

By: Taylor

S.B. No. 1232

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the management and investment of the permanent school  
3 fund, including the duties of the School Land Board and the creation  
4 of the Permanent School Fund Investment Management Organization.

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

6 SECTION 1. Section 43.001(c), Education Code, is amended to  
7 read as follows:

8 (c) In this chapter:

9 (1) "Organization" means the Permanent School Fund  
10 Investment Management Organization.

11 (2) "Scholastic [The term "scholastic] population"  
12 [in Subsection (b) or any other law governing the apportionment,  
13 distribution, and transfer of the available school fund] means all  
14 students of school age enrolled in average daily attendance the  
15 preceding school year in the public elementary and high school  
16 grades of school districts within or under the jurisdiction of a  
17 county of this state for purposes of any law governing the  
18 apportionment, distribution, and transfer of the available school  
19 fund.

20 SECTION 2. Chapter 43, Education Code, is amended by adding  
21 Section 43.0021 to read as follows:

22 Sec. 43.0021. PERMANENT SCHOOL FUND INVESTMENT MANAGEMENT  
23 ORGANIZATION. (a) The Permanent School Fund Investment Management  
24 Organization is established to perform duties as required by this

1 chapter, including management of the permanent school fund. The  
2 organization is composed of seven members appointed as follows:

3 (1) three members appointed by the chair of the State  
4 Board of Education;

5 (2) one member appointed by the commissioner of the  
6 General Land Office; and

7 (3) three members appointed by the governor from a  
8 list of individuals nominated jointly by the State Board of  
9 Education and the General Land Office who have substantial  
10 background and expertise in investments and asset management.

11 (b) At least one member appointed under Subsection (a)(3)  
12 must have substantial background and expertise in investment asset  
13 allocation.

14 (c) Members of the organization serve staggered six-year  
15 terms, with the terms of two or three members expiring on January 1  
16 of each odd-numbered year.

17 (c-1) Notwithstanding Subsection (c), the initial members  
18 appointed to the organization shall determine by lot which two of  
19 the seven initial members will serve terms that expire January 1,  
20 2023, which two of the seven initial members will serve terms that  
21 expire January 1, 2025, and which three of the seven initial members  
22 will serve terms that expire January 1, 2027. This subsection  
23 expires September 1, 2027.

24 (d) The organization may employ an executive director, a  
25 chief investment officer, and other employees necessary to fulfill  
26 the organization's duties under this chapter.

27 (e) In addition to the transfer made under Section [43.002](#),

1 the organization may distribute from the permanent school fund to  
2 the available school fund an amount of money determined in  
3 accordance with a formula established by organization rule. In  
4 developing the formula for the distribution, the organization shall  
5 consider the historical trailing averages for:

6 (1) the total market value of the permanent school  
7 fund;

8 (2) growth in student enrollment; and

9 (3) inflation.

10 SECTION 3. Sections 43.003, 43.0031, 43.0032, 43.0033,  
11 43.0034, 43.004, 43.005, 43.0051, and 43.007, Education Code, are  
12 amended to read as follows:

13 Sec. 43.003. INVESTMENT OF PERMANENT SCHOOL FUND. In  
14 compliance with this section, the organization [~~State Board of~~  
15 ~~Education~~] may invest the permanent school fund in the types of  
16 securities, which must be carefully examined by the organization  
17 [~~State Board of Education~~] and be found to be safe and proper  
18 investments for the fund as specified below:

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

22 (2) obligations and pledges of The University of  
23 Texas;

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

26 (4) obligations of United States corporations that  
27 mature in less than one year and are of the highest rating available

1 at the time of investment;

2 (5) bonds issued, assumed, or guaranteed by the  
3 Inter-American Development Bank, the International Bank of  
4 Reconstruction and Development (the World Bank), the African  
5 Development Bank, the Asian Development Bank, and the International  
6 Finance Corporation;

7 (6) bonds of counties, school districts,  
8 municipalities, road precincts, drainage, irrigation, navigation,  
9 and levee districts in this state, subject to the following  
10 requirements:

11 (A) the securities, before purchase, must have  
12 been diligently investigated by the attorney general both as to  
13 form and as to legal compliance with applicable laws;

14 (B) the attorney general's certificate of  
15 validity procured by the party offering the bonds, obligations, or  
16 pledges must accompany the securities when they are submitted for  
17 registration to the comptroller, who must preserve the  
18 certificates;

19 (C) the public securities, if purchased, and when  
20 certified and registered as specified under Paragraph (B), are  
21 incontestable unless issued fraudulently or in violation of a  
22 constitutional limitation, and the certificates of the attorney  
23 general are prima facie evidence of the validity of the bonds and  
24 bond coupons; and

25 (D) after the issuing political subdivision has  
26 received the proceeds from the sales of the securities, the issuing  
27 agency is estopped to deny their validity, and the securities are

1 valid and binding obligations;

2 (7) preferred stocks and common stocks that the  
3 organization [~~State Board of Education~~] considers proper  
4 investments for the permanent school fund, subject to the following  
5 requirements:

6 (A) in making all of those investments, the  
7 organization [~~State Board of Education~~] shall exercise the judgment  
8 and care under the circumstances then prevailing that persons of  
9 ordinary prudence, discretion, and intelligence exercise in the  
10 management of their own affairs, not in regard to speculation but in  
11 regard to the permanent disposition of their funds, considering the  
12 probable income as well as the probable safety of their capital;

13 (B) the company issuing the stock must be  
14 incorporated in the United States, and the stocks must have paid  
15 dividends for five consecutive years or longer immediately before  
16 the date of purchase and the stocks, except for bank stocks and  
17 insurance stocks, must be listed on an exchange registered with the  
18 Securities and Exchange Commission or its successors; and

19 (C) not more than one percent of the permanent  
20 school fund may be invested in stock issued by one corporation and  
21 not more than five percent of the voting stock of any one  
22 corporation will be owned; and

23 (8) notwithstanding any other law or provision of this  
24 code, first lien real estate mortgage securities insured by the  
25 Federal Housing Administration under the National Housing Act of  
26 the United States, or in any other first lien real estate mortgage  
27 securities guaranteed in whole or in part by the United States.

1           Sec. 43.0031. PERMANENT SCHOOL FUND ETHICS POLICY. (a) In  
2 addition to any other requirements provided by law, the  
3 organization [~~State Board of Education~~] shall adopt and enforce an  
4 ethics policy that provides standards of conduct relating to the  
5 management and investment of the permanent school fund. The ethics  
6 policy must include provisions that address the following issues as  
7 they apply to the management and investment of the permanent school  
8 fund and to persons responsible for managing and investing the  
9 fund:

- 10                   (1) general ethical standards;
- 11                   (2) conflicts of interest;
- 12                   (3) prohibited transactions and interests;
- 13                   (4) the acceptance of gifts and entertainment;
- 14                   (5) compliance with applicable professional  
15 standards;
- 16                   (6) ethics training; and
- 17                   (7) compliance with and enforcement of the ethics  
18 policy.

19           (b) The ethics policy must include provisions applicable  
20 to:

- 21                   (1) members of the organization [~~State Board of  
22 Education~~];
- 23                   (2) the commissioner;
- 24                   (3) employees of the agency; and
- 25                   (4) any person who provides services to the  
26 organization [~~board~~] relating to the management or investment of  
27 the permanent school fund.

1 (c) Not later than the 45th day before the date on which the  
2 organization [~~board~~] intends to adopt a proposed ethics policy or  
3 an amendment to or revision of an adopted ethics policy, the  
4 organization [~~board~~] shall submit a copy of the proposed policy,  
5 amendment, or revision to the Texas Ethics Commission and the state  
6 auditor for review and comments. The organization [~~board~~] shall  
7 consider any comments from the commission or state auditor before  
8 adopting the proposed policy.

9 (d) The provisions of the ethics policy that apply to a  
10 person who provides services to the organization [~~board~~] relating  
11 to the management or investment of the permanent school fund must be  
12 based on the Code of Ethics and the Standards of Professional  
13 Conduct prescribed by the Association for Investment Management and  
14 Research or other ethics standards adopted by another appropriate  
15 professionally recognized entity.

16 (e) The organization [~~board~~] shall ensure that applicable  
17 provisions of the ethics policy are included in any contract under  
18 which a person provides services to the organization [~~board~~]  
19 relating to the management and investment of the permanent school  
20 fund.

21 Sec. 43.0032. CONFLICTS OF INTEREST. (a) A member of the  
22 organization [~~State Board of Education~~], the commissioner, an  
23 employee of the agency, or a person who provides services to the  
24 organization [~~board~~] that relate to the management or investment of  
25 the permanent school fund who has a business, commercial, or other  
26 relationship that could reasonably be expected to diminish the  
27 person's independence of judgment in the performance of the

1 person's responsibilities relating to the management or investment  
2 of the fund shall disclose the relationship in writing to the  
3 organization [~~board~~].

4 (b) The organization [~~board~~] or the organization's  
5 [~~board's~~] designee shall, in the ethics policy adopted under  
6 Section 43.0031, define the kinds of relationships that may create  
7 a possible conflict of interest.

8 (c) A person who files a statement under Subsection (a)  
9 disclosing a possible conflict of interest may not give advice or  
10 make decisions about a matter affected by the possible conflict of  
11 interest unless the organization [~~board~~], after consultation with  
12 the general counsel of the agency, expressly waives this  
13 prohibition. The organization [~~board~~] may delegate the authority  
14 to waive the prohibition established by this subsection.

15 Sec. 43.0033. REPORTS OF EXPENDITURES. A consultant,  
16 advisor, broker, or other person providing services to the  
17 organization [~~State Board of Education~~] relating to the management  
18 and investment of the permanent school fund shall file with the  
19 organization [~~board~~] regularly, as determined by the organization  
20 [~~board~~], a report that describes in detail any expenditure of more  
21 than \$50 made by the person on behalf of:

- 22 (1) a member of the organization [~~board~~];
- 23 (2) the commissioner; or
- 24 (3) an employee of the agency [~~or of a nonprofit~~  
25 ~~corporation created under Section 43.006~~].

26 Sec. 43.0034. FORMS; PUBLIC INFORMATION. (a) The  
27 organization [~~board~~] shall prescribe forms for:



1 (1) statements of possible conflicts of interest and  
2 waivers of possible conflicts of interest under Section 43.0032;  
3 and

4 (2) reports of expenditures under Section 43.0033.

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

7 (c) The organization [~~board~~] shall designate an employee of  
8 the agency to act as custodian of statements, waivers, and reports  
9 described by Subsection (a) for purposes of public disclosure.

10 Sec. 43.004. WRITTEN INVESTMENT OBJECTIVES; PERFORMANCE  
11 EVALUATION. (a) The organization [~~State Board of Education~~] shall  
12 develop written investment objectives concerning the investment of  
13 the permanent school fund. The objectives may address desired  
14 rates of return, risks involved, investment time frames, and any  
15 other relevant considerations.

16 (b) The organization [~~board~~] shall employ a well-recognized  
17 performance measurement service to evaluate and analyze the  
18 investment results of the permanent school fund. The service shall  
19 compare investment results with the written investment objectives  
20 developed by the organization [~~board~~], and shall also compare the  
21 investment of the permanent school fund with the investment of  
22 other public and private funds.

23 Sec. 43.005. EXTERNAL INVESTMENT MANAGERS. (a) The  
24 organization [~~State Board of Education~~] may contract with private  
25 professional investment managers to assist the organization  
26 [~~board~~] in making investments of the permanent school fund. A  
27 contract under this subsection must be approved by the organization

1 ~~[board or otherwise entered into in accordance with board rules~~  
2 ~~relating to contracting authority].~~

3 (b) The organization ~~[State Board of Education by rule]~~ may  
4 delegate a power or duty relating to the investment of the permanent  
5 school fund to a committee, officer, employee, or other agent of the  
6 organization ~~[board]~~.

7 Sec. 43.0051. TRANSFERS TO REAL ESTATE SPECIAL FUND ACCOUNT  
8 OF THE PERMANENT SCHOOL FUND. The organization ~~[State Board of~~  
9 ~~Education]~~ may transfer funds from the portion of the permanent  
10 school fund managed by the organization ~~[State Board of Education]~~  
11 to the real estate special fund account of the permanent school fund  
12 if the organization ~~[State Board of Education]~~ determines, using  
13 the standard of care set forth in Subsection (f), Section 5, Article  
14 VII, Texas Constitution, that such transfer is in the best interest  
15 of the permanent school fund.

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

17 (a) The organization ~~[State Board of Education]~~ may authorize the  
18 purchase of all of the types of securities in which it is authorized  
19 by law to invest the permanent school fund in either registered or  
20 negotiable form. The organization ~~[board]~~ may authorize the  
21 reissue of those securities held at any time for the account of the  
22 permanent school fund in either registered or negotiable form. The  
23 organization ~~[State Board of Education]~~ may authorize the sale of  
24 any of the securities held for the account of the permanent school  
25 fund and reinvest the proceeds of sale for the fund and may  
26 authorize the exchange of any of the securities held for the account  
27 of the permanent school fund.

1 (b) In making purchases, sales, exchanges, and reissues,  
2 the organization [~~State Board of Education~~] shall exercise the  
3 judgment and care under the circumstances then prevailing that  
4 persons of ordinary prudence, discretion, and intelligence  
5 exercise in the management of their own affairs not in regard to  
6 speculation but in regard to the permanent disposition of their  
7 funds, considering the probable income as well as the probable  
8 safety of their capital.

9 (c) When any securities are sold, reissued, or exchanged as  
10 provided by Subsection (a), the custodian of the securities shall  
11 deliver the securities sold, reissued, or exchanged in accordance  
12 with the directions of the organization [~~State Board of Education~~].

13 SECTION 4. Sections 43.009(a), (b), and (c), Education  
14 Code, are amended to read as follows:

15 (a) The organization [~~State Board of Education~~] may  
16 authorize the governing body of any political subdivision in this  
17 state to pay off and discharge, at any interest paying date whether  
18 the bonds are matured or not, all or any part of any outstanding  
19 bond indebtedness owned by the permanent school fund.

20 (b) The governing body of a political subdivision desiring  
21 to pay off and discharge any bonded indebtedness owned by the fund  
22 shall apply in writing to the organization [~~State Board of  
23 Education~~], not later than the 30th day before any interest paying  
24 date on the bonds, describing the bonds or part of the bonds it  
25 desires to pay off and discharge. The application must be  
26 accompanied by an affidavit stating that only tax money collected  
27 from a tax levy made for the specific purpose of providing a sinking

1 fund and paying interest on the particular bonds to be redeemed will  
2 be spent in redeeming, taking up, or paying off the bonds.

3 (c) The organization [~~State Board of Education~~], on  
4 receiving the application and affidavit, shall take action on them  
5 in the manner it considers best and shall notify the applicant  
6 whether the application is refused or granted in whole or in part.

7 SECTION 5. Sections 43.010(a), (c), and (d), Education  
8 Code, are amended to read as follows:

9 (a) If interest or principal has not been paid for two years  
10 or more on any bonds issued by any school district and held by the  
11 permanent school fund, the organization [~~State Board of Education~~]  
12 may:

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

15 (2) if the district furnishes to the organization  
16 [~~State Board of Education~~] satisfactory proof that the district's  
17 taxing ability is insufficient, require the district to:

18 (A) exhaust all legal remedies in collecting  
19 delinquent taxes; and

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

22 (c) As long as any school district is delinquent in its  
23 payments of principal or interest on any of its bonds owned by the  
24 permanent school fund, the organization [~~State Board of Education~~]  
25 may specify the method of crediting payments to the state made by  
26 the district as to principal and interest.

27 (d) The comptroller may not issue any warrant from the

1 foundation school fund to or for the benefit of any district that  
2 has been for as long as two years in default in the payment of  
3 principal or interest on any security owned by the permanent school  
4 fund until the organization [~~State Board of Education~~] certifies  
5 that the district has satisfactorily complied with the appropriate  
6 provisions of this section, in which event the comptroller shall  
7 resume making payments to or for the benefit of the district,  
8 including the making of pretermitted payments.

9 SECTION 6. Sections 43.011(a), (b), (c), (d), and (e),  
10 Education Code, are amended to read as follows:

11 (a) In compliance with this section, the organization  
12 [~~State Board of Education~~] may revise, readjust, modify, refinance,  
13 or refund defaulted bonds issued by any school district in this  
14 state and owned by either the permanent school fund or the available  
15 school fund.

16 (b) Application must be made to the organization [~~State~~  
17 ~~Board of Education~~] by the district that issued the bonds and must  
18 show that:

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

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

25 (c) The organization [~~State Board of Education~~] may effect a  
26 refunding of the debt due and to become due only if the organization  
27 [~~board~~] finds that:

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

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

10           (3) the district for a period of at least five years  
11 before applying to the organization [~~State Board of Education~~] for  
12 refunding has levied a tax of 50 cents on the \$100 of taxable  
13 valuation of property in the district, and that despite such  
14 levies, the aggregate amount due the organization [~~State Board of  
15 Education~~] exceeds the aggregate amount due at the beginning of the  
16 period;

17           (4) the district has not authorized and sold  
18 additional bonds during the five-year period immediately preceding  
19 the application; and

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

24           (d) If the conditions specified by Subsection (c) are found  
25 to exist, the district is, for purposes of this section, insolvent,  
26 and the organization [~~State Board of Education~~] may exchange the  
27 bonds, interest coupons, and other evidences of indebtedness for

1 new refunding bonds of the district issued in compliance with the  
2 following:

3 (1) the principal amount of the refunding bonds may  
4 not be less than the total amount of the bonds, matured interest  
5 coupons, accrued interest, and interest on delinquent interest then  
6 actually due to the permanent school fund or the available school  
7 fund; and

8 (2) the rate of interest to be borne by the refunding  
9 bonds may be lower than that borne by the bonds to be refunded if in  
10 consideration of the interest reduction the district agrees to levy  
11 a tax each year for a period of 40 years at a rate sufficient to  
12 produce annually a sum equal to 90 percent of the amount that can be  
13 calculated by the levy of a tax at the rate of 50 cents on the \$100  
14 of taxable valuation of property as determined by the latest  
15 approved tax roll of the district, and in determining the rate of  
16 interest to be borne by the refunding bonds, the organization  
17 [~~State Board of Education~~] shall be governed by the following:

18 (A) the organization [~~State Board of Education~~]  
19 may require the rate to be a percent per annum as in its judgment  
20 will represent the maximum rate that can be paid by the district and  
21 still permit an orderly and certain retirement of the refunding  
22 bonds within 40 years from their date;

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

27 (C) the rate of interest of refunding bonds to be

1 received in exchange for bonds owned by the available school fund  
2 may be set by the organization [~~State Board of Education~~] at any  
3 rate the organization [~~board~~] considers feasible, and the refunding  
4 bonds may, at the discretion of the organization [~~State Board of~~  
5 ~~Education~~], be made non-interest bearing to a date fixed by the  
6 organization [~~board~~].

7 (e) The organization [~~State Board of Education~~] may not make  
8 a revision, readjustment, modification, refinancing, or refunding  
9 that will release or extinguish any debt or obligation then due and  
10 payable to the permanent school fund or to the available school  
11 fund.

12 SECTION 7. Section 43.012, Education Code, is amended to  
13 read as follows:

14 Sec. 43.012. REFUNDING OTHER DEFAULTED OBLIGATIONS. (a)  
15 Defaulted obligations, other than bonds of school districts as  
16 provided by Section 43.011, due the available school fund may be  
17 refinanced or refunded with the approval of the organization [~~State~~  
18 ~~Board of Education~~] in compliance with this section.

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

23 (c) The obligor must apply to the organization [~~State Board~~  
24 ~~of Education~~] and show:

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



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

3           (d) If the organization [~~State Board of Education~~] finds  
4 that the requirements provided by Subsection (c) have been met, it  
5 may approve a refinancing or the issuance of refunding bonds on the  
6 conditions:

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

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

12           (3) that the refunding bonds must bear interest at a  
13 rate or rates determined by the organization [~~State Board of  
14 Education~~] to be for the best interest of the available school fund.

15           (e) The organization [~~State Board of Education~~] may accept  
16 refunding bonds in lieu of either matured or unmatured bonds held  
17 for the benefit of the permanent school fund if the rate of interest  
18 on the new refunding bonds is at least the same rate as that of the  
19 bonds being refunded.

20           (f) Refunding bonds issued with the approval or pursuant to  
21 a refunding agreement with the organization [~~State Board of  
22 Education~~] in compliance with either this section or Section 43.011  
23 shall, on the order of the organization [~~State Board of Education~~],  
24 be exchanged by the comptroller for the defaulted obligations they  
25 have been issued to refund.

26           SECTION 8. Section 43.014(a), Education Code, is amended to  
27 read as follows:

1           (a) On or before July 1 of each year, the comptroller shall  
2 estimate the amount of the available school fund receivable from  
3 every source during the following school year and report the  
4 estimate to the organization [~~State Board of Education~~].

5           SECTION 9. Sections 43.015(b), (e), and (f), Education  
6 Code, are amended to read as follows:

7           (b) The comptroller shall provide the organization [~~State  
8 Board of Education~~] with the reports specified by Subsection (a)  
9 and with additional reports concerning those funds requested by the  
10 organization [~~State Board of Education~~].

11           (e) On order of the organization [~~State Board of Education~~],  
12 the comptroller shall exchange or accept refunding bonds in lieu  
13 of:

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

17           (2) defaulted obligations held for the benefit of the  
18 available school fund if the refunding bonds are issued in  
19 compliance with Section 43.012;

20           (3) defaulted obligations of any school district of  
21 this state held for the benefit of the permanent school fund or the  
22 available school fund if the refunding bonds are issued in  
23 compliance with Section 43.011; or

24           (4) refunding bonds of any school district of this  
25 state for school bonds not matured held by the comptroller for the  
26 permanent school fund if the new refunding bonds are issued by the  
27 school district in compliance with this code.

1 (f) The comptroller shall be the custodian of all securities  
2 enumerated in Section 43.003(6) and of other securities as  
3 designated by the organization [~~State Board of Education~~] in which  
4 the school funds of the state are invested. The comptroller shall  
5 keep those securities in the comptroller's custody until paid off,  
6 discharged, delivered as required by the organization [~~State Board  
7 of Education~~], or otherwise disposed of by the proper authorities  
8 of the state, and on the proper installment of any interest or  
9 dividend, shall see that the proper credit is given, and the coupons  
10 on bonds, when paid, shall be separated from the bonds and cancelled  
11 by the comptroller.

12 SECTION 10. Sections 43.017, 43.018, and 43.019, Education  
13 Code, are amended to read as follows:

14 Sec. 43.017. USE OF COMMERCIAL BANKS AS AGENTS FOR  
15 COLLECTION OF INCOME FROM PERMANENT SCHOOL FUND INVESTMENTS. (a)  
16 The organization [~~State Board of Education~~] may contract with one  
17 or more commercial banks to receive payments of dividends and  
18 interest on securities in which the state permanent school funds  
19 are invested and transmit that money with identification of its  
20 source to the comptroller for the account of the available school  
21 fund by the fastest available means.

22 (b) In choosing each commercial bank with which to contract  
23 as authorized by Subsection (a), the organization [~~State Board of  
24 Education~~] shall assure itself of:

- 25 (1) the financial stability of the bank;  
26 (2) the location of the bank with respect to its  
27 proximity to the banks on which checks are drawn in payment of

1 dividends and interest on securities of the permanent school fund;

2 (3) the experience and reliability of the bank in  
3 acting as agent for others in the similar collection and  
4 expeditious remittance of money; and

5 (4) the reasonableness of the bank's charges for the  
6 services, both in amount of the charges and in relation to the  
7 increased investment earnings of the available school fund that  
8 will result from speedier receipt by the comptroller of the money.

9 Sec. 43.018. PARTICIPATION IN FULLY SECURED SECURITIES LOAN  
10 PROGRAMS. (a) The organization [~~State Board of Education~~] may  
11 contract with a commercial bank to serve both as a custodian of  
12 securities in which the state permanent school funds are invested  
13 and to lend those securities, under the conditions prescribed by  
14 Subsection (b), to securities brokers and dealers on short-term  
15 loan.

16 (b) The organization [~~State Board of Education~~] may  
17 contract with a commercial bank pursuant to this section only if:

18 (1) the bank is located in a city having a major stock  
19 exchange;

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

22 (3) the bank has adequate capital in the prudent  
23 judgment of the organization [~~State Board of Education~~] to assure  
24 the safety of the securities entrusted to it as a custodian;

25 (4) the bank will require of any securities broker or  
26 dealer to which it lends securities owned by the state permanent  
27 school fund that the broker or dealer deliver to it cash collateral

1 for the loan of securities, and that the cash collateral will at all  
2 times be not less than 100 percent of the market value of the  
3 securities lent;

4 (5) the bank executes an indemnification agreement,  
5 satisfactory in form and content to the organization [~~State Board~~  
6 ~~of Education~~], fully indemnifying the permanent and available  
7 school funds against loss resulting from the bank's service as  
8 custodian of securities of the permanent school fund and its  
9 operation of a securities loan program using securities of the  
10 permanent school fund;

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

16 (7) the bank is the bank agreeing to pay to the  
17 available school fund the largest sum or highest percentage of the  
18 income derived by the bank from use of the securities of the  
19 permanent school fund in the operation of a securities loan  
20 program.

21 Sec. 43.019. ACCOUNTING TREATMENT OF CERTAIN EXCHANGES.  
22 The organization [~~State Board of Education~~] may account for the  
23 exchange of permanent school fund securities in a closely related  
24 sale and purchase transaction in a manner in which the gain or loss  
25 on the sale is deferred as an adjustment to the book value of the  
26 security purchased, if:

27 (1) the security sold and the security purchased have

1 a fixed maturity value;

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

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

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

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

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

12 SECTION 11. Section 51.011, Natural Resources Code, is  
13 amended by amending Subsections (a) and (a-1) and adding Subsection  
14 (a-3) to read as follows:

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

24 (a-1) The board may acquire, sell, lease, trade, improve,  
25 maintain, protect, or otherwise manage, control, or use land or [~~7~~]  
26 mineral and royalty interests [~~7, real estate investments, or other~~  
27 ~~interests, including revenue received from those sources,~~] that are

1 set apart to the permanent school fund in any manner, at such  
2 prices, and under such terms and conditions as the board finds to be  
3 in the best interest of the fund.

4 (a-3) All revenue received from mineral or royalty  
5 interests described by Subsection (a), including bonus payments,  
6 surface lease revenues, royalties, and any other type of revenue  
7 received from those interests, shall be transferred each month to  
8 the Permanent School Fund Investment Management Organization for  
9 investment in the permanent school fund.

10 SECTION 12. Section 51.017, Natural Resources Code, is  
11 amended to read as follows:

12 Sec. 51.017. FURNISHING DATA TO PERMANENT SCHOOL FUND  
13 INVESTMENT MANAGEMENT ORGANIZATION OR COMMISSIONER OF EDUCATION  
14 [BOARD OF EDUCATION]. On request, the commissioner shall furnish  
15 to the Permanent School Fund Investment Management Organization or  
16 the commissioner of education [State Board of Education] all  
17 available data.

18 SECTION 13. Section 51.401(a), Natural Resources Code, is  
19 amended to read as follows:

20 (a) The board may designate funds received from the sale of  
21 real property or [any land,] mineral or royalty interests  
22 [interest, real estate investment, or other interest, including  
23 revenue received from those sources, that is] set apart to the  
24 permanent school fund under the constitution and laws of this state  
25 together with the mineral estate in riverbeds, channels, and the  
26 tidelands, including islands, for deposit in the real estate  
27 special fund account of the permanent school fund in the State

1 Treasury to be used by the board as provided by Section 51.402 [~~this~~  
2 ~~subchapter~~].

3 SECTION 14. Section 51.402(a), Natural Resources Code, is  
4 amended to read as follows:

5 (a) The [~~Except as provided by Subsection (c), the~~] board  
6 may use funds designated under Section 51.401 for any of the  
7 following purposes:

8 (1) to add to a tract of public school land to form a  
9 tract of sufficient size to be manageable;

10 (2) to add contiguous land to public school land;

11 (3) to acquire, as public school land, interests in  
12 real property for biological, commercial, geological, cultural, or  
13 recreational purposes;

14 (4) to acquire mineral and royalty interests for the  
15 use and benefit of the permanent school fund;

16 (5) to protect, maintain, or enhance the value of  
17 public school land;

18 (6) to acquire interests in real estate;

19 (7) to pay reasonable fees for professional services  
20 related to a permanent school fund investment; or

21 (8) to acquire, sell, lease, trade, improve, maintain,  
22 protect, or use land or [~~7~~] mineral and royalty interests [~~, or real~~  
23 ~~estate investments, an investment or interest in public~~  
24 ~~infrastructure, or other interests~~], at such prices and under such  
25 terms and conditions the board determines to be in the best interest  
26 of the permanent school fund.

27 SECTION 15. Section 51.412(c), Natural Resources Code, is



1 amended to read as follows:

2 (c) The report must include the following information:

3 (1) the total amount of the funds designated by  
4 Section 51.401 for deposit in the real estate special fund account  
5 of the permanent school fund that the board intends to invest in a  
6 manner authorized under Section 51.402;

7 (2) the rate of return the board expects to attain on  
8 the investment;

9 (3) the amount of the funds the board expects to  
10 distribute to the available school fund or the Permanent School  
11 Fund Investment Management Organization [~~State Board of Education~~]  
12 for investment in the permanent school fund under Section 51.413  
13 after making the investments;

14 (4) the distribution of the board's investments by  
15 county;

16 (5) the effect of the board's investments on the level  
17 of employment, personal income, and capital investment in the  
18 state;

19 (6) the amounts of all fees or other compensation paid  
20 by the board to investment managers, consultants, or advisors  
21 appointed or organizations contracted with under Section 51.4021;  
22 and

23 (7) any other information the board considers  
24 necessary to include in the report.

25 SECTION 16. Section 51.413, Natural Resources Code, is  
26 amended to read as follows:

27 Sec. 51.413. TRANSFERS FROM THE REAL ESTATE SPECIAL FUND

1 ACCOUNT TO THE AVAILABLE SCHOOL FUND AND THE PERMANENT SCHOOL FUND.

2 (a) The board may, by a resolution adopted at a regular meeting,  
3 release from the real estate special fund account funds previously  
4 designated under Section 51.401 or managed, used, or encumbered  
5 under Section 51.402 or Section 51.4021 to be deposited in the State  
6 Treasury to the credit of:

7 (1) the available school fund; or

8 (2) the Permanent School Fund Investment Management  
9 Organization [~~State Board of Education~~] for investment in the  
10 permanent school fund.

11 (b) The board shall adopt rules to establish the procedure  
12 that will be used by the board to determine the date a transfer will  
13 be made and the amount of the funds that will be transferred to the  
14 available school fund or to the Permanent School Fund Investment  
15 Management Organization [~~State Board of Education~~] for investment  
16 in the permanent school fund from the real estate special fund  
17 account as provided by Subsection (a).

18 SECTION 17. Section 51.4131, Natural Resources Code, is  
19 amended to read as follows:

20 Sec. 51.4131. REPORT ON ANTICIPATED TRANSFER OF FUNDS. Not  
21 later than September 1 of each even-numbered year, the board shall  
22 submit to the legislature, comptroller, Permanent School Fund  
23 Investment Management Organization [~~State Board of Education~~], and  
24 Legislative Budget Board a report that, specifically and in detail,  
25 states the date a transfer will be made and the amount of the funds  
26 the board will transfer during the subsequent state fiscal biennium  
27 from the real estate special fund account of the permanent school

1 fund established under Section 51.401 to the available school fund  
2 or the Permanent School Fund Investment Management Organization  
3 [~~State Board of Education~~] for investment in the permanent school  
4 fund.

5 SECTION 18. The following provisions are repealed:

6 (1) Section 7.102(c)(31), Education Code;

7 (2) Sections 43.0052 and 43.006, Education Code;

8 (3) Sections 32.0161 and 32.068, Natural Resources  
9 Code;

10 (4) Section 51.402(c), Natural Resources Code, as  
11 amended by Chapters 493 (H.B. 4388) and 524 (S.B. 608), Acts of the  
12 86th Legislature, Regular Session, 2019; and

13 (5) Section 51.414, Natural Resources Code.

14 SECTION 19. As soon as practicable after the effective date  
15 of this Act, the appointing authorities shall make the initial  
16 appointments to the Permanent School Fund Investment Management  
17 Organization in accordance with Section 43.0021, Education Code, as  
18 added by this Act.

19 SECTION 20. As soon as practicable after the appointment of  
20 the members of the Permanent School Fund Investment Management  
21 Organization, the State Board of Education and the School Land  
22 Board shall provide for the transfer of powers, duties, functions,  
23 programs, and activities under this Act. The transfer must be  
24 completed by August 1, 2022.

25 SECTION 21. On September 1, 2021, the permanent school fund  
26 liquid account is abolished and the unencumbered balance of that  
27 account is transferred to the permanent school fund.

1 SECTION 22. This Act takes effect September 1, 2021.