

By: Bonnen

H.B. No. 1595

A BILL TO BE ENTITLED

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

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

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

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

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

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22 is repealed on or before September 1, 2013, by legislation enacted  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

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

1 provisions:

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

4 (B) Section 51.005;

5 (C) Section 51.0051;

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

7 (E) Section 51.402;

8 (F) Section 56.039;

9 (G) Section 61.059;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27       Sec. 62.134.   APPROPRIATION       OF       FUND       TO       ELIGIBLE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (1) Texas State University;

27           (2) Texas Tech University;

1           (3) the University of Houston; and

2           (4) the University of North Texas.

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

7           (1) the institution:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 must be allocated as follows:

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

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

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

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

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

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

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

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

27 (B) the number of institutions to which

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

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

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

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

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

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

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

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

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

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

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

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

27 (1) providing faculty support and paying faculty

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

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

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

12 follows:

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

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

15 established to support a general academic teaching institution's

16 mission in perpetuity.

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

18 institutional endowment funds, each eligible institution may

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

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

21 corresponding to the share of the permanent endowment for education

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

23 state fiscal year as provided by Section 62.1481.

24 Sec. 62.151. DETERMINATION AND REPORT OF AMOUNT OF

25 DISTRIBUTIONS. For each state fiscal biennium, the Legislative

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

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

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

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

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

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

- 9 (1) Sections 62.096(a), (b), and (e);  
10 (2) Section 62.135(b);  
11 (3) Section 62.142(2);  
12 (4) Sections 62.146 and 62.147; and  
13 (5) Sections 62.148(d), (e), and (f).

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