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By: **Senator Hogan**

Introduced and read first time: January 28, 2004

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Technology Investment Program**

3 FOR the purpose of creating the Maryland Technology Investment Program;  
4 requiring the Board of Trustees of the State Retirement and Pension System, in  
5 consultation with the Maryland Technology Development Corporation, to  
6 establish and administer the Program; authorizing the Board of Trustees to  
7 adopt certain regulations; requiring the Board of Trustees to enter into certain  
8 partnership agreements with certain general partners; requiring that certain  
9 general partners that contract with the Board of Trustees seek certain  
10 investments, negotiate the terms of certain investments, and monitor the  
11 progress of certain investments; requiring the Board of Trustees to ensure that  
12 a decision to enter into a certain partnership is based solely on the potential for  
13 investment returns; requiring the Board of Trustees to ensure that the amount  
14 of certain funds invested in the Program is equal to or less than the investment  
15 made by other institutional investors and that certain general partners make a  
16 substantial investment; requiring the Board of Trustees to invest a certain  
17 amount in the Program in certain fiscal years; requiring the Governor to include  
18 a certain appropriation in the annual budget bill in certain fiscal years under  
19 certain circumstances; requiring the Board of Trustees to submit a certain  
20 annual report by a certain date; defining certain terms; and generally relating to  
21 the creation and administration of the Maryland Technology Investment  
22 Program.

23 BY adding to  
24 Article - State Personnel and Pensions  
25 Section 21-701 through 21-704 to be under the new subtitle "Subtitle 7.  
26 Maryland Technology Investment Program"  
27 Annotated Code of Maryland  
28 (1997 Replacement Volume and 2003 Supplement)

29 Preamble

30 WHEREAS, Private equity investment, including venture capital investment,  
31 can provide substantial, long-term returns to a diversified investment portfolio; and

1 WHEREAS, The asset allocation of the State Retirement and Pension System  
2 designates an asset allocation range of up to 2% of System assets in private equity;  
3 and

4 WHEREAS, The asset allocation target of the State Retirement and Pension  
5 System for investment in private equity is 2%, but the State Retirement and Pension  
6 System has only invested 0.3% of assets in private equity; and

7 WHEREAS, Investment of private equity in the State can provide benefits to  
8 both the Maryland State Retirement and Pension System through positive  
9 investment return and the entire State through an expansion of the technology and  
10 bioscience business sector; now, therefore,

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

13 **Article - State Personnel and Pensions**

14 **SUBTITLE 7. MARYLAND TECHNOLOGY INVESTMENT PROGRAM.**

15 21-701.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (B) "PROGRAM" MEANS THE MARYLAND TECHNOLOGY INVESTMENT  
19 PROGRAM.

20 (C) "QUALIFIED TECHNOLOGY OR BIOSCIENCE BUSINESS" MEANS A  
21 BUSINESS THAT:

22 (1) (I) 1. IS HEADQUARTERED IN THE STATE AND INTENDS TO  
23 REMAIN IN THE STATE AFTER RECEIPT OF THE INVESTMENT, OR IS  
24 HEADQUARTERED IN ANOTHER STATE AND INTENDS TO RELOCATE ITS  
25 HEADQUARTERS TO THE STATE AFTER RECEIPT OF THE INVESTMENT; AND

26 2. HAS ITS PRINCIPAL BUSINESS OPERATIONS LOCATED IN  
27 THE STATE AND INTENDS TO MAINTAIN BUSINESS OPERATIONS IN THE STATE  
28 AFTER RECEIPT OF THE INVESTMENT, OR HAS ITS PRINCIPAL BUSINESS  
29 OPERATIONS LOCATED IN ANOTHER STATE AND INTENDS TO RELOCATE BUSINESS  
30 OPERATIONS TO THE STATE WITHIN 90 DAYS AFTER RECEIPT OF THE INVESTMENT;  
31 OR

32 (II) IS A SUBSIDIARY IN THE STATE OF A COMPANY  
33 HEADQUARTERED OUTSIDE THE UNITED STATES;

34 (2) HAS AGREED TO USE THE QUALIFIED INVESTMENT PRIMARILY TO:

35 (I) SUPPORT BUSINESS OPERATIONS IN THE STATE; OR

1 (II) IN THE CASE OF A START-UP COMPANY, ESTABLISH AND  
2 SUPPORT BUSINESS OPERATIONS IN THE STATE;

3 (3) DOES NOT HAVE MORE THAN 100 EMPLOYEES AND:

4 (I) EMPLOYS AT LEAST 80% OF ITS EMPLOYEES IN THE STATE; OR

5 (II) PAYS 80% OF ITS PAYROLL TO EMPLOYEES IN THE STATE;

6 (4) IS PRIMARILY ENGAGED IN:

7 (I) MANUFACTURING, PROCESSING, OR ASSEMBLING  
8 TECHNOLOGY OR BIOSCIENCE PRODUCTS;

9 (II) CONDUCTING TECHNOLOGICAL OR BIOSCIENCE RESEARCH  
10 AND DEVELOPMENT; OR

11 (III) PROVIDING TECHNOLOGY OR BIOSCIENCE-RELATED  
12 SERVICES; AND

13 (5) IS NOT PRIMARILY ENGAGED IN:

14 (I) RETAIL SALES;

15 (II) REAL ESTATE DEVELOPMENT;

16 (III) THE BUSINESS OF INSURANCE, BANKING, OR LENDING; OR

17 (IV) THE PROVISION OF PROFESSIONAL SERVICES PROVIDED BY  
18 ACCOUNTANTS, ATTORNEYS, OR PHYSICIANS.

19 21-702.

20 (A) THERE IS A MARYLAND TECHNOLOGY INVESTMENT PROGRAM  
21 ADMINISTERED BY THE BOARD OF TRUSTEES.

22 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOR VENTURE CAPITAL  
23 INVESTMENT BY THE SYSTEM IN QUALIFIED TECHNOLOGY OR BIOSCIENCE  
24 BUSINESSES IN THE STATE.

25 (C) THE BOARD OF TRUSTEES, IN CONSULTATION WITH THE MARYLAND  
26 TECHNOLOGY DEVELOPMENT CORPORATION, SHALL ESTABLISH AND ADMINISTER  
27 THE PROGRAM AND MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS  
28 SUBTITLE.

29 (D) (1) IN ADMINISTERING THE PROGRAM, THE BOARD OF TRUSTEES SHALL  
30 ENTER INTO PARTNERSHIP AGREEMENTS WITH ONE OR MORE VENTURE CAPITAL  
31 GENERAL PARTNERS.

32 (2) EACH VENTURE CAPITAL GENERAL PARTNER THAT THE BOARD OF  
33 TRUSTEES CONTRACTS WITH SHALL:

1 (I) SEEK INVESTMENTS IN QUALIFIED TECHNOLOGY AND  
2 BIOSCIENCE BUSINESSES;

3 (II) NEGOTIATE THE TERMS OF INVESTMENT IN THE QUALIFIED  
4 TECHNOLOGY AND BIOSCIENCE BUSINESSES; AND

5 (III) MONITOR THE PROGRESS OF THE INVESTMENT IN QUALIFIED  
6 TECHNOLOGY AND BIOSCIENCE BUSINESSES.

7 (3) THE BOARD OF TRUSTEES SHALL ENSURE THAT:

8 (I) A DECISION TO ENTER INTO A PARTNERSHIP WITH A VENTURE  
9 CAPITAL GENERAL PARTNER IS BASED SOLELY ON THE POTENTIAL FOR  
10 INVESTMENT RETURNS;

11 (II) THE AMOUNT OF FUNDS INVESTED BY THE BOARD OF  
12 TRUSTEES IN A PARTNERSHIP THROUGH THE PROGRAM IS EQUAL TO OR LESS THAN  
13 THE INVESTMENT MADE BY OTHER INSTITUTIONAL INVESTORS IN THE  
14 PARTNERSHIP; AND

15 (III) EACH VENTURE CAPITAL GENERAL PARTNER MAKES A  
16 SUBSTANTIAL INVESTMENT IN THE PARTNERSHIP.

17 21-703.

18 (A) (1) ON OR BEFORE JULY 15 OF EACH FISCAL YEAR BEGINNING WITH  
19 FISCAL YEAR 2005 AND ENDING AFTER FISCAL YEAR 2009, THE BOARD OF TRUSTEES  
20 SHALL SET ASIDE \$20,000,000 FOR INVESTMENT IN THE PROGRAM.

21 (2) (I) IF THE BOARD OF TRUSTEES DETERMINES THAT THERE ARE  
22 NOT AN ADEQUATE NUMBER OF QUALIFIED TECHNOLOGY AND BIOSCIENCE  
23 BUSINESSES TO INVEST IN, THE BOARD OF TRUSTEES MAY INVEST ONLY A PORTION  
24 OF THE \$20,000,000.

25 (II) IF ANY MONEY SET ASIDE FOR INVESTMENT IN THE PROGRAM  
26 UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT INVESTED IN THE FISCAL YEAR  
27 IN WHICH THE MONEY WAS SET ASIDE, THE MONEY MAY BE INVESTED IN THE  
28 PROGRAM THE FOLLOWING FISCAL YEAR.

29 (B) ANY INVESTMENT RETURN FROM THE PROGRAM SHALL ACCRUE TO THE  
30 STATE SYSTEM.

31 (C) (1) IN FISCAL YEAR 2012, IF THE INTERNAL RATE OF RETURN FROM THE  
32 FISCAL YEAR 2005 INVESTMENT MADE BY THE BOARD OF TRUSTEES IN THE  
33 PROGRAM DOES NOT MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE  
34 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO  
35 THE STATE SYSTEM THAT REPRESENTS THE DIFFERENCE BETWEEN A 7.75%  
36 ANNUALIZED RETURN AND THE ACTUAL RETURN OF THE FISCAL 2005 INVESTMENT  
37 IN THE PROGRAM.

1           (2)       IN FISCAL YEAR 2013, IF THE INTERNAL RATE OF RETURN FROM THE  
2 FISCAL YEAR 2006 INVESTMENT MADE BY THE BOARD OF TRUSTEES IN THE  
3 PROGRAM DOES NOT MEET OR EXCEED 7.75% ANNUALIZED RETURN, THE GOVERNOR  
4 SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE STATE  
5 SYSTEM THAT REPRESENTS THE DIFFERENCE BETWEEN A 7.75% ANNUALIZED  
6 RETURN AND THE ACTUAL RETURN OF THE FISCAL 2006 INVESTMENT IN THE  
7 PROGRAM.

8           (3)       IN FISCAL YEAR 2014, IF THE INTERNAL RATE OF RETURN FROM THE  
9 FISCAL YEAR 2007 INVESTMENT MADE BY THE BOARD OF TRUSTEES IN THE  
10 PROGRAM DOES NOT MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE  
11 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO  
12 THE STATE SYSTEM THAT REPRESENTS THE DIFFERENCE BETWEEN A 7.75%  
13 ANNUALIZED RETURN AND THE ACTUAL RETURN OF THE FISCAL 2007 INVESTMENT  
14 IN THE PROGRAM.

15          (4)       IN FISCAL YEAR 2015, IF THE INTERNAL RATE OF RETURN FROM THE  
16 FISCAL YEAR 2008 INVESTMENT MADE BY THE SYSTEM IN THE PROGRAM DOES NOT  
17 MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE GOVERNOR SHALL INCLUDE IN  
18 THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE STATE SYSTEM THAT  
19 REPRESENTS THE DIFFERENCE BETWEEN A 7.75% ANNUALIZED RETURN AND THE  
20 ACTUAL RETURN OF THE FISCAL 2008 INVESTMENT IN THE PROGRAM.

21          (5)       IN FISCAL YEAR 2016, IF THE INTERNAL RATE OF RETURN FROM THE  
22 FISCAL YEAR 2009 INVESTMENT MADE BY THE SYSTEM IN THE PROGRAM DOES NOT  
23 MEET OR EXCEED A 7.75% ANNUALIZED RETURN, THE GOVERNOR SHALL INCLUDE IN  
24 THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE STATE SYSTEM THAT  
25 REPRESENTS THE DIFFERENCE BETWEEN A 7.75% ANNUALIZED RETURN AND THE  
26 ACTUAL RETURN OF THE FISCAL 2009 INVESTMENT IN THE PROGRAM.

27 21-704.

28          (A)       ON JULY 15 OF EACH YEAR, THE BOARD OF TRUSTEES, IN CONSULTATION  
29 WITH THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, SHALL SUBMIT  
30 A REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH  
31 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION AND  
32 ADMINISTRATION OF THE PROGRAM.

33          (B)       FOR EACH FISCAL YEAR IN WHICH INVESTMENTS WERE MADE THROUGH  
34 THE PROGRAM, THE REPORT MADE BY THE BOARD OF TRUSTEES UNDER THIS  
35 SECTION SHALL INCLUDE:

36               (1)       A LIST OF INVESTMENTS MADE THROUGH THE PROGRAM; AND

37               (2)       THE AGGREGATE INVESTMENT RETURNS OF ALL INVESTMENTS  
38 MADE THROUGH THE PROGRAM.

39          (C)       THE REPORT MADE BY THE BOARD OF TRUSTEES SHALL INCLUDE AN  
40 ANALYSIS OF THE ECONOMIC IMPACT ON THE STATE OF ALL INVESTMENTS MADE  
41 THROUGH THE PROGRAM.

1       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 June 1, 2004.