

Representative Gregory H. Hughes proposes the following substitute bill:

SMALL BUSINESS INNOVATION RESEARCH

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies the Technology Commercialization and Innovation Act by allowing small businesses to apply for grants and loans under the act.

Highlighted Provisions:

This bill:

- ▶ defines small business;
- ▶ allows small businesses, in addition to institutions of higher education, to apply for Technology Commercialization and Innovation Program grants and loans;
- ▶ provides for rulemaking by the Governor's Office of Economic Development;
- ▶ removes the State Advisory Council for Science and Technology from the funding allocation process; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2014.

This bill coordinates with S.B. 31, State Agency Reporting Amendments, by providing superseding amendments.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63M-1-702**, as last amended by Laws of Utah 2011, Chapter 392

29 **63M-1-703**, as last amended by Laws of Utah 2011, Chapter 392

30 **63M-1-704**, as last amended by Laws of Utah 2011, Chapter 392

31 **Utah Code Sections Affected by Coordination Clause:**

32 **63M-1-704**, as last amended by Laws of Utah 2011, Chapter 392



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **63M-1-702** is amended to read:

36 **63M-1-702. Purpose.**

37 (1) (a) The Legislature recognizes that the growth of new industry and expansion of
38 existing industry requires a strong technology base, new ideas, concepts, innovations, and
39 prototypes.

40 (b) ~~[These generally come from]~~ Growth in industry frequently results from
41 technological innovation generated by strong research [colleges and universities] institutions of
42 higher education and by small businesses.

43 (c) Technical research in Utah's ~~[colleges and universities]~~ institutions of higher
44 education should be enhanced and expanded, particularly in those areas targeted by the state for
45 economic development.

46 (d) Most states ~~[are enhancing]~~ enhance their research base by direct funding, usually
47 on a matching basis.

48 (e) The purpose of this part is to catalyze and enhance the growth of these technologies
49 by:

50 (i) encouraging interdisciplinary research activities in targeted areas [and by];

51 (ii) facilitating the transition of these technologies out of the [university] higher
52 education environment into industry where the technologies can be used to enhance job
53 creation[-]; and

54 (iii) supporting the commercialization of technologies developed by small business to
55 enhance job creation.

56 (f) The Legislature recognizes that one source of funding is ~~[in-matching]~~ to match

57 state funds with federal funds and industrial support to provide and develop ~~[the needed]~~ new
58 technologies.

59 (2) The Legislature recommends that the governor consider matching the allocation of
60 economic development funds for the Technology Commercialization and Innovation Program
61 ~~[to be matched by]~~ with industry and federal grants ~~[on at least a two-for-one basis for colleges~~
62 ~~and universities in the state that offer any doctoral degrees]~~.

63 (3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

64 (i) to the various ~~[colleges and universities]~~ institutions of higher education in the state
65 ~~[and];~~

66 (ii) to companies working in partnership with ~~[colleges and universities]~~ institutions of
67 higher education to commercialize their technologies~~[-]; and~~

68 (iii) to small businesses that are developing promising technologies.

69 (b) The funds made available should be used to support:

70 (i) interdisciplinary research in the Technology Commercialization and Innovation
71 Program in technologies that are considered to have potential for economic development in
72 ~~[this]~~ the state and to help transition these technologies out of ~~[the colleges and universities]~~
73 institutions of higher education and into industry~~[-]; and~~

74 (ii) small businesses in commercializing their promising technologies that have the
75 potential to increase economic development in the state.

76 Section 2. Section **63M-1-703** is amended to read:

77 **63M-1-703. Definitions.**

78 As used in this part:

79 (1) "Business team consultant" means an experienced technology executive,
80 entrepreneur, or business person who:

81 (a) is recruited by the office through a request for proposal process to work directly
82 with a college or university in the Technology Commercialization and Innovation Program; and

83 (b) works with the institution to facilitate the transition of its technology into industry
84 by assisting the institution in developing strategies, including spin out strategies when
85 appropriate, and go-to-market plans, and identifying and working with potential customers and
86 partners.

87 (2) "Direct license" means ~~[the licensing]~~ a written license agreement between a

88 company and a Utah ~~[college or university of]~~ institution of higher education related to
89 technology developed at the ~~[college or university for]~~ institution of higher education with the
90 intent of commercializing the technology or facilitating its transition into industry.

91 (3) "Institution of higher education" means:

92 (a) a state institution of higher education as defined in Section [53B-3-102](#); or

93 (b) a private institution of higher education in the state accredited by a regional or
94 national accrediting agency recognized by the United States Department of Education.

95 ~~[(3)]~~ (4) "Licensee" means:

96 (a) a company that executes or is in the process of executing a direct license; or

97 (b) a sublicensee of the technology from a direct license.

98 (5) "Small business" means a business that:

99 (a) meets the size standards for the business's industry classification as identified by the
100 United States Small Business Administration in 13 C.F.R. Sec. 121.201;

101 (b) is organized for profit;

102 (c) operates primarily within the United States;

103 (d) has a principal place of business in the state, including a manufacturing or service
104 location; and

105 (e) is independently owned and operated.

106 ~~[(4)]~~ (6) "Technology Commercialization and Innovation Program" means
107 [university-based];

108 (a) a federal- and industry-supported cooperative research and development
109 [programs-] program based at an institution of higher education; or

110 (b) a federal- and state-supported program for funding technologically innovative small
111 businesses.

112 Section 3. Section **63M-1-704** is amended to read:

113 **63M-1-704. Administration -- Grants and loans.**

114 (1) The Governor's Office of Economic Development shall administer this part.

115 (2) (a) (i) The office may award Technology Commercialization and Innovation
116 Program grants or issue loans ~~[to the various colleges, universities, and licensees in the state~~
117 for the purposes of this part.] under this part to an applicant that is:

118 (A) an institution of higher education;

119 (B) a licensee; or

120 (C) a small business.

121 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a
122 fund or account as necessary for the proper accounting of the loans.

123 (b) [~~The Governor's Office of Economic Development shall develop~~] In accordance
124 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules
125 for a process to determine whether [a college or university] an institution of higher education
126 that receives a grant under this part must return the grant proceeds or a portion of the grant
127 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee
128 that:

129 (i) does not maintain a manufacturing or service location in the state from which the
130 licensee or a sublicensee exploits the technology; or

131 (ii) initially maintains a manufacturing or service location in the state from which the
132 licensee or a sublicensee exploits the technology, but within five years after issuance of the
133 license the licensee or sublicensee transfers the manufacturing or service location for the
134 technology to a location out of the state.

135 (c) A repayment by [~~a college or university~~] an institution of higher education of grant
136 proceeds or a portion of the grant proceeds [~~shall come only~~] may only come from the proceeds
137 of the license established between the licensee and the [~~college or university~~] institution of
138 higher education.

139 (d) (i) [~~A licensee~~] An applicant that is a licensee or small business that receives a
140 grant under this part shall return the grant proceeds or a portion of the grant proceeds to the
141 office if the [~~licensee~~] applicant:

142 (A) does not maintain a manufacturing or service location in the state from which the
143 [~~licensee~~] applicant exploits the technology; or

144 (B) initially maintains a manufacturing or service location in the state from which the
145 [~~licensee~~] applicant exploits the technology, but within five years after issuance of the grant,
146 the [~~licensee~~] applicant transfers the manufacturing or service location for the technology to an
147 out-of-state location.

148 [~~(ii) A repayment by a licensee that receives a grant shall come only from the proceeds~~
149 ~~of the license to that licensee.~~]

150 ~~[(iii) A repayment by a licensee shall be prorated based only on the number of full~~
151 ~~years the licensee operated in the state from the date of the awarded grant.]~~

152 (ii) A repayment by an applicant shall be prorated based on the number of full years the
153 applicant operated in the state from the date of the awarded grant.

154 (iii) A repayment by a licensee that receives a grant may only come from the proceeds
155 of the license to that licensee.

156 (3) (a) Funding allocations shall be made by the office with the advice of ~~[the State~~
157 ~~Advisory Council for Science and Technology and]~~ the board.

158 (b) Each proposal shall receive the best available outside review.

159 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of
160 matching funds from private and federal sources, and the potential for job creation and
161 economic development.

162 (b) Proposals or consortia that combine and coordinate related research at two or more
163 ~~[colleges and universities]~~ institutions of higher education shall be encouraged.

164 (5) The ~~[State Advisory Council on Science and Technology]~~ office shall review the
165 activities and progress of grant recipients on a regular basis and ~~[assist the office in preparing~~
166 ~~an annual]~~, as part of the office's annual written report described in Section 63M-1-206, report
167 on the accomplishments and direction of the Technology Commercialization and Innovation
168 Program.

169 Section 4. **Effective date.**

170 This bill takes effect on July 1, 2014.

171 Section 5. **Coordinating S.B. 263 with S.B. 31 -- Superseding amendments.**

172 If this S.B. 263 and S.B. 31, State Agency Reporting Amendments, both pass and
173 become law, as of July 1, 2014, it is the intent of the Legislature that the amendments to
174 Section 63M-1-704 in this bill supersede the amendments to Section 63M-1-704 in S.B. 31,
175 when the Office of Legislative Research and General Counsel prepares the Utah Code database
176 for publication.