

CHAPTER 823

H.B. No. 2181

AN ACT

relating to higher education, including the responsibilities, roles, funding, and management of public agencies and institutions of higher education.

Be it enacted by the Legislature of the State of Texas:

PREAMBLE

The purpose of this Act is to make the statutory changes necessary to implement the recommendations of the Select Committee on Higher Education as contained in the Texas Charter for Public Higher Education.

ARTICLE 1. RESPONSIBILITIES

SECTION 1.01. Sec. 61.002, Education Code, is amended to read as follows:

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Sec. 61.002. PURPOSE. (a) The purpose of this chapter is to establish in the field of public higher education in the State of Texas an agency to provide leadership and coordination for the Texas higher education system, institutions, and governing boards, to the end that the State of Texas may achieve excellence for college education of its youth through the efficient and effective utilization and concentration of all available resources and the elimination of costly duplication in program offerings, faculties, and physical plants.

(b) *In the exercise of its leadership role, the Texas Higher Education Coordinating Board established by this chapter shall be an advocate for the provision of adequate resources and sufficient authority to institutions of higher education so that such institutions may realize, within their prescribed role and scope, their full potential to the benefit of the students who attend such institutions and to the benefit of the citizens of the state in terms of the realization of the benefits of an educated populace.*

SECTION 1.02. Section 61.021, Education Code, is amended to read as follows:

Sec. 61.021. ESTABLISHMENT OF COORDINATING BOARD: FUNCTIONS. (a) *The Texas Higher Education Coordinating Board*, ~~Texas College and University System,~~ is an agency of the state. It shall have its office in Austin. It shall perform only the functions which are enumerated in this chapter and which the legislature may assign to it. Functions vested in the governing boards of the respective institutions of higher education not specifically delegated to the coordinating board shall be performed by the governing boards. The coordinating functions and other duties delegated to the board in this chapter shall apply to all public institutions of higher education.

(b) *References in this code or other law to the "coordinating board" or the "Coordinating Board, Texas College and University System," are references to the Texas Higher Education Coordinating Board.*

SECTION 1.03. Section 61.003(1), Education Code, is amended to read as follows:

(1) "Board" means the *Texas Higher Education Coordinating Board*, ~~Texas College and University System~~.

SECTION 1.04. Section 61.0211, Education Code, is amended to read as follows:

Sec. 61.0211. APPLICATION OF SUNSET ACT. *The Texas Higher Education Coordinating Board*, ~~Texas College and University System,~~ is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished and this chapter expires September 1, 1989.

SECTION 1.05. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.0221 to read as follows:

Sec. 61.0221. DUTY IN MAKING OR CONFIRMING APPOINTMENTS. *In making or confirming appointments to the coordinating board, the governor and senate shall ensure that the appointee has the background and experience suitable for performing the statutory responsibility of a member of the coordinating board.*

SECTION 1.06. Section 61.051, Education Code, is amended to read as follows:

Sec. 61.051. COORDINATION OF INSTITUTIONS OF PUBLIC HIGHER EDUCATION. (a) The board shall represent the highest authority in the state in matters of public higher education. *The board shall develop a five-year master plan for higher education in this state and update the plan annually. The five-year plan shall take into account the resources of private institutions of higher education in this state. The board shall inform the legislature on matters pertaining to higher education and shall report to the legislature in January of each year on the state of higher education in Texas.*

(b) The board shall define a technical institute, a junior college, a senior college, a university, and a university system; provided, that nothing in this section may be construed to authorize the board to establish or create any technical institute system or university system or to alter any technical institute system or university system presently existing by virtue of statute or the constitution of this state.

(c) The board shall develop and publish criteria to be used as a basis for determining the need for changing the classification of any public institution of higher education and

for determining the need for new public technical institutes, public junior colleges, public senior colleges, universities, or university systems.

(d) The board shall classify and prescribe the role and scope for each public institution of higher education in Texas, shall make such changes in classification or role and scope of each institution as it deems necessary, and shall hear applications from the institutions for changes in classification or role and scope. The board, *after direct consultation with the governing board of the institution and after providing the forum for a public hearing, may prescribe by rule* ~~[shall make recommendation to the legislature with respect to]~~ maximum enrollment limits for such ~~[each public]~~ institution. *In setting maximum enrollment limits, the board shall take into account any financial hardship such enrollment limits might cause qualified Texas residents seeking a higher education. The governing board of each institution shall determine the* ~~[of higher education in the State of Texas and may recommend to the legislature]~~ maximum enrollment limits for any department, school, degree program, or certificate program at ~~the~~ ~~[any such]~~ institution.

(e) The board shall review periodically all degree and certificate programs offered by the *public* institutions of higher education to assure that they meet the present and future needs of the state. The board shall also order the initiation, consolidation, or elimination of degree or certificate programs where that action is in the best interest of the *public* institutions themselves or the general requirements of the State of Texas, or when that action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program may be added at any *public* institution of higher education except with specific prior approval of the board. Once approved, no department, school, degree program, or certificate program at any *public* institution of higher education may be expanded to include subject matter courses that are outside of approved degree and certificate programs except with specific prior approval of the board. *The board may authorize an institution to continue a doctoral program that is inconsistent with the role and mission of the institution if the program was in existence on September 1, 1987, and the board determines that continuation of the program is warranted.*

(f) The board shall encourage and develop new certificate programs in technical and vocational education in Texas public technical institutes and public community colleges as the needs of technology and industry may demand and shall recommend the elimination of such programs for which a need no longer exists. The board shall assume the leadership role and administrative responsibilities for state level administration of postsecondary technical-vocational education programs in Texas public community colleges, public technical institutes, and other eligible public postsecondary institutions.

(g) The board shall develop and promulgate a basic core of general academic courses which, when offered at a junior college during the first two years of collegiate study, shall be freely transferable among all public institutions of higher education in Texas which are members of recognized accrediting agencies on the same basis as if the work had been taken at the receiving institution. *The board shall develop and implement policies to provide for the free transferability of lower division course credit among institutions of higher education.*

(h) The board shall make continuing studies of the needs of the state for research and for extension and public services and designate the institutions of higher education to perform research, public service, and extension programs, including limitation of extension programs for credit to specific geographic areas. The board shall also maintain an inventory of all institutional and programmatic research, extension, and public service activities being conducted by the various institutions, whether state-financed or not. Once a year, on dates prescribed by the board, each institution of higher education shall report to the board all research conducted at that institution during the last preceding year. All reports required by this subsection shall be made subject to the limitations imposed by security regulations governing defense contracts for research.

(i) The board shall develop and promote one or more degree or certificate programs to the highest attainable quality at each *public* institution of higher education for which the

particular institution is uniquely suited and for which there is marked promise of excellence.

(j) No off-campus courses for credit may be offered by any public technical institute, public community college, or public college or university without specific prior approval of the board. The board shall establish regulations for the coordination of credit and noncredit activities of adult and continuing education by public technical institutes, public community colleges, or public colleges and universities.

(k) *The board shall establish and maintain a management information system that includes the presentation of uniform statistical information that is appropriate to planning, financing, and decision-making rather than regulation.*

(l) *The board shall advise and offer technical assistance on the request of any institution or system administration.*

(m) *The board shall publish and distribute materials on admission policies, transferable courses among institutions, financial assistance programs, and other matters of interest to persons choosing an institution in which to enroll. It is the intent of the legislature that materials distributed under this subsection be designed to promote and encourage students to complete high school coursework and aspire to their highest potential by obtaining a degree from an institution of higher education.*

(n) *The board shall develop guidelines for institutional reporting of student performance.*

(o) *The board shall encourage cooperative programs and agreements among institutions of higher education, including, among others, programs and agreements relating to degree offerings, research activities, and library and computer sharing.*

(p) *The board shall administer trusteed funds, grant programs, research competition awards, and other funds and programs as directed by the legislature.*

(q) *The board shall develop a statewide telecommunications network among institutions of higher education for integrated teaching and data transmission and computation, but only to the extent that the telecommunications services are not available through a system of telecommunications services established for state agencies generally.*

(r) *The board shall conduct a review of all doctoral programs offered at institutions of higher education. The review shall consider:*

- (1) *program quality;*
- (2) *demand for the degree program;*
- (3) *number of graduates;*
- (4) *geographic distribution of doctoral degree programs;*
- (5) *employment opportunities and demand for degree holders; and*
- (6) *duplication with other programs.*

The board shall begin the review by considering first the institutions that offer a single doctoral program. The review must be completed by December 1992. The board shall report the results of the review regarding public institutions of higher education to the legislature not later than the convening of the regular legislative session in 1993.

SECTION 1.07. The chapter title for Chapter 61, Education Code, is amended to read as follows:

CHAPTER 61. *TEXAS HIGHER EDUCATION COORDINATING BOARD*[, ~~TEXAS COLLEGE AND UNIVERSITY SYSTEM~~]

SECTION 1.08. (a) The name of the Coordinating Board, Texas College and University System, is changed to the Texas Higher Education Coordinating Board. Appropriations made to the Coordinating Board, Texas College and University System, are considered appropriations to the Texas Higher Education Coordinating Board.

(b) This Act does not affect the terms of office of members of the Coordinating Board, Texas College and University System, serving on the effective date of this Act.

(c) The Texas Higher Education Coordinating Board shall use supplies printed with the board's former name before purchasing supplies with the name provided by this Act.

SECTION 1.09. Chapter 51, Education Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. RESPONSIBILITIES OF GOVERNING BOARDS, SYSTEM ADMINISTRATIONS, AND INSTITUTIONS

Sec. 51.351. DEFINITIONS. In this subchapter:

(1) "Governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003 of this code.

(2) "System administration" means the administrative officers and employees of a university system who are assigned responsibility in relation to administration of two or more component institutions and are under the supervision of the chancellor or other chief executive officer of the university system.

Sec. 51.352. RESPONSIBILITY OF GOVERNING BOARDS. (a) It is the policy of this state that the governing boards of institutions of higher education, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard each governing board:

(1) *is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees;*

(2) *shall enhance the public image of each institution under its governance;*

(3) *shall interpret the community to the campus and interpret the campus to the community;*

(4) *shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission; and*

(5) *shall insist on clarity of focus and mission of each institution under its governance.*

(b) *The governing board of an institution of higher education shall provide the policy direction for each institution of higher education under its management and control.*

(c) *In making or confirming appointments to a governing board, the governor and senate shall ensure that the appointee has the background and experience suitable for performing the statutory responsibility of a member of the governing board.*

(d) *In addition to powers and duties specifically granted by this code or other law, each governing board shall:*

(1) *establish, for each institution under its control and management, goals consistent with the role and mission of the institution;*

(2) *appoint the chancellor or other chief executive officer of the system, if the board governs a university system;*

(3) *appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals;*

(4) *set campus admission standards consistent with the role and mission of the institution and considering the admission standards of similar institutions nationwide having a similar role and mission, as determined by the coordinating board; and*

(5) *ensure that its formal position on matters of importance to the institutions under its governance is made clear to the coordinating board when such matters are under consideration by the coordinating board.*

(e) *Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's control and management.*

Sec. 51.353. RESPONSIBILITY OF SYSTEM ADMINISTRATION. (a) The system administration of each system shall coordinate the activities of component institutions within the system.

(b) *In addition to other powers and duties provided by this code or other law, each system administration shall:*

- (1) *initiate, monitor, approve, and coordinate long-range planning for the system;*
- (2) *approve short-range institutional plans for operations and expenditures;*
- (3) *provide to component institutions technical assistance such as legal and financial services;*
- (4) *evaluate each component institution and assist the institution in the achievement of performance goals; and*
- (5) *perform such other duties as may be delegated to it by the governing board of its system.*

Sec. 51.354. INSTITUTIONAL RESPONSIBILITY. In addition to specific responsibilities imposed by this code or other law, each institution of higher education has the general responsibility to serve the public and, within the institution's role and mission, to:

- (1) *transmit culture through general education;*
- (2) *extend knowledge;*
- (3) *teach and train students for professions;*
- (4) *provide for scientific, engineering, medical, and other academic research;*
- (5) *protect intellectual exploration and academic freedom;*
- (6) *strive for intellectual excellence;*
- (7) *provide educational opportunity for all who can benefit from postsecondary education and training; and*
- (8) *provide continuing education opportunities.*

SECTION 1.10. Subchapter A, Chapter 54, Education Code, is amended by adding Section 54.008 to read as follows:

Sec. 54.008. TUITION RATE SET BY GOVERNING BOARD. (a) The tuition rates provided by Subchapter B of this chapter are minimum rates. The governing board of each institution of higher education shall set tuition for graduate programs for that institution at a rate that is at least equal to that prescribed by Subchapter B of this chapter, but that is not more than twice the rate prescribed by this chapter. Between the maximum and minimum rates, the board may set the differential tuition among programs offered by an institution of higher education.

(b) *The governing board of a university system is not required to set uniform tuition rates for graduate programs among the component institutions of the system.*

(c) *The limit on tuition rates provided by Subsection (a) of this section does not apply to tuition at a public junior college.*

(d) *The difference between the minimum rate prescribed by Subchapter B of this chapter and that set by the governing board of an institution of higher education for an institution shall not be accounted for in an appropriations act in such a way as to reduce the general revenue appropriations to that institution.*

SECTION 1.11. (a) Section 54.060, Education Code, is amended to read as follows:

Sec. 54.060. RESIDENT OF BORDERING STATE OR NATION: TUITION. (a) *The nonresident tuition fee prescribed in this chapter does not apply to a nonresident student who is a resident of a state situated adjacent to Texas and who registers in any Texas public junior college situated in a county immediately adjacent to the state in which*

the nonresident student resides. The nonresident junior college student described in this section shall pay an amount equivalent to the amount charged a Texas student registered at a similar school in the state in which the nonresident student resides. The nonresident student described in this section shall pay equivalent fees and charges to those charged Texas students registered at a similar institution in the state in which the nonresident student resides, when such student registers at a Texas public senior upper level (those institutions offering only junior, senior, and graduate level programs) institution of higher education located within the Texas public junior college district from which the nonresident student has graduated or completed 45 semester credit hours.

(b) The foreign student tuition fee prescribed in this chapter does not apply to a foreign student who is a resident of a nation situated adjacent to Texas, who registers in any general academic teaching institution, as defined in Section 61.003(3) of this code, in a county immediately adjacent to the nation in which the foreign student resides, and who demonstrates a financial need after the financial resources of the foreign student and the student's family are considered. The foreign student described in this section shall pay tuition equal to that charged Texas residents under Sections 54.051 and 54.0512 of this code.

(b) This section is effective for enrollees for the fall semester 1987 and thereafter.

SECTION 1.12. Section 61.027, Education Code, is amended to read as follows:

Sec. 61.027. RULES OF PROCEDURE; HEARINGS; NOTICE; MINUTES. The board shall adopt and publish rules and regulations in accordance with and under the conditions applied to other agencies by the *Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)* [~~Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252-13, Vernon's Texas Civil Statutes)~~] to effectuate the provisions of this chapter. The board shall grant any institution of higher education a hearing upon request and after reasonable notice. Minutes of all meetings shall be available in the board's office for public inspection.

ARTICLE 2. ROLES AND MISSIONS

SECTION 2.01. Subchapter A, Chapter 130, Education Code, is amended by adding Section 130.0011 to read as follows:

Sec. 130.0011. PUBLIC JUNIOR COLLEGES; ROLE AND MISSION. Texas public junior colleges shall be two-year institutions primarily serving their local taxing districts and service areas in Texas and offering vocational, technical, and academic courses for certification or associate degrees. Continuing education, remedial and compensatory education consistent with open-admission policies, and programs of counseling and guidance shall be provided. Each institution shall insist on excellence in all academic areas—instruction, research, and public service. Faculty research, using the facilities provided for and consistent with the primary function of each institution, is encouraged. Funding for research should be from private sources, competitively acquired sources, local taxes, and other local revenue.

SECTION 2.02. Section 135.01, Education Code, is amended to read as follows:

Sec. 135.01. TEXAS STATE TECHNICAL ~~[PURPOSE OF]~~ INSTITUTE; *ROLE AND MISSION.* (a) Texas State Technical Institute is a coeducational institution of higher education offering courses of study in vocational and vocational-technical education for which there is demand within the State of Texas.

(b) Texas State Technical Institute shall serve the State of Texas by offering occupationally oriented programs in highly specialized technical and vocational areas for certification or associate degrees. Each Texas State Technical Institute campus is authorized to develop and offer highly specialized technical programs with related supportive coursework. Primary consideration shall be placed on industrial and technological manpower needs of the state. The emphasis of each Texas State Technical Institute campus shall be on programs that do not duplicate programs commonly offered by public junior colleges and on excellence in instruction and public service; however, upon a finding by the coordinating board of the need for a program not available locally from a public junior college, the coordinating board

may authorize an existing campus of the institute to offer the needed technical or vocational program. Faculty research, using the facilities provided for and consistent with the primary function of the institution, is encouraged. Funding for research should be from private sources, competitively acquired sources, and appropriated public funding.

SECTION 2.03. Section 135.03, Education Code, is repealed.

ARTICLE 3. FUNDING

SECTION 3.01. Section 61.059, Education Code, is amended to read as follows:

Sec. 61.059. APPROPRIATIONS [~~RECOMMENDATIONS~~]. (a) To finance a system of higher education and to secure an equitable distribution of state funds deemed to be available for higher education, the board shall perform the functions described in this section. *Funding policies shall allocate resources efficiently and provide incentives for programs of superior quality and for institutional diversity while discouraging unnecessary duplication of course offerings between institutions as well as discouraging unnecessary construction on any campus.*

(b) The board shall devise, establish, and periodically review and revise formulas for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature for all institutions of higher education, including the funding of postsecondary vocational-technical programs. *In carrying out its duties under this section, the board shall employ an ongoing process of committee review and expert testimony and analysis.*

(c) *Formulas for basic funding shall reflect the role and mission of each institution, shall emphasize funding elements that directly support faculty, and shall reflect both fixed and variable elements of cost.*

(d) Not later than March 1 of every even-numbered calendar year, the board shall notify the governing boards and the chief administrative officers of the respective institutions of higher education and university systems, the governor, and the Legislative Budget Board of the formulas designated by the board to be used by the institutions in making appropriation requests for the next succeeding biennium and shall certify to the governor and the Legislative Budget Board that each institution has prepared its appropriation request in accordance with the designated formulas and in accordance with the uniform system of reporting provided in this chapter. The board shall furnish any other assistance to the governor and the Legislative Budget Board in the development of appropriations recommendations as either or both of them may request. However, nothing in this chapter shall prevent or prohibit the governor, the Legislative Budget Board, the board, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the board and advancing reasons and arguments in support of them.

(e) *The board shall present to the governor and to each legislature a comprehensive summary and analysis of institutional appropriation requests, and for that purpose each institution's request must be submitted to the board at the same time at which the request is submitted to the Legislative Budget Board. Nothing in this subsection shall be construed as supplanting the duty, responsibility, and authority of an institution of higher education or the governing board thereof to express its appropriate needs directly to the legislature or any committee thereof.*

(f) [~~(e)~~] The board shall recommend to the governor and the Legislative Budget Board supplemental contingent appropriations to provide for increases in enrollment at the institutions of higher education. Contingent appropriations may be made directly to the institutions or to the board, as the legislature may direct in each biennial appropriations act. In the event the contingent appropriation is made to the board, the funds shall be allocated and distributed by the board to the institutions as it may determine, subject only to such limitations or conditions as the legislature may prescribe.

(g) [~~(d)~~] The board shall recommend to *the institutions*, the governor, and the Legislative Budget Board tuition policies for public technical institutes, public junior colleges, public senior colleges and universities, medical and dental units, and other

agencies of higher education and vocational and technical programs receiving support from state funds.

(h) [(e)] The board shall distribute funds appropriated to the board for allocation for specified purposes under limitations prescribed by law and the rules and regulations of the board in conformity therewith, provided that no distribution or allocation may be made to any institution of higher education which has failed or refused to comply with any order of the board as long as that failure or refusal continues.

(i) [(f)] The board shall make continuing studies on its own initiative or upon the request of the governor or the Legislative Budget Board of the financial needs of public higher education and all services and activities of the institutions of higher education and issue reports to the governor and the Legislative Budget Board that result from its studies.

(j) [(g)] Funds appropriated to the coordinating board for vocational-technical education may be transferred by interagency contract between the two boards as required to carry out an effective and efficient transition of the administration of postsecondary vocational-technical education.

(k) *The legislature shall promote flexibility in the use of funds appropriated to institutions of higher education by:*

(1) *appropriating base funding as a single amount that is unrestricted to use among the various funding elements of the formula used to determine base funding; and*

(2) *appropriating to institutions the unexpended balance of appropriations made for the preceding fiscal year.*

SECTION 3.02. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0591 to read as follows:

Sec. 61.0591. INCENTIVE AND SPECIAL INITIATIVE FUNDING. (a) The legislature shall appropriate to the board an amount equal to not less than 10 percent of the total appropriations for base funding of general academic teaching institutions for the purpose of providing incentive and special initiative funding under this section.

(b) The board shall allocate the funds in accordance with this section and priorities, if any, established by the legislature through bill, resolution, or appropriations rider.

(c) The board shall allocate incentive funding, as a percentage of base funding, among institutions of higher education for the purpose of rewarding institutions achieving goals set by the board in relation to:

(1) minority recruitment, retention, and academic standards maintenance;

(2) graduation rates and maintenance of academic standards;

(3) commitment to liberal arts core curriculum;

(4) commitment to continuing education;

(5) energy conservation;

(6) improvements toward maximum utilization of campus facilities;

(7) commitment to renovation and maintenance of facilities;

(8) development of articulation arrangements;

(9) proportion of accredited academic programs;

(10) assessed performance of graduates as a measure of general education outcome, including assessments based on standardized examination performance;

(11) assessed performance of graduates as a measure of specialized education outcome, including assessments based on professional licensing examination performance;

(12) evaluation of instructional programs through surveys of students, graduates, the general public, and employers;

(13) continuing and systematic peer evaluation of academic and research programs by scholars from other institutions;

(14) progress toward or attainment of long-range planning goals; and

(15) compliance with the management policies required by Section 61.0651 of this code.

(d) The board shall allocate special initiative funding among institutions of higher education to promote academic excellence. Initiative funding may be allocated to the eminent scholars program under Subchapter I, Chapter 51, of this code, or to programs established by the board to:

(1) promote teaching excellence by recognizing and rewarding outstanding teachers;

(2) provide enrichment grants to the best undergraduate programs; or

(3) provide development grants to institutions seeking to develop undergraduate and graduate programs in areas identified as a high priority.

SECTION 3.03. Subchapter A, Chapter 135, Education Code, is amended by adding Section 135.07 to read as follows:

Sec. 135.07. FUNDING. The legislature shall appropriate funds for the support and maintenance of the institute on the basis of contact hours within categories developed, reviewed, and updated by the coordinating board.

SECTION 3.04. Section 130.003(a), Education Code, is amended to read as follows:

(a) There shall be appropriated biennially from money in the state treasury not otherwise appropriated an amount sufficient to supplement local funds for the proper support, maintenance, operation, and improvement of those public junior colleges of Texas that meet the standards prescribed by this chapter. The sum shall be allocated on the basis of contact hours within categories developed, reviewed, and updated by the coordinating board [~~a basis and in a manner provided in Subsection (b) of this section~~].

SECTION 3.05. Section 51.001, Education Code, is amended to read as follows:

Sec. 51.001. INSTITUTIONS TO WHICH APPLICABLE. ~~The [Subject to Section 51.008 of this code, the]~~ provisions of this subchapter apply to each institution of higher education, as that term is defined by Section 61.003 of this code, including[:

~~[(1) each institution and branch of The University of Texas System;~~

~~[(2) each institution, agency, and service of The Texas A & M University System;~~

~~[(3) Texas A & I University;~~

~~[(4) Texas Tech University;~~

~~[(5) East Texas State University;~~

~~[(6) North Texas State University;~~

~~[(7) Sam Houston State University;~~

~~[(8) Stephen F. Austin State University;~~

~~[(9) Southwest Texas State University;~~

~~[(10) Sul Ross State University;~~

~~[(11) West Texas State University;~~

~~[(12) Texas Eastern University; and~~

~~[(13)] each public junior college to the extent possible.~~

SECTION 3.06. Section 51.005, Education Code, is amended to read as follows:

Sec. 51.005. REPORTS. (a) True and full accounts shall be kept by the governing board and by the employees of the institution of all funds collected from all sources and of all sums paid out and the persons to whom and the purposes for which the sums are paid. The governing board shall annually, between September 1 and January 1, print a complete report of all the sums collected, all expenditures, and all sums remaining on hand. The report shall show the true condition of all funds as of the August 31 preceding as well as the collections and expenditures for the preceding year.

(b) *Reports under this section must be in a form approved jointly by the coordinating board and the state auditor. The accounting and classification procedures of each institution must be consistent with uniform procedures prescribed for that purpose by the coordinating board and the state auditor. The requirements imposed by the coordinating board and state auditor must be designed to reduce paperwork and duplicative reports.*

(c) The governing board shall furnish one copy of the report each to the governor, comptroller of public accounts, state auditor, *Texas Higher Education Coordinating Board*, [~~Texas College and University System,~~] Legislative Budget Board, House Appropriations Committee, *Senate Finance Committee*, and Legislative Reference Library. The governing board shall retain five copies of the report for distribution to legislators or other state officials on request.

SECTION 3.07. The heading of Subchapter A, Chapter 51, Education Code, is amended to read as follows:

SUBCHAPTER A. CONTROL OF FUNDS [~~BY CERTAIN INSTITUTIONS~~]

SECTION 3.08. Title 3, Education Code, is amended by adding Subtitle H to read as follows:

SUBTITLE H. RESEARCH IN HIGHER EDUCATION

CHAPTER 141. RESEARCH ENHANCEMENT PROGRAM

Sec. 141.001. *DEFINITIONS. In this chapter:*

(1) *"Coordinating board" means the Texas Higher Education Coordinating Board, or its successor.*

(2) *"Enhancement program" means the research enhancement program established under this chapter.*

(3) *"Faculty member" means a person who is tenured or is in a tenure track position and is employed by a public senior college or university.*

(4) *"Public senior college or university" has the meaning assigned by Section 61.003(4) of this code.*

Sec. 141.002. *ESTABLISHMENT; PURPOSE. The research enhancement program is established to encourage and provide support for research conducted by faculty members. The program replaces the research program that currently is referred to as "Organized Research."*

Sec. 141.003. *FUNDING. (a) The research enhancement program is funded by legislative appropriations. A public senior college or university may receive gifts, grants, and donations to augment legislative appropriations.*

(b) *The legislature shall appropriate money for the enhancement program to each public senior college or university using a formula developed by the coordinating board that is based on the number of full-time faculty members, or the equivalent, at each public senior college or university, as determined by the coordinating board.*

(c) *Supplies, materials, services, and equipment purchased with these funds shall not be subject to State Purchasing and General Services Commission authority.*

Sec. 141.004. *GUIDELINES AND PROCEDURES. Each public senior college or university that receives funds under this chapter shall:*

(1) *develop guidelines and procedures to use in selecting the research projects to be funded;*

(2) *appoint a faculty committee to review research proposals submitted for consideration and to select the projects to be funded using the guidelines and procedures developed under this section; and*

(3) *provide for awards on a competitive basis.*

Sec. 141.005. *MERIT REVIEW. The coordinating board shall appoint a committee that consists of higher education representatives to evaluate the enhancement pro-*

gram's effectiveness and shall report its findings to the coordinating board not later than September 1 of the second year of each biennium.

CHAPTER 142. ADVANCED RESEARCH PROGRAM

Sec. 142.001. *DEFINITIONS. In this chapter:*

(1) "Basic research" means research the primary object of which is to gain a fuller fundamental knowledge of the subject under study.

(2) "Coordinating board" has the meaning assigned by Section 141.001 of this code.

(3) "Eligible institution" means an institution of higher education, as defined by Section 61.003(8) of this code.

(4) "Program" means the advanced research program established under this chapter.

(5) "Faculty member" means a person who is tenured or is in a tenure track position or a research professional employed by an eligible institution.

Sec. 142.002. *PURPOSE. The advanced research program is established to encourage and provide support for basic research conducted by faculty members in astronomy, atmospheric science, biological and behavioral sciences, chemistry, computer sciences, earth sciences, engineering, information science, mathematics, material sciences, oceanography, physics, and social sciences in eligible institutions.*

Sec. 142.003. *ADMINISTRATION; GUIDELINES AND PROCEDURES. (a) The coordinating board shall administer the program.*

(b) *The coordinating board shall appoint an advisory committee that consists of experts in the specified research areas to advise the coordinating board regarding the board's development of research priorities, guidelines, and procedures for the selection of specific projects at eligible institutions.*

(c) *The guidelines and procedures developed by the coordinating board must provide for awards on a competitive, peer review basis for specific projects at eligible institutions.*

Sec. 142.004. *FUNDING. (a) The program is funded by appropriations and by gifts, grants, and donations made for that purpose. The total funds appropriated to the program may be at least equal to 10 percent of the average amount of the federally sponsored research funds allocated to all institutions of higher education annually during the preceding three years.*

(b) *From funds appropriated for the program, the comptroller of public accounts shall issue warrants to each eligible institution in the amount certified by the coordinating board to the comptroller.*

(c) *The funds appropriated for the program may be expended to support the particular projects for which an award is made and may not be expended for the general support of ongoing research at an eligible institution or for the construction or remodeling of a facility.*

(d) *Research projects shall be reviewed and funded each biennium.*

(e) *Supplies, materials, services, and equipment purchased with these funds shall not be subject to State Purchasing and General Services Commission authority.*

Sec. 142.005. *PROGRESS REPORTS. An institution receiving funds under this chapter shall report on the progress of the funded research to the coordinating board not later than September 1 of each year.*

Sec. 142.006. *MERIT REVIEW. The coordinating board shall appoint a committee that consists of experts in the specified research areas to evaluate the program's effectiveness and report its findings to the coordinating board not later than September 1 of the second year of each biennium.*

CHAPTER 143. ADVANCED TECHNOLOGY PROGRAM

Sec. 143.001. *DEFINITIONS. In this chapter:*

(1) "Applied research" means research directed at gaining the knowledge or understanding necessary to meet a specific and recognized need, including the discovery of new scientific knowledge that has specific objectives relating to products or processes.

(2) "Coordinating board" has the meaning assigned by Section 141.001 of this code.

(3) "Eligible institution" has the meaning assigned to public institutions of higher education under Section 61.003(8) of this code and private institutions eligible to grant degrees in the state as defined in the same manner.

(4) "Technology program" means the advanced technology program established under this chapter.

(5) "Faculty member" means a person who is tenured or in a tenure track position or a research professional employed by an eligible institution.

Sec. 143.002. *ESTABLISHMENT; PURPOSE. (a) It is essential to the state's economic growth that it exploit the potential of technology to advance the development and growth of technology and that industry be promoted and expanded. The advanced technology program is established as a means to accomplish this purpose.*

(b) Providing appropriated funds to faculty members of public and private institutions of higher education to conduct applied research is important to the state's welfare and, consequently, is an important public purpose for the expenditure of public funds because the applied research will enhance the state's economic growth by:

(1) educating the state's scientists and engineers;

(2) creating new products and production processes; and

(3) contributing to the application of science and technology to state businesses.

Sec. 143.003. *PRIORITY RESEARCH AREAS. The technology program may provide support for faculty members to conduct research in areas determined by an advisory panel appointed by the coordinating board. Initial research areas shall include: agriculture, biotechnology, biomedicine, energy, materials science, microelectronics, aerospace, marine science, aquaculture, telecommunications, and manufacturing science. The advisory panel may add or delete priority research areas as the panel considers warranted.*

Sec. 143.004. *ADMINISTRATION; GUIDELINES AND PROCEDURES. (a) The coordinating board shall administer the technology program.*

(b) The coordinating board shall determine whether a public or private institution of higher education authorized to grant degrees in this state qualifies as an eligible institution for the purposes of this chapter. To be designated as an eligible institution, an institution of higher education must demonstrate exceptional capability to attract federal, state, and private funding for scientific and technical research and have an exceptionally strong research staff and the necessary equipment and facilities.

(c) The coordinating board shall appoint an advisory committee that consists of experts in the priority research areas to advise the coordinating board regarding the board's development of research priorities, guidelines, and procedures for the selection of specific projects at eligible institutions.

(d) The guidelines and procedures developed by the coordinating board under Subsection (c) of this section shall provide for awards on a competitive, peer review basis for specific projects at eligible institutions. The coordinating board shall encourage projects that leverage funds from other sources and projects that propose innovative, collaborative efforts:

(1) across academic disciplines;

(2) among two or more eligible institutions; or

(3) *between an eligible institution or institutions and private industry.*

Sec. 143.005. FUNDS. (a) The technology program is funded by appropriations and by gifts, grants, and donations made for that purpose.

(b) From funds appropriated for the program, the comptroller of public accounts shall issue warrants to each eligible institution in the amount certified by the coordinating board to the comptroller.

(c) The funds for the technology program may be expended to support particular research projects for which an award is made, and may not be expended for the general support of ongoing research and instruction at an eligible institution or for the construction or remodeling of a facility.

(d) Research projects shall be reviewed and funded each biennium.

(e) Funds appropriated for the technology program may be used to match a grant provided by private industry for a particular collaborative research project with an eligible institution.

(f) Supplies, materials, services, and equipment purchased with these funds shall not be subject to State Purchasing and General Services Commission authority.

Sec. 143.006. PROGRESS REPORTS. An institution receiving funds under this chapter shall report on the progress of the funded research to the coordinating board not later than September 1 of each year.

Sec. 143.007. MERIT REVIEW. The coordinating board shall appoint a committee consisting of representatives of higher education and private enterprise advanced technology research organizations to evaluate the technology program's effectiveness and report its findings to the coordinating board not later than September 1 of the second year of each biennium.

CHAPTER 144. RESEARCH ASSESSMENT PROGRAM

Sec. 144.001. DEFINITIONS. In this chapter:

(1) "Assessment program" means the research assessment program established under this chapter.

(2) "Coordinating board" has the meaning assigned by Section 141.001 of this code.

(3) "Research program" means research conducted by separate research divisions, including research bureaus or institutes and separately budgeted or financed research investigations, that is subject to evaluation and review under this chapter, but does not include departmental research not separately budgeted or financed or contract research and services.

(4) "Institution of higher education" has the meaning assigned by Section 61.003(8) of this code.

Sec. 144.002. ESTABLISHMENT; PURPOSE. The research assessment program is established to provide for biennial review and evaluation by the coordinating board of all research programs in all public institutions of higher education.

Sec. 144.003. GUIDELINES AND PROCEDURES. (a) The coordinating board shall appoint an advisory committee consisting of representatives of higher education and private enterprise and other experts in relevant research areas to review and evaluate the research programs.

(b) The coordinating board with the advice of the advisory committee shall develop guidelines and procedures to evaluate the research programs for intrinsic merit, research performance, and the potential contribution of the research to the development of knowledge and instruction in advanced and emerging technologies and the economic growth of this state.

Sec. 144.004. REPORT OF FINDINGS. (a) Not later than September 1 of the second year of each biennium, the coordinating board shall report to the Legislative Budget Board the preliminary findings of the advisory committee's assessment conducted

under this chapter and make recommendations concerning reauthorization, revision, or discontinuation of each research program.

(b) The Legislative Budget Board shall determine the schedule for the review of the research and technology programs that are subject to biennial review and evaluation under this chapter.

CHAPTER 145. OVERHEAD COST RECOVERY

Sec. 145.001. GRANTS AND RESEARCH EXPENSES. (a) In this section:

(1) "Defined institution" means:

(A) "general academic teaching institution" as defined by Section 61.003(3) of this code;

(B) "medical and dental unit" as defined by Section 61.003(5) of this code; and

(C) "other agency of higher education" as defined by Section 61.003(6) of this code.

(2) "Funding entity" means a governmental or private entity that provides a defined institution with the funds to conduct research and pay the overhead expenses of conducting research.

(b) Each defined institution shall retain and deposit or invest in accordance with Section 51.003 or Section 51.0031 of this code any funds received from a funding entity designated for paying overhead expenses of conducting research.

(c) In the General Appropriations Act, the legislature may adopt a method of funding provision that provides for the application of certain locally generated funds to the general revenue funds to be appropriated to a general academic teaching institution or a medical or dental unit in such a way as to reduce the general revenue to be appropriated to it. If such a provision is adopted, it is specifically provided:

(1) that no more than 50 percent of funds received by a general academic teaching institution or a medical or dental unit for paying overhead costs may be so applied;

(2) that no less than 50 percent of the funds that are retained but not applied to reduce general revenue appropriations shall be expended under guidelines approved by the institution's governing board for projects encouraging further research at the unit, agency, or department level at which the research was conducted, including:

(A) conducting early pregrant feasibility studies;

(B) preparing competitive proposals for sponsored programs;

(C) providing carryover funding for research teams to provide continuity between externally funded projects;

(D) supporting new researchers pending external funding;

(E) engaging in research programs of critical interest to the general welfare of the citizens of this state;

(F) purchasing capital equipment directly related to expanding the research capability of the institution; and

(G) research or project administrative costs; and

(3) that the retained funds not applied to reduce general revenue appropriations remaining after the application of Subdivision (2) of this subsection will be used by a general academic teaching institution or a medical or dental unit to support research as approved by a general academic teaching institution or a medical or dental unit.

(d) Each general academic teaching institution and each medical or dental unit shall report to the Legislative Budget Board as part of the biennial budget reporting process:

(1) the actual amounts of money retained and expended under this section; and

(2) *the estimated amounts of money to be retained and expended under this section during the next biennium.*

SECTION 3.09. Section 51.008(b), Education Code, is amended to read as follows:

(b) The governing board of every state institution of higher education shall deposit in the state treasury all cash receipts accruing to any college or university under its control that may be derived from all sources except auxiliary enterprises, noninstructional services, agency, designated, and restricted funds, endowment and other gift funds, student loan funds, *funds retained under Chapter 145 of this code*, and Constitutional College Building Amendment funds. The state treasurer is directed to credit such receipts deposited by each such institution to a separate fund account for the institution depositing the receipts, but he shall not be required to keep separate accounts of types of funds deposited by each institution. For the purpose of facilitating the transferring of such institutional receipts to the state treasury, each institution shall open in a local depository bank a clearing account to which it shall deposit daily all such receipts, and shall, not less often than every seven days, make remittances therefrom to the state treasurer of all except \$500 of the total balance in said clearing account, such remittances to be in the form of checks drawn on the clearing account~~[, such remittances to be in the form of checks drawn on the clearing account]~~ by the duly authorized officers of the institution, and no disbursements other than remittances to the state treasury shall be made from such clearing account. All money so deposited in the state treasury shall be paid out on warrants drawn by the comptroller of public accounts as provided by law.

SECTION 3.10. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.908 to read as follows:

Sec. 51.908. FACULTY COMPENSATION POLICIES. (a) The governing board of each institution of higher education shall establish faculty compensation policies that, to the greatest extent possible, provide the faculty of the institution with an average salary and benefits at least equal to the average of that provided by similar institutions nationwide having a similar role and mission.

(b) The coordinating board shall include information relating to national average salary and benefits, and correlating that information to Texas schools having a similar role and mission, in the master plan for higher education and in the appropriate reports to the legislature.

ARTICLE 4. MANAGEMENT

SECTION 4.01. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0651 to read as follows:

Sec. 61.0651. MANAGEMENT POLICIES. (a) The coordinating board shall adopt and recommend management policies applicable to institutions of higher education in relation to management of human resources and physical plants. The policies shall be designed to streamline operations and improve accountability.

(b) The human resources management policies shall be designed to increase productivity. The policies may relate to any human resources management issue, including:

(1) the improvement of health benefits for institutional employees through statewide group health benefit programs;

(2) the creation of a management training system to assist institutions in developing personnel management systems, in complying with equal employment opportunity and affirmative action requirements, and in maintaining personnel records;

(3) the requirement of five-year plans to manage personnel overhead, to establish position control systems for administrative personnel, and to implement productivity improvement programs; and

(4) the development of institutional plans to identify, recruit, and develop outstanding administrators of institutions of higher education.

(c) *The physical plant management policies shall be designed to maintain the state's investment in land and facilities. The policies may require institutions to:*

- (1) *include estimated maintenance costs for the life of the building in any request for approval of new construction;*
- (2) *end the practice of deferring building maintenance;*
- (3) *achieve maximum utilization of classroom and laboratory facilities;*
- (4) *prepare annual five-year plans for major repair and rehabilitation projects and for new construction, regardless of funding source; and*
- (5) *implement policies and practices to reduce utility costs.*

SECTION 4.02. Section 61.065, Education Code, is amended to read as follows:

Sec. 61.065. REPORTING; ACCOUNTING. (a) *The [After consultation with the governor, the] state auditor[,] and [the Legislative Budget Board,] the board jointly shall prescribe and periodically update a uniform system of financial accounting and reporting for institutions of higher education, including definitions of the elements of cost on the basis of which appropriations shall be made and financial records shall be maintained. In order that the uniform system of financial accounting and reporting shall provide for maximum consistency with the national reporting system for higher education, the uniform system shall incorporate insofar as possible the provisions of the financial accounting and reporting manual published by the National Association of College and University Business Officers [Financial reports of the institutions of higher education shall classify accounts in accordance with the recommendation of the National Committee on the Preparation of a Manual on College and University Business Administration as set forth in Volume I of College and University Business Administration published by the American Council on Education with a copyright date of 1952, and subsequent published revisions, with such modifications as may be developed as provided by this chapter or as may be required to conform with specific provisions of the biennial appropriations acts of the legislature]. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system.*

(b) *The coordinating board shall annually evaluate the informational requirements of the state for purposes of simplifying institutional reports of every kind and shall consult with the state auditor in relation to appropriate changes in the uniform system of financial accounting and reporting.*

SECTION 4.03. Section 51.003(a), Education Code, is amended to read as follows:

(a) *The governing board of each institution may select one or more depositories [depository banks] as places of deposit for the funds enumerated in Section 51.002 of this code. Depositories shall be selected on the basis of competitive bids. If bids are taken orally, the bids shall be tabulated by the person taking the bids and made a part of the permanent records of the institution.*

SECTION 4.04. Subchapter A, Chapter 51, Education Code, is amended by adding Section 51.0031 to read as follows:

Sec. 51.0031. DEPOSITS AND INVESTMENTS. A governing board may deposit funds under its control as provided in Section 51.003 of this code, may invest funds under its control in financial instruments eligible for investment of funds in the state treasury and, with regard to donations, gifts, and trusts, may establish endowment funds that operate as trusts and are managed under prudent person standards.

SECTION 4.05. Subchapter D, Chapter 51, Education Code, is amended by adding Section 51.1521 to read as follows:

Sec. 51.1521. INTERAGENCY CONTRACTS FOR NETWORKS. Any institution of higher education may enter into an interagency contract with one or more other institutions of higher education for the establishment and operation of a telecommunications network for the transmission of audio or video signals or electronic data, but only to the extent that the telecommunications services are not available through a system of telecommunications services established for state agencies generally. Each of those interagency contracts shall be reviewed by the Texas Higher Education Coordinating Board.

ARTICLE 5. EMERGENCY

SECTION 5.01. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 4, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2181 on June 1, 1987, by the following vote: Yeas 125, Nays 15. Passed by the Senate, with amendments, on May 21, 1987, by the following vote: Yeas 29, Nays 1.

Approved June 20, 1987.

Effective June 20, 1987.