waiver to a contractor as requested within twenty days after having made  
48 application therefor pursuant to subdivision six of this section or if  
49 the contracting agency denies such application, in whole or in part, the  
50 contractor may file a complaint with the director pursuant to section  
51 three hundred sixteen of this article setting forth the facts and  
52 circumstances giving rise to the contractor's complaint together with a  
53 demand for relief. The contractor shall serve a copy of such complaint  
54 upon the contracting agency by personal service or by certified mail,  
55 return receipt requested. The contracting agency shall be afforded an  
56 opportunity to respond to such complaint in writing.



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

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

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

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

50 S 136-b. Selection of underwriters by state agencies. Whenever a state  
51 agency, as defined in article fifteen-A of the executive law, sells its  
52 bonds, notes or other securities at a private sale, in selecting one or  
53 more underwriters to purchase such securities the state agency shall  
54 consider, among other things, the participation of firms certified  
55 pursuant to such article as minority, SERVICE CONNECTED DISABLED VETERAN  
56 or women-owned firms and the ability of other firms under consideration

1 to work with minority, SERVICE CONNECTED DISABLED VETERAN and women-  
2 owned business enterprises so as to promote and assist participation by  
3 such enterprises.

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

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

17 (d) adopt policies to promote the participation by New York state  
18 business enterprises and New York state residents in procurement  
19 contracts, with the cooperation of the department of economic develop-  
20 ment and the community services division of the department of labor  
21 including, but not limited to, providing through cooperative efforts  
22 with contractors for the notification of New York state business enter-  
23 prises of opportunities to participate as subcontractors and suppliers  
24 on procurement contracts in an amount estimated to be equal to or great-  
25 er than one million dollars and for the notification of New York state  
26 residents of employment opportunities arising in New York state out of  
27 procurement contracts in an amount estimated to be equal to or greater  
28 than one million dollars; and promulgating procedures which will assure  
29 compliance by contractors with such notification. Once awarded the  
30 contract, such contractors shall document their efforts to encourage the  
31 participation of New York state business enterprises as suppliers and  
32 subcontractors on procurement contracts equal to or greater than one  
33 million dollars. Documented efforts by a successful contractor shall  
34 consist of and be limited to showing that such contractor has [(a)] (I)  
35 solicited bids, in a timely and adequate manner, from New York state  
36 business enterprises including certified minority, SERVICE CONNECTED  
37 DISABLED VETERAN and women-owned business, or [(b)] (II) contacted the  
38 New York state department of economic development to obtain listings of  
39 New York state business enterprises, or [(c)] (III) placed notices for  
40 subcontractors and suppliers in newspapers, journals and other trade  
41 publications distributed in New York state, or [(d)] (IV) participated  
42 in bidder outreach conferences. If the contractor determines that New  
43 York state business enterprises are not available to participate on the  
44 contract as subcontractors or suppliers, the contractor shall provide a  
45 statement indicating the method by which such determination was made. If  
46 the contractor does not intend to use subcontractors on the contract,  
47 the contractor shall provide a statement verifying such intent. Such  
48 contractors shall also provide notification to New York state residents  
49 of employment opportunities through listing any such positions with the  
50 community services division, or providing for such notification in such  
51 manner as is consistent with existing collective bargaining contracts or  
52 agreements. On or before the effective date of this section, each state  
53 agency or department shall submit such policies to the division of the  
54 budget and copies thereof to the department of audit and control, the  
55 department of economic development, the senate finance committee and the  
56 assembly ways and means committee.

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

7 5. "Certified [minority-] MINORITY, SERVICE CONNECTED DISABLED VETERAN  
8 or women-owned business" means any [minority-] MINORITY, SERVICE  
9 CONNECTED DISABLED VETERAN or women-owned business enterprise as defined  
10 in section three hundred ten of the executive law and certified pursuant  
11 to section three hundred fourteen of the executive law.

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

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

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

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

41 1. Linked loans made to certified businesses in empire zones or to  
42 eligible businesses in highly distressed areas or to eligible businesses  
43 that are defined in paragraph (b-1) of subdivision eleven of section two  
44 hundred thirteen of this article that are located in a renewal community  
45 or defined in paragraph (b-2) of such subdivision that are located in an  
46 empowerment zone or defined in paragraph (b-3) of such subdivision that  
47 are located in an enterprise community, respectively for eligible  
48 projects defined in paragraph (c) of subdivision twelve of section two  
49 hundred thirteen of this article or to [minority-] MINORITY, SERVICE  
50 CONNECTED DISABLED VETERAN or women-owned business enterprises for an  
51 eligible project defined in paragraph (e) of subdivision twelve of  
52 section two hundred thirteen of this article or to a defense industry  
53 manufacturer for a project defined in paragraph (d) of subdivision  
54 twelve of section two hundred thirteen of this article shall bear inter-  
55 est at a fixed rate equal to three percentage points below the fixed  
56 interest rate the lender would have charged for the loan in the absence

1 of a linked deposit based on its usual credit considerations. All other  
2 linked loans shall bear interest at a fixed rate equal to two percentage  
3 points below the fixed interest rate the lender would have charged for  
4 the loan in the absence of a linked deposit based on its usual credit  
5 considerations. Lenders shall certify to the commissioner of economic  
6 development that the rate to be charged on a linked loan is two percent-  
7 age points or three percentage points, as the case may be, below the  
8 interest rate the lender would have charged for the loan in the absence  
9 of a linked deposit.

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

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

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

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

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

47 2. "Technical assistance" shall mean assistance and services designed  
48 to improve the efficiency, effectiveness and viability of a minority,  
49 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprise,  
50 including, but not limited to, management assistance, problem solving,  
51 the development of business and marketing plans, market analysis, finan-  
52 cial planning, regulatory compliance, safety and security measures,  
53 export assistance, procurement assistance, application assistance, state  
54 program assistance, referral to private and public financing sources,  
55 contracting assistance, and other forms of assistance which the commis-  
56 sioner deems necessary and appropriate.

1 S 14. Section 118 of the economic development law, as added by chapter  
2 55 of the laws of 1992 and subdivision 7 as further amended by section  
3 15 of part GG of chapter 63 of the laws of 2000, is amended to read as  
4 follows:

5 S 118. Power and duties. In addition to the power and duties conferred  
6 by section one hundred sixteen of this article, the division shall have  
7 the additional power and duty to:

8 1. Coordinate with all state agencies performing functions affecting  
9 the operations of minority business enterprises, SERVICE CONNECTED DISA-  
10 BLED VETERAN OWNED BUSINESS ENTERPRISES and women-owned business enter-  
11 prises, as such terms are defined in section two hundred ten of this  
12 chapter;

13 2. Receive complaints and inquiries of operators of minority, SERVICE  
14 CONNECTED DISABLED VETERAN and women-owned business enterprises and  
15 refer them to the appropriate federal, state or local agency for appro-  
16 priate action on such complaints;

17 3. Solicit recommendations from the operators of minority, SERVICE  
18 CONNECTED DISABLED VETERAN and women-owned business enterprises for  
19 improving existing state programs and refer such recommendations to the  
20 governor, the legislature and appropriate state agencies or authorities;

21 4. Advise and make recommendations to the commissioner and the legis-  
22 lature on matters affecting the minority, SERVICE CONNECTED DISABLED  
23 VETERAN and women-owned business enterprises of the state and promote  
24 and encourage the protection of the legitimate interests of minority,  
25 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises  
26 within the state;

27 5. Conduct investigations, research, studies and analyses of matters  
28 affecting the interests of minority, SERVICE CONNECTED DISABLED VETERAN  
29 and women-owned business enterprises;

30 6. Study the implementation of the laws affecting minority, SERVICE  
31 CONNECTED DISABLED VETERAN and women-owned business enterprises and  
32 recommend to the commissioner new laws and amendments of laws for the  
33 benefit of minority, SERVICE RELATED DISABLED VETERAN and women-owned  
34 business enterprises; and review pending legislation affecting minority,  
35 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises  
36 and report its findings to the commissioner;

37 7. Provide technical assistance and information to minority, SERVICE  
38 CONNECTED DISABLED VETERAN and women-owned business enterprises in the  
39 state on economic development programs administered by the department,  
40 including, but not limited to: (a) the empire zones program, estab-  
41 lished pursuant to article eighteen-B of the general municipal law, (b)  
42 the industrial effectiveness program, established pursuant to article  
43 seven of this chapter, (c) the economic development skills training  
44 program, established pursuant to article eight of this chapter, and (d)  
45 the entrepreneurial assistance program, established pursuant to article  
46 nine of this chapter;

47 8. Provide technical assistance and information to minority, SERVICE  
48 CONNECTED DISABLED VETERAN and women-owned business enterprises in the  
49 state on economic development programs administered by agencies other  
50 than the department, including, but not limited to programs administered  
51 by the urban development corporation, the job development authority and  
52 the science and technology foundation;

53 9. Be responsible for conducting minority, SERVICE CONNECTED DISABLED  
54 VETERAN and women-owned business enterprise assistance programs and for  
55 coordinating the activities of all other state agencies acting within  
56 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;

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

6. The board shall require any contractor or subcontractor awarded a contract pursuant to the provisions of this article to comply, and otherwise exercise all of its responsibilities and conduct all of its activities consistent with the provisions of article fifteen-A of the executive law with regards to the utilization and participation of

1 certified minority, SERVICE CONNECTED DISABLED VETERANS and women-owned  
2 business enterprises.

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

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

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

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

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

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

55 2. In order to implement the requirements and objectives of this  
56 section, the department and the office shall establish procedures to

1 monitor the contractors' compliance with provisions hereof, provide  
2 assistance in obtaining competing qualified minority, SERVICE CONNECTED  
3 DISABLED VETERAN and women-owned business enterprises to perform  
4 contracts proposed to be awarded, and take other appropriate measures to  
5 improve the access of minority, SERVICE CONNECTED DISABLED VETERAN and  
6 women-owned business enterprises to these contracts.

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

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

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

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

44 S 22. Subparagraph (i) of paragraph (b), the opening paragraph of  
45 paragraph (c), paragraphs (f), (g), (h), (i) and (j), and subparagraphs  
46 (ii) and (iii) of paragraph (n) of subdivision 3 and subdivision 6 of  
47 section 2879 of the public authorities law, subparagraph (i) of para-  
48 graph (b) of subdivision 3 and subdivision 6 as amended, paragraphs (f),  
49 (g), (h), (i) and (j) as added and paragraph (n) of subdivision 3 as  
50 relettered by chapter 174 of the laws of 2010, the opening paragraph of  
51 paragraph (c) of subdivision 3 as amended by chapter 564 of the laws of  
52 1988, subparagraphs (ii) and (iii) of paragraph (n) of subdivision 3 as  
53 amended by chapter 531 of the laws of 1993, are amended and a new para-  
54 graph (e-1) is added to subdivision 3 to read as follows:

55 (i) for the selection of such contractors on a competitive basis, and  
56 provisions relating to the circumstances under which the board may by



1 resolution waive competition, including, notwithstanding any other  
2 provision of law requiring competition, the purchase of goods or  
3 services from small business concerns or those certified as minority,  
4 SERVICE CONNECTED DISABLED VETERAN or women-owned business enterprises,  
5 or goods or technology that are recycled or remanufactured, in an amount  
6 not to exceed two hundred thousand dollars without a formal competitive  
7 process;

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

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

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

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

40 (h) Procedures for maintaining lists of qualified certified minority,  
41 SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises,  
42 including professional firms that have expressed an interest in doing  
43 business with the corporation and ensuring that such lists are updated  
44 regularly. The corporation shall also consult the lists of certified  
45 minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business  
46 enterprises maintained by the department of economic development pursu-  
47 ant to article fifteen-A of the executive law.

48 (i) The establishment of appropriate goals for participation by minor-  
49 ity, SERVICE CONNECTED DISABLED VETERAN or women-owned business enter-  
50 prises in procurement contracts awarded by the corporation and for the  
51 utilization of minority, SERVICE CONNECTED DISABLED VETERAN and women-  
52 owned enterprises as subcontractors and suppliers by entities having  
53 procurement contracts with the corporation. Statewide numerical partic-  
54 ipation target goals shall be established by each authority based on the  
55 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;

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

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

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

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

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

39 6. Each corporation, as part of the guidelines established pursuant to  
40 subdivision three of this section, shall establish policies regarding  
41 the preparation of publicly available reports on procurement contracts  
42 entered into by such corporation. Such policies shall provide, at the  
43 minimum, for the preparation of a report no less frequently than annual-  
44 ly, summarizing procurement activity by such corporation for the period  
45 of the report, including a listing of all procurement contracts entered  
46 into, all contracts entered into with New York state business enter-  
47 prises and the subject matter and value thereof, all contracts entered  
48 into with certified minority, SERVICE CONNECTED DISABLED VETERAN or  
49 women-owned business enterprises and the subject matter and value there-  
50 of, all referrals made and all penalties imposed pursuant to section  
51 three hundred sixteen of the executive law, all contracts entered into  
52 with foreign business enterprises, and the subject matter and value  
53 thereof, the selection process used to select such contractors, all  
54 procurement contracts which were exempt from the publication require-  
55 ments of article four-C of the economic development law, the basis for  
56 any such exemption and the status of existing procurement contracts.

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

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

6 S 24. Subdivisions (g) and (t) of section 959 of the general municipal  
7 law, as amended by section 3 of part S-1 of chapter 57 of the laws of  
8 2009, are amended to read as follows:

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

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

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

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

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

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

48 S 27. Paragraphs (iii) and (xii) of subdivision (a) of section 963 of  
49 the general municipal law, as amended by chapter 708 of the laws of 1993  
50 and as further amended by section 15 of part GG of chapter 63 of the  
51 laws of 2000 and such subdivision as relettered by section 7 of part S-1  
52 of chapter 57 of the laws of 2009, are amended to read as follows:

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

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

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

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

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

42 (7) the financial commitments the applicant will make to the brown-  
43 field opportunity area for activities including, but not limited to,  
44 marketing of the area for business development, human resource services  
45 for residents and businesses in the brownfield opportunity area, and  
46 services for small [and], minority, SERVICE CONNECTED DISABLED VETERAN  
47 and women-owned businesses.

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

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

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

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

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

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

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

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

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

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

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

S 16-b. Minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprise program. 1. a. In the performance of projects pursuant to this act minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises shall be given the opportunity for meaningful participation. The agency shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the agency to assure that qualified minority, SERVICE CONNECTED DISABLED VETERAN and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; SERVICE CONNECTED DISABLED VETERANS BUSINESS ENTERPRISE SHALL MEAN THE SAME AS DEFINED IN SUBDIVISION 23 OF SECTION 310 OF THE EXECUTIVE LAW; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

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

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

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

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

26 S 34. Paragraph (c) of subdivision 10 of section 16-a of section 1 of  
27 chapter 174 of the laws of 1968, constituting the New York state urban  
28 development corporation act, as amended by chapter 477 of the laws of  
29 2002, is amended to read as follows:

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

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

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

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

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

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

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



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

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

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

10 (i) the purchase or rehabilitation of real property for speculative  
11 purposes;

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

13 (iii) residential construction, renovation or development  
14 construction, except for assistance to minority, SERVICE CONNECTED DISA-  
15 BLED VETERAN and women contractors under subdivision four of this  
16 section;

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

19 (v) hospitals or residential health care facilities;

20 (vi) overnight lodging facilities;

21 (vii) refinancing of debt or equity invested in an enterprise or  
22 project.

23 (d) The corporation is authorized to:

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

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

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

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

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

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

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

51 (2) Minority, SERVICE CONNECTED DISABLED VETERAN and women revolving  
52 loan trust fund. For the purpose of establishing programs in conjunction  
53 with locally and community based entities to decentralize lending for  
54 small loans and loans to start up [minority-] MINORITY, SERVICE  
55 CONNECTED DISABLED VETERAN and women-owned businesses, the corporation  
56 shall establish minority, SERVICE CONNECTED DISABLED VETERAN and women

1 revolving loan trust fund accounts and related administrative expenses  
2 trust fund accounts.

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

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

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

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

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

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

52 (d) (i) Notwithstanding any provision of law to the contrary, the  
53 corporation may establish an administrative expenses trust fund account  
54 for the benefit of each entity selected to administer a minority,  
55 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund  
56 account. The initial deposit of funds to an administrative expenses

1 trust fund account shall be an amount determined by the corporation but  
2 shall not exceed twenty-five thousand dollars.

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

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

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

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

19 (C) repayments of interest on loans made from the corresponding minor-  
20 ity, SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust  
21 fund account.

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

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

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

48 (f) The provisions of subdivisions eight, nine, and fourteen through  
49 nineteen of section sixteen-a of this act pertaining to the regional  
50 revolving loan trust fund shall also be applicable to the minority,  
51 SERVICE CONNECTED DISABLED VETERAN and women revolving loan trust fund,  
52 provided that: where the term "regional corporation" appears therein it  
53 shall be interpreted to mean an entity selected to administer a  
54 minority, SERVICE CONNECTED DISABLED VETERAN and women revolving loan  
55 trust fund account, and "regional revolving [loans] LOAN trust fund"  
56 shall mean a minority, SERVICE CONNECTED DISABLED VETERAN and women

1 revolving loan trust fund, and where the term "this section" appears  
2 therein it shall mean this section sixteen-c.

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

11 (h) Notwithstanding any provision of law to the contrary, the corpo-  
12 ration shall establish a minority, SERVICE CONNECTED DISABLED VETERAN  
13 and women revolving loan trust fund to pay into such fund any moneys  
14 made available to the corporation for such fund from any source, includ-  
15 ing moneys appropriated by the state and any income earned by, or incre-  
16 ment to, the account due to the investment thereof, or any repayment of  
17 moneys advanced from the fund. The corporation shall not commingle the  
18 moneys of such fund with any moneys held in trust by the corporation,  
19 except for investment purposes.

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

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

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

43 (4) Minority, SERVICE CONNECTED DISABLED VETERAN and women contracting  
44 program. For the purpose of establishing a comprehensive program to  
45 assist minority, SERVICE CONNECTED DISABLED VETERAN and women contrac-  
46 tors, the corporation may provide loans, loan guarantees, technical  
47 assistance and bonding assistance, the corporation may enter into coop-  
48 erative agreements with cities, counties, municipalities, authorities,  
49 agencies, federally and state chartered credit unions in New York state  
50 and federally insured banking organizations and financial institutions  
51 for such purposes.

52 (a) To be eligible for a contractor loan, the borrower must have  
53 either (i) a construction contract with, or a contract to provide goods  
54 or services to, a governmental entity or authority, (ii) a subcontract  
55 on a government-sponsored construction contract, (iii) a contract or  
56 subcontract on a [government sponsored] GOVERNMENT-SPONSORED residential

1 project, or (iv) a contract or subcontract on a construction project  
2 previously approved by the corporation pursuant to section ten of this  
3 act.

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

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

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

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

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

29 (a) Business development loans and loan guarantees pursuant to subdi-  
30 vision six of this section to eligible enterprises for the acquisition  
31 or improvement of real property, machinery, equipment or working capi-  
32 tal, provided that to be eligible for a business development loan, the  
33 borrowers must have been in business for at least three years and  
34 provided that the loans must be in an amount equal to or in excess of  
35 fifty thousand dollars;

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

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

46 (6) Deposits and loan guarantees. For the purpose of encouraging  
47 private financial institutions to make loans to eligible enterprises  
48 pursuant to this section for any of the eligible projects pursuant to  
49 subdivisions four and five of this section, the corporation is author-  
50 ized to:

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

55 (b) Provide loan guarantees to private financial institutions for  
56 loans made to eligible [minority-] MINORITY, SERVICE CONNECTED DISABLED

1 VETERAN and women-owned businesses pursuant to this subdivision for  
2 eligible projects, provided that the guarantee shall be at least fifty  
3 percent backed by funds of the corporation. Any such loan guaranteed by  
4 the corporation shall be made to borrowers that are approved by the  
5 corporation and substantially meet the underwriting criteria the credit  
6 union or financial institution customarily applies to similar borrowers  
7 for similar loans supported by similar guarantees, and no guaranteed  
8 loan funds shall be disbursed until the corporation has received,  
9 reviewed and concurred, in writing, with the recommendation of the cred-  
10 it union or banking or financial institution to make a loan.

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

13 (a) The corporation shall establish a minority, SERVICE CONNECTED  
14 DISABLED VETERAN and women small business incubator program for the  
15 purpose of providing financial support for the creation of incubators to  
16 nurture minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
17 business enterprises with growth potential.

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

25 (c) Incubator projects eligible for such assistance shall involve the  
26 renovation or reconstruction of existing facilities or the acquisition  
27 of equipment, except that construction shall be allowable in cases in  
28 which an applicant can demonstrate to the satisfaction of the corpo-  
29 ration that an existing facility is unavailable in the area to be served  
30 by the new incubator facility.

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

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

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

45 (ii) significant community support for the project;

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

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

51 (v) the inability of the project to occur without financial assistance  
52 from the corporation.

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

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

4 (ii) the project sponsors must provide a management plan and a busi-  
5 ness plan for operating the incubator satisfactory to the corporation;  
6 and

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

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

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

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

31 (iii) technical assistance in the development of a working capital  
32 budget;

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

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

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

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

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

53 (11) Rules and regulations. The corporation shall, assisted by the  
54 commissioner of economic development and in consultation with the  
55 department of economic development, promulgate rules and regulations in  
56 accordance with the state administrative procedure act. Such rules and

1 regulations shall be consistent with the program plan required by subdi-  
2 vision [nineteen] 19 of section [one hundred] 100 of the economic devel-  
3 opment law. No funds shall be disbursed under this program until such  
4 rules and regulations have been reviewed and approved by the corpo-  
5 ration. All assistance and projects funded under this program shall be  
6 funded in accordance with the rules and regulations in effect on the  
7 date the completed application for such assistance shall be received by  
8 the corporation.

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

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

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

53 (15) Repayment. Notwithstanding the provisions of section [forty-a]  
54 40-A of the state finance law and any other general or special law, no  
55 written agreement under this program shall require repayment at any time  
56 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;

S 39. Paragraph (d) of subdivision 18 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:

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

S 40. The opening paragraph, paragraph (a) and the opening paragraph and subparagraph (iv) of paragraph (b) of subdivision 1 of section 16-f 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:

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

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

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

(iv) assistance from the regional offices of the department of economic development, pursuant to article [eleven] 11 of the economic development law, and the entrepreneurial assistance program, pursuant to article [nine] 9 of such law, and any other such program receiving state funds from this act or the department of economic development or any other state agency that is intended to provide technical assistance to small businesses [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned small business enterprises.

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

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

1 New York state urban development corporation act, as amended by chapter  
2 103 of the laws of 2011, is amended to read as follows:

3 (i) provide a plan to the corporation or its agent for the marketing  
4 of the capital access program to small businesses, including those in  
5 highly distressed areas and to [minority-] MINORITY, SERVICE CONNECTED  
6 DISABLED VETERAN and women-owned businesses, with appropriate lending  
7 objectives identified by the financial institution for such areas and  
8 businesses;

9 S 43. Paragraph 1 of subdivision (c) of section 30 of section 1 of  
10 chapter 174 of the laws of 1968, constituting the New York state urban  
11 development corporation act, as amended by chapter 732 of the laws of  
12 1990, is amended to read as follows:

13 (1) In addition to any other requirements imposed by the act or other-  
14 wise regarding evaluations of programs administered by the corporation,  
15 each evaluation shall include an analysis of the job creation effect of  
16 such program, the number of small businesses that received assistance,  
17 the number of minority, SERVICE CONNECTED DISABLED VETERAN and women-  
18 owned firms that received assistance, the number of projects undertaken  
19 in distressed and highly distressed communities, and, if applicable, the  
20 repayment experience of borrowers of funds from the corporation.

21 S 44. Paragraph 2 of subdivision (e) of section 30-a of section 1 of  
22 chapter 174 of the laws of 1968, constituting the New York state urban  
23 development corporation act, as added by section 2 of part M1 of chapter  
24 62 of the laws of 2003, is amended to read as follows:

25 (2) require projects to be financed out of the empire state economic  
26 development fund be approved generally in amounts which are proportional  
27 to amounts appropriated for the urban and community development program,  
28 and the minority, SERVICE CONNECTED DISABLED VETERAN and women-owned  
29 business development and lending program;

30 S 45. The section heading, the opening paragraph of subdivision 1, the  
31 opening paragraph of subdivision 2, paragraph (a) of subdivision 3 and  
32 subdivisions 4 and 5 of section 38 of section 1 of chapter 174 of the  
33 laws of 1968, constituting the New York state urban development corpo-  
34 ration act, as amended by chapter 169 of the laws of 1994, are amended  
35 to read as follows:

36 Small business [and], minority-owned, SERVICE CONNECTED DISABLED  
37 VETERAN-OWNED and women-owned business enterprises transportation capi-  
38 tal assistance and guaranteed loan program.

39 To provide financial assistance to small business [and], minority-  
40 owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business  
41 enterprises engaged in government sponsored, transportation related  
42 construction projects, the corporation shall establish a small business  
43 [and], minority-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED and  
44 women-owned business enterprise transportation capital assistance  
45 revolving loan fund which shall provide loans or loan guarantees to  
46 small business [and], minority-owned, SERVICE CONNECTED DISABLED VETER-  
47 AN-OWNED and women-owned business enterprises. For purposes of this  
48 section:

49 Such loans, or loan guarantees for loans made by federally and state  
50 chartered credit institutions, financial institutions, and federally  
51 insured banking organizations to small business [and], minority-owned,  
52 SERVICE CONNECTED DISABLED VETERAN-OWNED and women-owned business enter-  
53 prises, shall be used to:

54 (a) To be eligible for such loans or loan guarantees (i) a minority-  
55 owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned business  
56 enterprise must be certified as a minority-owned, SERVICE CONNECTED

1 DISABLED VETERAN-OWNED or women-owned business enterprise pursuant to  
2 article 15-A of the executive law; and (ii) a small business or a minor-  
3 ity-owned, SERVICE CONNECTED DISABLED VETERAN-OWNED or women-owned busi-  
4 ness enterprise shall have a contract or sub-contract to provide goods  
5 or services related to a government sponsored, transportation related  
6 construction project.

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

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

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