

New York State Assembly | Sheldon Silver, Speaker



committee on

Economic Development, Job Creation, Commerce And Industry

Robin Schimminger, Chair

December 15th, 2009

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

Dear Mr. Speaker:

I am pleased to submit the 2009 Annual Report of the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry.

During the 2009 Legislative Session, the Committee considered many important bills affecting State and local economic development, the alcoholic beverage industry, and general business practices. The Committee is focusing its attention on the development of a model economic development program that will build upon the Empire Zone Program which is scheduled to expire on June 30, 2010 pursuant to the enacted 2009-2010 State Budget. In addition, the Committee continues to focus on the development of a knowledge-based economy and support for our manufacturing sector.

The Committee has also addressed issues that relate to specific industries. One such area is the alcoholic beverage industry. The Committee has taken tremendous strides to aid in the development of the wine industry in New York State. The activities of the Committee have helped the growth of small businesses such as off and on-premise licensees and support manufacturing and agriculture through assisting the wine industry.

On behalf of the members of the Committee, I want to thank you for your encouragement and support of our efforts to foster economic growth and improve New York State's business climate. With your continued leadership, we look forward to a fruitful session in the year to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Schimminger". The signature is stylized and written in a cursive-like font.

Robin Schimminger, Chair
Committee on Economic Development,
Job Creation, Commerce and Industry

2009 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION,
COMMERCE AND INDUSTRY

Robin Schimminger, Chairman

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William Parment
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Joseph D. Morelle
RoAnn M. Destito
Felix Ortiz
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Kevin Cahill
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I. INTRODUCTION: COMMITTEE JURISDICTION

The Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry is responsible for reviewing legislation that affects the economic health and commercial viability of the State. Included within its purview are the controlled sale of alcoholic beverages and the licensing, registration and regulation of a broad spectrum of industries. The committee is also responsible for oversight of the State's various economic development programs.

Many State agencies, economic development organizations and other groups and associations work with the Committee on these important issues. The State agencies include the Department of Economic Development (DED), the Urban Development Corporation (UDC), The Job Development Authority (JDA), the New York State Foundation for Science, Technology and Innovation (d.b.a. NYSTAR), the Department of State (DOS), the Division of Criminal Justice Services (DCJS), the State Liquor Authority (SLA), the Governor's Office of Regulatory Reform (GORR), the Department of Labor (DOL), and the Department of Law. At the local level, the Committee works with a number of organizations, including not-for-profit local development corporations (LDCs), economic development agencies, various not-for-profit foundations, universities, chambers of commerce, and small business development centers.

II. FY 2009-2010 BUDGET OUTCOME

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

PROGRAMMATIC ISSUES

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 economic development programs that are funded through UDC/ESDC:

- Empire State Economic Development Fund (**\$6.18 million**) provides funds for projects that create or retain jobs;
- Minority and Women-Owned Business Development Program (**\$635,000**) provides for available capital for local funds targeted to small "micro loans" for start-up of minority and women-owned businesses and provides funding intended for program activities in economically distressed and highly distressed areas.
- Centers of Excellence (**\$6.9 million**) provide funding and support for the development of new technologies and research in emerging high technology fields.

New York State Foundation for Science, Technology & Innovation (NYSTAR)

The Foundation, doing business as NYSTAR, is responsible for directing the State's university-based high-technology economic development programs. In addition, the Foundation 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, aiming at the creation of 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**.
- Industrial Technology Extension Services (ITES), whose ITES field agents located throughout the State provide technical and managerial assistance to small and mid-sized New York manufacturers seeking to improve their competitiveness, received **\$921,000**.

III. IMPROVING NEW YORK'S ECONOMY AND CREATING JOBS

The Committee believes that the State has an important, though limited, role in facilitating the State's economic growth. It further believes that the forces of the marketplace do and should determine the direction of our economy and that our efforts should consist primarily of supporting our still-viable industries while providing both encouragement and assistance to new and emerging technologies. The Committee also believes that, given the limits of State financial support, economic development efforts should be directed toward assisting companies that maintain and/or create and contribute to the economic stability and revitalization of the communities in which they are situated. Companies that seek and receive State financial assistance should be willing to make a commitment to create, add or retain jobs. Where appropriate, the State should seek to maximize limited resources by providing assistance to entire industries through industrial clusters or trade associations. Additionally, the Committee recognizes that it is at the local and regional levels that the most informed decisions regarding economic development are made and, accordingly, that the State's economic development programs should be regionalized to best capitalize on this expertise and empower communities to act in their own best interests. Such a regionalization would streamline the administration of programs and foster State and local partnerships.

While the Committee supports the need for flexibility in attracting new businesses to the State, it remains concerned about the lack of local and regional involvement in the process and the plight of those New York residents with the least access to conventional funding sources: women, minorities, entrepreneurs and small business owners. Accordingly, the Committee continues to lead the fight to fund programs such as the Urban and Community Development Program, the Minority and Women-Owned Business and Lending Program, and the Entrepreneurial Assistance Program, as well as others that are targeted at local communities and their economic priorities.

The Committee also focused on initiatives that would promote strategic intra-industry partnerships, community restoration and technology transfer. Perhaps most importantly, the Committee contributed to the development of the 2009-2010 State Budget that will provide assistance to New York's strategic industries, small businesses and emerging technologies while ensuring that working families share in the State's economic growth.

Requiring University Grants to be used for New York Based Suppliers

A.250 (Magnarelli)

Passed Assembly

This legislation requires that all entities applying for research and development awards from the State first consider New York State based companies to provide the goods or services necessary to carry out the purposes of the award. The State provides monies to buy goods and services for its Universities. These monies are more effective in stimulating the economy when they are used to hire companies within the state to provide goods and services. This legislation simply requires that those applying for these awards make this consideration.

Commercialization Assistance Fund

A.251 (Magnarelli)

Passed Assembly

This legislation creates within the New York State Foundation for Science, Technology and Innovation a commercialization assistance fund. The fund is to be used to provide grants and invest in new companies within the State focused on commercializing technology that was also developed in New York. There is a strong research industry in New York where new technologies are developed. In order to capitalize on these advancements, aid for commercialization within the State is crucial.

Geographic Information System to Aid Municipalities

A.494 (Hoyt)

Referred to Ways and Means

This legislation requires the Office for Technology to develop a geographic information system and mapping methodology to make available information that will aid municipalities in calculating future development potential. Technology through geographic information systems, digital orthophotos and other software tools exist to allow local officials and the public to visualize how their community has changed over time and how it is likely to continue to change in the future. Computer models can assist in developing policies for growth creating more intelligently and efficiently planned communities.

Training and Continuing Education for State Agency Purchasing Personnel

A.554 (Kavanagh)

Referred to Ways and Means

This legislation would direct the Department of Economic Development to establish and administer training for all state agency purchasing personnel. Purchasing personnel are entrusted to spend the taxpayers' money; therefore, it is in the State's interest that guidelines be set forth to ensure these individuals have and maintain the right tools necessary to carry out their responsibilities.

Small Business Technology Seed Investment Program

A.1111-A (DelMonte)

Passed Assembly

This legislation creates the small business technology seed investment program to provide investment in start-up ventures that are the base for entrepreneurship in New York State. This stage of development for technology research is crucial, yet overlooked by many investors due to the high risk involved. Capitalizing on these seed-stage investments will help grow the economy in New York by creating both jobs and revenue.

De-Centralizing High-Technology Working Capital Loan Guarantees

A.1979 (Morelle)

Passed Assembly

This legislation authorizes the New York State Urban Development Corporation to establish a loan guarantee program in conjunction with regional Technology Development Organizations to decentralize loan guarantees for working capital loans to high technology businesses. New job creation is heavily concentrated in the scientific and technological fields. Small businesses, where these companies often begin, are traditionally barred from larger loans and financing. By de-centralizing the state backed capital loan guarantees, dispersed organizations can better influence regional development plans by evaluating the localized impact of loans to smaller businesses.

Providing for Regionalized Economic Development and Regulatory Compliance Assistance

A.2201 (Morelle)

Referred to Ways and Means

This legislation ensures that small and medium-sized businesses are able to find information on economic programs available to them. It also provides assistance in compliance with any necessary regulations, from the State regional economic development office. Statewide regional offices of the Empire State Development Corporation would accept applications from businesses for state licenses and permits and provide all necessary assistance.

Sustainable Development Task Force

A.2320 (Kavanagh)

Passed Assembly

This legislation creates the Sustainable Development Task Force to study the feasibility of adopting a regulatory system to achieve the goals of sustainable development. Sustainable development provides a high quality of life for present and future generations by enabling people to meet their current needs without compromising the ability of future generations to meet their needs as well. In light of growing environmental awareness, and of a changing economic climate, creating and implementing sustainable living practices is crucial to the present and future of New York State and the world at large.

Strategic Training Alliance Program

A.2849 (Schimminger)

Vetoed by the Governor

This legislation creates the strategic training alliance program within the Department of Economic Development to deliver skills training services through strategic alliances. Allocations of funds for skills training are to be made to assist small businesses (at least 50%) and economically disadvantaged and dislocated workers (at least 25%). Plans for skills training are to consider job growth sectors and areas in which matching funds can be made.

Strategic Network Partnerships Program

A.2852 (Schimminger)

Referred to Codes

The State has a key interest in retaining manufacturing enterprises. Manufacturing companies are often located in cities with declining populations and revenue loss. Such cities are struggling to remain viable in a big economic slump. This bill seeks to provide assistance to manufacturing firms by establishing a Strategic Network Partnership Program to organize, integrate and coordinate state programs designed to assist manufacturing industries in becoming more competitive and productive. The program will also concentrate specifically on endangered industry groups such as the garment industry, and assist in improving productivity, efficiency, and product quality.

Performance Plans for Financial and Business Assistance Programs

A.2854 (Schimminger)

Vetoed by the Governor

This legislation establishes the Private Industry Review Council to conduct a complete review of current state economic development assistance programs. The report will be submitted to the Governor and the Legislature, and recommend changes that may help streamline both business and financial services. This legislation also requires the state's economic development agencies to create performance plans that examine the effectiveness of programs. The State takes great strides in offering aid to businesses through a number of programs, but action needs to be taken in order to better understand their effectiveness, and thereby streamline and enhance them.

Matching Fund Grants for Regional Marketing Programs

A.2934 (Schimminger)

Passed Assembly

This legislation authorizes the Commissioner of Economic Development to grant matching funds to eligible applicants to implement regional marketing programs. The Assembly has long recognized that regional efforts are more specialized and often more effective than statewide campaigns. By providing grants for regionalized marketing programs the State can achieve greater impact.

Priority in the Restore NY Program to Locally Owned Minority or Women Owned Businesses

A.3725 (Aubry)

Passed Assembly

This legislation requires a prioritization in the award of certain contracts in the Restore NY Program. New York State has a long history of focusing on the development of locally owned, minority- and women-owned business enterprises by assuring, when possible, their consideration for state-funded contracts. Requiring that municipalities prioritize such enterprises in the award of certain contracts enhances local economic growth and job creation.

Intellectual Property Asset Management Advisory Council

A.4729 (Morelle)

Referred to Ways and Means

This legislation creates the Intellectual Property Asset Management Advisory Council consisting of eleven members to meet regularly and make recommendations to the legislature and the governor regarding specific aspects of the state's utilization of its intellectual property. The State has continually funded and provided aid for research of new technologies in many different fields of study. This council will examine the possibilities for capitalization on this research and translation into development and production.

Bank Export Incentive Program

A.4881 (Schimminger)

Passed Assembly

Small and medium-sized corporations seeking to export products find it virtually impossible to secure financing when the sale of a product involved is to a foreign customer. Businesses often have difficulty securing such funding due to the uncertainty introduced by foreign customers and the fluctuation of foreign currencies and other variables involved in an export sale. Thus, the banking organization finds it impossible to make money offering these "export credits" to small and medium-sized businesses seeking to sell overseas.

This legislation permits the Job Development Authority (JDA) to create a program in which monies will be placed with cooperating banking organizations. Such corporations will be permitted to invest these monies on the condition that they lend an amount equal to two times the amount of money provided them to eligible applicants for eligible projects.

Establishes the Empire Revolving Bridge Loan Fund

A.5218 (Magnarelli)

Referred to Ways and Means

This legislation would establish the Empire Revolving Bridge Loan Fund in the custody of the Empire State Development Corporation to fund projects costing at least \$20 million and creating at least 300 new full time equivalent jobs. The fund would consist of the net proceeds of one or more series of bonds or notes issued, by the corporation according to the Revenue Bond Financing Program, moneys transferred to the fund, moneys donated to the fund, payments of principal on loans made from the fund, and interest earnings that may accrue.

Bioscience Facilities Development Program

A.5255 (Espaillat)

Passed Assembly

This legislation creates the biosciences development program consisting of a revolving loan fund run by a local economic development corporation to provide loans to bioscience facilities to assist individual commercial bioscience companies to remain in New York State. Eligible borrowers would include early and middle stage bioscience companies in such areas as biotechnology, biomedicine, nanomedicine, specialty pharmaceuticals, and medical devices, with fewer than two hundred employees and a recipient of funding from an institutional venture capital firm in the twenty-four months prior to making an application for a loan under this paragraph.

Expanding the Linked Deposit Program

A.5953-A (Magee)

Passed Assembly

This legislation expands the Linked Deposit Program which has helped businesses expand and improve in New York State. Currently, the aggregate amount a business can borrow is a total of one million dollars per project. This legislation would double the amount allowing businesses to take on larger projects and expansions.

Second Avenue Subway Construction Project Area Grant Program

A.6137-A (Bing)

Passed Assembly

This legislation would create the 2nd Avenue Subway Construction Economic Development Grant Program to provide financial and technical assistance to businesses located within the 2nd Avenue Subway Construction Business zone area. The Program would provide moneys to businesses for the purposes of improving signage, expanding existing entryways, improving ventilation, marketing and advertising, rental payment assistance and professional counseling services.

Academic Research Information Access Program

A.7229 (Schimminger)

Vetoed by the Governor

This legislation would establish an Academic Research Information Access (ARIA) Program in order to allow for the shared access of informational resources by educators and researchers in the fields of science, technology, engineering, and medical research. The high cost of research publications often prohibits educators and students from accessing the latest information. This program would allow for greater access to these publications and encourage higher education across the State.

Promoting Energy Conservation and Efficiency Projects

A.8643 (Cahill)

Passed Assembly

This legislation would establish an energy conservation and efficiency projects definition in the Urban Development Corporation law. This would enable entities seeking funding under the various programs to use energy conservation and efficiency as a qualifying expense. It is essential that the State make every opportunity available to businesses in the State to improve their energy consumption and operating budgets.

Making Changes to the Empire Zone Program

A.8803-A (Schimminger)

Referred to Ways and Means

This legislation addresses and modifies changes that were made to the Empire Zones Program in the FY 2009-2010 State Budget. These modifications include authorizing companies with more than one Empire Zone location to be reviewed in the aggregate when performing the newly established decertification tests and ensuring that grounds for decertification as a result of new ownership shall only occur when the change of ownership results in the new entity having a different tax identification number. This legislation would also provide that decertification shall only apply to tax years beginning on or after January 1, 2009.

IV. REFORMING THE ALCOHOLIC BEVERAGE INDUSTRY

The Committee believes that its primary responsibility in the area of the Alcoholic Beverage Control Law (ABCL) is to ensure the safe and lawful distribution of alcoholic beverages in the State. To this end, the Committee focused on two interrelated quality of life issues: maintaining adequate control over problem establishments, and ensuring community participation in the licensing of all retail establishments. In addition, the Committee sought to alleviate burdensome restrictions on the growing wine and liquor boutique industries.

The Committee will continue its review of the Alcoholic Beverage Control Law to ensure ease of application and coherence. Since many of the alcoholic beverage control laws have remained unaltered since the end of Prohibition, the State has a keen interest in continuing the identification of statutes in conflict with the modern alcoholic beverage industry standards. In addition, the Committee will continue to develop legislation to assist communities with making the best decision for their neighborhoods based on adequate information and notice.

Allowing for Municipalities to Express Opinion Prior to the Granting of a License

A.204 (Pheffer)

Passed Assembly

This legislation requires that localities be notified and allowed to present an opinion either for or against the granting of an off-premises liquor license within their community. Municipalities and Community boards often understand the needs of their communities far better than larger State agencies. Their input on the effects that a new or renewed liquor license may have is a great asset to the State Liquor Authority when making a determination.

Protecting Small Brewers

A.488-B (Destito)

Passed Assembly

This legislation would permit brewers with a certain annual volume and with a certain percentage of sales to terminate an agreement with a beer wholesaler without having good cause; requires payment of fair market value of the applicable distribution rights lost; allows for the arbitration panel to review the fair market value; sets forth definitions.

Expanding the Offerings Included in a Wine License

A.711 (Cahill)

Passed Assembly

This legislation would permit the sale of low and medium alcoholic content beverages by wine licensees. Certain alcoholic products containing no more than 24 percent alcohol have been highly successful on the alcoholic beverage market, and expanding to allow for these offerings by a wine licensee creates more potential for economic growth.

Authorizing Farm Wineries to Store and Sell Wine Making Equipment

A.2321 (Magee)

Chapter 82

This bill ensures that farm wineries can conduct ancillary businesses that complement their main business purpose which is to produce wines from New York grown grapes. Increasing the number of ancillary businesses that a farm winery can clearly conduct on their property can increase the overall business opportunities available to these companies and thereby, increase their overall profitability.

Allowing Farm Wineries to Offer Custom Crush Wine Production

A.2322 (Magee)

Passed Assembly

This bill would authorize farm winery licensees to offer custom crush wine production to allow individuals to take part in the production of wine products they intend to purchase for personal or family use. The bill would also require that the owner of such winery is present at all times during production.

Sale of Draft Beer at Festivals and Farmer's Markets

A.2325 (Magee)

Chapter 258

This bill would permit certain small beer brewers to obtain a permit to sell beer in sealed containers at fairs and farmer's markets.

Reducing Liquor License Fees

A.2851-A (Schimminger)

Referred to Codes

This legislation would reduce the liquor license fee for on-premise establishments in cities with a population of 50,000 or more, other than New York City, to the same rate as liquor licenses in smaller cities and towns.

Extending the Timeframe for Notification of Community Board

A.3282 (Pheffer)

Passed Assembly

This legislation extends the notification period of community board to 60 days in advance of application for a liquor license. Meetings of most local community boards are scheduled monthly, or for some even less frequently. The time they require to fully examine and consider community impact of liquor licenses is usually more than the current 30 day period. This legislation aims to aid these leaders in their important role in ensuring the safety and health of their communities.

Requiring Information be Presented to a Municipality Regarding Liquor Licenses

A.3743 (Lentol)

Passed Assembly

Alcoholic Beverage Control Law prohibits the issuance of a liquor license to an establishment within 500 feet of 3 or more currently licensed establishments. In order to break this rule the Municipality must be notified and a hearing must be held to establish that granting such a license is in the common interest. Currently, the information provided to municipalities is overly basic in nature. This legislation requires that the municipality be given a copy of the license application – excluding any personal information of the applicant. This allows for an informed public and greater opportunity for public reaction.

Eliminating Inconsistent Standards as Applied to Employees with Criminal Records

A.3770-A (Aubry)

Ordered 3rd Reading

Human Rights Law (Executive Law 296) currently prohibits unfair discrimination against individuals with criminal records, and Correction Law (Article 23-A) requires employers to make an individualized determination regarding a person's employability and criminal record. This legislation eliminates the prohibition on employers at licensed on-premise establishments from hiring applicants with felony convictions. This bill removes an impediment facing individuals who have completed their sentences from finding gainful employment.

Providing Notice of Hearing Reschedule, Adjournment, or Continuation

A.3827 (Lentol)

Passed Assembly

Alcoholic Beverage Control Law prohibits the issuance of a liquor license to an establishment within 500 feet of 3 or more currently licensed establishments. In order to break this rule the Municipality must be notified prior and a hearing must be held to establish that granting such a license is in the common interest. This legislation provides that if the hearing must be rescheduled, adjourned, or continued then notice must be given to the applicant and the municipality.

Including Certain Terms of Operation when Granting Licenses

A.6657 (Gottfried)

Passed Assembly

This legislation allows the State Liquor Authority to include as terms in the granting of a liquor license to assure that the licensed premises are operated in accordance with applicable law and consistent with the public interest. Prior to including terms and conditions in the license, the SLA would consult with the applicant and any party entitled to receive notice of the application (for example, local governments or community boards). The terms and conditions would be legally enforceable in the same manner as applicable provisions of this chapter or regulations of the SLA.

Changing Eligibility Requirements for Applicants for Temporary Retail Permits

A.6782 (Schimminger)

Passed Assembly

In order to promote the continuity of business and encourage ongoing economic activity this legislation would allow the State Liquor Authority (SLA) to issue a temporary retail permit to the applicant for a retail license during the period the application is pending when the applicant has fully complied with the application requirements as defined by §110 of the Alcoholic Beverage Control Law and at the time the permit is issued any existing retail license for the premises is surrendered to the SLA or deemed abandoned.

Allowing Licensees to Provide Beer Samples

A.7151 (Hoyt)

Passed Assembly

Samples are a widely acknowledged marketing strategy to encourage consumers to try new products. This legislation would allow establishments licensed to sell beer for consumption on the premises to serve samples of beer or malt beverages at such establishment, provided that each sample is limited to one ounce or less of beer or malt beverage and that no more than four samples are provided to any one consumer of legal age.

Measurement Specifications to Determine Distance Restrictions

A.7364-A (Millman)

Passed Assembly

In order to ensure that the spirit of the law restricting liquor licensees in cities of one million or more from operating within 200 feet of a school or place of worship, or within 500 feet of 3 or more other licensees is upheld this legislation would require that in New York City measurements to determine distance restrictions for alcohol licenses are taken from property lines. Measurements for establishments opening within 200 feet of a school or place of worship, or within 500 feet of 3 or more other licensees would be made from the nearest point on each property boundary line.

Temporary Transfer Retail Permit

A.7800 (Schimminger)

Referred to Rules

This legislation would allow the State Liquor Authority to issue a Temporary Transfer Retail Permit to the transferee of a retail license under the conditions that: the premises has been operated under a retail license within 30 days of the date of application for a temporary permit; the retail license for the premises has been surrendered to the State Liquor Authority (SLA); the applicant for the temporary transfer permit has filed for transfer of the retail license for the establishment; and the holder of the retail license has either paid any outstanding debt to wholesalers and has provided proof to the SLA or has given an affidavit to the SLA with a list of the wholesalers and the sums they are owed and has placed the total owed in escrow with the counsel or agent of the temporary permittee to be paid within five days of the issuance of the permit.

Re-examining the Alcoholic Beverage Control Law

A.7822 (Schimminger)

Chapter 66

This legislation extends the due date for the Law Revision Commission report of the examination until September 30, 2009. This extension was in response to a request made by the Law Revision Commission.

Allowing Wineries and Farm Wineries to Sell Wine at Food Festivals

A.8172-B (Magee)

Passed Assembly

There are many great food festivals across New York State, and New York State wine has fast become an integral part of the culinary experience. This legislation would allow licensed wineries or farm wineries to sell wine for consumption on the premises of a food festival or similar event without obtaining any additional information or paying any additional fees. Servings of wine would be dispensed in the amount of ten ounces or less.

Standardizing Procedures for the Issuance of Various On-premises Liquor Licenses

A.8518 (Schimminger)

Passed Legislature

This legislation would make technical amendments to identify types of establishments currently subject to the 500 ft rule. It would clarify the parameters for determining the 500 ft rule as imposed by current law; and, require that notice to a municipality or community board shall be in writing 15 days prior to a licensing hearing.

Standardizing Factors the State Liquor Authority Must Consider Before Granting a License
A.8519 (Schimminger)

Passed Assembly

This legislation would require the State Liquor Authority to consider factors including the number, classes and character of licenses in proximity to the location and in the particular municipality or subdivision thereof; evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies; the effect of the grant of the license on vehicular traffic and parking in proximity to the location; the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; the history of liquor violations and reported criminal activity at the proposed premises; and any other factors specified by law or regulation that are relevant to determine the "public convenience and advantage and public interest" of the community before granting a license.

Encouraging Alcohol Awareness Training for Employees of Licensees

A.8645-A (Paulin)

Passed Assembly

This legislation would provide that if a licensee to sell alcoholic beverages at retail is alleged of either selling alcohol to a person under the age of 21 or to any visibly intoxicated person, who agrees that all employees will obtain a certification of completion of an alcohol training awareness program within 90 days of the finding then the civil penalty will be reduced by 25%.

Creating an Exception to the Restriction Against Restaurant-Brewers

A.8656-A (Tedisco)

Referred to Codes

This legislation would add a certain parcel of land in the City of Schenectady to the list of premises which are exempt from the provisions of law which generally restrict manufacturers or wholesalers from sharing an interest in retail.

Allowing for Internet Auctions of Liquor

A.8746 (Rosenthal)

Referred to Rules

This legislation would exempt internet auctions from the number of auctions that a liquor auction permittee may hold in a calendar year. This legislation addresses the residual lack of clarity to the status of internet auctions in relation to wine and liquor auctions covered by statute.

Allowing for the Continued Existence of Just Lorraine's Place

A.8823 (Wright)

Chapter 407

While the Alcoholic Beverage Control Law prohibits the sale for on-premises consumption of alcohol at any location within 200 feet of a place of worship, exceptions have been made for certain establishments that do not pose problems for the place of worship, or the surrounding neighborhood. This legislation ensures that Just Lorraine's Place in New York City can continue to serve the community it is a vital part of by exempting it from the rule prohibiting a licensee from operating within 200 feet of a house of worship.

Permits for Institutions of Higher Education to Serve Alcohol in Culinary Classes

A.8892 (Alessi)

Referred to Codes

Tasting of alcoholic beverages is sometimes necessary to ensure that students are receiving the most comprehensive education, especially in the areas of culinary, cultural and agricultural studies. This legislation would allow an institution of higher education to conduct any and all courses involving alcohol education under one permit for a single year, provided that the State Liquor Authority is informed of all times and locations for such courses; and, allow an institution of higher education to purchase liquor for such permitted courses at any premise licensed to sell liquor at retail for consumption off the premises.

V. PROTECTING CONSUMERS WHILE ASSISTING BUSINESSES

The Committee will continue to regulate businesses where such regulation will enhance the public good and increase efficiencies of the market. In evaluating legislative proposals, the Committee seeks to balance the legitimate concerns of the business community with those of consumers and the general public. Thus, the committee's policy is to advance legislation that responds positively to an identified need within a particular industry without imposing undue burdens on businesses or jeopardizing consumer confidence or public safety.

Providing Access of Motor Fuel to Handicapped Persons

A.629 (Paulin)

Passed Assembly

This legislation requires that any seller of motor fuel that offers both full-service and self-service must provide full-service to handicapped customers for the same price as self-service between 7:00 a.m. and 7:00 p.m. Currently, there is confusion over whether this offering must be made to only those with handicapped license plates, or include those with handicapped parking permits. The Americans with Disabilities Act states that gas stations must, if possible, provide refueling assistance upon request of an individual with a disability without any charge beyond the self-service price. This legislation ensures that all permit holding disabled persons are included in this offering.

Providing For Escrow Agreements in Construction

A.2279 (Cusick)

On 3rd Reading

This legislation would provide for a reasonable amount of a construction contract sum to be deposited in a separate interest bearing escrow account with a third party escrow agent; provides further that the owner would be subject to the payment of interest, in addition to the escrow interest, at the rate of one percent per month and the contractor or subcontractor would be subject to payment of interest on the amount of retainage it holds at the rate of one percent per month.

Prohibits the Sale of Fraudulently Labeled Electrical Cords

A.2323-A (Jaffee)

Passed Legislature

Consumers are subject to many dangers that may develop from the use of faulty electrical cords. This legislation ensures that merchants are aware of dangers associated with fraudulently labeled electrical cords through education and training. The bill also provides fines for merchants found selling incorrectly marked electrical cords.

Regulating the Sale of Nitric Acid

A.5405 (Ramos)

Referred to Codes

This legislation requires retailers who sell nitric acid to verify the identity of the buyer (using a picture id) and record the buyer's name and address. The records must be retrievable within the same premises where the sale is made. Also, schools and colleges must secure nitric acid before, after, and during its academic uses. If nitric acid is taken off laboratory premises, records must also be kept including both name and address. Websites with instructions for creating explosives using nitric acid will be banned. Nitric acid is a dangerous substance, used for both sound scientific purposes, and dangerous irresponsible purposes. This legislation focuses on enhancing safety by regulating nitric acid sale and use.

Restricting the Resale Value for Postage Stamps

A.6326 (Towns)

Referred to Codes

This legislation restricts the resale value for postage stamps to the price set by the United States Post Office. Often times mercantile establishments charge extra for postage stamps due to captive audience and convenience. This restriction makes allowances for stamp-oriented hobbies as it does not apply to stamp collecting and trading. Any mercantile establishment that fails to comply with these restrictions will be charged a civil penalty of \$150.

Making Nail Products Safer

A.7447 (Rosenthal)

Referred to Codes

This legislation would prohibit the certain substances in the manufacture, distribution, or sale of nail polish or nail hardener including dibutyl phthalates (DBP), toluene, and formaldehyde. Studies have found that breathing DBP can irritate the nose and throat and may adversely affect the nervous system and high exposure can cause headaches, nausea, drowsiness and seizures. Toluene appears on several lists of chemicals known to cause cancer or reproductive toxicity; exposure to it can result in damage to the brain, liver, bone marrow and kidneys. Formaldehyde has been classified as a probable human carcinogen by the Environmental Protection Agency. By eliminating these potentially harmful chemicals from these products, consumer safety would be increased.

Enhancing Safety of Engine Coolant

A.7602-A (Millman)

Passed Assembly

This legislation requires that any engine coolant or antifreeze that contains 10% or more of the poisonous substance ethylene glycol must contain at least 30 parts per million of the nontoxic additive denatonium benzoate. Many young children die each year from accidentally ingesting poisonous substances they may find around the house. Studies have shown that adding a foul tasting additive may also help deter ingestion of such substances.

Continuing Education in Infection Control for Appearance Enhancement Professionals

A.7718-A (Towns)

Referred to Ways and Means

This legislation would require licensed appearance enhancement professionals to take continuing education courses concerning infection control. Professionals whose work involves human contact and sharp instruments need to have comprehension of infection control in order to keep both themselves and their clients safe. The science of infection control is always evolving and often new information and techniques can enhance and transform the ways in which professionals deal with sanitation. By requiring continuing education for professionals in this field New York is ensuring consumer safety.

VI. REDUCING THE COST OF MOTOR FUEL

In July of 2008 the national average of the cost of one gallon of gasoline topped out at \$4.10. High gasoline prices affect both individual consumers and businesses – both large and small. In a re-examination of motor fuel industry practices, larger problematic themes emerge, such as distribution and pricing. The Committee sought ways to influence these practices on behalf of the economic welfare of New Yorkers by standardizing policies. Acknowledging the great importance of motor fuel to the economic stability of New York, the Committee passed legislation aimed at assuring attainability of this resource for all consumers, and responsible business practices by retailers and wholesalers.

Clarifying Existing Law Regarding Zone Pricing of Gasoline

A.234-A (Bradley)

Passed Assembly

This legislation would define “relevant geographic market” as the geographic area of effective competition among retail outlets, and “zone pricing” as the establishment of arbitrary price differences based on the geographical location of the retail outlet within the relevant geographic market, without regard to the posted terminal price and any additional costs where the effect is to injure competition. It would also prohibit producers, refiners, and dealers from engaging in zone pricing of gasoline.

Motor Fuel Marketing Practices Act

A.2323 (Jeffries)

Passed Assembly

This legislation creates the Motor Fuel Marketing Practices Act, making it unlawful to raise the price of any grade or quality of motor fuel more than once in 24 hours. It also provides that any violation of this act will result in a civil fine not to exceed \$500 and that an isolated, inadvertent incident shall not be a violation. As the price of motor fuel rises, incidents have been reported of retailers raising prices many times in one day – making the same gallon of gas purchased at 9:00 a.m. more expensive at noon and again more expensive during the evening commute. This legislation seeks price continuity throughout the day, allowing for consumers to purchase gas products at their convenience.

VII. 2009 PUBLIC HEARINGS

The Future of Economic Development in New York State

On October 14th, 2009 and October 20th, 2009 the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry held public hearings on The Future of Economic Development in New York State.

As a result of the enacted 2009-2010 State Budget the expiration date of the empire Zone Program was changed from June 30, 2011 to June 30, 2010. The Committee sought testimony from business organizations and other stakeholders to determine the future of the program and the parameters of any new program that will serve as the State's primary economic development engine.

Budgetary Oversight

On October 28th, 2009 the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry held a public hearing on Budgetary Oversight of the Department of Economic Development, Empire State Development Corporation and the Foundation for Science, Technology and Innovation. This hearing examined the current effectiveness of the State's economic development programs, as well as the potential for continued development of the relationship between the legislature, constituents and the agencies.

Restore NY

On November 13th, 2009 Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry co-sponsored a hearing to examine the effectiveness of the Restore NY program in achieving its legislative goals. Established in the 2006-2007 New York State Budget the Restore NY program provides eligible municipalities with financial assistance to encourage neighborhood revitalization through the demolition, deconstruction, rehabilitation and reconstruction of vacant or obsolete buildings. Funding for the program was released in three rounds including \$50 million in State Fiscal Year 2006- 2007, \$100 million for State Fiscal Year 2007-2008, and the final round of \$150 million in State Fiscal Year 2008-2009.

Matching the Needs of the Capital Region's Emerging High Tech Industries With the Regional Workforce

On June 9th, 2009 the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry co-sponsored a hearing with the Assembly Standing Committee on Labor, the Assembly Standing Committee on Education, the Assembly Standing Committee on Small Business, the Legislation Commission on Science and Technology, the Legislative Commission on Skills Development and Career Education, and the Assembly Subcommittee on Emerging Workforce on matching the needs of the Capital Region's emerging high tech industries with the regional workforce. Many research institutions, including the Centers of Excellence and the Centers for Advanced Technology, work directly with businesses in New York State and provide essential workforce training. These institutions will be eligible to receive federal funding for emerging industries training initiatives, and it is the responsibility of New York State to ensure that these funds are effectively utilized.

New York State's Low-Cost Power Programs

On December 2nd, 2009 the Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry co-sponsored a hearing with the Assembly Standing Committee on Energy, and the Assembly Standing Committee on Corporations, Authorities and Commissions to examine the various issues related to the State's low-cost power programs.

VIII. OUTLOOK FOR 2010

The economic crisis of 2009 has led to shrinking incomes and higher unemployment. It has been especially acute in New York State where the financial sector, responsible for roughly 20% of all State revenue, has been significantly impacted, leading to diminished economic activity on Wall Street and decreased tax revenues.

During the 2010 Legislative Session, the Committee on Economic Development, Job Creation, Commerce and Industry will continue to address the financial crisis by continuing its efforts to create and retain jobs, with a focus on small business and emerging technologies development. The Committee will continue to work toward improving economic growth through specially tailored programs for specific areas of industry, including: manufacturing, biotechnology and green technology.

In addition, the Committee will focus on its review of the Alcoholic Beverage Control Law to ensure ease of application and coherence. As many of the Alcoholic Beverage Control laws remain unaltered since the end of Prohibition, the State has a special interest in continuing the identification of statutes in conflict with modern alcoholic beverage industry standards and practices. Also, the Committee will examine the New York State Law Revision Commission's recommendations in its Final Report on the Alcoholic Beverage Control Laws and implement supporting legislation if necessary.

APPENDIX A

**2009 SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE COMMITTEE ON
ECONOMIC DEVELOPMENT, JOB CREATION, COMMERCE, AND INDUSTRY**

Final Disposition of Bills	Assembly	Senate	Total
Bills Reported With or Without Amendment	58	0	58
To Floor; Not Returning to Committee	6	0	6
To Floor; Recommitted and Died	0	0	0
To Ways and Means	25	0	25
To Codes	25	0	25
To Rules	2	0	2
To Judiciary	0	0	0
Total	58	0	58

Bills Having Committee Reference Changed

To Tourism Committee	1	0	1
To Consumer Affairs	1	0	1
To Codes	1	0	1
Total	3	0	3

Senate Bills Substituted or Recalled

Substituted		2	2
Recalled		0	0
Total		2	2

Bills Defeated in Committee	0	0	0
Bills Never Reported, Held in Committee	2	0	2
Bills Never Reported, Died in Committee	186	1	187
Bills Having Enacting Clauses Stricken	7	0	7
Motions Discharge Lost	2	0	2

Total Bills in Committee	258	3	261
Total Number of Committee Meetings Held	8		

APPENDIX B

**COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION,
COMMERCE, AND INDUSTRY**

2009 Bills Considered

Assembly Bill #	Senate Bill #	Last Action	Description
A.204 Pheffer	S.2375 Padavan	Passed Assembly	Provides a municipality or community may express an opinion before an off-premises license is granted.
A.234-A Bradley	S.3766 Monserrate	Passed Assembly	Makes technical changes to the zone pricing law to ensure that all parties in the supply chain are covered.
A.250 Magnarelli	S.1608 Valesky	Veto Memo. 59	Requires companies receiving certain grants to first consider goods and services from New York State based companies.
A.251-A Magnarelli	S.2289-A Stachowski	Veto Memo. 46	Establishes a commercialization assistance fund at NYSTAR.
A.488-B Destito	S.5614-A Valesky	Passed Assembly	Authorizes small brewers to terminate an agreement with beer wholesalers under certain circumstances.
A.494 Hoyt	S.4814 Stewart-Cousins	Referred to Ways and Means	Requires the office of technology to develop a geographic information system to help municipalities calculate future development potential.
A.554 Kavanagh	S.471 Breslin	Referred to Ways and Means	Requires DED to establish and administer training for all state agency purchasing personnel.
A.629 Paulin	S.2752 Johnson, C.	Passed Assembly	Provides that persons with handicap parking permits may receive assistance at the gas pump.
A.711 Cahill	S.677 Larkin	Passed Assembly	Permits persons wine licensees to also sell low-alcohol content beverages.
A.1111-A DelMonte	None	Passed Assembly	Creates the small business technology seed investment program.

A.1979 Morelle	S.3080 Valesky	Referred to Ways and Means	Authorizes ESDC and regional TDOs to decentralize loan guarantees for working capital loans to high technology companies.
A.2201-A Morelle	S.3076-A Valesky	Chapter 352	Creates a one-stop regional economic development and regulatory compliance assistance.
A.2279 Cusick	S.754 Breslin	On 3 rd Reading	Under mutual agreement a reasonable amount of a construction contract may be placed in an escrow account.
A.2320 Kavanagh	Passed Assembly	Passed Assembly	Creates a sustainable development task force to conduct a study.
A.2321 Magee	S.3492 Valesky	Chapter 82	Authorizes farm wineries to store and sell wine making equipment.
A.2322 Magee	S.3620 Valesky	Passed Assembly	Authorizes wineries to engage in custom crush wine production.
A.2323 Jeffries	S.3765 Monserrate	Passed Assembly	Prohibits more than one increase in the price of motor fuel in any 24 hour period.
A.2325 Magee	S.2623 Valesky	Chapter 258	Permits certain small beer brewers to obtain a permit to sell beer in sealed containers at fairs and farmer's markets.
A.2326-A Jaffee	S.2682 Morahan	Passed Assembly	Prohibits the sale of extension cords with fraudulent seals from the Underwriter's Laboratory.
A.2849 Schimminger	S.4435 Stachowski	Veto Memo. 47	Creates the strategic training alliance program to fund regional skills training programs.
A.2850 Schimminger	None	Referred to Ways and Means	Increases the limit of the amount of money that may be on deposit with the excelsior linked deposit program.
A.2851-A Schimminger	None	Referred to Codes	Reduces license fees in medium sized cities for on-premises licenses.
A.2852 Schimminger	S.4103 Aubertine	Passed Assembly	Establishes the Strategic Network Partnerships Program to assist the manufacturing industry.
A.2854 Schimminger	S.4437 Stachowski	Veto Memo. 32	Establishes the Private Industry Review Council.

A.2934 Schimminger	S.4161 Aubertine	Passed Assembly	Authorizes the commissioner of Economic Development to grant matching funds to eligible applicants to conduct regional marketing programs.
A.3282 Pheffer	S.2761 Padavan	Passed Assembly	Extends from 30 to 60 days the amount of time an applicant for a license must notify a municipality or community board.
A.3725 Aubry	None	Passed Assembly	Requires municipalities that receive awards under the Restore New York's Community Initiative to give preference to minority- or woman-owned businesses.
A.3743 Lentol	None	Passed Assembly	Requires the SLA to forward information to localities for hearings to evaluate whether a license should be granted when 3 or more existing licensees are within 500 ft.
A.3770-A Aubry	S.4686 Hassell-Thompson	3 rd Reading	Allows qualified individuals with criminal records to be employed in licensed on-premises establishments.
A.3827 Lentol	S.5508 Klein	Passed Assembly	Requires the SLA to notify localities of any rescheduled hearings to evaluate whether a license should be granted when 3 or more existing licensees are within 500 ft.
A.4729 Morelle	None	Referred to Ways and Means	Creates the intellectual property asset management advisory council.
A.4881 Schimminger	S.363 Robach	Passed Assembly	Authorizes the job development authority to create a bank export incentive program.
A.5218 Magnarelli	S.2862 Valesky	Referred to Ways and Means	Establishes the empire revolving bridge loan fund within ESDC.
A.5255 Espaillat	None	Passed Assembly	Creates the bioscience facilities development program to establish a revolving loan fund.
A.5405 Ramos	S.2228 Lavalle	Referred to Codes	Provides regulations for the storage and sale of nitric acid.

A.5953-A Magee	S.5514 Stachowski	Referred to Ways and Means	Increases from \$1 million to \$2 million the aggregate of linked loans that an agricultural project may receive.
A.6137-A Bing	S.3799-A Serrano	Passed Assembly	Establishes the Second Avenue Subway Construction project area grant program.
A.6326 Towns	None	Referred to Codes	Restricts resellers of postage stamps to charge more than face value.
A.6657 Gottfried	S.2330 Padavan	Passed Assembly	Allows the SLA to include certain terms as part of various licenses for on-premises consumption.
A.6782 Schimminger	S.3883 Johnson, C.	Referred to Rules	Changes eligibility requirements for applicants for temporary retail permits.
A.7151 Hoyt	S.3246 Stachowski	Referred to Rules	Authorizes grocery stores to provide samples of beer.
A.7229 Schimminger	S.5419 Stachowski	Veto Memo. 80	Creates the Academic Research Information Access Program (ARIA).
A.7364-A Millman	S.3775-A Squadron	Passed Assembly	Requires that in New York City measurements to determine distance restrictions for alcohol licenses are taken from property lines.
A.7368 Schimminger	S.5749 Valesky	Chapter 316	Extends the current keg registration laws.
A.7447 Rosenthal	S.5478 Duane	Referred to Codes	Prohibits the manufacture, distribution and sale of nail products containing certain chemicals.
A.7602-A Millman	None	Passed Assembly	Requires engine coolant or antifreeze sold in New York State contain a bittering agent.
A.7718 Towns	S.3708-D Sampson	Referred to Ways and Means	Requires licensed appearance enhancement professionals to take continuing education courses concerning infection control.

A.7800 Schimminger	S.4579 Johnson, C.	Referred to Rules	Authorizes the SLA to issue temporary transfer retail permits only when the holder of such license has met outstanding obligations with suppliers.
A.7822 Schimminger	S.4578 Johnson, C.	Chapter 66	Extends the date on which a final report from the law revision commission is due.
A.8172-B Magee	S.5440-B Valesky	Passed Assembly	Allows a winery or farm winery to sell wine for consumption on the premises at a food festival.
A.8518 Schimminger	S.5578 Squadron	Chapter 463	Standardizes procedures governing the issuance of various on-premises liquor licenses.
A.8519 Schimminger	S.5577 Squadron	Passed Assembly	Makes consistent factors the SLA must consider before issuing an on-premises liquor license.
A.8643 Cahill	S.5732 Aubertine	Chapter 406	Provides that projects related to energy conservation and efficiency be eligible for funding through ESDC.
A.8645-A Paulin	S.5803-A Klein	Passed Assembly	Encourages licensees to provide alcohol awareness training programs for the employees.
A.8656-A Tedisco	S.5182-A Farley	Referred to Codes	Creates a limited exception to the restriction against restaurant-brewers.
A.8746 Rosenthal	None	Referred to Rules	Precludes online auctions of alcohol from counting toward the permitted 12 auctions
A.8803-A Schimminger	S.5598-B Stachowski	Referred to Ways and Means	Makes changes to the Empire Zones Program.
A.8823 Wright	S.5914 Perkins	Chapter 407	Authorizes the issuance of an alcoholic beverage license to sell liquor at a certain premises.
A.8892 Alessi	None	Referred to Codes	Makes changes to the permit for institutions of higher education to serve alcohol.

APPENDIX C

**COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION,
COMMERCE, AND INDUSTRY**

2009 Chapters

Assembly Bill #	Senate Bill #	Chapter	Description
A.2201-A Morelle	S.3076-A Valesky	Chapter 352	Creates a one-stop regional economic development and regulatory compliance assistance.
A.2325 Magee	S.2623 Valesky	Chapter 258	Permits certain small beer brewers to obtain a permit to sell beer in sealed containers at fairs and farmer's markets.
A.7368 Schimminger	S.5749 Valesky	Chapter 316	Extends the current keg registration laws.
A.7822 Schimminger	S.4578 Johnson	Chapter 66	Extends the date on which a final report from the law revision commission is due.
A.8518 Schimminger	S.5578 Squadron	Chapter 463	Standardizes procedures governing the issuance of various on-premises liquor licenses.
A.8643 Cahill	S.5732 Aubertine	Chapter 406	Provides that projects related to energy conservation and efficiency be eligible for funding through ESDC.
A.8823 Wright	S.5914 Perkins	Chapter 407	Authorizes the issuance of an alcoholic beverage license to sell liquor at a certain premises.

APPENDIX D

**COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION,
COMMERCE, AND INDUSTRY**

2009 Vetoes

Assembly Bill #	Senate Bill #	Chapter	Description
A.250 Magnarelli	S.1608 Valesky	Veto Memo. 59	Requires companies receiving certain grants to first consider goods and services from New York State based companies.
A.251-A Magnarelli	S.2289-A Stachowski	Veto Memo. 46	Establishes a commercialization assistance fund at NYSTAR.
A.2849 Schimminger	S.4435 Stachowski	Veto Memo. 47	Creates the strategic training alliance program to fund regional skills training programs.
A.2854 Schimminger	S.4437 Stachowski	Veto Memo. 32	Establishes the Private Industry Review Council.
A.7229 Schimminger	S.5419 Stachowski	Veto Memo. 80	Creates the Academic Research Information Access Program (ARIA).