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I N S E N A T E

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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:

1 Section 1. Subdivision 8 of section 16-v of section 1 of chapter 174
2 of the laws of 1968 constituting the urban development corporation act,
3 as added by section 1 of part C of chapter 59 of the laws of 2013, is
4 amended to read as follows:
5 8. (A) New York state innovation hot spots may certify clients which
6 meet the requirements of subdivision nine of this section as qualified
7 entities eligible for New York state innovation hot spot program tax
8 benefits pursuant to section thirty-eight of the tax law. Under no
9 circumstance may business enterprises of incubators designated as New
10 York state incubators under paragraph (b) of subdivision one of this
11 section be eligible for tax benefits under section thirty-eight of the
12 tax law.
13 (B) BUSINESS ENTERPRISES DESIGNATED AS NEW YORK STATE INCUBATORS UNDER
14 PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION OR AS NEW YORK STATE
15 INNOVATION HOT SPOTS MAY CERTIFY CLIENTS WHICH MEET THE REQUIREMENTS OF
16 QUALIFIED ENTITIES ELIGIBLE FOR TAX BENEFITS UNDER SECTION
17 THIRTY-EIGHT-A OF THE TAX LAW. SUCH CERTIFICATION AND ANY CHANGES IN
18 CERTIFICATION SHALL BE FILED WITH THE CORPORATION, WHICH SHALL NOTIFY
19 THE DEPARTMENT OF TAXATION AND FINANCE. CERTIFICATIONS REGARDING INVEST-
20 MENTS AND TAX CREDITS REQUIRED TO BE PROVIDED TO NEW YORK STATE INCUBA-
21 TORS UNDER SECTION THIRTY-EIGHT-A OF THE TAX LAW SHALL ALSO BE FILED
22 WITH THE CORPORATION. A QUALIFIED ENTITY SHALL SURRENDER ITS CERTIF-
23 ICATION IF IT LEAVES OR GRADUATES THE INCUBATOR PROGRAM OR IF IT IS SOLD
24 OR OTHERWISE DISPOSED OF, OR LEAVES THE STATE, OR IF ITS CERTIFICATE
25 OTHERWISE EXPIRES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW. FOR PURPOSES OF THIS PARA-
2 GRAPH, "QUALIFIED RESEARCH AND DEVELOPMENT EXPENDITURES" MEANS THE
3 EXPENSES OF THE QUALIFIED ENTITY THAT ARE QUALIFIED RESEARCH EXPENSES
4 UNDER THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT UNDER SECTION
5 FORTY-ONE OF THE INTERNAL REVENUE CODE AND ARE ATTRIBUTABLE TO ACTIV-
6 ITIES CONDUCTED IN THE STATE. IF THE FEDERAL RESEARCH AND DEVELOPMENT
7 CREDIT HAS EXPIRED, THEN THE RESEARCH AND DEVELOPMENT EXPENDITURES SHALL
8 BE CALCULATED AS IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT STRUC-
9 TURE AND DEFINITION IN EFFECT IN FEDERAL TAX YEAR TWO THOUSAND NINE WERE
10 STILL IN EFFECT. SUCH QUALIFIED RESEARCH AND DEVELOPMENT EXPENDITURES
11 SHALL ALSO INCLUDE COSTS ASSOCIATED WITH THE PREPARATION OF PATENT
12 APPLICATIONS, PATENT APPLICATION FILING FEES, PATENT RESEARCH FEES,
13 PATENT EXAMINATIONS FEES, PATENT POST ALLOWANCE FEES AND PATENT MAINTENANCE
14 FEES, BUT NOT ADVERTISING OR PROMOTION THROUGH MEDIA OR EXPENSES
15 FOR LITIGATION OR THE CHALLENGE OF ANOTHER ENTITY'S INTELLECTUAL PROPER-
16 TY RIGHTS.

17 (4) A QUALIFIED ENTITY MAY CLAIM CREDITS UNDER THIS SUBDIVISION FOR
18 FOUR CONSECUTIVE TAXABLE YEARS, OR FOR SO LONG AS IT IS A CLIENT OF A
19 NEW YORK STATE INCUBATOR OR A NEW YORK STATE INNOVATION HOTSPOT, WHICH-
20 EVER PERIOD IS SHORTER. IN NO CASE SHALL THE AMOUNT OF THE CREDIT
21 ALLOWED BY THIS SUBDIVISION TO A TAXPAYER EXCEED TWO HUNDRED FIFTY THOU-
22 SAND DOLLARS PER YEAR. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR
23 SHAREHOLDER OF A NEW YORK S CORPORATION, THEN THE LIMIT IMPOSED BY THE
24 PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
25 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
26 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED TWO HUNDRED FIFTY THOU-
27 SAND DOLLARS. IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR
28 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
29 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
30 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHT-
31 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
32 THEREON.

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

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

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

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

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

53 S 3. Subsections (yy) and (zz) of section 606 of the tax law, as
54 relettered by section 5 of part H of chapter 1 of the laws of 2003, are
55 relettered subsections (yyy) and (zzz) and a new subsection (bbb) is
56 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	AMOUNT OF CREDIT
DEVELOPMENT CREDIT	UNDER SUBDIVISION
UNDER SUBSECTION (BBB)	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 03 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-

1 ING, MENTORING, AND DEVELOPING CLIENT ENTREPRENEURS AND BUSINESS ENTI-
2 TIES, WHICH ARE THE CRITERIA FOR DESIGNATION OF A PROGRAM AS A NEW YORK
3 STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT, SHALL BE DEEMED TO
4 BE PROPERTY OF AN EDUCATIONAL CORPORATION FOR PURPOSES OF SECTION FOUR
5 HUNDRED TWENTY-A OF THE REAL PROPERTY TAX LAW, INCLUDING ANY CLASSROOMS,
6 CONFERENCE ROOMS, LABORATORY, MEETING SPACE, ADMINISTRATION AREA, KITCH-
7 EN AREA, PARKING, STORAGE, OR OTHER AREA WHICH IS USED PRIMARILY TO
8 PROVIDE DIRECT AND INDIRECT SERVICES TO RESIDENT CLIENTS OF SUCH FACILI-
9 TY, AND INCLUDING SPACE FOR RESIDENT CLIENTS OFFICES PURSUANT TO A
10 LICENSE OR LEASE BETWEEN SUCH INCUBATOR AND RESIDENT CLIENTS, NOTWITH-
11 STANDING THAT SUCH RESIDENT CLIENTS MAY, OR MAY NOT BE, NOT-FOR-PROFIT
12 ORGANIZATIONS. ANY PORTION OF SUCH REAL PROPERTY WHICH IS LEASED OR
13 LICENSED TO AN INDIVIDUAL OR BUSINESS ENTITY WHICH IS NOT A RESIDENT
14 CLIENT OF THE NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION
15 HOTSPOT OR THE PROGRAM DESCRIBED IN THIS SUBDIVISION WHICH IS ELIGIBLE
16 TO RECEIVE OR IS RECEIVING STABILIZATION GRANTS, OR WHICH DOES NOT
17 OTHERWISE MEET THE REQUIREMENTS OF SUBDIVISION ONE OF SECTION FOUR
18 HUNDRED TWENTY-A OF THE REAL PROPERTY TAX LAW, SHALL BE SUBJECT TO THE
19 PROVISIONS OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-A OF THE
20 REAL PROPERTY TAX LAW.

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

25 12-c. Notwithstanding any other provision of law, upon application of
26 a gas or electric corporation, the commission shall authorize such
27 corporation to charge a special empire zone rate equal to the incre-
28 mental cost of providing service to customers certified as eligible for
29 such rate pursuant to article eighteen-B of the general municipal law,
30 OR AN INCUBATOR RATE EQUAL TO THE INCREMENTAL COST OF PROVIDING SERVICE
31 TO CUSTOMERS TO THOSE ENTITIES DESIGNATED AS NEW YORK STATE INCUBATORS
32 OR NEW YORK STATE INNOVATION HOTSPOTS PURSUANT TO SECTION SIXTEEN-V OF
33 THE URBAN DEVELOPMENT CORPORATION ACT, AND TO CLIENTS OF SUCH INCUBATOR
34 PROGRAMS AND FOR TWO SUCCESSIVE CALENDAR YEARS AFTER THEY SHALL HAVE
35 GRADUATED FROM SUCH INCUBATOR PROGRAMS, SUCH CLIENTS TO BE DESIGNATED BY
36 THE INCUBATORS.

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