

By: Simpson

H.B. No. 1037

A BILL TO BE ENTITLED

AN ACT

relating to abolishing the Texas emerging technology fund.

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

SECTION 1. The heading to Chapter 490, Government Code, is amended to read as follows:

CHAPTER 490. PROVISIONS RELATING TO FORMER TEXAS [~~FUNDING FOR~~  
EMERGING TECHNOLOGY FUND]

SECTION 2. Sections 490.001(2) and (4), Government Code, are amended to read as follows:

(2) "Fund" means the former Texas emerging technology fund.

(4) "Award" means:

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

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

(C) for purposes of former 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 before amendment of this chapter by the 84th Legislature, Regular Session, 2015.

SECTION 3. The heading to Section 490.005, Government Code,

1 is amended to read as follows:

2       Sec. 490.005. REPORT ON AWARDS FROM FORMER FUND [~~ANNUAL~~  
3 ~~REPORT~~].

4       SECTION 4. Section 490.005, Government Code, is amended by  
5 amending Subsections (a) and (b) and adding Subsection (d) to read  
6 as follows:

7       (a) Not later than January 31, 2016 [~~of each year~~], the  
8 governor shall submit to the lieutenant governor, the speaker of  
9 the house of representatives, and the standing committee of each  
10 house of the legislature with primary jurisdiction over economic  
11 development matters and post on the office of the governor's  
12 Internet website a report that includes for each preceding state  
13 fiscal year the following information regarding awards made under  
14 the fund [~~during each preceding state fiscal year~~]:

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

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

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

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

24               (5) a brief description of the equity position that  
25 the governor, on behalf of the state, has taken [~~may take~~] in  
26 companies that received [~~receiving~~] awards and the names of the  
27 companies in which the state has taken an equity position.

(b) The ~~[annual]~~ report must also contain:

(1) the total number of jobs actually created by each project that received an award from the fund ~~[receiving funding under this chapter]~~;

(2) an analysis of the number of jobs actually created by each project that received an award from the fund ~~[receiving funding under this chapter]~~; and

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2), which may be developed in consultation with the comptroller's office;

(B) the intended outcomes of projects funded under former Subchapter D ~~[during each preceding state fiscal year]~~; and

(C) the actual outcomes of all projects funded under former Subchapter D ~~[during each preceding state fiscal year]~~, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

(d) This section expires September 1, 2017.

SECTION 5. Effective September 1, 2016, Subchapter A, Chapter 490, Government Code, is amended by adding Section 490.0051 to read as follows:

Sec. 490.0051. ANNUAL REPORT ON PROJECTS FUNDED; JOB CREATION AND OUTCOMES. (a) Not later than January 31 of each year, the governor shall submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each

1 house of the legislature with primary jurisdiction over economic  
2 development matters and post on the office of the governor's  
3 Internet website a report that contains for each preceding state  
4 fiscal year the following information regarding awards made under  
5 the fund:

6 (1) the total number of jobs actually created by each  
7 project that received an award from the fund;

8 (2) an analysis of the number of jobs actually created  
9 by each project that received an award from the fund; and

10 (3) a brief description regarding:

11 (A) the methodology used to determine the  
12 information provided under Subdivisions (1) and (2), which may be  
13 developed in consultation with the comptroller's office;

14 (B) the intended outcomes of all projects funded  
15 under former Subchapter D; and

16 (C) the actual outcomes of all projects funded  
17 under former Subchapter D, including any financial impact on the  
18 state resulting from a liquidity event involving a company whose  
19 project was funded under that subchapter.

20 (b) The governor shall exclude from the report information  
21 that is made confidential by law.

22 (c) This section expires September 1, 2020.

23 SECTION 6. Section 490.006, Government Code, is amended to  
24 read as follows:

25 Sec. 490.006. VALUATION OF INVESTMENTS; ~~[INCLUSION IN]~~  
26 ANNUAL REPORT. (a) To the maximum extent practicable, the office  
27 of the governor shall annually perform a valuation of the equity

positions taken by the governor, on behalf of the state, in companies that received ~~[receiving]~~ awards under the fund and of other investments made by the governor, on behalf of the state, in connection with an award under the fund. The valuation must~~+~~

~~[(1)]~~ be based on a methodology that:

(1) ~~[(A)]~~ may be developed in consultation with the comptroller's office; and

(2) ~~[(B)]~~ is consistent with generally accepted accounting principles~~+, and~~

~~[(2) be included with the annual report required under Section 490.005].~~

(b) Except as provided by Subsection (c), not later than January 31 of each year, the governor shall submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic development matters and post on the office of the governor's Internet website a report of any valuation performed under this section during the preceding state fiscal year.

(c) A valuation performed for the state fiscal year ending August 31, 2015, must be included with the report required under Section 490.005. This subsection expires September 1, 2017.

SECTION 7. The heading to Subchapter B, Chapter 490, Government Code, is amended to read as follows:

SUBCHAPTER B. MISCELLANEOUS PROVISIONS ~~[TEXAS EMERGING TECHNOLOGY ADVISORY COMMITTEE]~~

SECTION 8. Section 490.057, Government Code, is amended to

1 read as follows:

2           Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by  
3 Subsection (b), information collected by the governor's office, the  
4 former Texas Emerging Technology Advisory Committee ~~[committee]~~,  
5 or the committee's advisory panels concerning the identity,  
6 background, finance, marketing plans, trade secrets, or other  
7 commercially or academically sensitive information of an  
8 individual or entity that was ~~[being]~~ considered for or ~~[r~~  
9 ~~receiving, or having]~~ received an award from the fund is  
10 confidential unless the individual or entity consents to disclosure  
11 of the information.

12           (b) The following information collected by the governor's  
13 office, the former Texas Emerging Technology Advisory Committee  
14 ~~[committee]~~, or the committee's advisory panels under this chapter  
15 is public information and may be disclosed under Chapter 552:

16           (1) the name and address of an individual or entity  
17 that ~~[receiving or having]~~ received an award from the fund;

18           (2) the amount of funding received by an award  
19 recipient;

20           (3) a brief description of the project ~~[that is]~~  
21 funded under this chapter;

22           (4) if applicable, a brief description of the equity  
23 position that the governor, on behalf of the state, has taken in an  
24 entity that ~~[has]~~ received an award from the fund; and

25           (5) any other information designated by the committee  
26 with the consent of:

27           (A) the individual or entity that ~~[receiving or~~

1 ~~having~~] received an award from the fund[, ~~as applicable~~];

2 (B) the governor;

3 (C) the lieutenant governor; and

4 (D) the speaker of the house of representatives.

5 SECTION 9. Section 50D.013(a), Agriculture Code, is amended  
6 to read as follows:

7 (a) The policy council shall:

8 (1) provide a vision for unifying this state's  
9 agricultural, energy, and research strengths in a successful launch  
10 of a cellulosic biofuel and bioenergy industry;

11 (2) foster development of cellulosic-based and  
12 bio-based fuels and build on the former Texas emerging technology  
13 fund's investments in leading-edge energy research and efforts to  
14 commercialize the production of bioenergy;

15 (3) pursue the creation of a next-generation biofuels  
16 energy research program at a university in this state;

17 (4) work to procure federal and other funding to aid  
18 this state in becoming a bioenergy leader;

19 (5) study the feasibility and economic development  
20 effect of a blending requirement for biodiesel or cellulosic fuels;

21 (6) pursue the development and use of thermochemical  
22 process technologies to produce alternative chemical feedstocks;

23 (7) study the feasibility and economic development of  
24 the requirements for pipeline-quality, renewable natural gas; and

25 (8) perform other advisory duties as requested by the  
26 commissioner regarding the responsible development of bioenergy  
27 resources in this state.

SECTION 10. Section 203.021(e), Labor Code, is amended to read as follows:

(e) Money in the compensation fund may not be transferred to the[÷

[~~(1)~~] Texas Enterprise Fund created under Section 481.078, Government Code[~~+~~~~or~~

[~~(2)~~ Texas emerging technology fund established under Section 490.101, Government Code].

SECTION 11. The following laws are repealed:

(1) Sections 490.001(1), (3), and (5), Government Code;

(2) Sections 490.002 and 490.003, Government Code;

(3) Sections 490.051, 490.052, 490.0521, 490.053, 490.054, 490.055, and 490.056, Government Code; and

(4) Subchapters C, D, E, F, and G, Chapter 490, Government Code.

SECTION 12. (a) On September 1, 2015, the Texas emerging technology fund is abolished and the balance of the fund is transferred to the general revenue fund. Money transferred under this subsection may be appropriated only to the Department of Public Safety of the State of Texas for border security operations, except as provided by Subsections (c) and (d) of this section.

(b) The abolition by this Act of the Texas emerging technology fund and the repeal of provisions of Chapter 490, Government Code, relating to that fund do not affect the validity of an agreement between the governor and an award recipient or a person to be awarded money that is entered into under Chapter 490 before



1 September 1, 2015.

2 (c) Money that was deposited in the Texas emerging  
3 technology fund as a gift, grant, or donation under Chapter 490,  
4 Government Code, and that is encumbered by the specific terms of the  
5 gift, grant, or donation may be spent only in accordance with the  
6 terms of the gift, grant, or donation.

7 (d) Money from the Texas emerging technology fund that is  
8 encumbered because the money is awarded or otherwise obligated by  
9 agreement before September 1, 2015, but under the terms of the award  
10 or agreement will not be distributed until a later date shall be  
11 distributed in accordance with the terms of the award or agreement.  
12 If the governor determines that the money will not be distributed in  
13 accordance with the terms of the award or agreement, the governor  
14 shall certify that fact to the comptroller. On that certification,  
15 the comptroller shall make that money available in the general  
16 revenue fund to be used in accordance with legislative  
17 appropriation.

18 (e) On or after the effective date of this Act, the  
19 following payments or other amounts shall be sent to the  
20 comptroller for deposit to the general revenue fund to be used in  
21 accordance with legislative appropriation:

22 (1) any royalties, revenues, and other financial  
23 benefits realized from a project undertaken with money from the  
24 Texas emerging technology fund, as provided by a contract entered  
25 into under Section [490.103](#) or [490.302](#), Government Code;

26 (2) interest earned on the investment of money in the  
27 Texas emerging technology fund;

1           (3) any interest or proceeds received as a result of a  
2 transaction authorized by Section 490.101, Government Code; and

3           (4) any fund money returned by an entity that fails to  
4 perform an action guaranteed by a contract entered into under  
5 Section 490.154 or 490.203, Government Code.

6           SECTION 13. A regional center of innovation and  
7 commercialization established under Section 490.152, Government  
8 Code, is abolished on the effective date of this Act. Each center  
9 shall transfer to the office of the governor a copy of any meeting  
10 minutes required to be retained under Section 490.1521, Government  
11 Code, as that section existed immediately before that section's  
12 repeal by this Act, and the office shall retain the minutes for the  
13 period prescribed by that section.

14          SECTION 14. On September 1, 2015, the Texas Emerging  
15 Technology Advisory Committee established under Subchapter B,  
16 Chapter 490, Government Code, is abolished.

17          SECTION 15. If a conflict exists between this Act and  
18 another Act of the 84th Legislature, Regular Session, 2015, that  
19 relates to the Texas emerging technology fund, this Act controls  
20 without regard to the relative dates of enactment.

21          SECTION 16. Except as otherwise provided by this Act, this  
22 Act takes effect September 1, 2015.