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

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I N S E N A T E

February 4, 2014

Introduced by Sens. GOLDEN, GALLIVAN, GRIFFO, ROBACH, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the urban development corporation act, the tax law and the public service law, in relation to New York state incubators and hotspots

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

Section 1. Subdivision 8 of section 16-v of section 1 of chapter 174 of the laws of 1968 constituting the urban development corporation act, as added by section 1 of part C of chapter 59 of the laws of 2013, is amended to read as follows:

8. (A) New York state innovation hot spots may certify clients which meet the requirements of subdivision nine of this section as qualified entities eligible for New York state innovation hot spot program tax benefits pursuant to section thirty-eight of the tax law. Under no circumstance may business enterprises of incubators designated as New York state incubators under paragraph (b) of subdivision one of this section be eligible for tax benefits under section thirty-eight of the tax law.

(B) BUSINESS ENTERPRISES DESIGNATED AS NEW YORK STATE INCUBATORS UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION OR AS NEW YORK STATE INNOVATION HOT SPOTS MAY CERTIFY CLIENTS WHICH MEET THE REQUIREMENTS OF QUALIFIED ENTITIES ELIGIBLE FOR TAX BENEFITS UNDER SECTION THIRTY-EIGHT-A OF THE TAX LAW. SUCH CERTIFICATION AND ANY CHANGES IN CERTIFICATION SHALL BE FILED WITH THE CORPORATION, WHICH SHALL NOTIFY THE DEPARTMENT OF TAXATION AND FINANCE. CERTIFICATIONS REGARDING INVESTMENTS AND TAX CREDITS REQUIRED TO BE PROVIDED TO NEW YORK STATE INCUBATORS UNDER SECTION THIRTY-EIGHT-A OF THE TAX LAW SHALL ALSO BE FILED WITH THE CORPORATION. A QUALIFIED ENTITY SHALL SURRENDER ITS CERTIFICATION IF IT LEAVES OR GRADUATES THE INCUBATOR PROGRAM OR IF IT IS SOLD OR OTHERWISE DISPOSED OF, OR LEAVES THE STATE, OR IF ITS CERTIFICATE OTHERWISE EXPIRES.

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

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S 2. The tax law is amended by adding a new section 38-a to read as follows:

S 38-A. NEW YORK STATE INCUBATOR AND INNOVATION HOTSPOT PROGRAM TAX BENEFITS. (A) A BUSINESS OR OWNER OF A BUSINESS IN THE CASE OF A BUSINESS TAXED AS A PARTNERSHIP OR NEW YORK S CORPORATION, THAT IS A QUALIFIED ENTITY AND MEETS THE REQUIREMENTS OF THIS SECTION, IS ELIGIBLE FOR THE TAX BENEFITS DESCRIBED IN THIS SECTION. AS USED IN THIS CHAPTER,

(1) "NEW YORK STATE INCUBATOR" AND "NEW YORK STATE INNOVATION HOTSPOT" HAVE THE SAME MEANING AS UNDER SECTION SIXTEEN-V OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION ACT.

(2) "QUALIFIED ENTITY" MEANS A BUSINESS ENTERPRISE THAT MEETS THE APPLICABLE REQUIREMENTS OF THIS SECTION AND PARAGRAPHS (I) AND (II) OF SUBDIVISION NINE OF SECTION SIXTEEN-V OF THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION ACT, AND INCLUDES A CORPORATION, A LIMITED LIABILITY CORPORATION, PARTNERSHIP, OR OTHER BUSINESS ENTITY, BUT NOT A SOLE PROPRIETOR.

(3) "RELATED PERSON" MEANS A "RELATED PERSON" AS SUCH TERM IS DEFINED IN SUBDIVISION EIGHT OF SECTION FOUR HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW.

(4) "AFFILIATES" MEANS THOSE ENTITIES THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE ENTITY.

(5) "QUALIFIED EMERGING TECHNOLOGY COMPANY" HAS THE SAME MEANING AS IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, EXCEPT THAT IT ALSO HAS FEWER THAN ONE HUNDRED EMPLOYEES OF WHOM AT LEAST SEVENTY-FIVE PERCENT ARE LOCATED IN NEW YORK STATE, AND SHALL HAVE INVESTED RESEARCH AND DEVELOPMENT FUNDS IN AN AMOUNT EQUAL TO SIX PERCENT OR MORE OF NET SALES DURING ITS TAXABLE YEAR.

(B) ANGEL INVESTMENT CREDIT. (1) A QUALIFIED INVESTOR THAT IS A TAXPAYER UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX TO BE COMPUTED AS HEREINAFTER PROVIDED. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THIRTY PERCENT OF EACH QUALIFIED INVESTMENT IN A QUALIFIED ENTITY MADE DURING THE TAXABLE YEAR.

(I) A QUALIFIED INVESTMENT IS AN INVESTMENT OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS, INCLUDING AT LEAST TWENTY-FIVE THOUSAND DOLLARS IN CASH OR CASH EQUIVALENT, COMPRISED OF EQUITY SECURITY IN COMMON STOCK, PREFERRED STOCK, AN INTEREST IN A PARTNERSHIP OR LIMITED LIABILITY COMPANY, A SECURITY THAT IS CONVERTIBLE INTO AN EQUITY SECURITY OR ANY OTHER EQUITY SECURITY DETERMINED AS ELIGIBLE BY THE COMMISSIONER AFTER CONSULTATION WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT. AN INVESTMENT WHICH COMPRISES ACQUISITION OR CONTROL OF THE ELIGIBLE ENTITY OR ACQUISITION OF THE ASSETS AND LIABILITIES OF SUCH ELIGIBLE ENTITY, OR WHICH IS NOT REPORTED TO THE NEW YORK STATE INCUBATOR OF WHICH THE ELIGIBLE ENTITY IS A CLIENT WITHIN SIXTY CALENDAR DAYS AFTER THE INVESTMENT IS MADE WILL NOT BE DEEMED A QUALIFIED INVESTMENT.

(II) A QUALIFIED INVESTOR, INCLUDING THE AFFILIATES AND RELATED PERSONS OF THE QUALIFIED INVESTOR, SHALL NOT HAVE OWNED OR POSSESSED MORE THAN THIRTY PERCENT OF THE TOTAL VOTING POWER OF ALL EQUITY SECURITIES OF THE QUALIFIED ENTITY PRIOR TO THE INVESTMENT.

(III) A QUALIFIED ENTITY, IN ADDITION TO REQUIREMENTS SET FORTH BY SUBDIVISION (A) OF THIS SECTION, MUST ALSO:

A. HAVE ASSETS OF LESS THAN TEN MILLION DOLLARS, EXCLUSIVE OF QUALIFIED INVESTMENTS. AS USED IN THIS SUBPARAGRAPH, THE TERM "ASSET" MEANS ANY OWNED PROPERTY THAT HAS VALUE INCLUDING FINANCIAL AND PHYSICAL ASSETS, BUT NOT INTELLECTUAL PROPERTY;

B. CURRENTLY BE CERTIFIED AS A CLIENT OF A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT, AND HAVE BEEN A CLIENT OF SUCH INCUBATOR OR HOTSPOT FOR FOUR YEARS OR LESS;

C. MAINTAIN AT LEAST SEVENTY-FIVE PERCENT OF ITS OPERATIONS AND FULL TIME COMPENSATED PERSONNEL (IF ANY) IN THIS STATE.

(2) A QUALIFIED ENTITY MAY RECEIVE UP TO ONE MILLION DOLLARS IN QUALIFIED INVESTMENTS BY QUALIFIED INVESTORS IN ANY CALENDAR YEAR.

(3) A QUALIFIED INVESTOR MAY CLAIM ONE-THIRD OF THE CREDIT RESULTING FROM ITS QUALIFIED INVESTMENT IN A TAXABLE YEAR FOR THREE SUCCESSIVE YEARS. IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. A QUALIFIED INVESTOR SHALL CERTIFY TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE THREE YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED, SEPARATE FROM ANY SALE OR OTHER DISPOSITION OF THE ELIGIBLE ENTITY. QUALIFIED INVESTORS SHALL INCLUDE A COPY OF THE CERTIFICATE OF ELIGIBILITY WITH THEIR TAX RETURN.

(4) CREDIT RECAPTURE. IF A CERTIFICATE OF ELIGIBILITY IS REVOKED OR SURRENDERED BECAUSE THE QUALIFIED ENTITY HAS BEEN SOLD, EXCHANGED, OR TRANSFERRED, THE AMOUNT OF CREDIT DESCRIBED IN THIS SUBDIVISION AND CLAIMED BY THE TAXPAYER PRIOR TO THAT REVOCATION SHALL BE ADDED BACK TO TAX IN THE TAXABLE YEAR IN WHICH ANY SUCH REVOCATION BECOMES FINAL. THIS PROVISION SHALL NOT APPLY IN THE CASE OF A BANKRUPTCY.

(5) ALLOCATION OF CREDIT. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED UNDER THIS SUBDIVISION, IN ANY CALENDAR YEAR SHALL BE FIVE MILLION DOLLARS IN TWO THOUSAND FIFTEEN, TWO THOUSAND SIXTEEN AND TWO THOUSAND SEVENTEEN, AND SEVEN MILLION DOLLARS IN TWO THOUSAND EIGHTEEN AND THEREAFTER. SUCH AGGREGATE AMOUNT OF CREDITS SHALL BE ALLOCATED BASED UPON THE DATE OF FILING AN APPLICATION FOR ALLOCATION OF CREDIT. IF THE TOTAL AMOUNT OF ALLOCATED CREDITS APPLIED FOR IN ANY PARTICULAR YEAR EXCEEDS THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS SECTION, SUCH EXCESS SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE SUBSEQUENT YEAR.

(C) RESEARCH AND DEVELOPMENT CREDIT. (1) A QUALIFIED ENTITY THAT IS ALSO A QUALIFIED EMERGING TECHNOLOGY COMPANY THAT IS A TAXPAYER UNDER ARTICLE TWENTY-TWO OR ARTICLE NINE-A OF THIS CHAPTER AND IS A CLIENT OF A NEW YORK STATE INCUBATOR OR A NEW YORK STATE INNOVATION HOTSPOT SHALL BE ALLOWED CREDITS AGAINST SUCH TAX TO BE COMPUTED AS HEREINAFTER PROVIDED.

(2) THE RESEARCH AND DEVELOPMENT PROPERTY CREDIT SHALL BE EIGHTEEN PERCENT OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF RESEARCH AND DEVELOPMENT PROPERTY ACQUIRED BY THE TAXPAYER AND PLACED IN SERVICE DURING THE TAXABLE YEAR, PROVIDED THAT IT MEETS THE DEFINITION OF CLAUSE (II) OF SUBPARAGRAPH (B) OF PARAGRAPH TWO OF SUBSECTION (A) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER AND WOULD QUALIFY FOR A CREDIT UNDER SECTION 41 OF THE INTERNAL REVENUE CODE. SUCH PROPERTY SHALL NOT INCLUDE LAND OR BUILDINGS. THE COSTS, EXPENSES AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS PARAGRAPH SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

(3) THE RESEARCH AND DEVELOPMENT TECHNOLOGY EXPENDITURES CREDIT SHALL BE NINE PERCENT OF QUALIFIED RESEARCH AND DEVELOPMENT EXPENDITURES, PAID OR INCURRED BY THE TAXPAYER IN THE TAXABLE YEAR IN EMERGING TECHNOLOGIES DEFINED BY PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTY-ONE

HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW. FOR PURPOSES OF THIS PARAGRAPH, "QUALIFIED RESEARCH AND DEVELOPMENT EXPENDITURES" MEANS THE EXPENSES OF THE QUALIFIED ENTITY THAT ARE QUALIFIED RESEARCH EXPENSES UNDER THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT UNDER SECTION FORTY-ONE OF THE INTERNAL REVENUE CODE AND ARE ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN THE STATE. IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT HAS EXPIRED, THEN THE RESEARCH AND DEVELOPMENT EXPENDITURES SHALL BE CALCULATED AS IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT STRUCTURE AND DEFINITION IN EFFECT IN FEDERAL TAX YEAR TWO THOUSAND NINE WERE STILL IN EFFECT. SUCH QUALIFIED RESEARCH AND DEVELOPMENT EXPENDITURES SHALL ALSO INCLUDE COSTS ASSOCIATED WITH THE PREPARATION OF PATENT APPLICATIONS, PATENT APPLICATION FILING FEES, PATENT RESEARCH FEES, PATENT EXAMINATIONS FEES, PATENT POST ALLOWANCE FEES AND PATENT MAINTENANCE FEES, BUT NOT ADVERTISING OR PROMOTION THROUGH MEDIA OR EXPENSES FOR LITIGATION OR THE CHALLENGE OF ANOTHER ENTITY'S INTELLECTUAL PROPERTY RIGHTS.

(4) A QUALIFIED ENTITY MAY CLAIM CREDITS UNDER THIS SUBDIVISION FOR FOUR CONSECUTIVE TAXABLE YEARS, OR FOR SO LONG AS IT IS A CLIENT OF A NEW YORK STATE INCUBATOR OR A NEW YORK STATE INNOVATION HOTSPOT, WHICHEVER PERIOD IS SHORTER. IN NO CASE SHALL THE AMOUNT OF THE CREDIT ALLOWED BY THIS SUBDIVISION TO A TAXPAYER EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER YEAR. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS. IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(5) CREDIT RECAPTURE. IF A CERTIFICATE OF ELIGIBILITY IS REVOKED OR SURRENDERED BECAUSE THE QUALIFIED ENTITY HAS BEEN SOLD, EXCHANGED, OR TRANSFERRED, THE AMOUNT OF CREDIT DESCRIBED IN THIS SUBDIVISION AND CLAIMED BY THE TAXPAYER PRIOR TO THAT REVOCATION SHALL BE ADDED BACK TO TAX IN THE TAXABLE YEAR IN WHICH ANY SUCH REVOCATION BECOMES FINAL. THIS PROVISION SHALL NOT APPLY IN THE CASE OF A BANKRUPTCY.

(6) ALLOCATION OF CREDIT. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED UNDER THIS SECTION, IN ANY CALENDAR YEAR SHALL BE FIVE MILLION DOLLARS IN TWO THOUSAND FIFTEEN, TWO THOUSAND SIXTEEN AND TWO THOUSAND SEVENTEEN, AND SEVEN MILLION DOLLARS IN TWO THOUSAND EIGHTEEN AND THEREAFTER. SUCH AGGREGATE AMOUNT OF CREDITS SHALL BE ALLOCATED BASED UPON THE DATE OF FILING AN APPLICATION FOR ALLOCATION OF CREDIT. IF THE TOTAL AMOUNT OF ALLOCATED CREDITS APPLIED FOR IN ANY PARTICULAR YEAR EXCEEDS THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS SECTION, SUCH EXCESS SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE SUBSEQUENT YEAR.

(7) CROSS-REFERENCES. FOR APPLICATION OF THE TAX BENEFITS PROVIDED FOR IN THIS SUBDIVISION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(I) ARTICLE 9-A, SECTION 210, SUBDIVISION 48.

(II) ARTICLE 22, SECTION 606, SUBSECTION (BBB).

S 3. Subsections (yy) and (zz) of section 606 of the tax law, as relettered by section 5 of part H of chapter 1 of the laws of 2003, are relettered subsections (yyy) and (zzz) and a new subsection (bbb) is added to read as follows:

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

S 4. Section 210 of the tax law is amended by adding a new subdivision 48 to read as follows:

48. RESEARCH AND DEVELOPMENT CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-EIGHT-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxvii) to read as follows:

(XXXVII) RESEARCH AND DEVELOPMENT CREDIT UNDER SUBSECTION (BBB)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-EIGHT OF SECTION TWO HUNDRED TEN

S 6. Paragraph (a) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 19 to read as follows:

(19) ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, FOR QUALIFIED PROPERTY AS DESCRIBED IN SECTION 167, 168 OR 179 OF THE INTERNAL REVENUE CODE WHICH WAS ACQUIRED BY AN ENTITY DESIGNATED AS A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT PURSUANT TO SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT, OR BY A TAXPAYER WHICH IS CURRENTLY, OR WHICH WAS A TENANT IN OR CLIENT OF SUCH NEW YORK STATE INCUBATOR OR HOTSPOT BUT GRADUATED WITHIN THE PREVIOUS TWO YEARS, THAT WAS PLACED IN SERVICE DURING A TAXABLE YEAR BEGINNING WITH A TAXABLE YEAR DURING WHICH THE TAXPAYER WAS A TENANT IN OR CLIENT OF A NEW YORK STATE INCUBATOR OR HOTSPOT OR WITHIN TWO YEARS OF GRADUATION THEREFROM AND ENDING ON THE FIFTH TAXABLE YEAR THEREAFTER, THE TAXPAYER MAY ELECT TO DEDUCT DEPRECIATION FOR SUCH PROPERTY IN AN AMOUNT THAT IS EQUAL TO ONE HUNDRED PERCENT OF THE DEPRECIATION OF THE QUALIFIED PROPERTY FOR THE TOTAL OF ITS USEFUL LIFE THAT WOULD OTHERWISE BE ALLOWED PURSUANT TO SUCH SECTION 167, 168 OR 179 OF THE INTERNAL REVENUE CODE, PROVIDED THAT FOR ANY QUALIFIED PROPERTY FOR WHICH SUCH TAXPAYER DOES NOT MAKE SUCH ELECTION, THE TAXPAYER SHALL BE ALLOWED THE DEPRECIATION DEDUCTION ALLOWED PURSUANT TO SECTION 167, 168 OR 179 OF THE INTERNAL REVENUE CODE. A TAXPAYER WHO ELECTS TO DEDUCT DEPRECIATION IN AN AMOUNT THAT IS EQUAL TO ONE HUNDRED PERCENT OF THE COST OF PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR MAY NOT CLAIM ANY OTHER DEDUCTION ON THE COST OF SUCH PROPERTY. IF PROPERTY ON WHICH DEPRECIATION HAS BEEN TAKEN IS DISPOSED OF PRIOR TO THE END OF ITS USEFUL LIFE, THE TAXPAYER SHALL IN THE YEAR OF DISPOSITION ADD BACK THE DIFFERENCE BETWEEN THE DEPRECIATION TAKEN AND THE DEPRECIATION ALLOWABLE PURSUANT

TO SECTION 167 OF THE INTERNAL REVENUE CODE FOR EACH YEAR OF THE REMAINING USEFUL LIFE OF THE PROPERTY.

S 7. Paragraph (o) of subdivision 9 of section 208 of the tax law, as added by section 3 of part O3 of chapter 62 of the laws of 2003, is amended to read as follows:

(o) For taxable years beginning after December thirty-first, two thousand two, in the case of qualified property described in paragraph two of subsection k of section 168 of the internal revenue code, other than qualified resurgence zone property described in paragraph (q) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section 1400L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), which was placed in service on or after June first, two thousand three, AND OTHER THAN PROPERTY ACQUIRED BY A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT DESIGNATED PURSUANT TO SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT, OR BY A TAXPAYER WHICH IS CURRENTLY, OR WHICH WAS A CLIENT OF SUCH NEW YORK STATE INCUBATOR OR HOTSPOT DURING A PERIOD OF FIVE TAXABLE YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR DURING WHICH THE TAXPAYER WAS A TENANT IN OR CLIENT OF SUCH NEW YORK STATE INCUBATOR OR WITHIN TWO YEARS OF GRADUATION THEREFROM, a taxpayer shall be allowed with respect to such property the depreciation deduction allowable under section 167 of the internal revenue code as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

S 8. Section 16-v of section 1 of chapter 174 of the laws of 1968 constituting the urban development corporation act is amended by adding two new subdivisions 6-a and 6-b to read as follows:

6-A. PROCUREMENT. A CLIENT OF A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT DESIGNATED PURSUANT TO THIS SECTION SHALL BE DEEMED A SMALL BUSINESS CONCERN PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED SIXTY-THREE AND PARAGRAPH N OF SUBDIVISION TWO OF SECTION ONE HUNDRED SIXTY-ONE OF THE STATE FINANCE LAW. THE CORPORATION SHALL COLLABORATE WITH THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, AND THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, WHO SHALL USE HIS OR HER MEMBERSHIP ON THE STATE PROCUREMENT COUNCIL, TO ADVANCE, TARGET, AND DEVELOP PROCUREMENT PROGRAMS FOR THE PURCHASE OF SERVICES AND COMMODITIES, INCLUDING TECHNOLOGIES OR COMMODITIES THAT ARE RECYCLED OR REMANUFACTURED, TOWARD CLIENTS OF NEW YORK STATE INCUBATORS. THE CORPORATION SHALL ADDITIONALLY, THROUGH MEMBERSHIP ON THE STATE PROCUREMENT COUNCIL AND COLLABORATION WITH THE CORPORATION OF GENERAL SERVICES AND OTHER STATE AGENCIES, DEVELOP OPPORTUNITIES FOR TEAMING ON CONTRACTS BETWEEN SMALL BUSINESS CONCERNS WHICH ARE CLIENTS OF NEW YORK STATE INCUBATORS OR NEW YORK STATE INNOVATION HOTSPOTS AND OTHER BUSINESS ENTITIES WHICH MAY PROVIDE RESOURCES OR CREDIT NECESSARY FOR THE SUCCESSFUL COMPLETION OF CONTRACT REQUIREMENTS FOR SUCH COMMODITIES, SERVICES, OR TECHNOLOGIES BY SUCH SMALL BUSINESS CONCERNS.

6-B. INCUBATORS AS EDUCATIONAL ENTITIES. REAL PROPERTY OWNED OR LEASED BY A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT WHICH IS A NONPROFIT ORGANIZATION HAVING TAX EXEMPT STATUS UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, OR WHICH IS A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT OWNED AND SPONSORED BY A NONPROFIT ORGANIZATION HAVING SUCH TAX EXEMPT STATUS, OR WHICH IS AFFILIATED WITH A COLLEGE CHARTERED BY THE REGENTS OF THE STATE OF NEW YORK OR A COLLEGE INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE, AND WHICH IS USED FOR THE PURPOSES DESCRIBED IN THIS SECTION OF TRAINING, EDUCAT-

ING, MENTORING, AND DEVELOPING CLIENT ENTREPRENEURS AND BUSINESS ENTITIES, WHICH ARE THE CRITERIA FOR DESIGNATION OF A PROGRAM AS A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT, SHALL BE DEEMED TO BE PROPERTY OF AN EDUCATIONAL CORPORATION FOR PURPOSES OF SECTION FOUR HUNDRED TWENTY-A OF THE REAL PROPERTY TAX LAW, INCLUDING ANY CLASSROOMS, CONFERENCE ROOMS, LABORATORY, MEETING SPACE, ADMINISTRATION AREA, KITCHEN AREA, PARKING, STORAGE, OR OTHER AREA WHICH IS USED PRIMARILY TO PROVIDE DIRECT AND INDIRECT SERVICES TO RESIDENT CLIENTS OF SUCH FACILITY, AND INCLUDING SPACE FOR RESIDENT CLIENTS OFFICES PURSUANT TO A LICENSE OR LEASE BETWEEN SUCH INCUBATOR AND RESIDENT CLIENTS, NOTWITHSTANDING THAT SUCH RESIDENT CLIENTS MAY, OR MAY NOT BE, NOT-FOR-PROFIT ORGANIZATIONS. ANY PORTION OF SUCH REAL PROPERTY WHICH IS LEASED OR LICENSED TO AN INDIVIDUAL OR BUSINESS ENTITY WHICH IS NOT A RESIDENT CLIENT OF THE NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT OR THE PROGRAM DESCRIBED IN THIS SUBDIVISION WHICH IS ELIGIBLE TO RECEIVE OR IS RECEIVING STABILIZATION GRANTS, OR WHICH DOES NOT OTHERWISE MEET THE REQUIREMENTS OF SUBDIVISION ONE OF SECTION FOUR HUNDRED TWENTY-A OF THE REAL PROPERTY TAX LAW, SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-A OF THE REAL PROPERTY TAX LAW.

S 9. Subdivision 12-c of section 66 of the public service law, as added by chapter 686 of the laws of 1986, and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

12-c. Notwithstanding any other provision of law, upon application of a gas or electric corporation, the commission shall authorize such corporation to charge a special empire zone rate equal to the incremental cost of providing service to customers certified as eligible for such rate pursuant to article eighteen-B of the general municipal law, OR AN INCUBATOR RATE EQUAL TO THE INCREMENTAL COST OF PROVIDING SERVICE TO CUSTOMERS TO THOSE ENTITIES DESIGNATED AS NEW YORK STATE INCUBATORS OR NEW YORK STATE INNOVATION HOTSPOTS PURSUANT TO SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT, AND TO CLIENTS OF SUCH INCUBATOR PROGRAMS AND FOR TWO SUCCESSIVE CALENDAR YEARS AFTER THEY SHALL HAVE GRADUATED FROM SUCH INCUBATOR PROGRAMS, SUCH CLIENTS TO BE DESIGNATED BY THE INCUBATORS.

S 10. This act shall take effect January 1, 2015.