

By: Taylor

S.B. No. 2440

A BILL TO BE ENTITLED

AN ACT

relating to the Texas school finance system, including the creation of the bicentennial education fund, the establishment of the Texas Education Investment Management Organization, and the management and investment of the permanent school fund.

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

SECTION 1. Section 31.021(a), Education Code, as amended by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), is amended to read as follows:

(a) The state technology and instructional materials fund consists of:

(1) an amount set aside by the Texas Education Investment Management Organization ~~State Board of Education~~ from the available school fund, in accordance with Section 43.001(d); and

(2) all amounts lawfully paid into the fund from any other source.

SECTION 2. Section 31.021(a), Education Code, as amended by Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), is amended to read as follows:

(a) The state instructional materials and technology fund consists of:

(1) an amount set aside by the Texas Education Investment Management Organization ~~State Board of Education~~ from

1 the available school fund, in accordance with Section 43.001(d);
2 and

3 (2) all amounts lawfully paid into the fund from any
4 other source.

5 SECTION 3. The heading to Section 43.001, Education Code,
6 is amended to read as follows:

7 Sec. 43.001. COMPOSITION OF PERMANENT SCHOOL FUND, ~~AND~~
8 AVAILABLE SCHOOL FUND, AND BICENTENNIAL EDUCATION FUND.

9 SECTION 4. Section 43.001, Education Code, is amended by
10 adding Subsection (b-1) and amending Subsection (d) to read as
11 follows:

12 (b-1) The bicentennial education fund, which shall be
13 dedicated to providing funding for merit-based teacher pay and
14 incentivizing academic improvement among historically
15 underperforming student groups, consists of:

16 (1) the distributions to the fund from the permanent
17 school fund as provided by Section 5(a-2), Article VII, Texas
18 Constitution; and

19 (2) all other appropriations to the bicentennial
20 education fund made by the legislature for public school purposes.

21 (d) Each biennium the Texas Education Investment Management
22 Organization ~~State Board of Education~~ shall allocate a portion ~~set~~
23 ~~aside an amount equal to 50 percent~~ of the distribution for that
24 biennium from the permanent school fund to the available school
25 fund as provided by Section 5(a), Article VII, Texas Constitution,
26 to be placed, subject to the General Appropriations Act, in the
27 state instructional materials and technology fund established

1 under Section 31.021.

2 SECTION 5. Chapter 43, Education Code, is amended by adding
3 Section 43.0011 to read as follows:

4 Sec. 43.0011. PURPOSE OF PERMANENT SCHOOL FUND. The
5 purpose of the permanent school fund is to maximize available
6 revenue distributions for the education of students enrolled in the
7 public education system.

8 SECTION 6. Chapter 43, Education Code, is amended by adding
9 Section 43.0021 to read as follows:

10 Sec. 43.0021. TEXAS EDUCATION INVESTMENT MANAGEMENT
11 ORGANIZATION. (a) The Texas Education Investment Management
12 Organization is composed of nine members appointed by the governor,
13 five of whom must have a substantial background and expertise in
14 investments. The Governor shall appoint one member State Board of
15 Education as one of the members of the organization. The Governor
16 shall appoint one member of the School Land Board as one of the
17 members of the organization.

18 (b) Appointments to the board shall be made without regard
19 to race, color, disability, sex, religion, age, or national origin.

20 (c) Members of the board serve staggered six-year terms,
21 with the terms of as near to one-third of the members as possible
22 expiring on January 31 of each odd-numbered year.

23 (d) The governor shall designate a member of the board as
24 presiding officer to serve in that capacity at the pleasure of the
25 governor.

26 SECTION 7. Sections 43.003 through 43.0051, Education Code,
27 are amended to read as follows:

1 Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. In
2 compliance with this section, the Texas Education Investment
3 Management Organization ~~State Board of Education~~ may invest the
4 permanent school fund in the types of securities, which must be
5 carefully examined by the organization ~~State Board of Education~~ and
6 be found to be safe and proper investments for the fund as specified
7 below:

8 (1) securities, bonds, or other obligations issued,
9 insured, or guaranteed in any manner by the United States
10 Government or any of its agencies and in bonds issued by this state;

11 (2) obligations and pledges of The University of
12 Texas;

13 (3) corporate bonds, debentures, or obligations of
14 United States corporations of at least "A" rating;

15 (4) obligations of United States corporations that
16 mature in less than one year and are of the highest rating available
17 at the time of investment;

18 (5) bonds issued, assumed, or guaranteed by the
19 Inter-American Development Bank, the International Bank of
20 Reconstruction and Development (the World Bank), the African
21 Development Bank, the Asian Development Bank, and the International
22 Finance Corporation;

23 (6) bonds of counties, school districts,
24 municipalities, road precincts, drainage, irrigation, navigation,
25 and levee districts in this state, subject to the following
26 requirements:

27 (A) the securities, before purchase, must have

1 been diligently investigated by the attorney general both as to
2 form and as to legal compliance with applicable laws;

3 (B) the attorney general's certificate of
4 validity procured by the party offering the bonds, obligations, or
5 pledges must accompany the securities when they are submitted for
6 registration to the comptroller, who must preserve the
7 certificates;

8 (C) the public securities, if purchased, and when
9 certified and registered as specified under Paragraph (B), are
10 incontestable unless issued fraudulently or in violation of a
11 constitutional limitation, and the certificates of the attorney
12 general are prima facie evidence of the validity of the bonds and
13 bond coupons; and

14 (D) after the issuing political subdivision has
15 received the proceeds from the sales of the securities, the issuing
16 agency is estopped to deny their validity, and the securities are
17 valid and binding obligations;

18 (7) preferred stocks and common stocks that the
19 organization ~~State Board of Education~~ considers proper investments
20 for the permanent school fund, subject to the following
21 requirements:

22 (A) in making all of those investments, the
23 organization ~~State Board of Education~~ shall exercise the judgment
24 and care under the circumstances then prevailing that persons of
25 ordinary prudence, discretion, and intelligence exercise in the
26 management of their own affairs, not in regard to speculation but in
27 regard to the permanent disposition of their funds, considering the

1 probable income as well as the probable safety of their capital;

2 (B) the company issuing the stock must be
3 incorporated in the United States, and the stocks must have paid
4 dividends for five consecutive years or longer immediately before
5 the date of purchase and the stocks, except for bank stocks and
6 insurance stocks, must be listed on an exchange registered with the
7 Securities and Exchange Commission or its successors; and

8 (C) not more than one percent of the permanent
9 school fund may be invested in stock issued by one corporation and
10 not more than five percent of the voting stock of any one
11 corporation will be owned; and

12 (8) notwithstanding any other law or provision of this
13 code, first lien real estate mortgage securities insured by the
14 Federal Housing Administration under the National Housing Act of
15 the United States, or in any other first lien real estate mortgage
16 securities guaranteed in whole or in part by the United States.

17 Sec. 43.0031. PERMANENT SCHOOL FUND ETHICS POLICY. (a) In
18 addition to any other requirements provided by law, the Texas
19 Education Investment Management Organization ~~State Board of~~
20 ~~Education~~ shall adopt and enforce an ethics policy that provides
21 standards of conduct relating to the management and investment of
22 the permanent school fund. The ethics policy must include
23 provisions that address the following issues as they apply to the
24 management and investment of the permanent school fund and to
25 persons responsible for managing and investing the fund:

26 (1) general ethical standards;

27 (2) conflicts of interest;

- 1 (3) prohibited transactions and interests;
- 2 (4) the acceptance of gifts and entertainment;
- 3 (5) compliance with applicable professional
- 4 standards;
- 5 (6) ethics training; and
- 6 (7) compliance with and enforcement of the ethics
- 7 policy.

8 (b) The ethics policy must include provisions applicable
9 to:

- 10 (1) members of the Texas Education Investment
- 11 Management Organization ~~State Board of Education~~;
- 12 (2) the commissioner;
- 13 (3) employees of the agency; and
- 14 (4) any person who provides services to the
- 15 organization board relating to the management or investment of the
- 16 permanent school fund.

17 (c) Not later than the 45th day before the date on which the

18 organization board intends to adopt a proposed ethics policy or an

19 amendment to or revision of an adopted ethics policy, the

20 organization board shall submit a copy of the proposed policy,

21 amendment, or revision to the Texas Ethics Commission and the state

22 auditor for review and comments. The organization board shall

23 consider any comments from the commission or state auditor before

24 adopting the proposed policy.

25 (d) The provisions of the ethics policy that apply to a

26 person who provides services to the organization board relating to

27 the management or investment of the permanent school fund must be

1 based on the Code of Ethics and the Standards of Professional
2 Conduct prescribed by the Association for Investment Management and
3 Research or other ethics standards adopted by another appropriate
4 professionally recognized entity.

5 (e) The organization board shall ensure that applicable
6 provisions of the ethics policy are included in any contract under
7 which a person provides services to the organization board relating
8 to the management and investment of the permanent school fund.

9 Sec. 43.0032. CONFLICTS OF INTEREST. (a) A member of the
10 Texas Education Investment Management Organization State Board of
11 Education, the commissioner, an employee of the agency, or a person
12 who provides services to the organization board that relate to the
13 management or investment of the permanent school fund who has a
14 business, commercial, or other relationship that could reasonably
15 be expected to diminish the person's independence of judgment in
16 the performance of the person's responsibilities relating to the
17 management or investment of the fund shall disclose the
18 relationship in writing to the organization board.

19 (b) The organization board or the organization's board's
20 designee shall, in the ethics policy adopted under Section [43.0031](#),
21 define the kinds of relationships that may create a possible
22 conflict of interest.

23 (c) A person who files a statement under Subsection (a)
24 disclosing a possible conflict of interest may not give advice or
25 make decisions about a matter affected by the possible conflict of
26 interest unless the organization board, after consultation with the
27 general counsel of the agency, expressly waives this prohibition.

1 The organization board may delegate the authority to waive the
2 prohibition established by this subsection.

3 Sec. 43.0033. REPORTS OF EXPENDITURES. A consultant,
4 advisor, broker, or other person providing services to the Texas
5 Education Investment Management Organization ~~State Board of~~
6 ~~Education~~ relating to the management and investment of the
7 permanent school fund shall file with the organization board
8 regularly, as determined by the organization board, a report that
9 describes in detail any expenditure of more than \$50 made by the
10 person on behalf of:

- 11 (1) a member of the organization board; or
- 12 (2) the commissioner; ~~or~~
- 13 ~~(3) an employee of the agency or of a nonprofit~~
14 ~~corporation created under Section 43.006.~~

15 Sec. 43.0034. FORMS; PUBLIC INFORMATION. (a) The
16 organization board shall prescribe forms for:

17 (1) statements of possible conflicts of interest and
18 waivers of possible conflicts of interest under Section 43.0032;
19 and

20 (2) reports of expenditures under Section 43.0033.

21 (b) A statement, waiver, or report described by Subsection
22 (a) is public information.

23 (c) The organization board shall designate an employee of
24 the agency to act as custodian of statements, waivers, and reports
25 described by Subsection (a) for purposes of public disclosure.

26 Sec. 43.004. WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE
27 EVALUATION. (a) The Texas Education Investment Management

1 Organization ~~State Board of Education~~ shall develop written
2 investment objectives concerning the investment of the permanent
3 school fund. The objectives may address desired rates of return,
4 risks involved, investment time frames, and any other relevant
5 considerations.

6 (b) The organization ~~board~~ shall employ a well-recognized
7 performance measurement service to evaluate and analyze the
8 investment results of the permanent school fund. The service shall
9 compare investment results with the written investment objectives
10 developed by the organization ~~board~~, and shall also compare the
11 investment of the permanent school fund with the investment of
12 other public and private funds.

13 Sec. 43.005. EXTERNAL INVESTMENT MANAGERS. (a) The Texas
14 Education Investment Management Organization ~~State Board of~~
15 ~~Education~~ may contract with private professional investment
16 managers to assist the board in making investments of the permanent
17 school fund. A contract under this subsection must be approved by
18 the organization ~~board or otherwise entered into in accordance with~~
19 ~~board rules relating to contracting authority.~~

20 (b) The Texas Education Investment Management Organization
21 ~~State Board of Education by rule~~ may delegate a power or duty
22 relating to the investment of the permanent school fund to a
23 committee, officer, employee, or other agent of the organization
24 ~~board.~~

25 Sec. 43.0051. TRANSFERS TO REAL ESTATE SPECIAL FUND ACCOUNT
26 OF THE PERMANENT SCHOOL FUND. The Texas Education Investment
27 Management Organization ~~State Board of Education~~ may transfer funds

1 from the portion of the permanent school fund managed by the
2 organization ~~State Board of Education~~ to the real estate special
3 fund account of the permanent school fund if the organization ~~State~~
4 ~~Board of Education~~ determines, using the standard of care set forth
5 in Subsection (f), Section 5, Article VII, Texas Constitution, that
6 such transfer is in the best interest of the permanent school fund.

7 SECTION 8. Sections 43.007 through 43.012, Education Code,
8 are amended to read as follows:

9 Sec. 43.007. PURCHASE AND SALE OR EXCHANGE OF SECURITIES.

10 (a) The Texas Education Investment Management Organization ~~State~~
11 ~~Board of Education~~ may authorize the purchase of all of the types of
12 securities in which it is authorized by law to invest the permanent
13 school fund in either registered or negotiable form. The
14 organization ~~board~~ may authorize the reissue of those securities
15 held at any time for the account of the permanent school fund in
16 either registered or negotiable form. The organization ~~State Board~~
17 ~~of Education~~ may authorize the sale of any of the securities held
18 for the account of the permanent school fund and reinvest the
19 proceeds of sale for the fund and may authorize the exchange of any
20 of the securities held for the account of the permanent school fund.

21 (b) In making purchases, sales, exchanges, and reissues,
22 the organization ~~State Board of Education~~ shall exercise the
23 judgment and care under the circumstances then prevailing that
24 persons of ordinary prudence, discretion, and intelligence
25 exercise in the management of their own affairs not in regard to
26 speculation but in regard to the permanent disposition of their
27 funds, considering the probable income as well as the probable

1 safety of their capital.

2 (c) When any securities are sold, reissued, or exchanged as
3 provided by Subsection (a), the custodian of the securities shall
4 deliver the securities sold, reissued, or exchanged in accordance
5 with the directions of the organization ~~State Board of Education~~.

6 Sec. 43.009. PREPAYMENT OF CERTAIN BONDS HELD BY THE
7 PERMANENT SCHOOL FUND. (a) The Texas Education Investment
8 Management Organization ~~State Board of Education~~ may authorize the
9 governing body of any political subdivision in this state to pay off
10 and discharge, at any interest paying date whether the bonds are
11 matured or not, all or any part of any outstanding bond indebtedness
12 owned by the permanent school fund.

13 (b) The governing body of a political subdivision desiring
14 to pay off and discharge any bonded indebtedness owned by the fund
15 shall apply in writing to the organization ~~State Board of~~
16 ~~Education~~, not later than the 30th day before any interest paying
17 date on the bonds, describing the bonds or part of the bonds it
18 desires to pay off and discharge. The application must be
19 accompanied by an affidavit stating that only tax money collected
20 from a tax levy made for the specific purpose of providing a sinking
21 fund and paying interest on the particular bonds to be redeemed will
22 be spent in redeeming, taking up, or paying off the bonds.

23 (c) The organization ~~State Board of Education~~, on receiving
24 the application and affidavit, shall take action on them in the
25 manner it considers best and shall notify the applicant whether the
26 application is refused or granted in whole or in part.

27 (d) A person who has a duty under this section may not give

1 or receive any commission, premium, or compensation for the
2 performance of that duty.

3 (e) Only tax money collected from tax levies made for the
4 specific purpose of providing a sinking fund and paying interest on
5 the particular bonds to be redeemed may be spent in redeeming,
6 taking up, or paying off of bonds as provided by this section,
7 unless the bonds are being redeemed for the purpose of being
8 refunded.

9 Sec. 43.010. DEFAULT OF SCHOOL DISTRICT SECURITIES HELD BY
10 THE PERMANENT SCHOOL FUND. (a) If interest or principal has not
11 been paid for two years or more on any bonds issued by any school
12 district and held by the permanent school fund, the Texas Education
13 Investment Management Organization ~~State Board of Education~~ may:

14 (1) compel the district to levy a tax sufficient to
15 meet the interest and principal payments then or later due; or

16 (2) if the district furnishes to the organization
17 ~~State Board of Education~~

18 satisfactory proof that the district's taxing ability
19 is insufficient, require the district to:

20 (A) exhaust all legal remedies in collecting
21 delinquent taxes; and

22 (B) levy a tax at the maximum lawful rate on the
23 bona fide valuation of taxable property located in the district.

24 (b) Revenue collected by either method specified by
25 Subsection (a) shall be distributed proportionately to all owners
26 of the defaulted securities in compliance with the following:

27 (1) the proportionate share for each owner is based on

1 the interest and principal requirements of the original security
2 before authorized refunding; and

3 (2) prior acceptance of refunding securities does not
4 reduce an owner's proportionate share.

5 (c) As long as any school district is delinquent in its
6 payments of principal or interest on any of its bonds owned by the
7 permanent school fund, the organization ~~State Board of Education~~
8 may specify the method of crediting payments to the state made by
9 the district as to principal and interest.

10 (d) The comptroller may not issue any warrant from the
11 foundation school fund to or for the benefit of any district that
12 has been for as long as two years in default in the payment of
13 principal or interest on any security owned by the permanent school
14 fund until the organization ~~State Board of Education~~ certifies that
15 the district has satisfactorily complied with the appropriate
16 provisions of this section, in which event the comptroller shall
17 resume making payments to or for the benefit of the district,
18 including the making of pretermitted payments.

19 Sec. 43.011. AUTHORIZED REFUNDING OF DEFAULTED SCHOOL
20 BONDS. (a) In compliance with this section, the Texas Education
21 Investment Management Organization ~~State Board of Education~~ may
22 revise, readjust, modify, refinance, or refund defaulted bonds
23 issued by any school district in this state and owned by either the
24 permanent school fund or the available school fund.

25 (b) Application must be made to the organization ~~State Board~~
26 ~~of Education~~ by the district that issued the bonds and must show
27 that:

1 (1) delinquent interest totals at least 50 percent of
2 the principal amount of the bonds; and

3 (2) taxable valuation has decreased to such an extent
4 that a full application of the proceeds of the voted authorized tax
5 authorized to be levied on the \$100 taxable property valuation will
6 not meet interest and principal annually maturing on the bonds.

7 (c) The organization ~~State Board of Education~~ may effect a
8 refunding of the debt due and to become due only if the organization
9 ~~board~~ finds that:

10 (1) the district is unable to pay the sums already
11 matured and the sums contracted to be paid as they mature by paying
12 annually to the organization ~~State Board of Education~~ the full
13 proceeds of a 50-cent tax levy on the \$100 of all taxable valuation
14 of property in the district;

15 (2) the taxable valuation of property in the district
16 has decreased at least 75 percent since the bonds were issued and
17 that the decrease was not caused by the district or any of its
18 officials;

19 (3) the district for a period of at least five years
20 before applying to the organization ~~State Board of Education~~ for
21 refunding has levied a tax of 50 cents on the \$100 of taxable
22 valuation of property in the district, and that despite such
23 levies, the aggregate amount due the organization ~~State Board of~~
24 ~~Education~~ exceeds the aggregate amount due at the beginning of the
25 period;

26 (4) the district has not authorized and sold
27 additional bonds during the five-year period immediately preceding

1 the application; and

2 (5) the district has in good faith endeavored to pay
3 its debt in accordance with the contract evidenced by the bonds held
4 for the account of the permanent school fund or the available school
5 fund.

6 (d) If the conditions specified by Subsection (c) are found
7 to exist, the district is, for purposes of this section, insolvent,
8 and the organization ~~State Board of Education~~ may exchange the
9 bonds, interest coupons, and other evidences of indebtedness for
10 new refunding bonds of the district issued in compliance with the
11 following:

12 (1) the principal amount of the refunding bonds may
13 not be less than the total amount of the bonds, matured interest
14 coupons, accrued interest, and interest on delinquent interest then
15 actually due to the permanent school fund or the available school
16 fund; and

17 (2) the rate of interest to be borne by the refunding
18 bonds may be lower than that borne by the bonds to be refunded if in
19 consideration of the interest reduction the district agrees to levy
20 a tax each year for a period of 40 years at a rate sufficient to
21 produce annually a sum equal to 90 percent of the amount that can be
22 calculated by the levy of a tax at the rate of 50 cents on the \$100
23 of taxable valuation of property as determined by the latest
24 approved tax roll of the district, and in determining the rate of
25 interest to be borne by the refunding bonds, the organization ~~State
26 Board of Education~~ shall be governed by the following:

27 (A) the organization ~~State Board of Education~~ may

1 require the rate to be a percent per annum as in its judgment will
2 represent the maximum rate that can be paid by the district and
3 still permit an orderly and certain retirement of the refunding
4 bonds within 40 years from their date;

5 (B) the interest rate of refunding bonds to be
6 received in exchange for bonds owned by the permanent school fund
7 may not be less than the minimum rate at which bonds may then be
8 purchased as investments for the permanent school fund; and

9 (C) the rate of interest of refunding bonds to be
10 received in exchange for bonds owned by the available school fund
11 may be set by the organization ~~State Board of Education~~ at any rate
12 the organization board ~~board~~ considers feasible, and the refunding bonds
13 may, at the discretion of the organization ~~State Board of~~
14 ~~Education~~, be made non-interest bearing to a date fixed by the
15 board.

16 (e) The organization ~~State Board of Education~~ may not make a
17 revision, readjustment, modification, refinancing, or refunding
18 that will release or extinguish any debt or obligation then due and
19 payable to the permanent school fund or to the available school
20 fund.

21 (f) Except as otherwise provided or permitted by this
22 section, the refunding of the bonds of school districts authorized
23 by this section must be in compliance with the general provisions
24 with regard to the refunding of school district bonds.

25 Sec. 43.012. REFUNDING OTHER DEFAULTED OBLIGATIONS. (a)
26 Defaulted obligations, other than bonds of school districts as
27 provided by Section [43.011](#), due the available school fund may be

1 refinanced or refunded with the approval of the Texas Education
2 Investment Management Organization ~~State Board of Education~~ in
3 compliance with this section.

4 (b) In this section, "defaulted obligations" includes
5 delinquent interest whether represented by coupons or not, interest
6 on delinquent interest, and any other form of obligation due the
7 available school fund.

8 (c) The obligor must apply to the organization ~~State Board~~
9 ~~of Education~~ and show:

10 (1) that the obligations due the available school fund
11 have been in default in whole or in part for a continuous period of
12 at least 15 years; and

13 (2) that the obligor is not in default in the payment
14 of the principal of any bonds owned by the permanent school fund.

15 (d) If the organization ~~State Board of Education~~ finds that
16 the requirements provided by Subsection (c) have been met, it may
17 approve a refinancing or the issuance of refunding bonds on the
18 conditions:

19 (1) that the refunding bonds must mature serially in
20 not exceeding 40 years from the date of issuance;

21 (2) that the principal amount of the refunding bonds
22 may be not less than the total amount of the obligations then in
23 default and due the available school fund; and

24 (3) that the refunding bonds must bear interest at a
25 rate or rates determined by the organization ~~State Board of~~
26 ~~Education~~ to be for the best interest of the available school fund.

27 (e) The organization ~~State Board of Education~~ may accept

1 refunding bonds in lieu of either matured or unmatured bonds held
2 for the benefit of the permanent school fund if the rate of interest
3 on the new refunding bonds is at least the same rate as that of the
4 bonds being refunded.

5 (f) Refunding bonds issued with the approval or pursuant to
6 a refunding agreement with the organization ~~State Board of~~
7 ~~Education~~ in compliance with either this section or Section 43.011
8 shall, on the order of the organization ~~State Board of Education~~, be
9 exchanged by the comptroller for the defaulted obligations they
10 have been issued to refund.

11 SECTION 9. Sections 43.014 and 43.015, Education Code, are
12 amended to read as follows:

13 Sec. 43.014. DUTIES OF COMPTROLLER. (a) On or before July
14 1 of each year, the comptroller shall estimate the amount of the
15 available school fund receivable from every source during the
16 following school year and report the estimate to the Texas
17 Education Investment Management Organization ~~State Board of~~
18 ~~Education~~.

19 (b) On or before the meeting of each regular session of the
20 legislature, the comptroller shall report to the legislature an
21 estimate of the amount of the available school fund that is to be
22 received for the following two years, and the sources from which
23 that amount accrues, and that is subject to appropriation for the
24 establishment and support of public schools.

25 (c) On or before the first working day of each month, the
26 comptroller shall certify to the commissioner the total amount of
27 money collected from every source during the preceding month and on

1 hand to the credit of the available school fund.

2 (d) On receipt of certificates issued to the comptroller by
3 the commissioner, the comptroller shall draw warrants in favor of
4 the treasurer of the available school fund of each school district
5 for the amounts stated in the certificates. All such warrants shall
6 be registered.

7 Sec. 43.015. DUTIES OF COMPTROLLER. (a) Not later than the
8 30th day before the first day of each regular session of the
9 legislature and not later than the 10th day before the first day of
10 any special session at which there can be legislation respecting
11 the public schools, the comptroller shall report to the governor
12 the condition of the permanent school fund and the available school
13 fund, the amount of each fund, and the manner of its disbursement.

14 (b) The comptroller shall provide the Texas Education
15 Investment Management Organization ~~State Board of Education~~ with
16 the reports specified by Subsection (a) and with additional reports
17 concerning those funds requested by the organization ~~State Board of~~
18 ~~Education~~.

19 (c) The comptroller shall ensure that no portion of either
20 the permanent school fund or the available school fund is used to
21 pay any warrant drawn against any other fund.

22 (d) The comptroller shall receive and hold in a special
23 deposit and account for all properties belonging to the available
24 school fund. All warrants drawn on that fund by the comptroller
25 pursuant to a certificate of the commissioner must be registered by
26 the comptroller and then transmitted to the commissioner, and when
27 properly endorsed shall be paid by the comptroller in the order of

1 their presentation.

2 (e) On order of the organization ~~State Board of Education~~,
3 the comptroller shall exchange or accept refunding bonds in lieu
4 of:

5 (1) either matured or unmatured bonds held for the
6 benefit of the permanent school fund, which are being refunded
7 under this chapter;

8 (2) defaulted obligations held for the benefit of the
9 available school fund if the refunding bonds are issued in
10 compliance with Section [43.012](#);

11 (3) defaulted obligations of any school district of
12 this state held for the benefit of the permanent school fund or the
13 available school fund if the refunding bonds are issued in
14 compliance with Section [43.011](#); or

15 (4) refunding bonds of any school district of this
16 state for school bonds not matured held by the comptroller for the
17 permanent school fund if the new refunding bonds are issued by the
18 school district in compliance with this code.

19 (f) The comptroller shall be the custodian of all securities
20 enumerated in Section [43.003](#)(6) and of other securities as
21 designated by the organization ~~State Board of Education~~ in which
22 the school funds of the state are invested. The comptroller shall
23 keep those securities in the comptroller's custody until paid off,
24 discharged, delivered as required by the organization ~~State Board~~
25 ~~of Education~~, or otherwise disposed of by the proper authorities of
26 the state, and on the proper installment of any interest or
27 dividend, shall see that the proper credit is given, and the coupons

1 on bonds, when paid, shall be separated from the bonds and cancelled
2 by the comptroller.

3 SECTION 10. Sections 43.017 through 43.019, Education Code,
4 are amended to read as follows:

5 Sec. 43.017. USE OF COMMERCIAL BANKS AS AGENTS FOR
6 COLLECTION OF INCOME FROM PERMANENT SCHOOL FUND INVESTMENTS. (a)
7 The Texas Education Investment Management Organization ~~State Board~~
8 ~~of Education~~ may contract with one or more commercial banks to
9 receive payments of dividends and interest on securities in which
10 the state permanent school funds are invested and transmit that
11 money with identification of its source to the comptroller for the
12 account of the available school fund by the fastest available
13 means.

14 (b) In choosing each commercial bank with which to contract
15 as authorized by Subsection (a), the organization ~~State Board of~~
16 ~~Education~~ shall assure itself of:

- 17 (1) the financial stability of the bank;
- 18 (2) the location of the bank with respect to its
19 proximity to the banks on which checks are drawn in payment of
20 dividends and interest on securities of the permanent school fund;
- 21 (3) the experience and reliability of the bank in
22 acting as agent for others in the similar collection and
23 expeditious remittance of money; and
- 24 (4) the reasonableness of the bank's charges for the
25 services, both in amount of the charges and in relation to the
26 increased investment earnings of the available school fund that
27 will result from speedier receipt by the comptroller of the money.

1 Sec. 43.018. PARTICIPATION IN FULLY SECURED SECURITIES LOAN
2 PROGRAMS. (a) The Texas Education Investment Management
3 Organization ~~State Board of Education~~ may contract with a
4 commercial bank to serve both as a custodian of securities in which
5 the state permanent school funds are invested and to lend those
6 securities, under the conditions prescribed by Subsection (b), to
7 securities brokers and dealers on short-term loan.

8 (b) The organization ~~State Board of Education~~ may contract
9 with a commercial bank pursuant to this section only if:

10 (1) the bank is located in a city having a major stock
11 exchange;

12 (2) the bank is experienced in the operation of a fully
13 secured securities loan program;

14 (3) the bank has adequate capital in the prudent
15 judgment of the organization ~~State Board of Education~~ to assure the
16 safety of the securities entrusted to it as a custodian;

17 (4) the bank will require of any securities broker or
18 dealer to which it lends securities owned by the state permanent
19 school fund that the broker or dealer deliver to it cash collateral
20 for the loan of securities, and that the cash collateral will at all
21 times be not less than 100 percent of the market value of the
22 securities lent;

23 (5) the bank executes an indemnification agreement,
24 satisfactory in form and content to the organization ~~State Board of~~
25 ~~Education~~, fully indemnifying the permanent and available school
26 funds against loss resulting from the bank's service as custodian
27 of securities of the permanent school fund and its operation of a

1 securities loan program using securities of the permanent school
2 fund;

3 (6) the bank will speedily collect and remit on the day
4 of collection by the fastest available means to the comptroller any
5 dividends and interest collectible by it on securities held by it as
6 custodian, together with identification as to the source of the
7 dividends or interest; and

8 (7) the bank is the bank agreeing to pay to the
9 available school fund the largest sum or highest percentage of the
10 income derived by the bank from use of the securities of the
11 permanent school fund in the operation of a securities loan
12 program.

13 Sec. 43.019. ACCOUNTING TREATMENT OF CERTAIN EXCHANGES.
14 The Texas Education Investment Management Organization ~~State Board~~
15 ~~of Education~~ may account for the exchange of permanent school fund
16 securities in a closely related sale and purchase transaction in a
17 manner in which the gain or loss on the sale is deferred as an
18 adjustment to the book value of the security purchased, if:

19 (1) the security sold and the security purchased have
20 a fixed maturity value;

21 (2) the organization ~~board~~ is authorized by law to
22 invest the permanent school fund in the security purchased;

23 (3) the sale is made in clear contemplation of
24 reinvesting substantially all of the proceeds;

25 (4) substantially all of the proceeds are reinvested;

26 (5) the transaction is completed within a reasonable
27 time after the sale, not to exceed 30 business days; and

1 (6) the transaction results in an improvement in
2 effective income yield, taking into consideration the deferral of
3 any gain or loss on the sale.

4 SECTION 11. Section 51.011, Natural Resources Code, is
5 amended by amending Subsection (a) and adding Subsections (a-3) and
6 (a-4) to read as follows:

7 (a) Any land or ~~[7]~~ mineral or royalty interest ~~[, real estate~~
8 ~~investment, or other interest, including revenue received from~~
9 ~~those sources,~~] that is set apart to the permanent school fund under
10 the constitution and laws of this state together with the mineral
11 estate in riverbeds, channels, and the tidelands, including
12 islands, shall be controlled, sold, and leased by ~~[subject to the~~
13 ~~sole and exclusive management and control of]~~ the school land board
14 and the commissioner under the provisions of this chapter and other
15 applicable law.

16 (a-3) All revenue received from mineral or royalty
17 interests described by Subsection (a), including bonus payments,
18 surface lease revenues, royalties, and any other type of revenue
19 received from those interests, shall be transferred each month to
20 the Texas Education Investment Management Organization for
21 investment in the permanent school fund.

22 SECTION 12. Section 32.012, Natural Resources Code, is
23 amended to read as follows:

24 Sec. 32.012. MEMBERS OF THE BOARD. (a) The board is
25 composed of:

- 26 (1) the commissioner;
- 27 (2) two citizens ~~[a citizen]~~ of the state appointed by

1 the governor with the advice and consent of the senate; and

2 (3) two citizens [~~a citizen~~] of the state appointed by
3 the attorney general with the advice and consent of the senate.

4 (a-1) One citizen appointed by the governor and one citizen
5 appointed by the attorney general must be selected from lists of
6 nominees submitted by the State Board of Education. The State Board
7 of Education shall submit to the governor or the attorney general,
8 as applicable, a list of six nominees for a vacant position
9 described by this subsection. The governor or attorney general, as
10 applicable, may request that the State Board of Education submit a
11 second list of six nominees if the governor or attorney general does
12 not choose to appoint a nominee from the first list.

13 (b) The authority of the attorney general to appoint [~~one of~~
14 ~~the~~] members of the board, including the authority to make
15 appointments during the recess of the senate, is the same as the
16 authority of the governor to fill vacancies in state offices under
17 the Texas Constitution.

18 (c) Each appointment made by the governor and the attorney
19 general shall be made in accordance with and subject to the
20 provisions of the Texas Constitution authorizing the filling of
21 vacancies in state offices by appointment of the governor.

22 SECTION 13. Subchapter B, Chapter 32, Natural Resources
23 Code, is amended by adding Section 32.0161 to read as follows:

24 Sec. 32.0161. ANNUAL JOINT MEETING. The board and the Texas
25 Education Investment Management Organization shall hold an annual
26 joint public meeting to discuss the allocation of the assets of the
27 permanent school fund and the investment of the money in the fund.

1 SECTION 14. Subchapter B, Chapter 32, Natural Resources
2 Code, is amended by adding Section 32.0191 to read as follows:

3 Sec. 32.0191. SEPARATION OF RESPONSIBILITIES. The board
4 shall develop and implement policies that clearly separate the
5 policymaking responsibilities of the board and the management
6 responsibilities of the commissioner and the staff of the land
7 office.

8 SECTION 15. Subchapter B, Chapter 32, Natural Resources
9 Code, is amended by adding Section 32.027 to read as follows:

10 Sec. 32.027. MEMBER TRAINING. (a) A person who is
11 appointed to and qualifies for office as a member of the board may
12 not vote, deliberate, or be counted as a member in attendance at a
13 meeting of the board until the person completes a training program
14 that complies with this section.

15 (b) The training program must provide the person with
16 information regarding:

17 (1) the law governing board operations;

18 (2) the programs, functions, rules, and budget of the
19 board;

20 (3) the board's investment programs and strategies;

21 (4) the permanent school fund, including a
22 comprehensive overview of the law governing the fund;

23 (5) the scope of and limitations on the rulemaking
24 authority of the board;

25 (6) the results of the most recent formal audit of the
26 board;

27 (7) the requirements of:

1 (A) laws relating to open meetings, public
2 information, administrative procedure, and disclosure of conflicts
3 of interest; and

4 (B) other laws applicable to members of a state
5 policymaking body in performing their duties; and

6 (8) any applicable ethics policies adopted by the
7 board or the Texas Ethics Commission.

8 (c) A person appointed to the board is entitled to
9 reimbursement, as provided by the General Appropriations Act, for
10 the travel expenses incurred in attending the training program
11 regardless of whether the attendance at the program occurs before
12 or after the person qualifies for office.

13 (d) The commissioner shall create a training manual that
14 includes the information required by Subsection (b).

15 (e) The commissioner shall distribute a copy of the training
16 manual annually to each appointed member of the board. On receipt
17 of the training manual, each appointed member of the board shall
18 sign and submit to the commissioner a statement acknowledging
19 receipt of the training manual.

20 SECTION 16. Subchapter B, Chapter 32, Natural Resources
21 Code, is amended by adding Section 32.028 to read as follows:

22 Sec. 32.028. COMPLAINTS. (a) The board shall maintain a
23 system to promptly and efficiently act on complaints filed with the
24 board. The board shall maintain information about parties to the
25 complaint, the subject matter of the complaint, a summary of the
26 results of the review or investigation of the complaint, and its
27 disposition.

1 (b) The board shall make information available describing
2 its procedures for complaint investigation and resolution.

3 (c) The board shall periodically notify the complaint
4 parties of the status of the complaint until final disposition.

5 SECTION 17. Section 51.017, Natural Resources Code, is
6 amended to read as follows:

7 On request, the commissioner shall furnish to the Texas
8 Education Investment Management Organization or the Commissioner
9 of Education State Board of Education all available data.

10 SECTION 18. Section 51.401, Natural Resources Code, is
11 amended by amending Subsection (a) and adding Subsections (c), (d),
12 and (d-1) to read as follows:

13 (a) The board may designate money [~~funds~~] received from the
14 sale of real property or [any land,] mineral or royalty interests
15 [interest, real estate investment, or other interest, including
16 revenue received from those sources, that is] set apart to the
17 permanent school fund under the constitution and laws of this state
18 together with the mineral estate in riverbeds, channels, and the
19 tidelands, including islands, for deposit in the real estate
20 special fund account of the permanent school fund in the State
21 Treasury to be used by the board to acquire fee or lesser interests
22 in real property, including mineral or royalty interests, for the
23 use and benefit of the permanent school fund, as provided by Section
24 51.402 [~~this subchapter~~].

25 (c) Money received from the sale of real property, including
26 mineral or royalty interests, and designated under this subchapter
27 for the acquisition of real property, including mineral or royalty

1 interests, must be used by the board not later than one year after
2 the date of the sale from which the money is derived.

3 (d) Any money from a specific sale that remains in the real
4 estate special fund account for longer than one year shall be
5 immediately deposited in the State Treasury to the credit of the
6 Texas Education Investment Management Organization for investment
7 in the permanent school fund.

8 (d-1) Each quarter, the board shall provide a cashflow
9 report to the Texas Education Investment Management Organization
10 that specifies the use of all funds designated under Subsection (a)
11 and the amount of time that money from each specific sale has
12 remained in the real estate special fund account.

13 SECTION 19. Section 51.402, Natural Resources Code, is
14 amended by amending Subsections (b) and (c) to read as follows:

15 (b) Before acquiring real property, including mineral or
16 royalty interests, [using funds] under Subsection (a), the board
17 must determine, using the prudent investor standard, that the
18 acquisition is [use of the funds for the intended purpose is
19 authorized by Subsection (a) and] in the best interest of the
20 permanent school fund. [~~A determination by the board on the use of~~
21 ~~funds under this section is conclusive unless the determination was~~
22 ~~made as a result of fraud or obvious error.~~]

23 (c) Notwithstanding Subsection (a) of this section, on
24 January 1 of each even-numbered year, the sum of any funds
25 designated under Section 51.401 not being used for a purpose listed
26 in Subsection (a) of this section and the market value of the
27 investments in real estate made under this section [on January 1 of

1 ~~each even-numbered year]~~ may not exceed an amount that is equal to
2 15 percent of the sum of:

3 (1) the funds held by the board and the State Board of
4 Education as part of the permanent school fund; and

5 (2) the market value of the assets held by the board
6 and the State Board of Education as part of the permanent school
7 fund [on that date].

8 SECTION 20. Sections 51.4021(a) and (b), Natural Resources
9 Code, are amended to read as follows:

10 (a) In consultation with the Texas Education Investment
11 Management Organization the The board may appoint investment
12 managers, consultants, or advisors to invest or assist the board in
13 investing the money designated under Section 51.401, to the extent
14 the investment of the money is authorized under this chapter, by
15 contracting for professional investment management or investment
16 advisory services with one or more organizations that are in the
17 business of managing or advising on the management of real estate
18 investments.

19 (b) To be eligible for appointment under this section, an
20 investment manager, consultant, or advisor shall agree to abide by
21 the policies, requirements, or restrictions, including ethical
22 standards and disclosure policies and criteria for determining the
23 quality of investments and for the use of standard rating services,
24 that the board adopts for real estate investments of the permanent
25 school fund. Money designated under Section 51.401 may only be
26 invested to the extent the board has the authority under this
27 chapter to make the investment, and may not be invested in a real

1 estate investment trust, as defined by Section 200.001, Business
2 Organizations Code, or otherwise invested in a manner not
3 authorized under this chapter.

4 SECTION 21. Sections 51.408(a), (b), (d), and (e), Natural
5 Resources Code, are amended to read as follows:

6 (a) In addition to any other requirements provided by law,
7 the board shall adopt and enforce an ethics policy that provides
8 standards of conduct relating to the management and investment of
9 the funds designated for that purpose under Section 51.401. The
10 ethics policy must include provisions that address the following
11 issues as they apply to the management and investment of the funds
12 and to persons responsible for acquiring or managing real property
13 or mineral or royalty interests of the permanent school fund or
14 [and] investing the funds to the extent authorized by this chapter:

- 15 (1) general ethical standards;
- 16 (2) conflicts of interest;
- 17 (3) prohibited transactions and interests;
- 18 (4) the acceptance of gifts and entertainment;
- 19 (5) compliance with applicable professional
20 standards;
- 21 (6) ethics training; and
- 22 (7) compliance with and enforcement of the ethics
23 policy.

24 (b) The ethics policy must include provisions applicable
25 to:

- 26 (1) members of the board;
- 27 (2) the commissioner;

1 (3) employees of the board; and

2 (4) any person who provides services to the board
3 relating to the management [~~or investment~~] of the funds designated
4 under Section 51.401 or the investment of funds to the extent
5 authorized by this chapter.

6 (d) The provisions of the ethics policy that apply to a
7 person who provides services to the board relating to the
8 management [~~or investment~~] of the funds designated under Section
9 51.401 or the investment of those funds to the extent authorized by
10 this chapter must be based on the Code of Ethics and the Standards
11 of Professional Conduct prescribed by the Association for
12 Investment Management and Research or other ethics standards
13 adopted by another appropriate professionally recognized entity.

14 (e) The board shall ensure that applicable provisions of the
15 ethics policy are included in any contract under which a person
16 provides services to the board relating to the management [~~and~~
17 ~~investment~~] of the funds designated under Section 51.401 or the
18 investment of those funds to the extent authorized by this chapter.

19 SECTION 22. Section 51.409(a), Natural Resources Code, is
20 amended to read as follows:

21 (a) A member of the board, the commissioner, an employee of
22 the board, or a person who provides services to the board that
23 relate to the management [~~or investment~~] of the funds designated
24 under Section 51.401 or the investment of those funds to the extent
25 authorized under this chapter who has a business, commercial, or
26 other relationship that could reasonably be expected to diminish
27 the person's independence of judgment in the performance of the

1 person's responsibilities relating to the management of public
2 school lands or investment of the funds shall disclose the
3 relationship in writing to the board.

4 SECTION 23. Section 51.410, Natural Resources Code, is
5 amended to read as follows:

6 Sec. 51.410. REPORTS OF EXPENDITURES. A consultant,
7 advisor, broker, or other person providing services to the board
8 relating to the management [~~and investment~~] of the funds designated
9 under Section 51.401 or the investment of those funds to the extent
10 authorized by this chapter shall file with the board regularly, as
11 determined by the board, a report that describes in detail any
12 expenditure of more than \$50 made by the person on behalf of:

- 13 (1) a member of the board;
- 14 (2) the commissioner; or
- 15 (3) an employee of the board.

16 SECTION 24. Section 51.412, Natural Resources Code, is
17 amended to read as follows:

18 Sec. 51.412. REPORTS TO LEGISLATURE. [~~(a)~~] Not later than
19 September 1 of each [~~even-numbered~~] year, the board shall submit to
20 the legislature a report that includes [~~, specifically and in~~
21 ~~detail, assesses the direct and indirect economic impact, as~~
22 ~~anticipated by the board, of the investment of funds designated~~
23 ~~under Section 51.401 for deposit in the real estate special fund~~
24 ~~account of the permanent school fund. The board may not disclose~~
25 ~~information under this section that is confidential under~~
26 ~~applicable state or federal law. The report must include] the
27 following information:~~

1 (1) the total amount of money received under this
2 chapter and designated under ~~[by]~~ Section 51.401 for deposit in the
3 real estate special fund account of the permanent school fund that
4 the board intends to use for a purpose authorized under that section
5 ~~[invest]~~;

6 (2) ~~[the rate of return the board expects to attain on~~
7 ~~the investment,~~

8 ~~[(3)]~~ the amount of money the board expects to
9 distribute to the available school fund or the State Board of
10 Education for investment in the permanent school fund under Section
11 51.413 ~~[after making the investments]~~;

12 (3) ~~[(4)]~~ the distribution ~~[of the board's~~
13 ~~investments]~~ by county of real property interests, including
14 mineral or royalty interests, and including the actual or expected
15 revenues from the interests, that were acquired by the board for the
16 use and benefit of the permanent school fund since the most recently
17 submitted report under this section;

18 (4) the market value of all investments and assets
19 managed by the board and the total market value of the permanent
20 school fund;

21 ~~[(5) the effect of the board's investments on the level~~
22 ~~of employment, personal income, and capital investment in the~~
23 ~~state,]~~ and

24 (5) ~~[(6)]~~ any other information the board considers
25 necessary to include in the report.

26 ~~[(b) Not later than January 1 of each odd-numbered year, the~~
27 ~~board shall submit to the legislature a report that assesses the~~

1 ~~return and economic impact of the investments reported to the~~
2 ~~legislature before the preceding regular legislative session.]~~

3 SECTION 25. Section 51.413(a), Natural Resources Code, is
4 amended to read as follows:

5 (a) The board may, by a resolution adopted at a regular
6 meeting, release from the real estate special fund account funds
7 previously designated under Section 51.401 or used under Section
8 51.402 to acquire real property, including mineral or royalty
9 interests, [~~managed, used, or encumbered under Section 51.402 or~~
10 ~~Section 51.4021]~~ to be deposited in the State Treasury to the credit
11 of:

- 12 (1) the available school fund; or
13 (2) the State Board of Education for investment in the
14 permanent school fund.

15 SECTION 26. The following provisions are repealed:

- 16 (1) Section 43.006, Education Code; and
17 (2) Section 51.011 (a-2), Natural Resources Code.

18 SECTION 27. As soon as practicable after the appointment of
19 the members of the Texas Education Investment Management
20 Organization, the School Board of Education and the School Land
21 Board shall provide for the transfer of powers, duties, functions,
22 programs, and activities under this Act. The transfer must be
23 completed by August 1, 2020.

24 SECTION 28. Not later than September 1, 2020, the governor
25 and the attorney general shall appoint members to the School Land
26 Board in accordance with Section 32.012(a-1), Natural Resources
27 Code, as added by this Act.

1 SECTION 29. Section 32.027, Natural Resources Code, as
2 added by this Act, applies to a member of the School Land Board
3 appointed before, on, or after the effective date of this Act. A
4 member of the School Land Board may not vote, deliberate, or be
5 counted as a member in attendance at a meeting of the board held on
6 or after December 1, 2019, until the member completes the training.

7 SECTION 30. This Act takes effect on the date the
8 constitutional amendment proposed by the 86th Legislature, Regular
9 Session, 2019, relating to the creation of the bicentennial
10 education fund, the dedication of funds for teacher pay and
11 historically underperforming student groups, and the transfer of
12 the management and investment of the permanent school fund to an
13 entity designated by the legislature.