

Chapter 205

(House Bill 654)

AN ACT concerning

**Maryland Small Business Innovation Research and Technology Transfer
Incentive Program – Alterations**

FOR the purpose of ~~establishing~~ altering the definitions of “small business innovation research grant” and “small business technology transfer grant” for purposes of the Maryland Small Business Innovation Research and Technology Transfer Incentive Program; ~~altering the circumstances under which a certain award or investment recipient may be required to return certain funds; requiring the Program to prioritize providing awards to certain eligible small businesses; expanding the types of small business to which the Program, in coordination with certain programs, is required to conduct certain marketing and outreach; making conforming changes; making a technical correction; requiring the Maryland Technology Development Corporation to administer the Program; establishing the purposes of the Program; establishing qualifications for participation in the Program; authorizing the Program to provide certain awards and investments to certain businesses on a competitive basis, subject to certain limitations; providing for the coordination of certain activities of the Program with comparable county programs; providing that a certain award or investment recipient may be required to return certain funds under certain circumstances; establishing the Maryland Small Business Innovation Research and Technology Transfer Incentive Matching Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Corporation to administer the Fund; requiring the State Treasurer to hold the Fund, and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring interest earnings of the Fund to be credited to the Fund; requiring the Corporation to adopt certain regulations; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; defining certain terms; and generally relating to the Maryland Small Business Innovation Research and Technology Transfer Incentive Program.~~

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 10–473 through 10–475, 10–476(c) through (e) and (j), and 10–477(f)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

(As enacted by Chapters 8 and 25 of the Acts of the General Assembly of 2021)

BY repealing and reenacting, without amendments,

Article – Economic Development

Section 10–476(a) and (b) and 10–477(a)

Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)
(As enacted by Chapters 8 and 25 of the Acts of the General Assembly of 2021)

~~BY adding to~~

~~Article – Economic Development~~

~~Section 10-4C-01 through 10-4C-06 to be under the new subtitle “Subtitle 4C:
Maryland Small Business Innovation Research and Technology Transfer
Incentive Program”~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – State Finance and Procurement~~

~~Section 6-226(a)(2)(i)~~

~~Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – State Finance and Procurement~~

~~Section 6-226(a)(2)(ii)122. and 123.~~

~~Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2020 Supplement)~~

~~BY adding to~~

~~Article – State Finance and Procurement~~

~~Section 6-226(a)(2)(ii)124.~~

~~Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2020 Supplement)~~

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

Article – Economic Development

10-473.

(a) In this part the following words have the meanings indicated.

(b) “Fund” means the Maryland Small Business Innovation Research and
Technology Transfer Incentive Matching Fund.

(c) “Program” means the Maryland Small Business Innovation Research and
Technology Transfer Incentive Program.

(d) “Small business innovation research [grant] AWARD” means [a grant awarded under the Small Business Innovation Research grant program by the National Institutes of Health, or a similar program administered by another] AN AWARD PROVIDED UNDER A SMALL BUSINESS INNOVATION RESEARCH AWARD PROGRAM BY AN agency of the federal government[,] for a business to engage in research and development that has a strong potential for commercialization.

(e) “Small business technology transfer [grant] AWARD” means [a grant awarded under the Small Business Technology Transfer grant program by the National Institutes of Health, or a similar program administered by another] AN AWARD PROVIDED UNDER A SMALL BUSINESS TECHNOLOGY TRANSFER AWARD PROGRAM BY AN agency of the federal government[,] for a business to engage in research and development that has a strong potential for commercialization.

10-474.

(a) There is a Maryland Small Business Innovation Research and Technology Transfer Incentive Program.

(b) The Corporation shall administer the Program.

(c) The purpose of the Program is to foster job creation and economic development in the State by:

(1) promoting the commercialization of research conducted by small businesses in the State;

(2) facilitating the transfer of technology from universities and federal research laboratories to small businesses; and

(3) encouraging small businesses, including economically disadvantaged small businesses, to apply for small business innovation research [grants] AWARDS and small business technology transfer [grants] AWARDS.

10-475.

(a) To qualify for participation in the Program, a small business shall meet the criteria in this section.

(b) The small business shall:

(1) meet the qualifications of a qualified business; and

(2) have received a Phase I or Phase II small business innovation research [grant] AWARD or small business technology transfer [grant, or a similar grant under a

similar program administered by an agency of the federal government,] AWARD during the 6 months immediately preceding the submission of its application under [§ 10-499.3] § 10-476 of this part.

(c) An award or investment recipient that fails to fulfill the eligibility and maintenance requirements of the Program may be required to return all or part of the award or investment, as well as any accrued interest or fees, to the Program.

(d) The Program shall require an award or investment recipient to return to the Fund any money from an award or investment under this part, as well as any accrued interest or fees, if the recipient does not remain [in the State] A QUALIFIED BUSINESS for at least 2 years after receiving the award or investment payment.

10-476.

(a) An applicant shall submit an application for a Program award or investment on the form that the Corporation requires.

(b) The Program shall review the application and all supporting materials to evaluate whether the applicant qualifies for an award or investment from the Program.

(c) **(1)** Subject to the availability of money in the Fund AND PARAGRAPH (2) OF THIS SUBSECTION, the Program may provide to an eligible small business an award or investment to match in part a small business innovation research [grant] AWARD or small business technology transfer [grant] AWARD.

(2) THE PROGRAM SHALL PRIORITIZE PROVIDING AWARDS AND INVESTMENTS TO ELIGIBLE SMALL BUSINESSES THAT ARE ENGAGED IN RESEARCH AND DEVELOPMENT ACTIVITIES THAT ASSIST IN THE PREVENTION OF, PREPAREDNESS FOR, OR RESPONSE TO A PUBLIC HEALTH CRISIS IN THE STATE.

(d) Except as provided in subsection (f) of this section, a small business that receives an award or investment for a Phase I small business innovation research [grant] AWARD or small business technology transfer [grant, or a similar grant under a similar program administered by an agency of the federal government,] AWARD shall receive an award or investment in an amount that is the lesser of:

(1) 25% of the Phase I small business innovation research [grant] AWARD or small business technology transfer [grant, or a similar grant under a similar program administered by an agency of the federal government] AWARD; or

(2) \$25,000.

(e) Except as provided in subsection (f) of this section, a small business that receives an award or investment for a Phase II small business innovation research [grant] AWARD or small business technology transfer [grant, or a similar grant under a similar program administered by an agency of the federal government.] AWARD shall receive an award or investment in an amount that is the lesser of:

(1) 25% of the Phase II small business innovation research [grant] AWARD or small business technology transfer [grant, or a similar grant under a similar program administered by an agency of the federal government] AWARD; or

(2) \$75,000.

(j) The Program shall coordinate with comparable State and county programs to:

(1) conduct marketing and outreach, including conducting joint workshops, online training opportunities, and outreach to economically disadvantaged small businesses, MINORITY-OWNED SMALL BUSINESSES, WOMEN-OWNED SMALL BUSINESSES, RURAL SMALL BUSINESSES, and first-time small business innovation research [grant] AWARD or small business technology transfer [grant] AWARD applicants; and

(2) provide assistance to eligible businesses under this part.

10-477.

(a) There is a Maryland Small Business Innovation Research and Technology Transfer Incentive Matching Fund.

(f) The Fund may be used only for:

(1) providing awards or investments to eligible small businesses that have received financial assistance from the federal government under comparable small business innovation research or small business technology transfer [grant] AWARD programs; and

(2) administrative expenses of the Program, including marketing, outreach, and technical assistance.

~~SUBTITLE 4C. MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE PROGRAM.~~

~~10-4C-01.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.~~

~~(C) "CORPORATION" MEANS THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.~~

~~(D) "FUND" MEANS THE MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE MATCHING FUND.~~

~~(E) "PROGRAM" MEANS THE MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE PROGRAM.~~

~~(F) "SMALL BUSINESS INNOVATION RESEARCH AWARD" MEANS AN AWARD PROVIDED UNDER A SMALL BUSINESS INNOVATION RESEARCH AWARD PROGRAM BY AN AGENCY OF THE FEDERAL GOVERNMENT FOR A BUSINESS TO ENGAGE IN RESEARCH AND DEVELOPMENT THAT HAS A STRONG POTENTIAL FOR COMMERCIALIZATION.~~

~~(G) "SMALL BUSINESS TECHNOLOGY TRANSFER AWARD" MEANS AN AWARD PROVIDED UNDER A SMALL BUSINESS TECHNOLOGY TRANSFER AWARD PROGRAM BY AN AGENCY OF THE FEDERAL GOVERNMENT FOR A BUSINESS TO ENGAGE IN RESEARCH AND DEVELOPMENT THAT HAS A STRONG POTENTIAL FOR COMMERCIALIZATION.~~

~~10-4C-02.~~

~~(A) THERE IS A MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE PROGRAM.~~

~~(B) THE CORPORATION SHALL ADMINISTER THE PROGRAM.~~

~~(C) THE PURPOSE OF THE PROGRAM IS TO FOSTER JOB CREATION AND ECONOMIC DEVELOPMENT IN THE STATE BY:~~

~~(1) PROMOTING THE COMMERCIALIZATION OF RESEARCH CONDUCTED BY SMALL BUSINESSES IN THE STATE;~~

~~(2) FACILITATING THE TRANSFER OF TECHNOLOGY FROM UNIVERSITIES AND FEDERAL RESEARCH LABORATORIES TO SMALL BUSINESSES; AND~~

~~(3) ENCOURAGING SMALL BUSINESSES, INCLUDING ECONOMICALLY DISADVANTAGED SMALL BUSINESSES, TO APPLY FOR SMALL BUSINESS INNOVATION RESEARCH AWARDS AND SMALL BUSINESS TECHNOLOGY TRANSFER AWARDS.~~

~~10-4C-03.~~

~~(A) TO QUALIFY FOR PARTICIPATION IN THE PROGRAM, A SMALL BUSINESS SHALL MEET THE CRITERIA IN THIS SECTION.~~

~~(B) THE SMALL BUSINESS SHALL:~~

~~(1) MEET THE QUALIFICATIONS OF A QUALIFIED BUSINESS; AND~~

~~(2) HAVE RECEIVED A PHASE I OR PHASE II SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD DURING THE 6 MONTHS IMMEDIATELY PRECEDING THE SUBMISSION OF ITS APPLICATION UNDER § 10-4C-04 OF THIS SUBTITLE.~~

~~(C) AN AWARD OR INVESTMENT RECIPIENT THAT FAILS TO FULFILL THE ELIGIBILITY AND MAINTENANCE REQUIREMENTS OF THE PROGRAM MAY BE REQUIRED TO RETURN ALL OR PART OF THE AWARD OR INVESTMENT, AS WELL AS ANY ACCRUED INTEREST OR FEES, TO THE PROGRAM.~~

~~(D) THE PROGRAM SHALL REQUIRE AN AWARD OR INVESTMENT RECIPIENT TO RETURN TO THE FUND ANY MONEY FROM AN AWARD OR INVESTMENT UNDER THIS SUBTITLE, AS WELL AS ANY ACCRUED INTEREST OR FEES, IF THE RECIPIENT DOES NOT REMAIN A QUALIFIED BUSINESS FOR AT LEAST 2 YEARS AFTER RECEIVING THE AWARD OR INVESTMENT PAYMENT.~~

~~10-4C-04.~~

~~(A) AN APPLICANT SHALL SUBMIT AN APPLICATION FOR A PROGRAM AWARD OR INVESTMENT ON THE FORM THAT THE CORPORATION REQUIRES.~~

~~(B) THE PROGRAM SHALL REVIEW THE APPLICATION AND ALL SUPPORTING MATERIALS TO EVALUATE WHETHER THE APPLICANT QUALIFIES FOR AN AWARD OR INVESTMENT FROM THE PROGRAM.~~

~~(C) (1) SUBJECT TO THE AVAILABILITY OF MONEY IN THE FUND AND PARAGRAPH (2) OF THIS SUBSECTION, THE PROGRAM MAY PROVIDE TO AN ELIGIBLE SMALL BUSINESS AN AWARD OR INVESTMENT TO MATCH IN PART A SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD.~~

~~(2) THE PROGRAM SHALL PRIORITIZE PROVIDING AWARDS AND INVESTMENTS TO ELIGIBLE SMALL BUSINESSES THAT ARE ENGAGED IN RESEARCH AND DEVELOPMENT ACTIVITIES THAT ASSIST IN THE PREVENTION OF, PREPAREDNESS FOR, OR RESPONSE TO A PUBLIC HEALTH CRISIS IN THE STATE.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A SMALL BUSINESS THAT RECEIVES AN AWARD OR INVESTMENT FOR A PHASE I SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD SHALL RECEIVE AN AWARD OR INVESTMENT IN AN AMOUNT THAT IS THE LESSER OF:~~

~~(1) 25% OF THE PHASE I SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD; OR~~

~~(2) \$25,000.~~

~~(E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A SMALL BUSINESS THAT RECEIVES AN AWARD OR INVESTMENT FOR A PHASE II SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD SHALL RECEIVE AN AWARD OR INVESTMENT IN AN AMOUNT THAT IS THE LESSER OF:~~

~~(1) 25% OF THE PHASE II SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD; OR~~

~~(2) \$75,000.~~

~~(F) ON THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR, THE BOARD MAY APPROVE AN AWARD OR INVESTMENT IN A SMALL BUSINESS IN EXCESS OF THE LIMITATIONS SPECIFIED UNDER SUBSECTIONS (D) AND (E) OF THIS SECTION IF THE BOARD DETERMINES THAT THE AWARD IS NECESSARY TO BETTER SERVE THE COMMUNITY AND THE PURPOSES OF THE PROGRAM.~~

~~(C) DURING EACH FISCAL YEAR:~~

~~(1) THE CORPORATION MAY NOT PROVIDE MORE THAN 20 AWARDS OR INVESTMENTS IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION OR MORE THAN 10 AWARDS OR INVESTMENTS IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION; AND~~

~~(2) A SMALL BUSINESS MAY NOT RECEIVE MORE THAN ONE AWARD OR INVESTMENT.~~

~~(H) A SMALL BUSINESS MAY NOT RECEIVE MORE THAN THREE AWARDS OR INVESTMENTS UNDER THIS SUBTITLE.~~

~~(I) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH QUARTER, THE CORPORATION SHALL PROVIDE AWARDS AND INVESTMENTS ON A COMPETITIVE BASIS TO ELIGIBLE SMALL BUSINESSES.~~

~~(2) IN PROVIDING AN AWARD OR INVESTMENT UNDER THIS SECTION, THE CORPORATION:~~

~~(I) SHALL CONSIDER:~~

~~1. THE IMPACT OF THE AWARD OR INVESTMENT ON THE SMALL BUSINESS; AND~~

~~2. HOW THE SMALL BUSINESS WILL UTILIZE THE AWARD OR INVESTMENT TOWARD COMMERCIALIZATION OF THE RESEARCH CONDUCTED BY THE SMALL BUSINESS; AND~~

~~(II) MAY CONSIDER ANY ADDITIONAL CRITERIA SPECIFIED BY THE CORPORATION IN REGULATION.~~

~~(J) THE PROGRAM SHALL COORDINATE WITH COMPARABLE STATE AND COUNTY PROGRAMS TO:~~

~~(1) CONDUCT MARKETING AND OUTREACH, INCLUDING CONDUCTING JOINT WORKSHOPS, ONLINE TRAINING OPPORTUNITIES, AND OUTREACH TO ECONOMICALLY DISADVANTAGED SMALL BUSINESSES, WOMEN OWNED SMALL BUSINESSES, RURAL SMALL BUSINESSES, AND FIRST TIME SMALL BUSINESS INNOVATION RESEARCH AWARD OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD APPLICANTS; AND~~

~~(2) PROVIDE ASSISTANCE TO ELIGIBLE BUSINESSES UNDER THIS SUBTITLE.~~

~~10-4C-05.~~

~~(A) THERE IS A MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE MATCHING FUND.~~

~~(B) THE PURPOSE OF THE FUND IS TO PROVIDE AWARDS OR INVESTMENTS TO FURTHER STIMULATE INNOVATION AND ENTREPRENEURSHIP AND ATTRACT EARLY-STAGE SMALL BUSINESSES ENGAGED IN RESEARCH AND DEVELOPMENT.~~

~~(C) THE CORPORATION SHALL ADMINISTER THE FUND.~~

~~(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

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

~~(E) THE FUND CONSISTS OF:~~

~~(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~

~~(2) REPAYMENTS AND EARNINGS FROM INVESTMENTS MADE THROUGH THE PROGRAM;~~

~~(3) MONEY RECAPTURED FROM BUSINESSES THAT FAIL TO FULFILL THE TERMS AND CONDITIONS OF AN AWARD OR INVESTMENT MADE THROUGH THE PROGRAM;~~

~~(4) INTEREST EARNINGS OF THE FUND; AND~~

~~(5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(F) THE FUND MAY BE USED ONLY FOR:~~

~~(1) PROVIDING AWARDS OR INVESTMENTS TO ELIGIBLE SMALL BUSINESSES THAT HAVE RECEIVED FINANCIAL ASSISTANCE FROM THE FEDERAL GOVERNMENT UNDER COMPARABLE SMALL BUSINESS INNOVATION RESEARCH OR SMALL BUSINESS TECHNOLOGY TRANSFER AWARD PROGRAMS; AND~~

~~(2) ADMINISTRATIVE EXPENSES OF THE PROGRAM, INCLUDING MARKETING, OUTREACH, AND TECHNICAL ASSISTANCE.~~

~~(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

~~(2) INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.~~

~~(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.~~

~~10 4C 06.~~

~~THE CORPORATION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~Article State Finance and Procurement~~

~~6 226.~~

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

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

~~122. the Racing and Community Development Financing Fund;~~
~~[and]~~

~~123. the Racing and Community Development Facilities Fund;~~
~~AND~~

~~124. THE MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE MATCHING FUND.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Approved by the Governor, May 18, 2021.