

480

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. RYAN -- read once and referred to the Committee
on Economic Development

AN ACT to amend the public authorities law, in relation to establishing
the biosciences commercialization assistance fund within the division
of science, technology and innovation

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

1 Section 1. Section 3150 of the public authorities law, as amended by
2 section 4 of part C of chapter 63 of the laws of 2005, is amended to
3 read as follows:
4 S 3150. Definitions. As used in this [section] TITLE:
5 1. "[Foundation] DIVISION" shall mean the New York state [foundation]
6 DIVISION for science, technology and innovation created by [this title]
7 SECTION THREE HUNDRED SIXTY OF THE ECONOMIC DEVELOPMENT LAW;
8 2. "Executive director" shall mean the executive director of the
9 [foundation] DIVISION;
10 3. "Board" shall mean the New York state [foundation] DIVISION for
11 science, technology and innovation board;
12 4. "Regional partnerships" shall mean any association or group which
13 is: (a) comprised of local economic development organizations and a
14 center of excellence as defined by section three of part T of chapter
15 eighty-four of the laws of two thousand two, or in the absence of such
16 center in the region, at least one institution of higher education
17 involved in commercialization efforts similar to such centers of excel-
18 lence and may include a combination of private businesses, business
19 support organizations, commercial lending institutions, venture capital
20 companies, angel investor networks or foundations; (b) formed for the
21 creation and administration of regional partnership programs; and (c)
22 certified by the [foundation] DIVISION as the regional partnership;

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

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1 5. "Regional partnership coordinator" shall mean a nonprofit organiza-
2 tion chosen by a regional partnership and certified by the [foundation]
3 DIVISION to administer the regional partnership programs;

4 6. "Partnership" shall mean regional partnerships; [and]

5 7. "Coordinator" shall mean regional partnership coordinator[.];

6 8. "RESEARCH ENTITY" SHALL MEAN A NOT-FOR-PROFIT COLLEGE, UNIVERSITY,
7 MEDICAL CENTER, LABORATORY OR OTHER INSTITUTION THAT CONDUCTS AN INTEN-
8 SIVE, ONGOING PROGRAM OF STUDY DIRECTED TOWARD GREATER KNOWLEDGE OF A
9 SCIENTIFIC FOCUS AREA OR TOWARD APPLYING NEW SCIENTIFIC KNOWLEDGE TO
10 MEET A RECOGNIZED NEED;

11 9. "FOCUS AREA" SHALL MEAN BIOSCIENCES RESEARCH INCLUDING, BUT NOT
12 LIMITED TO, THE BASIC, APPLIED, OR TRANSLATIONAL RESEARCH THAT LEADS TO
13 THE DEVELOPMENT OF THERAPEUTICS, DIAGNOSTICS, OR DEVICES, TO IMPROVE
14 HUMAN HEALTH OR AGRICULTURE AND THAT REQUIRE FEDERAL FOOD AND DRUG
15 ADMINISTRATION APPROVAL.

16 S 2. The public authorities law is amended by adding a new section
17 3154-a to read as follows:

18 S 3154-A. BIOSCIENCES COMMERCIALIZATION ASSISTANCE FUND. 1. THE BIOS-
19 CIENCES COMMERCIALIZATION ASSISTANCE FUND IS HEREBY CREATED FOR THE
20 PURPOSE OF:

21 (A) ADVANCING THE EARLY-STAGE DEVELOPMENT OF COMMERCIALY PROMISING
22 INVENTIONS IN THE FOCUS AREA OWNED BY RESEARCH ENTITIES LOCATED IN NEW
23 YORK STATE;

24 (B) ENCOURAGING ENTREPRENEURS TO FORM NEW COMPANIES LOCATED IN NEW
25 YORK STATE TO MANUFACTURE AND MARKET SUCH INVENTIONS;

26 (C) ENABLING SMALL BUSINESSES RESIDENT IN THE STATE TO CONDUCT APPLIED
27 RESEARCH AND DEVELOPMENT NECESSARY TO COMMERCIALIZE RESEARCH ENTITY
28 INVENTIONS; AND

29 (D) ENCOURAGING BUSINESSES RESIDENT IN THE STATE TO DEVELOP NEW
30 PRODUCTS OR PROCESSES BASED ON PROMISING INVENTIONS OR TECHNOLOGIES
31 OWNED BY SUCH BUSINESSES THROUGH GRANTS OR LOANS TO SUCH RESIDENT BUSI-
32 NESSES.

33 2. MONIES IN THE BIOSCIENCES COMMERCIALIZATION ASSISTANCE FUND SHALL
34 BE AVAILABLE TO ELIGIBLE RESEARCH ENTITIES, START-UPS, SMALL COMPANIES,
35 AND OTHER BUSINESSES IN NEW YORK STATE, WITH ANTICIPATED COMMERCIALIZA-
36 TION TIME FRAMES OF UP TO FIFTEEN YEARS, FOR DEVELOPMENT AND COMMERCIAL-
37 IZATION OF PRODUCTS. THE DIVISION SHALL USE THE MONIES AVAILABLE IN THE
38 BIOSCIENCES COMMERCIALIZATION ASSISTANCE FUND FOR:

39 (A) GRANTS TO RESEARCH ENTITIES LOCATED IN NEW YORK STATE TO DEVELOP
40 COMMERCIALY PROMISING RESEARCH DISCOVERIES IN THE FOCUS AREA BEYOND THE
41 CONCEPTUAL STAGE IN ORDER TO FURTHER THE CHANCE OF COMMERCIALIZATION AND
42 INCREASE MARKET VALUE. THE DIVISION MAY APPROVE GRANTS FOR ELIGIBLE
43 PROJECTS, PROVIDED SUCH GRANTS DO NOT EXCEED ONE HUNDRED THOUSAND
44 DOLLARS AND ARE USED EXCLUSIVELY TO ACCELERATE THE COMMERCIALIZATION OF
45 DISCOVERIES THAT HAVE THE POTENTIAL TO POSITIVELY IMPACT EXISTING COMPA-
46 NIES LOCATED IN NEW YORK OR LEAD TO THE FORMATION OF NEW COMPANIES
47 LOCATED IN NEW YORK. GRANTS MAY NOT BE USED TO COMMERCIALIZE DISCOVERIES
48 THAT WILL BE LICENSED TO FIRMS THAT DO NOT HAVE THEIR RESEARCH AND
49 DEVELOPMENT AND MANUFACTURING FACILITIES AND AT LEAST EIGHTY PERCENT OF
50 THEIR EMPLOYEES LOCATED IN NEW YORK STATE. THE DIVISION SHALL APPROVE
51 GRANTS ONLY TO THOSE RESEARCH ENTITIES THAT CAN DEMONSTRATE THE ABILITY
52 TO GUIDE THE DEVELOPMENT OF THE DISCOVERIES TOWARD SUCCESSFUL COMMER-
53 CIALIZATION IN THE STATE. ANY REVENUES EARNED BY THE RESEARCH ENTITY
54 FROM THE LICENSING OF AN INVENTION DEVELOPED WITH A DIVISION GRANT MUST
55 BE REINVESTED IN THE RESEARCH ENTITY'S EDUCATIONAL AND RESEARCH PROGRAMS
56 OR TECHNOLOGY TRANSFER ACTIVITIES;

1 (B) INVESTMENTS IN START-UP COMPANIES FORMED BY ENTREPRENEURS TO
2 COMMERCIALIZE INTELLECTUAL PROPERTY IN THE FOCUS AREA LICENSED FROM
3 RESEARCH ENTITIES LOCATED IN NEW YORK STATE. THE DIVISION MAY APPROVE
4 INVESTMENTS IN NEW COMPANIES BEING FORMED TO FURTHER DEVELOP, PRODUCE,
5 AND SELL INVENTIONS LICENSED FROM RESEARCH INSTITUTIONS IN NEW YORK
6 STATE, PROVIDED THAT THE COMPANY'S RESEARCH AND DEVELOPMENT AND/OR MANU-
7 FACTURING FACILITIES WILL BE LOCATED IN NEW YORK STATE; THE COMPANY
8 COMMITS TO REMAINING IN THE STATE; THE INVESTMENT DOES NOT EXCEED ONE
9 HUNDRED FIFTY THOUSAND DOLLARS PER COMPANY; AND, THE INVESTMENT IS USED
10 SOLELY FOR OPERATING EXPENSES APPROVED BY THE DIVISION. IN RETURN FOR
11 INVESTMENT BY THE DIVISION, THE DIVISION SHALL TAKE AN EQUITY POSITION
12 IN THE COMPANY OR NEGOTIATE ROYALTY PAYMENTS BASED ON THE SALE OF ANY
13 PRODUCTS RESULTING FROM THE LICENSED INVENTION. IN THE EVENT THAT A
14 COMPANY MOVES ITS RESEARCH AND DEVELOPMENT OR MANUFACTURING FACILITIES
15 OR MORE THAN TWENTY PERCENT OF ITS EMPLOYEES OUT OF THE STATE, THE DIVI-
16 SION SHALL REQUIRE THE COMPANY TO REPAY AN AMOUNT EQUAL TO AT LEAST FIVE
17 TIMES THE DIVISION'S TOTAL INVESTMENT;

18 (C) MATCHING GRANTS TO SMALL BUSINESSES IN NEW YORK STATE FOR COOPER-
19 ATIVE APPLIED RESEARCH AND DEVELOPMENT PROJECTS IN THE FOCUS AREA WITH
20 RESEARCH INSTITUTIONS TO TRANSLATE PROMISING DISCOVERIES OF THE RESEARCH
21 INSTITUTION INTO COMMERCIALLY VIABLE PRODUCTS. THE DIVISION MAY APPROVE
22 MATCHING GRANTS FOR PROJECTS UNDERTAKEN JOINTLY BY A RESEARCH ENTITY AND
23 A BUSINESS INCORPORATED IN NEW YORK STATE FOR UP TO HALF OF THE COST OF
24 PROJECTS THAT WILL APPLY DISCOVERIES OR USE THE INTELLECTUAL RESOURCES
25 OF THE RESEARCH ENTITY TO DEVELOP NEW, OR TO IMPROVE EXISTING, COMMER-
26 CIAL MATERIALS, DEVICES, SYSTEMS, PROCESSES, OR PROTOTYPES, PROVIDED
27 THAT THE GRANTS DO NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS; THE
28 COMPANY HAS LESS THAN ONE HUNDRED FULL-TIME EMPLOYEES, AT LEAST EIGHTY
29 PERCENT OF WHOM WORK IN THE STATE; AND, THE COMPANY HAS ITS PRINCIPAL
30 RESEARCH AND DEVELOPMENT AND MANUFACTURING FACILITIES LOCATED IN THE
31 STATE. IN THE EVENT THAT A COMPANY MOVES ITS RESEARCH AND DEVELOPMENT OR
32 MANUFACTURING FACILITIES OR MORE THAN TWENTY PERCENT OF ITS EMPLOYEES
33 OUT OF THE STATE, THE DIVISION SHALL REQUIRE THE COMPANY TO REPAY AN
34 AMOUNT EQUAL TO AT LEAST FIVE TIMES THE DIVISION'S TOTAL INVESTMENT;

35 (D) MATCHING GRANTS AND/OR LOANS TO SMALL BUSINESSES IN NEW YORK STATE
36 FOR COMMERCIAL DEVELOPMENT OF THEIR INNOVATIONS OR TECHNOLOGIES IN THE
37 FOCUS AREA INTO NEW PRODUCTS OR PROCESSES TO BE MANUFACTURED IN NEW
38 YORK. ANY REPAYMENTS OF LOANS OR EARNINGS ON INVESTMENTS MADE BY THE
39 DIVISION FROM THE BIOSCIENCES COMMERCIALIZATION ASSISTANCE FUND SHALL BE
40 DEPOSITED IN SUCH FUND. THE DIVISION MAY APPROVE GRANTS AND/OR LOANS TO
41 BUSINESSES INCORPORATED IN NEW YORK STATE FOR UP TO ONE-THIRD OF THE
42 COSTS, INCLUDING WORKFORCE TRAINING, ASSOCIATED WITH THE DEVELOPMENT OF
43 NEW PRODUCTS OR PROCESSES FROM INVENTIONS OR TECHNOLOGIES OWNED BY SUCH
44 BUSINESSES, PROVIDED THAT THE GRANT DOES NOT EXCEED TWO HUNDRED FIFTY
45 THOUSAND DOLLARS; THE COMPANY HAS LESS THAN ONE HUNDRED FULL-TIME
46 EMPLOYEES, AT LEAST EIGHTY PERCENT OF WHOM WORK IN THE STATE; AND, THE
47 COMPANY HAS ITS PRINCIPAL RESEARCH AND DEVELOPMENT AND MANUFACTURING
48 FACILITIES LOCATED IN THE STATE. IN THE EVENT THE COMPANY MOVES ITS
49 RESEARCH AND DEVELOPMENT OR MANUFACTURING FACILITIES OR MORE THAN TWENTY
50 PERCENT OF ITS EMPLOYEES OUT OF THE STATE, THE DIVISION SHALL REQUIRE
51 THE COMPANY TO REPAY AN AMOUNT EQUAL TO AT LEAST FIVE TIMES THE DIVI-
52 SION'S TOTAL INVESTMENT; AND

53 (E) GRANTS TO BUSINESSES IN NEW YORK STATE TO OFFSET SOME OR ALL OF
54 THE COSTS OF FILING FOR FEDERAL REGULATORY APPROVAL FOR NEW OR MODIFIED
55 PRODUCTS OR PROCESSES WITHIN THE FOCUS AREA. THE DIVISION MAY APPROVE
56 GRANTS TO BUSINESSES INCORPORATED IN NEW YORK STATE PROVIDED THAT THE

1 COMPANY HAS ITS PRINCIPAL RESEARCH AND DEVELOPMENT AND MANUFACTURING
2 FACILITIES LOCATED IN THE STATE. IN THE EVENT THE COMPANY MOVES THE
3 MANUFACTURE OF THE PRODUCT OUT OF NEW YORK STATE WITHIN A PERIOD OF FIVE
4 YEARS, THE DIVISION SHALL REQUIRE THE COMPANY TO REPAY AN AMOUNT EQUAL
5 TO AT LEAST FIVE TIMES THE DIVISION'S TOTAL INVESTMENT. THE DIVISION
6 SHALL GIVE PRIORITY TO COMPANIES WITH LESS THAN ONE HUNDRED FULL-TIME
7 EMPLOYEES.

8 3. PURSUANT TO SECTION THREE HUNDRED SIXTY OF THE ECONOMIC DEVELOPMENT
9 LAW, THE DIVISION SHALL PROMULGATE REGULATIONS ESTABLISHING THE APPLICA-
10 TION PROCESS AND THE CRITERIA THAT WILL BE USED TO EVALUATE APPLICATIONS
11 FOR GRANTS AND INVESTMENTS FROM THE BIOSCIENCES COMMERCIALIZATION
12 ASSISTANCE FUND. SUCH REGULATIONS SHALL ALLOW A COMMERCIALIZATION TIME
13 FRAME OF UP TO FIFTEEN YEARS. SUCH APPLICATIONS SHALL INCLUDE, BUT NOT
14 BE LIMITED TO, A DESCRIPTION OF THE EXPECTED SIGNIFICANCE OF THE PROJECT
15 TO NEW YORK STATE, INCLUDING THE ESTIMATED NUMBER OF JOBS THAT COULD BE
16 CREATED AS A RESULT OF THE PROJECT. IN SELECTING APPLICATIONS FOR FUND-
17 ING THE DIVISION SHALL GIVE PRIORITY TO THOSE PROJECTS THAT HAVE THE
18 GREATEST POTENTIAL FOR COMMERCIAL SUCCESS AND EVENTUAL JOB CREATION IN
19 NEW YORK STATE OR THAT WILL HAVE THE LARGEST POSITIVE IMPACT ON THE
20 HEALTH AND WELFARE OF THE STATE'S CITIZENS OR ON THE NATURAL OR BUILT
21 ENVIRONMENT.

22 S 3. Notwithstanding any other law to the contrary, any appropriations
23 to the New York state division of science, technology and innovation
24 board from the general fund, local assistance account for the incentive
25 program part of the research development program established pursuant to
26 section 209-p of the executive law that have not been expended or
27 committed, as well as any other appropriations that may be so desig-
28 nated, may be made available for the purposes of the biosciences commer-
29 cialization assistance fund.

30 S 4. This act shall take effect on the one hundred eightieth day after
31 it shall have become a law; provided, however, that effective immediate-
32 ly, the addition, amendment and/or repeal of any rule or regulation
33 necessary for the implementation of this act on its effective date is
34 authorized and directed to be made and completed on or before such
35 effective date.