

Department of Planning and Budget 2009 Fiscal Impact Statement

1. Bill Number: SB1338

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Herring

3. Committee: Passed Both Houses

4. Title: **Promotion of science and technology-based research, development, and commercialization in the Commonwealth**

5. Summary: The bill changes the existing Commonwealth Technology Research Fund (CTRF) to the Commonwealth Research Commercialization Fund (CRCF) to better focus the moneys available under this program to key areas of research and development in the Commonwealth, to emphasize the importance of commercialization of research and development through matching-funds programs and the leveraging of private and federal funds for commercialization activities, and to provide a loan program for the construction of facilities utilized in commercializing qualified research. Also, the bill amends the existing qualified equity and subordinated debt investment tax credit to limit its applicability only to companies engaged in science and technology-related businesses, and to encourage investment in companies focused on commercializing research developed at universities. Finally, the bill would prohibit the distribution of any money from the Fund to a business that performs research in Virginia on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos; excluding research conducted using stem cells other than embryonic stem cells. In addition, money from the Fund cannot be provided for conducting research on cells or tissues derived from induced abortions or from stem cells obtained from human embryos, or to an entity that conducts such research in Virginia. Also, conducting research in Virginia on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos would disqualify a business otherwise qualified to receive money from the Fund.

6. Fiscal Impact Estimates are indeterminate. See item 8, below.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: The revenue impact of this bill is unknown. This bill would modify the qualified equity and subordinated debt investment tax credit to allow a tax credit for individuals or corporations for investments in businesses related to advanced computing, advanced materials, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, medical device technology, nanotechnology, or any similar technology-related field. The Code of Virginia caps the annual amount of available tax credits at \$5 million. This proposal does not change the statutory cap; however, it does dedicate one-half of the credits available annually for “commercialized investment” that supports research developed at or in partnership with an institution of higher education.

Language in the Appropriation Act overrides the cap in statute and caps the amount of available credits at \$3 million annually.

According to the Department of Taxation, historically, applications for this credit have exceeded the annual cap, so the total amount of credits allocated has been equal to the annual cap. However, the amount of credits actually claimed on tax returns has been significantly less than the annual cap. About half of the existing credit applications have involved businesses that would not qualify for the credit under the proposed definition of a “qualified business,” such as restaurants, hotels, retail establishments and other miscellaneous businesses. Therefore, it is possible that applications for the credit under this bill would not reach the \$3 million cap.

The provisions of the bill related to the qualified equity and subordinated debt investment tax credit would be effective for taxable years beginning on or after January 1, 2009.

Currently, by statute, monies in the CTRF must be used for the sole purpose of attracting public and private research funding for institutions of higher education, in order to increase technological and economic development in Virginia, and awards from the CTRF are made to Virginia public institutions of higher education or to their associated intellectual property foundations. Under the provisions of the proposed legislation, businesses that meet certain criteria would be eligible to apply for matching grants from the CTRF, and qualifying institutions (a public or private institution of higher education in the Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property) and political subdivisions would be eligible to apply for loans from the Fund.

The Innovative Technology Authority (Center for Innovative Technology) would continue to administer the Fund, and establish and maintain specific guidelines for the award of funds in consultation with VEDP and the State Council of Higher Education (SCHEV). Currently, the Virginia Research and Technology Advisory Commission makes recommendations on awards from the Fund, under the proposed legislation the commission would no longer have this responsibility. It is not anticipated that the proposed legislation will have a fiscal impact to the Center for Innovative Technology.

9. Specific Agency or Political Subdivisions Affected: Virginia Economic Development Partnership, Center for Innovative Technology, and Department of Taxation.

10. Technical Amendment Necessary: No.

11. Other Comments: Section 3-5.01 of Chapter 879, 2008 Acts of Assembly (the 2008 Appropriation Act) caps the amount of available credits at \$3 million annually. This language is also in the introduced budget bill.

Item 254 of the 2008 Appropriation Act includes \$1 million in each year from the general fund for the CRTF. Language is included in the introduced budget bill directing that the funds be used to assist in commercializing research developed at institutions of higher education in Virginia in the fields of energy, conservation, environment, microelectronics, or lifespan biology and medicine. The conferees propose to remove the \$1 million general fund

appropriation in FY 2010 and provide federal funds under the American Recovery and Reinvestment Act of 2009 for this purpose.

The enrolled version includes two of the three legislative recommendations of the Joint Subcommittee Studying Biosciences and Biotechnology in the Commonwealth (HJR 248).

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cc: Secretary of Commerce and Trade
Secretary of Education
Secretary of Technology