

By: Eltife

S.B. No. 1124

A BILL TO BE ENTITLED

AN ACT

relating to creation of the university research initiative fund,  
the abolishment of the Texas emerging technology fund, and the  
disposition of balances from the Texas emerging technology fund.

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

SECTION 1. Subtitle H, Title 3, Education Code, is amended  
by adding Chapter 156 to read as follows:

CHAPTER 156. UNIVERSITY RESEARCH INITIATIVE FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 156.001. DEFINITIONS. In this chapter:

(1) "Coordinating board" means the Texas Higher  
Education Coordinating Board.

(2) "Fund" means the university research initiative  
fund established under Subchapter B.

(3) "Institution of higher education" has the meaning  
assigned by Section 61.003.

SUBCHAPTER B. OPERATION OF FUND AND PROGRAM

Sec. 156.051. UNIVERSITY RESEARCH INITIATIVE FUND. (a)  
The university research initiative fund is a dedicated account in  
the general revenue fund.

(b) The fund consists of:

(1) amounts appropriated or otherwise allocated or  
transferred by law to the fund;

(2) any financial benefits realized from

commercialization of intellectual or other property developed in connection with a grant award as provided by an agreement entered into under Section 156.053; and

(3) gifts, grants, and other donations received for the fund.

(c) The fund may be used by the coordinating board only for:

(1) the purpose specified by Section 156.052; and

(2) necessary expenses incurred in the administration of the fund and this chapter.

Sec. 156.052. RECRUITMENT OF NATIONALLY OR INTERNATIONALLY RENOWNED RESEARCHERS; MATCHING GRANTS. (a) The coordinating board shall provide grants from the fund to institutions of higher education to match available funding from those institutions for the recruitment and retention of:

(1) members of recognized national academies in the fields of science, technology, engineering, or mathematics or other nationally recognized researchers in those fields and any associated assistants; or

(2) researchers who are Nobel laureates in the fields of science or mathematics or other internationally recognized researchers in the fields described by this subsection or the fields of technology or engineering and any associated assistants.

(b) In awarding grants, the coordinating board shall give priority to proposals that involve the recruiting of researchers in fields that are reasonably likely to contribute substantially to this state's national and global economic competitiveness.

(c) The coordinating board may appoint one or more advisory

1 committees to assist the board with the review and evaluation of  
2 grant proposals under this section.

3 Sec. 156.053. MATCHING GRANT AGREEMENT. (a) Before  
4 awarding a matching grant under this chapter, the coordinating  
5 board shall enter into a written agreement with the institution of  
6 higher education selected to receive the grant.

7 (b) The agreement between the coordinating board and a grant  
8 recipient under this chapter must provide for the distribution of  
9 royalties, revenue, or other financial benefits realized from the  
10 commercialization of intellectual or real property developed in  
11 connection with receipt of a grant under this chapter. To the  
12 extent authorized by law and not in conflict with another  
13 agreement, the agreement shall appropriately allocate by  
14 assignment, licensing, or other means 50 percent of the royalties,  
15 revenue, or other financial benefits to this state for deposit in  
16 the fund.

17 (c) An agreement under this section may include a provision  
18 specifying that if, as of a date certain provided in the agreement,  
19 the grant recipient has not used the money received under this  
20 chapter for the purposes for which the grant was intended, the grant  
21 recipient shall repay that amount and any related interest  
22 applicable under the agreement to the coordinating board for  
23 deposit to the fund at the agreed rate and on the agreed terms.

24 Sec. 156.054. AUTHORIZED EXPENSES. Money awarded from the  
25 fund may be used by the grant recipient to pay any expense  
26 reasonably related to the purposes described by Section 156.052(a),  
27 including for research and research capability, salaries and

1 benefits, travel, consumable supplies, and equipment.

2 Sec. 156.055. PROHIBITED ACTIVITIES. (a) An institution  
3 of higher education may not knowingly attempt to recruit a person  
4 described by Section 156.052(a)(1) or (2) who is an individual  
5 researcher of another institution of higher education.

6 (b) An institution of higher education that violates this  
7 section is ineligible to receive a grant under this chapter before  
8 the third anniversary of the date the institution last engaged in  
9 conduct prohibited by this section.

10 Sec. 156.056. DOCUMENTATION OF BENEFITS TO STATE. An  
11 institution of higher education must document specific benefits  
12 that this state may expect to gain as a result of recruiting  
13 researchers described by Section 156.052(a)(1) or (2) to the  
14 institution and enhancing the research capabilities and programs of  
15 the institution before the institution may enter into an agreement  
16 to receive a grant under this chapter.

17 Sec. 156.057. ANNUAL REPORT. (a) Not later than January 31  
18 of each year, the coordinating board shall submit to the governor,  
19 the lieutenant governor, the speaker of the house of  
20 representatives, and the standing committee of each house of the  
21 legislature with primary jurisdiction over economic development  
22 matters a report that includes the following information regarding  
23 grants awarded under this chapter during the preceding state fiscal  
24 year:

25 (1) the total number and amount of grants awarded; and  
26 (2) the name of each grant recipient and the amount of  
27 the grant awarded to the recipient.

1        (b) The coordinating board shall post and maintain on the  
2 coordinating board's Internet website each report submitted under  
3 this section.

4        SECTION 2. Subchapter G, Chapter 404, Government Code, is  
5 amended by adding Section 404.1031 to read as follows:

6        Sec. 404.1031. MANAGEMENT OF INVESTMENT PORTFOLIO FROM  
7 FORMER TEXAS EMERGING TECHNOLOGY FUND. (a) In this section,  
8 "state's emerging technology investment portfolio" means:

9                (1) the equity positions in the form of stock or other  
10 security the governor took, on behalf of the state, in companies  
11 that received awards under the former Texas emerging technology  
12 fund; and

13                (2) any other investments made by the governor, on  
14 behalf of the state, in connection with an award made under the  
15 former Texas emerging technology fund.

16        (b) The trust company shall manage the state's emerging  
17 technology investment portfolio in a manner that a prudent investor  
18 would employ exercising reasonable care, skill, and caution, taking  
19 into consideration the investment of all assets of the portfolio.  
20 The trust company may recover its reasonable and necessary costs  
21 incurred in the management of the portfolio from the earnings on the  
22 investments in the portfolio.

23        (c) Any proceeds or other earnings from the sale of stock or  
24 other investments in the state's emerging technology investment  
25 portfolio, less the amount permitted to be retained for payment of  
26 its costs for managing the portfolio as provided by Subsection (b),  
27 shall be remitted by the trust company to the comptroller for

1 deposit in the general revenue fund.

2       SECTION 3. Effective September 1, 2016, Subchapter G,  
3 Chapter 404, Government Code, is amended by adding Section 404.1032  
4 to read as follows:

5       Sec. 404.1032. VALUATION OF INVESTMENTS FROM FORMER FUND;  
6 ANNUAL REPORT. (a) To the maximum extent practicable, the trust  
7 company annually shall perform a valuation of the equity positions  
8 the governor took, on behalf of the state, in companies that  
9 received awards under the former Texas emerging technology fund and  
10 of other investments made by the governor, on behalf of the state,  
11 in connection with an award under that fund. The valuation must be  
12 based on a methodology that is consistent with generally accepted  
13 accounting principles.

14       (b) Not later than January 31 of each year, the trust  
15 company shall submit to the lieutenant governor, the speaker of the  
16 house of representatives, and the standing committee of each house  
17 of the legislature with primary jurisdiction over economic  
18 development matters and post on the office of the trust company's  
19 Internet website a report of any valuation performed under this  
20 section during the preceding state fiscal year.

21       SECTION 4. Section 481.078, Government Code, is amended by  
22 adding Subsection (m) to read as follows:

23       (m) The office of the governor shall adopt rules for the  
24 operation of the trustee program established under this section.  
25 The rules must include:

26       (1) forms and procedures for applications for and  
27 award of grants;

(2) procedures for evaluating grant applications;

(3) provisions governing the grant agreement process;

and

(4) methods and procedures for monitoring grant recipients and projects or activities for which a grant is awarded from the fund to determine whether and to what extent the grant recipients comply with job creation performance targets, capital investment commitments, or other specified performance targets in the grant agreement.

SECTION 5. 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 6. 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 former Texas Emerging Technology Advisory Committee [~~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 7. The heading to Section 490.005, Government Code,  
is amended to read as follows:

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

SECTION 8. Section 490.005, Government Code, is amended by  
amending Subsections (a) and (b) and adding Subsection (d) to read  
as follows:

(a) Not later than January 31, 2016 [~~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 that includes for each preceding state  
fiscal year the following information regarding awards made under  
the fund [~~during each preceding state fiscal year~~]:

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

(2) the number and amount of awards made under former  
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



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

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

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

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

12                (3) a brief description regarding:

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

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

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

24           (d) This section expires September 1, 2017.

25           SECTION 9. Effective September 1, 2016, Subchapter A,  
26 Chapter 490, Government Code, is amended by adding Section 490.0051  
27 to read as follows:

1       Sec. 490.0051. ANNUAL REPORT ON PROJECTS FUNDED; JOB  
2 CREATION AND OUTCOMES. (a) Not later than January 31 of each year,  
3 the governor shall submit to the lieutenant governor, the speaker  
4 of the house of representatives, and the standing committee of each  
5 house of the legislature with primary jurisdiction over economic  
6 development matters and post on the office of the governor's  
7 Internet website a report that contains for each preceding state  
8 fiscal year the following information regarding awards made under  
9 the fund:

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

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

14               (3) a brief description regarding:

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

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

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

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

26               (c) This section expires September 1, 2030.

27       SECTION 10. Section 490.006, Government Code, is amended to

1 read as follows:

2       Sec. 490.006. VALUATION OF INVESTMENTS; ~~[INCLUSION IN]~~  
3 ANNUAL REPORT. (a) To the maximum extent practicable, the office  
4 of the governor shall annually perform a valuation of the equity  
5 positions taken by the governor, on behalf of the state, in  
6 companies that received ~~[receiving]~~ awards under the fund and of  
7 other investments made by the governor, on behalf of the state, in  
8 connection with an award under the fund. The valuation must~~+~~

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

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

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

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

16       (b) Except as provided by Subsection (c), not later than  
17 January 31, 2016, the governor shall submit to the lieutenant  
18 governor, the speaker of the house of representatives, and the  
19 standing committee of each house of the legislature with primary  
20 jurisdiction over economic development matters and post on the  
21 office of the governor's Internet website a report of any valuation  
22 performed under this section during the preceding state fiscal  
23 year.

24       (c) A valuation performed for the state fiscal year ending  
25 August 31, 2015, must be included with the report required under  
26 Section 490.005.

27       (d) This section expires September 1, 2016.

SECTION 11. 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 12. Section 490.057, Government Code, is amended to read as follows:

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

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

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

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

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

(4) if applicable, a brief description of the equity

1 position that the governor, on behalf of the state, has taken in an  
2 entity that ~~[has]~~ received an award from the fund; and

3 (5) any other information designated by the committee  
4 with the consent of:

5 (A) the individual or entity that ~~[receiving or~~  
6 ~~having]~~ received an award from the fund~~[, as applicable]~~;

7 (B) the governor;

8 (C) the lieutenant governor; and

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

10 SECTION 13. Section 50D.013(a), Agriculture Code, is  
11 amended to read as follows:

12 (a) The policy council shall:

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

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

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

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

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

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

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

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

SECTION 14. 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 15. 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 16. (a) On September 1, 2015, the Texas emerging technology fund is abolished and, except as provided by Subsections (c) and (d) of this section, the comptroller shall transfer the unencumbered balance of the fund as follows:

(1) 50 percent of the balance to the credit of the Texas Enterprise Fund under Section 481.078, Government Code; and

1           (2) 50 percent of the balance to the credit of the  
2 university research initiative fund under Subchapter B, Chapter  
3 156, Education Code, as added by this Act.

4           (b) The abolishment by this Act of the Texas emerging  
5 technology fund and the repeal of provisions of Chapter 490,  
6 Government Code, relating to that fund do not affect the validity of  
7 an agreement between the governor and an award recipient or a person  
8 to be awarded money that is entered into under Chapter 490 before  
9 September 1, 2015.

10          (c) Money that was deposited in the Texas emerging  
11 technology fund as a gift, grant, or donation under Chapter 490,  
12 Government Code, and that is encumbered by the specific terms of the  
13 gift, grant, or donation may be spent only in accordance with the  
14 terms of the gift, grant, or donation.

15          (d) Money from the Texas emerging technology fund that is  
16 encumbered because the money is awarded or otherwise obligated by  
17 agreement before September 1, 2015, but under the terms of the award  
18 or agreement will not be distributed until a later date shall be  
19 distributed in accordance with the terms of the award or agreement.  
20 If the governor determines that the money will not be distributed in  
21 accordance with the terms of the award or agreement, the governor  
22 shall certify that fact to the comptroller. On that certification,  
23 the comptroller shall make that money available in the general  
24 revenue fund to be used in accordance with legislative  
25 appropriation.

26          (e) On or after the effective date of this Act, subject to  
27 any amounts used to recover costs under Section 404.1031(b),

Government Code, as added by this Act, the following payments or other amounts shall be sent to the comptroller for deposit to the general revenue fund:

(1) any royalties, revenues, and other financial benefits realized from a project undertaken with money from the Texas emerging technology fund, as provided by a contract described by former Section 490.103, Government Code;

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

(3) any money returned or repaid to the state by an award recipient pursuant to an agreement entered into under former Section 490.101, Government Code;

(4) any money derived from an interest the state retained in a capital improvement pursuant to an agreement entered into under former Section 490.101, Government Code; and

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

SECTION 17. A regional center of innovation and commercialization established under Section 490.152, Government Code, is abolished on the effective date of this Act. Each center shall transfer to the office of the governor a copy of any meeting minutes required to be retained under Section 490.1521, Government Code, as that section existed immediately before that section's repeal by this Act, and the office shall retain the minutes for the period prescribed by that section.



1       SECTION 18. On September 1, 2015, the Texas Emerging  
2 Technology Advisory Committee established under Subchapter B,  
3 Chapter 490, Government Code, is abolished.

4       SECTION 19. Except as provided by this Act, on September 1,  
5 2015, the following powers, duties, functions, and activities  
6 performed by the office of the governor immediately before that  
7 date are transferred to the Texas Treasury Safekeeping Trust  
8 Company:

9               (1) all powers, duties, functions, and activities  
10 related to equity positions in the form of stock or other security  
11 the governor has taken, on behalf of the state, in companies that  
12 received awards under the Texas emerging technology fund before  
13 September 1, 2015; and

14              (2) all powers, duties, functions, and activities  
15 related to other investments made by the governor, on behalf of the  
16 state, in connection with an award made under the Texas emerging  
17 technology fund before September 1, 2015.

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

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