

NEW YORK STATE
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on

Small Business

Adriano Espailat, Chairperson



Annual Report 2010

December 15, 2010

Honorable Sheldon Silver, Speaker
New York State Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Dear Speaker Silver:

It is my pleasure to present to you the 2010 Annual Report for the Assembly Standing Committee on Small Business.

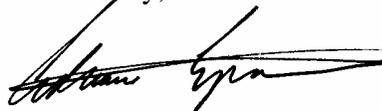
Throughout the 2010 legislative session, the Committee remained dedicated to the creation of small business enterprises. This dedication led to the passing of a small business package aimed at helping small businesses thrive in today's challenging marketplace.

The Committee also introduced legislation designed to help small businesses to comply with environmental laws and regulations. In addition, the Committee introduced bills intended to create better access to capital through the expansion of the Excelsior Linked Deposit Program and the Niche Market Assistance Program.

The Committee recognizes that minority and women-owned businesses have become the fastest-growing segment of entrepreneurs, and both populations are well represented in New York. The Committee will continue to examine the full range of issues affecting the small business workplace and its capitalization needs. We look forward to playing an active and productive role in these areas in 2011.

I join with my colleagues on the Small Business Committee in commending you for your commitment to and support of small business development. The Committee eagerly anticipates another session under your leadership so that we can continue to pursue efforts to create a healthy environment for small business prosperity in New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Adriano Espaillat", written over a horizontal line.

Adriano Espaillat, Chairman
Committee on Small Business

2010
ANNUAL REPORT

NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON SMALL BUSINESS

Adriano Espaillat
Chairman

Committee Members

Majority

Joan K. Christensen
David Koon
Carl E. Heastie
Jose Rivera
Adam Clayton Powell IV
Annette Robinson
Mark J. Schroeder
Tim Gordon
Grace Meng
Vanessa L. Gibson

Minority

Bill Reilich
Michael J. Fitzpatrick
Ann Rabbitt
Tom McKeivitt

Staff

Giovanni Warren, Assistant Secretary for Program and Policy
Steven McCutcheon, Legislative Analyst
Teri Kleinmann, Associate Counsel
Quinn Hubbell, Committee Assistant
Peter Scarabelli, Committee Clerk

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I. INTRODUCTION

The New York small business sector continues to prove itself the driving force in the State's economy. Small businesses are defined in State law as those employing one hundred or fewer people. This includes over one million businesses in New York State comprising 99% of the State's businesses and employing over 55% of the State's workforce. These companies often need help in advancing to a level of profitability at which they can move forward and create jobs. Small businesses that fail to grow are often unable to gain access to needed capital and other means of assistance. In 2010, a twenty five million dollar Small Business Revolving Loan Fund was created to help address these hurdles. At such a time when the need for job creation and retention are so desperate, supporting the small business community, which supplies nearly eight of ten jobs statewide, is of vital importance, and the Small Business Committee will continue in its efforts to win support for this often overlooked sector of our economy.

Minority and women-owned businesses have become the fastest growing segment of entrepreneurs. In addition, a surprising number of home-based businesses have appeared in recent years, causing some economists to conclude that very small businesses (those comprising ten or fewer employees) are increasingly becoming major players in the State's economy. It is estimated that four out of every five small businesses (81%) in New York have fewer than ten employees, and nearly two-thirds (65%) have fewer than five employees, referred to as micro-enterprises. The importance of these small ventures cannot be overstated: by testing new ideas, products, and processes, they are re-inventing New York State's future in the global marketplace.

II. COMMITTEE JURISDICTION AND ACTIVITY

New York State statutes affected by legislation before the Small Business Committee include the Banking Law, Economic Development Law, State Finance Law, Public Authorities Law, Labor Law, and the Civil Practice Law & Rules.

Although the Committee's areas of concern are wide-ranging, many bills that affect small business are integrally related to the jurisdictions of other Assembly committees. As a result, many small business issues, such as changes in taxation, economic development programs, insurance, State agencies' regulatory practices, and employee benefit programs, are not directly within the jurisdiction of the Small Business Committee. These and many other issues of importance to small businesses are referred to other Assembly committees which have direct jurisdiction over such subjects. They include the Committees on Economic Development, Job Creation, Commerce & Industry; Banks; Labor; Insurance; Governmental Operations; and Ways and Means. The Small Business Committee remains involved by working closely with these committees.

The Committee also works closely with a number of State agencies and public authorities to ensure that they are serving the needs of the small business community, including the Department of Economic Development (DED), the New York Office of Science, Technology and Academic Research (NYSTAR) (formerly known as the Science and Technology Foundation), the Job Development Authority (JDA), the Empire State Development Corporation (ESDC), and the Urban Development Corporation (UDC, a public authority of ESDC), which are the State's chief economic development entities. The committee also oversees the work of the State University of New York in administering the Small Business Development Centers (SBDC) Program.

During the 2010 Legislation Session, the Standing Committee on Small Business reported fifteen bills favorably. In addition, a number of bills that were of importance to small firms but were referred to other committees became law with the assistance and input of the Small Business Committee.

The Committee will continue to be active in Assembly and State efforts to advance the needs of small businesses, while also advocating reforms to improve New York State's business climate.

III. 2009-2010 SMALL BUSINESS BUDGET OUTCOME

The Assembly fought for key initiatives to boost New York's economy and create jobs and opportunities for small businesses and entrepreneurs. The following are budget highlights that impact small businesses in New York State.

PROGRAMMATIC ISSUES

1. Urban Development Corporation/Empire State Development Corporation

The Urban Development Corporation (UDC) is currently doing business as the Empire State Development Corporation (ESDC). The mission of the UDC/ESDC is to promote economic development and real estate development by providing financial assistance to local government, businesses and not-for-profit corporations engaged in economic development activities. In addition, the UDC/ESDC is engaged in housing portfolio maintenance and provides State facility financing for the construction and modernization of State correctional facilities, as well as other special projects. The following are highlights relating to small business programs that are funded through UDC/ESDC:

- Empire State Economic Development Fund (**\$6.18 million**) provides funds for projects that create or retain jobs;
- Small Business Revolving Loan Program (**\$25 million**) provides for loans to support the growth of small businesses. The program targets minorities, women and other businesses and entrepreneurs who have difficulty in accessing regular credit markets;
- Minority and Women-Owned Business Development Program (**\$635,000**) provide for available capital for local funds targeted to small "micro loans" for start-up of minority and women-owned businesses and provide funding intended for program activities in economically distressed and highly distressed areas;
- Urban and Community Development Program (**\$3.4 million**) provides technical assistance and capital for the start up of "micro-enterprise" businesses and provides funds for development in economically distressed communities;
- Entrepreneurial Assistance Program (**\$1.2 million**) provides comprehensive assistance in starting a new business and helping existing businesses succeed;

- Community Development Financial Institutions (**\$1.4 million**) promote community development in economically distressed areas by providing loans, investments and/or banking services to individuals and small businesses that reside in such areas.

2. New York Office of Science, Technology & Academic Research (NYSTAR)

NYSTAR is responsible for directing the State's university-based high-technology economic development programs. In addition, the Office develops comprehensive plans to attract and retain high-technology businesses with the potential for significant job creation in New York State. The high-technology program within NYSTAR received funding totaling **\$42.2 million**, which included the following:

- Centers for Advanced Technology (CATs), which collaborate with New York companies on the development of new technologies and products, creating new businesses and high-quality jobs throughout the State, were fully funded at **\$13.8 million** for the existing 15 CATs that are located throughout the State.
- Technology Development Organizations (TDOs), which provide technical assistance to high-tech companies seeking to remain competitive, were funded at a total of **\$1.38 million**.

IV. MAJOR ISSUES OF 2010

A. REGULATORY REFORM

Creating the Small Business Crime Prevention Program

(A.350, Latimer; Passed Assembly)

This legislation establishes the small business crime prevention services program to provide small businesses with information on strategies, best practices and programs offering training and assistance in prevention of crimes in and around the premises of small businesses or otherwise affecting small businesses. These crimes include assault, arson, other violent felony offenses, robbery, burglary, theft, identity theft and fraud, vandalism, graffiti and other property damage.

Creating Minority and Women-Owned Business Regional Advocates

(A. 5458, Titus; Passed Assembly)

In order to promote minority and women-owned businesses within New York State, the State provides technical, managerial, financial and educational support. This bill provides for the creation of regional advocates for these businesses who will act as liaisons for minority and women-owned business enterprises and aid in resolving concerns regarding certification delays, investigating complaints, and assisting in the certification process. Advocates will also play an important role in developing educational outreach programs and creating awareness of competitive grant programs.

Deferred Payments of Telecommunication Charges

(A.2928, Koon; Advanced to 3rd Reading)

The New York State Public Service Law currently requires that the Public Service Commission direct telephone companies to offer a plan for the deferred payment of installation charges for residential telephone lines for up to one year. The result is that persons who otherwise could not afford to pay the installation charges may pay over the course of a year.

This legislation would extend such a payment option to small businesses, thereby easing the burden of start-up, expansion and nonrecurring maintenance costs with respect to telephone service, which is a necessity for many small businesses. Easing telephone installation charges would lessen start-up burdens and expansion costs for new small businesses and would therefore serve to encourage and increase small business in New York.

B. BUSINESS CREATION ASSISTANCE

Entrepreneurship Assistance Centers

(A. 11053, Espaillat; Passed Assembly)

The Entrepreneurial Assistance Program (EAP) establishes centers in local communities to provide instruction, training, technical assistance and support services to individuals who have recently started their own business or are interested in starting a business. EAP assists new and aspiring entrepreneurs in developing basic business management skills, refining business concepts, devising early-stage marketing plans and preparing action plans. In addition, the program actively assists EAP client efforts to obtain business financing. Two thirds of the centers operate or are formally affiliated with a micro loan fund. Currently, the statute does not reflect how the EAP functions. This legislation will streamline the program and more accurately reflect how this program has evolved.

Ensuring Internet Access through a Small Business Portal

(A.2982-a, Christensen; Referred to Ways and Means)

In order to ensure that small businesses across the State can easily and readily access information regarding services provided by local, state and federal agencies, this bill would require the Division for Small Business at the Department of Economic Development to maintain a small business portal on the website.

The information maintained on the website would include assistance with and provision of online applications for permits and permit renewals, financing, tax exemptions, relocation and property acquisition, locating and training employees, health and business insurance, environmental compliance, other technical assistance, minority and women-owned business entities and issues facing veteran-owned small businesses.

Transfers Oversight of the Small Business Innovation Research Program to NYSTAR

(A. 4198, Schimminger; Referred to Ways and Means)

Bridging the gap between phase I and phase II of Small Business Innovation Research (SBIR) can be a challenge for many companies in New York State. In order to promote research and development within the state, this bill transfers the oversight of the Small Business Innovation Research (SBIR) Program to the New York State Office of Science, Technology, and Academic Research (NYSTAR) and provides a set of criteria for small businesses to follow. Providing this kind of support allows small business to continue to pursue research and development while waiting for SBIR phase II grant fund (a period of time during which no federal funds are available) and ensures that the research will be conducted solely within New York State.

Micro Business Assistance

(A.110471, Espaillat; Referred to Ways and Means)

Since its inception, Business Outreach Centers (BOCs) Network has assisted over 15,000 small businesses and new entrepreneurs. Its efforts have saved and created over 3,000 jobs and leveraged over \$35 million dollars, in mostly private financing. These centers work with individuals who may not have the knowledge of or experience in creating a micro-business and provide them with the tools they need to start an enterprise such as assistance in writing a business plan or matching an entrepreneur with a reasonable loan.

This legislation would create the micro-business outreach center assistance program and micro-business outreach centers. In turn, these centers would not only serve as a vital resource to small businesses by facilitating access to the complex infrastructure of economic development programs and services, but would also connect small businesses to needed information, capital and technical assistance.

Small Business Niche Market Assistance

(A.4550, Towns; Vetoed Memo. 6801)

A “niche market” is a targeted market composed of individuals and businesses with similar interests and needs that can be readily identified and targeted, or a group of potential customers who share common characteristics, making them especially receptive to the company’s product, service or opportunity.

This legislation would establish a competitive program within UDC to provide grants to a not-for-profit corporation or Manufacturing Extension Partnership Program with a demonstrated capacity to conduct market analysis and seek new markets for niche products for manufacturers, to enable the grant recipients to work with and assist small manufacturers to identify and develop niche markets.

Ensuring Energy Assistance for Small Businesses

(A.6766, Latimer; Vetoed memo. 6803)

Energy is a costly and crucial part of any small business’s business plan. In order to ensure assistance for small businesses with energy conservation, streamlining and planning, this legislation would create the Small Business Energy Assistance and Advocacy Services Program within the Department of Economic Development. The program would solicit input from organizations representing small businesses regarding their energy assistance needs and identify issues relating to energy availability, affordability and sustainability.

The program would also be required to facilitate coordination between small businesses and entities such as NYSERDA, the Power Authority of the State of New York and

others in the development of energy assistance programs and to provide to small businesses information and materials regarding energy assistance programs, including access through the Department's website.

C. CAPITAL FORMATION & DEVELOPMENT

Main Street Center Grant Program

(A. 2260, Stirpe; Referred to Ways and Means)

The concept of "Main Street" has recently become a new focus for an important sector of Economic Development. Small businesses in small communities account for 98% of businesses in New York State. This bill introduces a new program to revitalize these downtown business districts known as the Main Street Center Grants Program. This statewide program will allow grants to be used for facade renovation and interior rehabilitation in addition to developing guidelines to assist localities in ensuring that the facade renovations are done in a manner that respects the architecture of the building and helps to enhance the historic integrity of the Main Street district. It also directs the State to use the internet as a resource for these businesses by making regulatory and rule making documents available electronically without charge.

Kitchen Incubator/Shared-Use Kitchen Facility Grant Program

(A.9808-a, Cook; Referred to Ways and Means)

In the food sector of our economy, many successful enterprises have been started at home or on the farm by individuals who may not have an advanced degree or investment income but who have created a great recipe or family dish that could be developed into a profitable product. The growth of these types of businesses is often dependent on affordable, available processing space, financing, management assistance and other services that can nurture an emerging firm.

Kitchen incubators are similar to other types of business incubators: they provide inexpensive space, shared services, and access to financing and other support to multiple small enterprises such as specialty food producers, farmers, street vendors, restaurants, caterers, and food service training programs. The goal of these "kitchen" facilities is to foster entrepreneurship, job development, and community revitalization. An additional goal is improving local farm sustainability by providing an outlet for farmers to sell, or add value themselves, to their farm products. Creating a program for small-scale food businesses will benefit local economies, workers and farmers.

This legislation would provide seed funding and expansion funding for communities to establish facilities that provide opportunities for individuals to become food business owners which, in turn, creates jobs for the surrounding area. Such facilities could also participate in workforce training and development.

Authorizes the Comptroller and the Commissioner of Taxation to Make Linked Deposits with Lenders to Eligible Businesses

(A.5449, Rivera, P.; Referred to Ways and Means)

The Excelsior Linked Deposit Program, established in 1993, has been a tremendous success in providing attractive financing terms to small businesses that wish to establish or expand their operations in New York. The program has more than doubled in size since its inception and has been expanded both by including additional lenders and by increasing the amount of loans and the size of deposits that may be made.

In many communities in New York, new entrepreneurs and other small business owners need only modest additional funding to expand their businesses and create significant numbers of additional jobs. This is especially true in the service industries and in some economically disadvantaged areas. This legislation would permit the Comptroller and the Department of Taxation and Finance to make a single linked deposit that will be equivalent to a series of small business loans, each of which will be \$50,000 or less in principal amount. With a commitment from the State to make a larger linked deposit, a lender will be able to make such a series of smaller loans, knowing that the deposit funds will be available at the time the loans are closed. These types of smaller loans will be particularly helpful for minority-owned businesses and businesses in distressed areas.

Small Business Energy Loan Program

(A.10474, Espaillat; Referred to Ways and Means)

The state's chronically high energy costs are often cited by businesses as a key factor for why New York-based businesses and New York-made products are not competitive in national and global markets. The state's economic expansion is tied to the growth and development of small businesses. By reducing a primary cost component in a rapidly growing sector of the State's economy, those businesses are rendered more competitive, and thus help to better secure New York-based jobs.

This legislation seeks to encourage the adoption and installation of more efficient alternative energy technologies by small businesses. This measure would provide zero- and low-interest loans or loan interest rate reductions for energy improvement projects to stimulate the growth and development of small businesses and jobs.

D. ENVIRONMENTAL COMPLIANCE FOR SMALL BUSINESS

Small Business Compliance and Pollution Prevention

(A.1148, Destito; Passed Assembly)

Pollution prevention not only protects the environment and the health of business's employees and the surrounding community, but also can lower production costs and enhance the business's ability to compete. There is broad support for promoting investments in pollution prevention, and the state has already initiated several programs to provide technical and financial assistance for multi-media pollution prevention activities.

In particular, many small businesses want to meet environmental goals, but may need technical assistance and help in financing changes to their operations to do so. This legislation would authorize the Department of Economic Development to provide information and assistance to small businesses on environmental compliance requirements and pollution prevention. The Department of Economic Development regional offices will be able to assist small businesses in accessing available programs of technical and financial assistance to promote compliance standards.

E. PUBLIC HEARINGS/ROUNDTABLES

Small business owners can provide valuable information to public policy discussions, hearings or roundtables. By having these forums, the Small Business Committee can focus its energy on legislation that will benefit the State as a whole.

On June 18, 2010, the Chair of the Assembly Small Business Committee, Assemblyman Espaillat, held a small business forum to present to the public the options for small business and entrepreneurial support that New York State offers. In concert with other attending members of the Committee, Chairman Espaillat outlined such services as tax credits, training assistance, and business planning assistance.

V. OUTLOOK FOR 2011

The Small Business Committee is determined to address the future needs of small businesses, making New York a supportive environment for their growth. Issues of capital access, health insurance, small business taxation, export assistance, minority and women-owned business expansion and skilled workforce expansion, energy assistance, veteran's business assistance, regulatory reform and immigrant business assistance are priorities of the Committee. By understanding the needs of small businesses and how their interaction with State government may assist small business growth, we will be better able to make New York a place where small businesses will prosper.

Small businesses account for over 99% of businesses in New York State and employ 55% of the State's workforce. While small businesses are the backbone of the State's economy, Empire State Development Corporation allocates a disproportionately lesser percentage of its economic development budget to helping small businesses. Due to the impact on the workforce of New York, it is extremely important that small businesses and government work together to ensure that New York has a highly trained workforce. The Small Business Committee will continue to investigate ways to train skilled workers.

The current fiscal crisis only enhances the role that the Small Business Committee must play to ensure the State's small business community is not left behind. It is even more critical that we find new ways to provide support for small business expansion and provide more access to capital for new business start ups. This is a vital sector of our State's economy, and during this current economic crisis we must provide relief from unreasonable regulations and fees that will only add to this already struggling sector of the business community. Small Businesses have always been and will continue to be the backbone of New York State's economy, and addressing these issues affecting small businesses will be the Committee's goal for this upcoming Legislative Session.

The Committee will also work to strengthen the ability of local communities to attract and increase small businesses, particularly in older downtown areas, business districts, and minority and immigrant communities.

In addition, the Committee is determined to connect New York's academic resources with the small business community. By providing ways for small businesses to increase their research and development capabilities, New York's economy will become one of the world's finest and most productive.

The Small Business Committee is eagerly awaiting the upcoming year with new ideas and ambition and is committed to supporting small businesses in new and innovative ways.

APPENDIX A

2010 SUMMARY SHEET

Summary of Action on All Bills
Referred to the Committee on

SMALL BUSINESS

| <u>Final Action</u> | <u>Assembly Bills</u> | <u>Senate Bills</u> | <u>Total</u> |
|--|-----------------------|---------------------|--------------|
| <u>Bills Reported With or Without Amendment</u> | | | |
| To Floor: Not Returning to Committee | 1 | 0 | 1 |
| To Floor: Recommitted and Died | 0 | 0 | 0 |
| To Ways and Means | 14 | 0 | 14 |
| To Codes | 0 | 0 | 0 |
| To Rules | 1 | 0 | 1 |
| To Judiciary | 0 | 0 | 0 |
| Total | 16 | 0 | 16 |
| | | | |
| <u>Bills Defeated in Committee</u> | 0 | 0 | 0 |
| <u>Bills Never Reported, Held in Committee</u> | 2 | 0 | 2 |
| <u>Bills Never Reported, Died in Committee</u> | 5 | 0 | 5 |
| <u>Bills Having Enacting Clauses Stricken</u> | 7 | 0 | 7 |
| <u>Motions to Discharge Lost</u> | 0 | 0 | 0 |
| | | | |
| Total Bills in Committee | 23 | 0 | 23 |
| <u>Total number of committee meetings held</u> | 4 | | |

APPENDIX B

| FINAL ACTION ON BILLS REPORTED BY THE SMALL BUSINESS COMMITTEE | | | |
|---|----------------------------------|-------------------------------------|--|
| ASSEMBLY BILL # SPONSOR | SENATE BILL # SPONSOR | FINAL ACTION | DESCRIPTION |
| A.350 Latimer | S.5041 Hassell-Thompson | Passed Assembly | Establishes Small Business Crime Prevention Services. |
| A. 1148 Destito | S.3019 Valesky | Passed Assembly | Establishes the small business clean environment fund. |
| A. 2260-a Stirpe | S.1609-a Valesky | Referred to Ways and Means | Establishes the Main Street grant program. |
| A.2928-a Koon | S.4841-a Aubertine | Advanced to 3 rd Reading | Provides deferred payment be provided to small businesses for telephone installation. |
| A.2982-b Christensen | S.5618-b Valesky | Referred to Ways and Means | Establishes a small business portal on the Department of Economic Development's website. |
| A.4198 Schimminger | S.4434 Stachowski | Referred to Ways and Means | Recodifies the small business innovation research program within NYSTAR. |
| A. 4550 Towns | S.3477 Perkins | Vetoed, memo. 6801 | Creates the niche-market assistance project. |
| A.5449 Rivera, P. | None | Referred to Ways and Means | Authorizes excelsior linked deposits and loans to be made to a series of eligible businesses. |
| A.5458 Titus | S.1242 Thompson | Passed Assembly | Creates minority and woman-owned business enterprise regional advocates. |
| A.6766 Latimer | S.5942 Stewart-Cousins | Vetoed, memo. 6803 | Establishes a small business energy assistance and advocacy services program. |
| A.8417-a Rivera, P. | No Same As | Ordered 3 rd Reading | Directs the Division for Small Business to examine new financial products for their use by small businesses. |
| A. 9808-a Cook | S. 7729-a Krueger | Referred to Ways and Means | Establishes a kitchen incubator program within the Urban Development Corporation. |

| | | | |
|-----------------------|----------------------------|-------------------------------|---|
| A. 10471 Espaillat | S. 7968 Stewart-Cousins | Referred to Ways and Means | Creates the micro-business outreach center assistance program. |
| A. 10474 Espaillat | No Same As | Referred to Ways and Means | Provides low interest loans for energy improvement projects. |
| A. 11053 Espaillat | S. 8295 Thompson | Passed Assembly | Creates the Entrepreneurship Assistance Centers. |