STATE OF NEW YORK

7671

2023-2024 Regular Sessions

IN SENATE

September 27, 2023

Introduced by Sen. RHOADS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

Section 1. This act shall be known and may be cited as the "empire innovation act".

§ 2. Subdivision 3 of section 355 of the economic development law as amended by chapter 494 of the laws of 2022, is amended to read as follows:

3. Excelsior research and development tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit equal to [~~fifty percent of~~] the portion of [~~the participant's federal research and development tax credit that relates to the participant's research and development expenditures in New York state during the taxable year; provided however,~~] **the full cost of the participant's research and development expenses incurred that relates to the participant's research and development expenditures in New York state during the taxable year; provided however, if the participant receives a federal research and development tax credit calculated on the full cost of the participant's research and development expenses that relates to the participant's research and development expenditures in New York state during the taxable year, then said participant shall only be eligible to claim a credit equal to fifty percent of the portion of the participant's federal research and development tax credit that relates to the participant's research and development expenditures in New York state during the taxable year;** if not a green project, the excelsior research and development tax credit shall not exceed six percent of the qualified research and development expenditures attributable to activities 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.

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project, the excelsior research and development tax credit shall not exceed eight percent of the research and development expenditures attributable to activities conducted in New York state. If the federal research and development credit has expired, then the research and development expenditures relating to the federal research and development credit shall be calculated as if the federal research and development credit structure and definition in effect in two thousand nine were still in effect. Notwithstanding any other provision of this chapter to the contrary, research and development expenditures in this state, including salary or wage expenses for jobs related to research and development activities in this state, may be used as the basis for the excelsior research and development tax credit component and the qualified emerging technology company facilities, operations and training credit under the tax law.

§ 3. This act shall take effect immediately.