

# STATE OF NEW YORK

7935

2023-2024 Regular Sessions

## IN ASSEMBLY

August 4, 2023

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

AN ACT to amend the economic development law, in relation to the excelsior research and development tax credit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "empire  
2 innovation act".  
3 § 2. Subdivision 3 of section 355 of the economic development law as  
4 amended by chapter 494 of the laws of 2022, is amended to read as  
5 follows:  
6 3. Excelsior research and development tax credit component. A partic-  
7 ipant in the excelsior jobs program shall be eligible to claim a credit  
8 equal to [~~fifty percent of~~] the portion of [~~the participant's federal~~  
9 ~~research and development tax credit that relates to the participant's~~  
10 ~~research and development expenditures in New York state during the taxa-~~  
11 ~~ble year; provided however,~~] the full cost of the participant's research  
12 and development expenses incurred that relates to the participant's  
13 research and development expenditures in New York state during the taxa-  
14 ble year; provided however, if the participant receives a federal  
15 research and development tax credit calculated on the full cost of the  
16 participant's research and development expenses that relates to the  
17 participant's research and development expenditures in New York state  
18 during the taxable year, then said participant shall only be eligible to  
19 claim a credit equal to fifty percent of the portion of the partic-  
20 ipant's federal research and development tax credit that relates to the  
21 participant's research and development expenditures in New York state  
22 during the taxable year; if not a green project, the excelsior research  
23 and development tax credit shall not exceed six percent of the qualified  
24 research and development expenditures attributable to activities  
25 conducted in New York state, or, if a green project or a Green CHIPS

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

LBD11906-02-3

1 project, the excelsior research and development tax credit shall not  
2 exceed eight percent of the research and development expenditures  
3 attributable to activities conducted in New York state. If the federal  
4 research and development credit has expired, then the research and  
5 development expenditures relating to the federal research and develop-  
6 ment credit shall be calculated as if the federal research and develop-  
7 ment credit structure and definition in effect in two thousand nine were  
8 still in effect. Notwithstanding any other provision of this chapter to  
9 the contrary, research and development expenditures in this state,  
10 including salary or wage expenses for jobs related to research and  
11 development activities in this state, may be used as the basis for the  
12 excelsior research and development tax credit component and the quali-  
13 fied emerging technology company facilities, operations and training  
14 credit under the tax law.

15 § 3. This act shall take effect immediately.