

By: Morrison, Ritter, Kolkhorst, Deshotel,  
McCall, et al.

H.B. No. 1765

Substitute the following for H.B. No. 1765:

By: Seaman

C.S.H.B. No. 1765

A BILL TO BE ENTITLED

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

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

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

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

7 (b) Emerging technology industries include industries  
8 related to:

9 (1) semiconductors;

10 (2) information;

11 (3) computer and software technology;

12 (4) energy;

13 (5) manufactured energy systems;

14 (6) micro-electromechanical systems;

15 (7) nanotechnology;

16 (8) biotechnology;

17 (9) medicine;

18 (10) life sciences;

19 (11) petroleum refining and chemical processes;

20 (12) aerospace;

21 (13) defense; and

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

25 [Sections 490.004-490.050 reserved for expansion]

26 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY COMMITTEE

27 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; and

16 (5) other persons considered appropriate by the  
17 governor.

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

21 (d) If an insufficient number of qualified individuals are  
22 nominated as provided by Subsection (b) before the date set by the  
23 governor under Subsection (c), the governor may appoint any  
24 qualified individual to the board for that term.

25 Sec. 490.053. PRESIDING MEMBER. The governor shall appoint  
26 a presiding member of the committee.

27 Sec. 490.054. TERMS. Members of the committee serve

1 two-year terms, subject to the pleasure of the governor.

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

4 (1) the office of the governor;

5 (2) the Texas Higher Education Coordinating Board;

6 (3) the Texas Education Agency;

7 (4) the Texas Workforce Commission;

8 (5) another public entity represented by a committee  
9 member; and

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

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

17 (b) The committee may establish advisory panels of  
18 knowledgeable individuals from industry, state government, or  
19 academic occupations to assist in peer review activities under this  
20 chapter.

21 Sec. 490.057. CONFIDENTIALITY. Information collected by  
22 the governor's office, the committee, or the committee's advisory  
23 panels concerning the identity, background, finance, marketing  
24 plans, trade secrets, or other commercially or academically  
25 sensitive information of an individual or entity being considered  
26 for an award from the fund is confidential unless the individual or  
27 entity consents to disclosure of the information.

1 [Sections 490.058-490.100 reserved for expansion]

2 SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND

3 Sec. 490.101. TEXAS EMERGING TECHNOLOGY FUND. (a) The  
4 Texas emerging technology fund is a dedicated account in the  
5 general revenue fund.

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

7 (1) any amounts appropriated by the legislature for  
8 the fund;

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

12 (3) gifts, grants, and other donations received for  
13 the fund; and

14 (4) interest earned on the investment of money in the  
15 fund.

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

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

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

22 (f) The administration of the fund is considered to be a  
23 trusteed program within the office of the governor. The governor  
24 may negotiate on behalf of the state regarding awarding, by grant,  
25 money appropriated from the fund. The governor may award money  
26 appropriated from the fund only with the express written prior  
27 approval of the lieutenant governor and speaker of the house of

1 representatives.

2 (g) Before awarding a grant under this chapter, the governor  
3 may enter into a written agreement with the entity to be awarded the  
4 grant money specifying that:

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

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

10 (B) the recipient of the grant shall, if the  
11 capital improvement is sold:

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

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

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

23 Sec. 490.102. ALLOCATION OF FUND. (a) Money appropriated  
24 to the fund by the legislature shall be allocated as follows:

25 (1) 50 percent of the money for incentives for  
26 collaboration between certain entities as provided by Subchapter D;

27 (2) 25 percent of the money for research grant

1 matching as provided by Subchapter E; and

2 (3) 25 percent of the money for acquisition of  
3 research superiority as provided by Subchapter F.

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

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

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

20 [Sections 490.104-490.150 reserved for expansion]

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

23 Sec. 490.151. USE OF MONEY FOR INCENTIVES. (a) Amounts  
24 allocated from the fund for use as provided by this subchapter shall  
25 be reserved for incentives for private or nonprofit entities to  
26 collaborate with public or private institutions of higher education  
27 in this state on emerging technology projects with a demonstrable

1 economic benefit to this state.

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

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

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

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

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

16 (2) commercialization of the results of research and  
17 development;

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

20 (4) workforce training for businesses resulting from  
21 research and development.

22 (d) Subject to the availability of suitable partners and  
23 resources, the committee shall propose and initiate the  
24 establishment of a regional center of innovation and  
25 commercialization in:

26 (1) Harris County;

27 (2) Lubbock County;



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

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

11           (1) involve emerging scientific or technology fields  
12 that have a reasonable probability of enhancing this state's  
13 national and global economic competitiveness;

14           (2) may result in a medical or scientific  
15 breakthrough;

16           (3) are collaborative between any combination of  
17 private or nonprofit entities and public or private agencies or  
18 institutions in this state;

19           (4) are matched with other available funds, including  
20 funds from the private or nonprofit entity or institution of higher  
21 education collaborating on the project; or

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

24           Sec. 490.154. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

25           (a) An entity participating in a regional center of innovation and  
26 commercialization that receives funding or another incentive under  
27 this subchapter shall guarantee by contract with the governor's

1 office that the entity will perform specific actions expected to  
2 provide benefits to this state.

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

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

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

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

23 [Sections 490.157-490.200 reserved for expansion]

24 SUBCHAPTER E. RESEARCH GRANT MATCHING

25 Sec. 490.201. USE OF MONEY FOR RESEARCH GRANT MATCHING. (a)  
26 Amounts allocated from the fund for use as provided by this  
27 subchapter shall be reserved to match funding from research

1 sponsors other than this state, including federal research  
2 sponsors.

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

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

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

12 (2) are interdisciplinary;

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

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

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

19 Sec. 490.203. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

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

24 (b) If an entity fails to perform an action guaranteed by  
25 contract under Subsection (a) before a time specified by the  
26 contract, the entity shall return the funding received by the  
27 entity under this subchapter.

1 [Sections 490.204-490.250 reserved for expansion]

2 SUBCHAPTER F. ACQUISITION OF RESEARCH SUPERIORITY

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

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

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

16 (1) creating new research superiority;

17 (2) attracting existing research superiority from  
18 institutions not located in this state and other research entities;  
19 or

20 (3) enhancing existing research superiority by  
21 attracting from outside this state additional researchers and  
22 resources.

23 (b) The committee shall recommend proposals eligible for  
24 funding under Section 490.251 and proposals solicited and  
25 identified under this section to the governor, lieutenant governor,  
26 and speaker of the house of representatives.

27 Sec. 490.254. PRIORITY FOR FUNDING. In awarding money from

1 the fund under this subchapter, priority shall be given to  
2 proposals that:

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

6 (2) may result in a medical or scientific  
7 breakthrough;

8 (3) are interdisciplinary;

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

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

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

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

20 Sec. 490.256. PROHIBITED ACTIVITIES. (a) An institution  
21 of higher education may not knowingly attempt to attract an  
22 individual key researcher or research superiority identified for  
23 consideration for funding by another institution under this  
24 subchapter.

25 (b) An institution that violates this section is ineligible  
26 to participate in a program or receive funding under this chapter  
27 before the third anniversary of the date the institution last

1 engaged in an activity prohibited by this section.

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

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

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

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

25 SECTION 3. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this  
2 Act takes effect on the 91st day after the last day of the  
3 legislative session.