



ANNAPOLIS REPORT

2006 Legislative Session Review

The 2006 session of the Maryland General Assembly was one of the most spirited in recent memory and among the busiest ever for the Tech Council of Maryland (TCM).

Biotechnology, for the most part, proved to be one of the winners. Though efforts to enhance the existing Biotechnology Investment Incentive Act did not pass, the industry benefited when the legislature approved \$6 million for the program as well as \$15 million for stem cell research.

Thanks in part to an improving economy and increased tax revenues, economic development enjoyed sizable budget increases after years of decline. Budget enhancements were realized in virtually every area including sizable increases for the Department of Business and Economic Development (DBED) and the Maryland Technology Development Corporation (TEDCO).

Legislative victories were also measured in what did not pass, which included no adverse changes to the corporate tax climate, defeat of drug importation bills and failure of legislation that had unintended consequences for biomedical research.

The biggest disappointment for the tech industry was the failure to increase caps for the existing Research and Development Tax Credit. Through a lot of hard work, TCM and other advocates were able to move this bill through the House, but time ran out before the measure could pass the Senate.

TCM thanks its members for their contributions during this year's session. Member participation was strong and legislators took notice. TCM received positive feedback that legislators heard from the technology business community loud and clear this year. Keep up the good work!

During the interim and beyond, TCM urges members to continue getting to know your legislators. In particular, reach out to the

Senators and Delegates that represent where you live and work. Tell them you support TCM's priorities as well as a pro-business environment for tech industry companies in Maryland. If you have any questions about how to do this or require information on any legislative matter, please contact Brian Levine, Director of Government Relations, at 240-453-6211 or e-mail him at blevine@techcouncilmd.com.

The *Annapolis Report* examines the 2006 legislative session of the Maryland General Assembly using TCM's [2006 Policy Platform](#) as a guideline. This report summarizes selected bills and budget items that may have been of interest to TCM members.

TCM's 2006 Policy Platform is as follows:

- [Capital Formation](#)
- [Protecting Opportunities For Technology Innovation In Maryland](#)
- [Higher Education](#)
- [Corporate Taxes](#)
- [Transportation](#)
- [IT Globalization](#)

CAPITAL FORMATION

Increase access to capital for early-stage technology and biotechnology companies, invest pension fund monies in technology companies and support State seed funding programs.

Budget Item -- Supported

\$6 million for the Biotechnology Investment Incentive Act (program was adopted in 2005, but was not funded).

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Budget Item -- Supported

\$132 million for DBED, a \$27 million increase over last year.

Budget Item -- Supported

\$5.8 million for the TEDCO, a \$1 million increase over last year.

Budget Item -- Supported

\$1 million funding increase for the Maryland Industrial Partnerships (MIPS), the first budget enhancement in many years.

Budget Item -- Supported

\$250,000 for the Germantown Life Sciences Incubator, which was added to the Capital Budget.

Budget Item -- Supported

\$1.7 million for Montgomery College to begin design on the new Bioscience Education Center.

Business and Economic Development - Biotechnology Investment Incentive Act (HB 1558) -- Supported

Would have amended the Biotechnology Investment Incentive Act adopted in 2005 to: (1) impose a three-year waiting period before receiving credit and eliminate the ability to make the credit available as a refund; (2) cap the amount of tax credit available for investments made in a single company at the lesser of (a) \$2 million, or (b) 20% of the appropriations to the fund in a given fiscal year; (3) increase the cap on the amount of tax credit available per venture capital firm or per individual in a given fiscal year; (4) impose restrictions on certain related parties' eligibility for the credit; and (5) allow DBED to establish a process or regulations to handle the situation when multiple investors apply at the same time and there is insufficient funds available to cover the credits. This program was created during the 2005 session, but contained some administrative flaws and no funding. Most importantly, the Governor budgeted \$6 million of funding for the program this year, which the legislature approved. Unfortunately, changes, both technical and substantive (making the credit more attractive to larger venture capital investors) were not successful this year. However, the news is not all bad because the \$6 million in funding essentially means that this program, though established in 2005, begins this year.

Outcome: did not pass.

Income Tax - Maryland Biotechnology Tax Benefit Certificate Program (SB 954/HB 834) -- Supported

Would have created a Maryland Biotechnology Tax Benefit Certificate Program to allow new or expanding biotechnology companies to sell net operating losses, or NOLs, and tax credits associated with research and development. Would have allowed the approval of up to \$20 million per year in tax benefits. Would have capped a company's NOL sales to no more than \$4 million during its lifetime. TCM supports the examination of unique ideas such as the ability to sell NOLs. Programs such as these could serve as another tool for technology business, particularly those in the biotechnology field, to help survive during the early stages of product development. **Outcome: did not pass.**

Corporate Income Tax - Tax Credit for Location in a Higher Education-Affiliated Research Park (SB 739/HB 1139) -- Supported

Would have authorized the approval of \$4 million annually in tax credits for corporations that locate in a higher education affiliated research park located. Would have established that the credit is equal to 100% of the costs, including the first six months of rental or leasing costs, associated with locating at the research park. Would have established that the maximum value of the credit cannot exceed \$50,000 or the tax liability in the tax year. Currently, Johns Hopkins, the University of Maryland, College Park, the University of Maryland, Baltimore, the University of Maryland Baltimore County and Montgomery College all have research parks at various stages of planning and construction. Research parks play a vital role in Maryland's ability to compete for the tech jobs of today as well as tomorrow. **Outcome: did not pass.**

PROTECTING OPPORTUNITIES FOR TECHNOLOGY INNOVATION

Maintain Maryland's reputation for technology innovation by supporting the research and development tax credit, stem cell research and an integrated nano-biotechnology initiative and opposing any changes to existing law regarding clinical trials and prescription drug importation.

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Budget Item -- Supported

\$15 million approved for the Stem Cell Research Fund, making Maryland the fourth state to budget monies for this type of research.

Budget Item -- Supported

\$2.5 million approved for new nano-biotechnology research initiative, a partnership between DBED and the University System of Maryland.

Budget Item -- Supported (was not approved)

A budget request of \$13.5 million to create a Center for Regenerative Research was cut from the budget.

Maryland Stem Cell Research Act of 2006

(SB 144/HB 1) -- Supported

Creates a Stem Cell Research Fund to promote State-funded stem cell research through grants and loans to public and private entities in Maryland. Creates an independent Stem Cell Research Commission under TEDCO as well as a scientific peer review committee to evaluate stem cell research proposals in order to choose the most promising research for funding. Allows monies to be used for both embryonic and adult stem cell research. Allows, but does not require, the Governor to allocate funding on annual basis - for FY2007, \$15 million was allocated for stem cell research. The passage of this legislation shows Maryland's commitment to growing its research and biotechnology industries.

Outcomes: SB 144 signed by the Governor as Chapter 19, Acts of 2006 - effective July 1, 2006. HB 1 did not pass.

Business and Economic Development - Research and Development Tax Credit

(SB 218/HB 311) -- Supported

Would have increased the amount of the Maryland Research and Development Tax Credit's (R&D Tax Credit) basic credit cap to \$6 million and the growth credit cap to \$6 million. Would have limited to \$500,000 the amount that an individual or corporation may obtain in a calendar year for each component of the credit. Amendments would have increased the growth credit cap to \$5 million. TCM supported all four bills this session that enhanced the R&D Tax Credit. This credit serves as an invaluable tool for attracting and retaining R&D in Maryland. Companies performing R&D create family supporting jobs and employ a highly educated workforce. **Outcome: did not pass.**

Maryland Research and Development Tax Credit - Expansion and Modification (SB 700) -- Supported

Would have increased the amount of the R&D Tax Credit's basic credit cap to \$4 million and the growth credit cap to \$10 million. Would have required DBED to adopt regulations that establish a competitive process for the award of tax credits that gives favorable weight to whether: (1) a company is headquartered or has principal business operations in Maryland; (2) a company is a start-up company that does not have more than 100 employees; (3) the qualified expenses were incurred through R&D related to nanotechnology; (4) it would be unlikely that a company would engage in additional Maryland qualified R&D without the tax credits; and (5) a company demonstrates a high likelihood of expansion of property, personnel and payroll in Maryland in the next calendar year. Would have removed prorating if the amount of credits applied for exceeds the aggregate limits. **Outcome: did not pass.**

Income Tax - Research and Development Tax Credit - Modifications (HB 984) -- Supported

Would have increased the amount of the R&D Tax Credit's basic credit cap to \$5 million and the growth credit cap to \$7 million. **Outcome: did not pass.**

Prescription Drugs - Canadian Mail Order Plan (SB 568) -- Opposed

Would have required the State of Maryland to develop a Canadian mail order plan for the purchase and importation of prescription drugs to: (1) State Employee and Retiree Health and Welfare Benefits Program enrollees; (2) Medicaid and Maryland Pharmacy Assistance Program enrollees; (3) any other State prescription drug program considered appropriate; (4) any local jurisdiction or local boards of education that requests participation for local government and board of education employees and retirees; and (5) any Marylander without health insurance or prescription drug coverage. TCM opposes any effort to circumvent U.S. Food and Drug Administration regulations regarding drug importation or jeopardize the health of patients in Maryland through exposure to unsafe drugs. Additionally, Canadian drug importation has the potential to harm U.S. pharmaceutical and biotechnology companies. **Outcome: did not pass.**

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Public-Private Partnership for Health Care Coverage for All Marylanders ([HB 1510](#)) -- *Opposed*

Like SB 568, this bill would have, among a myriad of other things, required the State of Maryland to develop a Canadian mail order plan for the purchase and importation of prescription drugs. Again, TCM worked very hard to defeat legislation that would have allowed changes to drug importation law. **Outcome: did not pass.**

Health - Clinical Trials Data Bank ([HB 192](#)) -- *Monitored*

Would have prohibited a clinical trial sponsor from permitting any person to enroll a participant in a clinical trial in Maryland unless, not later than 21 days after a clinical trial has been opened to enrollment, the sponsor has submitted the following information to the federal Clinical Trials Data Bank: (1) a description of the purpose of an experimental drug used in the clinical trial; (2) the eligibility criteria for clinical trial participation; (3) a description of the location of the clinical trial sites in Maryland; and (4) identification of a contact for individuals who want to enroll in the clinical trial. TCM opposes changes to clinical trial procedures that have the potential to harm Maryland's biotech and pharma industries. **Outcome: did not pass.**

Prescription Drug Safety Act ([HB 1190](#)) -- *Supported in Concept*

Would have repealed provisions related to distribution permits issued by the State Board of Pharmacy and instead would have required the Board to license wholesale distributors before the distributors engage in wholesale distribution of prescription drugs in Maryland. Would have required the Board license a manufacturer located in Maryland before the manufacturer invoices or ships its own prescription drugs. This legislation was a good starting point for the discussion of how to address a number of issues relating to prescription drug safety. **Outcome: did not pass.**

Ferret Protection Act ([SB 1017/HB 1292](#)) -- *Opposed*

Would have provided that a person in the business of breeding, distributing or aiding in the wholesale or retail distribution of ferrets may not transport, sell or offer for sale a ferret that is under 10 weeks of age or has not been spayed or neutered. Passage of this bill would have had unintended consequences for the bioscience industry, which use ferrets in research for

treatment of diseases such as influenza. **Outcome: did not pass.**

Creation of a State Debt - Montgomery County - Germantown Life Sciences Incubator ([SB 652/HB 784](#)) -- *Supported*

Would have authorized the creation of a State Debt not to exceed \$5,000,000 as a grant to Montgomery County for the acquisition, planning, design, construction, renovation, reconstruction and capital equipping of the Germantown Life Sciences Incubator, located next to the Germantown campus of Montgomery College. **Outcome: did not pass - though this bill failed, \$250,000 was added to the State's Capital Budget for this purpose.**

Property Tax - Exemption for Property Used as a Business Incubator ([SB 633/HB 252](#)) -- *Supported*

Would have provided a tax exemption for property used as a business incubator if a State, county, municipal or public higher education institution controls the incubator. Incubators are an important tool because they offer below market rent to start-up technology companies. These low costs help facilitate survival, growth and expansion of cutting edge companies. **Outcome: did not pass.**

Economic Development and Tax Incentive Reporting Requirements ([HB 1492](#)) -- *Opposed*

Would have required DBED to submit a Unified Economic Development and Tax Incentive Report and the State Department of Assessments and Taxation to submit a Unified Property Tax Exemption and Credit Report to the General Assembly each year. Would have required the Unified Economic Development and Tax Incentive Report to contain a listing of expenditures made for economic development purposes during the prior fiscal year. Would have required the Unified Property Tax Exemption and Credit Report to contain a list of all property tax exemptions or credits for the previous fiscal year that are development subsidies, including the name of the property owner, the address of the property and the amount of property tax revenue not collected by the taxing authority as a result of the property tax exemption or credit. This bill required excessive reporting that would have made economic development efforts both on the State and local levels more difficult. **Outcome: did not pass.**

**Rural Broadband Communication Services
(SB 753/HB 1156) -- Monitored**

Creates a Rural Broadband Coordination Board and the Rural Broadband Assistance Fund to provide broadband communication infrastructure to underserved areas of the State. Requires the Governor to include in the annual budget at least \$4 million in FY2008 and FY2009 for the Rural Broadband Assistance Fund. The FY2007 budget contains \$2 million for rural broadband development. Ensuring that Maryland's underserved regions, particularly those in rural regions, have access to broadband is important to economic development efforts and the ability to grow tech businesses in every corner of the State. **Outcome: SB 753 signed by the Governor as Chapter 269, Acts of 2006 - effective July 1, 2006.**

HIGHER EDUCATION

Expand access to higher education and fostering collaboration between academia and the private sector.

Higher Education - Tuition Affordability Act of 2006 (SB 959/HB 1381) -- Monitored

Establishes a Commission to Develop the Maryland Model for Funding Higher Education to review a consultant's report on effective higher education funding and make recommendations for the establishment of a consistent and stable funding mechanism for institutions of higher education. Establishes that the Commission consist of, among others, four members from the business community, appointed jointly by the President of the Senate and Speaker of the House, from among the following six organizations: (1) **The Tech Council of Maryland**; (2) the Maryland Business Roundtable; (3) the Maryland Chamber of Commerce; (4) the Greater Washington Board of Trade; (5) the Greater Baltimore Committee; and (6) the President's Roundtable, Inc. Requires the Commission to submit a final report by December 31, 2007, and the commission terminates May 1, 2008. Prohibits University System of Maryland institutions and Morgan State University from increasing resident undergraduate tuition for the 2006-2007 academic year beyond the rates charged in the 2005-2006 academic year. **Outcome: SB 959 became law without the Governor's signature as Chapter 57, Acts of 2006 - effective June 1, 2006. HB 1381 became law without the Governor's signature as Chapter 58, Acts of 2006 - effective June 1, 2006.**

CORPORATE TAXES

Resist efforts to increase corporate taxes or to impose new corporate reporting requirements harmful to Maryland's business environment.

Corporate Income Tax Reform - Combined Reporting (SB 411) -- Opposed

Would have required unitary groups to file combined income tax returns and compute its Maryland taxable income using the combined reporting method: (1) taking into account the combined income of all members of the unitary group; (2) apportioning the combined income to Maryland using the combined factors of all members of the unitary group; and (3) allocating the amount determined among the members of the group that are subject to Maryland income tax. Seventeen states currently require combined reporting. Changes that make Maryland's corporate tax laws less attractive to businesses may harm economic development efforts. **Outcome: did not pass.**

Corporate Income Tax Reform (HB 76) -- Opposed

Similar to SB 411, would have required unitary groups to file combined income tax returns. **Outcome: did not pass.**

TRANSPORTATION

Support long-term traffic solutions including adequate funding for the Transportation Trust Fund, building the Inter-County Connector and expanding mass transit.

IT GLOBALIZATION

Support an efficient, fair and competitive environment where information technology companies can leverage the global workforce and remain competitive.