

1-1 By: Watson, et al. S.B. No. 1659
 1-2 (In the Senate - Filed March 6, 2019; March 14, 2019, read
 1-3 first time and referred to Committee on Education; April 29, 2019,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 9, Nays 0; April 29, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor	X			
1-8 Lucio			X	
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Fallon	X			
1-12 Hall	X			
1-13 Hughes			X	
1-14 Paxton	X			
1-15 Powell	X			
1-16 Watson	X			
1-17 West	X			

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1659 By: Watson

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the management of the permanent school fund by the
 1-23 School Land Board and the State Board of Education and a study
 1-24 regarding distributions from the permanent school fund to the
 1-25 available school fund.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Chapter 43, Education Code, is amended by adding
 1-28 Section 43.0052 to read as follows:

1-29 Sec. 43.0052. QUARTERLY REPORTS. Each quarter, the State
 1-30 Board of Education shall provide to the School Land Board a
 1-31 financial report on the portion of the permanent school fund assets
 1-32 and funds for which the State Board of Education is responsible.
 1-33 The report must include:

- 1-34 (1) actual allocation and target allocation of assets;
- 1-35 (2) a summary of investment types;
- 1-36 (3) asset and sector performance; and
- 1-37 (4) benchmark performance.

1-38 SECTION 2. Subchapter C, Chapter 32, Natural Resources
 1-39 Code, is amended by adding Section 32.068 to read as follows:

1-40 Sec. 32.068. QUARTERLY REPORTS. Each quarter, the board
 1-41 shall provide to the State Board of Education a financial report on
 1-42 the portion of the permanent school fund assets and funds for which
 1-43 the board is responsible. The report must include:

- 1-44 (1) actual allocation and target allocation of assets;
- 1-45 (2) a summary of investment types;
- 1-46 (3) asset and sector performance; and
- 1-47 (4) benchmark performance.

1-48 SECTION 3. Section 51.011, Natural Resources Code, is
 1-49 amended by amending Subsections (a) and (a-1) and adding Subsection
 1-50 (a-3) to read as follows:

1-51 (a) Any land, ~~[mineral or royalty interest,~~ real estate
 1-52 investment, or other interest, including revenue received from
 1-53 those sources, and any mineral or royalty interest that is set apart
 1-54 to the permanent school fund under the constitution and laws of this
 1-55 state together with the mineral estate in riverbeds, channels, and
 1-56 the tidelands, including islands, shall be subject to the sole and
 1-57 exclusive management and control of the ~~[school land]~~ board and the
 1-58 commissioner under the provisions of this chapter and other
 1-59 applicable law.

1-60 (a-1) The board may acquire, sell, lease, trade, improve,

2-1 maintain, protect, or otherwise manage, control, or use land,
2-2 ~~[mineral and royalty interests,]~~ real estate investments, or other
2-3 interests, including revenue received from those sources, and any
2-4 mineral or royalty interests that are set apart to the permanent
2-5 school fund in any manner, at such prices, and under such terms and
2-6 conditions as the board finds to be in the best interest of the
2-7 fund.

2-8 (a-3) All revenue received from mineral or royalty
2-9 interests described by Subsection (a), including bonus payments,
2-10 surface lease revenues, royalties, and any other type of revenue
2-11 received from those interests, shall be transferred each month to
2-12 the State Board of Education for investment in the permanent school
2-13 fund.

2-14 SECTION 4. Section 51.401, Natural Resources Code, is
2-15 amended by amending Subsection (a) and adding Subsection (c) to
2-16 read as follows:

2-17 (a) The board may designate money ~~[funds]~~ received from any
2-18 land, ~~[mineral or royalty interest,]~~ real estate investment, or
2-19 other interest, including revenue received from those sources, that
2-20 is set apart to the permanent school fund under the constitution and
2-21 laws of this state together with the mineral estate in riverbeds,
2-22 channels, and the tidelands, including islands, for deposit in the
2-23 real estate special fund account of the permanent school fund in the
2-24 State Treasury to be used by the board as provided by this
2-25 subchapter.

2-26 (c) Each quarter, the board shall provide a cashflow report
2-27 to the State Board of Education that specifies the source and uses
2-28 of all money designated under Subsection (a) and the amount of time
2-29 that money from each specific source has remained in the real estate
2-30 special fund account.

2-31 SECTION 5. Section 51.402(b), Natural Resources Code, is
2-32 amended to read as follows:

2-33 (b) Before using funds under Subsection (a), the board must
2-34 determine, using the prudent investor standard, that the use of the
2-35 funds for the intended purpose is authorized by Subsection (a) and
2-36 in the best interest of the permanent school fund. ~~[A determination~~
2-37 ~~by the board on the use of funds under this section is conclusive~~
2-38 ~~unless the determination was made as a result of fraud or obvious~~
2-39 ~~error.]~~

2-40 SECTION 6. Section 51.412, Natural Resources Code, is
2-41 amended to read as follows:

2-42 Sec. 51.412. REPORTS TO LEGISLATURE. ~~[(a)]~~ Not later than
2-43 October ~~[September]~~ 1 of each ~~[even-numbered]~~ year, the board shall
2-44 submit to the legislature a report that includes ~~[, specifically and~~
2-45 ~~in detail, assesses the direct and indirect economic impact, as~~
2-46 ~~anticipated by the board, of the investment of funds designated~~
2-47 ~~under Section 51.401 for deposit in the real estate special fund~~
2-48 ~~account of the permanent school fund. The board may not disclose~~
2-49 ~~information under this section that is confidential under~~
2-50 ~~applicable state or federal law. The report must include]~~ the
2-51 following information for the most recent state fiscal year:

2-52 (1) the total amount of money received under this
2-53 chapter, the sources of that money, and the amount designated under
2-54 [by] Section 51.401 for deposit in the real estate special fund
2-55 account of the permanent school fund that the board intends to use
2-56 for each purpose authorized under that section ~~[invest];~~

2-57 (2) ~~[the rate of return the board expects to attain on~~
2-58 ~~the investment,~~

2-59 ~~[(3)]~~ the amount of money the board expects to
2-60 distribute to the available school fund or the State Board of
2-61 Education for investment in the permanent school fund under Section
2-62 51.413 ~~[after making the investments];~~

2-63 (3) ~~[(4)]~~ the distribution by location of
2-64 investments, including the actual or expected revenues from the
2-65 investments, that were acquired by the board for the use and benefit
2-66 of the permanent school fund in the most recent state fiscal year
2-67 [of the board's investments by county];

2-68 (5) ~~the effect of the board's investments on the level~~
2-69 ~~of employment, personal income, and capital investment in the~~

3-1 ~~state,]~~ and

3-2 (4) [~~6~~] any other information the board considers
3-3 necessary to include in the report.

3-4 [~~(b) Not later than January 1 of each odd-numbered year, the~~
3-5 ~~board shall submit to the legislature a report that assesses the~~
3-6 ~~return and economic impact of the investments reported to the~~
3-7 ~~legislature before the preceding regular legislative session.]~~

3-8 SECTION 7. Section 51.413, Natural Resources Code, is
3-9 amended to read as follows:

3-10 Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND
3-11 ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.

3-12 (a) The board shall ~~[may]~~, by a resolution made in accordance with
3-13 this section and adopted at a regular meeting, release from the real
3-14 estate special fund account funds previously designated under
3-15 Section 51.401 or managed, used, or encumbered under Section 51.402
3-16 or Section 51.4021 to be deposited in the State Treasury to the
3-17 credit of:

3-18 (1) the available school fund; or

3-19 (2) the State Board of Education for investment in the
3-20 permanent school fund.

3-21 (b) The board shall adopt rules to establish the procedure
3-22 that will be used by the board to determine the dates that transfers
3-23 [date a transfer] will be made [and the amount of money that will be
3-24 transferred] to the available school fund or to the State Board of
3-25 Education for investment in the permanent school fund from the real
3-26 estate special fund account as provided by this section [~~Subsection~~
3-27 ~~(a)~~].

3-28 (c) On the dates established by rules adopted under
3-29 Subsection (b), the board shall release from the real estate
3-30 special fund account a total amount for the state fiscal biennium
3-31 that equals the amount determined under Subsection (d)(3). The
3-32 board may release a higher amount if authorized under the Texas
3-33 Constitution.

3-34 (d) Not later than July 31 of each even-numbered year, the
3-35 chief investment officer of the land office, or other land office
3-36 employee designated by the commissioner, shall determine the
3-37 following:

3-38 (1) an amount based on the average market value, for a
3-39 16-calendar-quarter measurement period ending on March 31 of that
3-40 year, of the permanent school fund discretionary real assets
3-41 investments and cash derived from property belonging to the fund
3-42 and managed by the board that is determined by averaging the market
3-43 value of those investments and cash on the last day of each of the
3-44 calendar quarters in that 16-calendar-quarter measurement period,
3-45 multiplying that average market value by 0.06, and rounding the
3-46 result up or down to the nearest \$5 million increment;

3-47 (2) an amount based on the average quarterly change of
3-48 the investments and cash described by Subdivision (1), for the
3-49 16-calendar-quarter measurement period ending on March 31 of that
3-50 year, that is determined by averaging the change in market value
3-51 from the last day of a calendar quarter to the last day of the
3-52 subsequent calendar quarter, multiplying that average quarterly
3-53 change by four, and rounding the result up or down to the nearest \$5
3-54 million increment; and

3-55 (3) the sum of the amounts determined under
3-56 Subdivisions (1) and (2).

3-57 SECTION 8. Section 51.4131, Natural Resources Code, is
3-58 amended to read as follows:

3-59 Sec. 51.4131. REPORT ON ANTICIPATED TRANSFER OF FUNDS;
3-60 DEADLINE. (a) Not later than September 1 of each even-numbered
3-61 year, the board shall submit to the legislature, comptroller, State
3-62 Board of Education, and Legislative Budget Board a report that,
3-63 specifically and in detail, states the date a transfer will be made
3-64 and the amount of money the board will transfer during the
3-65 subsequent state fiscal biennium from the real estate special fund
3-66 account of the permanent school fund established under Section
3-67 51.401 to the available school fund or the State Board of Education
3-68 for investment in the permanent school fund.

3-69 (b) The board shall make any transfer described in a report

4-1 under Subsection (a) not later than September 1 of the next
4-2 even-numbered year.

4-3 SECTION 9. Subchapter I, Chapter 51, Natural Resources
4-4 Code, is amended by adding Section 51.414 to read as follows:

4-5 Sec. 51.414. PERMANENT SCHOOL FUND LIQUID ACCOUNT. (a) The
4-6 permanent school fund liquid account is established as an account
4-7 in the permanent school fund in the State Treasury to be used by the
4-8 board and the State Board of Education as provided by this section.

4-9 (b) Each quarter, the board shall hold a meeting and adopt a
4-10 resolution to release from the real estate special fund account
4-11 funds designated under Section 51.401 that are not being used for a
4-12 purpose listed in Section 51.402(a) and are not required for the
4-13 board's cash needs for the 90-day period following the date of the
4-14 meeting, to be deposited to the credit of the permanent school fund
4-15 liquid account in the State Treasury.

4-16 (c) The State Board of Education may invest funds in the
4-17 permanent school fund liquid account. The investments may be made
4-18 only in liquid assets or markets, and the account is managed in the
4-19 same manner that the permanent school fund is managed by the State
4-20 Board of Education.

4-21 (d) Investment income and capital gains derived from funds
4-22 in the permanent school fund liquid account shall be deposited in
4-23 the State Treasury to the credit of the State Board of Education for
4-24 investment in the permanent school fund. This subsection does not
4-25 require a deposit if the value of the assets held in the permanent
4-26 school fund liquid account is below cost value.

4-27 (e) The State Board of Education may use funds in the
4-28 permanent school fund liquid account to pay for administrative
4-29 costs associated with implementing this section, including costs
4-30 associated with contracts for professional investment management,
4-31 investment advisory services, or custodial services.

4-32 (f) The board shall provide to the State Board of Education
4-33 in each quarterly report required by Section 32.068 the board's
4-34 anticipated cash needs for the six-month period following the date
4-35 of the report, to allow the State Board of Education to ensure that
4-36 the board's cash needs may be met as provided by Subsection (g).
4-37 The board or land office must provide notice to the State Board of
4-38 Education of a revision to the board's anticipated cash needs
4-39 provided in the most recent report not later than the next business
4-40 day following the date the board or land office determines a
4-41 revision is necessary.

4-42 (g) Not later than the 10th business day after the date of a
4-43 request of the board, the State Board of Education shall release
4-44 from the permanent school fund liquid account funds to be deposited
4-45 to the credit of the real estate special fund account in the State
4-46 Treasury in an amount requested by the board that is consistent with
4-47 the reports provided under Subsection (f).

4-48 SECTION 10. (a) The legislature finds that the periodic
4-49 examination of distributions made from the permanent school fund to
4-50 the available school fund is necessary for the effective management
4-51 of permanent school fund investments.

4-52 (b) The Texas Education Agency shall conduct a study
4-53 regarding distributions from the permanent school fund to the
4-54 available school fund. The study must:

4-55 (1) examine historical patterns in the real value of
4-56 distributions made from all assets and revenues of the permanent
4-57 school fund and historical patterns in the real value of permanent
4-58 school fund assets relative to the number of students enrolled in
4-59 the public education system;

4-60 (2) analyze the impact of underlying data and
4-61 methodological assumptions on actual and projected distributions
4-62 from the permanent school fund;

4-63 (3) seek input from state government officials
4-64 involved in public education policy or in the appropriation of
4-65 state funds to support the public education system;

4-66 (4) examine current and alternative approaches to
4-67 balance the needs and interests of present and future beneficiaries
4-68 of the permanent school fund and the available school fund;

4-69 (5) develop options to maximize available revenue

5-1 distributions for the education of students enrolled in the public
5-2 education system while preserving the permanent school fund for
5-3 future generations; and

5-4 (6) consider any other subjects relevant to the
5-5 purpose of the study.

5-6 (c) The Texas Education Agency may contract for investment
5-7 management expertise for the purpose of implementing this section.

5-8 (d) Not later than June 1, 2020, the Texas Education Agency
5-9 shall prepare and submit a report regarding the results of the study
5-10 to the governor, the State Board of Education, the Legislative
5-11 Budget Board, the lieutenant governor, the speaker of the house of
5-12 representatives, and each legislative standing committee with
5-13 primary jurisdiction over public education.

5-14 (e) This section expires January 1, 2021.

5-15 SECTION 11. This Act takes effect September 1, 2019.

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