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

7346

I N  S E N A T E

May 2, 2012

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

AN ACT to amend the education law and the tax law, in relation to establishing the New York entrepreneur program act

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

Section 1. Short title. This act shall be known and may be cited as the "New York entrepreneur program act".

S 2. Article 5 of the education law is amended by adding a new part 2-A to read as follows:

PART II-A

NEW YORK ENTREPRENEUR PROGRAM ACT

SECTION 286. NEW YORK ENTREPRENEUR PROGRAM ESTABLISHED; DEFINITIONS.
286-A. OVERSIGHT.
286-B. LOAN DEFERRALS AND JOB CREATION.
286-C. TAX CREDIT FOR SUPPORTING BUSINESSES.

S 286. NEW YORK ENTREPRENEUR PROGRAM ESTABLISHED; DEFINITIONS. 1. THERE IS HEREBY ESTABLISHED A NEW YORK ENTREPRENEUR PROGRAM UNDER THE PURVIEW OF THE REGENTS AND THE BOARD FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES. SUCH PROGRAM SHALL PROVIDE ACCESS TO TECHNOLOGY TO A SELECT GROUP OF STARTUP ENTREPRENEURS HELPING THEM CREATE BUSINESSES THAT GROW NEW YORK STATE'S ECONOMY. THE PROGRAM SHALL NOT PROVIDE BUSINESS LOANS TO THE PARTICIPANTS.

2. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "BOARD" SHALL MEAN THE BOARD OF TRUSTEES OF CITY UNIVERSITY OF NEW YORK.

(B) "PARTICIPANT" SHALL MEAN ANY COLLEGE GRADUATE ACCEPTED TO THE PROGRAM.

(C) "PROGRAM" SHALL MEAN THE NEW YORK ENTREPRENEUR PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

(D) "REGENTS" SHALL MEAN THE BOARD OF REGENTS OF THE STATE UNIVERSITY.

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

LBD14933-02-2

(E) "SCHOOL" SHALL MEAN ANY COLLEGE WITHIN THE STATE UNIVERSITY OR THE CITY UNIVERSITY OF NEW YORK.

(F) "STARTUP BUSINESS" SHALL MEAN AN ENTREPRENEURIAL IDEA SUPPORTED BY A BUSINESS PLAN THAT A POTENTIAL PARTICIPANT PREPARES WHEN APPLYING TO THE PROGRAM.

(G) "SUPPORTING BUSINESS" SHALL MEAN ANY PERSON, FIRM, CORPORATION, PARTNERSHIP OR OTHER BUSINESS ENTITY WHICH ASSISTS A STARTUP BUSINESS DURING THE FIVE YEAR PERIOD DURING WHICH SUCH STARTUP BUSINESS IS PART OF THE PROGRAM.

3. THE REGENTS SHALL PROMULGATE SUCH RULES AND REGULATIONS AS THEY SEE FIT TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

S 286-A. OVERSIGHT. 1. (A) THE REGENTS, IN CONSULTATION WITH THE BOARD FOR ANY STARTUP BUSINESS TO BE LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES, SHALL SELECT PARTICIPANTS' STARTUP BUSINESSES BASED ON THE QUALITY OF THEIR BUSINESS PROPOSAL, EXPERIENCE AND ABILITY TO OBTAIN OUTSIDE FINANCING.

(B) SUCH PROGRAM SHALL ACCEPT A MAXIMUM OF THREE HUNDRED PARTICIPANTS BUT SHALL NOT ACCEPT MORE THAN FIFTY PARTICIPANTS INTO THE PROGRAM IN ANY YEAR.

2. IN ADDITION TO THE LOAN DEFERRAL SET FORTH IN SECTION TWO HUNDRED EIGHTY-SIX-B OF THIS ARTICLE, THE REGENTS AND THE BOARD FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES SHALL PROVIDE FOR PARTICIPANTS, DURING THEIR FIVE YEARS OF PARTICIPATION IN THE PROGRAM:

(A) FREE HOUSING WITHIN THE LIMITS ESTABLISHED BY THE REGENTS; AND

(B) ACCESS TO SCHOOL RESOURCES, INCLUDING, BUT NOT LIMITED TO FACULTY AND TECHNOLOGY.

3. (A) THE REGENTS AND THE BOARD FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES, AT THE RECOMMENDATION OF A SCHOOL MAY TERMINATE A PARTICIPANT'S OR STARTUP BUSINESS' PARTICIPATION IN THE PROGRAM.

(B) THE REGENTS SHALL ESTABLISH AN APPEALS PROCESS FOR TERMINATED PARTICIPANTS AND STARTUP BUSINESSES TO APPEAL SUCH DECISIONS.

4. (A) THE PROGRESS OF EACH STARTUP BUSINESS SHALL BE MONITORED BY THE REGENTS, THE SCHOOL AT WHICH THE PARTICIPANTS OPERATING SUCH STARTUP BUSINESS RESIDE, A SCHOOL-AFFILIATED SUPERVISING OFFICER OR PROFESSOR AND THE BOARD FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES.

(B) THE REGENTS OR THE BOARD FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES SHALL COMPENSATE SUCH SCHOOL-AFFILIATED SUPERVISING OFFICERS OR PROFESSORS AND THE REGENTS MAY COMPENSATE OTHER PROFESSORS WHO TAKE TIME TO MENTOR PARTICIPANTS UPON THE REQUEST OF A PARTICIPANT.

5. THE REGENTS AND THE BOARD FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES SHALL MAXIMIZE THE FLEXIBILITY AND MINIMIZE THE BURDENS IMPOSED BY EXTENSIVE PAPERWORK AND FILING PROCEDURES WHILE MAINTAINING THE ACCOUNTABILITY OF STARTUPS AND THE PROGRAM.

S 286-B. LOAN DEFERRALS AND JOB CREATION. 1. UPON ENTERING THE PROGRAM, EACH PARTICIPANT WILL BEGIN A FIVE YEAR PERIOD DURING WHICH TIME THE STATE UNIVERSITY, OR THE CITY UNIVERSITY OF NEW YORK FOR ANY STARTUP BUSINESS LOCATED AT ANY OF THE CITY UNIVERSITY OF NEW YORK'S COMMUNITY COLLEGES, SHALL PAY THE MINIMUM MONTHLY PAYMENT ON ANY STUDENT LOANS SUCH PARTICIPANT HAS OUTSTANDING UNTIL EITHER (A) THE PARTICIPANT EXITS THE PROGRAM BEFORE THE END OF SUCH FIVE YEAR PERIOD, OR (B) THE PARTICIPANT COMPLETES FIVE YEARS IN THE PROGRAM WHEN UPON SUCH TIME HE

OR SHE SHALL BE EVALUATED AGAINST THE JOB CREATION CRITERIA IN SUBDIVISIONS TWO AND THREE OF THIS SECTION.

2. AFTER FIVE YEARS, STARTUPS THAT HAVE CREATED A CERTAIN NUMBER OF JOBS WITHIN NEW YORK STATE SHALL HAVE A MAXIMUM OF THREE PARTICIPANTS' LOANS FULLY PAID OFF BY THE STATE PURSUANT TO THE SCHEDULE SET FORTH IN SUBDIVISION THREE OF THIS SECTION.

3. NUMBER OF FULL-TIME EMPLOYEES (EXCLUDING PARTICIPANTS) | PERCENTAGE OF LOAN PAID OFF PER YEAR

| | |
|---|---|
| 3 | 10% |
| 4 | 15% |
| 5 | 20% |
| 6+ | 25% |

S 286-C. TAX CREDIT FOR SUPPORTING BUSINESSES. 1. THE COMMISSIONER OF TAXATION AND FINANCE SHALL GRANT A CREDIT AGAINST ANY TAX DUE UNDER THE PROVISIONS OF ARTICLES NINE, NINE-A AND TWENTY-TWO OF THE TAX LAW IN AN AMOUNT EQUAL TO THE AMOUNT SPECIFIED BY THE REGENTS IN ANY TAX CREDIT VOUCHER ISSUED BY SUCH REGENTS PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

2. THE REGENTS SHALL ESTABLISH A SYSTEM OF TAX CREDIT VOUCHERS FOR SUPPORTING BUSINESSES ALLOWING THE USE OF EQUIPMENT ESSENTIAL TO THE FUNCTION OR GROWTH OF ANY STARTUP BUSINESS. SUCH VOUCHERS MAY BE USED AS A CREDIT AGAINST ANY OF THE TAXES TO WHICH SUCH SUPPORTING BUSINESS IS SUBJECT AND WHICH ARE ENUMERATED IN SUBDIVISION ONE OF THIS SECTION. THE AMOUNT OF THE TAX CREDIT VOUCHER SHALL EQUAL THE PRICE TO RENT SUCH EQUIPMENT.

S 3. The tax law is amended by adding a new section 37 to read as follows:

S 37. NEW YORK ENTREPRENEUR PROGRAM CREDIT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (D) OF THIS SECTION. THE CREDIT (OR PRO RATA SHARE OF EARNED CREDIT IN THE CASE OF A PARTNERSHIP) SHALL EQUAL THE AMOUNT SPECIFIED BY THE REGENTS PURSUANT TO SECTION TWO HUNDRED EIGHTY-SIX-C OF THE EDUCATION LAW.

(B) DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE TERM "STARTUP BUSINESS" SHALL MEAN AN ENTREPRENEURIAL IDEA SUPPORTED BY A BUSINESS PLAN THAT A POTENTIAL PARTICIPANT PREPARES WHEN APPLYING TO THE NEW YORK ENTREPRENEUR PROGRAM ESTABLISHED PURSUANT TO SECTION TWO HUNDRED EIGHTY-SIX OF THE EDUCATION LAW.

(C) REPORTING REQUIREMENTS. A TAXPAYER WISHING TO CLAIM A CREDIT UNDER THIS SECTION SHALL ANNUALLY CERTIFY TO THE COMMISSIONER THE RENTAL VALUE OF EQUIPMENT USED BY STARTUP BUSINESSES THAT SUCH TAXPAYER SUPPORTED.

(D) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9: SECTION 187-S.

(2) ARTICLE 9-A: SECTION 210, SUBDIVISION 45.

(3) ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (UU).

S 4. The tax law is amended by adding a new section 187-s to read as follows:

S 187-S. NEW YORK ENTREPRENEUR PROGRAM CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. PROVIDED, HOWEVER, THAT THE AMOUNT OF SUCH CREDIT ALLOWED AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FOUR OF THIS ARTICLE SHALL BE THE EXCESS OF THE AMOUNT OF SUCH CREDIT OVER THE AMOUNT OF ANY CREDIT ALLOWED BY THIS

SECTION AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE. IN NO EVENT SHALL THE CREDIT UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE APPLICABLE MINIMUM TAX FIXED BY SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 5. Section 210 of the tax law is amended by adding a new subdivision 45 to read as follows:

45. NEW YORK ENTREPRENEUR PROGRAM CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxiv) to read as follows:

| | |
|---|---|
| (XXXIV) NEW YORK ENTREPRENEUR PROGRAM CREDIT UNDER SUBSECTION (UU) | AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-FIVE OF SECTION TWO HUNDRED TEN |

S 7. Section 606 of the tax law is amended by adding a new subsection (uu) to read as follows:

(UU) NEW YORK ENTREPRENEUR PROGRAM CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 8. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.