

AN ACT relating to genomic research and medicine and making an appropriation therefor.

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 5 of this Act:

- (1) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, person, group, city, county, charter county, consolidated local government, urban-county government, or unified local government entity, or other entity engaged in research and development or commercialization related to genomic research and medicine;*
- (2) "Genomic research and medicine" means the study of the structure and function of the genomes of organisms and the medical discipline that uses genomic information as part of clinical care;*
- (3) "Kentucky-based" means a business with its principal place of business in Kentucky or at least fifty-one percent (51%) of its property and payroll located in Kentucky;*
- (4) "Qualified company" means an eligible company that may be granted funding pending final approval; and*
- (5) "Science organization" means an independent, nonprofit quasi-governmental organization with a statewide mission and demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, research and development, and science advancement.*

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

- (1) The cabinet shall have all the powers and authority, not explicitly prohibited by*

statute, necessary and convenient to carry out and effectuate the purposes of Sections 1 to 5 of this Act, including but not limited to:

(a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and

(b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to appropriations of the Commonwealth, grants, or contributions of money, property, labor, or other things of value to be used to carry out the program's operations, functions, and responsibilities.

(2) The cabinet may expend money in the fund created in Section 3 of this Act for reasonable administrative expenses directly incurred in carrying out the requirements of Sections 1 to 5 of this Act. It is the intent of the General Assembly that the fund created in Section 3 of this Act be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that revenues available that are generated through investments of the fund be redeposited in the fund and that those amounts be considered in establishing appropriations.

(3) The cabinet shall contract with a science organization to administer the program created in Section 4 of this Act. The cabinet shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the program created in Section 4 of this Act.

(4) No member of the cabinet, the science organization, or other administering entity, or their employees, outside experts, or their immediate family members shall directly or indirectly financially benefit in any award, contract, or agreement under the program.

(5) The cabinet and the science organization shall submit a joint annual report prior

to October 15 to the Governor and the General Assembly detailing its work related to the program created in Section 4 of this Act. The annual report shall include but not be limited to reporting on the progress made in achieving the program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, funding amounts invested in each project, and findings and recommendations to increase the program's effectiveness in achieving its purposes.

- (6) All records related to the administration of the program created in Section 4 of this Act shall be deemed property of the cabinet and shall be open records and subject to public inspection under KRS 61.870 to 61.884. Any research or information that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until the intellectual property rights have been fully protected.

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

- (1) The Kentucky genomic science fund is created in the State Treasury for the purpose of enabling Kentucky-based companies to undertake research and development or commercialization in the area of genomic research and medicine.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).
- (3) Notwithstanding KRS 45.229, any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Genomic Science Fund Program.

➔SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) A Kentucky Genomic Science Fund Program is created in the cabinet to provide funding to Kentucky-based companies to undertake research and development or commercialization work in the area of genomic research and medicine.

(2) The purpose of the program is to:

(a) Accelerate knowledge transfer and innovation, improve economic competitiveness, and spur economic growth of Kentucky-based companies involved in genomic research and medicine;

(b) Support research and development activities that have potential to lead to commercially successful products, processes, practices, or services in genomic research and medicine;

(c) Stimulate growth-oriented genomic research and medicine enterprises within the Commonwealth;

(d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's public and private colleges and universities, and research organizations in genomic research and medicine; and

(e) Promote research and development or commercialization activities in genomic research and medicine that are market-oriented.

➔SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The science organization may review applications, qualify companies, and certify qualified companies.

(2) The science organization shall develop application criteria and an application process.

(3) The science organization shall focus on providing support to research and development projects that are likely to:

- (a) Produce a measurable result and be technically sound;
 - (b) Lead to innovative treatments, practices, or new knowledge;
 - (c) Lead to commercially successful products, processes, practices, or services;
 - or
 - (d) Show potential for stimulating innovation-driven economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.
- (4) An eligible company may submit to the science organization an application for funding. The application shall include but not be limited to the following information:
- (a) Verification that the applicant is an eligible company that is Kentucky-based;
 - (b) A technical research or commercialization plan that is sufficient for outside expert review;
 - (c) A detailed financial analysis that includes the commitment of resources by the applicant and others;
 - (d) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement;
 - (e) A statement of the economic development potential of the project; and
 - (f) Any other information the science organization may require.
- (5) The science organization shall conduct an independent review using internal and external resources to evaluate each application. Following the application review, the science organization shall make a written determination of whether the applicant is a qualified company as defined in Section 1 of this Act.
- (6) Before a qualified company is approved for funding, the qualified company shall negotiate an agreement and funding contract that is satisfactory to the science

organization with any project partners to undertake the research and development work.

(7) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section, the science organization shall negotiate the terms for funding with the qualified company and shall enter into a contract with the qualified company if an agreement is reached.

(8) Any agreement shall include a provision that a qualified company shall, at a minimum, match the funding provided through the science organization on a one (1) to one (1) dollar ratio for each year of the project. The science organization shall have sole discretion to authorize an in-kind contribution in lieu of part of the match required for the qualified company, if the science organization determines that the financial limitations of the qualified company warrant this authorization.

(9) The science organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky genomic science fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out Sections 1 to 5 of this Act.

(10) The science organization, upon approval by the cabinet, shall issue guidelines for statewide notification of the program's availability and a program schedule, including but not limited to an application review cycle that provides a deadline for:

(a) Submission of applications, which shall be at least biennially; and

(b) Completing the review of applications, which shall not exceed five (5) months after the application submission deadline.