

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised
 (Senator Hayes)

Senate Bill 125
 Finance

Ways and Means

**Maryland Technology Development Corporation - Business Diversity Incubator
 Program and Fund - Establishment**

This bill establishes the Business Diversity Incubator Program and Fund (BDIF) in the Maryland Technology Development Corporation (TEDCO) for the purpose of providing grants to qualified incubators to establish diverse and effective business incubators in the State. Subject to a competitive application process, required preferences, and limitations on the use of funds for operating expenses, a qualified incubator may receive a three-year grant of \$100,000 to \$400,000 per year. The bill does not mandate a level of funding for the program, but does specify that, for fiscal 2025, the Governor may include in the annual budget bill an appropriation of \$1.0 million to BDIF. TEDCO must report specified programmatic information to the General Assembly each year beginning in 2024. **The bill takes effect July 1, 2023, and terminates June 30, 2030.**

Fiscal Summary

State Effect: General fund expenditures increase by \$1.0 million annually from FY 2024 through 2029 under the assumptions discussed below. Special fund revenues and expenditures for BDIF increase correspondingly as funds are received and used by TEDCO for authorized purposes.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	\$1.0	\$1.0	\$1.0	\$1.0	\$1.0
GF Expenditure	\$1.0	\$1.0	\$1.0	\$1.0	\$1.0
SF Expenditure	\$1.0	\$1.0	\$1.0	\$1.0	\$1.0
Net Effect	(\$1.0)	(\$1.0)	(\$1.0)	(\$1.0)	(\$1.0)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Potential meaningful, as discussed below.

Analysis

Bill Summary:

Business Diversity Incubator Program

“Qualified incubator” means a nonprofit organization, B Corporation, or social enterprise in the State that was established on or after January 1, 2012, and:

- primarily serves or will primarily serve businesses in the State;
- requires or will require participating businesses to engage in a formal incubator program designed to advance early-stage businesses;
- is staffed or will be staffed by at least one individual dedicated to mentoring businesses and guiding them through the incubator program; and
- is directed by an individual who has completed a training program focused on operating a business incubator targeting socially and economically disadvantaged entrepreneurs, or helping those entrepreneurs secure investment, that included specified topics.

TEDCO must establish a competitive application process for grants made under the program and must give preference to qualified incubators that (1) have a program managed by socially or economically disadvantaged individuals; (2) are located in a federally recognized hub zone, a State qualified opportunity zone, or an underserved community; (3) have experience supporting companies in the start-up stage; (4) serve companies led by socially or economically disadvantaged individuals and have an economic impact on underserved communities; or (5) have established a presence in an underserved community.

TEDCO may award a grant under the program for (1) planning the establishment of a qualified incubator or planning for a qualified incubator’s long-term sustainability; (2) capital improvements, securing real estate, renovations, and the purchase of capital equipment to establish or grow a qualified incubator; or (3) operating and program expenses associated with supporting programs. Grants awarded under the program may not be used to support more than 25% of the operating expenses of a qualified incubator unless the grant is awarded within the first year of the incubator’s operation.

Generally, grants awarded under the program must be for a period of three years, although the grant can be renewed on a competitive basis provided that the qualified incubator is in compliance with the terms of the grant. For any fiscal year, an organization may not receive a grant of less than \$100,000 or more than \$400,000.

A grant recipient must enter into a program agreement with TEDCO; any violation of the agreement is subject to specified TEDCO remedies. A grant recipient must report annually to TEDCO documenting how the grant money was used, as specified. The bill may not be construed to prohibit an organization from receiving funds from a government source other than the program.

Business Diversity Incubator Fund

BDIF is established in TEDCO as a special, nonlapsing fund that is not subject to reversion. BDIF consists of money appropriated in the State budget to the fund and any other money from any other source accepted for the benefit of the fund. TEDCO must administer BDIF. The fund may only be used to provide grants under the program and pay for TEDCO's administrative expenses (up to 15% of the annual appropriation). The bill specifies that for fiscal 2025, the Governor may include in the annual budget bill an appropriation of \$1.0 million to the fund. Money expended from BDIF for the program is supplemental to and is not intended to take the place of funding that otherwise would be provided for the Business Diversity Incubator Program.

Current Law: TEDCO's Maryland Technology Incubator Program was established by legislation in 2001 to promote entrepreneurship and the creation of jobs in technology-related industry by establishing and operating effective incubators throughout the State that provide adequate physical space designed, and programs intended, to increase or accelerate business success in the field of technology.

Financial assistance may be used to (1) support the development and use of best practices in the incubation process; (2) provide strategic planning, needs assessment, and feasibility studies; and (3) assist in the acquisition and construction of new or expanded space or the renovation of existing space for an incubator. Eligible recipients are (1) local governments; (2) agencies, instrumentalities, and nonprofits designated by local governments; (3) public or private colleges or universities; (4) the Maryland Economic Development Corporation; and (5) nonprofit entities acting as incubators in the State.

A recipient must provide matching funds or an in-kind contribution that equals the amount of the financial assistance unless the board waives this requirement in whole or part for good cause. The board may not award more than \$1.0 million in any fiscal year for incubator projects within a single county or within Baltimore City unless otherwise approved by a two-thirds vote of the membership of the board.

For further information on TEDCO, including a general overview and recent program additions, see the **Appendix – Maryland Technology Development Corporation**.

State Fiscal Effect: The bill does not mandate a level of funding for the program, but it does specify that, for fiscal 2025, the Governor may include in the annual budget bill an appropriation of \$1.0 million to BDIF. This analysis assumes that amount of discretionary funding is provided to BDIF for six years – specifically each year from fiscal 2024 through 2029 – and is used for grants and administrative expenses. As the bill requires grants to be provided to recipients every year for three years, this analysis assumes two grant award cycles and two cohorts of grant recipients. Beginning funding in fiscal 2024 and ending it in fiscal 2029 allows the bill’s initial and final reporting requirements to be fulfilled, even though the program itself is extended through the end of fiscal 2030. Actual expenditures will vary to the extent that the timing and/or amount of discretionary funding is different from this estimate.

Accordingly, general fund expenditures for TEDCO increase by \$1.0 million annually from fiscal 2024 through 2029. Special fund revenues and expenditures for BDIF increase correspondingly as funds are received and TEDCO provides grants to eligible recipients under the bill and pays for its administrative expenses. For purposes of this estimate, grants are assumed to be made in the fiscal year that general funds are appropriated (even though grants could be made in subsequent years with retained fund balance). TEDCO estimates total annual administrative costs of about \$150,000 for a program of this size, which is consistent with the 15% limitation on the use of BDIF for such purposes. This includes costs for a half-time staff and related expenses, plus various overhead costs such as accounting and marketing. TEDCO employees are not State employees.

Small Business Effect: Some eligible grant recipients may be small businesses and directly benefit from grant funding made available under the bill. Nonprofits, which are also eligible grant recipients, are not considered small businesses for purposes of fiscal and policy notes. In either case, the use of grant funds under the bill by grant recipients to establish or grow business incubators may benefit small for-profit businesses located in those incubators.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Technology Development Corporation; Department of Commerce; Maryland Department of Transportation; Governor’s Office of Small, Minority, and Women Business Affairs; Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2023
km/lgc Third Reader - March 30, 2023
Revised - Amendment(s) - March 30, 2023

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Appendix – Maryland Technology Development Corporation

The Maryland Technology Development Corporation (TEDCO) is an independent entity established by the Maryland General Assembly in 1998 to enhance the transfer of technology from universities and federal laboratories to the private sector and foster the growth of companies in critical or high-growth sectors. TEDCO investments must meet statutory eligibility criteria that generally require a business to have and subsequently maintain a presence in the State. TEDCO programs typically assist companies based on a company's stage of development: from early stage and technology transfer to growth stage.

TEDCO's purview and funding has expanded in recent years as legacy programs were transferred from the Department of Commerce and new programs were established directly within TEDCO. The Maryland Venture Fund and a biotechnology grant program were transferred to TEDCO in fiscal 2016. The following programs have been established by legislation since 2021:

- **Pre-Seed Builder Fund:** The Pre-Seed Builder Fund supports the development of start-up companies run by entrepreneurs from socially or economically disadvantaged backgrounds that hinder access to traditional forms of capital and executive networks at the pre-seed stage. The Governor must include appropriations in the budget bill in the following amounts: \$5.0 million in fiscal 2023; \$6.2 million in fiscal 2024; and \$7.5 million annually beginning in fiscal 2025.
- **Inclusion Fund:** The Inclusion Fund provides capital investment in technology-based businesses that (1) would qualify for investment under the Builder Fund, as provided in TEDCO regulations; (2) are at least 30% owned by individuals who demonstrate economic disadvantage; and (3) are controlled and managed for at least one year after the time of investment by an individual or individuals who demonstrate economic disadvantage.
- **Maryland Makerspace Initiative Program:** The program encourages the establishment and expansion of makerspaces throughout the State. The Governor must include an appropriation in the annual budget bill of at least \$1.0 million in fiscal 2024 through 2028 for the fund. The program terminates September 30, 2028.
- **Maryland Equity Investment Fund:** The Maryland Equity Investment Fund allows unappropriated general fund surplus to be invested in a "qualified business" – with a goal to increase private equity and venture capital in the State – and the

interest earnings and investment returns realized to the benefit of participants of the several pension systems managed by the State Retirement and Pension System. For fiscal 2024, the Governor must include an appropriation in the budget bill to the fund equal to 10% of the unappropriated general fund surplus in excess of \$10.0 million from the second prior fiscal year, up to a maximum of \$10.0 million, with a corresponding decrease in the typical required appropriation.

- **Small Business Innovation Research and Technology Transfer Incentive (SBIR/STTR) Program:** The SBIR/STTR Program allows eligible small businesses to apply for State awards or investments of 25% of SBIR/STTR federal grants, limited to \$25,000 for Phase I funding or \$75,000 for Phase II funding. TEDCO may make up to 20 Phase I distributions and 10 Phase II distributions per fiscal year for a total of \$1.25 million.

For a more thorough discussion of TEDCO's structure and programs, including how its programs support companies in different stages of development, see "[Chapter 13. Economic Development and Business Regulation](#)" of *Volume II – Government Services in Maryland* of the 2022 Legislative Handbook Series.