

2013 DRAFTING REQUEST

Bill

Received: 1/9/2014 Received By: mgallagh
Wanted: As time permits Same as LRB:
For: Fred Clark (608) 266-7746 By/Representing: Andrew F.
May Contact: Drafter: mgallagh
Subject: Econ. Development - bus. dev. Addl. Drafters:
Econ. Development - misc. Extra Copies: FFK

Submit via email: YES
Requester's email: Rep.Clark@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Fund-matching program for federal small business grants; creation of

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 2/13/2014	eweiss 2/14/2014		_____			
/P1	mgallagh 3/11/2014	eweiss 3/13/2014	jmurphy 2/14/2014	_____	sbasford 2/14/2014		State
/P2	mgallagh 3/18/2014	eweiss 3/19/2014	jfrantze 3/13/2014	_____	srose 3/13/2014		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1			jfrantze 3/19/2014	_____ _____	mbarman 3/19/2014	mbarman 3/19/2014	State

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INTRO

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/P1			jmurphy 2/14/2014	_____	sbasford 2/14/2014		State

emw +ijs
3/12 3/13
emw
3/13
[Handwritten signatures and dates]

/P2
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/?	mgallagh						
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Handwritten signature and date:

 2/14

FE Sent For:

<END>

Gallagher, Michael

From: Farrar, Andrew
Sent: Wednesday, January 08, 2014 3:10 PM
To: Gallagher, Michael
Subject: Rep. Clark Drafting Proposal
Attachments: Kentucky SBIR Legislation.doc; Montana Guidelines.pdf; Montana Funding.pdf

Michael,

Thanks for taking my call regarding our drafting request. In brief, the legislation we are looking to draft would create a state fund-matching program (under the authority of WEDC) for small businesses who apply for federal grant money through both the SBIR (Small Business Innovation and Research) Program and the STTR (Small Business Technology Transfer) Program. These two federal programs are designed to incentivize small businesses to engage in Federal Research/Research and Development (R/R&D) that has the potential for commercialization.

The program is structured in three phases. Phase I is aimed at establishing technical merit, feasibility, and commercial potential; Phase II funding is only awarded to those who have achieved Phase I and is aimed at continuing the processes of Phase I (should the awardee prove to possess scientific and technical merit and commercial potential). Phase III is irrelevant to our drafting request as we aim to only match Phase I and Phase II awardees.

Attached are three (3) documents that, when combined, will serve as model legislation that fits our needs.

The first document, titled Kentucky SBIR Legislation (which includes a hyperlink to the original source), serves as good statutory language for the bill. We would want to use this document's definition for small business (unless it would prove inconsistent with existing WI statutes). Of course relevant authority and other terminology would need to reflect the state of Wisconsin.

The second document, titled Montana Guidelines, offers an introduction (under title, 'Introduction') and award structure (under 'Award Structure and Milestones') that we would like to replace that of the Kentucky legislation (document 1). The rest of this document would most likely serve as application requirements established by WEDC (which we would leave out of our bill).

We would like something similar to the four paragraphs under title, 'Introduction' in the Montana Guidelines (document 2) to serve as a 'purpose' to the bill. Any inconsistencies that this language poses to the framework used in the Kentucky model (document 1) would be changed to reflect the four paragraphs under title, 'Introduction' in the Montana Guidelines (document 2).

Further, we would like to replace the awarding structure of the Kentucky model (document 1) with the awarding structure established in the Montana Guidelines under title, 'Award Structure and Milestones' (document 2).

Under title, 'Award Structure and milestones', point 3, we would especially like to include the provision of total match awards so long as funds remain available but would like to change the limit from \$60,000 to \$50,000.

The third document (Montana Funding) is Montana SB 236 which serves as our reference for a funding figure and source of appropriation for the program. For sake of funding this legislation, we would like to appropriate \$375,000 over the biennium from GPR or whichever fund you find more applicable to such a program. Document 3, Montana SB 236, Sec.1.9.b.iii, offers a funding mechanism for the program.

We would be looking at a 'p' draft of this program. Let me know if you have further questions.

Thank you!

Andrew Farrar
Office of Rep. Fred Clark
Andrew.Farrar@legis.wisconsin.gov
Office: (608) 266-7746
Toll Free: (888) 534-0081

AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

- (1) "Authority" means the Kentucky Economic Development Finance Authority.*
- (2) "Small business" means a corporation, partnership, limited liability company, statutory or common law business trust, sole proprietorship, or individual, operating a business for profit, which qualifies as a small business and otherwise meets the requirements of the federal SBIR or STTR programs.*
- (3) "SBIR" means the Small Business Innovation and Research Program enacted under the Small Business Innovation Development Act of 1982, Pub. L. 97-219, 15 U.S.C. sec. 638.*
- (4) "STTR" means the Small Business Technology Transfer Program enacted under the Small Business Technology Transfer Act of 1992, Pub. L. 102-564, 15 U.S.C. sec. 638.*

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The authority shall establish an incentive program for SBIR and STTR Phase I grant recipients. The incentive program shall be administered by the Department of Commercialization and Innovation for a Knowledge Based Economy. Upon recommendation from the Commissioner of the department, the authority may provide grants to match the grants received by small businesses through the SBIR or STTR program. Grants provided by the authority to any single small business shall not exceed one hundred thousand dollars (\$100,000). Up to seventy-five thousand dollars (\$75,000) may be provided after the announcement but before disbursement of the federal grant. Up to twenty-five thousand dollars*

(\$25,000) may be provided upon submission by the federal grant recipient of its Phase II application.

(2) Any small business seeking a grant under this section shall apply to the authority on forms prescribed by the authority. To be eligible, the applicant shall have its principal place of business in the Commonwealth of Kentucky and shall certify that the research to be conducted will benefit the economy of the Commonwealth of Kentucky.

(3) Upon approval, the small business and the authority shall enter into an SBIR or STTR match grant agreement. The terms and provisions of the agreement, including the amount of the grant, shall be determined by the authority after negotiation with the small business. At a minimum, the agreement shall contain the following provisions:

(a) The agreement shall terminate upon submission of the Phase II grant application to the federal government;

(b) When the agreement terminates, the grant recipient shall file with the Department of Commercialization and Innovation for a Knowledge Based Economy a report regarding its expenditures of the grant funds, with appropriate documentation of expenses incurred. If the grant recipient fails to submit an acceptable report, the authority may order repayment of all or a portion of the grant funds; and

(c) The grant recipient may assign the agreement only upon the prior written consent of the authority.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2007, the authority may establish an incentive program for SBIR and STTR Phase II grant recipients. Grants under this program shall be up to five hundred thousand dollars (\$500,000). If established, the incentive program shall be

administered by the Department for Commercialization and Innovation for a Knowledge Based Economy, and shall be on substantially similar terms as the Phase I incentive program under Sections 1 and 2 of this Act.

Montana SBIR/STTR Matching Funds Program Guidelines

Montana Department of Commerce

Introduction

The purpose of the Montana SBIR/STTR Matching Funds Program is to foster job creation and economic development in the state by providing matching grants to eligible businesses meeting the criteria set forth in these guidelines.

The Montana SBIR/STTR Matching Funds Program is designed to award grant funds to Montana companies that have been awarded a Small Business Innovation Research Program or Small Business Technology Transfer Program (Federal SBIR/STTR Program) Phase I award and that, if the opportunity to do so is available, intend to apply for a Federal SBIR/STTR Program Phase II award.

The Federal SBIR/STTR Program provides for funding competitions in two phases that are relevant to the Montana Program: Phase I – to conduct feasibility research; and Phase II – to expand and develop Phase I results and develop commercially viable innovations.

The Montana Department of Commerce (Department) administers the Montana SBIR/STTR Matching Funds Program in the manner set forth in these guidelines. In all cases, awards will be made at the discretion of the Department.

Award Structure and Milestones

1. Applications will be considered, and funds awarded, as established in these guidelines until the funds available for the Montana SBIR/STTR Matching Funds Program have been exhausted.
2. Subject to the satisfaction of all other requirements, match awards will be made in two stages:
 - a) Stage 1 – 50% of the total match award will be disbursed upon approval of the Stage 1 application.

- b) Stage 2 – The remaining 50% of the total match award will be made in two disbursements: 2/3 upon approval of the Stage 2 application, and 1/3 upon approval of the Stage 2 final report.
3. So long as funds remain available, for each approved application, total match awards will be \$60,000. The Department will approve no more than one application for funding per company per state fiscal year.

Stage 1 Application Requirements

All required information for a Stage 1 application must be submitted electronically. Applicants must submit items 1 through 13 below in a single submission to be considered for a grant. To be eligible for consideration, companies must submit a Stage 1 application to the Department within 180 days of the effective start date of the Phase I award. Submissions should be emailed to jtodd@mt.gov.

1. Name of the business. (MCA 90-1-119 (4)(a))
2. Applicant must be a for-profit sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation registered with the Montana Secretary of State. Provide a Certificate of Existence or a Certificate of Fact issued by the Montana Secretary of State to meet this requirement. (MCA 90-1-118 (1))
3. The company must have its principal place of business in Montana. Certify that this requirement is met. (MCA 90-1-118 (1))
4. Names and addresses of the principals or management of the business. (MCA 90-1-119 (4)(a))
5. Provide documentation that the company has received a SBIR or STTR Phase I award from a participating Federal agency in response to a specific federal solicitation. (MCA 90-1-118 (2))
6. Provide a statement that the company is not concurrently receiving funding from other Montana state funding programs whose purpose is to provide matching grants to businesses receiving funding from Federal SBIR or STTR programs. (MCA 90-1-118 (4))
7. The business certifies that at least 51% of the research described in any proposal for Phase II funding is to be conducted in Montana and that the business will remain a Montana-based business for the duration of the Phase II project. (MCA 90-1-118 (5))
8. The business demonstrates an ability to conduct research for the Phase II proposal. (MCA 90-1-118 (6))

9. The business states intent to apply for a Phase II proposal provided that such an opportunity to do so is available. (MCA 90-1-117 (1))
10. Provide an itemized budget, a justification for each line of the budget, and a detailed narrative describing the objectives for which Stage I funding will be used. Department funds must be used to help the company complete the SBIR/STTR Phase I project, prepare and submit a Phase II proposal, or otherwise assist the company in the eventual development of a product or service related to the Phase I award. Applicants must use the attached Stage 1 budget form.
11. Provide a copy of a fully executed grant agreement/contract for the Phase I award with the participating Federal agency, or other documentation showing that the participating Federal agency has begun to make project payments. (MCA 90-1-119 (4)(b))
12. Provide the start and end dates for the Phase I project.
13. Provide the requested start and end dates for the Stage 1 project.

Stage 2 Application Requirements

Only Stage 1 grant recipients are eligible for Stage 2 disbursements. Applications for Stage 2 funding must be received by the Department no later than 90 days after the scheduled end date of the Phase I project, unless the participating Federal agency is operating on a schedule that does not require submission of Phase II proposals during the 90 day period. If this is the case, the applicant must notify the Department of this fact during the 90 day period and explain why an extension to the 90 days should be granted. All required information for a Stage 2 application must be submitted electronically. Applicants must submit items 1 through 3 below in a single submission to be considered for the remaining 50% of the total match award. Submissions should be emailed to jtodd@mt.gov.

1. The company must provide evidence that the Phase I final report was received and accepted by the Federal SBIR/STTR agency, that the terms of the SBIR/STTR Phase I grant agreement/contract between the company and the participating Federal agency were satisfactorily met by the company, and that the Phase II proposal has been submitted to and received by the participating Federal agency. Such evidence must include:
 - a) A copy of the Phase I final report. (MCA 90-1-119 (3)(b))
 - b) Verification of the final payment to the company under the Phase I contract, or documentation showing that all of the Phase I funds have been drawn down. In the event that final payment is pending, a letter from the relevant Federal agency

documenting the company's successful completion of the Phase I contract, including a statement of eligibility for final payment, may be substituted.

- c) Proof that the Phase II proposal has been submitted to and accepted by the participating Federal agency within the eligibility period. An example of this would be written or electronic notification from the agency confirming date of proposal receipt. (MCA 90-1-119(3)(b))
 - d) A copy of the Phase II proposal. (MCA 90-1-119(3)(b))
2. If the participating Federal SBIR/STTR agency requires that the Phase I awardee receive an invitation to submit a Phase II application, a copy of the invitation must be submitted to the Department. If the participating Federal SBIR/STTR agency does not require that the Phase I awardee receive an invitation to submit a Phase II proposal, the company must so inform the Department. (MCA 90-1-119 (3)(b))
 3. Provide an itemized budget, a justification for each line of the budget, and a detailed narrative describing the objectives for which Stage 2 funding will be used. Department funds must be used to help the company complete the SBIR/STTR Phase II project or otherwise assist the company in the eventual development of a product or service related to the Phase II application. Applicants must use the attached Stage 2 budget form.

Application Submission and Review

Applications will be reviewed to determine compliance with the requirements of these guidelines. To qualify for funding, applications must be complete and in full compliance with all requirements. Incomplete or non-compliant applications may be dropped from consideration. At its discretion the Department may request supplemental materials from the applicant and such materials must be received within 15 days of the date of the request or the application may be rejected.

Applications that meet all requirements set forth in these guidelines may be approved for funding, at the discretion of the Department, on a rolling, first-come first-served basis until the funds available for the Montana SBIR/STTR Matching Funds Program have been exhausted.

Confidentiality and Non-Disclosure Agreement

Once information is submitted to the Department, the information is subject to the public's right to know pursuant to Article II, Section 9 of the Montana Constitution. Written information is subject to the right of citizens to inspect and copy pursuant to §2-6-102, MCA, unless there is an

individual privacy interest that clearly exceeds the merits of public disclosure. Public disclosure may also negatively impact an applicant's ability to protect its intellectual property by patent or other legal means.

Upon submission of any potentially confidential information, the applicant may enter into a confidentiality and non-disclosure agreement with the Department and provide an affidavit so that there is a clear understanding of the rights and obligations of the applicant relative to protection of sensitive information in Montana. Please use the attached confidentiality and non-disclosure agreement, and affidavit.

For additional information, contact:

David P. Desch
Montana Department of Commerce
301 S. Park Avenue – Suite #122 – Helena, MT 59601
P.O. Box 200501 - Helena, MT 59620
Phone (406) 841-2760/ (406) 841-2759
Fax (406) 841-2761
ddesch@mt.gov
jtodd@mt.gov

**Montana SBIR/STTR Matching Funds Program
Budget – Stage 1**

Budget Item	Award Funds
Salaries	
Payroll Benefits	
Repair and Maintenance	
Travel	
Communications	
Contracted Services	
Supplies and Materials	
Rent	
Equipment	
Subcontracts	
Other (Identify)	
Facilities and Administrative Costs	
Total	\$

Provide justification for each budget line item.

Provide a detailed narrative describing the objectives for which Stage 1 funds will be used.



**Montana SBIR/STTR Matching Funds Program
Budget – Stage 2**

Budget Item	Award Funds
Salaries	
Payroll Benefits	
Repair and Maintenance	
Travel	
Communications	
Contracted Services	
Supplies and Materials	
Rent	
Equipment	
Subcontracts	
Other (Identify)	
Facilities and Administrative Costs	
Total	\$

Provide justification for each budget line item.

Provide a detailed narrative describing the objectives for which Stage 2 funds will be used.

**MONTANA DEPARTMENT OF COMMERCE
MONTANA SBIR/STTR MATCHING FUNDS PROGRAM**

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is made as of the (day) day of (month), (year), by and between (Name of Applicant) (“Applicant”) and its affiliates and the Montana Department of Commerce (“MDOC”) and its affiliates.

WHEREAS, the MDOC has requested and/or may request verbal and written information from Applicant and its affiliates regarding the Applicant and certain of its affiliates and Project (including without limitation the proposed (Project Description) to be located in (name of City, Town, or County), Montana incident to discussions concerning one or more possible grants for the benefit of Applicant. The MDOC will accept a copy of the Application and any supporting documentation submitted by Applicant.

NOW, THEREFORE, in consideration of the premises and the disclosure of such information, each Party hereby, intending to be legally bound, agrees to the following provisions:

1. Applicant understands and agrees that, pursuant to the Montana Supreme Court’s decision in *Great Falls Tribune v. Public Service Commission*, 319 Mont. 38, 82 P.3d 876 (2003), all documents filed with the MDOC by Applicant are presumptively available for access by the public under the “right to know” provision of Article 2, Section 9 of the Montana Constitution. Under the decision, however, the presumption that all documents filed by Applicant with the MDOC are public may be overcome by the proper showing, consistent with the court’s decision.
2. If Applicant submits documents or information to the MDOC that it considers confidential and wishes the documents or information to be withheld from public disclosure, it will identify which part of the documents or information it considers confidential at the time the documents or information are submitted. Applicant will identify the confidential items through an affidavit that clearly states the facts upon which it believes the documents or information should be withheld from public disclosure. The stated facts must be specific enough so that reviewing authorities can clearly understand the nature and basis of Applicant’s claims to the right of confidentiality. A statement that all documents or information submitted by Applicant are confidential, or other conclusory statements, will be ineffective to prevent public disclosure. Applicant understands and agrees that the affidavit it submits is subject to public disclosure.
3. If individual documents or information are not specified as confidential or the affidavit is factually insufficient to support confidentiality, the MDOC will deem the documents or information submitted as subject to public disclosure.

4. The MDOC will take reasonable steps to protect documents or information designated as confidential and for which Applicant submitted an affidavit clearly stating the factual basis for the claim of confidentiality. Upon receiving a written request from a third party to review any confidential documents or information, the MDOC will notify Applicant of the request in writing. The written notice provided by MDOC will enclose a copy of the third party request. The written notice and third party request will be sent by U.S. mail and by fax to the following addresses and fax numbers:

To (Name of Applicant): (Applicant Address)
Attention: (Name of Contact)
Fax #: (Fax Number)

with a copy to: (Address)
(If required) Attention: (Name of Contact)
Fax #: (Fax Number)

5. It is the responsibility of Applicant upon receipt of the written notice from MDOC to take such action as is necessary to protect the documents or information from disclosure, including obtaining a court order protecting the documents or information from disclosure if necessary. If the MDOC does not receive an order from a court of competent jurisdiction ordering the MDOC to maintain confidentiality of the requested information or the MDOC is not notified of other arrangements made between Applicant and the requesting party within 10 days from the date of the written notice by the MDOC to Applicant of the third party request, the information will be disclosed to the requesting party, notwithstanding the affidavit. The MDOC will not assert the right of confidentiality for Applicant in any court, whether sitting at law or in equity.

6. Applicant agrees that in the event MDOC discloses documents or information in accordance with the provisions of this Agreement, Applicant will not assert any claim, liability, demand, or cause of action against MDOC for a violation of any confidentiality interest, including - but not limited to the Applicant's ability to obtain protection of any intellectual property, in any documents or information that it has submitted to MDOC.

7. Applicant agrees to defend, indemnify, and save harmless the MDOC against and from any and all claims, liabilities, demands, causes of action, judgments, damages, and losses, including costs and attorneys' fees associated with any action for release of documents or information submitted to MDOC by Applicant, whether such action is brought in the name of Applicant or a third party.

8. The MDOC may be required by federal and state regulations and laws to provide access to state and federal audit and monitoring officials in order to document compliance with applicable state and federal regulations and laws. In the event and to the extent access to information provided to the MDOC by Applicant related to the grant program and otherwise subject to this Agreement is requested by federal or state auditors, Applicant agrees that the MDOC may disclose such information to such auditors, provided that (a) such information is used only by such auditors for the purposes set forth in the previous sentence, and for no other purposes whatsoever; and (b) such information in the possession of or otherwise disclosed to such auditors shall remain subject to the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

(Name of Applicant)

By: _____

Name: (Name)

Title: (Title)

MONTANA DEPARTMENT OF COMMERCE

By: _____

Name: Meg O'Leary

Title: Director

APPROVED BY:

Attorney for the Department

Rev. 3/13

AFFIDAVIT

State of Montana)

: ss.

County of _____)

COMES NOW, (Applicant Official), being first duly sworn upon his oath, deposes and states as follows:

That he/she is the (Title) of (Applicant) and offers the following in support of (Applicant's) claim of confidentiality for information submitted in support of Applicant's application to the Montana Department of Commerce for funds:

1. I am the (Title) of (Applicant) and offer the following in support of (Applicant's) claim of confidentiality for information submitted to the Montana Department of Commerce.

2. (Applicant) claims that the document titled (e.g., describe specific documents contained in Applicant's Application or Project Proposal) is confidential and should be withheld from public disclosure as it contains information developed by (Applicant) concerning its (e.g., intellectual property, technical data, or business forecasts and assessments). This information is consistently maintained by (Applicant) as confidential information and if disclosed could prejudice (Applicant's) competitive position and could result in financial losses to (Applicant).

3. (Applicant) claims that portions of the documents titled (e.g., describe specific documents contained in Applicant's Application or Project Proposal), including (describe portions of document that are confidential), are confidential and should be withheld from public disclosure as they contain information developed by (Applicant) concerning its (e.g., intellectual property, technical data, financial information). This information is consistently

maintained by (Applicant) as confidential information and if disclosed could prejudice (Applicant's) competitive position and could result in financial losses to (Applicant).

(Applicant Official)

This instrument was acknowledged before me on the ___ day of (Month), 201_ by (Applicant Official).

Printed Name: _____

Notary Public for the State of _____

Residing at _____

My commission expires: _____

(Seal)



AN ACT TEMPORARILY INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE COAL NATURAL RESOURCE ACCOUNT; ESTABLISHING THE INCREASE UNTIL JUNE 30, 2019; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% ~~through September 30, 2013, and beginning October 1, 2013, the amount of 2.9%~~ must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$1.275 million to the research and commercialization state special revenue account created in 90-3-1002, of which \$375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants for small business innovation research and small business technology transfer, \$125,000 per year is appropriated for fiscal years 2012 and 2013 to the high-performance supercomputing program in the department of commerce, and \$300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development of energy and natural resources doctoral programs at Montana tech of the university of Montana;

(iv) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

and

(E) \$300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2013) Disposal of severance taxes. Severance taxes collected under

this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% ~~through September 30, 2013, and beginning October 1, 2013, the amount of 2.9%~~ must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited

in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

- (i) \$65,000 to the cooperative development center;
 - (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;
 - (iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;
 - (iv) to the department of commerce:
 - (A) \$125,000 for a small business development center;
 - (B) \$50,000 for a small business innovative research program;
 - (C) \$425,000 for certified regional development corporations;
 - (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;
- and
- (E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 2. Effective date. [This act] is effective July 1, 2013.

- END -

I hereby certify that the within bill,
SB 0236, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2013.

Speaker of the House

Signed this _____ day
of _____, 2013.

SENATE BILL NO. 236

INTRODUCED BY OLSON, ANKNEY

BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL
GOVERNMENT

AN ACT TEMPORARILY INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE COAL NATURAL
RESOURCE ACCOUNT; ESTABLISHING THE INCREASE UNTIL JUNE 30, 2019; AMENDING SECTION
15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.



LRB-3940??
MPG:.....

emw +
cjs

1/21

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Gen. Cat.

1 AN ACT ^{Gen. Cat.} relating to: grants to certain small businesses that receive federal
2 grants and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 238.14 of the statutes is created to read:

4 **238.14 Grants to recipients of federal grants for research and**
5 **innovation.** (1) In this section:

6 (a) "Federal grant" means a grant awarded by the federal government under

7 Phase I of the federal small business innovation research program or Phase I of the

8 federal small business technology transfer program.

1 (b) "State matching grant" means a grant awarded by the corporation under
2 sub. (2).

3 (2) (a) The corporation shall develop and implement an economic development
4 program to award grants to qualifying recipients of federal grants under this
5 subsection. *state matching*

6 (b) A federal grant recipient may apply for a state matching grant on a form
7 provided by the corporation.

8 (c) Subject to pars. (d) and (e), the corporation may award a state matching
9 grant to a federal grant recipient that submits an application under par. (b) if the
10 federal grant recipient's principal place of business is located in this state and the
11 federal grant recipient demonstrates to the corporation's satisfaction that the
12 activity to be conducted in connection with the federal grant will benefit the economy
13 of this state.

14 (d) Before the corporation awards a state matching grant, the corporation shall
15 contract with the federal grant recipient. The corporation shall determine the
16 contract's terms, including the amount of the state matching grant, after negotiation

17 with the federal grant recipient. The contract shall provide at least the following:

18 That, 1. At a time determined by the corporation, the federal grant recipient shall file
19 with the corporation a report that shows the federal grant recipient's expenditures
20 of the federal grant and the state matching grant. *and that,* If the federal grant recipient fails
21 to submit a report that is acceptable to the corporation, the corporation may order
22 repayment of all or a portion of the state matching grant.

23 2. The federal grant recipient may assign the contract only upon the prior
24 written consent of the corporation.

That

provisions
to include all of
and specified in the contract

disbursal

***NOTE: I did not include any language concerning the date of contract termination because that language seems unnecessary in a bill and may conflict with the reporting and grant (dispersal) provisions of the draft. Please let me know if you have any questions or if you still want to include language concerning the termination date of the contract.

*

1 (e) 1. The corporation may award a state matching grant up to an amount that
2 is equal to \$50,000 or the amount of the federal grant, whichever is less.

3 2. The corporation may pay up to 50 percent of the state matching grant upon
4 the award of the federal grant. The corporation may pay the remainder of the state
5 matching grant upon the federal government's approval of the federal grant
6 recipient's application for a grant under Phase II of the federal small business
7 innovation research program or Phase II of the federal small business technology
8 transfer program, or at a later date determined by the corporation.

***NOTE: This provision authorizes WEDC to disperse the second installment of a state matching grant once the federal government has approved a Phase II application for the grant recipient, but the provision gives WEDC some flexibility as to exactly when the second installment of a grant is dispersed after that point. I did not include the two-thirds/one-third distribution from the Montana program because that appears to conflict with the requirement that a grant recipient detail in its final report to the state how the state grant moneys were expended—under the Montana regime, the grant is not completely dispersed until the "Stage II" report is submitted to the state, assuming the "Stage II" report is a report submitted to the state and not the Phase II report required to be submitted to the federal government under the SBIR/STTR grant program. Please let me know if you would like to do something other than give WEDC discretion to disperse the second installment of the grant upon approval of the Phase II application or at a later date.

disburse

disburse

disbursed

9 SECTION 2. Fiscal changes.

disburse

10 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
11 to the Wisconsin Economic Development Corporation under section 20.192 (1) (a) of
12 the statutes, as affected by the acts of 2013, the dollar amount is increased by
13 \$187,500 for the first fiscal year of the fiscal biennium in which this subsection takes
14 effect to provide grants to recipients of certain federal grants under section 238.14
15 of the statutes. In the schedule under section 20.005 (3) of the statutes for the
16 appropriation to the Wisconsin Economic Development Corporation under section

1 20.192 (1) (a) of the statutes, as affected by the acts of 2013, the dollar amount is
2 increased by \$187,500 for the second fiscal year of the fiscal biennium in which this
3 subsection takes effect to provide grants to recipients of certain federal grants under
4 section 238.14 of the statutes.

****NOTE: The proposal funds the grant matching program through an increase of \$187,500 per fiscal year to WEDC's existing GPR appropriation for economic development programs and general operations under s. 20.192 (1) (a). Is that consistent with your intent?

5

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3940/P1dn
MPG.....

emw
+ cjs

- Date -

Representative Clark:

Please review this draft carefully to ensure that it is consistent with your intent.

I did not include a definition of "small business" because it seems unnecessary, given that the program only applies for confirmed recipients of a federal grant under Phase I of the SBIR or STTR program. Please let me know if, instead, you want the state matching grant program to extend only to certain recipients of such a grant and not others.

Also, I did not include the statement of purpose language from the Montana guidelines included with the drafting instructions because ^{it's} LRB drafting policy prohibits the inclusion of such a statement of legislative intent or findings except in certain circumstances, none of which apply to this bill. ~~Additionally, a statement of legislative intent or findings is~~ disfavored for numerous reasons, including redundancy, unforeseen effects, inconsistent use of standards for statutory interpretation, and possible conflicts with the substance of the statutory language. Please let me know if you would like to discuss this matter further.

Please also see the drafter's notes embedded in the draft, and do not hesitate to contact me with any questions.

Thank you.

Such statements are

not to include

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3940/P1dn
MPG:emw&cjs:jm

February 14, 2014

Representative Clark:

Please review this draft carefully to ensure that it is consistent with your intent.

I did not include a definition of "small business" because it seems unnecessary, given that the program only applies for confirmed recipients of a federal grant under Phase I of the SBIR or STTR program. Please let me know if, instead, you want the state matching grant program to extend only to certain recipients of such a grant and not others.

Also, I did not include the statement of purpose language from the Montana guidelines included with the drafting instructions because it is LRB drafting policy not to include such a statement of legislative intent or findings except in certain circumstances, none of which apply to this bill. Such statements are disfavored for numerous reasons, including redundancy, unforeseen effects, inconsistent use of standards for statutory interpretation, and possible conflicts with the substance of the statutory language. Please let me know if you would like to discuss this matter further.

Please also see the drafter's notes embedded in the draft, and do not hesitate to contact me with any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Farrar, Andrew
Sent: Friday, February 21, 2014 1:40 PM
To: Gallagher, Michael
Subject: Rep. Clark LRB 3940/p1 Notes

Mike,

Thank you for taking my call regarding LRB 3940/p1. Below are my notes in response to your drafting notes. Please implement these notes into a /p2 version of the bill. Let me know if you have any additional questions.

Have a great weekend!

Andrew Farrar
Office of Rep. Fred Clark
Andrew.Farrar@legis.wisconsin.gov
Office: (608) 266-7746
Toll Free: (888) 534-0081

1. **Pg. 3, Line 2:** Language pertaining to a date of contract termination does not seem necessary. ✓
2. **Funding:** The program should allow WEDC to expend up to \$300,000 per fiscal year on the program (\$600,000 for the biennium) ✓
3. I realize that in my notes I use business and company interchangeably. Both of these terms refer to a "federal grant recipient" where this definition is applicable.

Addition to draft:

Create a "Stage 1" and "Stage 2" status for each of the respected halves of the total grant. D-Note

Stage 1 Application Requirements:

Require WEDC establish application qualifications *including* the requirements that the company: ✓

1. Provides documentation that the company has received a SBIR or STTR Phase 1 award from a participating Federal agency in response to a specific federal solicitation. ✓
2. Provide a statement that the company is not concurrently receiving funding from other Wisconsin state funding programs whose purpose is to provide matching grants to businesses receiving funding from Federal SBIR or STTR programs ✓
3. Certifies that at least 51% of the research described is to be conducted in Wisconsin and that the company will remain a Wisconsin-based business for the duration of the project. ✓
4. States intent to apply for a Phase II proposal provided that such an opportunity to do so is available ✓
5. Provides a copy of a fully executed grant agreement/contract for the Phase I award with the participating Federal agency, or other documentation showing that the participating Federal agency has begun to make project payments ✓

Company must submit a Stage 1 application to WEDC within 180 days of the effective start date of the Federal Phase I award - Company is eligible for Stage 1 award upon WEDC's review of the Stage 1 application. ✓

Stage 2 Requirements:

Require WEDC establish application qualifications *including* the requirements that the company:

1. Is a Stage 1 matching grant awardee ✓

2. Must provide evidence that the Phase I final report was received and accepted by the Federal SBIR/STTR agency, that the terms of the SBIR/STTR Phase I grant agreement/contract between the company and the participating Federal agency were satisfactorily met by the company, and that the Phase II proposal has been submitted to and received by the participating Federal agency. ✓
3. If the participating Federal SBIR/STTR agency requires that the Phase I awardee receive an invitation to submit a Phase II application, a copy of the invitation must be submitted to WEDC. If the participating Federal SBIR/STTR agency does not require an invitation, the company must so inform WEDC. D-Note

**Company must submit a Stage 2 application to WEDC within 90 days of effective end date of Phase 1 project. Applications that meet all requirements set forth in these guidelines may be approved for funding, at the discretion of WEDC, on a rolling, first-come first-served basis until the funds available in the Wisconsin SBIR/STTR Matching Funds Program (WEDC's allowance of expenditures for the program) have been exhausted. ** ✓