

By: Morrison

H.B. No. 1188

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emerging technology fund.

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

SECTION 1. Section 490.001, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subdivision (1) and adding Subdivision (4) to read as follows:

(1) "Committee" means the Texas Emerging Technology Advisory Committee.

(4) "Award" means:

(A) for purposes of Subchapter D, an investment in the form of equity or a convertible note;

(B) for purposes of Subchapter E, an investment in the form of a debt instrument;

(C) for purposes of Subchapter F, a grant; or

(D) other forms of contribution or investment as recommended by the committee and approved by the governor, lieutenant governor, and speaker of the house of representatives.

SECTION 2. Section 490.003(a), Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) An emerging technology industry participant is eligible for funding under this chapter if the activity to be funded:

(1) will result in the creation of high-quality new

1 jobs in this state, immediately or over a longer period; or

2 (2) has the potential to result in a medical or  
3 scientific breakthrough or a breakthrough in the area of clean  
4 energy.

5 SECTION 3. The heading to Subchapter B, Chapter 490,  
6 Government Code, as added by Chapter 280, Acts of the 79th  
7 Legislature, Regular Session, 2005, is amended to read as follows:

8 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY ADVISORY COMMITTEE

9 SECTION 4. Section 490.051, Government Code, as added by  
10 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
11 is amended to read as follows:

12 Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging  
13 Technology Advisory Committee is composed of 17 members.

14 SECTION 5. Section 490.052(b), Government Code, as added by  
15 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
16 is amended to read as follows:

17 (b) The following persons may nominate one or more  
18 individuals who are industry leaders in this state or who are  
19 nationally recognized leaders [~~researchers~~] from public or private  
20 institutions of higher education in this state for appointment to  
21 the committee:

22 (1) [~~the Texas Higher Education Coordinating Board,~~  
23 [~~2~~] a president of a public or private institution  
24 of higher education in this state;

25 (2) [~~3~~] [~~the members of the Texas Workforce~~  
26 ~~Commission,~~

27 [~~4~~] a representative of the governor's office

1 involved in economic development activities;

2 (3) [~~(5)~~] a representative of the lieutenant  
3 governor's office involved in economic development activities;

4 (4) [~~(6)~~] a representative of the office of the  
5 speaker of the house involved in economic development activities;  
6 and

7 (5) [~~(7)~~] other persons considered appropriate by the  
8 governor.

9 SECTION 6. Section 490.054, Government Code, as added by  
10 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
11 is amended to read as follows:

12 Sec. 490.054. TERMS. Members of the committee serve  
13 staggered two-year terms, subject to the pleasure of the governor.

14 SECTION 7. Section 490.055, Government Code, as added by  
15 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
16 is amended to read as follows:

17 Sec. 490.055. [~~COMMITTEE~~] STAFF AND FUNDING. Necessary  
18 staff and funding for the administration of the fund [~~committee~~]  
19 shall be provided by:

20 (1) the office of the governor; and

21 (2) [~~the Texas Higher Education Coordinating Board,~~

22 [~~(3) the Texas Education Agency,~~

23 [~~(4) the Texas Workforce Commission,~~

24 [~~(5) another public entity represented by a committee~~  
25 ~~member, and~~

26 [~~(6)~~] gifts, grants, and donations for overhead  
27 expenses to the office of the governor [~~entities listed in~~

1 ~~Subdivisions (1)-(5)].~~

2 SECTION 8. Section 490.101, Government Code, as added by  
3 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
4 is amended by amending Subsections (c), (f), and (g) and adding  
5 Subsections (h) and (i) to read as follows:

6 (c) The fund may be used only for:

7 (1) the purposes described by Section 490.002; and

8 (2) necessary staff, administration of the fund  
9 including administration by the office of the governor, and  
10 services and expenses related to the fund as provided for by Section  
11 490.055.

12 (f) The administration of the fund is considered to be a  
13 trustee program within the office of the governor. The governor  
14 may negotiate on behalf of the state regarding awards [~~awarding, by~~  
15 ~~grant, money appropriated~~] from the fund. The governor may award  
16 money appropriated from the fund only with the express written  
17 prior approval of the lieutenant governor and speaker of the house  
18 of representatives.

19 (g) Before making an award [~~awarding a grant~~] under this  
20 chapter, the governor shall enter into a written agreement with the  
21 entity to receive the award [~~be awarded the grant money~~]. An  
22 agreement may specify that:

23 (1) if all or any portion of the amount of the award  
24 [~~grant~~] is used to build a capital improvement:

25 (A) the state retains a lien or other interest in  
26 the capital improvement in proportion to the percentage of the  
27 award [~~grant~~] amount used to pay for the capital improvement; and

1 (B) the recipient of the award [~~grant~~] shall, if  
2 the capital improvement is sold:

3 (i) repay to the state the award [~~grant~~  
4 ~~money~~] used to pay for the capital improvement, with interest at the  
5 rate and according to the other terms provided by the agreement; and

6 (ii) share with the state a proportionate  
7 amount of any profit realized from the sale; and

8 (2) if, as of a date certain provided in the agreement,  
9 the award [~~grant~~] recipient has not used the award received [~~grant~~  
10 ~~money awarded~~] under this chapter for the purposes for which the  
11 award [~~grant~~] was intended, the recipient shall repay that amount  
12 and any related interest applicable under the agreement to the  
13 state at the agreed rate and on the agreed terms.

14 (h) The governor may make awards in the form of loans,  
15 charge and receive reasonable interest for the loans, take an  
16 equity position in the form of stock or other security in  
17 consideration of an award, and sell or otherwise trade or exchange  
18 the security for the benefit of the fund. Interest or proceeds  
19 received as a result of a transaction authorized by this subsection  
20 shall be deposited to the corpus of the fund and may be used in the  
21 same manner as the corpus of the fund.

22 (i) The contract between the governor and a recipient of an  
23 award under this chapter may set the terms relating to an award.

24 SECTION 9. Section 490.102(a), Government Code, as added by  
25 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
26 is amended to read as follows:

27 (a) Money appropriated to the fund by the legislature, less

1 amounts necessary to administer the fund under Section 490.055,  
2 shall be allocated as follows:

3 (1) 50 percent of the money for incentives for  
4 collaboration between certain entities as provided by Subchapter D;

5 (2) 16.67 [~~25~~] percent of the money for research award  
6 [~~grant~~] matching as provided by Subchapter E; and

7 (3) 33.33 [~~25~~] percent of the money for acquisition of  
8 research superiority as provided by Subchapter F.

9 SECTION 10. Section 490.103(a), Government Code, as added  
10 by Chapter 280, Acts of the 79th Legislature, Regular Session,  
11 2005, is amended to read as follows:

12 (a) The contract between the governor and a recipient of an  
13 award [~~awarded a grant~~] under this chapter shall provide for the  
14 distribution of royalties, revenue, or other financial benefits  
15 realized from the commercialization of intellectual or real  
16 property developed from any award [~~grant awarded~~] from the fund. To  
17 the extent authorized by law and not in conflict with another  
18 agreement, the contract shall appropriately allocate by  
19 assignment, licensing, or other means the royalties, revenue, or  
20 other financial benefits among identifiable collaborating parties  
21 and in a specified percentage to this state for deposit in the fund.

22 SECTION 11. The heading to Subchapter D, Chapter 490,  
23 Government Code, as added by Chapter 280, Acts of the 79th  
24 Legislature, Regular Session, 2005, is amended to read as follows:

25 SUBCHAPTER D. INCENTIVES FOR [~~TO CREATE REGIONAL CENTERS OF~~  
26 ~~INNOVATION AND~~] COMMERCIALIZATION ACTIVITIES

27 SECTION 12. Section 490.153, Government Code, as added by

1 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
2 is amended to read as follows:

3 Sec. 490.153. PRIORITY FOR FUNDING. (a) In allocating  
4 ~~[awarding]~~ money from the fund under this subchapter, priority  
5 shall be given to proposals that:

6 (1) involve emerging scientific or technology fields  
7 that have a reasonable probability of enhancing this state's  
8 national and global economic competitiveness;

9 (2) may result in a medical or scientific breakthrough  
10 or a breakthrough in the area of clean energy;

11 (3) are collaborative between any combination of  
12 private or nonprofit entities and public or private agencies or  
13 institutions in this state;

14 (4) are matched with other available funds, including  
15 funds from the private or nonprofit entity or institution of higher  
16 education collaborating on the project; or

17 (5) have a demonstrable economic development benefit  
18 to this state.

19 (b) An amount not to exceed two percent of the amount  
20 allocated for a fiscal biennium for incentives under this  
21 subchapter may be invested directly in the regional centers of  
22 innovation and commercialization as recommended by the committee  
23 and approved by the governor, lieutenant governor, and speaker of  
24 the house of representatives to support commercialization  
25 activities.

26 SECTION 13. Section 490.155, Government Code, as added by  
27 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,

1 is amended to read as follows:

2           Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR  
3 MANUFACTURING IN TEXAS. A person or entity receiving [~~awarded~~]  
4 money from the fund under this subchapter must guarantee by  
5 contract that a substantial percentage of any new or expanded  
6 commercialization or manufacturing [~~of any real or intellectual~~  
7 ~~product~~] resulting from the award will be established in this  
8 state.

9           SECTION 14. Section 490.156(a), Government Code, as added  
10 by Chapter 280, Acts of the 79th Legislature, Regular Session,  
11 2005, is amended to read as follows:

12           (a) A person receiving [~~awarded~~] money from the fund under  
13 this subchapter may use the money to expedite commercialization  
14 that will lead to an increase in high-quality jobs in this state and  
15 shall use the money in accordance with a contract between the person  
16 and the office of the governor [~~committee~~].

17           SECTION 15. The heading to Subchapter E, Chapter 490,  
18 Government Code, as added by Chapter 280, Acts of the 79th  
19 Legislature, Regular Session, 2005, is amended to read as follows:

20                   SUBCHAPTER E. RESEARCH AWARD [~~GRANT~~] MATCHING

21           SECTION 16. The heading to Section 490.201, Government  
22 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
23 Session, 2005, is amended to read as follows:

24           Sec. 490.201. USE OF MONEY FOR RESEARCH AWARD [~~GRANT~~]  
25 MATCHING.

26           SECTION 17. Section 490.202, Government Code, as added by  
27 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,



1 is amended to read as follows:

2           Sec. 490.202. PRIORITY FOR FUNDING. In allocating  
3 ~~[awarding]~~ money from the fund under this subchapter, priority  
4 shall be given to proposals that accelerate commercialization into  
5 production by targeting programs that:

6           (1) address federal or other major research sponsors'  
7 priorities in emerging scientific or technology fields;

8           (2) are interdisciplinary;

9           (3) are collaborative with a combination of public or  
10 private institutions of higher education in this state;

11           (4) are likely to result in a medical or scientific  
12 breakthrough or a breakthrough in the area of clean energy; or

13           (5) have a demonstrable economic development benefit  
14 to this state.

15           SECTION 18. Section 490.253(a), Government Code, as added  
16 by Chapter 280, Acts of the 79th Legislature, Regular Session,  
17 2005, is amended to read as follows:

18           (a) The committee shall review and consider ~~[solicit and~~  
19 ~~identify]~~ proposals by public institutions of higher education for:

20           (1) creating new research superiority;

21           (2) attracting existing research superiority from  
22 institutions not located in this state and other research entities;  
23 or

24           (3) enhancing existing research superiority by  
25 attracting from outside this state additional researchers and  
26 resources.

27           SECTION 19. Section 490.254, Government Code, as added by

1 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
2 is amended to read as follows:

3 Sec. 490.254. PRIORITY FOR FUNDING. In allocating  
4 [~~awarding~~] money from the fund under this subchapter, priority  
5 shall be given to proposals that:

6 (1) involve scientific or technical fields that have a  
7 reasonable probability of enhancing this state's national and  
8 global economic competitiveness;

9 (2) may result in a medical or scientific breakthrough  
10 or a breakthrough in the area of clean energy;

11 (3) are interdisciplinary;

12 (4) have attracted or may attract federal and other  
13 funding for research superiority;

14 (5) are likely to create a nationally or  
15 internationally recognized locus of research superiority; or

16 (6) are matched with other funds available to the  
17 institution seeking funding under this subchapter.

18 SECTION 20. Section 490.255, Government Code, as added by  
19 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
20 is amended to read as follows:

21 Sec. 490.255. AUTHORIZED EXPENSES. Money allocated  
22 [~~awarded~~] from the fund under this subchapter may be used for  
23 research and research capability acquisition, including salaries  
24 and benefits, travel, consumable supplies, other operating  
25 expenses, capital equipment, and construction or renovation of  
26 facilities.

27 SECTION 21. (a) The changes in law made by this Act to

1 Sections 490.052 and 490.054, Government Code, as added by Chapter  
2 280, Acts of the 79th Legislature, Regular Session, 2005, apply  
3 only to a member of the Texas Emerging Technology Advisory  
4 Committee for a term beginning on or after September 1, 2007.

5 (b) At the first meeting of the Texas Emerging Technology  
6 Advisory Committee after September 1, 2007, the committee members  
7 shall draw lots to determine which eight members will serve  
8 one-year terms beginning on the date on which the next term  
9 beginning on or after September 1, 2007, begins.

10 SECTION 22. This Act takes effect September 1, 2007.