

480

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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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.