

By: Huffman

S.B. No. 19

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration and investment of, and distribution
3 and use of money from, certain constitutional and statutory funds
4 to support general academic teaching institutions in achieving
5 national prominence as major research universities and driving the
6 state economy; redesignating the national research fund as the
7 Texas University Fund.

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

9 SECTION 1. Section 51.406(c), Education Code, is amended to
10 read as follows:

11 (c) A rule or policy of a state agency, including the Texas
12 Higher Education Coordinating Board, in effect on June 1, 2011,
13 that requires reporting by a university system or an institution of
14 higher education has no effect on or after September 1, 2013, unless
15 the rule or policy is affirmatively and formally readopted before
16 that date by formal administrative rule published in the Texas
17 Register and adopted in compliance with Chapter 2001, Government
18 Code. This subsection does not apply to:

19 (1) a rule or policy for which the authorizing statute
20 is listed in Subsection (b);

21 (2) a rule or policy for which the authorizing statute
22 is repealed on or before September 1, 2013, by legislation enacted
23 by the legislature that becomes law; or

24 (3) a report required under any of the following

1 provisions:

2 (A) Article 59.06(g)(1), Code of Criminal
3 Procedure;

4 (B) Section 51.005;

5 (C) Section 51.0051;

6 (D) Subchapter F-1 of this chapter;

7 (E) Section 51.402;

8 (F) Section 56.039;

9 (G) Section 61.059;

10 (H) [~~Section 62.095(b)~~];

11 [~~(I)~~] Section 62.098;

12 (I) [~~(J)~~] Section 411.187(b), Government Code;

13 (J) [~~(K)~~] Subchapter C, Chapter 606, Government
14 Code;

15 (K) [~~(L)~~] Subchapter E, Chapter 815, Government
16 Code; or

17 (L) [~~(M)~~] Chapter 1551, Insurance Code.

18 SECTION 2. Section 62.095, Education Code, is amended to
19 read as follows:

20 Sec. 62.095. APPROPRIATION OF FUND TO ELIGIBLE
21 INSTITUTIONS. [~~(a)~~] In each state fiscal year, amounts shall be
22 appropriated to eligible institutions in the same manner that
23 research performance funding is appropriated to institutions
24 eligible to receive funding from the Texas University Fund under
25 Section 62.1482 [~~based on the average amount of restricted research~~
26 ~~funds expended by each institution per year for the three preceding~~
27 ~~state fiscal years]~~.

1 ~~[(b) For purposes of Subsection (a), the amount of~~
2 ~~restricted research funds expended by an institution in a fiscal~~
3 ~~year is the amount of those funds as reported to the coordinating~~
4 ~~board by the institution for that fiscal year, subject to any~~
5 ~~adjustment by the coordinating board in accordance with the~~
6 ~~standards and accounting methods the coordinating board prescribes~~
7 ~~under Section 62.096.]~~

8 SECTION 3. Section 62.132, Education Code, is amended by
9 amending Subdivision (2) and adding Subdivision (4) to read as
10 follows:

11 (2) "Eligible institution" means a general academic
12 teaching ~~[an]~~ institution ~~[of higher education]~~ that:

13 (A) is designated as an emerging research
14 university under the coordinating board's accountability system;

15 (B) is entitled to participate in the funding
16 provided by Section 18, Article VII, Texas Constitution;

17 (C) spent on average at least \$20 million in
18 federal and private research funds per state fiscal year during the
19 preceding three state fiscal years; and

20 (D) awarded on average at least 45 research
21 doctoral degrees per academic year during the preceding three
22 academic years.

23 (4) "General academic teaching institution" has the
24 meaning assigned by Section 61.003.

25 SECTION 4. Section 62.134, Education Code, is amended to
26 read as follows:

27 Sec. 62.134. APPROPRIATION OF FUND TO ELIGIBLE

1 INSTITUTIONS. In each state fiscal year, amounts shall be
2 appropriated to eligible institutions in the same manner that
3 research performance funding is appropriated to institutions
4 eligible to receive funding from the Texas University Fund under
5 Section 62.1482 [~~as follows:~~

6 [(1) 50 percent based on the average amount of
7 ~~restricted research funds expended by each institution per year for~~
8 ~~the three preceding state fiscal years, determined in the manner~~
9 ~~described by Section 62.095(b); and~~

10 [(2) 50 percent based on the average amount of total
11 ~~research funds expended by each institution per year for the three~~
12 ~~preceding state fiscal years, determined in the manner described by~~
13 ~~Section 62.053(b)].~~

14 SECTION 5. The heading to Subchapter G, Chapter 62,
15 Education Code, is amended to read as follows:

16 SUBCHAPTER G. TEXAS [~~NATIONAL RESEARCH~~] UNIVERSITY FUND

17 SECTION 6. Section 62.141, Education Code, is amended to
18 read as follows:

19 Sec. 62.141. PURPOSE. The purpose of this subchapter is to
20 allocate appropriations from the Texas University Fund [~~national~~
21 ~~research university fund~~] to provide a dedicated, independent, and
22 equitable source of funding to enable certain general academic
23 teaching institutions [~~emerging research universities in this~~
24 ~~state~~] to achieve national prominence as major research
25 universities and drive the state economy.

26 SECTION 7. Subchapter G, Chapter 62, Education Code, is
27 amended by adding Section 62.1415 to read as follows:

1 Sec. 62.1415. REFERENCES TO TEXAS UNIVERSITY FUND. (a) In
2 this subchapter, a reference to the Texas University Fund means the
3 national research university fund.

4 (b) In other law, the national research university fund may
5 be referred to as the Texas University Fund.

6 SECTION 8. Section 62.142, Education Code, is amended by
7 amending Subdivision (3) and adding Subdivision (5) to read as
8 follows:

9 (3) "Fund" means the Texas University Fund [~~national~~
10 ~~research university fund~~].

11 (5) "Trust company" means the Texas Treasury
12 Safekeeping Trust Company.

13 SECTION 9. Section 62.143, Education Code, is amended to
14 read as follows:

15 Sec. 62.143. ADMINISTRATION AND INVESTMENT OF
16 FUND. (a) The Texas University Fund [~~national research~~
17 ~~university fund~~] is a fund outside the state treasury held by [~~in~~
18 ~~the custody of~~] the comptroller and administered by the trust
19 company.

20 (b) The trust company [~~comptroller~~] shall administer and
21 invest the fund in accordance with Section 20, Article VII, Texas
22 Constitution.

23 (c) The trust company shall determine the amount available
24 for distribution from the fund in accordance with a distribution
25 policy adopted by the comptroller that is designed to:

26 (1) preserve the purchasing power of the fund's
27 assets; and

1 (2) provide a stable and predictable stream of annual
2 distributions.

3 SECTION 10. Section 62.144, Education Code, is amended to
4 read as follows:

5 Sec. 62.144. FUNDING. (a) The fund consists of:

6 (1) money [~~any amounts~~] appropriated or transferred to
7 the credit of the fund;

8 (2) gifts and grants contributed to the fund; and

9 (3) the interest and other earnings attributable to
10 the investment of money in the fund [~~under the Texas Constitution or~~
11 ~~otherwise appropriated or transferred to the credit of the fund~~
12 ~~under this section or another law].~~

13 (b) [~~The comptroller shall deposit to the credit of the fund~~
14 ~~all interest, dividends, and other income earned from investment of~~
15 ~~the fund.~~

16 [~~(c)~~] The comptroller may solicit and accept gifts or grants
17 from any public or private source for the fund.

18 SECTION 11. Section 62.145, Education Code, is amended to
19 read as follows:

20 Sec. 62.145. ELIGIBILITY TO RECEIVE DISTRIBUTIONS FROM
21 FUND. (a) The following general academic teaching institutions,
22 which previously have been determined to be eligible to receive
23 distributions of money appropriated from the fund, remain eligible
24 to receive distributions under this subchapter for each state
25 fiscal year:

26 (1) Texas State University;

27 (2) Texas Tech University;

1 (3) the University of Houston; and

2 (4) the University of North Texas.

3 (b) A general academic teaching institution not listed in
4 Subsection (a) becomes eligible to receive an initial distribution
5 of money appropriated under this subchapter for a state fiscal year
6 if:

7 (1) the institution:

8 (A) is not entitled to participate in the funding
9 provided by Section 18, Article VII, Texas Constitution;

10 (B) spent on average at least \$20 million in
11 federal and private research funds per state fiscal year during the
12 preceding three state fiscal years; and

13 (C) awarded on average at least 45 research
14 doctoral degrees per academic year during the preceding three
15 academic years; and

16 (2) the legislature appropriates money to the fund in
17 an amount sufficient to ensure that, for the first state fiscal year
18 for which the institution would receive the distribution, the
19 market value of each other eligible institution's share of the
20 distribution of money under this subchapter for that fiscal year is
21 at least the same as the market value of that share for the state
22 fiscal year immediately preceding the state fiscal year in which
23 the additional institution becomes eligible for a distribution
24 under this subsection ~~[is designated as an emerging research~~
25 ~~university under the coordinating board's accountability system;~~

26 ~~[(2) in each of the two state fiscal years preceding~~
27 ~~the state fiscal year for which the appropriation is made, the~~

1 ~~institution expended at least \$45 million in restricted research~~
2 ~~funds, and~~

3 ~~[(3) the institution satisfies at least four of the~~
4 ~~following criteria:~~

5 ~~[(A) the value of the institution's endowment~~
6 ~~funds is at least \$400 million in each of the two state fiscal years~~
7 ~~preceding the state fiscal year for which the appropriation is~~
8 ~~made;~~

9 ~~[(B) the institution awarded at least 200 doctor~~
10 ~~of philosophy degrees during each of the two academic years~~
11 ~~preceding the state fiscal year for which the appropriation is~~
12 ~~made;~~

13 ~~[(C) the entering freshman class of the~~
14 ~~institution for each of those two academic years demonstrated high~~
15 ~~academic achievement, as determined according to standards~~
16 ~~prescribed by the coordinating board by rule, giving consideration~~
17 ~~to the future educational needs of the state as articulated in the~~
18 ~~coordinating board's "Closing the Gaps" report;~~

19 ~~[(D) the institution is designated as a member of~~
20 ~~the Association of Research Libraries or has a Phi Beta Kappa~~
21 ~~chapter or has received an equivalent recognition of research~~
22 ~~capabilities and scholarly attainment as determined according to~~
23 ~~standards prescribed by the coordinating board by rule;~~

24 ~~[(E) the faculty of the institution for each of~~
25 ~~those two academic years was of high quality, as determined~~
26 ~~according to coordinating board standards based on the professional~~
27 ~~achievement and recognition of the institution's faculty,~~

1 ~~including the election of faculty members to national academies,~~
2 ~~and~~

3 ~~[(F) for each of those two academic years, the~~
4 ~~institution has demonstrated a commitment to high-quality graduate~~
5 ~~education, as determined according to standards prescribed by the~~
6 ~~coordinating board by rule, including standards relating to the~~
7 ~~number of graduate-level programs at the institution, the~~
8 ~~institution's admission standards for graduate programs, and the~~
9 ~~level of institutional support for graduate students].~~

10 (c) ~~[(b)]~~ A general academic teaching institution that
11 becomes eligible to receive a distribution of money under this
12 subchapter remains eligible to receive a distribution in each
13 subsequent state fiscal year.

14 SECTION 12. Sections 62.148(a), (b), and (c), Education
15 Code, are amended to read as follows:

16 (a) In each state fiscal year, the comptroller shall
17 distribute to eligible institutions in accordance with this
18 subchapter ~~[section]~~ money appropriated from the fund for that
19 fiscal year.

20 (b) The total amount appropriated from the fund for any
21 state fiscal year may not exceed an amount equal to 7.0 ~~[4.5]~~
22 percent of the average net market value of the investment assets of
23 the fund for the 12 consecutive state fiscal quarters ending with
24 the last quarter of the preceding state fiscal year, as determined
25 by the comptroller.

26 (c) The ~~[Subject to Subsection (e), of the total]~~ amount
27 appropriated from the fund for distribution in a state fiscal year

1 must be allocated as follows:

2 (1) 75 percent to the permanent endowment for
3 education and research base funding under Section 62.1481; and

4 (2) 25 percent to the research performance funding
5 under Section 62.1482 [~~each eligible institution is entitled to a~~
6 ~~distribution in an amount equal to the sum of:~~

7 [~~(1) one-seventh of the total amount appropriated; and~~

8 [~~(2) an equal share of any amount remaining after~~
9 ~~distributions are calculated under Subdivision (1), not to exceed~~
10 ~~an amount equal to one-fourth of that remaining amount]~~.

11 SECTION 13. Subchapter G, Chapter 62, Education Code, is
12 amended by adding Sections 62.1481 and 62.1482 to read as follows:

13 Sec. 62.1481. PERMANENT ENDOWMENT FOR EDUCATION AND
14 RESEARCH BASE FUNDING. (a) For each state fiscal year, an eligible
15 institution is entitled to a distribution of a portion of the total
16 amount allocated for the permanent endowment for education and
17 research base funding under Section 62.148(c)(1) for that fiscal
18 year. The portion to which an eligible institution is entitled is a
19 fraction computed as follows:

20 (1) subject to Subsection (b), for an institution that
21 spent at least \$45 million in federal and private research funds in
22 each of the preceding two state fiscal years, an amount computed by
23 dividing two by the sum of:

24 (A) the number of institutions entitled to
25 receive a distribution under this subdivision multiplied by two;
26 and

27 (B) the number of institutions to which

1 Subdivision (2) applies; or
2 (2) for an institution not described by Subdivision
3 (1), half the amount to which an institution to which Subdivision
4 (1) applies is entitled.

5 (b) An eligible institution is entitled to receive a
6 distribution under Subsection (a)(1) only if:

7 (1) in each of the state fiscal years beginning
8 September 1, 2020, and September 1, 2021, the institution spent at
9 least the amount in federal and private research funds described by
10 that subdivision; or

11 (2) the legislature appropriates money to the fund in
12 an amount sufficient to ensure that, for the first state fiscal year
13 for which the institution would receive a distribution under that
14 subdivision, the market value of each other eligible institution's
15 share of the distribution under that subdivision for that fiscal
16 year is at least the same as the market value of that share for the
17 state fiscal year immediately preceding the state fiscal year in
18 which the institution becomes eligible for a distribution under
19 that subdivision.

20 (c) An eligible institution that becomes eligible to
21 receive a distribution under Subsection (a)(1) remains eligible to
22 receive a distribution under that subdivision in each subsequent
23 state fiscal year.

24 Sec. 62.1482. RESEARCH PERFORMANCE FUNDING. (a) From 85
25 percent of the amount allocated for research performance funding
26 under Section 62.148(c)(2) for a state fiscal year, an eligible
27 institution is entitled to a distribution for that fiscal year in an

1 amount proportionate to the average amount of federal and private
2 research funds the institution spends per state fiscal year during
3 the preceding three state fiscal years as compared to the average
4 amount of those funds all eligible institutions spend per state
5 fiscal year during that period.

6 (b) From 15 percent of the amount allocated for research
7 performance funding under Section 62.148(c)(2) for a state fiscal
8 year, an eligible institution is entitled to a distribution for
9 that fiscal year in an amount proportionate to the average number of
10 research doctoral degrees the institution awards per academic year
11 during the preceding three academic years as compared to the
12 average number of those degrees all eligible institutions award per
13 academic year during that period.

14 (c) The coordinating board by rule shall establish a method
15 for determining the amounts to which each eligible institution is
16 entitled under this section.

17 SECTION 14. Sections 62.149(a) and (b), Education Code, are
18 amended to read as follows:

19 (a) An eligible institution may use money received under
20 this subchapter only for the support and maintenance of educational
21 and general activities that promote increased research capacity at
22 the institution in a manner that aligns with the goals of the
23 state's master plan for higher education developed under Section
24 61.051.

25 (b) For purposes of Subsection (a), the use of money shall
26 be limited to the following permitted activities:

27 (1) providing faculty support and paying faculty

- 1 salaries;
- 2 (2) purchasing equipment or library materials;
- 3 (3) paying graduate stipends; ~~and~~
- 4 (4) supporting research performed at the institution,
- 5 including undergraduate research;
- 6 (5) increasing technology transfer,
- 7 commercialization, and patent development; and
- 8 (6) increasing the number of research doctoral
- 9 graduates in this state.

10 SECTION 15. Subchapter G, Chapter 62, Education Code, is

11 amended by adding Sections 62.150, 62.151, and 62.152 to read as

12 follows:

13 Sec. 62.150. INSTITUTIONAL ENDOWMENT REPORTING. (a) In

14 this section, "institutional endowment fund" means a fund

15 established to support a general academic teaching institution's

16 mission in perpetuity.

17 (b) For purposes of reporting the amount of an institution's

18 institutional endowment funds, each eligible institution may

19 include as a true endowment, in accordance with coordinating board

20 rule, the institution's share of the market value of the fund

21 corresponding to the share of the permanent endowment for education

22 and research base funding to which the institution is entitled for a

23 state fiscal year as provided by Section 62.1481.

24 Sec. 62.151. DETERMINATION AND REPORT OF AMOUNT OF

25 DISTRIBUTIONS. For each state fiscal biennium, the Legislative

26 Budget Board, in consultation with the coordinating board, shall:

- 27 (1) determine the amount of each distribution from the

1 fund to which each eligible institution is entitled as provided by
2 this subchapter; and

3 (2) report the determinations made under Subdivision
4 (1) to the legislature and the comptroller.

5 Sec. 62.152. RULES. The coordinating board may adopt rules
6 as necessary to implement this subchapter.

7 SECTION 16. The following provisions of Chapter 62,
8 Education Code, are repealed:

9 (1) Sections 62.096(a), (b), and (e);

10 (2) Section 62.135(b);

11 (3) Section 62.142(2);

12 (4) Sections 62.146 and 62.147; and

13 (5) Sections 62.148(d), (e), and (f).

14 SECTION 17. This Act takes effect September 1, 2023.