S T A T E O F N E W Y O R K

599--B

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. MAGNARELLI, LUPARDO, GABRYSZAK, MILLMAN, CAHILL, GUNTHER, CASTRO, WRIGHT, MORELLE -- Multi-Sponsored by -- M. of A. BOYLAND, GIBSON, MAGEE, REILLY, SCHIMEL, SCHIMMINGER, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means 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:

Section 1. The economic development law is amended by adding a new section 361 to read as follows:

S 361. TECHNOLOGY COMMERCIALIZATION PARTNERSHIP PROGRAM. 1. THE TECHNOLOGY COMMERCIALIZATION PARTNERSHIP PROGRAM IS HEREBY CREATED WITHIN THE DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION FOR THE PURPOSES OF ASSISTING IN THE COLLABORATION BETWEEN PRIVATE SECTOR COMPANIES AND THE STATE'S ACADEMIC RESEARCH INSTITUTIONS TO COMMERCIALIZE TECHNOLOGIES IN NEW YORK.

2. FUNDS APPROPRIATED FOR THIS PROGRAM SHALL BE MADE AVAILABLE BY THE DIVISION PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSAL PROCESS TO TECHNOLOGY COMMERCIALIZATION PARTNERSHIPS CONSISTING OF NEW YORK STATE ACADEMIC RESEARCH INSTITUTIONS, INCLUDING BUT NOT LIMITED TO UNIVERSI-

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

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TIES, CENTERS FOR ADVANCED TECHNOLOGY, AND CENTERS OF EXCELLENCE, IN COLLABORATION WITH TECHNOLOGY-BASED ECONOMIC DEVELOPMENT ORGANIZATIONS.

(A) THE DIVISION SHALL DESIGNATE TECHNOLOGY COMMERCIALIZATION PARTNERSHIPS BASED ON THE FOLLOWING CRITERIA:

(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 COMMERCIALLY 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.

4. NO LATER THAN AUGUST FIRST, TWO THOUSAND TWELVE, AND ANNUALLY THEREAFTER, THE DIVISION SHALL ISSUE A REQUEST FOR PROPOSALS FOR TECHNOLOGY COMMERCIALIZATION PARTNERSHIP GRANTS AND THE CRITERIA THAT WILL BE USED TO EVALUATE SUCH PROPOSALS INCLUDING, BUT NOT LIMITED TO, THOSE LISTED IN SUBDIVISION TWO OF THIS SECTION FOR USE OF TECHNOLOGY COMMERCIALIZATION PARTNERSHIP FUNDS.

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

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

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

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

(II) A SHORT DESCRIPTION OF THE PRODUCT OR TECHNOLOGY BEING COMMERCIALIZED;

(III) INFORMATION ON ANY INSTITUTIONAL COLLABORATION;

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

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

(B) THE DIVISION SHALL SUBMIT TO THE GOVERNOR AND THE LEGISLATURE A SUMMARY AND EVALUATION OF THE REPORTS SUBMITTED TO THE DIVISION PURSUANT TO THIS SUBDIVISION AND AN EVALUATION OF THE PERFORMANCE OF THE TECHNOLOGY COMMERCIALIZATION PARTNERSHIP PROGRAM ON OR BEFORE FEBRUARY FIRST, TWO THOUSAND THIRTEEN.

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

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

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

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

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

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

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

3. The faculty development program is hereby created to assist institutions of higher education and research institutions with the retention and recruitment of research faculty. Funds appropriated for this program shall be administered by the office pursuant to request for proposals. Consideration for the allocation of awards shall be given to all institutions of higher education and research institutions within the state provided such institutions demonstrate to the satisfaction of the advisory council a specific need for such funds and the manner in which such award for the recruitment and retention of research faculty would enhance the research capabilities and reputation of the institution. Criteria for such awards shall include, but not be limited to, the ability of the faculty member to leverage and attract federal funds, venture capital and private industry funds, and the willingness of the faculty member to pursue entrepreneurial enterprises resulting in new business or the expansion of existing business in New York state. The office shall promulgate rules and regulations to establish:

(a) the duration of grants for faculty awards;

(b) matching funds required from the academic and research institutions;

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

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

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

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

[(d)] (C) The capital facility program shall also provide financing for the reconstruction, rehabilitation or improvement of existing laboratory facilities. Funds available pursuant to this subdivision shall be available for research facilities at all institutions of higher education and research institutions in New York state.

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

5. [An incentive program is hereby created to provide additional assistance to technology transfer activities at institutions of higher education and research institutions in the state of New York for the purpose of encouraging technology transfer from institutions of higher education and research institutions to businesses and for commercialization within New York state. Funds appropriated for this program shall be

available for personal service expenses to enhance the technology transfer abilities of higher education and research institutions to businesses within New York state including but not limited to patent applications, the creation of business and marketing plans, venture capital conferences and non-capital costs associated with the development of real property owned by such institution of higher education or research institution for research and development purposes. Funds awarded under the incentive program shall not exceed fifty percent of the cost of the purpose for which such funds shall be applied.

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

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

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

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

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