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## HOUSE BILL NO. 2324

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology  
on February 16, 2011)

(Patron Prior to Substitute—Delegate Lingamfelter)

A BILL to amend and reenact § 2.2-2233.1 of the Code of Virginia, relating to investment in research and technology in the Commonwealth.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2233.1 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-2233.1. Commonwealth Research Commercialization Fund; continued; purposes; report.

A. For purposes of this section:

"Guidelines" means guidelines developed and published by the Governor, in consultation with the Virginia Economic Development Partnership Authority, the Center for Innovative Technology, and the State Council of Higher Education for Virginia.

"Qualified research and" or "qualifying technologies" means research programs or technologies substantially focused in the following fields: energy, conservation, environment, microelectronics, robotics and unmanned vehicle systems, advanced shipbuilding, ~~or~~ lifespan biology and medicine, biomedical sciences, information technology services, chemicals and materials, or other sectors identified in the guidelines.

"Qualifying institution" means 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 pursuant to § 23-4.3.

"SBIR" means the Small Business Innovation Research Program authorized under 15 U.S.C. § 638.

"STTR" means the Small Business Technology Transfer Program authorized under 15 U.S.C. § 638.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Commonwealth Research Commercialization Fund (the Fund), to be administered by the Authority *pursuant to the guidelines*. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

C. Awards from the Fund shall be made by the Authority, *pursuant to the guidelines*. The chairman of the Authority shall coordinate the evaluation of proposals and ~~may form review panels with the appropriate science and technology expertise to assist in reviewing applicants for grants or loans from the Fund as set forth in the guidelines.~~

~~Specific guidelines for the award of funds from this program shall be established and maintained by the Authority, in consultation with the Virginia Economic Development Partnership and the State Council of Higher Education. These guidelines shall address, at a minimum, the application process and the composition and operation of proposal review panels, and shall give special emphasis to fostering collaboration between institutions of higher education and partnerships between institutions of higher education and business and industry.~~

D. Awards from the Fund may be granted for the following programs:

1. For fiscal years beginning with a Fund balance of less than \$7 million, an SBIR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received a Phase I SBIR award from the National Institute of Health targeted at the development of qualified research or *qualifying* technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

Applicants shall be eligible for matching grants of up to \$50,000 of the Phase I award. All applicants shall be required to submit a commercialization plan with their application.

2. For fiscal years beginning with a Fund balance of \$7 million or greater, an SBIR and STTR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

60 a. The applicant has received an SBIR or STTR award targeted at the development of qualified  
61 research or technologies;

62 b. The applicant employs fewer than 12 full-time employees;

63 c. At least 51 percent of the applicant's employees reside in Virginia; and

64 d. At least 51 percent of the applicant's property is located in Virginia.

65 Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to  
66 \$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with  
67 their application.

68 3. A matching funds program to assist qualifying institutions *and other research institutions* in  
69 leveraging federal and private funds designated for the commercialization of qualified research or  
70 *qualifying* technologies. The chairman of the Authority is authorized to issue letters of financial  
71 commitment to assist applicants in leveraging federal and private funds.

72 4. A facilities enhancement loan program for qualifying institutions and political subdivisions to  
73 provide lease or credit guarantees to assist in financing facilities utilized for commercializing qualified  
74 research or *qualifying* technologies developed at qualifying institutions. The facilities enhancement loan  
75 program shall have the following parameters:

76 a. Qualifying institutions and political subdivisions may apply to the Fund for loans to the extent that  
77 such institution's or political subdivision's outstanding principal balance at any one time does not exceed  
78 \$500,000. Loan applications shall include business plans that detail and explain the anticipated uses of  
79 funds received and the proposed repayment schedule.

80 b. Loans from the Fund shall take the form of a contractual commitment to the recipient qualifying  
81 institution or political subdivision for a line of credit for up to five years, along with an approved  
82 schedule of repayment. During the contractual period the recipient qualifying institution or political  
83 subdivision may draw upon the line of credit for any expense for which the loan was made, not to  
84 exceed the stated amount of the loan award. At the end of the contractual period, the line of credit shall  
85 terminate and the outstanding balance of the withdrawals on that line of credit shall become the  
86 established basis for that loan.

87 c. During the contractual period, deferred interest shall accumulate on the outstanding balance at a  
88 rate of three percent compounded annually. Borrowing institutions or political subdivisions may prepay  
89 part or all of any loan received from the Fund without penalty, and, if repayment is completed within  
90 the contractual period of the line of credit, the accumulated interest obligation shall be forgiven.

91 d. Repayment of the established basis shall consist of a maximum of 84 equal monthly payments of  
92 principal and compounded interest at the determined rate beginning on the first day of the month  
93 following the end of the contractual period.

94 5. A commercialization program to incentivize the commercialization of a product or service related  
95 to a qualifying technology. An eligible applicant shall have operations in the Commonwealth, and the  
96 project proposed by the applicant shall:

97 a. Commercialize a product or service related to a qualifying technology;

98 b. Have a demonstrable economic development benefit to the Commonwealth;

99 c. Match the award, on at least a one-to-one basis, from other available funds, including funds from  
100 an institution of higher education collaborating on the project; and

101 d. Have a reasonable probability of enhancing the Commonwealth's national and global  
102 competitiveness.

103 Priority shall be given to those applications that propose projects that (i) are collaborative between  
104 private and nonprofit entities, public or private agencies, and qualifying institutions or research  
105 institutions; (ii) project a short time to commercialization, although transformative projects with a  
106 longer projected time to commercialization shall not be discounted; (iii) have active third-party equity  
107 holders; (iv) have technology and management in place that is likely to successfully bring the product or  
108 service to the marketplace; or (v) have a history of successful projects funded by the Fund.

109 6. An eminent researcher recruitment program to acquire and enhance research superiority at public  
110 qualifying institutions. For purposes of applications pursuant to this subdivision, the applicant shall be a  
111 state institution of higher education. In order to qualify for an award, the applicant shall:

112 a. Demonstrate that the researcher being recruited would create research superiority at the  
113 institution;

114 b. Demonstrate that the institution making the application has sufficient technology transfer processes  
115 and other research capabilities in place to meet the needs of the researcher being recruited;

116 c. Involve a private sector partner with business operations in the Commonwealth;

117 d. Demonstrate that the research conducted by the researcher is in a qualifying technology; and

118 e. Match the award, on at least a one-to-one basis, with 50 percent of the match from the applicant  
119 and 50 percent of the match from the private sector partner.

120 E. The chairman of the Authority shall provide the Governor and the General Assembly with an  
121 annual report to include a detailed list of awards and loans committed, the amount of each approved

award or loan, a description of the approved proposals, and the amount of federal or private matching funds anticipated where applicable, and an assessment of the effectiveness of the Fund.

*F. Administrative expenses related to implementing the guidelines and review process may be reimbursed from the Fund.*

**2. That for purposes of determining whether property was developed "wholly or predominantly" through the use of state general funds for purposes of § 23-4.4 of the Code of Virginia, awards made from the Commonwealth Research Commercialization Fund shall not be considered state general funds.**