

# SENATE BILL 398

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CF HB 514

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By: **Senators Feldman, Hester, Kelley, Klausmeier, Patterson, Rosapepe, West, and Young**

Introduced and read first time: January 27, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Small Business Innovation Research and Technology Transfer**  
3 **Incentive Program**

4 FOR the purpose of establishing the Maryland Small Business Innovation Research and  
5 Technology Transfer Incentive Program; requiring the Maryland Technology  
6 Development Corporation to administer the Program; establishing the purposes of  
7 the Program; establishing qualifications for participation in the Program;  
8 authorizing the Program to provide certain awards and investments to certain  
9 businesses on a competitive basis, subject to certain limitations; providing for the  
10 coordination of certain activities of the Program with comparable county programs;  
11 providing that a certain award or investment recipient may be required to return  
12 certain funds under certain circumstances; establishing the Maryland Small  
13 Business Innovation Research and Technology Transfer Incentive Matching Fund as  
14 a special, nonlapsing fund; specifying the purpose of the Fund; requiring the  
15 Corporation to administer the Fund; requiring the State Treasurer to hold the Fund,  
16 and the Comptroller to account for the Fund; specifying the contents of the Fund;  
17 specifying the purpose for which the Fund may be used; providing for the investment  
18 of money in and expenditures from the Fund; requiring interest earnings of the Fund  
19 to be credited to the Fund; requiring the Corporation to adopt certain regulations;  
20 exempting the Fund from a certain provision of law requiring interest earnings on  
21 State money to accrue to the General Fund of the State; defining certain terms; and  
22 generally relating to the Maryland Small Business Innovation Research and  
23 Technology Transfer Incentive Program.

24 BY renumbering

25 Article – Economic Development

26 Section 10–496 through 10–499, respectively, and the part “Part XI. Miscellaneous”  
27 to be Section 10–495 through 10–498, respectively, and the part “Part XI.

28 Miscellaneous”

29 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2018 Replacement Volume and 2019 Supplement)

2 BY adding to

3 Article – Economic Development

4 Section 10–499 through 10–499.5 and the part “Part XII. Maryland Small Business  
5 Innovation Research and Technology Transfer Incentive Program”

6 Annotated Code of Maryland

7 (2018 Replacement Volume and 2019 Supplement)

8 BY repealing and reenacting, without amendments,

9 Article – State Finance and Procurement

10 Section 6–226(a)(2)(i)

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – State Finance and Procurement

15 Section 6–226(a)(2)(ii)121. and 122.

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2019 Supplement)

18 BY adding to

19 Article – State Finance and Procurement

20 Section 6–226(a)(2)(ii)123.

21 Annotated Code of Maryland

22 (2015 Replacement Volume and 2019 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
24 That Sections(s) 10–496 through 10–499, respectively, and the part “Part XI.  
25 Miscellaneous” of Article – Economic Development of the Annotated Code of Maryland be  
26 renumbered to be Section(s) 10–495 through 10–498, respectively, and the part “Part XI.  
27 Miscellaneous”.

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
29 as follows:

30 **Article – Economic Development**

31 **PART XII. MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND**  
32 **TECHNOLOGY TRANSFER INCENTIVE PROGRAM.**

33 **10–499.**

34 **(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS**  
35 **INDICATED.**

1 (B) "FUND" MEANS THE MARYLAND SMALL BUSINESS INNOVATION  
2 RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE MATCHING FUND.

3 (C) "PROGRAM" MEANS THE MARYLAND SMALL BUSINESS INNOVATION  
4 RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE PROGRAM.

5 (D) "SMALL BUSINESS INNOVATION RESEARCH GRANT" MEANS A GRANT  
6 AWARDED UNDER THE SMALL BUSINESS INNOVATION RESEARCH GRANT PROGRAM  
7 BY THE NATIONAL INSTITUTES OF HEALTH, OR A SIMILAR PROGRAM  
8 ADMINISTERED BY ANOTHER AGENCY OF THE FEDERAL GOVERNMENT, FOR A  
9 BUSINESS TO ENGAGE IN RESEARCH AND DEVELOPMENT THAT HAS A STRONG  
10 POTENTIAL FOR COMMERCIALIZATION.

11 (E) "SMALL BUSINESS TECHNOLOGY TRANSFER GRANT" MEANS A GRANT  
12 AWARDED UNDER THE SMALL BUSINESS TECHNOLOGY TRANSFER GRANT  
13 PROGRAM BY THE NATIONAL INSTITUTES OF HEALTH, OR A SIMILAR PROGRAM  
14 ADMINISTERED BY ANOTHER AGENCY OF THE FEDERAL GOVERNMENT, FOR A  
15 BUSINESS TO ENGAGE IN RESEARCH AND DEVELOPMENT THAT HAS A STRONG  
16 POTENTIAL FOR COMMERCIALIZATION.

17 10-499.1.

18 (A) THERE IS A MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND  
19 TECHNOLOGY TRANSFER INCENTIVE PROGRAM.

20 (B) THE CORPORATION SHALL ADMINISTER THE PROGRAM.

21 (C) THE PURPOSE OF THE PROGRAM IS TO FOSTER JOB CREATION AND  
22 ECONOMIC DEVELOPMENT IN THE STATE BY:

23 (1) PROMOTING THE COMMERCIALIZATION OF RESEARCH  
24 CONDUCTED BY SMALL BUSINESSES IN THE STATE;

25 (2) FACILITATING THE TRANSFER OF TECHNOLOGY FROM  
26 UNIVERSITIES AND FEDERAL RESEARCH LABORATORIES TO SMALL BUSINESSES;  
27 AND

28 (3) ENCOURAGING SMALL BUSINESSES, INCLUDING ECONOMICALLY  
29 DISADVANTAGED SMALL BUSINESSES, TO APPLY FOR SMALL BUSINESS INNOVATION  
30 RESEARCH GRANTS AND SMALL BUSINESS TECHNOLOGY TRANSFER GRANTS.

31 10-499.2.

32 (A) TO QUALIFY FOR PARTICIPATION IN THE PROGRAM, A SMALL BUSINESS

1 SHALL MEET THE CRITERIA IN THIS SECTION.

2 (B) THE SMALL BUSINESS SHALL:

3 (1) MEET THE QUALIFICATIONS OF A QUALIFIED BUSINESS; AND

4 (2) HAVE RECEIVED A PHASE I OR PHASE II SMALL BUSINESS  
5 INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER  
6 GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM ADMINISTERED BY AN  
7 AGENCY OF THE FEDERAL GOVERNMENT, DURING THE 6 MONTHS IMMEDIATELY  
8 PRECEDING THE SUBMISSION OF ITS APPLICATION UNDER § 10-499.3 OF THIS PART.

9 (C) AN AWARD OR INVESTMENT RECIPIENT THAT FAILS TO FULFILL THE  
10 ELIGIBILITY AND MAINTENANCE REQUIREMENTS OF THE PROGRAM MAY BE  
11 REQUIRED TO RETURN ALL OR PART OF THE AWARD OR INVESTMENT, AS WELL AS  
12 ANY ACCRUED INTEREST OR FEES, TO THE PROGRAM.

13 (D) THE PROGRAM SHALL REQUIRE AN AWARD OR INVESTMENT RECIPIENT  
14 TO RETURN TO THE FUND ANY MONEY FROM AN AWARD OR INVESTMENT UNDER  
15 THIS PART, AS WELL AS ANY ACCRUED INTEREST OR FEES, IF THE RECIPIENT DOES  
16 NOT REMAIN IN THE STATE FOR AT LEAST 2 YEARS AFTER RECEIVING THE AWARD  
17 OR INVESTMENT PAYMENT.

18 10-499.3.

19 (A) AN APPLICANT SHALL SUBMIT AN APPLICATION FOR A PROGRAM  
20 AWARD OR INVESTMENT ON THE FORM THAT THE CORPORATION REQUIRES.

21 (B) THE PROGRAM SHALL REVIEW THE APPLICATION AND ALL SUPPORTING  
22 MATERIALS TO EVALUATE WHETHER THE APPLICANT QUALIFIES FOR AN AWARD OR  
23 INVESTMENT FROM THE PROGRAM.

24 (C) SUBJECT TO THE AVAILABILITY OF MONEY IN THE FUND, THE  
25 PROGRAM MAY PROVIDE TO AN ELIGIBLE SMALL BUSINESS AN AWARD OR  
26 INVESTMENT TO MATCH IN PART A SMALL BUSINESS INNOVATION RESEARCH GRANT  
27 OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT.

28 (D) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A SMALL  
29 BUSINESS THAT RECEIVES AN AWARD OR INVESTMENT FOR A PHASE I SMALL  
30 BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY  
31 TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM  
32 ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT, SHALL RECEIVE AN  
33 AWARD OR INVESTMENT IN AN AMOUNT THAT IS THE LESSER OF:

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

5           **(2) \$25,000.**

6           **(E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A SMALL**  
7 **BUSINESS THAT RECEIVES AN AWARD OR INVESTMENT FOR A PHASE II SMALL**  
8 **BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY**  
9 **TRANSFER GRANT, OR A SIMILAR GRANT UNDER A SIMILAR PROGRAM**  
10 **ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT, SHALL RECEIVE AN**  
11 **AWARD OR INVESTMENT IN AN AMOUNT THAT IS THE LESSER OF:**

12           **(1) 25% OF THE PHASE II SMALL BUSINESS INNOVATION RESEARCH**  
13 **GRANT OR SMALL BUSINESS TECHNOLOGY TRANSFER GRANT, OR A SIMILAR GRANT**  
14 **UNDER A SIMILAR PROGRAM ADMINISTERED BY AN AGENCY OF THE FEDERAL**  
15 **GOVERNMENT; OR**

16           **(2) \$75,000.**

17           **(F) ON THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR, THE**  
18 **BOARD MAY APPROVE AN AWARD OR INVESTMENT IN A SMALL BUSINESS IN EXCESS**  
19 **OF THE LIMITATIONS SPECIFIED UNDER SUBSECTIONS (D) AND (E) OF THIS SECTION**  
20 **IF THE BOARD DETERMINES THAT THE AWARD IS NECESSARY TO BETTER SERVE THE**  
21 **COMMUNITY AND THE PURPOSES OF THE PROGRAM.**

22           **(G) DURING EACH FISCAL YEAR:**

23           **(1) THE CORPORATION MAY NOT PROVIDE MORE THAN 20 AWARDS**  
24 **OR INVESTMENTS IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION OR**  
25 **MORE THAN 10 AWARDS OR INVESTMENTS IN ACCORDANCE WITH SUBSECTION (E)**  
26 **OF THIS SECTION; AND**

27           **(2) A SMALL BUSINESS MAY NOT RECEIVE MORE THAN ONE AWARD OR**  
28 **INVESTMENT.**

29           **(H) A SMALL BUSINESS MAY NOT RECEIVE MORE THAN THREE AWARDS OR**  
30 **INVESTMENTS UNDER THIS PART.**

31           **(I) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH**  
32 **QUARTER, THE CORPORATION SHALL PROVIDE AWARDS AND INVESTMENTS ON A**

1 **COMPETITIVE BASIS TO ELIGIBLE SMALL BUSINESSES.**

2 **(2) IN PROVIDING AN AWARD OR INVESTMENT UNDER THIS SECTION,**  
3 **THE CORPORATION:**

4 **(I) SHALL CONSIDER:**

5 **1. THE IMPACT OF THE AWARD OR INVESTMENT ON THE**  
6 **SMALL BUSINESS; AND**

7 **2. HOW THE SMALL BUSINESS WILL UTILIZE THE AWARD**  
8 **OR INVESTMENT TOWARD COMMERCIALIZATION OF THE RESEARCH CONDUCTED BY**  
9 **THE SMALL BUSINESS; AND**

10 **(II) MAY CONSIDER ANY ADDITIONAL CRITERIA SPECIFIED BY**  
11 **THE CORPORATION IN REGULATION.**

12 **(J) THE PROGRAM SHALL COORDINATE WITH COMPARABLE STATE AND**  
13 **COUNTY PROGRAMS TO:**

14 **(1) CONDUCT MARKETING AND OUTREACH, INCLUDING CONDUCTING**  
15 **JOINT WORKSHOPS, ONLINE TRAINING OPPORTUNITIES, AND OUTREACH TO**  
16 **ECONOMICALLY DISADVANTAGED SMALL BUSINESSES AND FIRST-TIME SMALL**  
17 **BUSINESS INNOVATION RESEARCH GRANT OR SMALL BUSINESS TECHNOLOGY**  
18 **TRANSFER GRANT APPLICANTS; AND**

19 **(2) PROVIDE ASSISTANCE TO ELIGIBLE BUSINESSES UNDER THIS**  
20 **PART.**

21 **10-499.4.**

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

24 **(B) THE PURPOSE OF THE FUND IS TO PROVIDE AWARDS OR INVESTMENTS**  
25 **TO FURTHER STIMULATE INNOVATION AND ENTREPRENEURSHIP AND ATTRACT**  
26 **EARLY-STAGE SMALL BUSINESSES ENGAGED IN RESEARCH AND DEVELOPMENT.**

27 **(C) THE CORPORATION SHALL ADMINISTER THE FUND.**

28 **(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
29 **SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND**  
30 **PROCUREMENT ARTICLE.**

1           **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**  
2 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

3           **(E) THE FUND CONSISTS OF:**

4           **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

5           **(2) REPAYMENTS AND EARNINGS FROM INVESTMENTS MADE**  
6 **THROUGH THE PROGRAM;**

7           **(3) MONEY RECAPTURED FROM BUSINESSES THAT FAIL TO FULFILL**  
8 **THE TERMS AND CONDITIONS OF AN AWARD OR INVESTMENT MADE THROUGH THE**  
9 **PROGRAM;**

10           **(4) INTEREST EARNINGS OF THE FUND; AND**

11           **(5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**  
12 **THE BENEFIT OF THE FUND.**

13           **(F) THE FUND MAY BE USED ONLY FOR:**

14           **(1) PROVIDING AWARDS OR INVESTMENTS TO ELIGIBLE SMALL**  
15 **BUSINESSES THAT HAVE RECEIVED FINANCIAL ASSISTANCE FROM THE FEDERAL**  
16 **GOVERNMENT UNDER COMPARABLE SMALL BUSINESS INNOVATION RESEARCH OR**  
17 **SMALL BUSINESS TECHNOLOGY TRANSFER GRANT PROGRAMS; AND**

18           **(2) ADMINISTRATIVE EXPENSES OF THE PROGRAM, INCLUDING**  
19 **MARKETING, OUTREACH, AND TECHNICAL ASSISTANCE.**

20           **(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**  
21 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

22           **(2) INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE**  
23 **FUND.**

24           **(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**  
25 **WITH THE STATE BUDGET.**

26 **10-499.5.**

27           **THE CORPORATION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS PART.**

**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:

121. the Markell Hendricks Youth Crime Prevention and Diversion Parole Fund; [and]

122. the Federal Government Shutdown Employee Assistance Loan Fund; AND

**123. THE MARYLAND SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER INCENTIVE MATCHING FUND.**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.