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H.B. No. 3526

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment of the research development fund to  
3 promote research at certain institutions of higher education and to  
4 the abolition of the Texas excellence fund and the university  
5 research fund.

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

7 SECTION 1. The heading to Chapter 62, Education Code, is  
8 amended to read as follows:

9 CHAPTER 62. DIVISION OF CONSTITUTIONALLY APPROPRIATED FUNDS AMONG  
10 CERTAIN INSTITUTIONS OF HIGHER EDUCATION; RESEARCH DEVELOPMENT  
11 FUND

12 SECTION 2. Chapter 62, Education Code, is amended by adding  
13 Subchapter E to read as follows:

14 SUBCHAPTER E. RESEARCH DEVELOPMENT FUND

15 Sec. 62.091. PURPOSE. The research development fund is  
16 established to provide funding to promote increased research  
17 capacity at eligible general academic teaching institutions.

18 Sec. 62.092. DEFINITIONS. In this subchapter:

19 (1) "Coordinating board" means the Texas Higher  
20 Education Coordinating Board.

21 (2) "Eligible institution" means a general academic  
22 teaching institution, as defined by Section 61.003, other than The  
23 University of Texas at Austin, Texas A&M University, or Prairie  
24 View A&M University.

1       Sec. 62.093. ADMINISTRATION. (a) The research development  
2 fund is a fund outside the state treasury in the custody of the  
3 comptroller.

4       (b) The comptroller shall administer and invest the  
5 research development fund.

6       Sec. 62.094. FUNDING. (a) The research development fund  
7 consists of the amount deposited to the credit of the fund under  
8 Section 62.025 in each state fiscal year, the amount appropriated  
9 or transferred to the credit of the fund by the legislature under  
10 Subsection (b), and any other amounts transferred to the fund under  
11 this section.

12       (b) In each state fiscal year, the legislature may  
13 appropriate or provide for the transfer to the credit of the  
14 research development fund of an amount not less than the amount  
15 deposited to the credit of the fund under Section 62.025 in that  
16 fiscal year.

17       (c) The comptroller shall deposit all interest, dividends,  
18 and other income earned from investment of the research development  
19 fund to the credit of the fund.

20       (d) The comptroller may accept gifts or grants from any  
21 public or private source for the research development fund.

22       Sec. 62.095. APPORTIONMENT OF FUND TO ELIGIBLE  
23 INSTITUTIONS. (a) In each state fiscal year, the comptroller shall  
24 distribute the total amount of all assets in the research  
25 development fund to eligible institutions. The amount shall be  
26 apportioned among the eligible institutions based on the average  
27 amount of restricted research funds expended by each institution

1 per year for the three preceding state fiscal years.

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

8 Sec. 62.0951. APPORTIONMENT OF FUND IN 2006-2007 FISCAL  
9 BIENNIUM. (a) This section applies to the apportionment of the  
10 research development fund in each state fiscal year of the state  
11 fiscal biennium ending August 31, 2007.

12 (b) In a state fiscal year to which this section applies, if  
13 under the apportionment method prescribed by Section 62.095 an  
14 eligible institution that received money from the university  
15 research fund in the state fiscal year ending August 31, 2005, would  
16 be entitled to receive from the research development fund an amount  
17 that is less than 50 percent of the amount distributed to the  
18 institution from the university research fund in the state fiscal  
19 year ending August 31, 2005, the comptroller shall increase the  
20 amount apportioned to that institution from the research  
21 development fund to an amount equal to 50 percent of the amount  
22 distributed to the institution from the university research fund in  
23 the state fiscal year ending August 31, 2005.

24 (c) After apportioning the amount prescribed by Subsection  
25 (b) to each eligible institution to which Subsection (b) applies,  
26 the comptroller shall apportion the remaining amount to be  
27 distributed from the research development fund in that fiscal year

1 to the remaining eligible institutions in proportion to the amounts  
2 the institutions would be entitled to receive in that fiscal year  
3 under the apportionment method prescribed by Section 62.095.

4 (d) This section expires January 1, 2008.

5 Sec. 62.096. VERIFICATION OF ALLOCATION FACTORS. (a) For  
6 purposes of this subchapter, the coordinating board shall prescribe  
7 standards and accounting methods for determining the amount of  
8 restricted research funds expended by an eligible institution in a  
9 state fiscal year.

10 (b) The coordinating board, as soon as practicable in each  
11 state fiscal year, shall provide the comptroller with verified  
12 information relating to the amounts of restricted research funds  
13 expended by eligible institutions as necessary to determine the  
14 apportionment of the research development fund under this  
15 subchapter for that fiscal year.

16 (c) The coordinating board may audit the appropriate  
17 records of an eligible institution to verify information for  
18 purposes of this subchapter.

19 Sec. 62.097. USE OF ALLOCATED AMOUNTS. (a) An eligible  
20 institution may use money received from the research development  
21 fund only for the support and maintenance of educational and  
22 general activities, including research and student services, that  
23 promote increased research capacity at the institution.

24 (b) Money received by an institution from the research  
25 development fund in a fiscal year that is not used by the  
26 institution in that fiscal year may be held and used by the  
27 institution in subsequent fiscal years.

1       Sec. 62.098. ANNUAL REPORT. (a) Each eligible institution  
2 that receives money under this subchapter in a state fiscal year  
3 shall prepare a report at the end of that fiscal year describing the  
4 manner in which the institution used the money. The institution  
5 shall include in the report information regarding the use of money  
6 spent in that fiscal year that was received under this subchapter in  
7 a preceding fiscal year.

8       (b) The institution shall deliver a copy of the report to  
9 the coordinating board and the Legislative Budget Board not later  
10 than December 1 after the end of the fiscal year. The Legislative  
11 Budget Board may establish requirements for the form and content of  
12 the report.

13       (c) The institution shall include in the report information  
14 on the use or other disposition of money the institution previously  
15 received from the Texas excellence fund or the university research  
16 fund, if the institution spent money from either of those funds in  
17 the fiscal year of the report.

18       SECTION 3. Sections 62.025(a), (c), and (e), Education  
19 Code, are amended to read as follows:

20       (a) Not later than November 1 of each state fiscal year, the  
21 comptroller shall deposit the first \$50 million that comes to the  
22 state at the beginning of each state fiscal year and that is not  
23 dedicated by other law as follows:

24       (1) except as provided by Subsection [~~Subsections (d)~~  
25 ~~and~~] (e), an amount equal to the portion of the total return on all  
26 investment assets of the higher education fund in the preceding  
27 state fiscal year computed by multiplying that total return by the

1 percentage of the total return on all investment assets of the  
2 permanent fund for tobacco education and enforcement that  
3 constitutes available earnings as determined by the comptroller  
4 under Section 403.1068, Government Code, in that year must be  
5 deposited to the credit of the research development [~~Texas~~  
6 ~~excellence~~] fund established under Subchapter E [~~E~~]; and

7 (2) the remaining amount must be deposited to the  
8 credit of the higher education fund.

9 (c) The deposit required by this section to the higher  
10 education fund expires on September 1 after the date the  
11 comptroller certifies that the value of the higher education fund  
12 is \$2 billion. In each state fiscal year that begins on or after  
13 that date, the comptroller shall deposit to the credit of the  
14 research development [~~Texas—excellence~~] fund established under  
15 Subchapter E [~~E~~] from the first money that comes to the state at the  
16 beginning of that fiscal year an amount, not to exceed \$50 million,  
17 equal to the portion of the total return on all investment assets of  
18 the higher education fund in the preceding state fiscal year  
19 computed by multiplying that total return by the percentage of the  
20 total return on all investment assets of the permanent fund for  
21 tobacco education and enforcement that constitutes available  
22 earnings as determined by the comptroller under Section 403.1068,  
23 Government Code.

24 (e) An amount may not be deposited to the research  
25 development [~~Texas—excellence~~] fund under this section if  
26 Subchapter E [~~E~~] expires or is repealed or if the research  
27 development [~~Texas—excellence~~] fund is abolished.

1 SECTION 4. The following laws are repealed:

2 (1) Section 62.025(d), Education Code;

3 (2) Subchapter C, Chapter 62, Education Code; and

4 (3) Subchapter D, Chapter 62, Education Code.

5 SECTION 5. (a) The first distribution of money from the  
6 research development fund established by this Act shall be made in  
7 the state fiscal year beginning September 1, 2005.

8 (b) On and after the effective date of this Act, any amount  
9 remaining in or payable to the credit of the Texas excellence fund  
10 or the university research fund shall be transferred to the credit  
11 of the research development fund established by this Act.

12 SECTION 6. This Act takes effect September 1, 2005.