

AN ACT

relating to the creation of programs and funding for emerging technology industries.

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

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490 to read as follows:

CHAPTER 490. FUNDING FOR EMERGING TECHNOLOGY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 490.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Texas Emerging Technology Committee.

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

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

Sec. 490.002. PURPOSES. The fund is established under this chapter to develop and diversify the economy of this state by:

(1) expediting innovation and commercialization of research;

(2) attracting, creating, or expanding private sector entities that will promote a substantial increase in high-quality jobs; and

(3) increasing higher education applied technology research capabilities.

Sec. 490.003. EMERGING TECHNOLOGY INDUSTRIES. (a) An

emerging technology industry participant is eligible for funding under this chapter if the activity to be funded:

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

(2) has the potential to result in a medical or scientific breakthrough.

(b) Emerging technology industries include industries related to:

(1) semiconductors;

(2) information;

(3) computer and software technology;

(4) energy;

(5) manufactured energy systems;

(6) micro-electromechanical systems;

(7) nanotechnology;

(8) biotechnology;

(9) medicine;

(10) life sciences;

(11) petroleum refining and chemical processes;

(12) aerospace;

(13) defense; and

(14) other pursuits, as determined by the governor in consultation with the lieutenant governor and the speaker of the house of representatives.

[Sections 490.004-490.050 reserved for expansion]

SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY COMMITTEE

Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging

1 Technology Committee is composed of 17 members.

2 Sec. 490.052. APPOINTMENT BY GOVERNOR; NOMINATIONS. (a)  
3 The governor shall appoint to the committee individuals nominated  
4 as provided by Subsection (b).

5 (b) The following persons may nominate one or more  
6 individuals who are industry leaders in this state or who are  
7 nationally recognized researchers from public or private  
8 institutions of higher education in this state for appointment to  
9 the committee:

- 10 (1) the Texas Higher Education Coordinating Board;  
11 (2) a president of a public or private institution of  
12 higher education in this state;  
13 (3) the members of the Texas Workforce Commission;  
14 (4) a representative of the governor's office involved  
15 in economic development activities;  
16 (5) a representative of the lieutenant governor's  
17 office involved in economic development activities;  
18 (6) a representative of the office of the speaker of  
19 the house involved in economic development activities; and  
20 (7) other persons considered appropriate by the  
21 governor.

22 (c) The governor may prescribe a date after which a  
23 nomination under Subsection (b) for appointment for the next term  
24 will not be considered.

25 (d) If an insufficient number of qualified individuals are  
26 nominated as provided by Subsection (b) before the date set by the  
27 governor under Subsection (c), the governor may appoint any

1 qualified individual to the board for that term.

2 Sec. 490.053. PRESIDING MEMBER. The governor shall appoint  
3 a presiding member of the committee.

4 Sec. 490.054. TERMS. Members of the committee serve  
5 two-year terms, subject to the pleasure of the governor.

6 Sec. 490.055. COMMITTEE STAFF AND FUNDING. Necessary staff  
7 and funding for the committee shall be provided by:

8 (1) the office of the governor;

9 (2) the Texas Higher Education Coordinating Board;

10 (3) the Texas Education Agency;

11 (4) the Texas Workforce Commission;

12 (5) another public entity represented by a committee  
13 member; and

14 (6) gifts, grants, and donations for overhead expenses  
15 to the entities listed in Subdivisions (1)-(5).

16 Sec. 490.056. RECOMMENDATIONS FOR FUNDING. (a) The  
17 committee shall make recommendations, through peer review and  
18 evaluation processes established by the committee, to the governor,  
19 lieutenant governor, and speaker of the house of representatives  
20 for the award of money from the fund as provided by this chapter.

21 (b) The committee may establish advisory panels of  
22 knowledgeable individuals from industry, state government, or  
23 academic occupations to assist in peer review activities under this  
24 chapter.

25 Sec. 490.057. CONFIDENTIALITY. Information collected by  
26 the governor's office, the committee, or the committee's advisory  
27 panels concerning the identity, background, finance, marketing

1 plans, trade secrets, or other commercially or academically  
2 sensitive information of an individual or entity being considered  
3 for an award from the fund is confidential unless the individual or  
4 entity consents to disclosure of the information.

5 [Sections 490.058-490.100 reserved for expansion]

6 SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND

7 Sec. 490.101. TEXAS EMERGING TECHNOLOGY FUND. (a) The  
8 Texas emerging technology fund is a dedicated account in the  
9 general revenue fund.

10 (b) The following amounts shall be deposited in the fund:

11 (1) any amounts appropriated by the legislature for  
12 the fund;

13 (2) benefits realized from a project undertaken with  
14 money from the fund, as provided by a contract entered into under  
15 Section 490.103;

16 (3) gifts, grants, and other donations received for  
17 the fund; and

18 (4) interest earned on the investment of money in the  
19 fund.

20 (c) The fund may be used only for the purposes described by  
21 Section 490.002.

22 (d) The committee may solicit and accept gifts and grants  
23 for the fund from public and private entities.

24 (e) The fund may be temporarily used by the comptroller for  
25 cash management purposes.

26 (f) The administration of the fund is considered to be a  
27 trusteed program within the office of the governor. The governor

1 may negotiate on behalf of the state regarding awarding, by grant,  
2 money appropriated from the fund. The governor may award money  
3 appropriated from the fund only with the express written prior  
4 approval of the lieutenant governor and speaker of the house of  
5 representatives.

6 (g) Before awarding a grant under this chapter, the governor  
7 shall enter into a written agreement with the entity to be awarded  
8 the grant money. An agreement may specify that:

9 (1) if all or any portion of the amount of the grant is  
10 used to build a capital improvement:

11 (A) the state retains a lien or other interest in  
12 the capital improvement in proportion to the percentage of the  
13 grant amount used to pay for the capital improvement; and

14 (B) the recipient of the grant shall, if the  
15 capital improvement is sold:

16 (i) repay to the state the grant money used  
17 to pay for the capital improvement, with interest at the rate and  
18 according to the other terms provided by the agreement; and

19 (ii) share with the state a proportionate  
20 amount of any profit realized from the sale; and

21 (2) if, as of a date certain provided in the agreement,  
22 the grant recipient has not used grant money awarded under this  
23 chapter for the purposes for which the grant was intended, the  
24 recipient shall repay that amount and any related interest  
25 applicable under the agreement to the state at the agreed rate and  
26 on the agreed terms.

27 Sec. 490.102. ALLOCATION OF FUND. (a) Money appropriated

to the fund by the legislature shall be allocated as follows:

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

(2) 25 percent of the money for research grant matching as provided by Subchapter E; and

(3) 25 percent of the money for acquisition of research superiority as provided by Subchapter F.

(b) The governor may reallocate money from one component of the fund to another component subject to the prior approval of the lieutenant governor and speaker of the house of representatives.

Sec. 490.103. ALLOCATION OF PROCEEDS. (a) The contract between the governor and a recipient awarded a grant under this chapter shall provide for the distribution of royalties, revenue, or other financial benefits realized from the commercialization of intellectual or real property developed from any grant awarded from the fund. To the extent authorized by law and not in conflict with another agreement, the contract shall appropriately allocate by assignment, licensing, or other means the royalties, revenue, or other financial benefits among identifiable collaborating parties and in a specified percentage to this state for deposit in the fund.

(b) The contract under Subsection (a) shall also specify other matters considered necessary by the governor, lieutenant governor, and speaker of the house of representatives.

[Sections 490.104-490.150 reserved for expansion]

SUBCHAPTER D. INCENTIVES TO CREATE REGIONAL CENTERS OF INNOVATION AND COMMERCIALIZATION

Sec. 490.151. USE OF MONEY FOR INCENTIVES. (a) Amounts

1 allocated from the fund for use as provided by this subchapter shall  
2 be reserved for incentives for private or nonprofit entities to  
3 collaborate with public or private institutions of higher education  
4 in this state on emerging technology projects with a demonstrable  
5 economic benefit to this state.

6 (b) The committee shall recommend proposals eligible for  
7 funding under this section to the governor, lieutenant governor,  
8 and speaker of the house of representatives.

9 Sec. 490.152. REGIONAL CENTERS OF INNOVATION AND  
10 COMMERCIALIZATION. (a) In recommending proposals for funding, the  
11 committee shall give specific emphasis to the formation of regional  
12 centers of innovation and commercialization.

13 (b) An appropriate combination of any entities described by  
14 Section 490.151(a) may collaborate to form a regional center of  
15 innovation and commercialization to serve a region of this state.

16 (c) A regional center of innovation and commercialization  
17 shall provide for a specified region:

18 (1) research and development activities that may  
19 include initiatives to prove the feasibility of an idea;

20 (2) commercialization of the results of research and  
21 development;

22 (3) incubators for new businesses and expansion of  
23 existing businesses related to research and development; and

24 (4) workforce training for businesses resulting from  
25 research and development.

26 (d) Subject to the availability of suitable partners and  
27 resources, the committee shall propose and initiate the

establishment of a regional center of innovation and commercialization in:

- (1) Harris County;
- (2) Lubbock County;
- (3) Bexar County;
- (4) the Dallas-Fort Worth Metroplex;
- (5) El Paso County;
- (6) the Middle and Lower Rio Grande Valley; and
- (7) other suitable locations as determined by the governor in consultation with the lieutenant governor and the speaker of the house of representatives.

Sec. 490.153. PRIORITY FOR FUNDING. In awarding money from the fund under this subchapter, priority shall be given to proposals that:

- (1) involve emerging scientific or technology fields that have a reasonable probability of enhancing this state's national and global economic competitiveness;
- (2) may result in a medical or scientific breakthrough;
- (3) are collaborative between any combination of private or nonprofit entities and public or private agencies or institutions in this state;
- (4) are matched with other available funds, including funds from the private or nonprofit entity or institution of higher education collaborating on the project; or
- (5) have a demonstrable economic development benefit to this state.

Sec. 490.154. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

(a) An entity participating in a regional center of innovation and commercialization that receives funding or another incentive under this subchapter shall guarantee by contract with the governor's office that the entity will perform specific actions expected to provide benefits to this state.

(b) If an entity fails to perform an action guaranteed by contract under Subsection (a) before a time specified by the contract, the entity shall return to the fund the money received by the entity under this subchapter.

Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR MANUFACTURING IN TEXAS. A person or entity awarded money from the fund under this subchapter must guarantee by contract that a substantial percentage of any new or expanded commercialization or manufacturing of any real or intellectual product resulting from the award will be established in this state.

Sec. 490.156. AUTHORIZED EXPENSES. (a) A person awarded money from the fund under this subchapter may use the money to expedite commercialization that will lead to an increase in high-quality jobs in this state and shall use the money in accordance with a contract between the person and the committee.

(b) Authorized expenses under this section include salaries and benefits, travel, consumable supplies, other operating expenses, contracted research and development, capital equipment, construction or renovation of state or private facilities, and workforce training.

[Sections 490.157-490.200 reserved for expansion]

SUBCHAPTER E. RESEARCH GRANT MATCHING

Sec. 490.201. USE OF MONEY FOR RESEARCH GRANT MATCHING. (a)  
Amounts allocated from the fund for use as provided by this  
subchapter shall be reserved to match funding from research  
sponsors other than this state, including federal research  
sponsors.

(b) The committee shall recommend proposals eligible for  
funding under this section to the governor, lieutenant governor,  
and speaker of the house of representatives.

Sec. 490.202. PRIORITY FOR FUNDING. In awarding money from  
the fund under this subchapter, priority shall be given to  
proposals that accelerate commercialization into production by  
targeting programs that:

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

(2) are interdisciplinary;

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

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

(5) have a demonstrable economic development benefit  
to this state.

Sec. 490.203. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

(a) An entity receiving funding or another incentive under this  
subchapter shall guarantee by contract with the governor's office  
that the entity will perform specific actions that are expected to  
provide benefits to this state.

1        (b) If an entity fails to perform an action guaranteed by  
2 contract under Subsection (a) before a time specified by the  
3 contract, the entity shall return the funding received by the  
4 entity under this subchapter.

5        [Sections 490.204-490.250 reserved for expansion]

6        SUBCHAPTER F. ACQUISITION OF RESEARCH SUPERIORITY

7        Sec. 490.251. USE OF MONEY FOR ACQUISITION OF RESEARCH  
8 SUPERIORITY. Amounts allocated from the fund for use as provided by  
9 this subchapter shall be used to acquire new or enhance existing  
10 research superiority at public institutions of higher education in  
11 this state.

12        Sec. 490.252. RESEARCH SUPERIORITY. For purposes of this  
13 subchapter, the employment by an institution of higher education of  
14 one or more world-class or nationally recognized researchers and  
15 associated assistants in an industry eligible to receive funding  
16 under Section 490.003 is considered "research superiority."

17        Sec. 490.253. PROPOSALS FOR FUNDING. (a) The committee  
18 shall solicit and identify proposals by public institutions of  
19 higher education for:

20                (1) creating new research superiority;

21                (2) attracting existing research superiority from  
22 institutions not located in this state and other research entities;  
23 or

24                (3) enhancing existing research superiority by  
25 attracting from outside this state additional researchers and  
26 resources.

27        (b) The committee shall recommend proposals eligible for

1 funding under Section 490.251 and proposals solicited and  
2 identified under this section to the governor, lieutenant governor,  
3 and speaker of the house of representatives.

4 Sec. 490.254. PRIORITY FOR FUNDING. In awarding money from  
5 the fund under this subchapter, priority shall be given to  
6 proposals that:

7 (1) involve scientific or technical fields that have a  
8 reasonable probability of enhancing this state's national and  
9 global economic competitiveness;

10 (2) may result in a medical or scientific  
11 breakthrough;

12 (3) are interdisciplinary;

13 (4) have attracted or may attract federal and other  
14 funding for research superiority;

15 (5) are likely to create a nationally or  
16 internationally recognized locus of research superiority; or

17 (6) are matched with other funds available to the  
18 institution seeking funding under this subchapter.

19 Sec. 490.255. AUTHORIZED EXPENSES. Money awarded from the  
20 fund under this subchapter may be used for research and research  
21 capability acquisition, including salaries and benefits, travel,  
22 consumable supplies, other operating expenses, capital equipment,  
23 and construction or renovation of facilities.

24 Sec. 490.256. PROHIBITED ACTIVITIES. (a) An institution  
25 of higher education may not knowingly attempt to attract an  
26 individual key researcher or research superiority identified for  
27 consideration for funding by another public or private institution

1 of higher education in this state under this subchapter.

2 (b) An institution that violates this section is ineligible  
3 to participate in a program or receive funding under this chapter  
4 before the third anniversary of the date the institution last  
5 engaged in an activity prohibited by this section.

6 Sec. 490.257. DOCUMENTATION OF BENEFITS TO STATE. (a) A  
7 public institution of higher education must document specific  
8 benefits that this state may expect to gain as a result of  
9 attracting the research superiority before the institution may  
10 enter into a contract to receive funding or incentives under this  
11 subchapter.

12 (b) The governor, with the express written prior approval of  
13 the lieutenant governor and the speaker of the house of  
14 representatives, may terminate funding to an institution if the  
15 institution fails to realize a benefit specified in the contract  
16 before a time specified in the contract, as determined by a periodic  
17 program review conducted by the committee.

18 SECTION 2. (a) As soon as practicable after the effective  
19 date of this Act, a person seeking to nominate an individual for  
20 appointment to the Texas Emerging Technology Committee under  
21 Section 490.052, Government Code, as added by this Act, shall make  
22 any nominations.

23 (b) The governor shall appoint the Texas Emerging  
24 Technology Committee as required by Section 490.052, Government  
25 Code, as added by this Act, on or before September 1, 2005, or as  
26 soon as practicable after giving persons nominating individuals for  
27 appointment to the committee a reasonable time to make any

1 nominations.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect on the 91st day after the last day of the  
7 legislative session.

H.B. No. 1765

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1765 was passed by the House on May 11, 2005, by the following vote: Yeas 136, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1765 on May 26, 2005, by the following vote: Yeas 138, Nays 2, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1765 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 29, Nays 2.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor