

**House Bill 2531**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter A, Chapter 490, Government Code, is amended by adding Section 490.005 to read as follows:

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SECTION 1. Subchapter A, Chapter 490, Government Code, is amended by adding Sections 490.005 and 490.006 to read as follows:

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Sec. 490.005. AUTHORITY TO CONTRACT WITH AN OUTSIDE ENTITY. (a) In this section, "investment portfolio" means the stocks or other securities of the fund that:

- (1) are held by the governor from time to time; and
- (2) were received by the governor in consideration for an award made from the fund under Subchapter D.

(b) The governor may contract with an outside entity to:

- (1) assist in the negotiation and drafting of contracts between the governor and a recipient of an award under this chapter;
- (2) oversee outstanding awards and monitor compliance with a contract described by Subdivision (1);
- (3) evaluate the fund's investment portfolio;
- (4) advise the office of the governor regarding the value and performance of the investment portfolio; and
- (5) assist the governor in preparing the annual report required by Section 490.006.

(c) A contract described by Subsection (b) may provide for the outside entity to receive compensation from the fund each year.

(d) An outside entity with which the governor contracts under this section must have substantial experience in evaluating institutional investment practices and performance in order to evaluate fund investment practices and performance.

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Sec. 490.005. ANNUAL REPORT.

(a) Not later than January 1 of each year, the governor shall submit to the legislature and post on the office of the governor's Internet website a report that includes the following information regarding the fund for the preceding three state fiscal years:

(1) the total number and amount of awards made;

(2) the number and amount of awards made under Subchapters D, E, and F;

(3) the aggregate total of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under each of the subchapters listed in Subdivision (2);

(4) the name of each award recipient and the amount of the award made to the recipient; and

(5) a brief description of the equity position that the governor, on behalf of the state, may take in companies receiving awards and the names of the companies in which the state has taken an equity position.

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Sec. 490.006. ANNUAL REPORT. (a) In this section, "investment portfolio" has the meaning assigned by Section 490.005.

(b) Not later than January 1 of each year, the governor shall submit to the Legislative Budget Board and post on the office of the governor's Internet website a report that includes the following information regarding the fund for the preceding state fiscal year:

(1) the total number and amount of awards made;

(2) the number and amount of awards made under Subchapters D, E, and F;

(3) the name of each award recipient, the recipient's organizational structure, and the amount of the awards made to the recipient;

(4) the total amount of funds received by each recipient from any source for a project that receives an award under Subchapter D, including:

(A) the amount awarded to the recipient from the fund;

(B) the total amount of any funds received by the recipient from the private sector; and

(C) the amount of any federal grants or loans received

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- (b) The annual report must also contain a brief description regarding:
- (1) the intended outcomes of projects funded under Subchapter D during the preceding two state fiscal years; and
  - (2) the actual outcomes of all projects funded under Subchapter D during the fund's existence, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.
- (c) The report may not include information that is made confidential by law.

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- by the recipient;
- (5) a brief description of the investments that constitute the fund's investment portfolio as of the end of that reporting period; and
  - (6) the total value of the fund's investment portfolio as of the end of that reporting period.
- (c) The annual report must also include aggregate information regarding the planned and actual outcomes resulting from awards made from the fund during the preceding two state fiscal years.
- (d) The governor may not disclose in the report required by this section the name of any person in the private sector that invests in a project receiving an award under Subchapter D.
- (e) The governor shall notify each member of the legislature by electronic mail when a new report required by this section is posted on the office of the governor's Internet website. The notification required by this subsection must be sent to the electronic mail address provided to the member as a legislator and must:
- (1) contain an electronic copy of the report; or

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(2) include an electronic link to the report on the website.

SECTION 2. Not later than January 1, 2011, the governor shall submit the initial report required by Section 490.005, Government Code, as added by this Act.

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No equivalent provision.

SECTION \_\_. Section 490.057, Government Code, is transferred to Subchapter A, Chapter 490, Government Code, renumbered as Section 490.004, Government Code, and amended to read as follows:

Sec. 490.004 [~~490.057~~]. CERTAIN INFORMATION CONFIDENTIAL [~~CONFIDENTIALITY~~]. (a) Except as provided by Subsection (d), this section applies to information in any form provided by or on behalf of an individual or entity being considered for an award from the fund or a recipient of an award from the fund, including:

(1) information contained in, accompanying, or derived from any application; and

(2) information [~~Information collected by the governor's office, the committee, or the committee's advisory panels~~] concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of the [~~an~~] individual or entity [~~being considered for an award from the fund is~~

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~~confidential unless the individual or entity consents to disclosure of the information].~~

(b) The information described by Subsection (a) collected, assembled, or maintained by or for the governor, the lieutenant governor, the speaker of the house of representatives, the committee, or the committee's advisory panels is confidential and may not be disclosed under Chapter 552.

(c) Any application for an award from the fund that is withdrawn by the applicant before the award is made or that is denied shall be returned to the applicant promptly on request, together with all materials submitted by or on behalf of the applicant that relate to the application, except that a record of the submission and disposition of the application that does not include any information described by Subsection (a) may be retained.

(d) Not later than the 10th business day after the date a contract for an award from the fund is entered into under Section 490.101, the governor's office shall prepare a summary of the contract and shall make the summary available to the public. The summary must include the award recipient's name and address, the amount of funding applied for, and the type of emerging technology to which the award relates. The summary must not include any confidential information.

No equivalent provision.

SECTION \_\_. Subsection (a), Section 490.102, Government Code, is amended to read as follows:

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- (a) Money appropriated to the fund by the legislature, less amounts necessary to administer the fund under Section 490.055, shall be allocated as follows:
- (1) 60 [~~50~~] percent of the money for incentives for collaboration between certain entities as provided by Subchapter D;
  - (2) 10 [~~16.67~~] percent of the money for research award matching as provided by Subchapter E; and
  - (3) 30 [~~33.33~~] percent of the money for acquisition of research superiority as provided by Subchapter F.

No equivalent provision.

SECTION \_\_. Subchapter C, Chapter 490, Government Code, is amended by adding Section 490.104 to read as follows:

Sec. 490.104. TRANSFERS BETWEEN TEXAS EMERGING TECHNOLOGY FUND AND TEXAS ENTERPRISE FUND. Notwithstanding any other law, including an appropriations act, the governor may not, without the prior written approval of the Legislative Budget Board:

- (1) make an award or transfer otherwise authorized by law from the Texas emerging technology fund to the Texas Enterprise Fund under Section 481.078 for purposes of making a grant or other expenditure from the Texas Enterprise Fund; or
- (2) make a grant or transfer otherwise authorized by law from the Texas Enterprise Fund to the Texas emerging technology fund for purposes of making an award or

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other expenditure from the Texas emerging technology fund.

No equivalent provision.

SECTION \_\_. Subsection (a), Section 490.253, Government Code, is amended to read as follows:

(a) The committee shall review and consider proposals by public institutions of higher education for:

- (1) creating new research superiority;
- (2) attracting existing research superiority from institutions of higher education not located in this state ~~[and other research entities]; [or]~~
- (3) attracting existing research superiority from entities other than institutions of higher education, whether those entities are located in or outside this state;
- (4) enhancing existing research superiority by attracting from institutions of higher education located outside this state additional researchers and resources; or
- (5) enhancing existing research superiority by attracting additional researchers and resources from entities other than institutions of higher education, whether those entities are located in or outside this state.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect

Same as House version.

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September 1, 2009.