

## CHAPTER 276

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**EDUCATION - UNIVERSITIES AND COLLEGES**

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**HOUSE BILL 07-1060**

BY REPRESENTATIVE(S) Riesberg, Borodkin, Carroll M., Fischer, Frangas, Gibbs, Green, Jahn, Kefalas, Labuda, Levy, Marostica, Massey, McFadyen, McGihon, Rice, Todd, Gagliardi, Romanoff, and Summers;  
also SENATOR(S) Shaffer, Bacon, Boyd, Groff, Isgar, Keller, Schwartz, Tapia, Tupa, Veiga, Wiens, and Windels.

**AN ACT**

**CONCERNING THE ADVANCEMENT OF BIOSCIENCE DISCOVERIES AT COLORADO RESEARCH INSTITUTIONS, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 24-48.5-108, Colorado Revised Statutes, is amended 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.

(a.3) THE GENERAL ASSEMBLY FURTHER FINDS THAT BIOFUELS SUCH AS ETHANOL AND BIODIESEL CAN SIGNIFICANTLY REDUCE THE STATE'S DEPENDENCE ON OIL AS WELL AS HAVE A LESS HARMFUL IMPACT ON THE ENVIRONMENT THAN PETROLEUM-BASED FUELS.

(a.5) THE GENERAL ASSEMBLY FURTHER FINDS THAT, TO SPUR RURAL ECONOMIC

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

DEVELOPMENT AND HELP NEW COMPANIES BORN OUT OF RESEARCH INSTITUTIONS TO SUCCEED, THE STATE MUST DEDICATE RESOURCES TO COMPLEMENT RESEARCH EFFORTS FUNDED BY FEDERAL AGENCY SMALL BUSINESS INNOVATION RESEARCH PROGRAMS AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS, AS CODIFIED AT 15 U.S.C. 638. THESE RESOURCES WILL INCREASE THE CAPACITY OF SMALL COMPANIES TO DEVELOP NEW TECHNOLOGIES AND BUSINESS STRUCTURES, THEREBY INCREASING PRODUCT DEVELOPMENT AND ENHANCING THE ECONOMY OF THE STATE.

(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 Colorado and promote Colorado-based bioscience technologies.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "BIOFUEL RESEARCH" MEANS THE USE OF MICROORGANISMS, SPECIALIZED PROTEINS, OR THERMAL PROCESSES TO DEVELOP BIOLOGICALLY BASED FUEL PRODUCTS FROM PLANT MATTER OR OTHER BIOLOGICAL MATERIAL, INCLUDING RENEWABLE AGRICULTURAL SOURCES, AND THE RELATED PROCESSES THAT MAKE TRADITIONAL MANUFACTURING OF ENERGY CLEANER AND MORE EFFICIENT.

~~(a)~~ (b) "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~~ STUDY OF BIOLOGICAL PROCESSES, ORGANISMS, DEVICES, DIAGNOSTICS, OR SYSTEMS WITH THE OBJECTIVE OF DEVELOPING PRODUCTS THAT ARE INTENDED TO IMPROVE AGRICULTURE, THE QUALITY OF HUMAN LIFE, OR THE ENVIRONMENT. "BIOSCIENCE RESEARCH" INCLUDES, BUT IS NOT LIMITED TO, BIOFUEL RESEARCH AND LIFE SCIENCES RESEARCH.

~~(b)~~ (c) "Director" means the director of the Colorado office of economic development.

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

~~(c)~~ (e) "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.

(f) "PRINCIPAL INVESTIGATOR" MEANS A SINGLE INDIVIDUAL WHO IS DESIGNATED BY A RESEARCH INSTITUTION AS THE SUPERVISOR OF A BIOSCIENCE RESEARCH PROJECT.

~~(d)~~ (g) "Program" means the bioscience discovery evaluation grant program created in subsection (3) of this section.

~~(e)~~ (h) "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.

(i) "SBIR PROJECT" MEANS A BIOSCIENCE RESEARCH PROJECT FULLY OR PARTIALLY FUNDED BY GRANTS RECEIVED PURSUANT TO A FEDERAL AGENCY SMALL BUSINESS INNOVATION RESEARCH PROGRAM, AS CODIFIED AT 15 U.S.C. 638.

(j) "STTR PROJECT" MEANS A BIOSCIENCE RESEARCH PROJECT FULLY OR PARTIALLY FUNDED BY GRANTS RECEIVED PURSUANT TO A FEDERAL AGENCY SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM, AS CODIFIED AT 15 U.S.C. 638.

(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 grantees 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. THE GRANTS SHALL BE PROVIDED IN AMOUNTS OF:

(I) NO MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS FOR EACH RESEARCH PROJECT THAT IS NOT AN SBIR PROJECT OR AN STTR PROJECT; AND

(II) NO MORE THAN ONE HUNDRED THOUSAND DOLLARS FOR EACH SBIR PROJECT OR STTR PROJECT.

(b.5) IN PROVIDING GRANTS TO OFFICES OF TECHNOLOGY TRANSFER PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE PROGRAM SHALL PROVIDE THE GRANTS AS FOLLOWS:

(I) TWENTY PERCENT OF THE MONEYS APPROPRIATED FROM THE BIOSCIENCE DISCOVERY EVALUATION CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION SHALL BE USED TO PROVIDE GRANTS TO RESEARCH INSTITUTIONS FOR RESEARCH PROJECTS THAT:

(A) ARE BIOFUEL RESEARCH PROJECTS; AND

(B) ARE NOT SBIR PROJECTS OR STTR PROJECTS.

(II) EIGHTY PERCENT OF THE MONEYS APPROPRIATED FROM THE BIOSCIENCE DISCOVERY EVALUATION CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION SHALL BE USED TO PROVIDE GRANTS TO RESEARCH INSTITUTIONS FOR SBIR PROJECTS OR STTR PROJECTS. OF THIS SUM, SEVENTY-FIVE PERCENT OF THE MONEYS SHALL BE USED TO PROVIDE GRANTS TO RESEARCH INSTITUTIONS FOR LIFE SCIENCES RESEARCH PROJECTS, AND TWENTY-FIVE PERCENT OF THE MONEYS SHALL BE USED TO PROVIDE GRANTS TO RESEARCH INSTITUTIONS FOR BIOFUEL RESEARCH PROJECTS.

(c) To be eligible for a grant under the program FOR A RESEARCH PROJECT THAT IS NOT AN SBIR PROJECT OR AN STTR PROJECT, 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 IN 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; AND

(III) An analysis demonstrating that the scope of the project for which the office of technology transfer is applying for the grant is ~~the~~ A scope that is required to ~~determine the most productive disposition of the technology~~ ENHANCE THE COMMERCIALIZATION OF THE TECHNOLOGY THAT RESULTS FROM THE PROJECT IN COLORADO.

(c.5) TO BE ELIGIBLE FOR A GRANT UNDER THE PROGRAM FOR AN SBIR PROJECT OR AN STTR PROJECT, 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 CRITERIA DESCRIBED IN SUB-SUBPARAGRAPHS (A), (B), AND (E) OF SUBPARAGRAPH (I) OF PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION AND THE FOLLOWING CRITERIA:

(A) AT THE TIME THAT THE OFFICE OF TECHNOLOGY TRANSFER OF A RESEARCH INSTITUTION APPLIES FOR A GRANT FROM THE PROGRAM, THE BIOSCIENCE RESEARCH PROJECT FOR WHICH THE OFFICE OF TECHNOLOGY TRANSFER SEEKS GRANT MONEYS HAS RECEIVED A PHASE (I) AWARD OF MONEYS FROM A FEDERAL AGENCY SMALL BUSINESS INNOVATION RESEARCH PROGRAM OR A FEDERAL AGENCY SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM, AS CODIFIED AT 15 U.S.C. 638; AND

(B) THE RESEARCH INSTITUTION APPLYING FOR THE GRANT HAS DESIGNATED A PRINCIPAL INVESTIGATOR FOR THE BIOSCIENCE RESEARCH PROJECT;

(II) EVIDENCE OF A DEDICATED, MATCHING SOURCE OF MONEYS FROM A FEDERAL AGENCY SMALL BUSINESS INNOVATION RESEARCH PROGRAM OR A FEDERAL AGENCY SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM, AS CODIFIED AT 15 U.S.C. 638, THAT IS EQUAL TO TWICE THE AMOUNT APPLIED FOR UNDER THE PROGRAM;

(III) AN ANALYSIS DEMONSTRATING THAT THE SCOPE OF THE PROJECT FOR WHICH THE OFFICE OF TECHNOLOGY TRANSFER IS APPLYING FOR THE GRANT IS A SCOPE THAT IS REQUIRED TO ENHANCE THE COMMERCIALIZATION OF THE TECHNOLOGY THAT RESULTS FROM THE PROJECT IN COLORADO;

(IV) EVIDENCE OF AN EXISTING AGREEMENT BETWEEN A PRIVATE COMPANY AND THE RESEARCH INSTITUTION THAT IS APPLYING FOR THE GRANT, WHICH AGREEMENT INCLUDES A RIGHT OR OPTION TO LICENSE FOR COMMERCIAL USE ANY TECHNOLOGY, DEVICE, OR IMPROVEMENT THAT RESULTS FROM THE BIOSCIENCE RESEARCH PROJECT; AND

(V) EVIDENCE THAT THE PRIVATE COMPANY WITH WHICH THE RESEARCH INSTITUTION HAS CONTRACTED PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH (c.5) HAS NO MORE THAN TWENTY FULL-TIME EMPLOYEES.

(d) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (c) OF THIS SUBSECTION (3) AND SUBPARAGRAPH (II) OF PARAGRAPH (c.5) OF THIS SUBSECTION (3), 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~~ ON OR BEFORE March 1 EACH YEAR 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~~; THE FINANCE COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, 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~~ FIVE 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) (III), 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:

(III) (A) 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; and

(B) FOR THE 2006-07 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 FIVE HUNDRED THOUSAND 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 2007-08 FISCAL YEAR; AND

**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, 2007, the sum of two million five hundred thousand dollars (\$2,500,000), and 0.6 FTE, 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: May 23, 2007