

1-1 By: Morrison, et al. (Senate Sponsor - Shapiro) H.B. No. 1765
1-2 (In the Senate - Received from the House May 13, 2005;
1-3 May 16, 2005, read first time and referred to Committee on Business
1-4 and Commerce; May 21, 2005, reported favorably by the following
1-5 vote: Yeas 6, Nays 0; May 21, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of programs and funding for emerging
1-9 technology industries.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle F, Title 4, Government Code, is amended
1-12 by adding Chapter 490 to read as follows:

1-13 CHAPTER 490. FUNDING FOR EMERGING TECHNOLOGY

1-14 SUBCHAPTER A. GENERAL PROVISIONS

1-15 Sec. 490.001. DEFINITIONS. In this chapter:

1-16 (1) "Committee" means the Texas Emerging Technology
1-17 Committee.

1-18 (2) "Fund" means the Texas emerging technology fund.

1-19 (3) "Institution of higher education" has the meaning
1-20 assigned by Section 61.003, Education Code.

1-21 Sec. 490.002. PURPOSES. The fund is established under this
1-22 chapter to develop and diversify the economy of this state by:

1-23 (1) expediting innovation and commercialization of
1-24 research;

1-25 (2) attracting, creating, or expanding private sector
1-26 entities that will promote a substantial increase in high-quality
1-27 jobs; and

1-28 (3) increasing higher education applied technology
1-29 research capabilities.

1-30 Sec. 490.003. EMERGING TECHNOLOGY INDUSTRIES. (a) An
1-31 emerging technology industry participant is eligible for funding
1-32 under this chapter if the activity to be funded:

1-33 (1) will result in the creation of high-quality new
1-34 jobs in this state, immediately or over a longer period; or

1-35 (2) has the potential to result in a medical or
1-36 scientific breakthrough.

1-37 (b) Emerging technology industries include industries
1-38 related to:

1-39 (1) semiconductors;

1-40 (2) information;

1-41 (3) computer and software technology;

1-42 (4) energy;

1-43 (5) manufactured energy systems;

1-44 (6) micro-electromechanical systems;

1-45 (7) nanotechnology;

1-46 (8) biotechnology;

1-47 (9) medicine;

1-48 (10) life sciences;

1-49 (11) petroleum refining and chemical processes;

1-50 (12) aerospace;

1-51 (13) defense; and

1-52 (14) other pursuits, as determined by the governor in
1-53 consultation with the lieutenant governor and the speaker of the
1-54 house of representatives.

1-55 [Sections 490.004-490.050 reserved for expansion]

1-56 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY COMMITTEE

1-57 Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging
1-58 Technology Committee is composed of 17 members.

1-59 Sec. 490.052. APPOINTMENT BY GOVERNOR; NOMINATIONS. (a)
1-60 The governor shall appoint to the committee individuals nominated
1-61 as provided by Subsection (b).

1-62 (b) The following persons may nominate one or more
1-63 individuals who are industry leaders in this state or who are
1-64 nationally recognized researchers from public or private

2-1 institutions of higher education in this state for appointment to
 2-2 the committee:

- 2-3 (1) the Texas Higher Education Coordinating Board;
 2-4 (2) a president of a public or private institution of
 2-5 higher education in this state;
 2-6 (3) the members of the Texas Workforce Commission;
 2-7 (4) a representative of the governor's office involved
 2-8 in economic development activities;
 2-9 (5) a representative of the lieutenant governor's
 2-10 office involved in economic development activities;
 2-11 (6) a representative of the office of the speaker of
 2-12 the house involved in economic development activities; and
 2-13 (7) other persons considered appropriate by the
 2-14 governor.

2-15 (c) The governor may prescribe a date after which a
 2-16 nomination under Subsection (b) for appointment for the next term
 2-17 will not be considered.

2-18 (d) If an insufficient number of qualified individuals are
 2-19 nominated as provided by Subsection (b) before the date set by the
 2-20 governor under Subsection (c), the governor may appoint any
 2-21 qualified individual to the board for that term.

2-22 Sec. 490.053. PRESIDING MEMBER. The governor shall appoint
 2-23 a presiding member of the committee.

2-24 Sec. 490.054. TERMS. Members of the committee serve
 2-25 two-year terms, subject to the pleasure of the governor.

2-26 Sec. 490.055. COMMITTEE STAFF AND FUNDING. Necessary staff
 2-27 and funding for the committee shall be provided by:

- 2-28 (1) the office of the governor;
 2-29 (2) the Texas Higher Education Coordinating Board;
 2-30 (3) the Texas Education Agency;
 2-31 (4) the Texas Workforce Commission;
 2-32 (5) another public entity represented by a committee
 2-33 member; and

2-34 (6) gifts, grants, and donations for overhead expenses
 2-35 to the entities listed in Subdivisions (1)-(5).

2-36 Sec. 490.056. RECOMMENDATIONS FOR FUNDING. (a) The
 2-37 committee shall make recommendations, through peer review and
 2-38 evaluation processes established by the committee, to the governor,
 2-39 lieutenant governor, and speaker of the house of representatives
 2-40 for the award of money from the fund as provided by this chapter.

2-41 (b) The committee may establish advisory panels of
 2-42 knowledgeable individuals from industry, state government, or
 2-43 academic occupations to assist in peer review activities under this
 2-44 chapter.

2-45 Sec. 490.057. CONFIDENTIALITY. Information collected by
 2-46 the governor's office, the committee, or the committee's advisory
 2-47 panels concerning the identity, background, finance, marketing
 2-48 plans, trade secrets, or other commercially or academically
 2-49 sensitive information of an individual or entity being considered
 2-50 for an award from the fund is confidential unless the individual or
 2-51 entity consents to disclosure of the information.

2-52 [Sections 490.058-490.100 reserved for expansion]

2-53 SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND

2-54 Sec. 490.101. TEXAS EMERGING TECHNOLOGY FUND. (a) The
 2-55 Texas emerging technology fund is a dedicated account in the
 2-56 general revenue fund.

2-57 (b) The following amounts shall be deposited in the fund:
 2-58 (1) any amounts appropriated by the legislature for
 2-59 the fund;

2-60 (2) benefits realized from a project undertaken with
 2-61 money from the fund, as provided by a contract entered into under
 2-62 Section 490.103;

2-63 (3) gifts, grants, and other donations received for
 2-64 the fund; and

2-65 (4) interest earned on the investment of money in the
 2-66 fund.

2-67 (c) The fund may be used only for the purposes described by
 2-68 Section 490.002.

2-69 (d) The committee may solicit and accept gifts and grants

3-1 for the fund from public and private entities.

3-2 (e) The fund may be temporarily used by the comptroller for
3-3 cash management purposes.

3-4 (f) The administration of the fund is considered to be a
3-5 trusteed program within the office of the governor. The governor
3-6 may negotiate on behalf of the state regarding awarding, by grant,
3-7 money appropriated from the fund. The governor may award money
3-8 appropriated from the fund only with the express written prior
3-9 approval of the lieutenant governor and speaker of the house of
3-10 representatives.

3-11 (g) Before awarding a grant under this chapter, the governor
3-12 shall enter into a written agreement with the entity to be awarded
3-13 the grant money. An agreement may specify that:

3-14 (1) if all or any portion of the amount of the grant is
3-15 used to build a capital improvement:

3-16 (A) the state retains a lien or other interest in
3-17 the capital improvement in proportion to the percentage of the
3-18 grant amount used to pay for the capital improvement; and

3-19 (B) the recipient of the grant shall, if the
3-20 capital improvement is sold:

3-21 (i) repay to the state the grant money used
3-22 to pay for the capital improvement, with interest at the rate and
3-23 according to the other terms provided by the agreement; and

3-24 (ii) share with the state a proportionate
3-25 amount of any profit realized from the sale; and

3-26 (2) if, as of a date certain provided in the agreement,
3-27 the grant recipient has not used grant money awarded under this
3-28 chapter for the purposes for which the grant was intended, the
3-29 recipient shall repay that amount and any related interest
3-30 applicable under the agreement to the state at the agreed rate and
3-31 on the agreed terms.

3-32 Sec. 490.102. ALLOCATION OF FUND. (a) Money appropriated
3-33 to the fund by the legislature shall be allocated as follows:

3-34 (1) 50 percent of the money for incentives for
3-35 collaboration between certain entities as provided by Subchapter D;

3-36 (2) 25 percent of the money for research grant
3-37 matching as provided by Subchapter E; and

3-38 (3) 25 percent of the money for acquisition of
3-39 research superiority as provided by Subchapter F.

3-40 (b) The governor may reallocate money from one component of
3-41 the fund to another component subject to the prior approval of the
3-42 lieutenant governor and speaker of the house of representatives.

3-43 Sec. 490.103. ALLOCATION OF PROCEEDS. (a) The contract
3-44 between the governor and a recipient awarded a grant under this
3-45 chapter shall provide for the distribution of royalties, revenue,
3-46 or other financial benefits realized from the commercialization of
3-47 intellectual or real property developed from any grant awarded from
3-48 the fund. To the extent authorized by law and not in conflict with
3-49 another agreement, the contract shall appropriately allocate by
3-50 assignment, licensing, or other means the royalties, revenue, or
3-51 other financial benefits among identifiable collaborating parties
3-52 and in a specified percentage to this state for deposit in the fund.

3-53 (b) The contract under Subsection (a) shall also specify
3-54 other matters considered necessary by the governor, lieutenant
3-55 governor, and speaker of the house of representatives.

3-56 [Sections 490.104-490.150 reserved for expansion]

3-57 SUBCHAPTER D. INCENTIVES TO CREATE REGIONAL CENTERS OF INNOVATION
3-58 AND COMMERCIALIZATION

3-59 Sec. 490.151. USE OF MONEY FOR INCENTIVES. (a) Amounts
3-60 allocated from the fund for use as provided by this subchapter shall
3-61 be reserved for incentives for private or nonprofit entities to
3-62 collaborate with public or private institutions of higher education
3-63 in this state on emerging technology projects with a demonstrable
3-64 economic benefit to this state.

3-65 (b) The committee shall recommend proposals eligible for
3-66 funding under this section to the governor, lieutenant governor,
3-67 and speaker of the house of representatives.

3-68 Sec. 490.152. REGIONAL CENTERS OF INNOVATION AND
3-69 COMMERCIALIZATION. (a) In recommending proposals for funding, the

4-1 committee shall give specific emphasis to the formation of regional
 4-2 centers of innovation and commercialization.

4-3 (b) An appropriate combination of any entities described by
 4-4 Section 490.151(a) may collaborate to form a regional center of
 4-5 innovation and commercialization to serve a region of this state.

4-6 (c) A regional center of innovation and commercialization
 4-7 shall provide for a specified region:

4-8 (1) research and development activities that may
 4-9 include initiatives to prove the feasibility of an idea;

4-10 (2) commercialization of the results of research and
 4-11 development;

4-12 (3) incubators for new businesses and expansion of
 4-13 existing businesses related to research and development; and

4-14 (4) workforce training for businesses resulting from
 4-15 research and development.

4-16 (d) Subject to the availability of suitable partners and
 4-17 resources, the committee shall propose and initiate the
 4-18 establishment of a regional center of innovation and
 4-19 commercialization in:

4-20 (1) Harris County;

4-21 (2) Lubbock County;

4-22 (3) Bexar County;

4-23 (4) the Dallas-Fort Worth Metroplex;

4-24 (5) El Paso County;

4-25 (6) the Lower Rio Grande Valley; and

4-26 (7) other suitable locations as determined by the
 4-27 governor in consultation with the lieutenant governor and the
 4-28 speaker of the house of representatives.

4-29 Sec. 490.153. PRIORITY FOR FUNDING. In awarding money from
 4-30 the fund under this subchapter, priority shall be given to
 4-31 proposals that:

4-32 (1) involve emerging scientific or technology fields
 4-33 that have a reasonable probability of enhancing this state's
 4-34 national and global economic competitiveness;

4-35 (2) may result in a medical or scientific
 4-36 breakthrough;

4-37 (3) are collaborative between any combination of
 4-38 private or nonprofit entities and public or private agencies or
 4-39 institutions in this state;

4-40 (4) are matched with other available funds, including
 4-41 funds from the private or nonprofit entity or institution of higher
 4-42 education collaborating on the project; or

4-43 (5) have a demonstrable economic development benefit
 4-44 to this state.

4-45 Sec. 490.154. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

4-46 (a) An entity participating in a regional center of innovation and
 4-47 commercialization that receives funding or another incentive under
 4-48 this subchapter shall guarantee by contract with the governor's
 4-49 office that the entity will perform specific actions expected to
 4-50 provide benefits to this state.

4-51 (b) If an entity fails to perform an action guaranteed by
 4-52 contract under Subsection (a) before a time specified by the
 4-53 contract, the entity shall return to the fund the money received by
 4-54 the entity under this subchapter.

4-55 Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR
 4-56 MANUFACTURING IN TEXAS. A person or entity awarded money from the
 4-57 fund under this subchapter must guarantee by contract that a
 4-58 substantial percentage of any new or expanded commercialization or
 4-59 manufacturing of any real or intellectual product resulting from
 4-60 the award will be established in this state.

4-61 Sec. 490.156. AUTHORIZED EXPENSES. (a) A person awarded
 4-62 money from the fund under this subchapter may use the money to
 4-63 expedite commercialization that will lead to an increase in
 4-64 high-quality jobs in this state and shall use the money in
 4-65 accordance with a contract between the person and the committee.

4-66 (b) Authorized expenses under this section include salaries
 4-67 and benefits, travel, consumable supplies, other operating
 4-68 expenses, contracted research and development, capital equipment,
 4-69 construction or renovation of state or private facilities, and

5-1 workforce training.

5-2 [Sections 490.157-490.200 reserved for expansion]

5-3 SUBCHAPTER E. RESEARCH GRANT MATCHING

5-4 Sec. 490.201. USE OF MONEY FOR RESEARCH GRANT MATCHING. (a)
 5-5 Amounts allocated from the fund for use as provided by this
 5-6 subchapter shall be reserved to match funding from research
 5-7 sponsors other than this state, including federal research
 5-8 sponsors.

5-9 (b) The committee shall recommend proposals eligible for
 5-10 funding under this section to the governor, lieutenant governor,
 5-11 and speaker of the house of representatives.

5-12 Sec. 490.202. PRIORITY FOR FUNDING. In awarding money from
 5-13 the fund under this subchapter, priority shall be given to
 5-14 proposals that accelerate commercialization into production by
 5-15 targeting programs that:

5-16 (1) address federal or other major research sponsors'
 5-17 priorities in emerging scientific or technology fields;

5-18 (2) are interdisciplinary;

5-19 (3) are collaborative with a combination of public or
 5-20 private institutions of higher education in this state;

5-21 (4) are likely to result in a medical or scientific
 5-22 breakthrough; or

5-23 (5) have a demonstrable economic development benefit
 5-24 to this state.

5-25 Sec. 490.203. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

5-26 (a) An entity receiving funding or another incentive under this
 5-27 subchapter shall guarantee by contract with the governor's office
 5-28 that the entity will perform specific actions that are expected to
 5-29 provide benefits to this state.

5-30 (b) If an entity fails to perform an action guaranteed by
 5-31 contract under Subsection (a) before a time specified by the
 5-32 contract, the entity shall return the funding received by the
 5-33 entity under this subchapter.

5-34 [Sections 490.204-490.250 reserved for expansion]

5-35 SUBCHAPTER F. ACQUISITION OF RESEARCH SUPERIORITY

5-36 Sec. 490.251. USE OF MONEY FOR ACQUISITION OF RESEARCH
 5-37 SUPERIORITY. Amounts allocated from the fund for use as provided by
 5-38 this subchapter shall be used to acquire new or enhance existing
 5-39 research superiority at public institutions of higher education in
 5-40 this state.

5-41 Sec. 490.252. RESEARCH SUPERIORITY. For purposes of this
 5-42 subchapter, the employment by an institution of higher education of
 5-43 one or more world-class or nationally recognized researchers and
 5-44 associated assistants in an industry eligible to receive funding
 5-45 under Section 490.003 is considered "research superiority."

5-46 Sec. 490.253. PROPOSALS FOR FUNDING. (a) The committee
 5-47 shall solicit and identify proposals by public institutions of
 5-48 higher education for:

5-49 (1) creating new research superiority;

5-50 (2) attracting existing research superiority from
 5-51 institutions not located in this state and other research entities;
 5-52 or

5-53 (3) enhancing existing research superiority by
 5-54 attracting from outside this state additional researchers and
 5-55 resources.

5-56 (b) The committee shall recommend proposals eligible for
 5-57 funding under Section 490.251 and proposals solicited and
 5-58 identified under this section to the governor, lieutenant governor,
 5-59 and speaker of the house of representatives.

5-60 Sec. 490.254. PRIORITY FOR FUNDING. In awarding money from
 5-61 the fund under this subchapter, priority shall be given to
 5-62 proposals that:

5-63 (1) involve scientific or technical fields that have a
 5-64 reasonable probability of enhancing this state's national and
 5-65 global economic competitiveness;

5-66 (2) may result in a medical or scientific
 5-67 breakthrough;

5-68 (3) are interdisciplinary;

5-69 (4) have attracted or may attract federal and other

6-1 funding for research superiority;
6-2 (5) are likely to create a nationally or
6-3 internationally recognized locus of research superiority; or
6-4 (6) are matched with other funds available to the
6-5 institution seeking funding under this subchapter.

6-6 Sec. 490.255. AUTHORIZED EXPENSES. Money awarded from the
6-7 fund under this subchapter may be used for research and research
6-8 capability acquisition, including salaries and benefits, travel,
6-9 consumable supplies, other operating expenses, capital equipment,
6-10 and construction or renovation of facilities.

6-11 Sec. 490.256. PROHIBITED ACTIVITIES. (a) An institution
6-12 of higher education may not knowingly attempt to attract an
6-13 individual key researcher or research superiority identified for
6-14 consideration for funding by another public or private institution
6-15 of higher education in this state under this subchapter.

6-16 (b) An institution that violates this section is ineligible
6-17 to participate in a program or receive funding under this chapter
6-18 before the third anniversary of the date the institution last
6-19 engaged in an activity prohibited by this section.

6-20 Sec. 490.257. DOCUMENTATION OF BENEFITS TO STATE. (a) A
6-21 public institution of higher education must document specific
6-22 benefits that this state may expect to gain as a result of
6-23 attracting the research superiority before the institution may
6-24 enter into a contract to receive funding or incentives under this
6-25 subchapter.

6-26 (b) The governor, with the express written prior approval of
6-27 the lieutenant governor and the speaker of the house of
6-28 representatives, may terminate funding to an institution if the
6-29 institution fails to realize a benefit specified in the contract
6-30 before a time specified in the contract, as determined by a periodic
6-31 program review conducted by the committee.

6-32 SECTION 2. (a) As soon as practicable after the effective
6-33 date of this Act, a person seeking to nominate an individual for
6-34 appointment to the Texas Emerging Technology Committee under
6-35 Section 490.052, Government Code, as added by this Act, shall make
6-36 any nominations.

6-37 (b) The governor shall appoint the Texas Emerging
6-38 Technology Committee as required by Section 490.052, Government
6-39 Code, as added by this Act, on or before September 1, 2005, or as
6-40 soon as practicable after giving persons nominating individuals for
6-41 appointment to the committee a reasonable time to make any
6-42 nominations.

6-43 SECTION 3. This Act takes effect immediately if it receives
6-44 a vote of two-thirds of all the members elected to each house, as
6-45 provided by Section 39, Article III, Texas Constitution. If this
6-46 Act does not receive the vote necessary for immediate effect, this
6-47 Act takes effect on the 91st day after the last day of the
6-48 legislative session.

6-49

* * * * *