

HOUSE BILL 442

C8

2lr0133
CF SB 239

By: **The Speaker (By Request – Administration) and Delegates Davis, Feldman, Frick, Mizeur, and Washington**

Introduced and read first time: February 1, 2012

Assigned to: Economic Matters and Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2012

CHAPTER _____

1 AN ACT concerning

2 **Economic Development – Maryland Technology Development Corporation –**
3 **Maryland Innovation Initiative**

4 FOR the purpose of establishing the Maryland Innovation Initiative in the Maryland
5 Technology Development Corporation; establishing the membership,
6 qualifications, and the requirements for participation in the Initiative;
7 establishing the purpose of the Initiative; establishing the Maryland Innovation
8 Initiative Fund; providing that the Fund is a certain special, nonlapsing fund;
9 requiring the State Treasurer to hold the Fund separately and to invest the
10 money in the Fund; requiring the Comptroller to account for the Fund;
11 providing for the funding of the Initiative and requiring funds to be used only
12 for certain financial assistance and administrative expenses; authorizing the
13 Initiative to award grants to certain entities under certain circumstances;
14 authorizing the members of the Initiative to establish a certain committee with
15 a certain membership and certain duties; requiring the Board of Regents of the
16 University System of Maryland and the Board of Regents of Morgan State
17 University to undertake certain high impact economic development activities;
18 requiring the ~~Board~~ Boards of Regents to adopt certain policies and procedures
19 related to certain high impact economic development activities; authorizing a
20 University System of Maryland institution and Morgan State University to
21 establish, invest in, finance, or operate a certain entity that supports high
22 impact economic development activity and authorizing certain employees to
23 participate in the entity; requiring the Corporation and the ~~Board~~ Boards of
24 Regents to provide certain reports that include certain information; providing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 that a certain requirement that interest and other income be credited to the
 2 General Fund does not apply to the Fund; altering the amount and the types of
 3 contracts required for a certain Board of Public Works review; defining certain
 4 terms; making stylistic changes; and generally relating to economic
 5 development, the commercialization of technology in the State, and the
 6 Maryland Innovation Initiative.

7 BY adding to
 8 Article – Economic Development
 9 Section 10–454 through ~~10–459~~ 10–460 to be under the new part “Part V.
 10 Maryland Innovation Initiative”
 11 Annotated Code of Maryland
 12 (2008 Volume and 2011 Supplement)

13 BY adding to
 14 Article – Education
 15 Section 12–104.1 and 14–104.1
 16 Annotated Code of Maryland
 17 (2008 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, with amendments,
 19 Article – Education
 20 Section 12–113 and 14–110
 21 Annotated Code of Maryland
 22 (2008 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, without amendments,
 24 Article – State Finance and Procurement
 25 Section 6–226(a)(1) and (2)(i)
 26 Annotated Code of Maryland
 27 (2008 Replacement Volume and 2011 Supplement)

28 BY repealing and reenacting, with amendments,
 29 Article – State Finance and Procurement
 30 Section 6–226(a)(2)(ii)62. and 63. and 11–203(e)
 31 Annotated Code of Maryland
 32 (2009 Replacement Volume and 2011 Supplement)

33 BY adding to
 34 Article – State Finance and Procurement
 35 Section 6–226(a)(2)(ii)64.
 36 Annotated Code of Maryland
 37 (2008 Replacement Volume and 2011 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 39 MARYLAND, That the Laws of Maryland read as follows:

1 Article – Economic Development

2 10-452. RESERVED.

3 10-453. RESERVED.

4 PART V. MARYLAND INNOVATION INITIATIVE.

5 10-454.

6 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “COMMERCIALIZATION” MEANS THE PROCESS OF INTRODUCING A
9 NEW PRODUCT OR TECHNOLOGY INTO THE MARKET.

10 (C) “CORPORATION” MEANS THE MARYLAND TECHNOLOGY
11 DEVELOPMENT CORPORATION.

12 (D) “FUND” MEANS THE MARYLAND INNOVATION INITIATIVE FUND
13 ESTABLISHED UNDER § 10-457 OF THIS PART.

14 ~~(D)~~ (E) “INITIATIVE” MEANS THE MARYLAND INNOVATION
15 INITIATIVE ESTABLISHED UNDER § ~~10-456~~ 10-455 OF THIS PART.

16 ~~(E)~~ (F) “PARTICIPATING MEMBERS” MEANS THE REPRESENTATIVES
17 ~~ESTABLISHED UNDER~~ DESCRIBED IN § 10-455(B) OF THIS PART.

18 ~~(F)~~ (G) “QUALIFYING UNIVERSITY” MEANS A PUBLIC OR PRIVATE
19 UNIVERSITY THAT MEETS THE REQUIREMENTS SET FORTH UNDER § 10-455(C)
20 OF THIS PART.

21 ~~(G)~~ (H) “TECHNOLOGY TRANSFER” MEANS THE PROCESS OF
22 CONVERTING SCIENTIFIC AND TECHNOLOGICAL ADVANCES INTO MARKETABLE
23 GOODS AND SERVICES.

24 ~~(H)~~ (I) “UNIVERSITY” MEANS A NOT-FOR-PROFIT, RESEARCH
25 UNIVERSITY LOCATED IN MARYLAND.

26 10-455.

27 (A) THERE IS A MARYLAND INNOVATION INITIATIVE.

28 (B) THE INITIATIVE CONSISTS OF THE FOLLOWING PARTICIPATING
29 MEMBERS:

1 **2. UNIVERSITY OF MARYLAND, BALTIMORE; AND**

2 **3. UNIVERSITY OF MARYLAND, COLLEGE PARK.**

3 **(II) TO QUALIFY FOR PARTICIPATION IN THE INITIATIVE,**
 4 **THE FOLLOWING UNIVERSITIES SHALL PAY AN ANNUAL CONTRIBUTION OF AT**
 5 **LEAST \$100,000:**

6 **1. MORGAN STATE UNIVERSITY; AND**

7 **2. UNIVERSITY OF MARYLAND BALTIMORE**
 8 **COUNTY.**

9 **(4) A UNIVERSITY LISTED UNDER SUBSECTION (B)(3) OF THIS**
 10 **SECTION MAY ELECT TO WITHDRAW AS A PARTICIPATING MEMBER FOR FUTURE**
 11 **YEARS ON PROVIDING 60 DAYS' WRITTEN NOTICE TO THE CHAIR OR EXECUTIVE**
 12 **DIRECTOR OF THE INITIATIVE.**

13 **(D) THE PARTICIPATING MEMBERS OF THE INITIATIVE SHALL SELECT A**
 14 **CHAIR FROM AMONG THEIR MEMBERS.**

15 **(E) A PARTICIPATING MEMBER OF THE INITIATIVE:**

16 **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**
 17 **INITIATIVE; BUT**

18 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
 19 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET**
 20 **OR UNDER THE APPLICABLE TRAVEL REGULATIONS OF A UNIVERSITY IF THE**
 21 **UNIVERSITY REIMBURSES THE PARTICIPATING MEMBER.**

22 **(F) THE INITIATIVE MAY EMPLOY A STAFF, INCLUDING AN EXECUTIVE**
 23 **DIRECTOR.**

24 **10-456.**

25 **~~(A)~~ THE PURPOSE OF THE INITIATIVE IS TO:**

26 **(1) PROMOTE THE COMMERCIALIZATION OF RESEARCH**
 27 **CONDUCTED IN UNIVERSITIES IN THE STATE;**

28 **(2) ENCOURAGE QUALIFYING UNIVERSITIES TO PARTNER ON**
 29 **COMMERCIALIZATION AND OTHER ACTIVITIES, INCLUDING WITH FEDERAL**
 30 **LABORATORIES LOCATED IN MARYLAND; AND**

1 (3) FACILITATE THE TRANSFER OF TECHNOLOGY FROM
2 UNIVERSITIES TO COMMERCIAL INDUSTRIES, BY:

3 (I) ASSESSING THE VIABILITY AND VALUE OF THE
4 TECHNOLOGY;

5 (II) DEFINING AND EXPLOITING POTENTIAL MARKETS FOR
6 THE TECHNOLOGY;

7 (III) IDENTIFYING FUNDING SOURCES TO SUPPORT THE
8 DEVELOPMENT OF THE TECHNOLOGY; AND

9 (IV) DEVELOPING COMMERCIALIZATION STRATEGIES.

10 10-457.

11 (A) THERE IS A MARYLAND INNOVATION INITIATIVE FUND.

12 (B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR THE
13 PURPOSES DESCRIBED IN § 10-456 OF THIS PART.

14 ~~(B)~~ (C) THE CORPORATION SHALL ADMINISTER THE ~~INITIATIVE~~
15 FUND.

16 ~~(C)~~ ~~THE INITIATIVE MAY BE FUNDED BY:~~

17 (D) THE FUND CONSISTS OF:

18 (1) APPROPRIATIONS AS PROVIDED IN THE STATE BUDGET;

19 (2) CONTRIBUTIONS BY THE QUALIFYING UNIVERSITIES UNDER §
20 10-455 OF THIS PART;

21 (3) GRANTS OR FUNDS FROM FEDERAL LABORATORIES LOCATED
22 IN MARYLAND; ~~AND~~

23 (4) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT
24 OF MONEY IN THE FUND; AND

25 ~~(4)~~ (5) ANY OTHER MONEY ACCEPTED FOR THE BENEFIT OF
26 THE INITIATIVE.

27 ~~(D)~~ ~~FUNDS OF THE INITIATIVE MAY BE USED ONLY TO:~~

1 **(E) MONEY IN THE FUND MAY BE USED ONLY TO:**

2 **(1) AWARD GRANTS TO PROMOTE THE COMMERCIALIZATION OF**
3 **RESEARCH IN ACCORDANCE WITH THE TERMS OF THIS PART; AND**

4 **(2) PAY THE COSTS NECESSARY TO ADMINISTER THE INITIATIVE.**

5 **(F) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
6 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

7 **(2) THE STATE TREASURER SHALL HOLD THE FUND**
8 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

9 **(3) THE STATE TREASURER SHALL INVEST THE MONEY IN THE**
10 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

11 **(4) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**
12 **CREDITED TO THE FUND.**

13 ~~10-457.~~ 10-458.

14 **(A) THE INITIATIVE MAY:**

15 **(1) PROVIDE GRANT FUNDING TO A QUALIFYING UNIVERSITY,**
16 **QUALIFYING UNIVERSITY-BASED ENTREPRENEUR, OR OTHER START-UP**
17 **ENTITY, TO PROMOTE THE COMMERCIALIZATION OF TECHNOLOGY DEVELOPED**
18 **IN WHOLE OR IN PART BY A QUALIFYING UNIVERSITY;**

19 **(2) PURSUE ~~GRANT FUNDING~~ GRANTS, OTHER FUNDS, AND**
20 **IN-KIND CONTRIBUTIONS FOR THE INITIATIVE OR ITS QUALIFYING**
21 **UNIVERSITIES;**

22 **(3) DEVELOP AND IMPLEMENT GUIDELINES FOR TECHNOLOGY**
23 **TRANSFER; AND**

24 **(4) IDENTIFY PROJECTS AT QUALIFYING UNIVERSITIES THAT MAY**
25 **BE VIABLE FOR COMMERCIALIZATION.**

26 **(B) THE GRANT FUNDING IN SUBSECTION (A) ~~MAY~~ SHALL BE AWARDED:**

27 **(1) TO SUPPORT PRE-COMMERCIAL RESEARCH ON**
28 **INTELLECTUAL PROPERTY TO INCREASE THE LIKELIHOOD OF**
29 **COMMERCIALIZING THE INTELLECTUAL PROPERTY;**

1 (2) TO DEFRAY COSTS OF EVALUATING THE FEASIBILITY OF A
2 TECHNOLOGY BECOMING COMMERCIALIZED THROUGH A START-UP COMPANY;

3 (3) TO DEFRAY THE DIRECT COSTS OF DEVELOPING EARLY STAGE
4 TECHNOLOGY THROUGH A START-UP ENTITY;

5 (4) TO ASSESS INTELLECTUAL PROPERTY ISSUES, INCLUDING
6 LICENSING AND PATENTS; OR

7 (5) FOR ANY OTHER COSTS THAT THE INITIATIVE'S
8 PARTICIPATING MEMBERS DETERMINE ARE APPROPRIATE TO PROMOTE
9 TECHNOLOGY TRANSFER AND COMMERCIALIZATION IN THE STATE.

10 ~~10-458.~~ 10-459.

11 (A) ONLY QUALIFYING UNIVERSITIES, AS PROVIDED UNDER § 10-455
12 OF THIS PART, MAY SUBMIT PROPOSALS FOR GRANT FUNDING FROM THE
13 INITIATIVE.

14 ~~(A)~~ (B) THE PARTICIPATING MEMBERS OF THE INITIATIVE MAY
15 ESTABLISH A COMMITTEE COMPOSED OF EXPERTS IN THE AREAS OF RESEARCH
16 CONSIDERED FOR COMMERCIALIZATION.

17 ~~(B)~~ (C) THE INITIATIVE MAY ESTABLISH THE COMMITTEE UNDER
18 SERVICE CONTRACTS WITH INDEPENDENT REVIEWERS.

19 ~~(C)~~ (D) THE COMMITTEE SHALL:

20 (1) REVIEW, EVALUATE, AND RATE PROPOSALS FOR FUNDING
21 FROM THE INITIATIVE, BASED ON:

22 (I) THE VIABILITY OF COMMERCIALIZING THE
23 TECHNOLOGY; AND

24 (II) THE RELATIVE COSTS ASSOCIATED WITH
25 COMMERCIALIZING THE TECHNOLOGY; AND

26 (2) MAKE RECOMMENDATIONS TO THE PARTICIPATING MEMBERS
27 OF THE INITIATIVE FOR THE AWARD AND DISBURSEMENT OF GRANTS FROM THE
28 INITIATIVE.

29 ~~(D)~~ (E) A MEMBER OF THE COMMITTEE IS NOT ELIGIBLE TO RECEIVE
30 FUNDING FROM THE INITIATIVE.

1 ~~10-459.~~ 10-460.

2 THE CORPORATION SHALL INCLUDE, AS PART OF ITS ANNUAL REPORT TO
3 THE GOVERNOR AND THE GENERAL ASSEMBLY UNDER § 10-415 OF THIS
4 SUBTITLE, A DETAILED DESCRIPTION OF:

5 (1) THE NUMBER OF TECHNOLOGY TRANSFER TRANSACTIONS OR
6 PROJECTS FOR WHICH THE INITIATIVE PROVIDED FUNDING;

7 (2) THE AMOUNT AND SOURCE OF FUNDS THE INITIATIVE
8 IDENTIFIED TO ASSIST IN THE DEVELOPMENT OF TECHNOLOGIES;

9 (3) THE QUALIFYING UNIVERSITIES OR ENTITIES FOR WHICH
10 FUNDING WAS AWARDED;

11 (4) THE COMMERCIAL VALUE OF TECHNOLOGY THAT WAS
12 TRANSFERRED TO THE COMMERCIAL INDUSTRY; AND

13 (5) ANY RECOMMENDATIONS FOR IMPROVING THE OVERALL
14 EFFECTIVENESS OF TECHNOLOGY TRANSFER THROUGH THE INITIATIVE.

15 Article – Education

16 12-104.1.

17 (A) IN THIS SECTION, “HIGH IMPACT ECONOMIC DEVELOPMENT
18 ACTIVITY” MEANS AN INITIATIVE, TRANSACTION, OR OTHER UNDERTAKING BY
19 THE UNIVERSITY SYSTEM OF MARYLAND OR ONE OF ITS CONSTITUENT
20 INSTITUTIONS TO CREATE OR FACILITATE:

21 (1) 20 OR MORE NEW JOBS IN THE STATE OF MARYLAND;

22 (2) THE AWARD OR COMPLETION OF AT LEAST \$1,000,000 IN
23 EXTERNALLY FUNDED RESEARCH OR OTHER PROJECTS;

24 (3) THE ESTABLISHMENT OR RELOCATION OF ONE OR MORE NEW
25 COMPANIES TO BE REGISTERED OR INCORPORATED IN THE STATE AND DOING
26 BUSINESS IN THE STATE;

27 (4) THE PRODUCTION OF AT LEAST \$1,000,000 OF ANNUAL GROSS
28 REVENUE;

29 (5) THE LICENSING AND POTENTIAL COMMERCIALIZATION OF A
30 PROMISING NEW TECHNOLOGY OR OTHER PRODUCT; OR

- 1 (III) THE MARYLAND HISTORIC TRUST;
- 2 (IV) THE DEPARTMENT OF PLANNING;
- 3 (V) THE DEPARTMENT OF THE ENVIRONMENT; AND
- 4 (VI) THE DEPARTMENT OF NATURAL RESOURCES.

5 (3) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND
 6 PROCEDURES TO ENSURE THAT THE NOTICE AND OPPORTUNITY FOR REVIEW
 7 ARE CONDUCTED IN A MANNER THAT PROVIDES A REASONABLE PERIOD TO
 8 COMPLETE WHILE NOT IMPAIRING THE INSTITUTION'S CAPACITY FOR THE
 9 EXPEDITIOUS AND SUCCESSFUL PURSUIT OF A HIGH IMPACT ECONOMIC
 10 DEVELOPMENT ACTIVITY.

11 (E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF
 12 REGENTS SHALL REPORT TO THE BOARD OF PUBLIC WORKS, AND, IN
 13 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
 14 SENATE FINANCE COMMITTEE, THE HOUSE ECONOMIC MATTERS COMMITTEE,
 15 THE SENATE BUDGET AND TAXATION COMMITTEE, AND THE HOUSE
 16 APPROPRIATIONS COMMITTEE ON THE HIGH IMPACT ECONOMIC
 17 DEVELOPMENT ACTIVITIES UNDERTAKEN UNDER THIS SECTION DURING THE
 18 PRECEDING FISCAL YEAR.

19 12-113.

20 (a) Consistent with § 15-107 of this article and any other applicable law, the
 21 Board of Regents may establish, invest in, finance, and operate businesses or business
 22 entities when the Board finds that doing so would further one or more goals of the
 23 University and is related to the mission of the University.

24 (b) (1) A business entity established, invested in, financed, or operated in
 25 accordance with this [subsection] SECTION may not be considered an agency or
 26 instrumentality of the State or a unit of the Executive Branch for any purpose.

27 (2) A financial obligation or liability of a business entity established,
 28 invested in, financed, or operated in accordance with this [subsection] SECTION may
 29 not be a debt or obligation of the State or University.

30 (c) (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN
 31 INSTITUTION MAY ESTABLISH, INVEST IN, FINANCE, OR OPERATE A
 32 CORPORATION, FOUNDATION, CONSORTIUM, OR OTHER ENTITY THAT IS
 33 INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY, AS
 34 DEFINED IN § 12-104.1 OF THIS ~~ARTICLE~~ SUBTITLE.

1 **(2) NOTWITHSTANDING THE PROVISIONS OF §§ 15–501 THROUGH**
2 **15–504 OF THE STATE GOVERNMENT ARTICLE AND SUBJECT TO**
3 **§ 15–523 OF THE STATE GOVERNMENT ARTICLE, AN OFFICIAL OR EMPLOYEE**
4 **OF A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY BE A DIRECTOR,**
5 **OFFICIAL, OR EMPLOYEE OF AN ENTITY INTENDED TO SUPPORT A HIGH IMPACT**
6 **ECONOMIC DEVELOPMENT ACTIVITY, IF THE INDIVIDUAL’S PARTICIPATION**
7 **ADVANCES THE INTERESTS OF THE INSTITUTION.**

8 **(3) DIVISION II OF THE STATE FINANCE AND PROCUREMENT**
9 **ARTICLE DOES NOT APPLY TO TRANSACTIONS BETWEEN AN ENTITY**
10 **ESTABLISHED, FINANCED, OR OPERATED UNDER THIS SUBSECTION AND THE**
11 **INSTITUTION OR CONSORTIUM OF INSTITUTIONS THAT ESTABLISHED,**
12 **FINANCED, OR OPERATED THE ENTITY.**

13 **(4) (I) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND**
14 **PROCEDURES GOVERNING THE ESTABLISHMENT OF HIGH IMPACT ECONOMIC**
15 **DEVELOPMENT ENTITIES TO ENSURE THAT THE INSTITUTION’S PARTICIPATION**
16 **IN THE ENTITY FURTHERS THE INTERESTS OF THE INSTITUTION, THE**
17 **UNIVERSITY SYSTEM OF MARYLAND, AND THE STATE.**

18 **(II) THE POLICIES AND PROCEDURES UNDER**
19 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE REQUIREMENTS FOR:**

20 **1. RECOGNITION OF THE ENTITY BY THE BOARD OF**
21 **REGENTS;**

22 **2. AN ANNUAL AUDIT OF THE ENTITY BY AN**
23 **INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND**

24 **3. ADEQUATE SAFEGUARDS WITH REGARD TO**
25 **CONFLICTS OF INTEREST, PROPER CONTRACTING PRACTICES, AND OTHER**
26 **FUNDAMENTAL ETHICAL AND BUSINESS PRACTICE STANDARDS.**

27 **[(c)] (D)** The Board of Regents shall submit to the Governor, and in
28 accordance with § 2–1246 of the State Government Article, the General Assembly, an
29 annual report on:

30 (1) The business entities established in accordance with this section;

31 (2) Funds invested in, and financing provided to, business entities
32 established in accordance with this section;

33 (3) Ownership interests in any business entities established in
34 accordance with this section; and

1 (4) The current status of the business entities.

2 **14-104.1.**

3 **(A) IN THIS SECTION, "HIGH IMPACT ECONOMIC DEVELOPMENT**
4 **ACTIVITY" MEANS AN INITIATIVE, TRANSACTION, OR OTHER UNDERTAKING BY**
5 **MORGAN STATE UNIVERSITY TO CREATE OR FACILITATE:**

6 **(1) 20 OR MORE NEW JOBS IN THE STATE;**

7 **(2) THE AWARD OR COMPLETION OF AT LEAST \$1,000,000 IN**
8 **EXTERNALLY FUNDED RESEARCH OR OTHER PROJECTS;**

9 **(3) THE ESTABLISHMENT OR RELOCATION OF ONE OR MORE NEW**
10 **COMPANIES TO BE REGISTERED OR INCORPORATED IN THE STATE AND DOING**
11 **BUSINESS IN THE STATE;**

12 **(4) THE PRODUCTION OF AT LEAST \$1,000,000 OF ANNUAL GROSS**
13 **REVENUE;**

14 **(5) THE LICENSING AND POTENTIAL COMMERCIALIZATION OF A**
15 **PROMISING NEW TECHNOLOGY OR OTHER PRODUCT; OR**

16 **(6) AN ACADEMIC PROGRAM TO MEET WORKFORCE DEMAND IN A**
17 **DOCUMENTED LABOR SHORTAGE FIELD.**

18 **(B) TO PROMOTE THE ECONOMIC INTERESTS OF THE STATE AS**
19 **MANDATED IN §§ 10-205(A) AND 15-107 OF THIS ARTICLE, THE MORGAN STATE**
20 **UNIVERSITY SHALL UTILIZE ITS POWERS AS A PUBLIC CORPORATION**
21 **ESTABLISHED IN § 14-104 OF THIS SUBTITLE TO UNDERTAKE HIGH IMPACT**
22 **ECONOMIC DEVELOPMENT ACTIVITIES THAT SUPPORT:**

23 **(1) JOB CREATION AND WORKFORCE DEVELOPMENT;**

24 **(2) TECHNOLOGY TRANSFER, COMMERCIALIZATION, AND**
25 **ENTREPRENEURSHIP; AND**

26 **(3) INCREASED SPONSORED RESEARCH FUNDING AND OTHER**
27 **REVENUES.**

28 **(C) IN ORDER FOR AN ACTIVITY TO QUALIFY AS A HIGH IMPACT**
29 **ECONOMIC DEVELOPMENT ACTIVITY:**

1 **(1) THE PRESIDENT OR THE PRESIDENT'S DESIGNEE, SHALL**
2 **CERTIFY THAT THE ACTIVITY MEETS THE CRITERIA DEFINED IN SUBSECTION (A)**
3 **OF THIS SECTION; AND**

4 **(2) THE PRESIDENT OR THE PRESIDENT'S DESIGNEE, SHALL**
5 **NOTIFY THE BOARD OF REGENTS AND THE BOARD OF PUBLIC WORKS OF ANY**
6 **CERTIFIED ACTIVITY FOR REVIEW.**

7 **(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR ANY**
8 **HIGH IMPACT ECONOMIC ACTIVITY WITHIN THE SCOPE OF § 5-310 OR § 10-305**
9 **OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE BOARD OF**
10 **REGENTS SHALL BE FULLY RESPONSIBLE FOR ADMINISTERING THE REVIEW**
11 **AND COMMENT PROCESS PRESCRIBED IN THOSE SECTIONS.**

12 **(2) IN ADMINISTERING THE REVIEW AND COMMENT PROCESS**
13 **PRESCRIBED IN §§ 5-310 AND 10-305 OF THE STATE FINANCE AND**
14 **PROCUREMENT ARTICLE, THE BOARD OF REGENTS SHALL INCLUDE IN THE**
15 **PROCESS THE APPROPRIATE LEGISLATIVE COMMITTEES AND UNITS OF STATE**
16 **GOVERNMENT, WHICH MAY INCLUDE:**

17 **(I) COMMITTEES OF THE GENERAL ASSEMBLY;**

18 **(II) THE BOARD OF PUBLIC WORKS;**

19 **(III) THE MARYLAND HISTORIC TRUST;**

20 **(IV) THE DEPARTMENT OF PLANNING;**

21 **(V) THE DEPARTMENT OF THE ENVIRONMENT; AND**

22 **(VI) THE DEPARTMENT OF NATURAL RESOURCES.**

23 **(3) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND**
24 **PROCEDURES TO ENSURE THAT THE NOTICE AND OPPORTUNITY FOR REVIEW**
25 **ARE CONDUCTED IN A MANNER THAT PROVIDES A REASONABLE PERIOD TO**
26 **COMPLETE WHILE NOT IMPAIRING THE INSTITUTION'S CAPACITY FOR THE**
27 **EXPEDITIOUS AND SUCCESSFUL PURSUIT OF A HIGH IMPACT ECONOMIC**
28 **DEVELOPMENT ACTIVITY.**

29 **(E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF**
30 **REGENTS SHALL REPORT TO THE BOARD OF PUBLIC WORKS AND, IN**
31 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE**
32 **SENATE FINANCE COMMITTEE, THE HOUSE ECONOMIC MATTERS COMMITTEE,**
33 **THE SENATE BUDGET AND TAXATION COMMITTEE, AND THE HOUSE**

1 APPROPRIATIONS COMMITTEE ON THE HIGH IMPACT ECONOMIC
2 DEVELOPMENT ACTIVITIES UNDERTAKEN UNDER THIS SECTION DURING THE
3 PRECEDING FISCAL YEAR.

4 14–110.

5 (a) Consistent with § 15–107 of this article and any other applicable law, the
6 Board of Regents may establish, invest in, finance, and operate businesses or business
7 entities when the Board of Regents finds that doing so would further one or more goals
8 of the University and is related to the mission of the University.

9 (b) (1) A business entity established, invested in, financed, or operated in
10 accordance with this [subsection] SECTION may not be considered an agency or
11 instrumentality of the State or a unit of the Executive Branch for any purpose.

12 (2) A financial obligation or liability of a business entity established,
13 invested in, financed, or operated in accordance with this [subsection] SECTION may
14 not be a debt or obligation of the State or the University.

15 (c) (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, THE
16 UNIVERSITY MAY ESTABLISH, INVEST IN, FINANCE, OR OPERATE A
17 CORPORATION, FOUNDATION, CONSORTIUM, OR OTHER ENTITY THAT IS
18 INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY, AS
19 DEFINED IN § 14–104.1 OF THIS SUBTITLE.

20 (2) NOTWITHSTANDING THE PROVISIONS OF §§ 15–501 THROUGH
21 15–504 OF THE STATE GOVERNMENT ARTICLE AND SUBJECT TO § 15–523 OF
22 THE STATE GOVERNMENT ARTICLE, AN OFFICIAL OR EMPLOYEE OF A PUBLIC
23 INSTITUTION OF HIGHER EDUCATION MAY BE A DIRECTOR, OFFICIAL, OR
24 EMPLOYEE OF AN ENTITY INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC
25 DEVELOPMENT ACTIVITY, IF THE INDIVIDUAL’S PARTICIPATION ADVANCES THE
26 INTERESTS OF THE UNIVERSITY.

27 (3) DIVISION II OF THE STATE FINANCE AND PROCUREMENT
28 ARTICLE DOES NOT APPLY TO TRANSACTIONS BETWEEN AN ENTITY
29 ESTABLISHED, FINANCED, OR OPERATED UNDER THIS SUBSECTION AND THE
30 UNIVERSITY THAT ESTABLISHED, FINANCED, OR OPERATED THE ENTITY.

31 (4) (i) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND
32 PROCEDURES GOVERNING THE ESTABLISHMENT OF HIGH IMPACT ECONOMIC
33 DEVELOPMENT ENTITIES TO ENSURE THAT THE UNIVERSITY’S PARTICIPATION
34 IN THE ENTITY FURTHERS THE INTERESTS OF THE UNIVERSITY AND THE STATE.

35 (ii) THE POLICIES AND PROCEDURES UNDER
36 SUBPARAGRAPH (i) OF THIS PARAGRAPH SHALL INCLUDE REQUIREMENTS FOR:

1 **1. RECOGNITION OF THE ENTITY BY THE BOARD OF**
 2 **REGENTS;**

3 **2. AN ANNUAL AUDIT OF THE ENTITY BY AN**
 4 **INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND**

5 **3. ADEQUATE SAFEGUARDS WITH REGARD TO**
 6 **CONFLICTS OF INTEREST, PROPER CONTRACTING PRACTICES, AND OTHER**
 7 **FUNDAMENTAL ETHICAL AND BUSINESS PRACTICE STANDARDS.**

8 **[(c)] (D)** The Board of Regents shall submit to the Governor and, in
 9 accordance with § 2-1246 of the State Government Article, the General Assembly, an
 10 annual report on:

11 (1) The business entities established in accordance with this section;

12 (2) Funds invested in, and financing provided to, business entities
 13 established in accordance with this section;

14 (3) Ownership interests in any business entities established in
 15 accordance with this section; and

16 (4) The current status of the business entities.

17 **Article – State Finance and Procurement**

18 6-226.

19 (a) (1) Except as otherwise specifically provided by law or by regulation of
 20 the Treasurer, the Treasurer shall credit to the General Fund any interest on or other
 21 income from State money that the Treasurer invests.

22 (2) (i) Notwithstanding any other provision of law, and unless
 23 inconsistent with a federal law, grant agreement, or other federal requirement or with
 24 the terms of a gift or settlement agreement, net interest on all State money allocated
 25 by the State Treasurer under this section to special funds or accounts, and otherwise
 26 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue
 27 to the General Fund of the State.

28 (ii) The provisions of subparagraph (i) of this paragraph do not
 29 apply to the following funds:

30 62. Veterans Trust Fund; [and]

31 63. Transportation Trust Fund; AND

64. MARYLAND INNOVATION INITIATIVE FUND.

11-203.

(e) (1) In this subsection, "University" means the University System of Maryland, Morgan State University, or St. Mary's College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, or St. Mary's College of Maryland.

(3) (i) A procurement by a University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12-112 of the Education Article for the University System of Maryland, § 14-109 of the Education Article for Morgan State University, or § 14-405(f) of the Education Article for St. Mary's College of Maryland.

(ii) 1. [Any contract for services or capital improvements with a value that exceeds \$500,000 shall require the] **THE** review and approval of the Board of Public Works **SHALL BE REQUIRED FOR THE FOLLOWING TYPES OF CONTRACTS WITH A VALUE THAT EXCEEDS \$1,000,000:**

A. CAPITAL IMPROVEMENTS;

B. SERVICES; AND

C. ~~PURCHASES FUNDED WITH THE PROCEEDS OF A GENERAL OBLIGATION LOAN UNDER § 8-301 OF THIS ARTICLE; AND~~

~~D.~~ DISPOSITIONS OF PERSONAL PROPERTY SUBJECT TO § 10-305 OF THIS ARTICLE, EXCEPT FOR DISPOSITIONS OF PERSONAL PROPERTY THAT WAS PURCHASED WITH THE PROCEEDS OF A GENERAL OBLIGATION LOAN.

2. In its review of a contract for services or capital improvements with a value that exceeds ~~[\$500,000]~~ **\$1,000,000**, the Board of Public Works may request the comments of the appropriate agencies, including the Department of Budget and Management and the Department of General Services.

(4) A University's policies shall:

(i) to the maximum extent practicable, require the purchasing of supplies and services in accordance with Title 14, Subtitle 1 of this article; and

1 (ii) promote the purposes of the regulations adopted by the
2 Department of General Services governing the procurement of architectural and
3 engineering services.

4 (5) (i) Except as provided in paragraph (7) of this subsection, the
5 following provisions of Division II of this article apply to a University:

6 1. § 11–205 of this subtitle (“Collusion”);

7 2. § 11–205.1 of this subtitle (“Falsification,
8 concealment, etc., of material facts”);

9 3. § 13–219 of this article (“Required clauses –
10 Nondiscrimination clause”);

11 4. § 13–225 of this article (“Retainage”);

12 5. Title 14, Subtitle 3 of this article (“Minority Business
13 Participation”);

14 6. Title 15, Subtitle 1 of this article (“Procurement
15 Contract Administration”);

16 7. § 15–226 of this article (“Policy established; timing of
17 payments; notice upon nonpayment; disputes; appeals”); and

18 8. Title 16 of this article (“Suspension and Debarment of
19 Contractors”).

20 (ii) If a procurement violates the provisions of this subsection or
21 policies adopted in accordance with this subsection, the procurement contract is void
22 or voidable in accordance with the provisions of § 11–204 of this subtitle.

23 (6) (i) The State Board of Contract Appeals shall have authority
24 over contract claims related to procurement contracts awarded by:

25 1. the University System of Maryland before July 1,
26 1999; and

27 2. Morgan State University before July 1, 2004.

28 (ii) At the election of the Board of Regents of the University
29 System of Maryland and subject to the approval of the Board of Public Works, the
30 State Board of Contract Appeals shall have authority over contract claims related to
31 procurement contracts awarded by the University after June 30, 1999.

1 (iii) At the election of the Board of Regents of Morgan State
2 University and subject to the approval of the Board of Public Works, the State Board
3 of Contract Appeals shall have authority over contract claims related to procurement
4 contracts awarded by the University after June 30, 2004.

5 (iv) At the election of the Board of Trustees of St. Mary's College
6 of Maryland and subject to the approval of the Board of Public Works, the State Board
7 of Contract Appeals shall have authority over contract claims related to procurement
8 contracts awarded by St. Mary's College of Maryland after June 30, 2006.

9 (7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

10 (i) procurement by a University from:

- 11 1. another unit;
- 12 2. a political subdivision of the State;
- 13 3. an agency of a political subdivision of the State;
- 14 4. a government, including the government of another
15 state, of the United States, or of another country;
- 16 5. an agency or political subdivision of a government; or
- 17 6. a bistate, multistate, bicounty, or multicounty
18 governmental agency;

19 (ii) procurement by a University in support of enterprise
20 activities for the purpose of:

- 21 1. direct resale;
- 22 2. remanufacture and subsequent resale; or
- 23 3. procurement by the University for overseas programs;

24 or

25 (iii) procurement by the University System of Maryland for:

26 1. services of managers to invest, in accordance with the
27 management and investment policies adopted by the Board of Regents of the
28 University System of Maryland, gift and endowment assets received by the University
29 System of Maryland in accordance with § 12-104(e) of the Education Article; or

30 2. expenditures to manage, maintain, and enhance, in
31 accordance with the management and investment policies adopted by the Board of

1 Regents of the University System of Maryland, the value of gift and endowment assets
2 received by the University System of Maryland in accordance with § 12-104(e) of the
3 Education Article.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.