

4071

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I N S E N A T E

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Introduced by Sens. GOLDEN, GALLIVAN, FUNKE, 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 ASSEM-
BLY, 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

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

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1 OR OTHERWISE DISPOSED OF, OR LEAVES THE STATE, OR IF ITS CERTIFICATE
2 OTHERWISE EXPIRES.

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

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

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

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

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

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

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

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

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

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

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

55 A. HAVE ASSETS OF LESS THAN TEN MILLION DOLLARS, EXCLUSIVE OF QUALI-
56 FIED INVESTMENTS. AS USED IN THIS SUBPARAGRAPH, THE TERM "ASSET" MEANS

1 ANY OWNED PROPERTY THAT HAS VALUE INCLUDING FINANCIAL AND PHYSICAL
2 ASSETS, BUT NOT INTELLECTUAL PROPERTY;

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

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

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

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

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

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

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

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

55 (3) THE RESEARCH AND DEVELOPMENT TECHNOLOGY EXPENDITURES CREDIT SHALL
56 BE NINE PERCENT OF QUALIFIED RESEARCH AND DEVELOPMENT EXPENDITURES, PAID

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

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

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

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

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

53 (I) ARTICLE 9-A, SECTION 210-B, SUBDIVISION 49.

54 (II) ARTICLE 22, SECTION 606, SUBSECTION (CCC).

55 S 3. Section 606 of the tax law is amended by adding a new subsection
56 (ccc) to read as follows:

(CCC) 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-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. 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 (xli) to read as follows:

(XLI) RESEARCH AND	AMOUNT OF CREDIT
DEVELOPMENT CREDIT	UNDER SUBDIVISION
UNDER SUBSECTION (CCC)	FORTY-NINE OF
	SECTION TWO HUNDRED TEN-B

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

1 TO SECTION 167 OF THE INTERNAL REVENUE CODE FOR EACH YEAR OF THE REMAIN-
2 ING USEFUL LIFE OF THE PROPERTY.

3 S 7. Paragraph (n-1) of subdivision 9 of section 208 of the tax law,
4 as amended by section 4 of part A of chapter 59 of the laws of 2014, is
5 amended to read as follows:

6 (n-1) For taxable years beginning after December thirty-first, two
7 thousand two, in the case of qualified property described in paragraph
8 two of subsection k of section 168 of the internal revenue code, other
9 than qualified resurgence zone property described in paragraph (q) of
10 this subdivision, and other than qualified New York Liberty Zone proper-
11 ty described in paragraph two of subsection b of section 1400L of the
12 internal revenue code (without regard to clause (i) of subparagraph (C)
13 of such paragraph), which was placed in service on or after June first,
14 two thousand three, AND OTHER THAN PROPERTY ACQUIRED BY A NEW YORK STATE
15 INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT DESIGNATED PURSUANT TO
16 SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT, OR BY A
17 TAXPAYER WHICH IS CURRENTLY, OR WHICH WAS A CLIENT OF SUCH NEW YORK
18 STATE INCUBATOR OR HOTSPOT DURING A PERIOD OF FIVE TAXABLE YEARS, BEGIN-
19 NING WITH THE FIRST TAXABLE YEAR DURING WHICH THE TAXPAYER WAS A TENANT
20 IN OR CLIENT OF SUCH NEW YORK STATE INCUBATOR OR WITHIN TWO YEARS OF
21 GRADUATION THEREFROM, a taxpayer shall be allowed with respect to such
22 property the depreciation deduction allowable under section 167 of the
23 internal revenue code as such section would have applied to such proper-
24 ty had it been acquired by the taxpayer on September tenth, two thousand
25 one.

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

29 6-A. PROCUREMENT. A CLIENT OF A NEW YORK STATE INCUBATOR OR NEW YORK
30 STATE INNOVATION HOTSPOT DESIGNATED PURSUANT TO THIS SECTION SHALL BE
31 DEEMED A SMALL BUSINESS CONCERN PURSUANT TO SUBDIVISION SIX OF SECTION
32 ONE HUNDRED SIXTY-THREE AND PARAGRAPH N OF SUBDIVISION TWO OF SECTION
33 ONE HUNDRED SIXTY-ONE OF THE STATE FINANCE LAW. THE CORPORATION SHALL
34 COLLABORATE WITH THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, AND
35 THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, WHO SHALL
36 USE HIS OR HER MEMBERSHIP ON THE STATE PROCUREMENT COUNCIL, TO ADVANCE,
37 TARGET, AND DEVELOP PROCUREMENT PROGRAMS FOR THE PURCHASE OF SERVICES
38 AND COMMODITIES, INCLUDING TECHNOLOGIES OR COMMODITIES THAT ARE RECYCLED
39 OR REMANUFACTURED, TOWARD CLIENTS OF NEW YORK STATE INCUBATORS. THE
40 CORPORATION SHALL ADDITIONALLY, THROUGH MEMBERSHIP ON THE STATE PROCURE-
41 MENT COUNCIL AND COLLABORATION WITH THE CORPORATION OF GENERAL SERVICES
42 AND OTHER STATE AGENCIES, DEVELOP OPPORTUNITIES FOR TEAMING ON CONTRACTS
43 BETWEEN SMALL BUSINESS CONCERNS WHICH ARE CLIENTS OF NEW YORK STATE
44 INCUBATORS OR NEW YORK STATE INNOVATION HOTSPOTS AND OTHER BUSINESS
45 ENTITIES WHICH MAY PROVIDE RESOURCES OR CREDIT NECESSARY FOR THE
46 SUCCESSFUL COMPLETION OF CONTRACT REQUIREMENTS FOR SUCH COMMODITIES,
47 SERVICES, OR TECHNOLOGIES BY SUCH SMALL BUSINESS CONCERNS.

48 6-B. INCUBATORS AS EDUCATIONAL ENTITIES. REAL PROPERTY OWNED OR LEASED
49 BY A NEW YORK STATE INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT WHICH
50 IS A NONPROFIT ORGANIZATION HAVING TAX EXEMPT STATUS UNDER SECTION
51 501(C)(3) OF THE INTERNAL REVENUE CODE, OR WHICH IS A NEW YORK STATE
52 INCUBATOR OR NEW YORK STATE INNOVATION HOTSPOT OWNED AND SPONSORED BY A
53 NONPROFIT ORGANIZATION HAVING SUCH TAX EXEMPT STATUS, OR WHICH IS AFFIL-
54 IATED WITH A COLLEGE CHARTERED BY THE REGENTS OF THE STATE OF NEW YORK
55 OR A COLLEGE INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE, AND WHICH
56 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, 2016.