



**Higher Education Fund
Allocation Recommendation
for Fiscal Years 2016
through 2025**

October 2014



Texas Higher Education Coordinating Board

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Mission, Vision, Philosophy, and Core Values

Agency Mission

The Texas Higher Education Coordinating Board promotes access, affordability, quality, success, and cost efficiency in the state's institutions of higher education, through *Closing the Gaps* and its successor plan, resulting in a globally competent workforce that positions Texas as an international leader in an increasingly complex world economy.

Agency Vision

The THECB will be recognized as an international leader in developing and implementing innovative higher education policy to accomplish our mission.

Agency Philosophy

The THECB will promote access to and success in quality higher education across the state with the conviction that access and success without quality is mediocrity and that quality without access and success is unacceptable.

The Coordinating Board's core values are:

Accountability: We hold ourselves responsible for our actions and welcome every opportunity to educate stakeholders about our policies, decisions, and aspirations.

Efficiency: We accomplish our work using resources in the most effective manner.

Collaboration: We develop partnerships that result in student success and a highly qualified, globally competent workforce.

Excellence: We strive for preeminence in all our endeavors.

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Preface

In August 2014, the Commissioner of Higher Education called Higher Education Fund (HEF) eligible institutions to participate in a decennial review. Appendix A lists the study group participants that participated in four conference calls during August and September of 2014 to review the allocation model and make recommendations based on the following study objectives:

1. Study and make recommendations on the amount of total annual allocation of the HEF.
 - a. Consider the change in value of eligible institutions' facilities from 2008 to 2014.
 - b. Consider the reported maintenance needs of eligible institutions and their cost increases between 2008 and 2014.
2. Study the effect of HEF allocation on the amount of reported deferred maintenance.
 - c. Identified eligible institutions' deferred maintenance needs over past 10 years.
 - d. Review maintenance performed using HEF funds.
3. Review the current allocation formula.
 - e. Consider the fairness of the calculations.
 - f. Consider how the components of the calculations reflect the intent of Texas Education Code (TEC), Section 62.021 (a).

Recommendation

The Texas Higher Education Coordinating Board (THECB), in conjunction with representatives of institutions eligible for the Higher Education Fund, offers the following proposals to the 84th Texas Legislature for allocating the Higher Education Fund:¹

- Appropriate \$393,750,000 annually for fiscal years (FY) 2016 through 2025.
 - Increase the current \$262.5 million appropriation by a 50 percent.
 - Consistent with prior decisions and compensates for institutions' growth and reduced purchasing power.
- Set aside 2.2 percent for the Texas State Technical College System (TSTCS), the maximum allowed by Appendix D.
- Allocate 97.8 percent of the HEF to the remaining HEF eligible institutions using the following methodology:
 - Institutional Complexity – Allocate 50 percent on the institutions' FY 2016-2017 all funds formula funding appropriations as introduced in HB 1, 84th Texas Legislature.²
 - This proposal allocates funds on the most current data available at the start of session – calendar year 2014 (spring, summer, and fall 2014) hours.
 - The prior adopted method would have used base year 2013 (summer and fall 2012 and spring 2013) hours.
 - The introduced bill is anticipated to be available mid-January 2015.
 - Allocate 25 percent on Space Deficit using institutions' fall 2014 space need.³
 - This proposal distributes an equal portion of the appropriation to both Space Deficit and Facilities Condition. The prior adopted method allocated funds on the combined monetized value of the two elements.
 - Allocate 25 percent on Facilities Condition using institutions' campus condition index values for their fall 2014 reported building inventories.⁴

¹ The THECB conducted this review with the collaboration and frequency required by the legislation in Appendices D and E. Appendix B prescribes the elements to be included.

² Reflects the expense of implementing the range and level of academic programs. An institution's mix of degree programs and levels and the extent of its research programs determines its complexity.

³ Proportionally funds the cost to construct the space need (difference of needed educational and general net assignable space, estimated by the THECB space model, and reported values). Allocates no funds to institutions with a surplus.

⁴ Funds the renovation and maintenance of educational and general facilities by estimating a reasonable level of deferred maintenance. The Association of Physical Plant Administrators (APPA) advocates spending 1.5 to 3 percent of building values on major repair and rehabilitation annually.

Study Group Consensus

This recommendation is the result of a majority, but not a unanimous consensus of the HEF eligible institutions. Appendix C details the study groups' considerations and tallies members' preference for each option reviewed.

Institutional Complexity: The recommendation is to use the appropriations introduced in HB 1, 84th Texas Legislature for institutional complexity. While 28 percent of participants preferred using 2016-2017 final appropriations, THECB staff omitted the option in consideration of the risk associated with introducing a final HEF bill so late in the session.

Distribution between elements: 42 percent of the institutions initially preferred maintaining a monetized distribution between the Space Deficit and Facilities Condition elements to a fixed even distribution between the two elements. Six of institutions reconsidered their position to avoid presenting two proposals to the Committee on Affordability, Accountability and Planning (CAAP). Had the monetized allocation been recommended, the distribution between the two elements would have been 36 percent to Space Deficit and 14 percent to Facilities Condition.

Higher Education Fund History

Texas Constitution, Article VII, Section 17, established the Higher Education Fund by amending chapter 62 to the Texas Education Code. Amendments to the Texas Constitution provided for the annual appropriation of \$100 million, beginning in September 1985, from the first money coming into the state treasury not otherwise appropriated by the Constitution for the purpose of the following:

- Acquiring land
- Constructing and equipping buildings and other permanent improvements
- Performing major repair and renovation of buildings or other permanent improvements
- Acquiring capital equipment, library books, and library materials

These funds may not be used to finance student housing, intercollegiate athletics, or auxiliary enterprises.

Eligible institutions may issue bonds or notes pledging up to 50 percent of their individual annual allocations to secure the payment of the principal and interest of those bonds.

Year	Annual Appropriation	Action
1985	\$100 million	Introduced
1995	\$175 million	House Bill (HB) 2462, 74th Texas Legislature, increased allocation and provided for a \$50 million annual contribution to HEF Trust Fund
2005	\$262.5 million (in 2007)	HB 3001, 79th Texas Legislature, increased allocation starting in 2007
2009	\$262.5 million	HB 51, 81st Texas Legislature, reallocated funds and eliminated the HEF Trust Fund

Comparison of Value of Facilities from 2008 to 2014

The estimated value of HEF eligible institutions' facilities increased slightly from 2008 to 2014. The 1 percent increase varied by institution, ranging from -38 percent to 50 percent. The comparison is complicated by a change in valuation methodology. The historically used replacement value was updated to the campus condition index value. The primary difference in the valuation methodologies is the use of a static multiplier of 1.67 to convert net assignable to gross square feet. Because institutions are not required to report all space to the THECB, but only educational and general space, the traditional method drastically distorted the estimated value, with multipliers ranging from 0.01 to 1,300. Had the traditional calculation been used, the value would have been \$6.4 billion.

Table 1. Value of Facilities 2008 to 2014

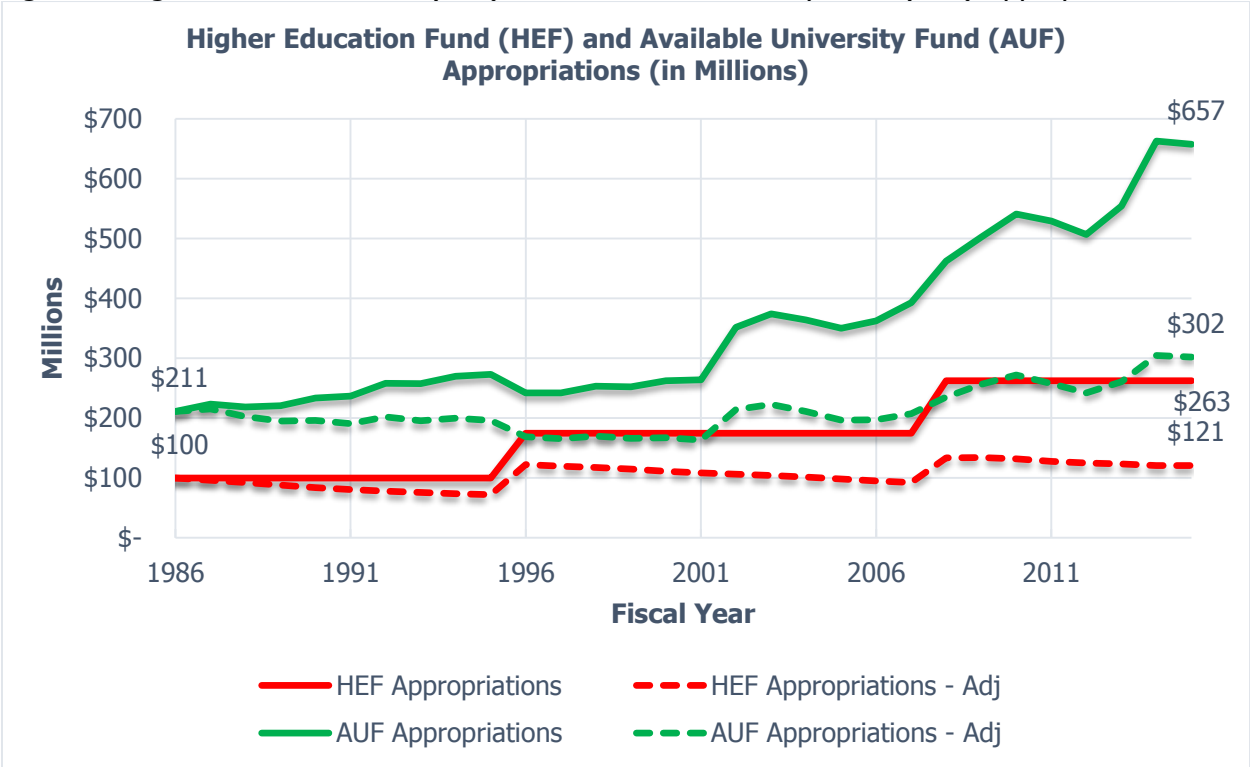
Institutions	Fall 2008 E&G Replacement Value	Draft Fall 2014 E&G Campus Condition Index Value	Difference	Percent Change
TAMU-CC*	206,814,186	296,291,180	89,476,994	43%
TAMU-Kingsville	317,553,476	307,416,635	(10,136,840)	-3%
TAMI	148,167,326	171,049,111	22,881,785	15%
WTAMU	288,494,581	319,206,312	30,711,731	11%
TAMU-Commerce	248,005,216	249,835,848	1,830,632	1%
TAMU-Texarkana	39,835,936	55,128,893	15,292,957	38%
UH*	1,518,447,714	1,393,931,123	(124,516,591)	-8%
UH-Clear Lake	223,357,780	213,483,951	(9,873,829)	-4%
UH-Downtown	255,062,266	195,940,402	(59,121,863)	-23%
UH-Victoria	34,802,147	41,874,071	7,071,924	20%
Midwestern	206,069,568	191,063,175	(15,006,393)	-7%
UNT*	1,051,358,819	929,184,125	(76,355,091)	-7%
UNT-Dallas	-	45,819,603		
UNTHSC*	312,302,900	313,813,310	1,510,409	0%
SFA	400,964,487	443,432,763	42,468,276	11%
TSU	520,650,498	323,947,688	(196,702,810)	-38%
TTU*	922,440,645	1,183,262,171	260,821,526	28%
Angelo	230,848,335	231,975,198	1,126,862	0%
TTUHSC	763,215,139	706,725,967	118,282,883	15%
TTUHSC-El Paso	-	174,772,055		
TWU	392,326,838	383,254,137	(9,072,701)	-2%
Lamar	409,296,166	315,327,530	(93,968,636)	-23%
Lamar-IOT	47,331,878	47,766,860	434,981	1%
Lamar-Orange	53,863,320	54,298,869	435,549	1%
Lamar-Port Arthur	63,961,393	51,781,195	(12,180,198)	-19%
Sam Houston State	334,760,802	500,980,771	166,219,969	50%
Texas State	819,484,561	807,073,230	(12,411,330)	-2%
Sul Ross	118,653,865	115,050,345	(3,603,520)	-3%
Total	9,928,069,841	10,063,686,517	135,616,676	1%

*TAMU = Texas A&M University; UH = University of Houston; UNT = University of North Texas; HSC = Health Science Center; and TTU = Texas Tech University.

Comparison to the Available University Fund

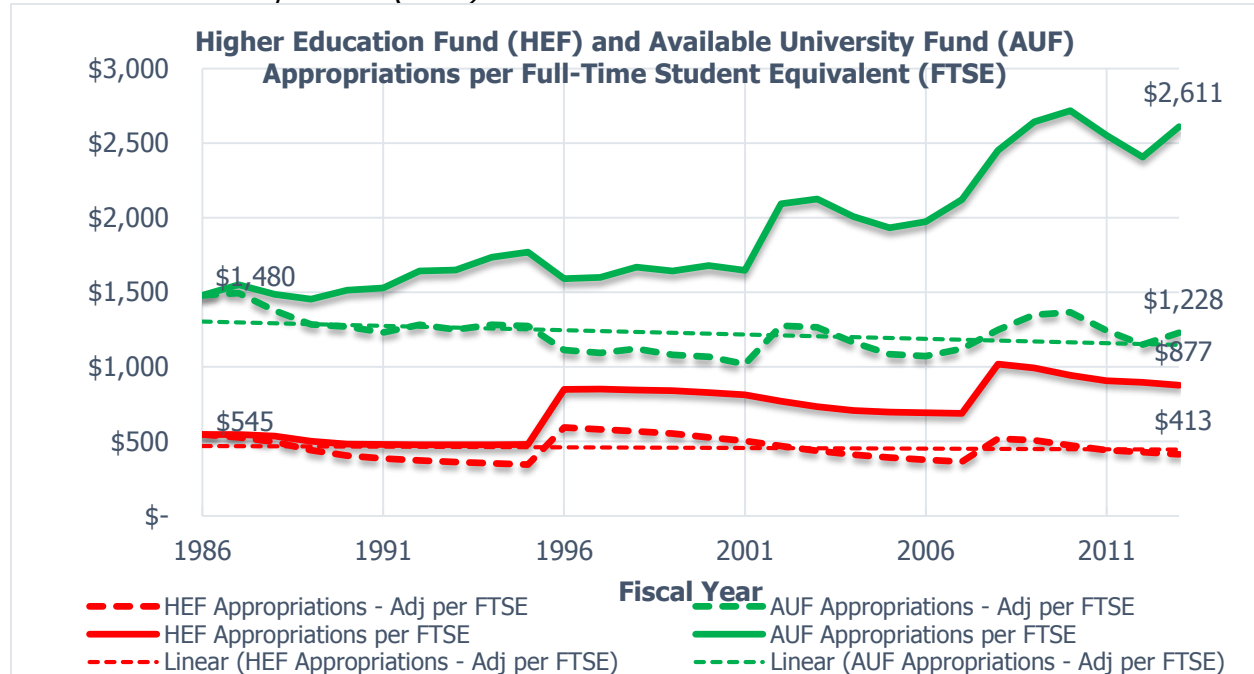
Texas public institutions of higher education have eligibility to receive allocations from either the Available University Fund (AUF) or the HEF. Since its inception, the HEF has been appropriated at a level equal to between 42 to 72 percent of the AUF.

Figure 1. Higher Education Fund (HEF) and Available University Fund (AUF) Appropriations



On a per full-time student equivalent (FTSE) basis, HEF has ranged between 31 to 53 percent of the AUF.

Figure 2. Higher Education Fund (HEF) and Available University Fund (AUF) Appropriations per Full-Time Student Equivalent (FTSE)



The HEF has been appropriated between 33 and 52 percent of the AUF on a per headcount basis.

Figure 3. Higher Education Fund (HEF) and Available University Fund (AUF) Appropriations per Headcount

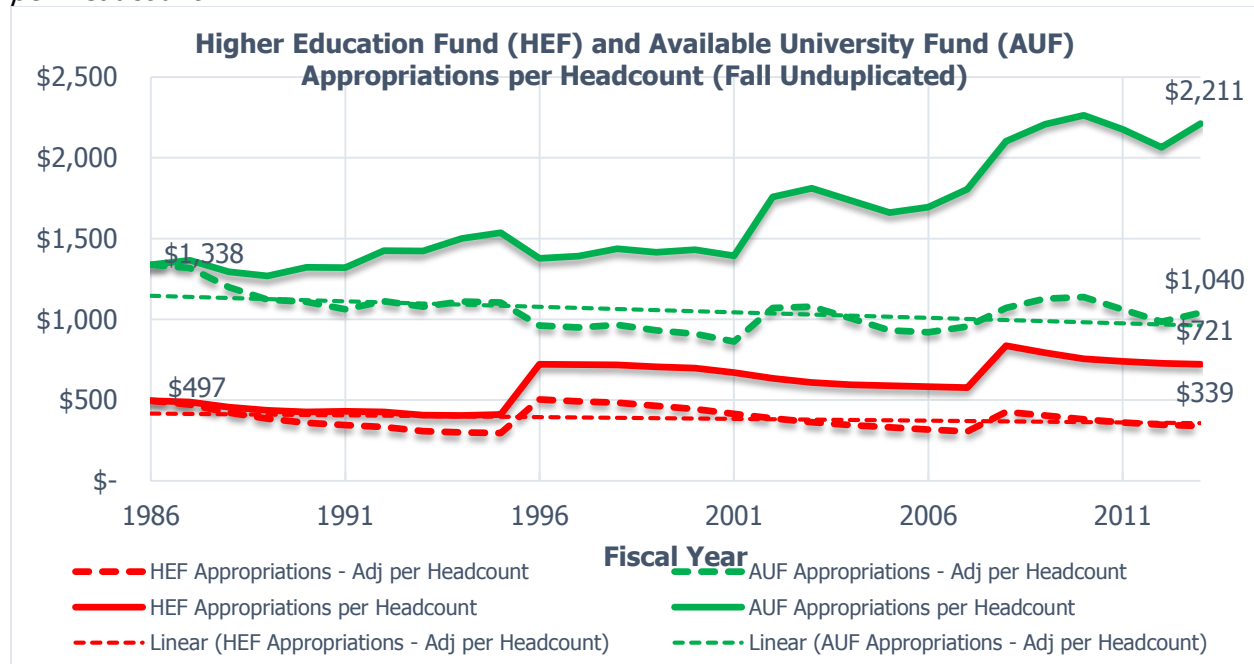


Table 2. Higher Education Fund (HEF) and Available University Fund (AUF)

Fiscal Year	HEF as a percent of AUF	Real Dollars		CPI-U Inflation Adjusted	
		HEF	AUF	HEF	AUF
Appropriations per FTSE					
1986	37%	\$ 545	\$1,480	\$ 545	\$1,480
1991	31%	\$ 479	\$1,528	\$ 385	\$1,230
1996	53%	\$ 849	\$1,592	\$ 593	\$1,112
2001	49%	\$ 812	\$1,647	\$ 502	\$1,019
2006	35%	\$ 691	\$1,973	\$ 376	\$1,073
2011	36%	\$ 907	\$2,552	\$ 442	\$1,243
Appropriations per Headcount					
1986	37%	\$ 497	\$1,338	\$ 497	\$1,338
1991	33%	430	1,320	346	1,062
1996	52%	722	1,377	504	962
2001	48%	670	1,393	415	862
2006	34%	584	1,693	317	921
2011	34%	740	2,175	360	1,060
Appropriations (in Millions)					
1986	47%	\$ 100	\$ 211	\$ 100	\$ 211
1991	42%	100	237	80	191
1996	72%	175	242	122	169
2001	66%	175	264	108	164
2006	48%	175	363	95	197
2011	50%	263	529	128	258
Annual FTSE					
1986	128%	183,331	142,883		
1991	135%	208,802	155,081		
1996	136%	206,188	152,145		
2001	134%	215,546	160,434		
2006	138%	253,145	183,759		
2011	140%	289,378	207,430		
Unduplicated Fall Headcount					
1986	127%	201,378	157,965		
1991	130%	232,609	179,552		
1996	138%	242,423	175,847		
2001	138%	261,109	189,726		
2006	140%	299,910	214,140		
2011	146%	354,847	243,358		

Dissimilarities in the restrictions on the Available University Fund (AUF) and Higher Education Fund (HEF) complicate comparisons of AUF and HEF. Constitutionally, only three universities (The University of Texas at Austin, Texas A&M University, and Prairie View A&M University) may directly spend Available University Funds (AUF), which they primarily use for operations and occasionally for capital expenditures. Additionally, they and the remaining HEF ineligible institutions receive Permanent University Fund (PUF) bond proceeds repaid with AUF.

For example, The University of Texas at Austin receives a minimum of 45 percent of the University of Texas System AUF appropriation for operations. On a FTSE basis, comparisons underrepresent the value of the AUF to the three universities receiving operations funding and over represent its value to the other HEF ineligible institutions.

The per-FTSE analysis is additionally confounded with the inclusion of health-related institutions with significant PUF bonds for medical schools with few students.

The two funds have different constitutional capital spending limitations. Current PUF Bond debt levels are approaching the constitutional limits, 20 percent of the cost value of the PUF for the University of Texas System and 10 percent for the Texas A&M University System. PUF Bonds account for the majority of capital funding for HEF ineligible institutions.

PUF bonds can be used "... for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued ... (Texas Constitution, Article VII, Section 18 (a) and (b)).

While, HEF can be used "... for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, acquisition of capital equipment, library books and library materials, and paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities ..." (Texas Constitution, Article VII, Section 17 (a)). PUF bonds and HEF allocations, with nearly identical constitutional uses, would provide a better comparison, but a history of PUF bond debt service back to fiscal year 1986 is not available, making a full longitudinal comparison impossible.

Deferred Maintenance Review

HEF eligible institutions addressed 23 percent of their reported deferred maintenance during the last nine years. The institutions used Higher Education Funds to address 12 of that 23 percent. As a whole, HEF eligible institutions applied 14 percent of the appropriation to deferred maintenance.

Table 3. Comparison of Appropriation to Deferred Maintenance

Fiscal Year	Appropriation (In millions)	Deferred Maintenance (in Millions)					Percent of Allocation used to Address Deferred Maintenance
		Total	Addressed	Percent Addressed	Addressed with HEF	Percent Addressed with HEF	
2004	175.0	\$ 275	\$ 69	25%	\$27	39%	15%
2005	175.0	258	56	22%	15	27%	9%
2006	175.0	207	34	17%	20	58%	11%
2007	175.0	218	42	19%	25	60%	14%
2008	262.5	192	39	20%	26	66%	10%
2009	262.5	192	61	32%	42	69%	16%
2010	262.5	253	97	38%	35	36%	13%
2011	262.5	318	82	26%	57	69%	22%
2012	262.5	317	41	13%	33	81%	13%
Total	\$2,013	\$2,230	\$ 523	23%	\$280	54%	14%

Bonds Pledged with Higher Education Funds

Statute permits HEF eligible institutions to pledge up to 50 percent of their annual allocations to bond debt. Institutions have primarily limited this to less than 3 percent of the appropriation.

Table 4. Debt Service to Appropriation

Fiscal Years	Balance of Bonds Pledged with HEF	Debt Service	HEF Appropriations	Percent of HEF Appropriation to Cover Debt Service
2006-2010	\$ 4,168,441	\$28,522,484	\$1,137,499,996	2.5%
2011-2015	\$17,887,403	\$68,521,132	\$1,312,500,000	5.2%
2016-2020	\$ 7,587,245	\$36,050,480	\$1,312,500,000	2.7%
2021-2025	\$ 5,857,155	\$29,065,475	\$1,312,500,000	2.2%

Currently, only one institution is pledging bonds with HEF.

Table 5. FY 2015 Debt Service to Allocations by Institution

Institution	FY 2016 Projected Debt Service	FY 2015 Allocation	Percent of FY 2015 Allocation
SFA	1,239,050	8,425,937	15%

Appendix A – Study Group Membership

Institution	Name	Title
TAMU-CC	Kathryn Funk-Baxter	Executive Vice President Finance and Administration
TAMU-Kingsville	Terisa Riley	Senior Vice President Fiscal and Student Affairs
TAMI	Juan Castillo	Vice President Finance and Administration
WTAMU	J. Patrick O'Brien	President
TAMU-Commerce	Alicia Currin	Chief of Staff and Director of Planning and Governmental Relations
TAMU-Texarkana	James Scogin	Vice President Finance and Administration
UH and UH System	David Ellis	Executive Director, Financial Reporting
UH-Victoria	Wayne Beran	Vice President, Administration and Finance
UH-Clear Lake	Michelle Dotter	Vice President, Administration and Finance
UH-Downtown	David Bradley	Vice President, Office of Administration and Finance
Midwestern	Marilyn Fowle	Vice President Business Affairs and Finance
UNT	Bob Brown	Vice President Finance and Administration, CPA
UNT-Dallas	Daniel Edelman	Chief Financial Officer and Vice President Finance and Administration
UNTHSC	John Harman	Senior Vice President Finance and Chief Financial Officer
SFA	Danny Gallant	VP Business Affairs
TSU	Tim Rychlec	Executive Director of Facilities and Maintenance Services
TTU-System	Jim Brunjes	Vice Chancellor and Chief Financial Officer
Angelo	Angie Wright	Vice President for Finance and Administration
TTUHSC	Elmo Cavin	Executive Vice President for Finance and Administration
TTUHSC-El Paso	Richard Lange	President
TWU	Brenda Floyd	Vice President for Finance and Administration
Lamar	Cruse Melvin	Vice President Finance and Operations
Lamar-IOT	David Mosley	Coordinator of Institutional Effectiveness and Grants
Lamar-Orange	Dana Rogers	Vice President for Finance and Operations

Institution	Name	Title
Lamar-Port Arthur	Mary Wickland	Vice President for Finance
Sam Houston	Carlos Hernandez	Acting Vice President for Finance and Operations
Texas State	Bill Nance	Vice President for Finance and Support Services
Sul Ross	Cesar Valenzuela	Vice President for Finance and Operations
Sul Ross-Rio Grande	Daniel Harper	Deputy Vice Chancellor for Finance, Texas State University System
TSTCS	Jonathan Hoekstra	Vice Chancellor, Finance
LBB	Emily Deardorff	Budget Analyst
Governor's Office	David Young	Governor's Advisor

Appendix B – Data Sources by Element

Complexity Element

FY 2016-2017 All Funds Formula Appropriations, Introduced HB1, 84th Texas Legislature

Space Deficit Element

Fall 2014 space projection model with the total current fund expenditures and research expenditures as reported in the annual financial report due on December 1, 2014

Fall 2014 Class Report (CBM004)

Institutions' approved program inventory

Fall 2014 certified Building (CBM014) and Room (CBM011) Reports

Fall 2014 Faculty Report (CBM008)

Calendar Year 2014 Continuing Education Class Report (CBM00C)

Condition of Facilities

Fall 2014 Campus Condition Index Values

Fall 2014 certified Building (CBM014) and Room (CBM011) Reports

Appendix C – Considerations

The study group considered the following in developing the included proposals. This table describes the options considered for modifications to the Higher Education Fund allocation model and statute discussed by study group participants.

	Item	Decision
1.	Distribution between the three elements	
	a. Existing: distribute the appropriation 50% to Institutional Complexity and 50% to Space Deficit and Facilities Condition. Distribute between Space Deficit and Facilities Condition based on their monetized value.	6
	b. Proposed: distribute 50% to Institutional Complexity, 25% to Space Deficit, and 25% to Facilities Condition.	22
2.	Institutional Complexity allocation driver	
	a. Existing: allocate on 2014-2015 published all funds formula funding appropriations.	2
	b. Proposed: allocate on 2016–2017 published all funds formula funding appropriations. Introduce the bill with calendar year 2014 placeholder data (latest available in November 2014). Recommend the Legislative Budget Board staff update the bill with the final appropriation values (available in May 2015).	8
	c. Proposed: allocate on 2016–2017 introduced all funds formula funding appropriations (introduced HB1). Introduce the bill with calendar year 2014 placeholder data (latest available in November 2014). Recommend the Legislative Budget Board staff update the bill with the introduced appropriation values (available in January 2015).	14
	d. Proposed: allocate on base year 2014 all funds formula funding appropriations data (use 2014-2015 formula funding rates and summer and fall 2013 and spring 2014 data – latest currently available). Recommend no update to the bill with the introduced or final appropriation values.	4
3.	Space Deficit allocation driver	
	a. Existing: allocate on fall 2014 Space Projection Model (latest available), square foot deficit multiplied by 1.5 to convert to Gross Square Feet (GSF), divided by 10 (the number of years in the allocation), multiplied by \$200 (cost of one gross square foot of Classroom Space in 2008).	0
	b. Proposed: allocate on fall 2014 Space Projection Model (latest available), square foot deficit multiplied by 1.5 to convert to Gross Square Feet (GSF), divided by 10 (the number of years in the allocation), multiply by \$406 (cost of one gross square foot of Classroom Space in 2013).	24
	c. Proposed: allocate on fall 2014 Space Projection Model (latest available), square foot deficit multiplied by 1.5 to convert to Gross Square Feet (GSF), divided by 10 (the number of years in the allocation), multiplied by the fall 2014 campus condition index value base rates (\$405.40 for the health-related institutions and \$270.67 for the general academic institutions and state colleges).	4

	Item	Decision
4.	Debt term limit fund pledged instruments	
	a. Existing: retain 10-year limit.	17
	b. Proposed: increase to 20-year limit.	3
	c. Proposed: remove the 10-year limit on HEF backed bonds and follow the provisions of TEC 55.14 relating to debt instruments.	7
5.	Appropriation funding level	
	a. Existing: appropriate \$262,500,000 annually.	0
	b. Proposed: appropriate \$347,000,000 – an increase of \$84,500,000 or 32 percent equal to the inflation adjusted rate per full-time equivalent student of 1986 (\$1,159) based on FY 2013 FTSE = \$346,876,389).	5
	c. Proposed: appropriate \$305,000,000 – an increase of \$42,500,000 or 16 percent equal to the rate per full-time equivalent student of 2008 (\$1,018) (based on FY2013 FTSE = \$304,639,381).	2
	d. Proposed: appropriate \$325,000,000 – an increase of \$62,500,000 or 24 percent equal to 42 percent of the current appropriation of the AUF per FTSE (FY2008 \$1,085) (based on FY 2013 FTSE = \$324,576,401).	0
	e. Proposed: appropriate \$393,750,000 – an increase of \$131,250,000 or 50 percent.	21

Appendix D – Texas Constitution Article VII, Section 17

COLLEGES AND UNIVERSITIES; APPROPRIATIONS AND FUNDING.

- (a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution \$100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, acquisition of capital equipment, library books and library materials, and paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities. For the five-year period that begins on September 1, 2000, and for each five-year period that begins after that period, the legislature, during a regular session that is nearest, but preceding, a five-year period, may by two-thirds vote of the membership of each house increase the amount of the constitutional appropriation for the five-year period but may not adjust the appropriation in such a way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.
- (b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):
- (1) East Texas State University including East Texas State University at Texarkana;
 - (2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
 - (3) Midwestern State University;
 - (4) University of North Texas;
 - (5) The University of Texas-Pan American including The University of Texas at Brownsville;
 - (6) Stephen F. Austin State University;
 - (7) Texas College of Osteopathic Medicine;
 - (8) Texas State University System Administration and the following component institutions:
 - (9) Sam Houston State University;
 - (10) Southwest Texas State University;
 - (11) Sul Ross State University including Uvalde Study Center;
 - (12) Texas Southern University;
 - (13) Texas Tech University;
 - (14) Texas Tech University Health Sciences Center;
 - (15) Angelo State University;
 - (16) Texas Woman's University;
 - (17) University of Houston System Administration and the following component institutions:
 - (18) University of Houston;
 - (19) University of Houston-Victoria;
 - (20) University of Houston-Clear Lake;
 - (21) University of Houston-Downtown;
 - (22) Texas A&M University-Corpus Christi;
 - (23) Texas A&M International University;
 - (24) Texas A&M University-Kingsville;

- (25) West Texas A&M University; and
- (26) Texas State Technical College System and its campuses, but not its extension centers or programs.

- (c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.
- (d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made.
- (d-1) Notwithstanding Subsection (d) of this section, the allocation of the annual appropriation to Texas State Technical College System and its campuses may not exceed 2.2 percent of the total appropriation each fiscal year.
- (e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, acquiring capital equipment, library books, and library materials, paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section.
- (f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used only for student housing, intercollegiate athletics, or auxiliary enterprises.

- (g) The comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.
- (h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.
- (i) (Repealed.)
- (j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:
 - (1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and
 - (2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

- (k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch campus or educational center that is not a separate degree-granting institution created by general law.
- (l) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

(Added Nov. 6, 1984; Sub sections (a), (b), (e), (f), and (g) amended and (d-1) added Nov. 2, 1993; Sub section (l) amended Nov. 7, 1995; Sub section (b) amended Nov. 6, 2007; Sub section (i) repealed Nov. 3, 2009.)

Appendix E – Texas Education Code, Sections 62.001 – 62.027

SUBCHAPTER A. GENERAL PROVISIONS

62.001. SHORT TITLE.

This chapter may be cited as "The Excellence in Higher Education Act" of 1985.

Added by Acts 1985, 69th Leg., chapter 225, Section 1, effective June 3, 1985.

62.002. PURPOSE.

Through equitable allocation of the annual appropriation mandated by Article VII, Section 17(a), of the Constitution of Texas, the purpose of this chapter is to provide to the governing boards of the institutions and agencies of higher education eligible to participate in the distribution of funds pursuant to Article VII, Section 17, of the Constitution of Texas, the means to create and maintain a degree of excellence at the respective institutions and agencies of higher education that is above and apart from the normal appropriative formulas established by the Coordinating Board, Texas College and University System.

Added by Acts 1985, 69th Leg., chapter 225, Section 1, effective June 3, 1985.

62.003. DEFINITIONS.

In this chapter:

- (1) Except as otherwise provided by Subchapters C, D, E, F, and G, "eligible institution" means the eligible agencies and institutions of higher education listed in Article VII, Section 17(b), of the Constitution of Texas, and any institution or agency of higher education that is later made eligible to participate in the disbursement of funds pursuant to Article VII, Section 17(c), of the Constitution of Texas.
- (2) "Governing board" means the board of regents or other state governmental body to which an eligible agency or institution is assigned for governance by the Texas Constitution or by the laws of the State of Texas.
- (3) "Coordinating board" means the Texas Higher Education Coordinating Board.

Added by Acts 1985, 69th Leg., chapter 225, Section 1, effective June 3, 1985. Amended by Acts 1995, 74th Leg., chapter 1045, Section 1, effective June 17, 1995. Amended by: Acts 2009, 81st Leg., R.S., Chapter 287 (H.B. 51), Section 9, effective September 1, 2009. Acts 2013, 83rd Leg., R.S., Chapter 1268 (H.B. 870), Section 1, effective June 14, 2013.

SUBCHAPTER B. AMOUNTS ALLOCATED BY EQUITABLE ALLOCATION FORMULA

62.021. ALLOCATIONS.

- (a) In each state fiscal year beginning with the state fiscal year ending August 31, 2011, an eligible institution is entitled to receive an amount allocated in accordance with this section from the funds appropriated for that year by Section 17(a), Article VII, Texas Constitution. The comptroller shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code. An eligible institution may not present a claim to be paid from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes or for a payment for a book or other published library material as authorized by Section 2155.386,

Government Code. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, and a separate allocation for the Texas State Technical College System. The annual amounts allocated by the formula are as follows:

- (1) \$3,559,433 to Midwestern State University;
 - (2) \$27,846,476 to the University of North Texas;
 - (3) \$8,771,265 to the University of North Texas Health Science Center at Fort Worth;
 - (4) \$12,311,123 to The University of Texas--Pan American;
 - (5) \$5,057,420 to The University of Texas at Brownsville;
 - (6) \$8,425,937 to Stephen F. Austin State University;
 - (7) to the following component institutions of the Texas State University System:
 - (A) \$8,330,933 to Lamar University;
 - (B) \$2,332,463 to the Lamar Institute of Technology;
 - (C) \$1,235,752 to Lamar State College--Orange;
 - (D) \$1,244,694 to Lamar State College--Port Arthur;
 - (E) \$11,893,110 to Sam Houston State University;
 - (F) \$21,863,258 to Texas State University;
 - (G) \$1,625,061 to Sul Ross State University; and
 - (H) \$445,380 to Sul Ross State University-Rio Grande College;
 - (8) \$8,894,700 to Texas Southern University;
 - (9) to the following component institutions of the Texas Tech University System:
 - (A) \$23,936,088 to Texas Tech University;
 - (B) \$16,973,569 to Texas Tech University Health Sciences Center; and
 - (C) \$3,743,027 to Angelo State University;
 - (10) \$10,169,695 to Texas Woman's University;
 - (11) to the following component institutions of the University of Houston System:
 - (A) \$35,885,768 to the University of Houston;
 - (B) \$2,393,921 to the University of Houston--Victoria;
 - (C) \$5,214,167 to the University of Houston--Clear Lake; and
 - (D) \$7,435,238 to the University of Houston--Downtown;
 - (12) to the following component institutions of The Texas A&M University System:
 - (A) \$7,139,067 to Texas A&M University--Corpus Christi;
 - (B) \$3,796,436 to Texas A&M International University;
 - (C) \$5,046,885 to Texas A&M University--Kingsville;
 - (D) \$4,652,995 to West Texas A&M University;
 - (E) \$5,193,232 to Texas A&M University--Commerce; and
 - (F) \$1,307,907 to Texas A&M University--Texarkana; and
 - (13) \$5,775,000 to the Texas State Technical College System Administration and the following component campuses, but not its extension centers or programs:
 - (A) Texas State Technical College-Harlingen;
 - (B) Texas State Technical College--Marshall;
 - (C) Texas State Technical College--West Texas; and
 - (D) Texas State Technical College--Waco.
- (b) Each governing board participating in the distribution of funds as described in this section may expend the funds without limitation, and as the governing board may decide in its sole discretion, for any and all purposes described in Article VII, Section 17, of the Constitution of Texas; provided, however, that for new construction, major repair and rehabilitation

projects, and land acquisition projects, those funds may not be expended without the prior approval of the legislature or the approval, review, or endorsement, as applicable, of the coordinating board; and provided further that review and approval of major repair and rehabilitation shall apply only to projects in excess of \$600,000.

- (c) Each governing board participating in the distribution of funds as described in this section may issue bonds and notes as authorized in Article VII, Section 17, of the Constitution of Texas. For purposes of this chapter, the governing board of Texas Tech University may issue bonds and notes as authorized in Article VII, Section 17, of the Constitution of Texas, on behalf of both Texas Tech University and Texas Tech University Health Sciences Center, and the annual appropriations of both institutions may be combined and pledged by the governing body of Texas Tech University in support of such bonds and notes.
- (d) All funds appropriated by Article VII, Section 17, of the Constitution of Texas, but not expended during the fiscal year of appropriation, shall be carried forward and reappropriated for each of the succeeding fiscal years until expended by the governing boards of eligible institutions for the purposes described in Article VII, Section 17, of the Constitution of Texas.
- (e) Whereas the University of North Texas at Dallas was created as an institution of higher education by Chapter 25 (S.B. 576), Acts of the 77th Legislature, Regular Session, 2001, which was approved by a vote of more than two-thirds of the membership of each house of the legislature, the University of North Texas at Dallas is entitled to participate in the funding provided by Section 17, Article VII, Texas Constitution, as soon as the University of North Texas at Dallas operates as a general academic teaching institution.
- (e-1) Whereas the Texas Tech University Health Sciences Center at El Paso was created as a separate institution of higher education by an Act of the 83rd Legislature, Regular Session, 2013, which was approved by a vote of more than two-thirds of the membership of each house of the legislature, the Texas Tech University Health Sciences Center at El Paso is entitled to participate in the funding provided by Section 17, Article VII, Texas Constitution, beginning with the annual appropriation for the state fiscal year beginning September 1, 2015, and the Texas Tech University Health Sciences Center at El Paso shall be included in the allocation made for each 10-year allocation period under Section 17(d), Article VII, Texas Constitution, beginning with the allocation made in 2015.
- (f) Pursuant to the annual allocation amounts shown in Subsections (a) and (a-1) for each year of the remaining 10-year allocation period established under Section 17(d), Article VII, Texas Constitution, that ends in 2015, the comptroller shall distribute to the Lamar Institute of Technology a portion of the total annual appropriation under Section 17 (a), Article VII, Texas Constitution.

Added by Acts 1985, 69th Leg., chapter 225, Section 1, effective June 3, 1985. Amended by Acts 1987, 70th Leg., chapter 1070, Section 5, effective May 15, 1988; Acts 1989, 71st Leg., chapter 1084, Section 1.31; Acts 1991, 72nd Leg., chapter 105, Section 3, effective Aug. 26, 1991; Acts 1991, 72nd Leg., chapter 305, Section 3, effective Sept. 1, 1991; Acts 1993, 73rd Leg., chapter 260, Section 12, effective Sept. 1, 1993; Acts 1993, 73rd Leg., chapter 408, Section 11, effective Aug. 30, 1993; Acts 1995, 74th Leg., chapter 1045, Section 2, effective June 17, 1995; Acts 1995, 74th Leg., chapter 1061, Section 9, effective Sept. 1, 1995; Acts 1997, 75th Leg., chapter 129, Section 1, effective May 19, 1997; Acts 1999, 76th Leg., chapter 1363, Section 2, effective Sept. 1, 1999; Acts 1999, 76th Leg., chapter 1467, Section 1.03, effective June 19, 1999; Acts 1999, 76th Leg., chapter 1508, Section 1, effective June 19, 1999;

Acts 2001, 77th Leg., chapter 238, Section 2, effective May 22, 2001; Acts 2001, 77th Leg., chapter 1212, Section 1, effective June 15, 2001; Acts 2003, 78th Leg., chapter 386, Section 8, effective Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Chapter 1306 (H.B. 3001), Section 1, effective September 1, 2005. Acts 2005, 79th Leg., Chapter 1306 (H.B. 3001), Section 4, effective September 1, 2005. Acts 2007, 80th Leg., R.S., Chapter 179 (H.B. 3564), Section 11, effective September 1, 2007. Acts 2009, 81st Leg., R.S., Chapter 287 (H.B. 51), Section 10, effective June 17, 2009. Acts 2013, 83rd Leg., R.S., Chapter 30 (S.B. 974), Section 11, effective September 1, 2013. Acts 2013, 83rd Leg., R.S., Chapter 65 (S.B. 120), Section 13, effective May 18, 2013.

62.022. ALLOCATION FORMULA.

- (a) Prior to the convening of the regular session of the Texas Legislature immediately preceding each 10-year period for which Section 17 (d), Article VII, Texas Constitution, prescribes an allocation of the money appropriated by Section 17 (a), Article VII, Texas Constitution, the coordinating board shall conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and the standing committees of the house of representatives and the senate having jurisdiction over legislation related to higher education as to the allocation of the money appropriated by Section 17 (a) for the following 10-year allocation period established by Section 17 (d).
- (b) Prior to the convening of the regular session of the Texas Legislature immediately preceding the sixth year of each 10-year allocation period established by Section 17 (d), Article VII, Texas Constitution, the coordinating board shall conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and the standing committees of the house of representatives and the senate having cognizance over legislation related to higher education as to whether and, if so, how, the equitable allocation formula established for that 10-year period should be adjusted for the last five years of the 10-year period. The coordinating board shall include in the study a survey of educational and general building quality, if the legislature provides funds for the survey.
- (c) The legislature shall approve, modify and approve, or reject the recommendations of the coordinating board under Subsection (a) or (b).
- (d) If, prior to the first day of the sixth year of a 10-year allocation period established by Section 17 (d), Article VII, Texas Constitution, the Texas Legislature fails to act on a recommendation for adjustment in the equitable allocation formula, the 10-year allocation provided for in Section 62.021 (a) shall continue until the end of the 10-year period.
- (e) No adjustment shall be made in the allocation formula that will prevent payment of both the principal and interest on outstanding bonds and notes sold pursuant to Section 17 (e), Article VII, Texas Constitution.
- (f) A review of the allocation formula conducted by the coordinating board under this section shall include:
 - (1) a comparison of the deferred maintenance needs of an institution of higher education and the extent to which the constitutionally dedicated funds were used to meet those needs; and

- (2) an evaluation of the effectiveness of the allocation formula concerning deferred maintenance needs of those institutions.

Added by Acts 1985, 69th Leg., chapter 225, Section 1, effective June 3, 1985. Amended by Acts 1989, 71st Leg., chapter 1084, Section 1.33, effective Sept. 1, 1989; Acts 1995, 74th Leg., chapter 1045, Section 3, effective June 17, 1995; Acts 1999, 76th Leg., chapter 1467, Section 1.05, effective June 19, 1999.

62.023. SEVERABILITY.

If any provision of this chapter or the application thereof under any circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Added by Acts 1985, 69th Leg., chapter 225, Section 1, effective June 3, 1985.

62.024. AMOUNT OF ALLOCATION INCREASED.

In accordance with Section 17 (a), Article VII, Texas Constitution, for each state fiscal year beginning with the state fiscal year ending August 31, 2008, the amount of the annual constitutional appropriation under that subsection is increased to \$262.5 million.

Added by Acts 1993, 73rd Leg., chapter 537, Section 1, effective Sept. 1, 1995. Amended by: Acts 2005, 79th Leg., Chapter 1306 (H.B. 3001), Section 2, effective September 1, 2005. Acts 2009, 81st Leg., R.S., Chapter 287 (H.B. 51), Section 11, effective June 17, 2009.

62.027. EFFECT OF LEGISLATION.

- (a) The constitutional amendment proposed by S.J.R. No. 13, 73rd Legislature, Regular Session, 1993, and approved by the voters at an election held on November 2, 1993, amended Section 17(a), Article VII, Texas Constitution, to permit the legislature by two-thirds vote of the membership of each house to increase the amount of the appropriation made under that section for each five-year period.
- (b) Chapter 537, Acts of the 73rd Legislature, Regular Session, 1993, added Section 62.024 to this subchapter in order to increase the amount of the appropriation made under Section 17(a), Article VII, Texas Constitution.
- (c) The increase provided by the amendment to Section 62.024 enacted by the 79th Legislature, Regular Session, 2005, in the amount of the appropriation made under Section 17(a), Article VII, Texas Constitution, for each state fiscal year beginning with the state fiscal year ending August 31, 2008, constitutes the increase in accordance with Section 17(a) that the legislature considers appropriate for the five-year period beginning September 1, 2005.

Added by Acts 1995, 74th Leg., chapter 1045, Section 4, effective June 17, 1995. Amended by: Acts 2005, 79th Leg., Chapter 1306 (H.B. 3001), Section 3, effective September 1, 2005.



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