

**Effective 5/12/2015**

**Part 2**  
**Technology Commercialization and Innovation Act**

**63N-3-201 Title.**

This part is known as the "Technology Commercialization and Innovation Act."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-202 Purpose.**

- (1)
  - (a) The Legislature recognizes that the growth of new industry and expansion of existing industry requires a strong technology base, new ideas, concepts, innovations, and prototypes.
  - (b) Growth in industry frequently results from technological innovation generated by strong research institutions of higher education and by small businesses.
  - (c) Technical research in Utah's institutions of higher education should be enhanced and expanded, particularly in those areas targeted by the state for economic development.
  - (d) Most states enhance their research base by direct funding, usually on a matching basis.
  - (e) The purpose of this part is to catalyze and enhance the growth of these technologies by:
    - (i) encouraging interdisciplinary research activities in targeted areas;
    - (ii) facilitating the transition of these technologies out of the higher education environment into industry where the technologies can be used to enhance job creation; and
    - (iii) supporting the commercialization of technologies developed by small business to enhance job creation.
  - (f) The Legislature recognizes that one source of funding is to match state funds with federal funds and industrial support to provide and develop new technologies.
- (2) The Legislature recommends that the governor consider matching the allocation of economic development funds for the Technology Commercialization and Innovation Program with industry and federal grants.
- (3)
  - (a) The Legislature recommends that the funds be allocated on a competitive basis:
    - (i) to the various institutions of higher education in the state;
    - (ii) to companies working in partnership with institutions of higher education to commercialize their technologies; and
    - (iii) to small businesses that are developing promising technologies.
  - (b) The funds made available should be used to support:
    - (i) interdisciplinary research in the Technology Commercialization and Innovation Program in technologies that are considered to have potential for economic development in the state and to help transition these technologies out of institutions of higher education and into industry; and
    - (ii) small businesses in commercializing their promising technologies that have the potential to increase economic development in the state.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-203 Definitions.**

As used in this part:

- (1) "Business team consultant" means an experienced technology executive, entrepreneur, or business person who:
  - (a) is recruited by the office through a request for proposal process to work directly with a college or university in the Technology Commercialization and Innovation Program; and
  - (b) works with the institution to facilitate the transition of its technology into industry by assisting the institution in developing strategies, including spin out strategies when appropriate, and go-to-market plans, and identifying and working with potential customers and partners.
- (2) "Direct license" means a written license agreement between a company and a Utah institution of higher education related to technology developed at the institution of higher education with the intent of commercializing the technology or facilitating its transition into industry.
- (3) "Institution of higher education" means:
  - (a) a state institution of higher education as defined in Section 53B-3-102; or
  - (b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.
- (4) "Licensee" means:
  - (a) a company that executes or is in the process of executing a direct license; or
  - (b) a sublicensee of the technology from a direct license.
- (5) "Small business" means a business that:
  - (a) meets the size standards for the business's industry classification as identified by the United States Small Business Administration in 13 C.F.R. Sec. 121.201;
  - (b) is organized for profit;
  - (c) operates primarily within the United States;
  - (d) has a principal place of business in the state, including a manufacturing or service location; and
  - (e) is independently owned and operated.
- (6) "Technology Commercialization and Innovation Program" means:
  - (a) a federal- and industry-supported cooperative research and development program based at an institution of higher education; or
  - (b) a federal- and state-supported program for funding technologically innovative small businesses.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-204 Administration -- Grants and loans.**

- (1) The office shall administer this part.
- (2)
  - (a)
    - (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:
      - (A) an institution of higher education;
      - (B) a licensee; or
      - (C) a small business.
    - (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

- (i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or
- (ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.
- (c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.
- (d)
  - (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:
    - (A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or
    - (B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.
  - (ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.
  - (iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.
- (3)
  - (a) Funding allocations shall be made by the office with the advice of the board.
  - (b) Each proposal shall receive the best available outside review.
- (4)
  - (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.
  - (b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.
- (5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1-301, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-205 Business team consultants.**

- (1) The office may enter into work agreements with business team consultants through a request for proposal process to participate in the Technology Commercialization and Innovation Program.
- (2) Under a work agreement, a business team consultant shall assist a college or university in facilitating the transition of its technology into industry.

Renumbered and Amended by Chapter 283, 2015 General Session