

404--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MAGNARELLI, LUPARDO, MILLMAN, CAHILL, GUNTHER, WRIGHT, MORELLE, STIRPE, BARRETT, BRINDISI, ROSENTHAL -- Multi-Sponsored by -- M. of A. BOYLAND, MAGEE, SCHIMEL, SCHIMMINGER, SWEENEY, THIELE -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law and the executive law, in relation to creating the technology commercialization partnership program and removing the incentive program from the research development program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The economic development law is amended by adding a new
2 section 361 to read as follows:
3 S 361. TECHNOLOGY COMMERCIALIZATION PARTNERSHIP PROGRAM. 1. THE TECH-
4 NOLOGY COMMERCIALIZATION PARTNERSHIP PROGRAM IS HEREBY CREATED WITHIN
5 THE DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION FOR THE PURPOSES OF
6 ASSISTING IN THE COLLABORATION BETWEEN PRIVATE SECTOR COMPANIES AND THE
7 STATE'S ACADEMIC RESEARCH INSTITUTIONS TO COMMERCIALIZE TECHNOLOGIES IN
8 NEW YORK.
9 2. FUNDS APPROPRIATED FOR THIS PROGRAM SHALL BE MADE AVAILABLE BY THE
10 DIVISION PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSAL PROCESS TO TECH-
11 NOLOGY COMMERCIALIZATION PARTNERSHIPS CONSISTING OF NEW YORK STATE
12 ACADEMIC RESEARCH INSTITUTIONS, INCLUDING BUT NOT LIMITED TO UNIVERSI-
13 TIES, CENTERS FOR ADVANCED TECHNOLOGY, AND CENTERS OF EXCELLENCE, IN
14 COLLABORATION WITH TECHNOLOGY-BASED ECONOMIC DEVELOPMENT ORGANIZATIONS.
15 (A) THE DIVISION SHALL DESIGNATE TECHNOLOGY COMMERCIALIZATION PARTNER-
16 SHIPS BASED ON THE FOLLOWING CRITERIA:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(I) EXPERIENCE IN EVALUATING THE POTENTIAL OF A COMMERCIALIZED PRODUCT OR PROCESS AND IN WORKING COLLABORATIVELY WITH RELEVANT PARTIES IN THE LAB TO MARKET CONTINUUM;

(II) A PROVEN TRACK RECORD IN BRINGING TECHNOLOGIES TO MARKET;

(III) EXISTING CAPACITY TO COMPLETE THE NECESSARY DUE DILIGENCE IN REVIEWING REQUESTS FOR AWARDS; AND

(IV) A WELL-ESTABLISHED PROCESS TO BE USED IN EVALUATING AWARD PROPOSALS AND ADMINISTERING THE AWARD.

(B) THE DIVISION SHALL MAKE GRANTS TO TECHNOLOGY COMMERCIALIZATION PARTNERSHIPS IN AMOUNTS BETWEEN FIVE HUNDRED THOUSAND AND ONE MILLION DOLLARS. EACH SUCH PARTNERSHIP SHALL MATCH SUCH GRANTS ON A ONE-TO-ONE BASIS. ELIGIBLE MATCHING FUNDS SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) COMPANY CASH;

(II) FEDERAL FUNDS;

(III) APPLICANT SUPPORT INCLUDING SALARIES AND FRINGE BENEFIT COSTS PAID BY THE APPLICANT; AND

(IV) THE FAIR MARKET VALUE OF NEW OR PRE-OWNED DONATED EQUIPMENT.

(C) EACH TECHNOLOGY COMMERCIALIZATION PARTNERSHIP SHALL MAKE TECHNOLOGY COMMERCIALIZATION AWARDS ON A COMPETITIVE BASIS FOR THE PURPOSE OF ASSISTING THE DEVELOPMENT OF COMMERCIALY PROMISING RESEARCH DISCOVERIES IN NEW YORK STATE TO THE FOLLOWING:

(I) RESEARCHERS AT NEW YORK STATE ACADEMIC RESEARCH INSTITUTIONS WORKING IN COLLABORATION WITH A PRIVATE SECTOR ENTITY FOR THE PURPOSE OF COMMERCIALIZING THE RESEARCH;

(II) ENTREPRENEURS SEEKING ASSISTANCE FROM NEW YORK STATE ACADEMIC RESEARCH INSTITUTIONS; AND

(III) EXISTING COMPANIES WITH FEWER THAN TWO HUNDRED FIFTY EMPLOYEES WORKING WITH RESEARCHERS AT NEW YORK STATE ACADEMIC RESEARCH INSTITUTIONS.

3. (A) TECHNOLOGY COMMERCIALIZATION PARTNERSHIP FUNDS SHALL BE USED FOR THE FOLLOWING PURPOSES:

(I) TESTING;

(II) PROTOTYPING;

(III) DESIGNING;

(IV) INCORPORATION, PATENT AND LICENSE-RELATED AND MARKET RESEARCH EXPENSES;

(V) MATERIALS, FIXTURES, AND/OR SUPPLIES NECESSARY FOR THE PROJECT;

(VI) LABORATORY EQUIPMENT;

(VII) COMPENSATION OF FACULTY AND STAFF DIRECTLY WORKING ON THE PROJECT;

(VIII) COMPENSATION OF GRADUATE AND UNDERGRADUATE STUDENTS DIRECTLY WORKING ON THE PROJECT;

(IX) TRAVEL DIRECTLY RELATED TO THE PROJECT;

(X) SERVICES SUBCONTRACTED TO PARTNER ORGANIZATIONS OR OTHER ENTITIES; AND

(XI) OTHER COSTS AS DETERMINED BY THE DIVISION THAT ARE ASSOCIATED WITH ADVANCING RESEARCH DISCOVERIES INTO MARKETABLE TECHNOLOGIES, PRODUCTS OR PROCESSES TO BE COMMERCIALIZED OR MANUFACTURED IN NEW YORK STATE.

(B) TECHNOLOGY COMMERCIALIZATION PARTNERSHIP FUNDS MAY NOT BE UTILIZED FOR RENT OR LEASE EXPENSES, TELECOMMUNICATIONS, UTILITY, MARKETING COSTS OR CAPITAL CONSTRUCTION.

(C) ALL EQUIPMENT PURCHASES MADE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL REMAIN THE PROPERTY OF THE RESEARCH INSTITUTION.

(D) TECHNOLOGY COMMERCIALIZATION PARTNERSHIP AWARDS SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

1 4. NO LATER THAN AUGUST FIRST, TWO THOUSAND FOURTEEN, AND ANNUALLY
2 THEREAFTER, THE DIVISION SHALL ISSUE A REQUEST FOR PROPOSALS FOR TECH-
3 NOLOGY COMMERCIALIZATION PARTNERSHIP GRANTS AND THE CRITERIA THAT WILL
4 BE USED TO EVALUATE SUCH PROPOSALS INCLUDING, BUT NOT LIMITED TO, THOSE
5 LISTED IN SUBDIVISION TWO OF THIS SECTION FOR USE OF TECHNOLOGY COMMER-
6 CIALIZATION PARTNERSHIP FUNDS.

7 (A) THE DIVISION SHALL GIVE PREFERENCE TO THOSE APPLICATIONS THAT
8 DEMONSTRATE COLLABORATION AMONG NEW YORK STATE ACADEMIC RESEARCH INSTI-
9 TUTIONS, THE PRIVATE SECTOR, ECONOMIC DEVELOPMENT ORGANIZATIONS AND
10 WORKFORCE DEVELOPMENT PROGRAMS WITHIN A REGION OF THE STATE AND THAT
11 SHOW THE GREATER POTENTIAL FOR COMMERCIAL SUCCESS AND EVENTUAL JOB
12 CREATION IN NEW YORK STATE.

13 (B) GRANTS SHALL BE MADE BY THE DIVISION WITHIN NINETY DAYS FOLLOWING
14 THE ISSUANCE OF THE REQUEST FOR PROPOSALS.

15 5. (A) EACH DESIGNATED TECHNOLOGY COMMERCIALIZATION PARTNERSHIP SHALL
16 REPORT, ON OR BEFORE DECEMBER FIRST, TWO THOUSAND FIFTEEN AND ANNUALLY
17 THEREAFTER, TO THE DIVISION. SUCH REPORT SHALL INCLUDE:

18 (I) THE NAME AND INSTITUTIONAL OR BUSINESS LOCATION OF EACH GRANT
19 RECIPIENT AND THE AMOUNT AWARDED;

20 (II) A SHORT DESCRIPTION OF THE PRODUCT OR TECHNOLOGY BEING COMMER-
21 CIALIZED;

22 (III) INFORMATION ON ANY INSTITUTIONAL COLLABORATION;

23 (IV) INFORMATION ON THE PROJECTED ECONOMIC IMPACT, INCLUDING ANY JOBS
24 CREATED OR PROJECTED TO BE CREATED OR RETAINED; AND

25 (V) SUCH OTHER INFORMATION AS THE DIVISION DEEMS NECESSARY.

26 (B) THE DIVISION SHALL SUBMIT TO THE GOVERNOR AND THE LEGISLATURE A
27 SUMMARY AND EVALUATION OF THE REPORTS SUBMITTED TO THE DIVISION PURSUANT
28 TO THIS SUBDIVISION AND AN EVALUATION OF THE PERFORMANCE OF THE TECHNOL-
29 OGY COMMERCIALIZATION PARTNERSHIP PROGRAM ON OR BEFORE FEBRUARY FIRST,
30 TWO THOUSAND FIFTEEN.

31 S 2. Section 209-p of the executive law, as added by chapter 624 of
32 the laws of 1999, paragraph (c) of subdivision 2 and subdivisions 3, 4,
33 5 and 6 as amended by chapter 342 of the laws of 2008, is amended to
34 read as follows:

35 S 209-p. Research development program. 1. There is hereby established
36 the research development program. The program shall include but need not
37 be limited to: the faculty development program, capital facility
38 program, [incentive program,] and centers for advanced technology devel-
39 opment program.

40 2. The office shall provide no later than March first, two thousand, a
41 strategic plan to the governor, the temporary president of the senate
42 and the speaker of the assembly which shall:

43 (a) establish criteria for the awarding of funds made available
44 through the research development program; all awards shall be made on a
45 competitive basis;

46 (b) provide a schedule for issuance of requests for proposals for the
47 research development program awards;

48 (c) provide a schedule for completion of review of proposals submitted
49 by institutions of higher education and research institutions to the
50 office; AND

51 (d) provide procedures for the issuance of awards from the research
52 development program.

53 3. The faculty development program is hereby created to assist insti-
54 tutions of higher education and research institutions with the retention
55 and recruitment of research faculty. Funds appropriated for this program
56 shall be administered by the office pursuant to request for proposals.

1 Consideration for the allocation of awards shall be given to all insti-
2 tutions of higher education and research institutions within the state
3 provided such institutions demonstrate to the satisfaction of the advi-
4 sory council a specific need for such funds and the manner in which such
5 award for the recruitment and retention of research faculty would
6 enhance the research capabilities and reputation of the institution.
7 Criteria for such awards shall include, but not be limited to, the abil-
8 ity of the faculty member to leverage and attract federal funds, venture
9 capital and private industry funds, and the willingness of the faculty
10 member to pursue entrepreneurial enterprises resulting in new business
11 or the expansion of existing business in New York state. The office
12 shall promulgate rules and regulations to establish:

13 (a) the duration of grants for faculty awards;

14 (b) matching funds required from the academic and research insti-
15 tutions;

16 (c) a schedule for an annual reduction of the faculty development
17 award, and a corresponding increase in the matching funds from the
18 academic or research institution; and

19 (d) other rules and regulations deemed necessary by the office for the
20 administration of this program.

21 4. (a) The capital facility program shall provide financing for the
22 design, acquisition, construction, reconstruction, rehabilitation or
23 improvement of research and development facilities, including equipment.
24 Funds appropriated or reappropriated for the capital facility program by
25 chapter six hundred twenty-four of the laws of nineteen hundred ninety-
26 nine shall be awarded to no more than six primary host institutions.

27 (b) Criteria for the issuance of awards by the advisory council shall
28 include but need not be limited to the following: potential future
29 growth and economic impact within New York state of the proposed
30 research to be undertaken at such facilities, available expertise at
31 such campus in the scientific discipline designated for the center for
32 advanced technology and/or the center's host campus, an evaluation of
33 the ability of the proposed research to be undertaken at such facilities
34 to aid existing business and to create new business in New York state,
35 and the ability of the proposal to leverage and attract federal funds,
36 venture capital and private industry funds.

37 [(d)] (C) The capital facility program shall also provide financing
38 for the reconstruction, rehabilitation or improvement of existing labo-
39 ratory facilities. Funds available pursuant to this subdivision shall be
40 available for research facilities at all institutions of higher educa-
41 tion and research institutions in New York state.

42 [(e)] (D) The office and the city university construction fund may
43 contract for the construction fund to design, construct, acquire, recon-
44 struct, rehabilitate and improve research and development facilities for
45 those primary host institutions which are senior colleges of the city
46 university of New York.

47 5. [An incentive program is hereby created to provide additional
48 assistance to technology transfer activities at institutions of higher
49 education and research institutions in the state of New York for the
50 purpose of encouraging technology transfer from institutions of higher
51 education and research institutions to businesses and for commercializa-
52 tion within New York state. Funds appropriated for this program shall be
53 available for personal service expenses to enhance the technology trans-
54 fer abilities of higher education and research institutions to busi-
55 nesses within New York state including but not limited to patent appli-
56 cations, the creation of business and marketing plans, venture capital

1 conferences and non-capital costs associated with the development of
2 real property owned by such institution of higher education or research
3 institution for research and development purposes. Funds awarded under
4 the incentive program shall not exceed fifty percent of the cost of the
5 purpose for which such funds shall be applied.

6 6.] A center for advanced technology development program is created
7 whereby funds shall be awarded to centers for advanced technology for
8 the purpose of enhancing and expanding the existing role of the center
9 in the area for which it is designated. Funds appropriated for the
10 development program shall be awarded to such centers for advanced tech-
11 nology. Criteria for the issuance of awards shall be established by the
12 office and shall include but need not be limited to the economic devel-
13 opment potential of the research undertaken at such center for advanced
14 technology, funding leveraged from other sources including private
15 interests and the federal government, potential of revenues accruing to
16 the institution of higher education or research institution from the
17 licensing of the products of research conducted at such center of
18 advanced technology and the interaction of such center with private
19 industry.

20 S 3. Subdivision 4 of section 209 of the executive law, as added by
21 chapter 624 of the laws of 1999, is amended to read as follows:

22 4. "Research development program" shall mean the program established
23 by section two hundred nine-p of this article to encourage and enhance
24 the economic development role of academic institutions in New York
25 state. Such program shall include, but not be limited to, the faculty
26 development program, the capital facilities program, [the incentive
27 program,] and the centers for advanced technology development program.

28 S 4. Notwithstanding any other law to the contrary, any appropriations
29 from the general fund to the New York state division of science, tech-
30 nology and innovation board's local assistance account for the incentive
31 program part of the research development program, established pursuant
32 to section 209-p of the executive law, that have not been expended or
33 committed shall be made available for the purposes of the technology
34 commercialization partnership program.

35 S 5. This act shall take effect on the sixtieth day after it shall
36 have become a law.