

BILL ANALYSIS

Senate Research Center
88R21406 KJE-D

C.S.S.B. 19
By: Huffman
Finance
4/3/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To meet the challenges of a rapidly growing population, Texas will require an educated workforce and research-driven solutions. S.B. 19 reforms the way Texas funds research at our institutions of higher education. This bill will accelerate state universities' progress toward achieving the goals of Building a Talent Strong Texas, as established by the Texas Higher Education Coordinating Board, and help address the rapidly evolving needs of the Texas economy.

S.B. 19 creates the Texas University Fund (TUF) by building upon the existing structure of the National Research University Fund (NRUF). Eligible recipients of the TUF include research universities that: expend an average of \$20 million in federal and private sponsored research annually; award an average of 45 research doctoral degrees annually; and are not eligible to participate in the Permanent University Fund (PUF). Though ineligible for funding from this new endowment, current Core Research Support funding will be distributed to PUF-eligible institutions that otherwise meet the TUF eligibility requirements.

Pursuant to S.B. 19, the TUF will be structured as a tiered funding model: a base funding amount dependent on research expenditures, and supplemental funding tied to performance of federal and private research expenditures, and the number of research doctoral degrees awarded.

S.B. 19 is the enabling legislation for S.J.R. 5 which makes changes to the existing NRUF as established in the Constitution and provides the funding necessary to implement the changes made by S.B. 19. S.J.R. 5 must be approved by voters for S.B. 19 to take effect.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 19 amends current law relating to the administration and investment of, and distribution and use of money from, certain constitutional and statutory funds to support general academic teaching institutions in achieving national prominence as major research universities and driving the state economy, and redesignates the national research fund as the Texas University Fund.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 16 (Section 62.148, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTIONS 17 (Section 62.1482, Education Code) and 19 (Sections 62.150 and 62.152, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board is rescinded in SECTIONS 15 (Section 62.145, Education Code) and 20 (Section 62.146, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.406(c), Education Code, as follows:

(c) Deletes existing text providing that this subsection does not apply to a report required under Section 62.095(b) (relating to providing that the amount of restricted research funds expended by an institution in a fiscal year is the amount of those funds as reported to the Texas Higher Education Coordinating Board (THECB)). Makes nonsubstantive changes.

SECTION 2. Amends Section 62.092(2), Education Code, to redefine "eligible institution."

SECTION 3. Amends Section 62.095, Education Code, as follows:

Sec. 62.095. APPROPRIATION OF FUND TO ELIGIBLE INSTITUTIONS. Requires that amounts be appropriated to eligible institutions in the same manner that research performance funding is appropriated to institutions eligible to receive funding from the Texas University Fund under Section 62.1482(a) in each state fiscal year. Deletes existing text requiring that amounts be appropriated in each fiscal year to eligible institutions based on the average amount of restricted research funds expended by each institution per year for the three preceding state fiscal years. Deletes existing text providing that the amount of restricted research funds expended by an institution in a fiscal year, that for purposes of Subsection (a), is the amount of those funds as reported to THECB by the institution for that fiscal year, subject to any adjustment by THECB in accordance with the standards and accounting methods THECB prescribes under Section 62.096 (Verification). Makes a nonsubstantive change.

SECTION 4. Amends the heading to Subchapter F-1, Chapter 62, Education Code, to read as follows:

SUBCHAPTER F-1. NATIONAL RESEARCH SUPPORT FUND

SECTION 5. Amends Section 62.131, Education Code, as follows:

Sec. 62.131. PURPOSE. Provides that the national research support fund, rather than the core research support fund, is established to provide funding to promote increased research capacity at certain institutions of higher education eligible to participate in the available university fund, rather than at emerging research universities.

SECTION 6. Amends Section 62.132, Education Code, by amending Subdivisions (2) and (3) and adding Subdivision (4), to redefine "eligible institution" and "fund" and define "general academic teaching institution."

SECTION 7. Amends Section 62.133, Education Code, as follows:

Sec. 62.133. FUNDING. Provides that the national research support fund, rather than the core research support fund, consists of money appropriated by the legislature to eligible institutions for the purposes of this subchapter.

SECTION 8. Amends Section 62.134, Education Code, as follows:

Sec. 62.134. APPROPRIATION OF FUND TO ELIGIBLE INSTITUTIONS. Requires that amounts be appropriated to eligible institutions in the same manner that research performance funding is appropriated to institutions eligible to receive funding from the Texas University Fund under Section 62.1482 in each state fiscal year. Deletes existing text requiring that amounts be appropriated in each fiscal year to eligible institutions as follows: 50 percent based on the average amount of restricted research funds expended by each institution per year for the three preceding state fiscal years, determined in the manner described by Section 62.095(b) and 50 percent based on the average amount of total research funds expended by each institution per year for the three preceding state fiscal years, determined in the manner described by Section 62.053(b) (relating to providing that the amount of total research funds expended by an eligible institution in a state fiscal year is the amount of those funds as reported to THECB by the institution for that fiscal year).

SECTION 9. Amends the heading to Subchapter G, Chapter 62, Education Code, to read as follows:

SUBCHAPTER G. TEXAS UNIVERSITY FUND

SECTION 10. Amends Section 62.141, Education Code, as follows:

Sec. 62.141. PURPOSE. Provides that the purpose of this subchapter is to allocate appropriations from the Texas University Fund, rather than the national research university fund, to provide a dedicated, independent, and equitable source of funding to enable certain general academic teaching institutions, rather than emerging research universities in this state, to achieve national prominence as major research universities and drive the state economy.

SECTION 11. Amends Subchapter G, Chapter 62, Education Code, by adding Section 62.1415, as follows:

Sec. 62.1415. REFERENCES TO TEXAS UNIVERSITY FUND. (a) Provides that a reference to the Texas University Fund means the national research university fund in this subchapter.

(b) Authorizes the national research university fund to be referred to in other law as the Texas University Fund.

SECTION 12. Amends Section 62.142, Education Code, by amending Subdivision (3) and adding Subdivision (5) to redefine "fund" and define "trust company."

SECTION 13. Amends Section 62.143, Education Code, as follows:

Sec. 62.143. ADMINISTRATION AND INVESTMENT OF FUND. (a) Provides that the Texas University Fund (fund), rather than national research university fund, is a fund outside the state treasury held by, rather than in the custody of, the Comptroller of Public Accounts of the State of Texas (comptroller) and administered by the Texas Treasury Safekeeping Trust Company (trust company).

(b) Requires the trust company, rather than the comptroller, to administer and invest the fund in accordance with Section 20 (National Research University Fund), Article VII (Education), Texas Constitution.

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

(1) preserve the purchasing power of the fund's assets over a rolling 10-year period, subject to the liquidity needs of the fund; and

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

SECTION 14. Amends Section 62.144, Education Code, as follows:

Sec. 62.144. FUNDING. (a) Provides that the fund consists of:

(1) money appropriated or transferred to the credit of the fund;

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

(3) the interest and other earnings attributable to the investment of money in the fund.

Deletes existing text providing that the fund consists of any amounts appropriated or transferred to the credit of the fund under the Texas Constitution or otherwise appropriated or transferred to the credit of the fund under this section or another law.

(b) Authorizes the comptroller to solicit and accept gifts or grants from any public or private source for the fund.

Deletes existing text requiring the comptroller to deposit to the credit of the fund all interest, dividends, and other income earned from investment of the fund.

SECTION 15. Amends Section 62.145, Education Code, as follows:

Sec. 62.145. ELIGIBILITY TO RECEIVE DISTRIBUTIONS FROM FUND. (a) Provides that the following general academic teaching institutions are eligible to receive distributions under this subchapter for each state fiscal year:

- (1) Texas State University;
- (2) Texas Tech University;
- (3) the University of Houston; and
- (4) the University of North Texas.

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

(1) the institution:

(A) is not entitled to participate in the funding provided by Section 18 (Funding to Support Texas A&M University System and University of Texas System; Available University Fund), Article VII (Education), Texas Constitution;

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

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

(2) the legislature appropriates money to the fund in an amount sufficient to ensure that, for the first state fiscal year for which the institution would receive the distribution, the market value of each other eligible institution's share of the distribution of money under this subchapter for that fiscal year is at least the same as the market value of that share for the state fiscal year immediately preceding the state fiscal year in which the additional institution becomes eligible for a distribution under this subsection.

Deletes existing text providing that a general academic teaching institution becomes eligible to receive an initial distribution of money appropriated under this subchapter for a state fiscal year if the institution is designated as an emerging research university under THECB's accountability system; in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made, the institution expended at least \$45 million in restricted research funds; and the institution satisfies at least four of the following criteria: the value of the institution's endowment funds is at least \$400 million in each of the two state fiscal years preceding the state fiscal year for which the

appropriation is made; the institution awarded at least 200 doctor of philosophy degrees during each of the two academic years preceding the state fiscal year for which the appropriation is made; the entering freshman class of the institution for each of those two academic years demonstrated high academic achievement, as determined according to standards prescribed by THECB by rule, giving consideration to the future educational needs of the state as articulated in THECB's "Closing the Gaps" report; the institution is designated as a member of the Association of Research Libraries or has a Phi Beta Kappa chapter or has received an equivalent recognition of research capabilities and scholarly attainment as determined according to standards prescribed by THECB by rule; the faculty of the institution for each of those two academic years was of high quality, as determined according to THECB standards based on the professional achievement and recognition of the institution's faculty, including the election of faculty members to national academies; and for each of those two academic years, the institution has demonstrated a commitment to high-quality graduate education, as determined according to standards prescribed by THECB by rule, including standards relating to the number of graduate-level programs at the institution, the institution's admission standards for graduate programs, and the level of institutional support for graduate students.

(c) Provides that a general academic teaching institution that becomes eligible to receive a distribution of money under this subchapter remains eligible to receive a distribution in each subsequent state fiscal year.

SECTION 16. Amends Sections 62.148(a), (b), and (c), Education Code, as follows:

(a) Requires the comptroller to distribute to eligible institutions, in each state fiscal year, in accordance with this subchapter, rather Section 62.148 (Distribution of Appropriated Funds to Eligible Institutions), money appropriated from the fund for that fiscal year.

(b) Prohibits the total amount appropriated from the fund for any state fiscal year from exceeding an amount equal to 7.0 percent, rather than 4.5 percent, of the average net market value of the investment assets of the fund, as determined by the comptroller, for a period set by comptroller rule, rather than for the 12 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year, as determined by the comptroller.

(c) Requires that the amount appropriated from the fund for distribution in a state fiscal year be allocated as follows:

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

(2) 25 percent to the research performance funding under Section 62.1482.

Deletes existing text providing that each eligible institution, of the amount appropriated from the fund for distribution in a state fiscal year, is entitled to a distribution in an amount equal to the sum of one-seventh of the total amount appropriated; and an equal share of any amount remaining after distributions are calculated under Subdivision (1), not to exceed an amount equal to one-fourth of that remaining amount.

SECTION 17. Amends Subchapter G, Chapter 62, Education Code, by adding Sections 62.1481 and 62.1482, as follows:

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

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

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

(B) the number of institutions to which Subdivision (2) applies; or

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

(b) Provides that an eligible institution is entitled to receive a distribution under Subsection (a)(1) only if:

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

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

(c) Provides that an eligible institution that becomes eligible to receive a distribution under Subsection (a)(1) remains eligible to receive a distribution under that subdivision in each subsequent state fiscal year.

Sec. 62.1482. RESEARCH PERFORMANCE FUNDING. (a) Entitles an eligible institution, from 85 percent of the amount allocated for research performance funding under Section 62.148(c)(2) for a state fiscal year, to a distribution for that fiscal year in an amount proportionate to the average amount of federal and private research funds the institution spends per state fiscal year during the preceding three state fiscal years as compared to the average amount of those funds all eligible institutions spend per state fiscal year during that period.

(b) Entitles an eligible institution, from 15 percent of the amount allocated for research performance funding under Section 62.148(c)(2) for a state fiscal year, to a distribution for that fiscal year in an amount proportionate to the average number of research doctoral degrees the institution awards per academic year during the preceding three academic years as compared to the average number of those degrees all eligible institutions award per academic year during that period.

(c) Requires THECB by rule to establish a method for determining the amounts to which each eligible institution is entitled under this section.

SECTION 18. Amends Sections 62.149(a) and (b), Education Code, as follows:

(a) Authorizes an eligible institution to use money received under this subchapter only for the support and maintenance of educational and general activities that promote increased research capacity at the institution in a manner that aligns with the goals of the state's master plan for higher education developed under Section 61.051 (Coordination of Institutions of Public Higher Education).

(b) Requires that the use of money, for purposes of Subsection (a), be limited to the following permitted activities:

(1)-(2) makes no changes to these subdivisions;

(3)-(4) makes nonsubstantive changes to these subdivisions;

(5) increasing technology transfer, commercialization, and patent development;
and

(6) increasing the number of research doctoral graduates in this state.

SECTION 19. Amends Subchapter G, Chapter 62, Education Code, by adding Sections 62.150, 62.151, and 62.152, as follows:

Sec. 62.150. INSTITUTIONAL ENDOWMENT REPORTING. (a) Defines "institutional endowment fund."

(b) Authorizes each eligible institution to include as a true endowment, for the purposes of reporting the amount of an institution's institutional endowment funds, in accordance with THECB rule, the institution's share of the market value of the fund corresponding to the share of the permanent endowment for education and research base funding to which the institution is entitled for a state fiscal year as provided by Section 62.1481.

Sec. 62.151. DETERMINATION AND REPORT OF AMOUNT OF DISTRIBUTIONS. Requires the Legislative Budget Board, in consultation with THECB, for each state fiscal biennium, to:

(1) determine the amount of each distribution from the fund to which each eligible institution is entitled as provided by this subchapter; and

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

Sec. 62.152. RULES. Authorizes THECB to adopt rules as necessary to implement this subchapter.

SECTION 20. Repealers: Sections 62.096(a) (relating to requiring THECB to prescribe standards and accounting methods for determining the amount of restricted research funds expended in a state fiscal year) and (b) (relating to requiring THECB to convene a committee to approve the allocations standards and accounting methods and to consider appeals), Education Code.

Repealers: Sections 62.096(e) (relating to authorizing an eligible institution to appeal THECB's decision regarding the institution's verified information relating to the amounts of restricted research expended) and 62.135(b) (relating to authorizing an eligible institution to appeal to the advisory committee THECB's decision regarding the institution's verified information), Education Code.

Repealers: Sections 62.142(2) (relating to defining "endowment funds") and 62.146 (Accounting Standards; Verification of Information), Education Code.

Repealers: Sections 62.147 (Ineligibility of Institutions Receiving Permanent University Fund Support and Maintenance) and 62.148(d) (relating to requiring the comptroller to retain within the fund any portion of the total amount appropriated from the fund for distribution that remains after all distributions are made for a state fiscal year), Education Code.

Repealers: Sections 62.148(e) (relating to entitling each eligible institution to an equal share of the total amount appropriated from the fund for distribution in that fiscal year)

and 62.148(f) (relating to providing that the total amount appropriated from the fund does not include any portion of the amount appropriated that is used to reimburse the costs of an audit), Education Code.

SECTION 21. Effective date: September 1, 2023.