

1-1 By: Shapiro, Janek S.B. No. 486  
1-2 (In the Senate - Filed February 7, 2007; February 21, 2007,  
1-3 read first time and referred to Subcommittee on Emerging  
1-4 Technologies and Economic Development; April 20, 2007, reported  
1-5 adversely, with favorable Committee Substitute from Committee on  
1-6 Business and Commerce by the following vote: Yeas 8, Nays 0;  
1-7 April 20, 2007, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 486 By: Janek

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to the Texas emerging technology fund.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 490.001, Government Code, as added by  
1-14 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
1-15 is amended by amending Subdivision (1) and adding Subdivision (4)  
1-16 to read as follows:

1-17 (1) "Committee" means the Texas Emerging Technology  
1-18 Advisory Committee.

1-19 (4) "Award" means:

1-20 (A) for purposes of Subchapter D, an investment  
1-21 in the form of equity or a convertible note;

1-22 (B) for purposes of Subchapter E, an investment  
1-23 in the form of a debt instrument;

1-24 (C) for purposes of Subchapter F, a grant; or

1-25 (D) other forms of contribution or investment as  
1-26 recommended by the committee and approved by the governor,  
1-27 lieutenant governor, and speaker of the house of representatives.

1-28 SECTION 2. The heading to Subchapter B, Chapter 490,  
1-29 Government Code, as added by Chapter 280, Acts of the 79th  
1-30 Legislature, Regular Session, 2005, is amended to read as follows:

1-31 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY ADVISORY COMMITTEE

1-32 SECTION 3. Section 490.051, Government Code, as added by  
1-33 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
1-34 is amended to read as follows:

1-35 Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging  
1-36 Technology Advisory Committee is composed of 17 members.

1-37 SECTION 4. Subsection (b), Section 490.052, Government  
1-38 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
1-39 Session, 2005, is amended to read as follows:

1-40 (b) The following persons may nominate one or more  
1-41 individuals who are industry leaders in this state or who are  
1-42 nationally recognized leaders [~~researchers~~] from public or private  
1-43 institutions of higher education in this state for appointment to  
1-44 the committee:

1-45 (1) [~~the Texas Higher Education Coordinating Board;~~

1-46 [~~(2) a president of a public or private institution of~~  
1-47 ~~higher education in this state;~~

1-48 [~~(3) the members of the Texas Workforce Commission;~~

1-49 [~~(4)] a representative of the governor's office~~

1-50 involved in economic development activities;

1-51 (2) [(5)] a representative of the lieutenant  
1-52 governor's office involved in economic development activities;

1-53 (3) [(6)] a representative of the office of the

1-54 speaker of the house involved in economic development activities;  
1-55 and

1-56 (4) [(7)] other persons considered appropriate by the

1-57 governor.

1-58 SECTION 5. Section 490.054, Government Code, as added by  
1-59 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
1-60 is amended to read as follows:

1-61 Sec. 490.054. TERMS. Members of the committee serve  
1-62 staggered two-year terms, subject to the pleasure of the governor.

1-63 SECTION 6. Section 490.055, Government Code, as added by

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

2-3 Sec. 490.055. [~~COMMITTEE~~] STAFF AND FUNDING. Necessary  
2-4 staff and funding for the administration of the fund [~~committee~~]  
2-5 shall be provided by:

- 2-6 (1) the office of the governor;
- 2-7 (2) [~~the Texas Higher Education Coordinating Board;~~
- 2-8 [~~(3) the Texas Education Agency;~~
- 2-9 [~~(4) the Texas Workforce Commission;~~
- 2-10 [~~(5) another public entity represented by a committee~~
- 2-11 ~~member, and~~
- 2-12 [~~(6)~~] gifts, grants, and donations for overhead
- 2-13 expenses to the office of the governor; and
- 2-14 (3) any amount provided by the General Appropriations
- 2-15 Act to the office of the governor to administer the fund [~~entities~~
- 2-16 ~~listed in Subdivisions (1)-(5)].~~

2-17 SECTION 7. Section 490.101, Government Code, as added by  
2-18 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
2-19 is amended by amending Subsections (c), (f), and (g) and adding  
2-20 Subsections (h) and (i) to read as follows:

2-21 (c) The fund may be used only for:  
2-22 (1) the purposes described by Section 490.002; and  
2-23 (2) necessary staff, administration of the fund  
2-24 including administration by the office of the governor, and  
2-25 services and expenses related to the fund as provided for by Section  
2-26 490.055.

2-27 (f) The administration of the fund is considered to be a  
2-28 trusted program within the office of the governor. The governor  
2-29 may negotiate on behalf of the state regarding awards [~~awarding, by~~  
2-30 ~~grant, money appropriated~~] from the fund. The governor may award  
2-31 money appropriated from the fund only with the express written  
2-32 prior approval of the lieutenant governor and speaker of the house  
2-33 of representatives.

2-34 (g) Before making an award [~~awarding a grant~~] under this  
2-35 chapter, the governor shall enter into a written agreement with the  
2-36 entity to receive the award [~~be awarded the grant money~~]. An  
2-37 agreement may specify that:

2-38 (1) if all or any portion of the amount of the award  
2-39 [~~grant~~] is used to build a capital improvement:

2-40 (A) the state retains a lien or other interest in  
2-41 the capital improvement in proportion to the percentage of the  
2-42 award [~~grant~~] amount used to pay for the capital improvement; and

2-43 (B) the recipient of the award [~~grant~~] shall, if  
2-44 the capital improvement is sold:

2-45 (i) repay to the state the award [~~grant~~  
2-46 ~~money~~] used to pay for the capital improvement, with interest at the  
2-47 rate and according to the other terms provided by the agreement; and

2-48 (ii) share with the state a proportionate  
2-49 amount of any profit realized from the sale; and

2-50 (2) if, as of a date certain provided in the agreement,  
2-51 the award [~~grant~~] recipient has not used the award received [~~grant~~  
2-52 ~~money awarded~~] under this chapter for the purposes for which the  
2-53 award [~~grant~~] was intended, the recipient shall repay that amount  
2-54 and any related interest applicable under the agreement to the  
2-55 state at the agreed rate and on the agreed terms.

2-56 (h) The governor may make awards in the form of loans,  
2-57 charge and receive reasonable interest for the loans, take an  
2-58 equity position in the form of stock or other security in  
2-59 consideration of an award, and sell or otherwise trade or exchange  
2-60 the security for the benefit of the fund. Interest or proceeds  
2-61 received as a result of a transaction authorized by this subsection  
2-62 shall be deposited to the corpus of the fund and may be used in the  
2-63 same manner as the corpus of the fund.

2-64 (i) The contract between the governor and a recipient of an  
2-65 award under this chapter may set the terms relating to an award.

2-66 SECTION 8. Subsection (a), Section 490.102, Government  
2-67 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
2-68 Session, 2005, is amended to read as follows:

2-69 (a) Money appropriated to the fund by the legislature, less

3-1 amounts necessary to administer the fund under Section 490.055,  
 3-2 shall be allocated as follows:

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

3-5 (2) 16.67 [25] percent of the money for research award  
 3-6 [grant] matching as provided by Subchapter E; and

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

3-9 SECTION 9. Subsection (a), Section 490.103, Government  
 3-10 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
 3-11 Session, 2005, is amended to read as follows:

3-12 (a) The contract between the governor and a recipient of an  
 3-13 award [awarded a grant] under this chapter shall provide for the  
 3-14 distribution of royalties, revenue, or other financial benefits  
 3-15 realized from the commercialization of intellectual or real  
 3-16 property developed from any award [grant awarded] from the fund. To  
 3-17 the extent authorized by law and not in conflict with another  
 3-18 agreement, the contract shall appropriately allocate by  
 3-19 assignment, licensing, or other means the royalties, revenue, or  
 3-20 other financial benefits among identifiable collaborating parties  
 3-21 and in a specified percentage to this state for deposit in the fund.

3-22 SECTION 10. The heading to Subchapter D, Chapter 490,  
 3-23 Government Code, as added by Chapter 280, Acts of the 79th  
 3-24 Legislature, Regular Session, 2005, is amended to read as follows:

3-25 SUBCHAPTER D. INCENTIVES FOR ~~[TO CREATE REGIONAL CENTERS OF~~  
 3-26 ~~INNOVATION AND]~~ COMMERCIALIZATION ACTIVITIES

3-27 SECTION 11. Subsection (a), Section 490.151, Government  
 3-28 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
 3-29 Session, 2005, is amended to read as follows:

3-30 (a) Amounts allocated from the fund for use as provided by  
 3-31 this subchapter shall be reserved for incentives for private or  
 3-32 nonprofit entities to collaborate with public or private  
 3-33 institutions of higher education or other entities considered  
 3-34 appropriate by the committee in this state on emerging technology  
 3-35 projects with a demonstrable economic benefit to this state.

3-36 SECTION 12. Section 490.153, Government Code, as added by  
 3-37 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
 3-38 is amended to read as follows:

3-39 Sec. 490.153. PRIORITY FOR FUNDING. (a) In allocating  
 3-40 [awarding] money from the fund under this subchapter, priority  
 3-41 shall be given to proposals that:

3-42 (1) involve emerging scientific or technology fields  
 3-43 that have a reasonable probability of enhancing this state's  
 3-44 national and global economic competitiveness;

3-45 (2) may result in a medical or scientific  
 3-46 breakthrough;

3-47 (3) are collaborative between any combination of  
 3-48 private or nonprofit entities and public or private agencies or  
 3-49 institutions in this state;

3-50 (4) are matched with other available funds, including  
 3-51 funds from the private or nonprofit entity or institution of higher  
 3-52 education collaborating on the project; or

3-53 (5) have a demonstrable economic development benefit  
 3-54 to this state.

3-55 (b) An amount not to exceed two percent of the amount  
 3-56 allocated for a fiscal biennium for incentives under this  
 3-57 subchapter may be invested directly in the regional centers of  
 3-58 innovation and commercialization as recommended by the committee  
 3-59 and approved by the governor, lieutenant governor, and speaker of  
 3-60 the house of representatives to support commercialization  
 3-61 activities.

3-62 SECTION 13. Section 490.155, Government Code, as added by  
 3-63 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
 3-64 is amended to read as follows:

3-65 Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR  
 3-66 MANUFACTURING IN TEXAS. A person or entity receiving [awarded]  
 3-67 money from the fund under this subchapter must guarantee by  
 3-68 contract that a substantial percentage of any new or expanded  
 3-69 commercialization or manufacturing ~~[of any real or intellectual~~

4-1 ~~product~~] resulting from the award will be established in this  
4-2 state.

4-3 SECTION 14. Subsection (a), Section 490.156, Government  
4-4 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
4-5 Session, 2005, is amended to read as follows:

4-6 (a) A person receiving ~~[awarded]~~ money from the fund under  
4-7 this subchapter may use the money to expedite commercialization  
4-8 that will lead to an increase in high-quality jobs in this state and  
4-9 shall use the money in accordance with a contract between the person  
4-10 and the office of the governor ~~[committee]~~.

4-11 SECTION 15. The heading to Subchapter E, Chapter 490,  
4-12 Government Code, as added by Chapter 280, Acts of the 79th  
4-13 Legislature, Regular Session, 2005, is amended to read as follows:

4-14 SUBCHAPTER E. RESEARCH AWARD ~~[GRANT]~~ MATCHING

4-15 SECTION 16. The heading to Section 490.201, Government  
4-16 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
4-17 Session, 2005, is amended to read as follows:

4-18 Sec. 490.201. USE OF MONEY FOR RESEARCH AWARD ~~[GRANT]~~  
4-19 MATCHING.

4-20 SECTION 17. Section 490.202, Government Code, as added by  
4-21 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
4-22 is amended to read as follows:

4-23 Sec. 490.202. PRIORITY FOR FUNDING. In allocating  
4-24 ~~[awarding]~~ money from the fund under this subchapter, priority  
4-25 shall be given to proposals that accelerate commercialization into  
4-26 production by targeting programs that:

4-27 (1) address federal or other major research sponsors'  
4-28 priorities in emerging scientific or technology fields;

4-29 (2) are interdisciplinary;

4-30 (3) are collaborative with a combination of public or  
4-31 private institutions of higher education in this state;

4-32 (4) are likely to result in a medical or scientific  
4-33 breakthrough; or

4-34 (5) have a demonstrable economic development benefit  
4-35 to this state.

4-36 SECTION 18. Subsection (a), Section 490.253, Government  
4-37 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
4-38 Session, 2005, is amended to read as follows:

4-39 (a) The committee shall review and consider ~~[solicit and~~  
4-40 ~~identify]~~ proposals by public institutions of higher education for:

4-41 (1) creating new research superiority;

4-42 (2) attracting existing research superiority from  
4-43 institutions not located in this state and other research entities;  
4-44 or

4-45 (3) enhancing existing research superiority by  
4-46 attracting from outside this state additional researchers and  
4-47 resources.

4-48 SECTION 19. Section 490.254, Government Code, as added by  
4-49 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
4-50 is amended to read as follows:

4-51 Sec. 490.254. PRIORITY FOR FUNDING. In allocating  
4-52 ~~[awarding]~~ money from the fund under this subchapter, priority  
4-53 shall be given to proposals that:

4-54 (1) involve scientific or technical fields that have a  
4-55 reasonable probability of enhancing this state's national and  
4-56 global economic competitiveness;

4-57 (2) may result in a medical or scientific  
4-58 breakthrough;

4-59 (3) are interdisciplinary;

4-60 (4) have attracted or may attract federal and other  
4-61 funding for research superiority;

4-62 (5) are likely to create a nationally or  
4-63 internationally recognized locus of research superiority; or

4-64 (6) are matched with other funds available to the  
4-65 institution seeking funding under this subchapter.

4-66 SECTION 20. Section 490.255, Government Code, as added by  
4-67 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
4-68 is amended to read as follows:

4-69 Sec. 490.255. AUTHORIZED EXPENSES. Money allocated

5-1 [~~awarded~~] from the fund under this subchapter may be used for  
5-2 research and research capability acquisition, including salaries  
5-3 and benefits, travel, consumable supplies, other operating  
5-4 expenses, capital equipment, and construction or renovation of  
5-5 facilities.

5-6 SECTION 21. (a) The changes in law made by this Act to  
5-7 Sections 490.052 and 490.054, Government Code, as added by Chapter  
5-8 280, Acts of the 79th Legislature, Regular Session, 2005, apply  
5-9 only to a member of the Texas Emerging Technology Advisory  
5-10 Committee for a term beginning on or after September 1, 2007.

5-11 (b) At the first meeting of the Texas Emerging Technology  
5-12 Advisory Committee after September 1, 2007, the committee members  
5-13 shall draw lots to determine which eight members will serve  
5-14 one-year terms beginning on the date on which the next term  
5-15 beginning on or after September 1, 2007, begins.

5-16 SECTION 22. This Act takes effect September 1, 2007.

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