

CHAPTER 335

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 06-1360

BY REPRESENTATIVE(S) Riesberg, Carroll M., Carroll T., Coleman, Green, Jahn, Kerr A., Madden, Massey, McGihon, Paccione, Romanoff, Solano, Todd, Vigil, Judd, and McCluskey;
also SENATOR(S) Tupa, Bacon, Boyd, Entz, Evans, Hagedorn, Isgar, Keller, Shaffer, Taylor, Teck, Tochtrop, Williams, and Windels.

AN ACT

CONCERNING THE ADVANCEMENT OF NEW BIOSCIENCE DISCOVERIES AT COLORADO RESEARCH INSTITUTIONS THROUGH EVALUATION, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 48.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-48.5-108. Bioscience research - evaluation - grants - fund. (1) Legislative declaration. (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) ADDITIONAL RESOURCES ARE NEEDED TO ASSIST IN IMPROVING AND ACCELERATING THE EVALUATION PROCESS FOR BIOSCIENCE RESEARCH DISCOVERIES TO DETERMINE THE BEST DISPOSITION OF THESE DISCOVERIES;

(II) THE PROCESS OF ADVANCING BIOSCIENCE RESEARCH DISCOVERIES TOWARD COMMERCIALIZATION NEEDS TO BE ACCELERATED TO SUPPORT THE DEVELOPMENT OF NEW BIOSCIENCE PRODUCTS AND SERVICES IN COLORADO;

(III) THE DEVELOPMENT OF PRODUCTS AND SERVICES FROM RESEARCH DISCOVERIES THAT ORIGINATE IN COLORADO'S RESEARCH INSTITUTIONS WILL CREATE NEW BIOSCIENCE COMPANIES AND ADDITIONAL PRIMARY JOBS IN COLORADO.

(b) THE GENERAL ASSEMBLY, THEREFORE, DECLARES THAT IT IS IN THE BEST INTERESTS OF THE STATE'S ECONOMIC GROWTH TO DEDICATE FINANCIAL RESOURCES TO FACILITATE THE DEVELOPMENT OF NEW BIOSCIENCE RESEARCH DISCOVERIES IN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

COLORADO AND PROMOTE COLORADO-BASED BIOSCIENCE TECHNOLOGIES.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BIOSCIENCE RESEARCH" MEANS THE BASIC, APPLIED, OR TRANSLATIONAL RESEARCH THAT LEADS TO THE DEVELOPMENT OF THERAPEUTICS, DIAGNOSTICS, OR DEVICES TO IMPROVE HUMAN HEALTH OR AGRICULTURE.

(b) "DIRECTOR" MEANS THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT.

(c) "OFFICE OF TECHNOLOGY TRANSFER" MEANS AN OFFICE THAT IS AFFILIATED WITH A RESEARCH INSTITUTION AND THAT IS CHARGED WITH THE RESPONSIBILITY FOR TECHNOLOGY TRANSFER AND THAT ARRANGES FOR THE SALE OR LICENSURE OF A BIOSCIENCE RESEARCH PROJECT TO AN OUTSIDE ENTITY, WHICH IS COMMONLY A COMMERCIAL ENTERPRISE.

(d) "PROGRAM" MEANS THE BIOSCIENCE DISCOVERY EVALUATION GRANT PROGRAM CREATED IN SUBSECTION (3) OF THIS SECTION.

(e) "RESEARCH INSTITUTION" MEANS AN INSTITUTION LOCATED AND OPERATING IN COLORADO THAT IS A PUBLIC OR PRIVATE, NONPROFIT INSTITUTION OF HIGHER EDUCATION, A NONPROFIT TEACHING HOSPITAL, OR A PRIVATE, NONPROFIT MEDICAL AND RESEARCH CENTER.

(3) **Program.** (a) THERE IS HEREBY CREATED IN THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT THE BIOSCIENCE DISCOVERY EVALUATION GRANT PROGRAM FOR THE PURPOSE OF IMPROVING AND EXPANDING THE EVALUATION OF NEW BIOSCIENCE DISCOVERIES AT RESEARCH INSTITUTIONS WITH THE INTENT OF ACCELERATING THE DEVELOPMENT OF NEW PRODUCTS AND SERVICES. THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL ADMINISTER THE PROGRAM. THE DIRECTOR SHALL CONSULT WITH A COLORADO BIOSCIENCE MEMBERSHIP ORGANIZATION IN THE IMPLEMENTATION OF THE PROGRAM, INCLUDING BUT NOT LIMITED TO THE REVIEW OF PROGRAM GRANT APPLICATIONS AND THE ACCOUNTABILITY AND EVALUATION OF THE GRANTEEES AND THE BIOSCIENCE RESEARCH PROJECTS.

(b) THE PROGRAM SHALL PROVIDE GRANTS TO OFFICES OF TECHNOLOGY TRANSFER ON A STATEWIDE BASIS IN AMOUNTS OF UP TO ONE HUNDRED FIFTY THOUSAND DOLLARS PER BIOSCIENCE RESEARCH PROJECT. THE GRANTS SHALL BE PAID FROM MONEYS APPROPRIATED TO THE BIOSCIENCE DISCOVERY EVALUATION CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(c) TO BE ELIGIBLE FOR A GRANT UNDER THE PROGRAM, AN OFFICE OF TECHNOLOGY TRANSFER SHALL SUBMIT TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT ALL OF THE FOLLOWING:

(I) A DESCRIPTION OF A BIOSCIENCE RESEARCH PROJECT THAT MEETS THE FOLLOWING CRITERIA:

(A) THE BIOSCIENCE RESEARCH PROJECT WILL RESULT IN A NEW BIOSCIENCE RESEARCH OUTCOME THAT IS REASONABLY LIKELY TO LEAD TO IMPROVEMENTS IN EXISTING OR NEW THERAPEUTICS, DIAGNOSTICS, OR DEVICES TO IMPROVE HUMAN HEALTH OR AGRICULTURE;

(B) THE BIOSCIENCE RESEARCH PROJECT FOCUSES ON AN AREA OF SCIENCE, INCLUDING BUT NOT LIMITED TO LIFE SCIENCES, ENGINEERING, MATERIAL SCIENCES, COMPUTER SCIENCES, PHOTONICS, AND NANOTECHNOLOGY;

(C) A RESEARCH INSTITUTION OR MULTIPLE RESEARCH INSTITUTIONS HAVE OWNERSHIP OF THE INTELLECTUAL PROPERTY THAT RESULTS FROM THE BIOSCIENCE RESEARCH PROJECT;

(D) THE INTELLECTUAL PROPERTY RESULTING FROM THE BIOSCIENCE RESEARCH PROJECT IS NOT OBLIGATED TO A PRIVATE ENTITY; AND

(E) THE ENTITY CONDUCTING THE BIOSCIENCE RESEARCH PROJECT CERTIFIES THAT A DISCLOSURE STATEMENT ON THE TECHNOLOGY THAT IS THE SUBJECT OF THE RESEARCH PROJECT HAS BEEN FILED PURSUANT TO THE REQUIREMENTS OF THE RESEARCH INSTITUTION;

(II) EVIDENCE OF A DEDICATED, MATCHING SOURCE OF MONEYS THAT IS EQUAL TO THE AMOUNT APPLIED FOR UNDER THE PROGRAM. IF THE OFFICE OF TECHNOLOGY TRANSFER IS APPLYING FOR A GRANT FOR A PUBLIC INSTITUTION OF HIGHER EDUCATION, THE MATCHING SOURCE OF MONEYS SHALL NOT BE MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY.

(III) AN ANALYSIS DEMONSTRATING THAT THE SCOPE OF THE PROJECT FOR WHICH THE OFFICE OF TECHNOLOGY TRANSFER IS APPLYING FOR THE GRANT IS THE SCOPE THAT IS REQUIRED TO DETERMINE THE MOST PRODUCTIVE DISPOSITION OF THE TECHNOLOGY.

(d) A GRANT AWARDED UNDER THE PROGRAM SHALL NOT BE USED TO SUPPLEMENT THE FUNDING OF THE RESEARCH SCOPE OF A BIOSCIENCE RESEARCH PROJECT THAT IS RECEIVING FUNDING FROM OTHER SOURCES.

(e) UPON COMPLETION OF THE RESEARCH SCOPE OF A BIOSCIENCE RESEARCH PROJECT, ANY UNUSED GRANT MONEY SHALL BE RETURNED BY THE OFFICE OF TECHNOLOGY TRANSFER TO THE OFFICE OF ECONOMIC DEVELOPMENT. THE OFFICE OF ECONOMIC DEVELOPMENT SHALL TRANSFER THE MONEYS TO THE STATE TREASURER WHO SHALL DEPOSIT THE SAME INTO THE FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(4) **Policies - reporting.** (a) ON OR BEFORE SEPTEMBER 1, 2006, THE DIRECTOR SHALL ESTABLISH POLICIES FOR THE PROGRAM THAT INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) THE PROCEDURES AND TIMELINES BY WHICH AN OFFICE OF TECHNOLOGY TRANSFER MAY APPLY FOR A GRANT;

(II) CRITERIA FOR DETERMINING THE GRANT AMOUNTS; AND

(III) REPORTING REQUIREMENTS FOR GRANT RECIPIENTS THAT REQUIRE, AT A MINIMUM, EACH RESEARCH INSTITUTION TO PRESENT ITS BIOSCIENCE RESEARCH PROJECT TO ELEMENTARY AND SECONDARY SCHOOL SCIENCE TEACHERS WHO ARE EMPLOYED IN THE GEOGRAPHIC REGION IN WHICH THE TECHNOLOGY IS BEING DEVELOPED.

(b) ON OR BEFORE MARCH 1, 2007, AND EACH MARCH 1 THEREAFTER, THE DIRECTOR SHALL SUBMIT A REPORT TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, SUMMARIZING THE BIOSCIENCE RESEARCH PROJECTS THAT RECEIVED FUNDING UNDER THE PROGRAM IN THE PRECEDING CALENDAR YEAR. AT A MINIMUM, THE REPORT SHALL SPECIFY THE FOLLOWING INFORMATION WITH REGARD TO THE BIOSCIENCE RESEARCH PROJECTS THAT RECEIVED FUNDING UNDER THE PROGRAM DURING THE PRECEDING CALENDAR YEAR:

(I) THE AMOUNT OF FUNDING DISTRIBUTED TO EACH BIOSCIENCE RESEARCH PROJECT AND A DESCRIPTION OF EACH BIOSCIENCE RESEARCH PROJECT;

(II) THE MANNER IN WHICH EACH BIOSCIENCE RESEARCH PROJECT APPLIED THE FUNDING RECEIVED UNDER THE PROGRAM; AND

(III) THE RESULTS ACHIEVED BY EACH BIOSCIENCE RESEARCH PROJECT, INCLUDING IDENTIFIABLE MONETARY RETURNS TO THE GRANTEE AND OTHERS SINCE THE RECEIPT OF THE GRANT.

(5) **Fund.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE BIOSCIENCE DISCOVERY EVALUATION CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", THAT SHALL CONSIST OF MONEYS THAT ARE TRANSFERRED TO THE FUND PURSUANT TO SECTION 12-47.1-701 (4) (a), C.R.S., AND ANY MONEYS TRANSFERRED TO THE FUND PURSUANT TO PARAGRAPH (e) OF SUBSECTION (3) OF THIS SECTION. THE MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE PROGRAM. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(b) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT MAY USE UP TO TWO PERCENT OF THE MONEYS INITIALLY TRANSFERRED INTO THE FUND FOR THE ACTUAL COSTS INCURRED IN ADMINISTERING THE PROGRAM.

SECTION 2. 12-47.1-701 (4) (a), Colorado Revised Statutes, is amended to read:

12-47.1-701. Limited gaming fund. (4) (a) At the end of each fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund in accordance with the provisions of section 9 (5) (b) (II) of article XVIII of the state

constitution; except that:

(I) For fiscal years commencing prior to July 1, 2003, and for fiscal years commencing on or after July 1, 2004, forty-nine and eight-tenths percent shall be transferred to the general fund of this state and two-tenths of one percent shall be transferred to the Colorado travel and tourism promotion fund created in section 24-49.7-106, C.R.S.;

(II) For the 2003-04 ~~state~~ fiscal year, fifty percent shall be transferred to the general fund of the state; AND

(III) FOR THE 2005-06 FISCAL YEAR, OF THE PORTION OF LIMITED GAMING FUND MONEYS THAT WOULD OTHERWISE BE TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 9 (5) (b) (II) OF ARTICLE XVIII OF THE STATE CONSTITUTION, AFTER THE TRANSFER TO THE LOCAL GOVERNMENT LIMITED GAMING IMPACT FUND REQUIRED BY SECTION 12-47.1-1601, AND AFTER ANY OTHER TRANSFER OR DISTRIBUTION OF THE GENERAL FUND PORTION OF LIMITED GAMING FUND MONEYS REQUIRED BY THIS PARAGRAPH (a), TWO MILLION DOLLARS SHALL BE TRANSFERRED TO THE BIOSCIENCE DISCOVERY EVALUATION CASH FUND FOR THE IMPLEMENTATION OF THE BIOSCIENCE DISCOVERY EVALUATION GRANT PROGRAM, CREATED IN SECTION 24-48.5-108, C.R.S., BEGINNING IN THE 2006-07 FISCAL YEAR.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the bioscience discovery evaluation cash fund created in section 24-48.5-108 (5) (a), Colorado Revised Statutes, not otherwise appropriated, to the office of the governor, for allocation to the office of economic development, for the fiscal year beginning July 1, 2006, the sum of two million dollars (\$2,000,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2006