

By: Huffman, et al.

S.B. No. 19

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration and investment of, and distribution
3 and use of money from, certain constitutional and statutory funds
4 to support general academic teaching institutions in achieving
5 national prominence as major research universities and driving the
6 state economy; redesignating the national research university fund
7 as the 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22 is repealed on or before September 1, 2013, by legislation enacted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 62.092(2), Education Code, is amended to
19 read as follows:

- 20 (2) "Eligible institution" means a general academic
- 21 teaching institution as defined by Section 61.003, other than:
 - 22 (A) The University of Texas at Austin or Texas
 - 23 A&M University; or
 - 24 (B) an institution of higher education described
 - 25 by Section 62.132(2) or 62.145.

26 SECTION 3. Section 62.095, Education Code, is amended to
27 read as follows:

1 Sec. 62.095. APPROPRIATION OF FUND TO ELIGIBLE
2 INSTITUTIONS. [~~(a)~~] In each state fiscal year, amounts shall be
3 appropriated to eligible institutions in the same manner that
4 research performance funding is appropriated to institutions
5 eligible to receive funding from the Texas University Fund under
6 Section 62.1482(a) [~~based on the average amount of restricted~~
7 ~~research funds expended by each institution per year for the three~~
8 ~~preceding state fiscal years)].~~

9 [~~(b) For purposes of Subsection (a), the amount of~~
10 ~~restricted research funds expended by an institution in a fiscal~~
11 ~~year is the amount of those funds as reported to the coordinating~~
12 ~~board by the institution for that fiscal year, subject to any~~
13 ~~adjustment by the coordinating board in accordance with the~~
14 ~~standards and accounting methods the coordinating board prescribes~~
15 ~~under Section 62.096.~~]

16 SECTION 4. The heading to Subchapter F-1, Chapter 62,
17 Education Code, is amended to read as follows:

18 SUBCHAPTER F-1. NATIONAL [~~CORE~~] RESEARCH SUPPORT FUND

19 SECTION 5. Section 62.131, Education Code, is amended to
20 read as follows:

21 Sec. 62.131. PURPOSE. The national [~~core~~] research support
22 fund is established to provide funding to promote increased
23 research capacity at certain institutions of higher education
24 eligible to participate in the available university fund [~~emerging~~
25 ~~research universities)].~~

26 SECTION 6. Section 62.132, Education Code, is amended by
27 amending Subdivisions (2) and (3) and adding Subdivision (4) to

1 read as follows:

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

4 (A) is entitled to participate in the funding
5 provided by Section 18, Article VII, Texas Constitution;

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

9 (C) awarded on average at least 45 research
10 doctoral degrees per academic year during the preceding three
11 academic years [~~is designated as an emerging research university~~
12 ~~under the coordinating board's accountability system)].~~

13 (3) "Fund" means the national [~~core~~] research support
14 fund.

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

17 SECTION 7. Section 62.133, Education Code, is amended to
18 read as follows:

19 Sec. 62.133. FUNDING. The national [~~core~~] research support
20 fund consists of money appropriated by the legislature to eligible
21 institutions for the purposes of this subchapter.

22 SECTION 8. Section 62.134, Education Code, is amended to
23 read as follows:

24 Sec. 62.134. APPROPRIATION OF FUND TO ELIGIBLE
25 INSTITUTIONS. In each state fiscal year, amounts shall be
26 appropriated to eligible institutions in the same manner that
27 research performance funding is appropriated to institutions

1 eligible to receive funding from the Texas University Fund under
2 Section 62.1482 [~~as follows:~~

3 ~~[(1) 50 percent based on the average amount of~~
4 ~~restricted research funds expended by each institution per year for~~
5 ~~the three preceding state fiscal years, determined in the manner~~
6 ~~described by Section 62.095(b); and~~

7 ~~[(2) 50 percent based on the average amount of total~~
8 ~~research funds expended by each institution per year for the three~~
9 ~~preceding state fiscal years, determined in the manner described by~~
10 ~~Section 62.053(b)].~~

11 SECTION 9. The heading to Subchapter G, Chapter 62,
12 Education Code, is amended to read as follows:

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

14 SECTION 10. Section 62.141, Education Code, is amended to
15 read as follows:

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

23 SECTION 11. Subchapter G, Chapter 62, Education Code, is
24 amended by adding Section 62.1415 to read as follows:

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

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

3 SECTION 12. Section 62.142, Education Code, is amended by
4 amending Subdivision (3) and adding Subdivision (5) to read as
5 follows:

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

8 (5) "Trust company" means the Texas Treasury
9 Safekeeping Trust Company.

10 SECTION 13. Section 62.143, Education Code, is amended to
11 read as follows:

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

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

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

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

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

27 SECTION 14. Section 62.144, Education Code, is amended to

1 read as follows:

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

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

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

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

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

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

15 SECTION 15. Section [62.145](#), Education Code, is amended to
16 read as follows:

17 Sec. 62.145. ELIGIBILITY TO RECEIVE DISTRIBUTIONS FROM
18 FUND. (a) The following general academic teaching institutions
19 are eligible to receive distributions under this subchapter for
20 each state fiscal year:

21 (1) Texas State University;

22 (2) Texas Tech University;

23 (3) the University of Houston; and

24 (4) the University of North Texas.

25 (b) A general academic teaching institution not listed in
26 Subsection (a) becomes eligible to receive an initial distribution
27 of money appropriated under this subchapter for a state fiscal year

1 if:

2 (1) the institution:

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

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

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

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 the distribution, the
14 market value of each other eligible institution's share of the
15 distribution of money under this subchapter for that fiscal year is
16 at least the same as the market value of that share for the state
17 fiscal year immediately preceding the state fiscal year in which
18 the additional institution becomes eligible for a distribution
19 under this subsection ~~[is designated as an emerging research~~
20 ~~university under the coordinating board's accountability system;~~

21 ~~[(2) in each of the two state fiscal years preceding~~
22 ~~the state fiscal year for which the appropriation is made, the~~
23 ~~institution expended at least \$45 million in restricted research~~
24 ~~funds; and~~

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

27 ~~[(A) the value of the institution's endowment~~

1 ~~funds is at least \$400 million in each of the two state fiscal years~~
2 ~~preceding the state fiscal year for which the appropriation is~~
3 ~~made;~~

4 ~~[(B) the institution awarded at least 200 doctor~~
5 ~~of philosophy degrees during each of the two academic years~~
6 ~~preceding the state fiscal year for which the appropriation is~~
7 ~~made;~~

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

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

19 ~~[(E) the faculty of the institution for each of~~
20 ~~those two academic years was of high quality, as determined~~
21 ~~according to coordinating board standards based on the professional~~
22 ~~achievement and recognition of the institution's faculty,~~
23 ~~including the election of faculty members to national academies,~~
24 ~~and~~

25 ~~[(F) for each of those two academic years, the~~
26 ~~institution has demonstrated a commitment to high-quality graduate~~
27 ~~education, as determined according to standards prescribed by the~~

1 ~~coordinating board by rule, including standards relating to the~~
2 ~~number of graduate-level programs at the institution, the~~
3 ~~institution's admission standards for graduate programs, and the~~
4 ~~level of institutional support for graduate students].~~

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

9 SECTION 16. Sections 62.148(a), (b), and (c), Education
10 Code, are amended to read as follows:

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

15 (b) The total amount appropriated from the fund for any
16 state fiscal year may not exceed an amount equal to 7.0 ~~[4.5]~~
17 percent of the average net market value of the investment assets of
18 the fund, as determined by the comptroller, for a period set by
19 comptroller rule ~~[the 12 consecutive state fiscal quarters ending~~
20 ~~with the last quarter of the preceding state fiscal year, as~~
21 ~~determined by the comptroller].~~

22 (c) The ~~[Subject to Subsection (e), of the total]~~ amount
23 appropriated from the fund for distribution in a state fiscal year
24 must be allocated as follows:

25 (1) 75 percent to the permanent endowment for
26 education and research base funding under Section 62.1481; and

27 (2) 25 percent to the research performance funding

1 under Section 62.1482 [~~each eligible institution is entitled to a~~
2 ~~distribution in an amount equal to the sum of:~~

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

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

7 SECTION 17. Subchapter G, Chapter 62, Education Code, is
8 amended by adding Sections 62.1481 and 62.1482 to read as follows:

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

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

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

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

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

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

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

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

16 (c) An eligible institution that becomes eligible to
17 receive a distribution under Subsection (a)(1) remains eligible to
18 receive a distribution under that subdivision in each subsequent
19 state fiscal year.

20 Sec. 62.1482. RESEARCH PERFORMANCE FUNDING. (a) From 85
21 percent of the amount allocated for research performance funding
22 under Section 62.148(c)(2) for a state fiscal year, an eligible
23 institution is entitled to a distribution for that fiscal year in an
24 amount proportionate to the average amount of federal and private
25 research funds the institution spends per state fiscal year during
26 the preceding three state fiscal years as compared to the average
27 amount of those funds all eligible institutions spend per state

1 fiscal year during that period.

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

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

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

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

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

23 (1) providing faculty support and paying faculty
24 salaries;

25 (2) purchasing equipment or library materials;

26 (3) paying graduate stipends; ~~and~~

27 (4) supporting research performed at the institution,

1 including undergraduate research;

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

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

6 SECTION 19. Subchapter G, Chapter 62, Education Code, is
7 amended by adding Sections 62.150, 62.151, and 62.152 to read as
8 follows:

9 Sec. 62.150. INSTITUTIONAL ENDOWMENT REPORTING. (a) In
10 this section, "institutional endowment fund" means a fund
11 established to support a general academic teaching institution's
12 mission in perpetuity.

13 (b) For purposes of reporting the amount of an institution's
14 institutional endowment funds, each eligible institution may
15 include as a true endowment, in accordance with coordinating board
16 rule, the institution's share of the market value of the fund
17 corresponding to the share of the permanent endowment for education
18 and research base funding to which the institution is entitled for a
19 state fiscal year as provided by Section 62.1481.

20 Sec. 62.151. DETERMINATION AND REPORT OF AMOUNT OF
21 DISTRIBUTIONS. For each state fiscal biennium, the Legislative
22 Budget Board, in consultation with the coordinating board, shall:

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

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

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

3 SECTION 20. The following provisions of Chapter 62,
4 Education Code, are repealed:

- 5 (1) Sections 62.096(a), (b), and (e);
- 6 (2) Section 62.135(b);
- 7 (3) Section 62.142(2);
- 8 (4) Sections 62.146 and 62.147; and
- 9 (5) Sections 62.148(d), (e), and (f).

10 SECTION 21. This Act takes effect September 1, 2023.