88R19433 SRA-F

By:  Thompson of Harris, Craddick, Buckley, H.B. No. 15

     et al.

Substitute the following for H.B. No. 15:

By:  Kuempel C.S.H.B. No. 15

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Mental Health and Brain Research Institute of Texas.

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

SECTION 1.  Subtitle H, Title 3, Education Code, is amended by adding Chapter 157 to read as follows:

CHAPTER 157. MENTAL HEALTH AND BRAIN RESEARCH INSTITUTE OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 157.001.  DEFINITIONS. In this chapter:

(1)  "Institute" means the Mental Health and Brain Research Institute of Texas.

(2)  "Oversight committee" means the Mental Health and Brain Research Institute of Texas Oversight Committee.

(3)  "Peer review committee" means the Mental Health and Brain Research Institute of Texas Peer Review Committee.

(4)  “Program integration committee” means the Mental Health and Brain Research Institute of Texas Program Integration Committee.

(5)  "Research plan" means the Texas Mental Health and Brain Health Research Plan developed by the institute.

Sec. 157.002.  PURPOSES. The Mental Health and Brain Research Institute of Texas is established to:

(1)  create and expedite innovation in mental health and brain research to improve the health of residents of this state, enhance the potential for a medical or scientific breakthrough in mental health and brain-related sciences and biomedical research, and enhance the mental health and brain research superiority of this state;

(2)  attract, create, or expand research capabilities of eligible institutions of higher education and other public or private entities by awarding grants to promote a substantial increase in mental health and brain research, strategies for prevention of mental health and brain-related diseases, mental health and brain health initiatives, and the creation of high-quality jobs in this state; and

(3)  develop and implement a research plan to foster synergistic collaboration and investigation into mental health and brain health research by eligible institutions of higher education and their partners.

Sec. 157.003.  STATE AUDITOR. Nothing in this chapter limits the authority of the state auditor under Chapter 321, Government Code, or other law.

SUBCHAPTER B. POWERS AND DUTIES OF INSTITUTE

Sec. 157.051.  POWERS AND DUTIES. (a) The institute:

(1)  may make grants to provide money to institutions of learning, advanced medical research facilities, public and private persons, and collaborations in this state to further the purposes of this chapter, including:

(A)  implementation of the research plan;

(B)  research, such as translational and clinical research into:

(i)  the causes of and prevention, treatment, rehabilitation, protocols, and cures for mental health and human brain-related diseases, syndromes, disorders, dysfunction, injuries, developmental issues, neurological health issues, behavioral health issues, and substance use disorders and other addictions; and

(ii)  any other area impacting mental health or the brain, including an area that directly or indirectly impacts or is impacted by mental health or the brain or brain health, such as the gut microbiome, nutrition, and the spinal cord or nervous system, that the peer review committee and the oversight committee approve;

(C)  providing money for facilities, equipment, supplies, salaries, benefits, and other costs related to mental health and brain research; and

(D)  prevention programs and strategies to mitigate the incidence of detrimental health impacts on mental health or the brain;

(2)  shall collaborate with relevant state agencies, coordinating councils, and consortiums to enhance mental health and brain-related health care and research;

(3)  shall establish the appropriate standards and oversight bodies to ensure money authorized under this chapter is properly used for the purposes of this chapter;

(4)  shall employ necessary staff to provide administrative support to the institute;

(5)  may contract with another state agency to share the cost of administrative services, including grant accounting, grant monitoring, technical and document management of the grant application review process, legal services, and compliance services;

(6)  shall monitor grant contracts authorized by this chapter and ensure that each grant recipient complies with the terms and conditions of the grant contract;

(7)  shall ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval;

(8)  shall establish procedures to document that the institute, its employees, and its committee members appointed under this chapter comply with all laws and rules governing the peer review process and conflicts of interest; and

(9)  shall create a statewide research and clinical data registry for mental health and brain research.

(b)  The institute shall implement and monitor the research plan and revise the plan as necessary.

Sec. 157.052.  CHIEF EXECUTIVE OFFICER; CHIEF COMPLIANCE OFFICER; ADDITIONAL OFFICERS. (a) The oversight committee shall hire a chief executive officer. The chief executive officer shall perform the duties required by this chapter or designated by the oversight committee. The chief executive officer must have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

(b)  The institute shall employ a chief compliance officer to monitor compliance with this chapter and rules adopted under this chapter and to report incidents of noncompliance to the oversight committee.

(c)  The chief executive officer may hire any other officer position the chief executive officer determines necessary for efficient operation of the institute.

Sec. 157.053.  ANNUAL PUBLIC REPORT; INTERNET POSTING. Not later than January 31 of each year, the institute shall prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over institute matters and post on the institute's Internet website a report that outlines:

(1)  the institute's activities under this chapter;

(2)  a list of recipients that were awarded grants during the preceding state fiscal year, including the grant amount awarded to each recipient;

(3)  any research accomplishments achieved during the preceding state fiscal year by a grant recipient or the recipient's partners;

(4)  an overview summary of the institute's most recent audited financial statement;

(5)  an assessment of the relationship between the institute's grants and the strategy of its research program;

(6)  a statement of the institute's strategic research plans;

(7)  an estimate of the financial cost to this state of mental health and brain disease during the most recent state fiscal year for which data is available, including the amounts this state spent related to mental health and brain disease through the Medicaid program, the Teacher Retirement System of Texas, and the Employees Retirement System of Texas;

(8)  a statement of the institute's compliance program activities, including any proposed legislation or other recommendations identified through the activities;

(9)  for the preceding state fiscal year:

(A)  a list of any conflicts of interest that require recusal under this chapter or rules adopted under this chapter;

(B)  any unreported conflicts of interest confirmed by an investigation conducted under Section 157.254, including any actions taken by the institute regarding an unreported conflict of interest and subsequent investigation; and

(C)  any waivers granted through the process established under Section 157.253; and

(10)  the institute's future direction.

Sec. 157.054.  INDEPENDENT FINANCIAL AUDIT. (a) The institute shall annually commission an independent financial audit of its activities from a certified public accounting firm.

(b)  The oversight committee shall review the annual financial audit and the financial practices of the institute.

Sec. 157.055.  GRANT RECORDS. (a) The institute shall maintain complete records of:

(1)  regardless of whether the grant application is funded by the institute or is withdrawn after submission to the institute, the review of each grant application submitted to the institute, including the score assigned to each grant application reviewed by the peer review committee in accordance with rules adopted under Section 157.302;

(2)  each grant recipient's financial reports, including the amount of matching money dedicated to the research specified for the grant award;

(3)  each grant recipient's progress reports;

(4)  for the purpose of determining any conflict of interest, the identity of each principal investor and owner of each grant recipient as provided by institute rules; and

(5)  the institute's review of the grant recipient's financial reports and progress reports.

(b)  The institute shall keep the records described by Subsection (a) until at least the 15th anniversary of the date the record was issued.

(c)  The institute shall have prepared periodic audits of any electronic grant management system used to maintain records of grant applications and grant awards under this section. The institute shall timely address each weakness identified in an audit of the system.

Sec. 157.056.  GIFTS AND GRANTS. The institute may solicit and accept gifts and grants from any source for the purposes of this chapter.

Sec. 157.057.  PROHIBITED OFFICE LOCATION. An institute employee may not have an office located in a facility owned by an entity receiving or applying to receive money from the institute.

Sec. 157.058.  COMPLIANCE PROGRAM. (a) The institute shall establish a compliance program that operates under the direction of the institute's chief compliance officer to monitor compliance with this chapter and rules adopted under this chapter and to use to report incidents of noncompliance to the oversight committee.

(b)  The chief compliance officer or designee shall attend and observe meetings of the peer review committee and the program integration committee to ensure compliance with this chapter and rules adopted under this chapter.

(c)  The chief compliance officer shall submit a written report to the oversight committee confirming that each grant application recommendation included on the list submitted by the program integration committee under Section 157.302(a)(2) followed the oversight committee's rules regarding the procedure for awarding grants under this chapter. The report must contain all relevant information on:

(1)  the peer review process for the grant application;

(2)  the application's peer review score assigned by the peer review committee;

(3)  adherence to the conflict-of-interest notification and recusal process; and

(4)  the confirmation that a grant applicant recommended for approval did not make any gift or grant prohibited by Section 157.302(f).

(d)  To ensure each grant recipient complies with reporting requirements included in the grant contract and the rules adopted under this chapter, the institute shall implement a system to:

(1)  track the dates on which grant recipient reports are due and are received by the institute; and

(2)  monitor the status of any required report that a grant recipient does not timely submit to the institute.

(e)  The chief compliance officer shall:

(1)  monitor compliance with this section;

(2)  inquire into and monitor the status of any required report that a grant recipient does not timely submit to the institute; and

(3)  notify the general counsel of the institute and the oversight committee of a grant recipient that has not complied with the reporting requirements of the grant contract to allow the institute to suspend or terminate the grant contract as warranted.

(f)  The chief compliance officer shall establish procedures for investigating allegations of fraud, waste, or abuse of state resources against oversight committee members, institute employees or contractors, grant applicants, or grant recipients. The procedures must include:

(1)  private access to the compliance program office, such as a telephone hotline; and

(2)  to the extent possible, preservation of the confidentiality of communications and the anonymity of a person submitting a compliance report related to fraud, waste, or abuse or participating in a compliance investigation.

SUBCHAPTER C. OVERSIGHT COMMITTEE

Sec. 157.101.  COMPOSITION OF OVERSIGHT COMMITTEE. (a) The oversight committee is the governing body of the institute.

(b)  The oversight committee is composed of the following nine members:

(1)  three members appointed by the governor;

(2)  three members appointed by the lieutenant governor; and

(3)  three members appointed by the speaker of the house of representatives.

(c)  The oversight committee members must represent the geographic and cultural diversity of this state.

(d)  In making appointments to the oversight committee, the governor, lieutenant governor, and speaker of the house of representatives:

(1)  must each appoint at least one person who is a physician or a scientist with extensive experience in the field of mental health or brain disease or public health; and

(2)  should attempt to include, if possible:

(A)  persons affected by mental health or brain disease; or

(B)  family members or caregivers of persons affected by mental health or brain disease.

(e)  A person may not be an oversight committee member if the person or the person's spouse:

(1)  is employed by or participates in the management of a business entity or other organization receiving money from the institute;

(2)  owns or controls, directly or indirectly, an interest in a business entity or other organization receiving money from the institute; or

(3)  uses or receives a substantial amount of tangible goods, services, or money from the institute, other than reimbursement authorized by this chapter for oversight committee membership, attendance, or expenses.

Sec. 157.102.  REMOVAL. (a) It is a ground for removal from the oversight committee that a member:

(1)  is ineligible for membership under Section 157.101(e);

(2)  cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(3)  is absent from more than half of the regularly scheduled oversight committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b)  The validity of an action of the oversight committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c)  If the chief executive officer has knowledge that a potential ground for removal exists, the chief executive officer shall notify the presiding officer of the oversight committee of the potential ground. The presiding officer shall then notify the appointing authority and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the chief executive officer shall notify the next highest ranking officer of the oversight committee, who shall then notify the appointing authority and the attorney general that a potential ground for removal exists.

Sec. 157.103.  TERMS; VACANCY. (a) Oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing official for staggered six-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

(b)  If a vacancy occurs on the oversight committee, the appropriate appointing official shall appoint a successor in the same manner as the original appointment to serve for the remainder of the unexpired term. The appropriate appointing official shall appoint the successor not later than the 30th day after the date the vacancy occurs.

Sec. 157.104.  OFFICERS. (a) The oversight committee shall elect a presiding officer and assistant presiding officer from among its members every two years. The oversight committee may elect additional officers from among its members.

(b)  The presiding officer and assistant presiding officer may not serve in the position to which the officer was elected for consecutive terms.

(c)  The oversight committee shall:

(1)  establish and approve duties and responsibilities for officers of the committee; and

(2)  develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the chief executive officer and institute employees.

Sec. 157.105.  EXPENSES. An oversight committee member is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in attending meetings of the committee or performing other official duties authorized by the presiding officer.

Sec. 157.106.  MEETINGS. (a) The oversight committee shall hold at least one public meeting each quarter of the calendar year, with appropriate notice and a formal public comment period.

(b)  The oversight committee may conduct a closed meeting in accordance with Subchapter E, Chapter 551, Government Code, to discuss issues related to:

(1)  managing, acquiring, or selling securities or other revenue-sharing obligations realized under the standards established as required by Section 157.305; and

(2)  an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

Sec. 157.107.  POWERS AND DUTIES. (a) The oversight committee shall:

(1)  hire a chief executive officer;

(2)  annually set priorities for each grant program that receives money under this chapter; and

(3)  consider the priorities set under Subdivision (2) in awarding grants under this chapter.

(b)  The oversight committee shall adopt a code of conduct applicable to each oversight committee member, program integration committee member, peer review committee member, and institute employee that includes provisions prohibiting the member, the employee, or the member's or employee's spouse from:

(1)  accepting or soliciting any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member, employee, or spouse knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2)  accepting employment or engaging in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;

(3)  accepting other employment or compensation that could reasonably impair the member's or employee's independent judgment in the performance of official duties;

(4)  making personal investments or holding a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;

(5)  intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;

(6)  leasing, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from the institute;

(7)  submitting a grant application for funding by the institute;

(8)  serving on the board of directors of an organization established with a grant from the institute; or

(9)  serving on the board of directors of a grant recipient.

Sec. 157.108.  RULEMAKING AUTHORITY. The oversight committee may adopt rules to administer this chapter.

Sec. 157.109.  FINANCIAL STATEMENT REQUIRED. Each oversight committee member shall file with the chief compliance officer a verified financial statement complying with Sections 572.022 through 572.0252, Government Code, as required of a state officer by Section 572.021, Government Code.

SUBCHAPTER D. OTHER INSTITUTE COMMITTEES

Sec. 157.151.  PEER REVIEW COMMITTEE. (a) The oversight committee shall establish a peer review committee. The chief executive officer, with approval by a simple majority of the oversight committee members, shall appoint as members of the peer review committee experts in fields related to mental health or the brain, including research, health care, disease treatment and prevention, and other study areas and trained patient advocates who meet the qualifications adopted under Subsection (c).

(b)  The oversight committee shall adopt a written policy on in-state or out-of-state residency requirements for peer review committee members.

(c)  The oversight committee shall adopt rules regarding the qualifications required of a trained patient advocate committee member for a peer review committee. The rules must require the trained patient advocate to successfully complete science-based training.

(d)  A peer review committee member may receive an honorarium and may be reimbursed for travel expenses incurred in conducting committee business. Subchapter B, Chapter 2254, Government Code, does not apply to an honorarium the member receives under this chapter.

(e)  The chief executive officer, in consultation with the oversight committee, shall adopt a policy regarding honoraria and document any change in the amount of honoraria paid to a peer review committee member, including information explaining the basis for that change.

(f)  A peer review committee member appointed under this chapter may not serve on the board of directors or other governing board of an entity receiving a grant from the institute.

(g)  Peer review committee members serve for terms as determined by the chief executive officer.

Sec. 157.152.  PROGRAM INTEGRATION COMMITTEE. (a) The institute shall establish a program integration committee with the duties assigned under this chapter.

(b)  The program integration committee is composed of:

(1)  the institute's chief executive officer, who shall serve as the presiding officer of the program integration committee;

(2)  three senior-level institute employees responsible for program policy and oversight, appointed by the chief executive officer with the approval of a majority of the oversight committee members; and

(3)  the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee.

Sec. 157.153.  HIGHER EDUCATION ADVISORY COMMITTEE. (a) The higher education advisory committee is composed of the following members:

(1)  one member appointed by the president of Baylor College of Medicine;

(2)  one member appointed by the president of Texas A&M Health;

(3)  one member appointed by the president of Texas Tech University Health Sciences Center;

(4)  one member appointed by the president of Texas Tech University Health Sciences Center at El Paso;

(5)  one member appointed by the president of The University of Texas Southwestern Medical Center;

(6)  one member appointed by the president of The University of Texas Medical Branch at Galveston;

(7)  one member appointed by the president of The University of Texas Health Science Center at Houston;

(8)  one member appointed by the president of The University of Texas Health Science Center at San Antonio;

(9)  one member appointed by the president of The University of Texas at Tyler Health Science Center;

(10)  one member appointed by the dean of Dell Medical School at The University of Texas at Austin;

(11)  one member appointed by the president of The University of Texas M. D. Anderson Cancer Center;

(12)  one member appointed by the dean of The University of Texas Rio Grande Valley School of Medicine;

(13)  one member appointed by the president of University of North Texas Health Science Center at Fort Worth;

(14)  one member appointed by the president of Rice University;

(15)  one member appointed by the dean of University of Houston College of Medicine; and

(16)  one member appointed by the dean of Sam Houston State University College of Osteopathic Medicine.

(b)  The oversight committee by majority vote may increase the membership of the higher education advisory committee to include appointees representing institutions of higher education not listed in Subsection (a).

(c)  The higher education advisory committee shall advise the oversight committee on issues, opportunities, the role of higher education, and other subjects involving mental health or brain research.

Sec. 157.154.  AD HOC ADVISORY COMMITTEE. (a) The oversight committee, as necessary, may create additional ad hoc advisory committees of experts to advise the oversight committee on issues relating to mental health research, brain research, brain health, brain-related diseases, spinal cord injuries, traumatic brain injuries, mental and behavioral health issues, including substance abuse disorders and other addictions, or other brain- or neurological-related issues.

(b)  Ad hoc committee members serve for the terms determined by the oversight committee.

Sec. 157.155.  EXPENSES. Members of the higher education advisory committee or any ad hoc advisory committee appointed under this subchapter serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in attending committee meetings or performing other official duties authorized by the presiding officer, including travel expenses.

SUBCHAPTER E. MENTAL HEALTH AND BRAIN INSTITUTE RESEARCH FUND

Sec. 157.201.  MENTAL HEALTH AND BRAIN INSTITUTE RESEARCH FUND. (a) In this subchapter, "fund" means the Mental Health and Brain Institute Research Fund established under Section 68, Article III, Texas Constitution. The fund is a special fund in the treasury outside the general revenue fund to be administered by the institute. The fund is to be used by the institute as authorized by this chapter without further legislative appropriation.

(b)  The fund consists of:

(1)  money transferred to the fund under Section 68, Article III, Texas Constitution;

(2)  money appropriated, credited, or transferred to the fund by the legislature;

(3)  patent, royalty, and license fees and other income received under a contract entered into as provided by Section 157.304; and

(4)  investment earnings and interest earned on amounts credited to the fund.

(c)  The fund may only be used for:

(1)  the award of grants authorized under this chapter, including grants for mental health and brain research, brain health studies and disease prevention, and research facilities in this state to conduct mental health or brain research;

(2)  the purchase, subject to approval by the institute, of research facilities by or for a state agency or grant recipient; and

(3)  the operation of the institute.

Sec. 157.202.  ROLE OF TEXAS TREASURY SAFEKEEPING TRUST COMPANY. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b)  The trust company shall invest the fund in accordance with this section.

(c)  The trust company shall hold and invest the fund, and any accounts established in the fund, for the institute, taking into account the purposes for which money in the fund may be used. The fund may be invested with the state treasury pool and may be pooled with other state assets for purposes of investment.

(d)  The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund over a full economic cycle.

(e)  The trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(f)  The expenses of managing the fund shall be paid from the fund.

(g)  The trust company annually shall provide a written report to the institute and to the oversight committee with respect to the investments of the fund.

(h)  The trust company shall adopt a written investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028, Government Code. The investment advisory board shall submit to the trust company recommendations regarding the policy.

(i)  The institute annually shall provide to the trust company a forecast of the cash flows into and out of the fund. The institute shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (d).

(j)  The trust company shall disburse money from the fund as directed by the institute. The institute shall direct disbursements from the fund on a semiannual schedule specified by the institute and not more frequently than twice in any state fiscal year.

Sec. 157.203.  AUTHORIZED USE OF GRANT MONEY; LIMITATIONS. (a) A grant recipient awarded money from the fund may use the money for research consistent with the purposes of this chapter and in accordance with a contract between the grant recipient and the institute.

(b)  Except as otherwise provided by this section, grant money awarded under this chapter may be used for authorized expenses, including:

(1)  honoraria;

(2)  salaries and benefits;

(3)  travel;

(4)  conference fees and expenses;

(5)  consumable supplies;

(6)  operating expenses;

(7)  contracted research and development;

(8)  capital equipment;

(9)  construction or renovation of state or private facilities; and

(10)  reimbursement for participation costs incurred by brain cancer clinical trial participants, including transportation, lodging, and any costs reimbursed under the cancer clinical trial participation program established under Chapter 51, Health and Safety Code.

(c)  A grant recipient receiving money under this chapter for mental health or brain disease research may not spend more than five percent of the money for indirect costs. For purposes of this subsection, "indirect costs" means the expenses of conducting business that are not readily identified with a particular grant, contract, project, function, or activity, but are necessary for the general operation of the organization or the performance of the organization's activities.

(d)  Not more than five percent of the total amount of grant money awarded under this chapter in a state fiscal year may be used for facility purchase, construction, remodel, or renovation purposes, and those expenditures must benefit mental health or brain research.

(e)  Not more than 10 percent of the total amount of grant money awarded under this chapter in a state fiscal year may be used for prevention projects and strategies to mitigate the incidence of detrimental health impacts on mental health or the brain during that year.

SUBCHAPTER F. CONFLICTS OF INTEREST: DISCLOSURE; RECUSAL

Sec. 157.251.  CONFLICT OF INTEREST. (a) The oversight committee shall adopt conflict-of-interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern members of the oversight committee, the program integration committee, the peer review committee, and institute employees.

(b)  An oversight committee member, program integration committee member, peer review committee member, or institute employee shall recuse himself or herself, as provided by Section 157.252(a), (b), or (c), as applicable, if the member or employee, or a person who is related to the member or employee within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from the institute.

(c)  A person has a professional interest in an entity receiving or applying to receive money from the institute if the person:

(1)  is a member of the board of directors, another governing board, or any committee of the entity, or of a foundation or similar organization affiliated with the entity, during the same grant cycle;

(2)  serves as an elected or appointed officer of the entity;

(3)  is an employee of or is negotiating future employment with the entity;

(4)  represents the entity;

(5)  is a professional associate of a primary member of the entity's project team;

(6)  is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's project team;

(7)  is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's project team; or

(8)  has long-standing scientific differences or disagreements with a primary member of the entity's project team, and those differences or disagreements:

(A)  are known to the professional community; and

(B)  could be perceived as affecting objectivity.

(d)  A person has a financial interest in an entity receiving or applying to receive money from the institute if the person:

(1)  owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity receiving or applying to receive money from the institute; or

(2)  could reasonably foresee that an action taken by the oversight committee, the program integration committee, a peer review committee, or the institute could result in a financial benefit to the person.

(e)  Nothing in this chapter limits the authority of the oversight committee to adopt additional conflict-of-interest standards.

Sec. 157.252.  DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL. (a) If an oversight committee member or program integration committee member has a conflict of interest as described by Section 157.251 regarding an application that comes before the member for review or other action, the member shall:

(1)  provide written notice to the chief executive officer and the presiding officer of the oversight committee or the next ranking member of the committee if the presiding officer has the conflict of interest;

(2)  disclose the conflict of interest in an open meeting of the oversight committee; and

(3)  recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b)  If a peer review committee member has a conflict of interest described by Section 157.251 regarding an application that comes before the member's committee for review or other action, the member shall:

(1)  provide written notice to the chief executive officer of the conflict of interest; and

(2)  recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(c)  If an institute employee has a conflict of interest described by Section 157.251 regarding an application that comes before the employee for review or other action, the employee shall:

(1)  provide written notice to the chief executive officer of the conflict of interest; and

(2)  recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

(d)  An oversight committee member, program integration committee member, peer review committee member, or institute employee with a conflict of interest may seek a waiver as provided by Section 157.253.

(e)  An oversight committee member, program integration committee member, peer review committee member, or institute employee who reports a potential conflict of interest or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with the conflict-of-interest provisions of this chapter. The member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(f)  An oversight committee member, program integration committee member, peer review committee member, or institute employee who intentionally violates this section is subject to removal from further participation in the institute's grant review process.

Sec. 157.253.  EXCEPTIONAL CIRCUMSTANCES REQUIRING PARTICIPATION. The oversight committee shall adopt rules governing the waiver of the conflict-of-interest requirements of this chapter under exceptional circumstances for an oversight committee member, program integration committee member, peer review committee member, or institute employee. The rules must:

(1)  authorize the chief executive officer or an oversight committee member to propose granting a waiver by submitting to the presiding officer of the oversight committee a written statement about the conflict of interest, the exceptional circumstance requiring the waiver, and any proposed limitations to the waiver;

(2)  require a proposed waiver to be publicly reported at a meeting of the oversight committee;

(3)  require a majority vote of the oversight committee members present and voting to grant a waiver;

(4)  require any waiver granted to be reported annually to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over institute matters; and

(5)  require the institute to retain documentation of each waiver granted.

Sec. 157.254.  INVESTIGATION OF UNREPORTED CONFLICTS OF INTEREST. (a) An oversight committee member, a program integration committee member, a peer review committee member, or an institute employee who becomes aware of a potential conflict of interest described by Section 157.251 that has not been reported shall immediately notify the chief executive officer of the potential conflict of interest. On notification, the chief executive officer shall notify the presiding officer of the oversight committee and the general counsel, who shall determine the nature and extent of any unreported conflict.

(b)  A grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported shall file a written request with the institute's chief executive officer. The applicant must:

(1)  include in the request all facts regarding the alleged conflict of interest; and

(2)  submit the request not later than the 30th day after the date the chief executive officer presents final funding recommendations for the affected grant cycle to the oversight committee.

(c)  On notification of an alleged conflict of interest under Subsection (a) or (b), the institute's general counsel shall:

(1)  investigate the matter; and

(2)  provide to the chief executive officer and presiding officer of the oversight committee an opinion that includes:

(A)  a statement of facts;

(B)  a determination of whether a conflict of interest or another impropriety or self-dealing exists; and

(C)  if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action.

(d)  If the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, the institute's general counsel shall provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing.

(e)  After receiving the opinion and consulting with the presiding officer of the oversight committee, the chief executive officer shall take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest or other recommended action related to the impropriety or self-dealing. If the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the chief executive officer, the presiding officer of the oversight committee shall take actions regarding the recusal or other action.

Sec. 157.255.  FINAL DETERMINATION OF UNREPORTED CONFLICT OF INTEREST. (a) The chief executive officer or, if applicable, the presiding officer of the oversight committee shall make a determination regarding the existence of an unreported conflict of interest described by Section 157.251 or other impropriety or self-dealing. The determination must specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including:

(1)  reconsideration of the application; or

(2)  referral of the application to another peer review committee for review.

(b)  The determination made under Subsection (a) is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee.

(c)  The chief executive officer or, if applicable, the presiding officer of the oversight committee, shall provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting the investigation.

(d)  Unless specifically determined by the chief executive officer or, if applicable, the presiding officer of the oversight committee, or the oversight committee, the validity of an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action.

SUBCHAPTER G. PROCEDURE FOR AWARDING GRANTS

Sec. 157.301.  AWARD REVIEW PROCESS. The institute shall use a peer review process to evaluate and recommend all grants the oversight committee awards under this chapter.

Sec. 157.302.  GRANT AWARD RULES AND PROCEDURES. (a) The oversight committee shall adopt rules regarding the procedure for awarding grants to an applicant under this chapter. The rules must require:

(1)  the peer review committee to score grant applications and make recommendations to the program integration committee and the oversight committee regarding the award of grants, including providing a prioritized list that:

(A)  ranks the grant applications in the order the peer review committee determines applications should be funded; and

(B)  includes information explaining each grant applicant's qualification under the peer review committee's standards for recommendation; and

(2)  the program integration committee to submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that:

(A)  includes documentation on the factors the program integration committee considered in making the grant recommendations;

(B)  is substantially based on the list submitted by the peer review committee under Subdivision (1); and

(C)  to the extent possible, gives priority to proposals that:

(i)  may lead to immediate or long-term medical and scientific breakthroughs in the areas of prevention, treatment, or cures for mental health or brain disease;

(ii)  strengthen and enhance fundamental science in mental health or brain research;

(iii)  ensure a comprehensive coordinated approach to mental health or brain research;

(iv)  are interdisciplinary or interinstitutional;

(v)  align with state priorities and needs, including priorities and needs outlined in other state agency strategic plans, or address federal or other major research sponsors' priorities in scientific or technological fields in the area of mental health or brain research;

(vi)  are matched with money provided by a private or nonprofit entity or institution of higher education;

(vii)  are collaborative between any combination of private and nonprofit entities, public or private agencies or institutions in this state, and public or private institutions outside this state;

(viii)  benefit the residents of this state, including a demonstrable economic development benefit to this state;

(ix)  enhance research superiority at institutions of higher education in this state by creating new research superiority, attracting existing research superiority from institutions outside this state and other research entities, or attracting from outside this state additional researchers and resources;

(x)  expedite innovation and product development, attract private sector entities to stimulate a substantial increase in high-quality jobs, and increase higher education applied science or technology research capabilities; and

(xi)  address the goals of the research plan.

(b)  A member of a peer review committee may not attempt to use the committee member's official position to influence a decision to approve or award a grant or contract to the committee member's employer.

(c)  A program integration committee member may not discuss a grant applicant recommendation with an oversight committee member unless the program integration committee has fulfilled the requirements of Subsection (a)(2).

(d)  Two-thirds of the oversight committee members present and voting must vote to approve each funding recommendation of the program integration committee. If the oversight committee does not approve a funding recommendation of the program integration committee, a statement explaining the reasons the funding recommendation was not followed must be included in the minutes of the meeting.

(e)  The oversight committee may not award more than $300 million in grants under this chapter in a state fiscal year.

(f)  The oversight committee may not award a grant to an applicant who has made a gift or grant to the institute, an oversight committee member, or an institute employee on or after January 1, 2024. This section does not apply to gifts, fees, honoraria, or other items also excepted under Section 36.10, Penal Code.

Sec. 157.303.  MULTIYEAR PROJECTS. (a) The oversight committee may approve the award of grant money for a multiyear project.

(b)  The oversight committee shall specify the total amount of money approved to fund the multiyear project. The total amount specified is considered for purposes of this chapter to have been awarded in the state fiscal year that the peer review committee approved the project. The institute shall distribute only the money that will be expended during that fiscal year. The institute shall distribute the remaining grant money as the money is needed in each subsequent state fiscal year.

Sec. 157.304.  CONTRACT TERMS. (a) Before disbursing any grant money awarded under this chapter, the institute shall execute a written contract with the grant recipient. The contract shall:

(1)  specify that except for awards to state agencies or public institutions of higher education, if all or any portion of the amount of the grant is used to build a capital improvement:

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

(B)  the grant recipient shall, if the capital improvement is sold:

(i)  repay to the state the grant money used to pay for the capital improvement, with interest at the rate and according to the other terms provided by the contract; and

(ii)  share with the state a proportionate amount of any profit realized from the sale;

(2)  specify that if the grant recipient has not used awarded grant money for the purposes for which the grant was intended, the recipient shall repay that grant amount and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms;

(3)  specify that if the grant recipient fails to meet the terms and conditions of the contract, the institute may terminate the contract using the written process prescribed in the contract and require the recipient to repay the awarded grant money and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms;

(4)  include terms relating to intellectual property rights consistent with the standards developed by the oversight committee under Section 157.305;

(5)  require that, in accordance with Subsection (b), the grant recipient dedicate an amount of matching money equal to one-half of the amount of the research grant awarded and specify the amount of matching money to be dedicated;

(6)  specify the period in which the grant award must be spent; and

(7)  include the specific deliverables of the project that is the subject of the grant proposal.

(b)  Before the institute may disburse grant money, the grant recipient must certify that the recipient has an amount of money equal to one-half of the grant money that is available and not yet expended, and dedicate that money to the research that is the subject of the grant proposal. The institute shall adopt rules specifying a grant recipient's obligations under this subchapter. At a minimum, the rules must:

(1)  allow a grant recipient that is an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, or a research institute or center affiliated with the institution, to credit toward the recipient's matching money the dollar amount equivalent to the difference between the indirect cost rate authorized by the federal government for research grants awarded to the recipient and the indirect cost rate authorized by Section 157.203(c);

(2)  specify that:

(A)  a grant recipient receiving more than one grant award may provide matching money certification at an institutional level;

(B)  the recipient of a multiyear grant award may yearly certify matching money; and

(C)  grant money may not be disbursed to the grant recipient until the annual certification of the matching money has been approved;

(3)  specify that money for certification purposes may include:

(A)  federal funds;

(B)  the fair market value of drug development support provided to the recipient by the National Institutes of Health or other similar programs;

(C)  funds of this state;

(D)  funds of other states; and

(E)  nongovernmental funds, including private funds, foundation grants, gifts, and donations;

(4)  specify that the following items may not be used for certification purposes:

(A)  in-kind costs;

(B)  volunteer services provided to a grant recipient;

(C)  noncash contributions;

(D)  preexisting real estate of the grant recipient, including buildings, facilities, and land;

(E)  deferred giving, including a charitable remainder annuity trust, charitable remainder unitrust, or pooled income fund; or

(F)  any other items determined by the institute;

(5)  require that the grant recipient's certification be included in the grant award contract;

(6)  specify that a grant recipient's failure to provide certification serves as grounds for terminating the grant award contract;

(7)  require a grant recipient to maintain adequate documentation supporting the source and use of the money required by this subsection and to provide documentation to the institute on request; and

(8)  require that the institute establish a procedure to conduct an annual review of the documentation supporting the source and use of money reported in the required certification.

(c)  The institute shall establish a policy on advance payments to grant recipients.

(d)  The oversight committee shall adopt rules to administer this section.

Sec. 157.305.  PATENT ROYALTIES AND LICENSE REVENUES PAID TO STATE. (a) The oversight committee shall establish standards requiring all grant awards to be subject to an intellectual property agreement that allows this state to collect royalties, income, and other benefits, including interest or proceeds resulting from securities and equity ownership, realized as a result of projects undertaken with money awarded under this chapter.

(b)  In determining this state's interest in any intellectual property rights, the oversight committee shall balance the opportunity of this state to benefit from the patents, royalties, licenses, and other benefits that result from basic research, therapy development, and clinical trials with the need to ensure that essential medical research is not unreasonably hindered by the intellectual property agreement and that the agreement does not unreasonably remove the incentive on the part of the individual researcher, research team, or institution.

(c)  The oversight committee may authorize the institute to enter into a contract with one or more qualified third parties for assistance with the management, accounting, and disposition of this state's interest in securities, equities, royalties, income, and other benefits realized as a result of projects undertaken with money awarded under this chapter. The institute shall implement practices and procedures with regard to managing, accounting, and disposition of securities, equities, royalties, income, and other benefits as it may determine to be in the best interest of the state.

Sec. 157.306.  PREFERENCE FOR TEXAS SUPPLIERS. In a good faith effort to achieve a goal of more than 50 percent of purchases from suppliers in this state, the oversight committee shall establish standards to ensure that grant recipients purchase goods and services from suppliers in this state to the extent reasonably possible.

Sec. 157.307.  HISTORICALLY UNDERUTILIZED BUSINESSES. The oversight committee shall establish standards to ensure that grant recipients purchase goods and services from historically underutilized businesses as defined by Section 2161.001, Government Code, and any other applicable state law.

Sec. 157.308.  GRANT COMPLIANCE AND PROGRESS EVALUATION. (a) The institute shall require as a condition of a grant awarded under this chapter that the grant recipient submit to regular inspection reviews of the grant project by institute staff to ensure compliance with the terms of the grant contract and ongoing progress, including the scientific merit of the research.

(b)  The chief executive officer shall report at least annually to the oversight committee on the progress and continued merit of the projects awarded grants by the institute.

Sec. 157.309.  MEDICAL AND RESEARCH ETHICS. Any project that is awarded a grant under this chapter must comply with all applicable federal and state laws regarding the conduct of the research or prevention project.

Sec. 157.310.  PUBLIC INFORMATION; CONFIDENTIAL INFORMATION. (a) The following information is public information and may be disclosed under Chapter 552, Government Code:

(1)  the applicant's name and address;

(2)  the amount of money requested in the applicant's grant proposal;

(3)  the type of mental health or brain research to be addressed under the proposal; and

(4)  any other information the institute designates with the consent of the grant applicant.

(b)  To protect the actual or potential value of information submitted to the institute by an applicant for or recipient of an institute grant, the following information submitted by the applicant or recipient is confidential and is not subject to disclosure under Chapter 552, Government Code, or any other law:

(1)  all information, other than the information required under Subsection (a), that is contained in a grant award application, peer review evaluation, award contract, or progress report relating to a product, device, or process, the application or use of the product, device, or process, and all technological and scientific information, including computer programs, developed wholly or partly by a grant applicant or recipient, regardless of whether patentable or capable of being registered under copyright or trademark laws, that has a potential for being sold, traded, or licensed for a fee; and

(2)  the plans, specifications, blueprints, and designs, including related proprietary information, of a scientific research and development facility.

(c)  The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

(1)  information that directly or indirectly reveals the identity of an individual who made a report related to fraud, waste, or abuse of state resources to the institute's compliance program office, sought guidance from the office, or participated in an investigation conducted under the compliance program;

(2)  information that directly or indirectly reveals the identity of an individual who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit; and

(3)  other information that is collected or produced in a compliance program investigation if releasing the information would interfere with an ongoing compliance investigation.

(d)  Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

(e)  Information made confidential or excepted from public disclosure by this section may be made available on request and in compliance with applicable laws and procedures to the following:

(1)  a law enforcement agency or prosecutor;

(2)  a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or

(3)  a committee member or institute employee who is responsible under institutional policy for a compliance program investigation or for a review of a compliance program investigation.

(f)  A disclosure under Subsection (e) is not a voluntary disclosure for purposes of Section 552.007, Government Code.

(g)  The institute shall post on the institute's Internet website records that pertain specifically to any gift, grant, or other consideration provided to the institute, an institute employee, or a member of the oversight committee, in the employee's or oversight committee member's official capacity. The posted information must include each donor's name and the amount and date of the donor's donation. This section is not applicable to gifts, fees, honoraria, or other items also excepted under Section 36.10, Penal Code.

Sec. 157.311.  APPROPRIATION CONTINGENCY. The institute is required to implement a provision of this chapter only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the institute may, but is not required to, implement the provision using other money available to the institute for that purpose.

SECTION 2.  Section 51.955(c), Education Code, is amended to read as follows:

(c)  Subsection (b)(1) does not apply to a research contract between an institution of higher education and the Cancer Prevention and Research Institute of Texas or Mental Health and Brain Research Institute of Texas.

SECTION 3.  Section 61.003(6), Education Code, is amended to read as follows:

(6)  "Other agency of higher education" means The University of Texas System, System Administration; The University of Texas at El Paso Museum; Texas Epidemic Public Health Institute at The University of Texas Health Science Center at Houston; The Texas A&M University System, Administrative and General Offices; Texas A&M AgriLife Research; Texas A&M AgriLife Extension Service; Rodent and Predatory Animal Control Service (a part of the Texas A&M AgriLife Extension Service); Texas A&M Engineering Experiment Station (including the Texas A&M Transportation Institute); Texas A&M Engineering Extension Service; Texas A&M Forest Service; Texas Division of Emergency Management; Texas Tech University Museum; Texas State University System, System Administration; Sam Houston Memorial Museum; Panhandle-Plains Historical Museum; Cotton Research Committee of Texas; Texas Water Resources Institute; Texas A&M Veterinary Medical Diagnostic Laboratory; Mental Health and Brain Research Institute of Texas; and any other unit, division, institution, or agency which shall be so designated by statute or which may be established to operate as a component part of any public senior college or university, or which may be so classified as provided in this chapter.

SECTION 4.  (a)  Not later than December 1, 2024, the appropriate appointing authority shall appoint the members to the Mental Health and Brain Research Institute of Texas Oversight Committee as required by Section 157.101, Education Code, as added by this Act. The oversight committee may not act until a majority of the appointed members have taken office.

(b)  Notwithstanding Section 157.101, Education Code, as added by this Act, in making the initial appointments under that section, the governor, lieutenant governor, and speaker of the house of representatives shall, as applicable, designate one member of the Mental Health and Brain Research Institute of Texas Oversight Committee appointed by that person to serve a term expiring January 31, 2025, one member appointed by that person to serve a term expiring January 31, 2027, and one member appointed by that person to serve a term expiring January 31, 2029.

(c)  The governor shall designate one member to serve as interim presiding officer for the purpose of calling and presiding over meetings of the Mental Health and Brain Research Institute of Texas Oversight Committee until an election is held under Section 157.104, Education Code, as added by this Act.

SECTION 5.  If the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, requiring the creation of the Mental Health and Brain Research Institute of Texas and the transfer of $3 billion from general state revenue to fund mental health and brain research in this state is approved by the voters, the Mental Health and Brain Research Institute of Texas established by Chapter 157, Education Code, as added by this Act, is eligible to receive funding deposited under the authority of Section 68, Article III, Texas Constitution, for any activities conducted by the institute that serve the purposes of that constitutional provision.

SECTION 6.  This Act takes effect January 1, 2024, but only if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, requiring the creation of the Mental Health and Brain Research Institute of Texas, establishing the Mental Health and Brain Institute Research Fund to provide funding for mental health and brain research in this state, and transferring general revenue to that fund is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.