

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2550

**FISCAL
NOTE**

BY DELEGATE CAPITO, NELSON, QUEEN AND FAST

[Introduced January 21, 2019; Referred

to the Committee on Small Business,

Entrepreneurship and Economic Development then

Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, and §5B-8-5, all relating to creating a
 3 matching program for the Small Business Innovation and Research Program and the
 4 Small Business Technology Transfer Program; defining terms; defining eligibility;
 5 providing terms of the grant; and defining the application process.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5B. SMALL BUSINESS INNOVATION AND RESEARCH AND SMALL
 BUSINESS TRANSFER TECHNOLOGY MATCHING FUNDS PROGRAM.**

§5B-8-1. Definitions.

1 When used in this article:

2 “Department” means the West Virginia Department of Commerce.

3 “Secretary” means the Secretary of the West Virginia Department of Commerce.

4 “SBIR” means the Small Business Innovation and Research Program enacted under the
 5 Small Business Innovation Development Act of 1982, Pub. L. 97-219, 15 U.S.C. §638.

6 “STTR” means the Small Business Technology Transfer Program enacted under the Small
 7 Business Technology Transfer Act of 1992, Pub. L. 102-564, 15 U.S.C §638.

8 “Small business” means a corporation, partnership, limited liability company, statutory or
 9 common law business trust, sole proprietorship, or individual, operating a business for profit,
 10 which qualifies as a small business and otherwise meets the requirements of the SBIR or STTR
 11 programs.

12 “West Virginia-based business” means a business that has its principal place of business
 13 in this state.

§5B-8-2. Creating a matching program.

14 The West Virginia Small Business Innovation and Research and Small Business
 15 Technology Transfer Matching Funds Program is established. It shall be administered by the

16 department. In order to foster job creation and economic development in the state, the department
17 may provide grants to eligible businesses to match funds received by a business as a Small
18 Business Innovation and Research or Small Business Technology Transfer Phase I award and to
19 encourage businesses to apply for Phase II awards.

§5B-8-3. Eligibility.

1 In order to be eligible for a grant under this article, a business must satisfy all of the
2 following conditions:

- 3 (1) The business must be a for-profit, West Virginia-based business;
4 (2) For the Phase I and/or Phase II Matching program the business must have received a
5 SBIR/STTR Phase I or SBIR/STTR Phase II award from a participating federal agency in
6 response to a specific federal solicitation. To receive the full match for the Phase I award, the
7 business must also have submitted a final Phase I report, demonstrated that the sponsoring
8 agency has interest in the Phase II proposal, and submitted a Phase II proposal to the agency;
9 To receive the Phase II match, the business must have submitted the final progress report to the
10 funding agency;
11 (3) The business must satisfy all federal SBIR/STTR requirements;
12 (4) The business shall not receive concurrent funding support from other sources that
13 duplicates the purpose of this article;
14 (5) The business must certify that at least 51 percent of the research described or to be
15 described in the federal SBIR/STTR Phase II proposal will be conducted in this state and that the
16 business will remain a West Virginia-based business for the duration of the SBIR/STTR Phase II
17 project; and
18 (6) The business must demonstrate its ability to conduct research in its SBIR/STTR Phase
19 II proposal.

§5B-8-4. Application process.

1 (a) A business shall apply, under oath, to the department on a form prescribed by the

2 department that includes at least all of the following:

3 (1) The name of the business, the form of business organization under which it is operated,
4 and the names and addresses of the principals or management of the business;

5 (2) For matching awards, notice of award from the funding agency of the SBIR/STTR
6 Phase I or Phase II award;

7 (3) For matching awards, study section evaluation and comments; and

8 (4) Any other information necessary for the department to evaluate the application.

9 (b) The secretary shall review the application and determine the following:

10 (1) Whether the applicant satisfies the eligibility and other requirements; and

11 (2) Whether to recommend that the department award matching grants.

§5B-8-5. Grant terms.

1 Upon recommendation by the secretary, the department may award a “WV Phase Zero
2 grant” of \$2500 upon successful submission of an approved Phase I SBIR/STTR proposal or Fast
3 track SBIR/STTR proposal. Total grant shall be remitted to the business upon notification
4 completion of application and business submission of notification from granting agency of
5 successful submission of the SBIR/STTR Phase I or SBIR/STTR fast track application. A business
6 may receive only one grant under this article per year. A business may receive only one grant
7 under this article with respect to each federal proposal submission, resubmission of unsuccessful
8 applications are not eligible. Over its lifetime, a business may receive a maximum of five Phase
9 Zero awards. A grant recipient may assign the agreement only upon the prior written consent of
10 the secretary.

11 Further upon recommendation by the secretary, the department may award grants to
12 match the funds received by a business through a SBIR/STTR Phase I proposal up to a maximum
13 of \$100,000. Seventy-five percent of the total grant shall be remitted to the business upon receipt
14 of the SBIR/STTR Phase I award and application for funds under this article. Twenty-five percent
15 of the total grant shall be remitted to the business upon submission by the business of the Phase

16 II application to the funding agency and acceptance of the Phase I report by the funding agency.
17 A business may receive only one grant under this article per year. A business may receive only
18 one grant under this article with respect to each federal proposal submission. Over its lifetime, a
19 business may receive a maximum of five awards under this article. A grant recipient may assign
20 the agreement only upon the prior written consent of the secretary.

21 Further, the department may award grants to match the funds received by a business
22 through a SBIR/STTR Phase II proposal up to a maximum of \$100,000 per year for up to two
23 years. Seventy-five percent of the yearly match shall be remitted to the business upon receipt of
24 the SBIR/STTR Phase II notice of award and application for funds under this article. In year two
25 of the grant 75 percent of the yearly match will shall be remitted to the business upon the
26 anniversary, and application for funds with documentation from the agency that the grant is to
27 continue for a second year. Twenty-five percent of the total grant shall be remitted to the business
28 upon submission by the business of the Phase II final report to the funding agency and acceptance
29 of the Phase II report by the funding agency. A business may receive only one grant under this
30 article per year. A business may receive only one grant under this article with respect to each
31 federal proposal submission. Over its lifetime, a business may receive a maximum of five awards
32 under this article. A grant recipient may assign the agreement only upon the prior written consent
33 of the secretary.

NOTE: The purpose of this bill is to create a matching program for the Small Business Innovation and Research (SBIR) program and the Small Business Technology Transfer (STTR) program.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.