

STATE OF NEW YORK

2026

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. KENNEDY, HINCHEY -- read twice and ordered printed,
and when printed to be committed to the Committee on Commerce, Economic
Development and Small Business

AN ACT to amend the economic development law, in relation to the excelsior
jobs program and certain incentives for medical equipment projects
within such program

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

Section 1. Section 352 of the economic development law is amended by
adding a new subdivision 8-b to read as follows:

8-b. "Medical equipment project" means a project deemed by the commissioner to make products or develop technologies that are primarily used by medical professionals in a professional or home care setting. Projects shall include, but not be limited to, the manufacture of development of products or technologies such as: personal protective equipment, oxygen and oxygen delivery systems, ventilation and aspiration devices, respiratory disease management services, monitoring devices, feeding pumps, medical testing devices, and equipment necessary to conduct medical tests.

§ 2. Subdivision 1 of section 353 of the economic development law, as amended by chapter 494 and paragraph (b) as separately amended by chapter 572 of the laws of 2022, is amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing, including in animal and plant fiber textile manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

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

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(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center;

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria;

(i) as an entertainment company;

(j) in music production;

(k) as a life sciences company;

(l) as a company operating in one of the industries listed in paragraphs (b) through (e) of this subdivision and engaging in a green project as defined in section three hundred fifty-two of this article;

(m) as a participant operating in one of the industries listed in paragraphs (a) through (k) of this subdivision and operating or sponsoring child care services to its employees as defined in section three hundred fifty-two of this article; ~~[ex]~~

(n) as a Green CHIPS project~~[-]~~; or

(o) as a company operating in one of the industries listed in paragraphs (b), (c), (d) or (k) of this subdivision and engaging in a medical equipment project.

§ 3. Subdivisions 1, 2 and 3 of section 355 of the economic development law, as amended by of chapter 494 of the laws of 2022, are amended to read as follows:

1. Excelsior jobs tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit for each net new job it creates in New York state. In a project that is not a green project or a medical equipment project, the amount of such credit per job shall be equal to the product of the gross wages paid and up to 6.85 percent. In a green project, or a Green CHIPS project, the amount of such credit per job shall be equal to the product of the gross wages paid and up to 7.5 percent. In a medical equipment project, the amount of such credit per job shall be equal to the product of the gross wages paid and up to 8.5 percent. Provided, however, given the transformational nature of Green CHIPS projects, only the first two hundred thousand dollars of gross wages per job shall be eligible for this credit. The maximum amount of gross wages per job for a Green CHIPS project may be adjusted for inflation at an annual amount determined by the commissioner in a manner substantially similar to the cost of living adjustments calculated by the United States Social Security Administration based on changes in consumer price indices or a rate of four percent per year, whichever is higher.

2. Excelsior investment tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit on qualified investments. In a project that is not a green project or a medical equipment project, the credit shall be equal to two percent of the cost or other basis for federal income tax purposes of the qualified investment. In a green project, the credit shall be equal to five percent of the cost or other basis for federal income tax purposes of the qualified investment. In a medical equipment project, the credit shall be equal to seven percent of the cost or other basis for federal income tax purposes of the qualified investment. In a project for child care services or a Green CHIPS project, the credit shall be up to five percent of the cost or other basis for federal income tax purposes of the qualified investment in child care services or in the Green CHIPS project as applicable.

1 A participant may not claim both the excelsior investment tax credit
2 component and the investment tax credit set forth in subdivision one of
3 section two hundred ten-B, subsection (a) of section six hundred six,
4 the former subsection (i) of section fourteen hundred fifty-six, or
5 subdivision (q) of section fifteen hundred eleven of the tax law for the
6 same property in any taxable year, except that a participant may claim
7 both the excelsior investment tax credit component and the investment
8 tax credit for research and development property. In addition, a taxpay-
9 er who or which is qualified to claim the excelsior investment tax cred-
10 it component and is also qualified to claim the brownfield tangible
11 property credit component under section twenty-one of the tax law may
12 claim either the excelsior investment tax credit component or such
13 tangible property credit component, but not both with regard to a
14 particular piece of property. A credit may not be claimed until a busi-
15 ness enterprise has received a certificate of tax credit, provided that
16 qualified investments made on or after the issuance of the certificate
17 of eligibility but before the issuance of the certificate of tax credit
18 to the business enterprise, may be claimed in the first taxable year for
19 which the business enterprise is allowed to claim the credit. Expenses
20 incurred prior to the date the certificate of eligibility is issued are
21 not eligible to be included in the calculation of the credit.

22 3. Excelsior research and development tax credit component. A partic-
23 ipant in the excelsior jobs program shall be eligible to claim a credit
24 equal to fifty percent of the portion of the participant's federal
25 research and development tax credit that relates to the participant's
26 research and development expenditures in New York state during the taxa-
27 ble year; provided however, if not a green project or a medical equip-
28 ment project, the excelsior research and development tax credit shall
29 not exceed six percent of the qualified research and development expend-
30 itures attributable to activities conducted in New York state, or, if a
31 green project, a medical equipment project or a Green CHIPS project, the
32 excelsior research and development tax credit shall not exceed eight
33 percent of the research and development expenditures attributable to
34 activities conducted in New York state. If the federal research and
35 development credit has expired, then the research and development
36 expenditures relating to the federal research and development credit
37 shall be calculated as if the federal research and development credit
38 structure and definition in effect in two thousand nine were still in
39 effect. Notwithstanding any other provision of this chapter to the
40 contrary, research and development expenditures in this state, including
41 salary or wage expenses for jobs related to research and development
42 activities in this state, may be used as the basis for the excelsior
43 research and development tax credit component and the qualified emerging
44 technology company facilities, operations and training credit under the
45 tax law.

46 § 4. This act shall take effect immediately.