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

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I N A S S E M B L Y

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Introduced by M. of A. ESPAILLAT, TOWNS, PEOPLES, BING, BRADLEY -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, CARROZZA, EDDINGTON, MAGNARELLI, RAMOS -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the New York state urban development corporation act, in relation to creating the metro medical matrix program

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

Section 1. Legislative findings and declarations. The legislature finds that the biotechnology industry in New York is a vitally important growth industry and holds great promise for the state's and its citizens' fiscal health.

The legislature declares that while New York state, especially the New York metropolitan area, is home to many of the world's premier life sciences research institutions and in spite of what appears to be a very strong foundation, the state, and particularly the New York metropolitan area, is lagging behind comparable regions in other states in developing a "biotech cluster."

The legislature recognizes that in order to create a world-class biotech cluster several factors have to be present including: access to strong academic research institutions; a highly skilled workforce; a successful technology transfer policy; access to early stage capital and affordable space; and a stable and supportive public policy structure.

The legislature further finds that given the metropolitan area's rich research and development environment, it seems logical that this industry would flourish in the metropolitan region.

The legislature also recognizes that two of the critical impediments to building a world-class biotech cluster are access to early stage capital and affordable lab space.

The legislature also finds that New York-based biotech companies with tremendous growth potential for the state's economy often seek capital

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

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and affordable space outside of New York even though the business starts in a New York metropolitan area.

The legislature declares that in order to assist New York's research institutions and emerging biotechnology companies, the legislature hereby creates the "metro medical matrix program".

S 2. Section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act is amended by adding a new section 16-t to read as follows:

S 16-T. THE METRO MEDICAL MATRIX. 1. AUTHORIZATION. THE METRO MEDICAL MATRIX PROGRAM (HEREINAFTER REFERRED TO AS "M{3}") IS HEREBY CREATED TO MAXIMIZE THE ECONOMIC DEVELOPMENT POTENTIAL OF ACADEMIC AND COMMERCIAL BIOSCIENCE ACTIVITY IN THE NEW YORK CITY METROPOLITAN REGION, INCLUDING NEW YORK COUNTY, BRONX COUNTY, KINGS COUNTY, QUEENS COUNTY, RICHMOND COUNTY, NASSAU COUNTY, SUFFOLK COUNTY, WESTCHESTER COUNTY, AND ROCKLAND COUNTY, TO BUILD UPON WORLD-RENOWNED RESEARCH AND DEVELOPMENT ACTIVITIES IN BIOTECHNOLOGY, BIOMEDICINE, NANOMEDICINE, SPECIALTY PHARMACEUTICALS, MEDICAL DEVICES, AND RELATED SCIENCES. M{3} SHALL INCLUDE, BUT NOT BE LIMITED TO: THE BIOSCIENCE FACILITIES DEVELOPMENT PROGRAM, AND THE MEDICAL STRATEGICALLY TARGETED ACADEMIC RESEARCH PROGRAM (HEREINAFTER REFERRED TO AS "MEDSTAR").

2. M{3} CORPORATION. A NOT-FOR-PROFIT CORPORATION (HEREINAFTER REFERRED TO AS THE M{3} CORPORATION) SHALL BE ELIGIBLE TO RECEIVE A GRANT FROM THE CORPORATION TO CREATE A BIOSCIENCE FACILITIES DEVELOPMENT REVOLVING LOAN FUND. THE M{3} CORPORATION SHALL BE GOVERNED BY A NINE-MEMBER BOARD OF DIRECTORS. THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY SHALL EACH HAVE TWO APPOINTMENTS TO SUCH BOARD, AND THE TECHNOLOGY DEVELOPMENT ORGANIZATIONS, AS DEFINED IN SECTION 3102-D OF THE PUBLIC AUTHORITIES LAW, REPRESENTING THE REGIONS OF NEW YORK CITY, LONG ISLAND, AND THE MID-HUDSON, EACH SHALL HAVE ONE APPOINTMENT TO SUCH BOARD. APPOINTMENTS MADE BY THE TECHNOLOGY DEVELOPMENT ORGANIZATIONS SHALL BE REPRESENTATIVE OF EITHER THE INDUSTRIAL TECHNOLOGY RESEARCH AND DEVELOPMENT SECTOR, OR THE SMALL BUSINESS HIGH TECHNOLOGY SECTOR, OR THE FINANCIAL COMMUNITY. OF THE APPOINTMENTS MADE BY THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY, EACH APPOINTEE MUST BE A REPRESENTATIVE OF EITHER THE INDUSTRIAL TECHNOLOGY RESEARCH AND DEVELOPMENT SECTOR, OR A REPRESENTATIVE OF THE SMALL BUSINESS HIGH TECHNOLOGY SECTOR, OR A REPRESENTATIVE OF THE FINANCIAL COMMUNITY.

3. BIOSCIENCE FACILITIES DEVELOPMENT PROGRAM. (A) THE CORPORATION SHALL, FROM FUNDS MADE AVAILABLE FOR THIS PURPOSE, PROVIDE A GRANT TO A NOT-FOR-PROFIT CORPORATION ESTABLISHED IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION FOR THE PURPOSE OF CREATING A REVOLVING LOAN FUND TO PROVIDE LOANS TO BIOSCIENCE FACILITIES TO ASSIST INDIVIDUAL COMMERCIAL BIOSCIENCE COMPANIES TO REMAIN IN NEW YORK STATE.

(B) ELIGIBLE BORROWERS UNDER THIS PROGRAM SHALL 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 WHICH HAVE RECEIVED FUNDING FROM AN INSTITUTIONAL VENTURE CAPITAL FIRM IN THE TWENTY-FOUR MONTHS PRIOR TO MAKING APPLICATION FOR A LOAN UNDER THIS PARAGRAPH, AND SHALL ALSO INCLUDE BOTH FOR-PROFIT AND NOT-FOR-PROFIT PROPERTY OWNERS AND DEVELOPERS WHO ARE INTENDING TO DEVELOP AND LEASE SPACE TO SUCH BIOSCIENCE COMPANIES, PROVIDED HOWEVER THAT THE USE OF SUCH FUNDS IS RESTRICTED TO THE CONSTRUCTION OF LABORATORY AND RELATED SPACE AND THAT THE MAXIMUM SIZE OF SUCH LOAN SHALL BE NO MORE THAN FIFTY PERCENT OF THE COST OF SUCH LABORATORY OR RELATED SPACE CONSTRUCTION. SUCH LOANS UNDER

THIS PARAGRAPH SHALL BE MADE FOR A PERIOD OF SEVEN TO TEN YEARS AT A RATE OF SEVEN TO EIGHT PERCENT, EXCEPT THAT DURING SUCH PERIOD THAT THE LOAN SHALL REMAIN OUTSTANDING, IF A BIOSCIENCE COMPANY RECEIVING SUCH LOAN SHALL RELOCATE A SIGNIFICANT PORTION OF ITS OPERATIONS, AS DETERMINED IN A LOAN AGREEMENT WITH THE M{3} CORPORATION, OUTSIDE NEW YORK STATE, SUCH INTEREST RATE SHALL RISE TO EIGHTEEN PERCENT ON A RETROACTIVE BASIS. IF, AFTER A PERIOD OF FIVE YEARS FROM THE INCEPTION OF THE LOAN, A COMPANY SHALL REMAIN IN NEW YORK STATE, TWENTY-FIVE PERCENT OF THE PRINCIPAL AMOUNT OF SUCH LOAN SHALL BE FORGIVEN; AND IF AFTER A PERIOD OF TEN YEARS FROM THE INCEPTION OF THE LOAN, A COMPANY SHALL REMAIN IN NEW YORK STATE, FIFTY PERCENT OF THE PRINCIPAL AMOUNT OF SUCH LOAN SHALL BE FORGIVEN, FURTHER PROVIDED THAT IF THE AMOUNT STILL OUTSTANDING ON THE LOAN SHALL BE LESS THAN THE AMOUNT FORGIVEN, THE DIFFERENCE SHALL BE REIMBURSED TO THE COMPANY. ANY COMPANY RECEIVING SUCH A LOAN SHALL BE INDEPENDENTLY OWNED AND OPERATED. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INDEPENDENTLY OWNED AND OPERATED BUSINESS" MEANS (I) IN THE CASE OF A CORPORATION, A CORPORATION WHERE NO MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF THE CORPORATION IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE CORPORATION, A SINGLE PARTNERSHIP OR A SINGLE LIMITED LIABILITY COMPANY, AND (II) IN THE CASE OF A PARTNERSHIP, ASSOCIATION, OR OTHER ENTITY, A PARTNERSHIP, ASSOCIATION OR OTHER ENTITY WHERE NO MORE THAN FIFTY PERCENT OF THE CAPITAL, PROFITS OR OTHER BENEFICIAL INTEREST IN SUCH PARTNERSHIP, ASSOCIATION OR OTHER ENTITY IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE CORPORATION, A SINGLE PARTNERSHIP OR A SINGLE LIMITED LIABILITY COMPANY.

(C) THE M{3} CORPORATION RECEIVING A GRANT FROM THE CORPORATION UNDER THIS SUBDIVISION SHALL BE PERMITTED TO RECEIVE FUNDS FROM OTHER PUBLIC AND PRIVATE ENTITIES, AND THE DONORS OF SUCH OTHER FUNDS MAY DESIGNATE THAT SUCH FUNDS BE USED ONLY FOR LOANS MADE IN SPECIFIC LOCALITIES.

(D) GRANTS RECEIVED FROM THE CORPORATION BY THE M{3} CORPORATION, EARNINGS ON SUCH MONIES, AND ANY PRINCIPAL REPAYMENTS AND ANY INTEREST EARNED ON LOANS SHALL BE DEPOSITED IN A LOAN FUND ACCOUNT.

(E) THE DECISION TO APPROVE OR REJECT AN APPLICATION FOR FINANCIAL ASSISTANCE PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL BE MADE BY A MAJORITY OF THE DIRECTORS OF THE M{3} CORPORATION, AND SUCH DECISION SHALL BE FINAL. NO MEMBER OF THE BOARD OR OTHER GOVERNING BODY OF THE M{3} CORPORATION SHALL PARTICIPATE IN A DECISION ON A PROJECT APPLICATION WHEN SUCH MEMBER IS A PARTY TO OR HAS A FINANCIAL INTEREST IN SUCH PROJECT. ANY MEMBER WHO CANNOT PARTICIPATE IN A DECISION ON A PROJECT APPLICATION FOR SUCH REASON SHALL NOT BE COUNTED AS A MEMBER OF THE BOARD OR OTHER GOVERNING BODY FOR PURPOSES OF DETERMINING THE NUMBER OF MEMBERS REQUIRED FOR A MAJORITY VOTE ON SUCH APPLICATION. NO EMPLOYEE OR OFFICER OF ANY SUCH CORPORATION SHALL BE A PARTY TO OR HAVE ANY FINANCIAL INTEREST IN ANY PROJECT THAT RECEIVES FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION.

(F) THE CORPORATION MAY WITHDRAW ANY AMOUNT REMAINING FROM AN ORIGINAL GRANT AND ANY EARNINGS ON SUCH GRANT, AND ANY PRINCIPAL REPAYMENTS AND ANY INTEREST EARNED ON LOANS MADE FROM SUCH GRANT WHEN A MEMBER OF A BOARD OF DIRECTORS, AN OFFICER OR AN EMPLOYEE OF SAID M{3} CORPORATION IS PARTY TO OR HAS FINANCIAL INTERESTS IN LOAN PROJECTS; WHEN SUCH M{3} CORPORATION FAILS TO COMPLY WITH THE REQUIREMENTS FOR PROJECT LOANS PURSUANT TO THIS SECTION; OR WHEN SUCH M{3} CORPORATION MAKES NO LOANS WITHIN THE PREVIOUS FISCAL YEAR. OUTSTANDING LOANS AND OTHER OBLIGATIONS PAYABLE TO SUCH M{3} CORPORATION SHALL BE ASSIGNED TO THE CORPORATION UPON SUCH TERMS AND CONDITIONS AS THE CORPORATION SHALL DETERMINE.

(G) THE M{3} CORPORATION RECEIVING SUCH GRANT SHALL SUBMIT AN ANNUAL REPORT FOR THE PREVIOUS FISCAL YEAR TO THE CORPORATION DESCRIBING THE FINANCIAL ASSISTANCE PROVIDED PURSUANT TO THIS SECTION, INCLUDING:

(I) THE NUMBER OF PROJECTS ASSISTED;

(II) THE AMOUNT AND TYPE OF ASSISTANCE PROVIDED;

(III) A DESCRIPTION OF THE PROJECTS;

(IV) THE NUMBER OF JOBS CREATED OR RETAINED;

(V) THE STATUS OF OUTSTANDING LOANS, GUARANTEES, EARNINGS AND ACCOUNT BALANCES; AND

(VI) SUCH OTHER INFORMATION AS THE CORPORATION MAY REQUIRE.

(H) THE CORPORATION SHALL ANNUALLY CONDUCT AN AUDIT OF THE M{3} CORPORATION RECEIVING A GRANT TO ENSURE CONFORMITY OF ALL ASPECTS OF PROGRAM ADMINISTRATION AND OF FINANCIAL ASSISTANCE TRANSACTIONS WITH THE SUBSTANTIVE AND PROCEDURAL PROVISIONS OF THIS SECTION. IN THE EVENT THAT THE CORPORATION FINDS INSTANCES OF SUBSTANTIVE NONCOMPLIANCE BY SUCH AN M{3} CORPORATION WITH ANY OF THE PROVISIONS OF THIS SUBDIVISION AND SUCH INSTANCES WERE, OR SHOULD HAVE BEEN, KNOWN TO BE IN NONCOMPLIANCE, THE M{3} CORPORATION SHALL RETURN, WITHIN THIRTY DAYS, UPON DEMAND BY THE CORPORATION, ALL UNCOMMITTED GRANT FUNDS ON HAND AND PROVIDE AN ACCOUNTING OF THE LOANS CURRENTLY OUTSTANDING.

(I) THE CORPORATION SHALL, ON OR BEFORE OCTOBER FIRST, TWO THOUSAND NINE, AND ON OR BEFORE EACH OCTOBER FIRST THEREAFTER, SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE OPERATIONS AND ACCOMPLISHMENTS OF THE BIOSCIENCES FACILITY DEVELOPMENT PROGRAM. SUCH REPORT SHALL INCLUDE A SUMMARY OF THE INFORMATION CONTAINED IN THE REPORTS SUBMITTED PURSUANT TO PARAGRAPH (G) OF THIS SUBDIVISION AND OF THE RESULTS OF THE AUDITS PERFORMED BY THE CORPORATION PURSUANT TO PARAGRAPH (H) OF THIS SUBDIVISION, AND SHALL SET FORTH THE STATUS OF THE BIOSCIENCES FACILITIES DEVELOPMENT PROGRAM REVOLVING LOAN PROGRAM FOR THE PREVIOUS FISCAL YEAR.

4. THE MEDICAL STRATEGICALLY TARGETED ACADEMIC RESEARCH PROGRAM. (A) THE CORPORATION SHALL, FROM FUNDS MADE AVAILABLE FOR THIS PURPOSE, ESTABLISH A MEDICAL STRATEGICALLY TARGETED ACADEMIC RESEARCH PROGRAM (HEREINAFTER REFERRED TO AS "MEDSTAR"), A CAPITAL FACILITIES PROGRAM, TO PROVIDE FINANCING FOR THE DESIGN, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION OR IMPROVEMENT OF RESEARCH AND DEVELOPMENT FACILITIES AND EQUIPMENT TO CONDUCT RESEARCH AND DEVELOPMENT ACTIVITIES IN BIOTECHNOLOGY, BIOMEDICINE, NANOMEDICINE, SPECIALTY PHARMACEUTICALS, MEDICAL DEVICES, AND RELATED SCIENCES. SUCH MEDSTAR PROGRAM SHALL BE LOCATED AT ELIGIBLE COLLEGES AND UNIVERSITIES IN THE STATE. FUNDS APPROPRIATED OR REAPPROPRIATED FOR THIS CAPITAL FACILITY PROGRAM BY A CHAPTER OF THE LAWS OF TWO THOUSAND NINE SHALL BE AWARDED TO A PRIMARY HOST INSTITUTION LOCATED IN THE AREA OF THE METRO MEDICAL MATRIX M{3}, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, UPON THE RECOMMENDATION OF THE M{3} CORPORATION ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

(B) CRITERIA FOR RECOMMENDATIONS MADE BY THE M{3} CORPORATION AND FOR ISSUANCE OF AWARDS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(I) THE POTENTIAL FUTURE GROWTH AND ECONOMIC IMPACT WITHIN NEW YORK STATE OF THE PROPOSED RESEARCH TO BE UNDERTAKEN AT SUCH FACILITIES, AVAILABLE EXPERTISE AT SUCH COLLEGES AND UNIVERSITIES IN THE SCIENTIFIC DISCIPLINE RELATED TO SUCH FACILITIES;

(II) AN EVALUATION OF THE ABILITY OF THE PROPOSED RESEARCH TO BE UNDERTAKEN AT SUCH FACILITIES TO AID EXISTING BUSINESS AND TO CREATE NEW BUSINESS IN NEW YORK STATE; AND

(III) THE ABILITY OF THE PROPOSAL TO LEVERAGE AND ATTRACT FEDERAL FUNDS, VENTURE CAPITAL AND PRIVATE INDUSTRY FUNDS.

(C) ONLY AN INSTITUTION LOCATED WITHIN THE AREA OF THE M{3} SHALL BE ELIGIBLE TO ACT AS A PRIMARY HOST INSTITUTION FOR A CAPITAL FACILITIES AWARD AS DESCRIBED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION.

(D) THE CORPORATION AND THE CITY UNIVERSITY CONSTRUCTION FUND MAY CONTRACT WITH THE STATE UNIVERSITY CONSTRUCTION FUND TO DESIGN, CONSTRUCT, ACQUIRE, RECONSTRUCT, REHABILITATE AND IMPROVE RESEARCH AND DEVELOPMENT FACILITIES FOR THOSE PRIMARY HOST INSTITUTIONS WHICH ARE SENIOR COLLEGES OF THE CITY UNIVERSITY OF NEW YORK.

(E) THE CORPORATION SHALL, ON OR BEFORE OCTOBER FIRST, TWO THOUSAND TEN, AND ON OR BEFORE EACH OCTOBER FIRST THEREAFTER, SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE OPERATIONS AND ACCOMPLISHMENTS OF THE MEDSTAR GRANTS PROGRAM.

S 3. This act shall take effect immediately.