

1-1 By: Morrison (Senate Sponsor - Shapiro, Janek) H.B. No. 1188
1-2 (In the Senate - Received from the House May 4, 2007;
1-3 May 8, 2007, read first time and referred to Subcommittee on
1-4 Emerging Technologies and Economic Development; May 17, 2007,
1-5 reported favorably from Committee on Business and Commerce by the
1-6 following vote: Yeas 9, Nays 0; May 17, 2007, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the Texas emerging technology fund.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 490.001, Government Code, as added by
1-12 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
1-13 is amended by amending Subdivision (1) and adding Subdivision (4)
1-14 to read as follows:

1-15 (1) "Committee" means the Texas Emerging Technology
1-16 Advisory Committee.

1-17 (4) "Award" means:

1-18 (A) for purposes of Subchapter D, an investment
1-19 in the form of equity or a convertible note;

1-20 (B) for purposes of Subchapter E, an investment
1-21 in the form of a debt instrument;

1-22 (C) for purposes of Subchapter F, a grant; or

1-23 (D) other forms of contribution or investment as
1-24 recommended by the committee and approved by the governor,
1-25 lieutenant governor, and speaker of the house of representatives.

1-26 SECTION 2. Section 490.003(a), Government Code, as added by
1-27 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
1-28 is amended to read as follows:

1-29 (a) An emerging technology industry participant is eligible
1-30 for funding under this chapter if the activity to be funded:

1-31 (1) will result in the creation of high-quality new
1-32 jobs in this state, immediately or over a longer period; or

1-33 (2) has the potential to result in a medical or
1-34 scientific breakthrough or a breakthrough in the area of clean
1-35 energy.

1-36 SECTION 3. The heading to Subchapter B, Chapter 490,
1-37 Government Code, as added by Chapter 280, Acts of the 79th
1-38 Legislature, Regular Session, 2005, is amended to read as follows:

1-39 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY ADVISORY COMMITTEE

1-40 SECTION 4. Section 490.051, Government Code, as added by
1-41 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
1-42 is amended to read as follows:

1-43 Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging
1-44 Technology Advisory Committee is composed of 17 members.

1-45 SECTION 5. Section 490.052(b), Government Code, as added by
1-46 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
1-47 is amended to read as follows:

1-48 (b) The following persons may nominate one or more
1-49 individuals who are industry leaders in this state or who are
1-50 nationally recognized leaders [~~researchers~~] from public or private
1-51 institutions of higher education in this state for appointment to
1-52 the committee:

1-53 (1) [~~the Texas Higher Education Coordinating Board,~~

1-54 [~~2~~] a president of a public or private institution
1-55 of higher education in this state;

1-56 (2) [~~3~~] [~~the members of the Texas Workforce~~
1-57 ~~Commission,~~

1-58 [~~4~~] a representative of the governor's office
1-59 involved in economic development activities;

1-60 (3) [~~5~~] a representative of the lieutenant
1-61 governor's office involved in economic development activities;

1-62 (4) [~~6~~] a representative of the office of the
1-63 speaker of the house involved in economic development activities;
1-64 and

2-1 (5) [~~7~~] other persons considered appropriate by the
 2-2 governor.

2-3 SECTION 6. Section 490.054, Government Code, as added by
 2-4 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
 2-5 is amended to read as follows:

2-6 Sec. 490.054. TERMS. Members of the committee serve
 2-7 staggered two-year terms, subject to the pleasure of the governor.

2-8 SECTION 7. Section 490.055, Government Code, as added by
 2-9 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
 2-10 is amended to read as follows:

2-11 Sec. 490.055. [~~COMMITTEE~~] STAFF AND FUNDING. Necessary
 2-12 staff and funding for the administration of the fund [~~committee~~]
 2-13 shall be provided by:

- 2-14 (1) the office of the governor; and
- 2-15 (2) [~~the Texas Higher Education Coordinating Board;~~
- 2-16 [~~(3) the Texas Education Agency;~~
- 2-17 [~~(4) the Texas Workforce Commission;~~
- 2-18 [~~(5) another public entity represented by a committee~~
- 2-19 ~~member; and~~

2-20 [~~(6)~~] gifts, grants, and donations for overhead
 2-21 expenses to the office of the governor [~~entities listed in~~
 2-22 ~~Subdivisions (1)-(5)]~~.

2-23 SECTION 8. Section 490.101, Government Code, as added by
 2-24 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
 2-25 is amended by amending Subsections (c), (f), and (g) and adding
 2-26 Subsections (h) and (i) to read as follows:

2-27 (c) The fund may be used only for:

- 2-28 (1) the purposes described by Section 490.002; and
- 2-29 (2) necessary staff, administration of the fund
- 2-30 including administration by the office of the governor, and
- 2-31 services and expenses related to the fund as provided for by Section
- 2-32 490.055.

2-33 (f) The administration of the fund is considered to be a
 2-34 trustee program within the office of the governor. The governor
 2-35 may negotiate on behalf of the state regarding awards [~~awarding, by~~
 2-36 ~~grant, money appropriated~~] from the fund. The governor may award
 2-37 money appropriated from the fund only with the express written
 2-38 prior approval of the lieutenant governor and speaker of the house
 2-39 of representatives.

2-40 (g) Before making an award [~~awarding a grant~~] under this
 2-41 chapter, the governor shall enter into a written agreement with the
 2-42 entity to receive the award [~~be awarded the grant money~~]. An
 2-43 agreement may specify that:

2-44 (1) if all or any portion of the amount of the award
 2-45 [~~grant~~] is used to build a capital improvement:

2-46 (A) the state retains a lien or other interest in
 2-47 the capital improvement in proportion to the percentage of the
 2-48 award [~~grant~~] amount used to pay for the capital improvement; and

2-49 (B) the recipient of the award [~~grant~~] shall, if
 2-50 the capital improvement is sold:

2-51 (i) repay to the state the award [~~grant~~
 2-52 ~~money~~] used to pay for the capital improvement, with interest at the
 2-53 rate and according to the other terms provided by the agreement; and

2-54 (ii) share with the state a proportionate
 2-55 amount of any profit realized from the sale; and

2-56 (2) if, as of a date certain provided in the agreement,
 2-57 the award [~~grant~~] recipient has not used the award received [~~grant~~
 2-58 ~~money awarded~~] under this chapter for the purposes for which the
 2-59 award [~~grant~~] was intended, the recipient shall repay that amount
 2-60 and any related interest applicable under the agreement to the
 2-61 state at the agreed rate and on the agreed terms.

2-62 (h) The governor may make awards in the form of loans,
 2-63 charge and receive reasonable interest for the loans, take an
 2-64 equity position in the form of stock or other security in
 2-65 consideration of an award, and sell or otherwise trade or exchange
 2-66 the security for the benefit of the fund. Interest or proceeds
 2-67 received as a result of a transaction authorized by this subsection
 2-68 shall be deposited to the corpus of the fund and may be used in the
 2-69 same manner as the corpus of the fund.

3-1 (i) The contract between the governor and a recipient of an
3-2 award under this chapter may set the terms relating to an award.

3-3 SECTION 9. Section 490.102(a), Government Code, as added by
3-4 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
3-5 is amended to read as follows:

3-6 (a) Money appropriated to the fund by the legislature, less
3-7 amounts necessary to administer the fund under Section 490.055,
3-8 shall be allocated as follows:

3-9 (1) 50 percent of the money for incentives for
3-10 collaboration between certain entities as provided by Subchapter D;

3-11 (2) 16.67 [25] percent of the money for research award
3-12 [grant] matching as provided by Subchapter E; and

3-13 (3) 33.33 [25] percent of the money for acquisition of
3-14 research superiority as provided by Subchapter F.

3-15 SECTION 10. Section 490.103(a), Government Code, as added
3-16 by Chapter 280, Acts of the 79th Legislature, Regular Session,
3-17 2005, is amended to read as follows:

3-18 (a) The contract between the governor and a recipient of an
3-19 award [awarded a grant] under this chapter shall provide for the
3-20 distribution of royalties, revenue, or other financial benefits
3-21 realized from the commercialization of intellectual or real
3-22 property developed from any award [grant awarded] from the fund. To
3-23 the extent authorized by law and not in conflict with another
3-24 agreement, the contract shall appropriately allocate by
3-25 assignment, licensing, or other means the royalties, revenue, or
3-26 other financial benefits among identifiable collaborating parties
3-27 and in a specified percentage to this state for deposit in the fund.

3-28 SECTION 11. The heading to Subchapter D, Chapter 490,
3-29 Government Code, as added by Chapter 280, Acts of the 79th
3-30 Legislature, Regular Session, 2005, is amended to read as follows:

3-31 SUBCHAPTER D. INCENTIVES FOR ~~[TO CREATE REGIONAL CENTERS OF~~
3-32 ~~INNOVATION AND]~~ COMMERCIALIZATION ACTIVITIES

3-33 SECTION 12. Section 490.153, Government Code, as added by
3-34 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
3-35 is amended to read as follows:

3-36 Sec. 490.153. PRIORITY FOR FUNDING. (a) In allocating
3-37 [awarding] money from the fund under this subchapter, priority
3-38 shall be given to proposals that:

3-39 (1) involve emerging scientific or technology fields
3-40 that have a reasonable probability of enhancing this state's
3-41 national and global economic competitiveness;

3-42 (2) may result in a medical or scientific breakthrough
3-43 or a breakthrough in the area of clean energy;

3-44 (3) are collaborative between any combination of
3-45 private or nonprofit entities and public or private agencies or
3-46 institutions in this state;

3-47 (4) are matched with other available funds, including
3-48 funds from the private or nonprofit entity or institution of higher
3-49 education collaborating on the project; or

3-50 (5) have a demonstrable economic development benefit
3-51 to this state.

3-52 (b) An amount not to exceed two percent of the amount
3-53 allocated for a fiscal biennium for incentives under this
3-54 subchapter may be invested directly in the regional centers of
3-55 innovation and commercialization as recommended by the committee
3-56 and approved by the governor, lieutenant governor, and speaker of
3-57 the house of representatives to support commercialization
3-58 activities.

3-59 SECTION 13. Section 490.155, Government Code, as added by
3-60 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
3-61 is amended to read as follows:

3-62 Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR
3-63 MANUFACTURING IN TEXAS. A person or entity receiving [awarded]
3-64 money from the fund under this subchapter must guarantee by
3-65 contract that a substantial percentage of any new or expanded
3-66 commercialization or manufacturing [of any real or intellectual
3-67 product] resulting from the award will be established in this
3-68 state.

3-69 SECTION 14. Section 490.156(a), Government Code, as added

4-1 by Chapter 280, Acts of the 79th Legislature, Regular Session,
4-2 2005, is amended to read as follows:

4-3 (a) A person receiving ~~[awarded]~~ money from the fund under
4-4 this subchapter may use the money to expedite commercialization
4-5 that will lead to an increase in high-quality jobs in this state and
4-6 shall use the money in accordance with a contract between the person
4-7 and the office of the governor ~~[committee]~~.

4-8 SECTION 15. The heading to Subchapter E, Chapter 490,
4-9 Government Code, as added by Chapter 280, Acts of the 79th
4-10 Legislature, Regular Session, 2005, is amended to read as follows:

4-11 SUBCHAPTER E. RESEARCH AWARD ~~[GRANT]~~ MATCHING

4-12 SECTION 16. The heading to Section 490.201, Government
4-13 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular
4-14 Session, 2005, is amended to read as follows:

4-15 Sec. 490.201. USE OF MONEY FOR RESEARCH AWARD ~~[GRANT]~~
4-16 MATCHING.

4-17 SECTION 17. Section 490.202, Government Code, as added by
4-18 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
4-19 is amended to read as follows:

4-20 Sec. 490.202. PRIORITY FOR FUNDING. In allocating
4-21 ~~[awarding]~~ money from the fund under this subchapter, priority
4-22 shall be given to proposals that accelerate commercialization into
4-23 production by targeting programs that:

- 4-24 (1) address federal or other major research sponsors'
4-25 priorities in emerging scientific or technology fields;
4-26 (2) are interdisciplinary;
4-27 (3) are collaborative with a combination of public or
4-28 private institutions of higher education in this state;
4-29 (4) are likely to result in a medical or scientific
4-30 breakthrough or a breakthrough in the area of clean energy; or
4-31 (5) have a demonstrable economic development benefit
4-32 to this state.

4-33 SECTION 18. Section 490.253(a), Government Code, as added
4-34 by Chapter 280, Acts of the 79th Legislature, Regular Session,
4-35 2005, is amended to read as follows:

4-36 (a) The committee shall review and consider ~~[solicit and~~
4-37 ~~identify]~~ proposals by public institutions of higher education for:

- 4-38 (1) creating new research superiority;
4-39 (2) attracting existing research superiority from
4-40 institutions not located in this state and other research entities;
4-41 or
4-42 (3) enhancing existing research superiority by
4-43 attracting from outside this state additional researchers and
4-44 resources.

4-45 SECTION 19. Section 490.254, Government Code, as added by
4-46 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
4-47 is amended to read as follows:

4-48 Sec. 490.254. PRIORITY FOR FUNDING. In allocating
4-49 ~~[awarding]~~ money from the fund under this subchapter, priority
4-50 shall be given to proposals that:

- 4-51 (1) involve scientific or technical fields that have a
4-52 reasonable probability of enhancing this state's national and
4-53 global economic competitiveness;
4-54 (2) may result in a medical or scientific breakthrough
4-55 or a breakthrough in the area of clean energy;
4-56 (3) are interdisciplinary;
4-57 (4) have attracted or may attract federal and other
4-58 funding for research superiority;
4-59 (5) are likely to create a nationally or
4-60 internationally recognized locus of research superiority; or
4-61 (6) are matched with other funds available to the
4-62 institution seeking funding under this subchapter.

4-63 SECTION 20. Section 490.255, Government Code, as added by
4-64 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
4-65 is amended to read as follows:

4-66 Sec. 490.255. AUTHORIZED EXPENSES. Money allocated
4-67 ~~[awarded]~~ from the fund under this subchapter may be used for
4-68 research and research capability acquisition, including salaries
4-69 and benefits, travel, consumable supplies, other operating

5-1 expenses, capital equipment, and construction or renovation of
5-2 facilities.

5-3 SECTION 21. (a) The changes in law made by this Act to
5-4 Sections 490.052 and 490.054, Government Code, as added by Chapter
5-5 280, Acts of the 79th Legislature, Regular Session, 2005, apply
5-6 only to a member of the Texas Emerging Technology Advisory
5-7 Committee for a term beginning on or after September 1, 2007.

5-8 (b) At the first meeting of the Texas Emerging Technology
5-9 Advisory Committee after September 1, 2007, the committee members
5-10 shall draw lots to determine which eight members will serve
5-11 one-year terms beginning on the date on which the next term
5-12 beginning on or after September 1, 2007, begins.

5-13 SECTION 22. This Act takes effect September 1, 2007.

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