

1-1 By: Shapiro, et al. S.B. No. 831
1-2 (In the Senate - Filed March 1, 2005; March 10, 2005, read
1-3 first time and referred to Subcommittee on Emerging Technologies
1-4 and Economic Development; April 5, 2005, reported adversely, with
1-5 favorable Committee Substitute to Committee on Business and
1-6 Commerce; May 2, 2005, reported adversely, with favorable Committee
1-7 Substitute from Committee on Business and Commerce by the following
1-8 vote: Yeas 8, Nays 0; May 2, 2005, sent to printer.)

1-9 COMMITTEE SUBSTITUTE FOR S.B. No. 831 By: Lucio

1-10 A BILL TO BE ENTITLED
1-11 AN ACT

1-12 relating to the creation of programs and funding for emerging
1-13 technology industries.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subtitle F, Title 4, Government Code, is amended
1-16 by adding Chapter 490 to read as follows:

1-17 CHAPTER 490. FUNDING FOR EMERGING TECHNOLOGY

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 490.001. DEFINITIONS. In this chapter:

1-20 (1) "Committee" means the Texas Emerging Technology
1-21 Committee.

1-22 (2) "Fund" means the Texas emerging technology fund.

1-23 (3) "Institution of higher education" has the meaning
1-24 assigned by Section 61.003, Education Code.

1-25 Sec. 490.002. PURPOSES. The fund is established under this
1-26 chapter to develop and diversify the economy of this state by:

1-27 (1) expediting innovation and commercialization of
1-28 research;

1-29 (2) attracting, creating, or expanding private sector
1-30 entities that will promote a substantial increase in high quality
1-31 jobs; and

1-32 (3) increasing higher education applied technology
1-33 research capabilities.

1-34 Sec. 490.003. EMERGING TECHNOLOGY INDUSTRIES. (a) An
1-35 emerging technology industry participant is eligible for funding
1-36 under this chapter if the activity to be funded:

1-37 (1) will result in the creation of high quality new
1-38 jobs in this state, immediately or over a longer period; or

1-39 (2) has the potential to result in a medical or
1-40 scientific breakthrough.

1-41 (b) Emerging technology industries include industries
1-42 related to:

1-43 (1) semiconductors;

1-44 (2) information;

1-45 (3) computer and software technology;

1-46 (4) energy;

1-47 (5) manufactured energy systems;

1-48 (6) micro-electromechanical systems;

1-49 (7) nanotechnology;

1-50 (8) biotechnology;

1-51 (9) medicine;

1-52 (10) life sciences;

1-53 (11) petroleum refining and chemical processes;

1-54 (12) aerospace;

1-55 (13) defense; and

1-56 (14) other pursuits, as determined by the governor in
1-57 consultation with the lieutenant governor and the speaker of the
1-58 house of representatives.

1-59 [Sections 490.004-490.050 reserved for expansion]

1-60 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY COMMITTEE

1-61 Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging
1-62 Technology Committee is composed of 17 members.

1-63 Sec. 490.052. APPOINTMENT BY GOVERNOR; NOMINATIONS.

2-1 (a) The governor shall appoint to the committee individuals
2-2 nominated as provided by Subsection (b).

2-3 (b) The following persons may nominate one or more
2-4 individuals who are industry leaders in this state or who are
2-5 nationally recognized researchers from public or private
2-6 institutions of higher education in this state for appointment to
2-7 the committee:

2-8 (1) the Texas Higher Education Coordinating Board;

2-9 (2) a president of a public or private institution of
2-10 higher education in this state;

2-11 (3) the members of the Texas Workforce Commission;

2-12 (4) a representative of the governor's office involved
2-13 in economic development activities; and

2-14 (5) other persons considered appropriate by the
2-15 governor.

2-16 (c) The governor may prescribe a date after which a
2-17 nomination under Subsection (b) for appointment for the next term
2-18 will not be considered.

2-19 (d) If an insufficient number of qualified individuals are
2-20 nominated as provided by Subsection (b) before the date set by the
2-21 governor under Subsection (c), the governor may appoint any
2-22 qualified individual to the committee for that term.

2-23 Sec. 490.053. PRESIDING MEMBER. The governor shall appoint
2-24 a presiding member of the committee.

2-25 Sec. 490.054. TERMS. Members of the committee serve
2-26 two-year terms, subject to the pleasure of the governor.

2-27 Sec. 490.055. COMMITTEE STAFF AND FUNDING. Necessary staff
2-28 and funding for the committee shall be provided by:

2-29 (1) the office of the governor;

2-30 (2) the Texas Higher Education Coordinating Board;

2-31 (3) the Texas Education Agency;

2-32 (4) the Texas Workforce Commission;

2-33 (5) another public entity represented by a committee
2-34 member; and

2-35 (6) gifts, grants, and donations for overhead expenses
2-36 to the entities listed in Subdivisions (1)-(5).

2-37 Sec. 490.056. RECOMMENDATIONS FOR FUNDING. (a) The
2-38 committee shall make recommendations, through peer review and
2-39 evaluation processes established by the committee, to the governor,
2-40 lieutenant governor, and speaker of the house of representatives
2-41 for the award of money from the fund as provided by this chapter.

2-42 (b) The committee may establish advisory panels of
2-43 knowledgeable individuals from industry, state government, or
2-44 academic occupations to assist in peer review activities under this
2-45 chapter.

2-46 Sec. 490.057. CONFIDENTIALITY. Information collected by
2-47 the governor's office, the committee, or the committee's advisory
2-48 panels concerning the identity, background, finance, marketing
2-49 plans, trade secrets, or other commercially or academically
2-50 sensitive information of an individual or entity being considered
2-51 for an award from the fund is confidential unless the individual or
2-52 entity consents to disclosure of the information.

2-53 [Sections 490.058-490.100 reserved for expansion]
2-54 SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND

2-55 Sec. 490.101. TEXAS EMERGING TECHNOLOGY FUND. (a) The
2-56 Texas emerging technology fund is a dedicated account in the
2-57 general revenue fund.

2-58 (b) The following amounts shall be deposited in the fund:

2-59 (1) any amounts appropriated by the legislature for
2-60 the fund;

2-61 (2) benefits realized from a project undertaken with
2-62 money from the fund, as provided by a contract entered into under
2-63 Section 490.103;

2-64 (3) gifts, grants, and other donations received for
2-65 the fund; and

2-66 (4) interest earned on the investment of money in the
2-67 fund.

2-68 (c) The fund may be used only for the purposes described by
2-69 Section 490.002.

3-1 (d) The committee may solicit and accept gifts and grants
 3-2 for the fund from public and private entities.

3-3 (e) The fund may be temporarily used by the comptroller for
 3-4 cash management purposes.

3-5 (f) The administration of the fund is considered to be a
 3-6 trusteed program within the office of the governor. The governor
 3-7 may negotiate on behalf of the state regarding awarding, by grant,
 3-8 money appropriated from the fund. The governor may award money
 3-9 appropriated from the fund only with the express written prior
 3-10 approval of the lieutenant governor and speaker of the house of
 3-11 representatives.

3-12 (g) Before awarding a grant under this chapter, the governor
 3-13 may enter into a written agreement with the entity to be awarded the
 3-14 grant money specifying that:

3-15 (1) if all or any portion of the amount of the grant is
 3-16 used to build a capital improvement:

3-17 (A) the state retains a lien or other interest in
 3-18 the capital improvement in proportion to the percentage of the
 3-19 grant amount used to pay for the capital improvement; and

3-20 (B) the recipient of the grant shall, if the
 3-21 capital improvement is sold:

3-22 (i) repay to the state the grant money used
 3-23 to pay for the capital improvement, with interest at the rate and
 3-24 according to the other terms provided by the agreement; and

3-25 (ii) share with the state a proportionate
 3-26 amount of any profit realized from the sale; and

3-27 (2) if, as of a date certain provided in the agreement,
 3-28 the grant recipient has not used grant money awarded under this
 3-29 chapter for the purposes for which the grant was intended, the
 3-30 recipient shall repay that amount and any related interest
 3-31 applicable under the agreement to the state at the agreed rate and
 3-32 on the agreed terms.

3-33 Sec. 490.102. ALLOCATION OF FUND. (a) Money appropriated
 3-34 to the fund by the legislature shall be allocated as follows:

3-35 (1) 50 percent of the money for incentives for
 3-36 collaboration between certain entities as provided by Subchapter D;

3-37 (2) 25 percent of the money for research grant
 3-38 matching as provided by Subchapter E; and

3-39 (3) 25 percent of the money for acquisition of
 3-40 research superiority as provided by Subchapter F.

3-41 (b) The governor may reallocate money from one component of
 3-42 the fund to another component subject to the prior approval of the
 3-43 lieutenant governor and speaker of the house of representatives.

3-44 Sec. 490.103. ALLOCATION OF PROCEEDS. (a) The contract
 3-45 between the governor and a recipient awarded a grant under this
 3-46 chapter shall provide for the distribution of royalties, revenue,
 3-47 or other financial benefits realized from the commercialization of
 3-48 intellectual or real property developed from any grant awarded from
 3-49 the fund. To the extent authorized by law and not in conflict with
 3-50 another agreement, the contract shall appropriately allocate by
 3-51 assignment, licensing, or other means the royalties, revenue, or
 3-52 other financial benefits among identifiable collaborating parties
 3-53 and in a specified percentage to this state for deposit in the fund.

3-54 (b) The contract under Subsection (a) shall also specify
 3-55 other matters considered necessary by the governor, lieutenant
 3-56 governor, and speaker of the house of representatives.

3-57 [Sections 490.104-490.150 reserved for expansion]

3-58 SUBCHAPTER D. INCENTIVES TO CREATE REGIONAL CENTERS OF
 3-59 INNOVATION AND COMMERCIALIZATION

3-60 Sec. 490.151. USE OF MONEY FOR INCENTIVES. (a) Amounts
 3-61 allocated from the fund for use as provided by this subchapter shall
 3-62 be reserved for incentives for private or nonprofit entities to
 3-63 collaborate with public or private institutions of higher education
 3-64 in this state on emerging technology projects with a demonstrable
 3-65 economic benefit to this state.

3-66 (b) The committee shall recommend proposals eligible for
 3-67 funding under this section to the governor, lieutenant governor,
 3-68 and speaker of the house of representatives.

3-69 Sec. 490.152. REGIONAL CENTERS OF INNOVATION AND

4-1 COMMERCIALIZATION. (a) In recommending proposals for funding,
 4-2 the committee shall give specific emphasis to the formation of
 4-3 regional centers of innovation and commercialization.

4-4 (b) An appropriate combination of any entities described by
 4-5 Section 490.151(a) may collaborate to form a regional center of
 4-6 innovation and commercialization to serve a region of this state.

4-7 (c) A regional center of innovation and commercialization
 4-8 shall provide for a specified region:

4-9 (1) research and development activities that may
 4-10 include initiatives to prove the feasibility of an idea;

4-11 (2) commercialization of the results of research and
 4-12 development;

4-13 (3) incubators for new businesses and expansion of
 4-14 existing businesses related to research and development; and

4-15 (4) workforce training for businesses resulting from
 4-16 research and development.

4-17 (d) Subject to the availability of suitable partners and
 4-18 resources, the committee shall propose and initiate the
 4-19 establishment of a regional center of innovation and
 4-20 commercialization in:

4-21 (1) Harris County;

4-22 (2) Lubbock County;

4-23 (3) Bexar County;

4-24 (4) the Dallas-Fort Worth Metroplex;

4-25 (5) El Paso County;

4-26 (6) the Lower Rio Grande Valley; and

4-27 (7) other suitable locations as determined by the
 4-28 governor in consultation with the lieutenant governor and the
 4-29 speaker of the house of representatives.

4-30 Sec. 490.153. PRIORITY FOR FUNDING. In awarding money from
 4-31 the fund under this subchapter, priority shall be given to
 4-32 proposals that:

4-33 (1) involve emerging scientific or technology fields
 4-34 that have a reasonable probability of enhancing this state's
 4-35 national and global economic competitiveness;

4-36 (2) may result in a medical or scientific
 4-37 breakthrough;

4-38 (3) are collaborative between any combination of
 4-39 private or nonprofit entities and public or private agencies or
 4-40 institutions in this state;

4-41 (4) are matched with other available funds, including
 4-42 funds from the private or nonprofit entity or institution of higher
 4-43 education collaborating on the project; or

4-44 (5) have a demonstrable economic development benefit
 4-45 to this state.

4-46 Sec. 490.154. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

4-47 (a) An entity participating in a regional center of innovation and
 4-48 commercialization that receives funding or another incentive under
 4-49 this subchapter shall guarantee by contract with the governor's
 4-50 office that the entity will perform specific actions expected to
 4-51 provide benefits to this state.

4-52 (b) If an entity fails to perform an action guaranteed by
 4-53 contract under Subsection (a) before a time specified by the
 4-54 contract, the entity shall return to the fund the money received by
 4-55 the entity under this subchapter.

4-56 Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR
 4-57 MANUFACTURING IN TEXAS. A person or entity awarded money from the
 4-58 fund under this subchapter must guarantee by contract that a
 4-59 substantial percentage of any new or expanded commercialization or
 4-60 manufacturing of any real or intellectual product resulting from
 4-61 the award will be established in this state.

4-62 Sec. 490.156. AUTHORIZED EXPENSES. (a) A person awarded
 4-63 money from the fund under this subchapter may use the money to
 4-64 expedite commercialization that will lead to an increase in high
 4-65 quality jobs in this state and shall use the money in accordance
 4-66 with a contract between the person and the committee.

4-67 (b) Authorized expenses under this section include salaries
 4-68 and benefits, travel, consumable supplies, other operating
 4-69 expenses, contracted research and development, capital equipment,

5-1 construction or renovation of state or private facilities, and
 5-2 workforce training.

5-3 [Sections 490.157-490.200 reserved for expansion]

5-4 SUBCHAPTER E. RESEARCH GRANT MATCHING

5-5 Sec. 490.201. USE OF MONEY FOR RESEARCH GRANT MATCHING.

5-6 (a) Amounts allocated from the fund for use as provided by this
 5-7 subchapter shall be reserved to match funding from research
 5-8 sponsors other than this state, including federal research
 5-9 sponsors.

5-10 (b) The committee shall recommend proposals eligible for
 5-11 funding under this section to the governor, lieutenant governor,
 5-12 and speaker of the house of representatives.

5-13 Sec. 490.202. PRIORITY FOR FUNDING. In awarding money from
 5-14 the fund under this subchapter, priority shall be given to
 5-15 proposals that accelerate commercialization into production by
 5-16 targeting programs that:

5-17 (1) address federal or other major research sponsors'
 5-18 priorities in emerging scientific or technology fields;

5-19 (2) are interdisciplinary;

5-20 (3) are collaborative with a combination of public or
 5-21 private institutions of higher education in this state;

5-22 (4) are likely to result in a medical or scientific
 5-23 breakthrough; or

5-24 (5) have a demonstrable economic development benefit
 5-25 to this state.

5-26 Sec. 490.203. GUARANTEE OF ACTION BY PARTICIPATING ENTITY.

5-27 (a) An entity receiving funding or another incentive under this
 5-28 subchapter shall guarantee by contract with the governor's office
 5-29 that the entity will perform specific actions that are expected to
 5-30 provide benefits to this state.

5-31 (b) If an entity fails to perform an action guaranteed by
 5-32 contract under Subsection (a) before a time specified by the
 5-33 contract, the entity shall return the funding received by the
 5-34 entity under this subchapter.

5-35 [Sections 490.204-490.250 reserved for expansion]

5-36 SUBCHAPTER F. ACQUISITION OF RESEARCH SUPERIORITY

5-37 Sec. 490.251. USE OF MONEY FOR ACQUISITION OF RESEARCH
 5-38 SUPERIORITY. Amounts allocated from the fund for use as provided by
 5-39 this subchapter shall be used to acquire new or enhance existing
 5-40 research superiority at public institutions of higher education in
 5-41 this state.

5-42 Sec. 490.252. RESEARCH SUPERIORITY. For purposes of this
 5-43 subchapter, the employment by an institution of higher education of
 5-44 one or more world class or nationally recognized researchers and
 5-45 associated assistants in an industry eligible to receive funding
 5-46 under Section 490.003 is considered "research superiority."

5-47 Sec. 490.253. PROPOSALS FOR FUNDING. (a) The committee
 5-48 shall solicit and identify proposals by public institutions of
 5-49 higher education for:

5-50 (1) creating new research superiority;

5-51 (2) attracting existing research superiority from
 5-52 institutions not located in this state and other research entities;
 5-53 or

5-54 (3) enhancing existing research superiority by
 5-55 attracting from outside this state additional researchers and
 5-56 resources.

5-57 (b) The committee shall recommend proposals eligible for
 5-58 funding under Section 490.251 and proposals solicited and
 5-59 identified under this section to the governor, lieutenant governor,
 5-60 and speaker of the house of representatives.

5-61 Sec. 490.254. PRIORITY FOR FUNDING. In awarding money from
 5-62 the fund under this subchapter, priority shall be given to
 5-63 proposals that:

5-64 (1) involve scientific or technical fields that have a
 5-65 reasonable probability of enhancing this state's national and
 5-66 global economic competitiveness;

5-67 (2) may result in a medical or scientific
 5-68 breakthrough;

5-69 (3) are interdisciplinary;

6-1 (4) have attracted or may attract federal and other
6-2 funding for research superiority;

6-3 (5) are likely to create a nationally or
6-4 internationally recognized locus of research superiority; or

6-5 (6) are matched with other funds available to the
6-6 institution seeking funding under this subchapter.

6-7 Sec. 490.255. AUTHORIZED EXPENSES. Money awarded from the
6-8 fund under this subchapter may be used for research and research
6-9 capability acquisition, including salaries and benefits, travel,
6-10 consumable supplies, other operating expenses, capital equipment,
6-11 and construction or renovation of facilities.

6-12 Sec. 490.256. PROHIBITED ACTIVITIES. (a) An institution
6-13 of higher education may not knowingly attempt to attract an
6-14 individual key researcher or research superiority identified for
6-15 consideration for funding by another public or private institution
6-16 of higher education in this state under this subchapter.

6-17 (b) An institution that violates this section is ineligible
6-18 to participate in a program or receive funding under this chapter
6-19 before the third anniversary of the date the institution last
6-20 engaged in an activity prohibited by this section.

6-21 Sec. 490.257. DOCUMENTATION OF BENEFITS TO STATE. (a) A
6-22 public institution of higher education must document specific
6-23 benefits that this state may expect to gain as a result of
6-24 attracting the research superiority before the institution may
6-25 enter into a contract to receive funding or incentives under this
6-26 subchapter.

6-27 (b) The governor, with the express written prior approval of
6-28 the lieutenant governor and the speaker of the house of
6-29 representatives, may terminate funding to an institution if the
6-30 institution fails to realize a benefit specified in the contract
6-31 before a time specified in the contract, as determined by a periodic
6-32 program review conducted by the committee.

6-33 SECTION 2. (a) As soon as practicable after the effective
6-34 date of this Act, a person seeking to nominate an individual for
6-35 appointment to the Texas Emerging Technology Committee under
6-36 Section 490.052, Government Code, as added by this Act, shall make
6-37 any nominations.

6-38 (b) The governor shall appoint the Texas Emerging
6-39 Technology Committee as required by Section 490.052, Government
6-40 Code, as added by this Act, on or before September 1, 2005, or as
6-41 soon as practicable after giving persons nominating individuals for
6-42 appointment to the committee a reasonable time to make any
6-43 nominations.

6-44 SECTION 3. This Act takes effect immediately if it receives
6-45 a vote of two-thirds of all the members elected to each house, as
6-46 provided by Section 39, Article III, Texas Constitution. If this
6-47 Act does not receive the vote necessary for immediate effect, this
6-48 Act takes effect on the 91st day after the last day of the
6-49 legislative session.

6-50 * * * * *