

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0936.01 Alison Killen x4350

SENATE BILL 24-140

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SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

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Senate Committees

Business, Labor, & Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE COLORADO SMALL BUSINESS  
102 INNOVATIVE RESEARCH MATCHING PROGRAM.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill creates the Colorado small business innovative research matching money program (program) in the Colorado office of economic development (office). The program provides businesses with money to match money that a business received pursuant to a federal small business innovative research (SBIR) program award or a federal small business technology transfer (STTR) program award. To be eligible for an award

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

from the program, a business must be Colorado-based and must maintain a meaningful nexus to the state for at least 3 years following the commercialization of a service, product, concept, design, or other marketable asset developed using money from the program. A business must also agree to certain reporting requirements.

The office may award matching money in an amount up to 100% of a phase I federal SBIR program or federal STTR program award, not to exceed \$100,000; or, up to 100% of a phase II federal SBIR program or federal STTR program award, not to exceed \$250,000. Matching money comes from the Colorado small business innovative research matching fund created in the bill. A business that receives money from the program, commercializes a service, product, concept, design, or other marketable asset using the money from the program, and then fails to maintain a meaningful nexus to the state while continuing to market the asset, is required to repay all matching money awarded by the program plus interest.

The office is required to adopt policies for the program that include eligibility requirements, application procedures, prioritization of funding applications, the number of awards and amount of money available for award in any fiscal year, timing of the issuance of money awarded, provision for repayment of money awarded, the allowable use of money awarded, requirements for additional nonstate public or private financing, the conduct of research in the state, requirements for and review of marketable assets, and provisions to ensure adequate consideration to the state in exchange for the amount of money awarded to a business.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 24-48.5-135 as  
3 follows:

4           **24-48.5-135. Colorado small business innovative research**  
5 **matching program - creation - funding - reports - definitions - repeal.**

6 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
7 REQUIRES:

8           (a) "COMMERCIALIZATION" MEANS THE CREATION BY A BUSINESS  
9 OF A SERVICE, PRODUCT, CONCEPT, DESIGN, OR OTHER MARKETABLE ASSET  
10 DERIVED IN WHOLE OR IN PART FROM RESEARCH UNDERTAKEN WITH

1 MATCHING MONEY AWARDED PURSUANT TO THIS SECTION, WHICH RESULTS  
2 IN REALIZED REVENUES TO THE BUSINESS OF AT LEAST THREE TIMES THE  
3 MATCHING MONEY AWARDED PURSUANT TO THIS SECTION.

4 (b) "FEDERAL SBIR PROGRAM" MEANS A FEDERAL SMALL  
5 BUSINESS INNOVATIVE RESEARCH PROGRAM AS DEFINED IN 15 U.S.C. SEC.  
6 638 (e)(4).

7 (c) "FEDERAL STTR PROGRAM" MEANS A FEDERAL SMALL  
8 BUSINESS TECHNOLOGY TRANSFER PROGRAM AS DEFINED IN 15 U.S.C. SEC.  
9 638 (e)(6).

10 (d) "FUND" MEANS THE COLORADO SMALL BUSINESS INNOVATIVE  
11 RESEARCH CASH FUND CREATED IN SUBSECTION (6) OF THIS SECTION.

12 (e) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC  
13 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

14 (f) "PROGRAM" MEANS THE COLORADO SMALL BUSINESS  
15 INNOVATIVE RESEARCH MATCHING MONEY PROGRAM CREATED IN  
16 SUBSECTION (2) OF THIS SECTION.

17 (2) THERE IS CREATED IN THE OFFICE THE COLORADO SMALL  
18 BUSINESS INNOVATIVE RESEARCH MATCHING MONEY PROGRAM. THE  
19 PURPOSE OF THE PROGRAM IS TO MATCH FEDERAL MONEY AWARDED TO  
20 COLORADO-BASED COMPANIES AS PROVIDED IN THIS SECTION. THE OFFICE  
21 SHALL AWARD MONEY FROM THE FUND CREATED IN SUBSECTION (6) OF  
22 THIS SECTION. THE PROGRAM IS ADMINISTERED BY THE OFFICE IN  
23 ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

24 (a) TO BE ELIGIBLE TO RECEIVE MATCHING MONEY FROM THE  
25 PROGRAM, A BUSINESS MUST:

26 (I) BE HEADQUARTERED IN THE STATE OR HAVE AT LEAST FIFTY  
27 PERCENT OF ITS EMPLOYEES BASED IN THE STATE;

1 (II) AGREE TO MAINTAIN A MEANINGFUL NEXUS TO THE STATE FOR  
2 NOT LESS THAN THREE YEARS AFTER COMMERCIALIZATION OF A SERVICE,  
3 PRODUCT, CONCEPT, DESIGN, OR ANY OTHER MARKETABLE ASSET;

4 (III) HAVE RECEIVED MONEY FROM A FEDERAL SBIR PROGRAM OR  
5 FEDERAL STTR PROGRAM; AND

6 (IV) PROPOSE A SERVICE, PRODUCT, CONCEPT, DESIGN, OR ANY  
7 OTHER MARKETABLE ASSET THAT HAS A REASONABLE PROBABILITY OF  
8 PROVIDING ECONOMIC RETURN TO THE STATE, INCLUDING THROUGH THE  
9 CREATION OF A HIGH-GROWTH COMPANY, CREATION OF NEW JOBS IN THE  
10 STATE, EXPANSION OF THE STATE TAX BASE, OR DIVERSIFICATION OF THE  
11 STATE'S ECONOMY.

12 (b) IN ADDITION TO THE ELIGIBILITY REQUIREMENTS SET FORTH IN  
13 SUBSECTION (2)(a) OF THIS SECTION, TO BE ELIGIBLE TO RECEIVE  
14 MATCHING MONEY FROM THE PROGRAM A BUSINESS MUST AGREE TO  
15 PROVIDE A REPORT TO THE OFFICE ON OR BEFORE JULY 1 OF EACH YEAR IN  
16 THE FOLLOWING MANNER:

17 (I) PRIOR TO COMMERCIALIZATION, THE BUSINESS MUST INCLUDE  
18 IN ITS REPORT THE PROGRESS OF THE BUSINESS TO COMMERCIALIZE THE  
19 SERVICE, PRODUCT, CONCEPT, DESIGN, OR OTHER MARKETABLE ASSET;

20 (II) IF THE BUSINESS COMMERCIALIZES A SERVICE, PRODUCT,  
21 CONCEPT, DESIGN, OR OTHER MARKETABLE ASSET AND CONTINUES TO  
22 MARKET THE SERVICE, PRODUCT, CONCEPT, DESIGN, OR ASSET, THE  
23 BUSINESS SHALL INCLUDE IN THE REPORT THE FOLLOWING INFORMATION  
24 FOR NOT LESS THAN THREE YEARS:

25 (A) THE NUMBER OF JOBS THE BUSINESS HAS CREATED;

26 (B) A SALARY RANGE PER JOB;

27 (C) THE TAXABLE ASSETS OF THE BUSINESS; AND

1 (D) ALL REVENUES FROM SALES OF THE SERVICE, PRODUCT,  
2 CONCEPT, DESIGN, OR OTHER MARKET ASSET.

3 (c) THE OFFICE SHALL AWARD MONEY TO RECIPIENTS AS  
4 DETERMINED BY THE OFFICE IN AN AMOUNT NOT TO EXCEED THE  
5 FOLLOWING:

6 (I) FOR A RECIPIENT OF A FEDERAL SBIR PROGRAM OR FEDERAL  
7 STTR PROGRAM PHASE I AWARD, AN AMOUNT MATCHING UP TO ONE  
8 HUNDRED PERCENT OF THE PHASE I AWARD, NOT TO EXCEED ONE HUNDRED  
9 THOUSAND DOLLARS; AND

10 (II) FOR A RECIPIENT OF A FEDERAL SBIR PROGRAM OR FEDERAL  
11 STTR PROGRAM PHASE II AWARD, AN AMOUNT MATCHING UP TO ONE  
12 HUNDRED PERCENT OF THE PHASE II AWARD, NOT TO EXCEED TWO  
13 HUNDRED FIFTY THOUSAND DOLLARS.

14 (d) THE OFFICE SHALL AWARD MONEY TO THE RECIPIENT AS SOON  
15 AS PRACTICABLE AFTER THE OFFICE APPROVES THE MATCHING MONEY  
16 APPLICATION.

17 (e) A RECIPIENT SHALL REPAY ALL MONEY AWARDED PURSUANT  
18 TO THIS SECTION PLUS INTEREST AT THE RATE OF FOUR PERCENT PER YEAR  
19 COMPOUNDED ANNUALLY FROM THE DATE THE MONEY WAS AWARDED IF:

20 (I) THE RECIPIENT COMMERCIALIZES A SERVICE, PRODUCT,  
21 CONCEPT, DESIGN, OR ANY OTHER MARKETABLE ASSET; AND

22 (II) THE RECIPIENT FAILS TO MAINTAIN A SIGNIFICANT NEXUS WITH  
23 THE STATE FOR THREE YEARS FOLLOWING THE COMMERCIALIZATION OF  
24 THE SERVICE, PRODUCT, CONCEPT, DESIGN, OR OTHER MARKETABLE ASSET  
25 AND CONTINUES TO MARKET THE SERVICE, PRODUCT, CONCEPT, DESIGN,  
26 OR OTHER MARKETABLE ASSET.

27 (3) (a) THE OFFICE SHALL ADOPT PROGRAM POLICIES IN

1 ACCORDANCE WITH THIS SECTION THAT INCLUDE:

2 (I) ELIGIBILITY REQUIREMENTS;

3 (II) APPLICATION PROCEDURES;

4 (III) PRIORITIZATION OF FUNDING APPLICATIONS;

5 (IV) THE NUMBER OF AWARDS AND AMOUNT OF MONEY

6 AVAILABLE FOR AWARD IN ANY FISCAL YEAR;

7 (V) TIMING OF THE ISSUANCE OF MONEY AWARDED;

8 (VI) PROVISIONS SPECIFYING THE ALLOWABLE USE OF MONEY

9 AWARDED, REQUIRING A RECIPIENT TO SEEK ADDITIONAL NONSTATE

10 PUBLIC OR PRIVATE FINANCING, AND REQUIRING A RECIPIENT TO CONDUCT

11 ITS RESEARCH IN THE STATE TO THE EXTENT PRACTICABLE;

12 (VII) PROVISION FOR REPAYMENT OF MONEY AWARDED PLUS

13 INTEREST AS PROVIDED IN SUBSECTION (2)(e) OF THIS SECTION;

14 (VIII) PROVISION FOR SERVICE, PRODUCT, CONCEPT, DESIGN, OR

15 ASSET REQUIREMENTS AND REVIEW; AND

16 (IX) PROVISIONS TO ENSURE ADEQUATE CONSIDERATION TO THE

17 STATE IN EXCHANGE FOR THE AMOUNT OF MONEY AWARDED TO A

18 RECIPIENT, INCLUDING ASSESSMENT OF THE POTENTIAL FOR THE

19 FOLLOWING IN THE STATE:

20 (A) CREATION OF A HIGH-GROWTH COMPANY;

21 (B) CREATION OF NEW JOBS;

22 (C) LEVERAGING OF NONSTATE PUBLIC OR PRIVATE FINANCING;

23 (D) AN INCREASE IN PATENTS;

24 (E) AN INCREASE IN THE TAX BASE; AND

25 (F) DIVERSIFICATION OF THE ECONOMY.

26 (b) THE OFFICE MAY AMEND THE PROGRAM POLICIES ADOPTED

27 PURSUANT TO THIS SUBSECTION (3) AT ANY TIME.

1 (4) ON OR BEFORE FEBRUARY 1, 2025, THE OFFICE SHALL PUBLISH  
2 ON THE OFFICE'S WEBSITE THE REQUIREMENTS FOR A BUSINESS TO  
3 PARTICIPATE IN THE PROGRAM, INCLUDING THE REQUIREMENTS SET FORTH  
4 IN SUBSECTION (2)(a) OF THIS SECTION, AND THE PROCESS FOR A BUSINESS  
5 TO APPLY FOR A PROGRAM AWARD.

6 (5) THE OFFICE SHALL INCLUDE IN ITS ANNUAL REPORT, PURSUANT  
7 TO SECTION 24-48.5-101 (7), A REPORT DETAILING:

8 (a) HOW THE OFFICE IS EXPENDING THE MONEY APPROPRIATED FOR  
9 PURPOSES OF THIS SECTION;

10 (b) THE BUSINESSES SELECTED TO RECEIVE A PROGRAM AWARD;  
11 AND

12 (c) THE CONSIDERATION RECEIVED BY THE STATE IN EXCHANGE  
13 FOR THE PROGRAM AWARDS IN ACCORDANCE WITH SUBSECTION (3)(a)(IX)  
14 OF THIS SECTION.

15 (6) (a) (I) THE COLORADO SMALL BUSINESS INNOVATIVE  
16 RESEARCH MATCHING CASH FUND IS CREATED IN THE STATE TREASURY.  
17 THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND PURSUANT TO  
18 SUBSECTION (6)(a)(II) OF THIS SECTION AND ANY OTHER MONEY THAT THE  
19 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

20 (II) ON JULY 1, 2024, THE STATE TREASURER SHALL TRANSFER  
21 FIVE MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

22 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
23 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
24 FUND TO THE FUND.

25 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE  
26 OFFICE FOR THE PURPOSES OF THE PROGRAM.

27 (d) THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED

1 AND UNENCUMBERED MONEY IN THE FUND ON JANUARY 1, 2029, TO THE  
2 GENERAL FUND.

3 (7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2029.

4 **SECTION 2. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly; except  
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
8 of the state constitution against this act or an item, section, or part of this  
9 act within such period, then the act, item, section, or part will not take  
10 effect unless approved by the people at the general election to be held in  
11 November 2024 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.