

Chapter 306

(Senate Bill 574)

AN ACT concerning

~~Maryland Small Business Innovation Research and Technology Transfer
Incentive Program~~~~Department of Commerce – Small Business Innovation Research and Technology
Transfer – Study~~

FOR the purpose of ~~establishing the Maryland Small Business Innovation Research and Technology Transfer Incentive Program in the Department of Commerce; establishing the purposes of the Program; establishing qualifications for participation in the Program; authorizing the Program to provide certain grants to certain businesses on a first come, first served basis, subject to certain limitations; providing for the coordination of certain activities of the Program with comparable county programs; providing that a certain grant 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 Secretary of Commerce 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 Secretary to review and evaluate the Program on a periodic basis; authorizing the Secretary to submit certain recommendations to the Governor and the General Assembly; authorizing the Secretary 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~~ requiring the Department of Commerce to conduct a certain study on financing options for recipients of federal small business innovation research and technology transfer grants; requiring the Department to conduct the study in a certain manner; requiring the Department to report certain findings and recommendations to the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a study on financing options for recipients of federal grants.

~~BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5-102
Annotated Code of Maryland
(2018 Replacement Volume)~~

~~BY adding to~~

~~Article — Economic Development~~~~Section 5-1701 through 5-1707 and the subtitle “Subtitle 17. Maryland Small Business Innovation Research and Technology Transfer Incentive Program”~~~~Annotated Code of Maryland
(2018 Replacement Volume)~~~~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 2018 Supplement)~~~~BY repealing and reenacting, with amendments,~~~~Article — State Finance and Procurement~~~~Section 6-226(a)(2)(ii)112. and 113.~~~~Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)~~~~BY adding to~~~~Article — State Finance and Procurement~~~~Section 6-226(a)(2)(ii)114.~~~~Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)~~~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,~~~~That the Laws of Maryland read as follows:~~~~**Article — Economic Development**~~~~5-102.~~~~The Department shall administer the State’s economic development and financial assistance programs and funds including:~~

- ~~(1) the BRAC Revitalization and Incentive Zone Program, under Subtitle 13 of this title;~~
- ~~(2) the Enterprise Fund, under Subtitle 6 of this title;~~
- ~~(3) the Enterprise Zones Program, under Subtitle 7 of this title;~~
- ~~(4) the Make Office Vacancies Extinct Program, under Subtitle 15 of this title;~~
- ~~(5) the Maryland Economic Adjustment Fund, under Subtitle 2 of this title;~~

~~(6) the Maryland Economic Development Assistance Authority and Fund, under Subtitle 3 of this title;~~

~~(7) the Maryland Industrial Development Financing Authority, under Subtitle 4 of this title;~~

~~(8) the Maryland Small Business Development Financing Authority, under Subtitle 5 of this title;~~

~~(9) THE MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE PROGRAM, UNDER SUBTITLE 17 OF THIS TITLE;~~

~~[(9)](10) the Appalachian Regional Development Program, under Title 13, Subtitle 1 of this article;~~

~~[(10)](11) jointly with the Department of Housing and Community Development, the Community Development Block Grant for Economic Development;~~

~~[(11)](12) the Regional Institution Strategic Enterprise Zone Program under Subtitle 14 of this title; and~~

~~[(12)](13) any other programs or funds designated by statute, the Governor, or the Secretary.~~

~~SUBTITLE 17. MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE PROGRAM.~~

~~5-1701.~~

~~(A) IN THIS SUBTITLE 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" 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 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" 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 AGENCY OF THE FEDERAL GOVERNMENT, FOR A BUSINESS TO ENGAGE IN RESEARCH AND DEVELOPMENT THAT HAS A STRONG POTENTIAL FOR COMMERCIALIZATION.~~

~~5-1702.~~

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

~~(B) 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 SMALL BUSINESSES; AND~~

~~(3) ENCOURAGING SMALL BUSINESSES TO APPLY FOR SMALL BUSINESS INNOVATION RESEARCH GRANTS AND SMALL BUSINESS TECHNOLOGY TRANSFER GRANTS.~~

~~5-1703.~~

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

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

~~(1) MAINTAIN ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE;~~

~~(2) HAVE RECEIVED A PHASE I OR PHASE II SMALL BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT, IN THE CURRENT FISCAL YEAR; AND~~

~~(3) CONDUCT AT LEAST 51% OF ITS RESEARCH AND DEVELOPMENT OPERATIONS AT A PHYSICAL LOCATION IN THE STATE.~~

~~(C) A GRANT RECIPIENT THAT FAILS TO FULFILL THE ELIGIBILITY AND MAINTENANCE REQUIREMENTS OF THE PROGRAM, OR OF A COMPARABLE COUNTY PROGRAM THAT SUPPORTS THE RECIPIENT, MAY BE REQUIRED TO RETURN ALL OR PART OF THE GRANT TO THE PROGRAM.~~

~~(D) THE PROGRAM SHALL REQUIRE A SMALL BUSINESS TO RETURN TO THE DEPARTMENT ANY MONEY FROM A MATCHING GRANT UNDER THIS SUBTITLE IF THE BUSINESS DOES NOT REMAIN IN THE STATE FOR AT LEAST 2 YEARS AFTER RECEIVING THE GRANT PAYMENT.~~

~~5-1704.~~

~~(A) AN APPLICANT SHALL SUBMIT AN APPLICATION FOR A PROGRAM GRANT ON THE FORM THAT THE SECRETARY REQUIRES.~~

~~(B) THE PROGRAM SHALL REVIEW THE APPLICATION AND ALL SUPPORTING MATERIALS TO EVALUATE WHETHER THE APPLICANT QUALIFIES FOR A GRANT FROM THE PROGRAM.~~

~~(C) SUBJECT TO THE AVAILABILITY OF MONEY IN THE FUND, THE PROGRAM MAY PROVIDE TO AN ELIGIBLE SMALL BUSINESS A MATCHING GRANT FOR A SMALL BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT.~~

~~(D) A SMALL BUSINESS THAT IS AWARDED A MATCHING GRANT FOR A PHASE I SMALL BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT, SHALL RECEIVE A MATCHING GRANT AMOUNT THAT IS THE LESSER OF:~~

~~(1) 25% OF THE PHASE I SMALL BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT; OR~~

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

~~(E) A SMALL BUSINESS THAT IS AWARDED A MATCHING GRANT FOR A PHASE II SMALL BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT, SHALL RECEIVE A MATCHING GRANT AMOUNT THAT IS THE LESSER OF:~~

~~(1) 25% OF A THE PHASE II SMALL BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT; OR~~

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

~~(F) DURING EACH FISCAL YEAR A SMALL BUSINESS MAY NOT RECEIVE MORE THAN ONE MATCHING GRANT.~~

~~(G) A SMALL BUSINESS MAY NOT RECEIVE MORE THAN FIVE MATCHING GRANTS UNDER THIS SUBTITLE.~~

~~(H) THE DEPARTMENT SHALL AWARD MATCHING GRANTS ON A FIRST COME, FIRST SERVED BASIS.~~

~~(I) THE PROGRAM SHALL COORDINATE WITH COMPARABLE COUNTY PROGRAMS TO EVALUATE APPLICATIONS AND TO PROVIDE ASSISTANCE TO ELIGIBLE BUSINESSES UNDER THIS SUBTITLE.~~

~~5-1705.~~

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

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

~~(C) THE SECRETARY 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) MONEY RECAPTURED FROM BUSINESSES THAT FAIL TO FULFILL THE TERMS AND CONDITIONS OF A GRANT MADE FROM THE PROGRAM;~~

~~(3) INTEREST EARNINGS OF THE FUND; AND~~

~~(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

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

~~(1) MATCHING GRANTS THAT COUNTIES OR THE FEDERAL GOVERNMENT PROVIDE TO ELIGIBLE BUSINESSES UNDER COMPARABLE SMALL BUSINESS INNOVATION RESEARCH OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT PROGRAMS; AND~~

~~(2) ADMINISTRATIVE EXPENSES OF THE PROGRAM.~~

~~(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.~~

~~5-1706.~~

~~(A) AT LEAST ONCE EVERY 3 YEARS, THE SECRETARY SHALL REVIEW AND EVALUATE THE PROGRAM, INCLUDING THE NUMBER AND SIZE OF ELIGIBLE BUSINESSES THAT RECEIVE SUPPORT FROM THE PROGRAM.~~

~~(B) BASED ON THE REVIEW AND EVALUATION, THE SECRETARY MAY SUBMIT RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE CONTINUED EFFECTIVENESS OF THE PROGRAM.~~

~~5-1707.~~

~~THE SECRETARY MAY 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:~~

~~112. the Pretrial Services Program Grant Fund; [and]~~

~~113. the Veteran Employment and Transition Success Fund;~~

~~AND~~

~~114. 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, 2019.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Commerce shall:

(1) explore ways to:

(i) foster job creation and economic development in the State by capitalizing on the federal presence in the State;

(ii) encourage small businesses to engage in federal research and development that has the potential for commercialization;

(iii) facilitate the transfer of technology from small businesses; and

(iv) encourage small businesses to apply for federal small business innovation research grants and small business technology transfer grants;

(2) study the laws and regulations of other states governing financial assistance programs for awardees of federal small business innovation research grants and small business technology transfer grants; and

(3) make recommendations regarding financing options for recipients of federal small business innovation research grants and small business technology transfer grants.

(b) On or before December 31, 2019, the Department of Commerce shall submit its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. It shall remain effective for a period of 1 year and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, April 30, 2019.